

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE.

The meeting was called to order by Chairperson Gary K. Hayzlett at 1:30 p.m. on February 17, 1998 in Room 526-S of the Capitol.

All members were present except: Representative Joann Flower

Committee staff present: Hank Avila, Legislative Research Department
Reed Holwegner, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
J. Patterson, Committee Secretary

Conferees appearing before the committee: Richard Nichols, Coffeyville
Mike Crow, Chief of the Bureau of Traffic Engineering, KDOT
Don Moler, General Counsel, League of Kansas Municipalities
Trooper Steve McKenzie
Trooper Ed Drake
Trooper Keith Scott
Trooper Eric Haskin

Others attending: See attached list

HB 2431 - Placing signs indicating location of fatal vehicle accident

Representative Jim Garner opened the hearing by introducing Richard Nichols of Coffeyville, Kansas. Mr. Nichols testified as a proponent of the bill. He believes that placing markers where fatal accidents have occurred would remind drivers to drive carefully. (Attachment 1)

Mike Crow, KDOT, testified as an opponent to **HB 2431**. There are legal aspects and financial costs with this bill. KDOT believes that the money could be better spent elsewhere, i.e. adding left turn lanes, traffic signals, which could reduce the number of accidents. The committee requested further information on previous signage placement from KDOT. (Attachment 2) Don Moler, League of Kansas Municipalities, was the second opponent to testify. He made four points why they are against this bill: traffic signage under the Tort Claims Act, is the legislation prospective in application, public safety by distracting drivers, and maintenance. (Attachment 3)

The hearing was closed on **HB 2431**.

SCR 1617 - Urging Congress to designate US-169 highway as a demonstration project.

Representative Jene Vickery urged the committee to pass **SCR 1617**. (Attachment 4)

Representative Dillon made a motion to pass the resolution, Representative Howell seconded and the motion carried. (16 in favor, 1 against) Representative Powers was against.

Briefing by Kansas State Troopers Association

Trooper Steve McKenzie began the briefing. The association is concerned about the welfare of the agency and the ability to perform at the level of service that Kansans deserve. The patrol is unique in the sense they treat troopers equally in pay and benefits, while they live in very different environments. (Attachment 5) Trooper Ed Drake, an eight year trooper, explained why he has given his resignation due to low pay. Trooper Keith Scott shared his problems of low pay and living in Johnson County. A seventeen year veteran Eric Haskin shared his prospective on manpower, schedule and pay problems.

The briefing was closed.

The meeting was adjourned at 2:50 p.m.

The next meeting is scheduled for February 18, 1998.

HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: 2-17-98

NAME	REPRESENTING
<i>Don Mohr</i>	<i>League of KS Mtn.</i>
MIKE CROW	KDOT
Dick Bauman	KDOT
Cory Reed	intern (Hayzlett)
Mark Goodner	KHP
Allyson Christman	Dept. of Admin
Jim GARDNER	D of A
Tom Whitaker	Ks Motor Carriers
CAROL Oruppek	HARVEY'S NEWS SERVICE
A.L. KOFF	MP
R. J. MAHONEY	MP
<i>Mark [unclear]</i>	
<i>[unclear]</i>	
<i>[unclear]</i>	
<i>[unclear]</i>	
<i>[unclear]</i>	
<i>[unclear]</i>	KSTA
<i>[unclear]</i>	KSTA
REX C RAILSBACK	KSTA
RYAN C FILSON	KSTA

MY NAME IS RICHARD NICHOLS. I AM A RESIDENT OF COFFEYVILLE, KANSAS AND WORK AT THE FARMLAND REFINERY IN COFFEYVILLE. I APPEAR BEFORE YOU AS A CITIZEN OF KANSAS. I AM NOT HERE REPRESENTING ANY SPECIAL INTEREST - JUST MYSELF.

LAST YEAR 475 PEOPLE DIED ON KANSAS STREETS AND HIGHWAYS. MOST PEOPLE WAIT FOR TRAGEDY TO STRIKE THEIR FAMILY BEFORE THEY TAKE ACTION ON AN ISSUE. BUT I HAVE SEEN THE IMPACT THAT HIGHWAY FATALITIES HAVE HAD ON KANSAS FAMILIES, AND I WANTED TO TRY TO DO SOMETHING THAT WOULD BRING PEOPLE'S ATTENTION TO THESE TRAGEDIES AND TO PERHAPS ALSO HELP PREVENT OTHER ACCIDENTS FROM HAPPENING.

