

MINUTES OF THE SENATE TRANSPORTATION & TOURISM COMMITTEE.

The meeting was called to order by Chairperson Senator Ben Vidricksen at 9:10 a.m. on March 15, 2000 in Room 245-N of the Capitol.

All members were present except:

Committee staff present: Hank Avila, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Marian F. Holeman, Secretary

Conferees appearing before the committee: Joe Krahn, Chief, Bureau of Right of Way, KDOT
Barbara Pringle, KS ST Pupil Transportation Assn.
Larry Pence, District VP for KSPTA

Others attending: See attached list

HB 2745: Re Highways; advertising control act

Staff provided members with information on the Federal and State Controls related to this issue (Attachment 1) Mr. Krahn explained this bill simply would bring Kansas into compliance with Federal Law and will allow the State to avoid loss of Federal funds for noncompliance (Attachment 2). Although this bill is needed because of changes in Federal Law, according to Mr. Krahn's testimony it will not essentially change current policy regarding highway advertising.

Following discussion of current policy, Senator Jordan moved to report HB 2745 favorable for passage. Senator Stephens seconded the motion. Motion carried. Senator Vidricksen will carry the bill.

HB 2582: An Act concerning school buses; head lamps

Barbara Pringle, Executive Secretary, Kansas State Pupil Transportation Association, narrated a video taken of a March 1 demonstration of the use of alternating flashing headlamps on a school bus (Attachment 3) and advised they continue to oppose the additional option to use alternating flashing lights on school buses as they are convinced of the possible negative effect on safety.

Larry Pence, Transportation Director USD 416, School Services & Leasing Inc. also spoke in opposition to this bill. He expressed his views based on his experience as an accident investigator, driving instructor and bus driver for the past fourteen years (Attachment 4). He further addressed the concern that this bill would put the school bus drive at a much higher risk and liability in a court of law and offered some suggestions for alternative approaches to this problem.

In discussing the bill, Representative Gatewood suggested perhaps members could consider a possible amendment to allow use only during daylight hours. The video clearly demonstrated it increased visibility during the daylight hours.

Chairman Vidricksen observed that since there was not enough time remaining in the hour to complete discussion, **HB 2582** would be continued to March 16th.

Approval of minutes

Senator Huelskamp moved to approve the minutes of March 14, 2000. Senator Jordan seconded the motion. Motion carried.

The meeting adjourned at 10:10 a.m.

The next meeting is scheduled for March 16, 2000.

**SENATE TRANSPORTATION & TOURISM COMMITTEE
GUEST LIST**

DATE: MARCH 15, 2000

NAME	REPRESENTING
Nancy L. Bogina	KDOT
Doug Gatewood	House
LEOLA FOSTER	KANSAS LAND TITLE ASSOCIATION
Richard D. Ross	KDOT
Joe Krahn	KDOT
Bill Watts	KDOT
Scott Brunner	DOB
Barbara Pringle	Ks. Pupil Trans. Assoc.
LARRY BLUTHARDT	Ks. ST. DEPT. of EDUCATION
LARRY PENCE	KSPTA-KANSAS STATE PUPIL TRANS. ASSOC.

Federal & State Controls

The Highway Beautification Act of 1965 (23 USC 131)

At the federal level, the Highway Beautification Act of 1965 (HBA, P. L. 89-285) controls outdoor advertising along 306,000 miles of Federal-Aid Primary, Interstate and National Highway System (NHS) roads. Signed into law by President Lyndon B. Johnson on October 22, 1965, the HBA (P.L. 89-285) allows the location of billboards in commercial and industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings.