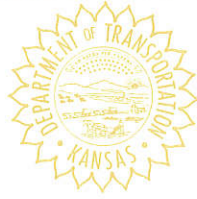
FOR MANY YEARS NOW, I HAVE NOTICED FLOWERS AND MEMORIALS MARKING SPOTS ALONG THE HIGHWAY WHERE SOMEONE HAD DIED IN A CAR ACCIDENT. I USUALLY HAD A PASSING THOUGHT OF, "HOW SAD" FOR THE LOSS OF LIFE. ONE DAY AFTER PASSING ONE OF THESE MARKERS, I REALIZED THAT I WAS ALWAYS MORE CAUTIOUS DRIVING AFTER SEEING ONE OF THESE MEMORIALS. I DON'T KNOW IF I ASSUMED THE AREA WAS A DANGEROUS STRETCH IN THE HIGHWAY, OR IF IT JUST MADE ME THINK ABOUT HOW ALERT I NEED TO BE AT ALL TIMES WHILE I AM BEHIND THE WHEEL OF A CAR.

I THOUGHT THAT OTHER DRIVERS LIKELY HAD THE SAME REACTIONS AS I DID TO THESE MEMORIALS AND KNEW THAT WHEN THE MARKERS WENT AWAY SO DID PEOPLE'S REACTION TO THEM. MY NEXT QUESTION WAS, "HOW CAN THIS HELP?" THE SOLUTION WAS EASY. PLACE A SIGN OR SOME TYPE OF EASILY RECOGNIZED INDICATOR SHOWING THAT A FATALITY HAD OCCURRED AT THIS SPOT ON THE HIGHWAY, TO FOREVER REMIND PEOPLE OF THE CAUTION THAT HAS TO BE EXERCISED WHILE DRIVING. MAYBE OVER TIME DRIVERS WOULD COME TO RECOGNIZE THIS SIGN AND WOULD BECOME MORE ATTENTIVE WHEN THEY PASSED THIS INDICATOR. IT WOULD ALSO SERVE AS A MEMORIAL TO THE PEOPLE WHO HAVE BEEN KILLED ON KANSAS ROADS.

IF THIS PROGRAM CAN CUT THE HUNDREDS OF HIGHWAY DEATHS BY EVEN A SMALL PERCENTAGE, IT WOULD BE WORTH OUR TIME AND EFFORT. I THINK THE FAMILIES OF THESE ACCIDENT VICTIMS WOULD RECEIVE SOME LEVEL OF COMFORT KNOWING THAT THE DEATH OF THEIR LOVED ONE SAVED OTHER KANSANS LIVES.

WHEN I FIRST THOUGHT OF THIS IDEA, NO ONE IN MY FAMILY HAD LOST A LOVED ONE IN A TRAFFIC ACCIDENT. HOWEVER, RECENTLY ONE OF MY WIFE'S RELATIVES WAS KILLED IN A CAR ACCIDENT.

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Attachment 1



KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson
Secretary of Transportation

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TTY (913) 296-3585
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Bill Graves
Governor of Kansas

TESTIMONY BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION**Regarding House Bill 2431****Requiring the Placement of Signs on Highways Indicating Fatal Accident Locations**

February 17, 1998

Thank you for the opportunity to provide testimony on House Bill 2431. I am Mike Crow, Chief of the Bureau of Traffic Engineering in the Kansas Department of Transportation. This bill would require KDOT, counties, and cities to place signs on highways indicating the location of any fatal vehicle accident. KDOT would approve the initial design of the signs for all jurisdictions.

KDOT is concerned that identifying fatal vehicle accident sites with signs provides specific accident locations that are a part of the statistical accident information currently protected by 23 USC 409. Under this code, the Department is provided a privilege against disclosing site-specific data to litigants or potential litigants. The theory of USC 409 is that state highway agencies should not be penalized for keeping records that are to be used for safety and other improvements. Identifying locations as required by HB 2431 could be construed as a waiver of this privilege thus subjecting KDOT to claims that would otherwise not be brought.

There are approximately 400 fatal vehicular accidents each year in Kansas, about half of which are on state highways. KDOT would therefore be responsible for installing approximately 200 signs each year. KDOT responsibilities would include keeping track of the accidents and where they occur, manufacturing the sign, purchasing the post, and installing the sign. Maintenance of the signs would involve replacing the sign approximately every ten years. The estimated cost for materials, labor, and maintenance of the signs is \$183,000 over a three-year period, with the costs increasing each year. Similar costs would be borne by the counties and cities in Kansas.

KDOT believes that this money could be better spent elsewhere. For example, the money needed to implement this bill could be used to install a left turn lane, add traffic signals, or implement other countermeasures, which may reduce the number of accidents. These are activities KDOT routinely performs. Our traffic engineers review both fatal and non-

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fatal accident reports and make recommendations for improvements at high accident locations.