Summary of Existing Outdoor Advertising Control Programs

- Billboards are allowed, by statute, in commercial and industrial areas consistent with size, lighting and spacing provisions as agreed to by the state and federal governments.
- Billboard controls apply to all Federal-Aid Primaries (FAP's) as of June 1, 1991, Interstates and other highways that are part of the National Highway System (NHS). The FAP routes were highways noted by state DOTs to be of significant service value and importance. Approximately 260,800 FAP miles existed as of June 1, 1991 (226,440 rural miles and 34,360 urban miles). These roads have full HBA protections and controls are very important. Maps can be obtained from your state DOT or FHWA Division office or from the OAAA in Washington, D.C.
- States have the discretion to remove legal nonconforming signs along highways; however, the payment of just (monetary) compensation is required for the removal of any lawfully erected billboard along the Federal-Aid Primary, Interstate and National Highway System roads.
- States not complying with the provisions of the HBA are subject to a 10% reduction in their highway allocations.
- States and localities may enact stricter laws than stipulated in the HBA.
- No new signs can be erected along the scenic portions of state designated scenic byways of the Interstate and federal-aid primary highways.

Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA)

- ISTEA and subsequent HBA Amendments made federal funds available for billboard removal and control, at the state's discretion.

Specific discretionary ISTEA funding programs include:

- National Highway System and Interstate System Funds were established. In 1995, the National Highway System Designation Act approved the NHS under ISTEA. Portions of the FAP system, Interstate highways and other key arterial highways are on the new NHS program.
- Surface Transportation Program - Transportation Enhancement Activities Funds Interim and National Scenic Byways Funds were authorized.

Tea 21 (Transportation Equity Act for the 21st Century)

- Tea 21 (P.L. 105-178) was signed into law on June 9, 1998. It authorized guaranteed spending levels for highway, safety, transit and other surface transportation programs for the next six years. It builds on the initiatives of the ISTEA Act of 1991. No billboard amendments were offered or approved for the first time in more than 30 yrs.

Control Mileage Under HBA of 1965

- Total Interstate, Federal-aid primary highways (as of June 1, 1991) and the new National

SENATE TRANSPORTATION & TOURISM
COMMITTEE - DATE: 3-15-00
ATTACHMENT: 1

1-1

Highway system is 306,000 miles.

- Total number of National Highways System (NHS) miles (as of October 1995 when the NHS was enacted) is 156,500. Of those, 110,700 are NHS roads and 45,800 are on the Interstate highways.
- Outdoor advertising controls are established by rural and urban area boundaries.
- The urban area boundary definition is established in the statute to be 5,000 or more in population.

FHWA's HBA Compliance Statistics

The Federal Highway Administration (FHWA) in its Nationwide Statistical Report on the outdoor advertising control program reports that there are nearly 875,000 fewer signs along controlled highways since enactment of the Highway Beautification Act in 1965. FHWA statistics as of 9/30/96 show (see summary below):

- Over 127,000 legal nonconforming compensable signs have been removed.
- Fewer than 74,000 legal nonconforming signs remain.
- Nearly 750,000 illegal signs have been removed by owners or the government, or 98% or all illegal signs.
- Approximately 14,600 illegal signs remain to be removed (reports show most are not standardized billboards but agriculture and farm signs.)

OUTDOOR ADVERTISING CONTROL PROGRAM						
SUMMARY	FY-1991	FY-1992	FY-1993	FY-1994	FY-1995	FY-1996
Nonconforming Compensable Signs						
Signs removed during FY	40	538	373	228	503	560
Signs removed to End of FY	118,951	120,426	121,007	121,291	126,119	127,026
Signs remaining to be removed	92,213	90,105	85,066	77,153	73,598	73,044
Total signs	211,164	210,531	206,073	198,444	199,717	200,070
Percentage of signs removed	56%	57%	59%	61%	63%	63%
Illegal Noncompensable Signs						
Signs removed during FY	15,041	27,235	14,582	12,495	10,539	8,437
Signs removed to End of FY	676,686	704,841	719,589	734,566	745,645	746,120
Signs remaining to be removed	22,148	25,382	23,274	18,563	16,246	14,598
Total signs	698,834	730,223	742,863	753,129	761,891	760,718

Source: FHWA, 1997



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**TESTIMONY BEFORE
SENATE TRANSPORTATION & TOURISM COMMITTEE**

**REGARDING HOUSE BILL 2745
KANSAS HIGHWAY ADVERTISING CONTROL ACT
March 15, 2000**

Mr. Chairman and Committee Members:

I am Joseph Krahn, Chief of the Bureau of Right of Way for the Department of Transportation (KDOT). On behalf of KDOT, I am here today to testify on House Bill 2745 regarding the Kansas Highway Advertising Control Act.

KDOT is responsible for administering the Kansas Highway Advertising Control Act. This law was enacted in 1972 to comply with the federal Highway Beautification Act. The federal law has been amended to require states that elect to have a scenic byway program to prohibit the erection of new signs along sections of the interstate system as well as sections of the federal-aid primary system which have been designated as scenic byways. The proposed amendment to K.S.A. 68-2232 (b), defining business area, brings Kansas into conformity with the prohibition required by federal law.

The federal Highway Beautification Act enacted in 1965 required states to effectively control outdoor advertising along the interstate and federal-aid primary highway systems. The federal law has been amended by changing the definition of primary system to mean "the federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System." A highlighted copy of the amended federal law is attached to my testimony. We have patterned our proposed change starting on Page 2 of the bill at Line 30 to track with the language used in the federal law. The highways on the attached Kansas Outdoor Advertising Control Highway Designation Map

SENATE TRANSPORTATION & TOURISM
COMMITTEE -DATE: 3-15-00
ATTACHMENT: 2

colored in red, green, and blue are the routes that would be subject to the provisions of the Highway Advertising Control Act if H.B. 2745 is enacted. This is essentially the same coverage we had before the federal law was amended and the National Highway System was created. The red and green freeways and some of the blue primary highways shown on the map are now part of the National Highway System. The brown routes are not subject to state regulation now and will not be if H.B. 2745 is enacted. A map of the National Highway System is also attached. The proposed amendment to K.S.A. 68-2232 (m) brings Kansas into conformity with current federal law.

The penalty for failure to effectively control outdoor advertising would amount to just under 24 million dollars per year at the current funding level.

We urge you to favorably consider this bill. I would be glad to try to answer any questions.

SEC. 1046. CONTROL OF OUTDOOR ADVERTISING.

(a) FUNDING- Section 131(m) of title 23, United States Code, is amended by adding at the end the following new sentence: 'Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section.'

(b) REMOVAL OF ILLEGAL SIGNS- Section 131 of such title is amended by adding at the end the following new subsection:

(r) REMOVAL OF ILLEGAL SIGNS-

(1) BY OWNERS- Any sign, display, or device along the Interstate System or the Federal-aid primary system which was not lawfully erected, shall be removed by the owner of such sign, display, or device not later than the 90th day following the effective date of this subsection.