We are not aware of any research indicating any positive effect resulting from installation of signs similar to these. On the contrary, these signs would be additional objects on the roadside for errant vehicles to impact, with an increasing number of signs along the highways each year.

Other concerns include placement of signs in urban areas with limited right-of-way, the coordination required with counties and cities to ensure consistency in signing, and a time period for removal of the signs. If no time period is established, in ten years there could be 4,000 of these signs throughout the state and 8,000 in 20 years.

KDOT is in favor of any actions it can take that will reduce the number of fatal accidents occurring throughout the state. In KDOT's opinion, this bill will not meet that goal.



League of
Kansas
Municipalities

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TESTIMONY

TO: House Transportation Committee
FROM: Don Moler, General Counsel
DATE: February 17, 1998
RE: Opposition to HB 2431

First I would like to thank the Committee for allowing the League to testify today in opposition to HB 2431. As its very root, this bill constitutes a mandate on local government which will require, we believe, significant local expenditure in the purchase and placement of the required signs. We further believe that it may raise certain tort claims act issues in that inappropriately placed signs or signs which are placed in contradiction to the uniform manual on placement of traffic signage could well open up a city or county to various claims not protected by the Tort Claims Act. We further would suggest that it may well increase the possibility and likelihood of further accidents at that spot.

We would like to ask several questions concerning the legislation starting with the issue of whether the legislation is prospective in application? If that is the case then the number of signs would start small and would increase from that point. If it is not, then literally hundreds if not thousands of signs would be required to be placed by the appropriate governmental entities in charge of every stretch of street, road or highway. We would further ask what if six fatal accidents had occurred at a single intersection. Would that require the placement of six signs at that intersection?

A further concern is one of public safety in that we believe the signs would potentially distract drivers from paying attention to their driving and actual traffic control signs and devices. Surely in the placement of these signs, we would not want to create a second tragedy as a result of a tragedy that has already occurred.

Finally, there is the issue of maintenance of the right-of-way. With the increasing number of signs, it makes the maintenance of the right-of-way that much more difficult, dangerous and expensive. We would point out that often times when fatal accidents are noted on the roadside, a small shrine develops around that sign and this can lead to both increased maintenance cost and the potential for further accidents while motorists are viewing the site. For these reasons, we would ask that the Committee reject HB 2431.

Thank you.

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Attachment 3

Gene Vickrey
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169 HIGHWAY - HEARTBREAK HIGHWAY

✓ 10 Fatalities In The Last 10 Months

(Sheriff Frank Kelly, Miami County)

- 33 since 1992
- 84 more deaths projected for the next 7 years

✓ The Longest At Or Above Capacity 2-Lane Highway In The State

KDOT data by Bob House, K68 to 4-lane (6.4 miles)

- 1996 average daily traffic count 9,440, and 10,478
- Average peak hours

Dramatic growth area: Tremendous 12% per annum traffic growth. "Subdivisions are sprouting like Chia Pets." Fully 33% of the working population in the region served by this route commute to the metro area for employment."

- Request for Transportation Project, Vince Snowbarger, US House of Representatives

✓ Economic Life Line For Kansas

Jim Carrico, Executive Director, Paola Chamber of Commerce

- Shortest route between Kansas City and Tulsa,
- Oklahoma City, Dallas, Ft. Worth and the Southwest

✓ Governor Bill Graves Recognizes The Need

KDOT News Release February 4, 1998

- Requested that Secretary Dean Carlson begin ground work for plans to upgrade US 169 Highway to 4-lane from Spring Hill to Osawatomie.

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Attachment 4



Representative Hayzlett and Members of the House Transportation Committee

Presentation by Kansas State
Troopers Association

Subject: State of Troopers for
the Kansas Highway Patrol

Date: February 17, 1998

As President of the Kansas State Troopers Association and Master Trooper for 16 years I am thankful this committee has offered their precious time to hear our story. Let me start by saying, this is not an attack on the Patrol, nothing could be further from the truth. However, we believe information of this importance may sometimes get filtered prior to reaching this level. We are here today to ensure the integrity of that information.

The Patrol is as diverse as the State itself. Different requirements and problems exist for the Metropolitan vs. Rural areas of Kansas as well as the troopers working in those areas. This diversity makes the patrol unique in the sense we treat troopers equally in pay and benefits, while they live in very different environments. And a trooper just out of the academy has no choice as to which environment will be more conducive to his family life. Not only has Trooper pay not kept pace with inflation, it has not kept pace with other law enforcement agencies. It is with regret that we tell you of a hidden story.