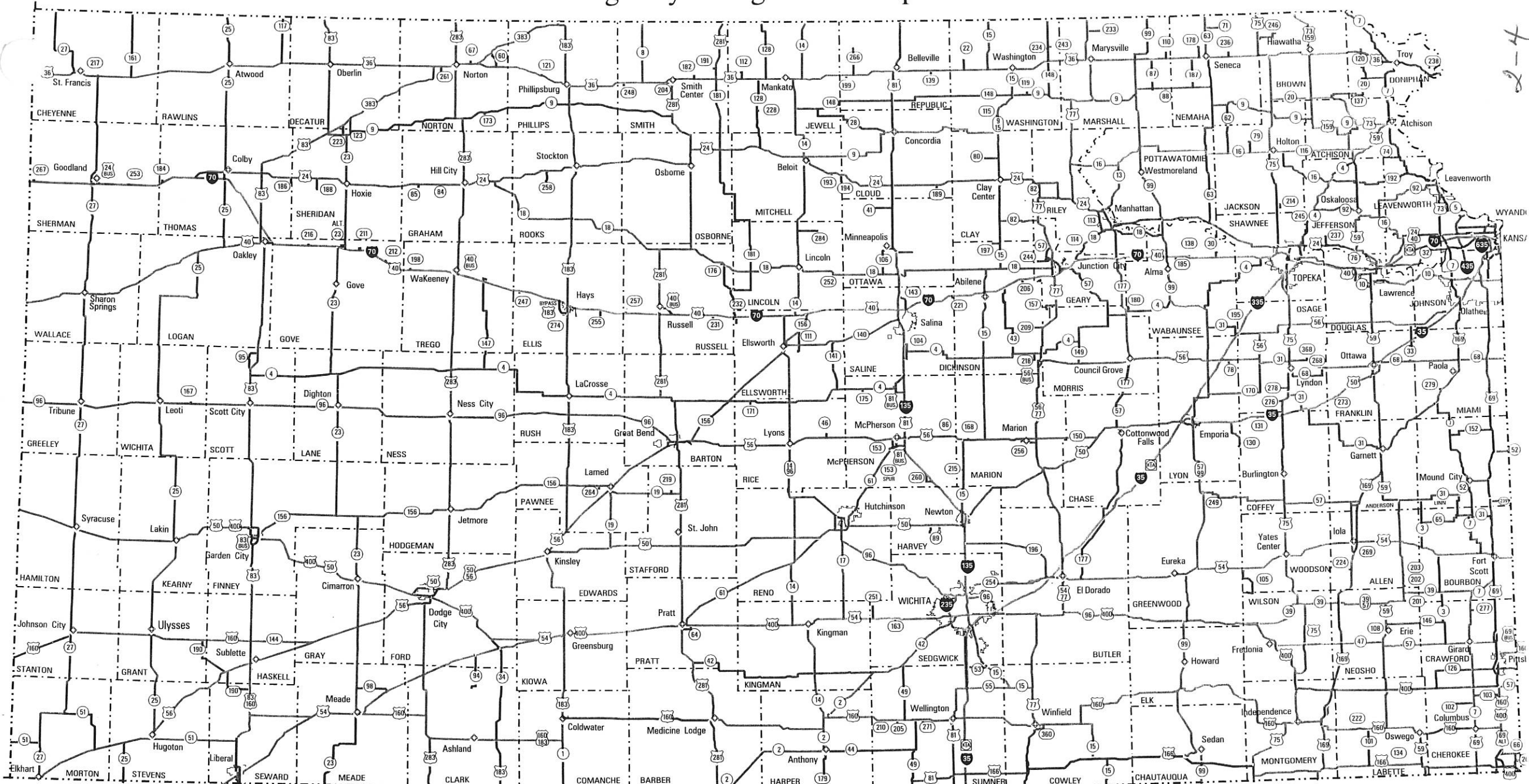
(2) BY STATES- If any owner does not remove a sign, display, or device in accordance with paragraph (1), the State within the borders of which the sign, display, or device is located shall remove the sign, display, or device. The owner of the removed sign, display, or device shall be liable to the State for the costs of such removal. Effective control under this section includes compliance with the first sentence of this paragraph.'

(c) SCENIC BYWAY PROHIBITION- Such section is further amended by adding at the end the following new subsections:

(s) SCENIC BYWAY PROHIBITION- If a State has a scenic byway program, the State may not allow the erection along any highway on the Interstate System or Federal-aid primary system which before, on, or after the effective date of this subsection, is designated as a scenic byway under such program of any sign, display, or device which is not in conformance with subsection (c) of this section. Control of any sign, display, or device on such a highway shall be in accordance with this section.

(t) PRIMARY SYSTEM DEFINED- For purposes of this section, the terms 'primary system' and 'Federal-aid primary system' mean the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.'

Highway Designation Map



Interstate / Freeway
With Full Access Control

Freeway
With Partial Access Control

Primary
(As of June 1991)

Controlled
Scenic Byway

Secondary
(As of June 1991)

0 10 20 30
MILES

PREPARED BY THE
KANSAS DEPARTMENT OF TRANSPORTATION

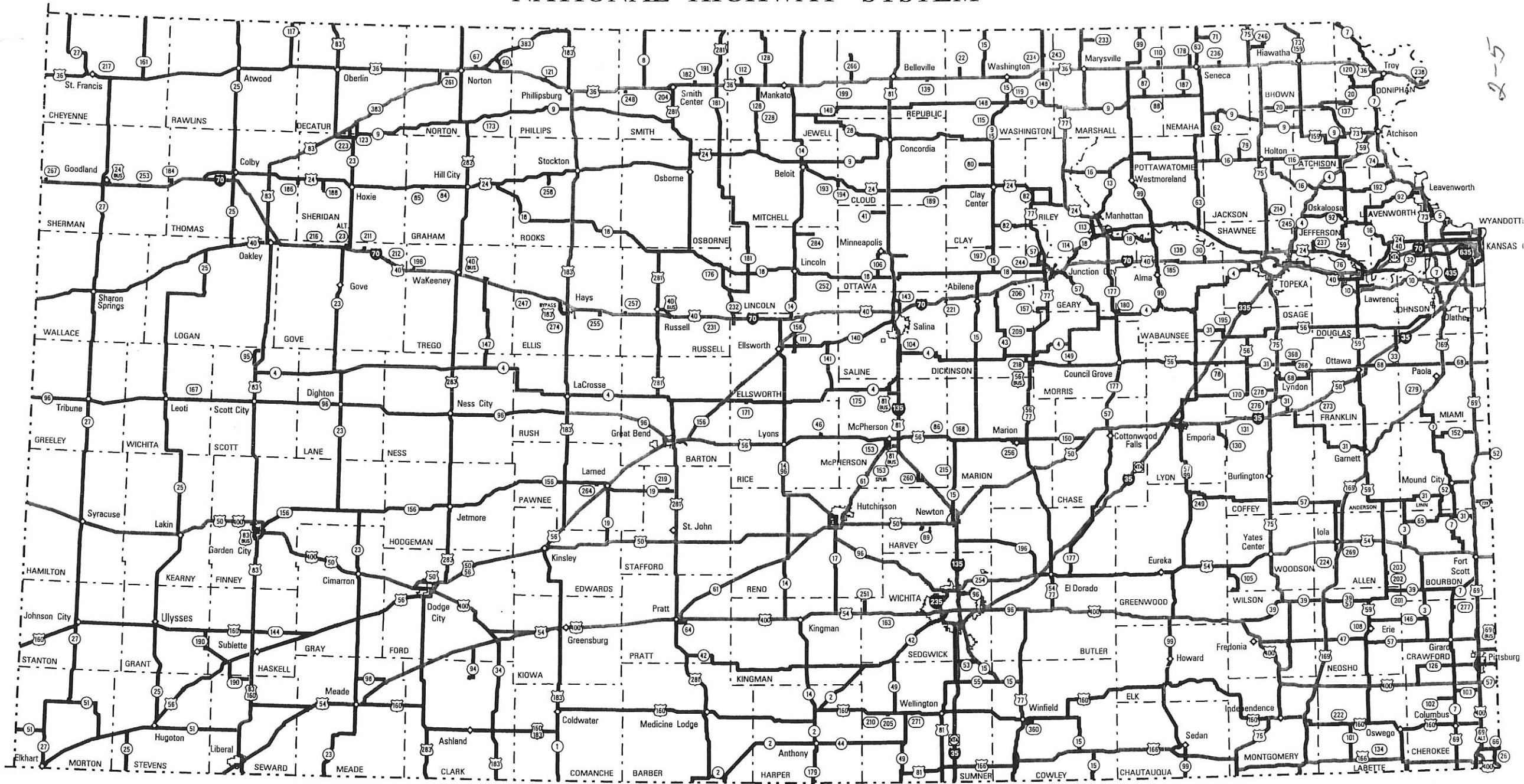
BUREAU OF TRANSPORTATION PLANNING

BILLBROODGN

FEBRUARY 8, 2000

Note: Special map designated
by the Bureau of Right of Way

NATIONAL HIGHWAY SYSTEM



National Highway System

Non-National Highway System

Scenic Byways Designated by the Secretary of Transportation

1. Flint Hills Scenic Byway – designated by Secretary in 1995.

US-177 from Cassoday north to Council Grove, for a total of 46 miles. Butler, Chase, and Morris Counties.

2. Post Rock Scenic Byway – designated by Secretary in 1998.

K-232 near I-70 interchange north to junction of K-18, for a total of 16 miles. Ellsworth, Lincoln, and Russell Counties.

3. Gypsum Hills Scenic Byway – designated by Secretary in 1999.

US-160 from junction of US-183 north of Coldwater east to the city limits of Medicine Lodge, for a total of 41 miles. Comanche and Barber Counties.

Two proposed byways have been selected following the first phase of evaluations and are in the process of completing Corridor Management Plans which are required for designation:

1. Cuesta Trails Scenic Byway

US-166 from US-77 junction east to US-75 junction, 65 miles. Cowley and Chautauqua Counties.

2. Glacial Hills Scenic Byway

K-7 from Leavenworth north to Kansas-Nebraska State Line, 64 miles. Leavenworth, Atchison, and Doniphan Counties.

02/07/00

JK:pm

Kansas Senate Transportation Committee

Chairman

Senator Vidricksen

House Bill # 2582

March 15, 2000

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SENATE TRANSPORTATION & TOURISM
COMMITTEE -DATE: 3-15-00
ATTACHMENT: 3

On March 1, 2000 I went to Columbus Kansas to participate in a demonstration of the use of the alternating flashing headlamps on a school bus. Yes it is true that the bus is more noticeable in the daytime, however the bright flashing headlamps in low light or night conditions is blinding.