How has the Patrol managed to attract qualified applicants in the past?

The Patrol is a law enforcement agency with a proud heritage. A uniform that is distinct and portrays the very essence of our motto, Service, Courtesy and Protection. Troopers carry out their duties and very seldom ask for anything in return. In a paramilitary organization, our opinions are not always welcome. In the past the Patrol was able to attract qualified applicants because of our reputation. That being, one of the finest law enforcement agencies around, and a sense of belonging to a family, a family that takes care of one another. Pay was low but manageable. In 1984 the Association worked to secure a career ladder from entry level up through what is now Master Trooper. Governor Hayden approved and implemented a 5% pay increase after four years of service linked to the Trooper II promotion. In 1986 that 5% raise was secretly reduced to 2.5%. When discovered in 1988, troopers complained. This was the beginning of a loss of faith in our employer. As of today this issue remains unresolved. In the last ten years there has been little effort to rebuild the trust troopers need in the Patrol. We have far too many issues to deal with in the performance of our duties without the aggravation of constant disputes with the Patrol. Our work schedule, manpower and pay are our top three concerns.

Today you will hear from Gail Swihart a former trooper and three current troopers (Drake, Scott, and Haskin).

Gail Swihart, a police officer with a Kansas City area agency will tell you why he left the patrol. I will not attempt to paraphrase his testimony. He speaks to you from his heart with nothing to gain.

Trooper Ed Drake, an eight year trooper from Kansas City submitted his resignation last Friday. This is a personal and passionate issue for him. Ed allowed me to read his exit letter. If it were within my power to change things to keep him, I would. He will share with you his feelings of the patrol, his pay, and work schedule.

Trooper Keith Scott, a two year trooper bears the hardship of sharing his ability to care for his family on a troopers pay in Johnson County. Pride in a uniform only goes so far. When better medical care is available for welfare recipients than a trooper can provide for his family, something is wrong. Trooper Scott is the son of a retired trooper and nephew of retired Lt. Colonel Scott. He has an interesting insight into his fathers ability to care for his family while Keith was growing up.

Trooper Eric Haskin, a seventeen year veteran will share his prospective on the manpower, schedule and pay problems His comments come to you through the eyes of a trooper that wants to see the Patrol return to the level of respect and trust deserving of our uniform.

With sixteen years on the Patrol I have not seen an improvement in these conditions. It is amazing to me the number of troopers we have currently seeking employment elsewhere. Their reasons are similar;

*Working conditions at other agencies are more conducive to a life in law enforcement.
Work schedule; adequate rest periods between day to night shifts, (days off).
Benefits; shift differential, incentives for education and special skills.
Pay; fair and equitable for geographic location.*

Troopers do not need the best of all worlds. A fair balance between working conditions and pay seem to be the sensible answer. People will work for less money if the conditions and environment are gratifying. In lieu of above average conditions, pay needs to overcome these shortcomings. We have heard for too long, "if you don't like it, look for a job someplace else" and "you are living beyond your means". I'm sure these comments were made through exasperation over the feeling of helplessness management must feel. But too many highly trained professional troopers are taking this advice.

We do not pretend to have all the answers. In August of 1995 the Troopers Association wanted to know how the citizens of Kansas felt about us. We commissioned a study with Central Research of Topeka. The result of their independent study stated 85% of Kansas Citizens supported the Troopers position on hours of work and pay. Some but not all of those concerns were addressed. Last year a bill was passed that addressed the 207k exemption to the Fair Labor Standards Act of 1938. This bill eliminated the extra hours of work troopers were required before premium pay began. The Governor vetoed that bill. It was reported this issue belonged in the meet & confer process. We have been at the negotiating table for nearly nine months with no real progress. We have submitted two proposal

packages to our membership. The first was rejected with a 99% no vote, the second a 95% no vote. These numbers speak for themselves and demonstrate the troopers position.

Troopers need your help. We are not unreasonable people, if we can help solve this dilemma, tell us how. Word has reached me, that the troopers are not going to get anything as long as Steve McKinzie is the President. If anyone can stand and tell me how my effectively supporting and representing troopers who cannot afford to feed their families stands in the way of resolving this problem, I'll resign today. The infrastructure of the Association will long outlive me. Money alone will not be our salvation. ***A balance of fair conditions, adequate funding for increased manpower, and equitable pay in high cost areas will return the Patrol to the level of stature needed to attract applicants and keep trained people.***

This committee has the heartfelt gratitude of the Kansas Trooper.

Sincerely,

R. S. "Steve" McKinzie
President

A handwritten signature in cursive script that reads "R S McKinzie". The signature is written in dark ink and is positioned to the right of the typed name.