We continue our opposition of House Bill # 2582. The proposed use of alternately flashing head lamps on the school bus. We are convinced that the use of high beam headlights flashing on and off could result in the approaching motorist being temporarily blinded, and result in a motorist missing the signals indicating that a school bus has stopped – the red flashing warning lamps and stop signal arm.

The demonstration was conducted after dark on a rural road without any street lamps , in the city near a street lamp and again the next morning in hazy conditions. The weather was miserable with cold blowing rain. I am sure the rain contributed to the glare, but adverse weather conditions are a part of life.

We also had students loading and unloading from the bus. At one point a student drops a bookbag as he crosses the road. The regular school bus warning lights were used in conjunction with dim headlamps with and with out the wig wag bright headlamps.

The BRIGHT alternating headlamps do make it more difficult to see the shape of the bus, the overhead flashing warning lights and the stop arm on the school bus. The students were also obscured by the bright flashing headlamps.

I also viewed the video with some of my school bus drivers, they commented that they couldn't distinguish it as a school bus stopped to load children with the bright lights flashing..

Ambulance drivers in Emporia are instructed to turn off the wig wag alternating headlamps when approaching another vehicle in the dark due to blinding conditions.

Kansas law requires us dim the headlights and not to use bright lights when approaching an oncoming vehicle, the reason for that is the effect on vision and the ability to see both while approaching the vehicle and moments after passing the vehicle while the eyes are readjusting.

The House Bill 2582 allows the use of the headlamps as optional. It is important that buses be uniform in warning devices so the public will recognize it as a school bus immediately.

The uniformity among states of when a school bus is stopped and what passing motorists must do is a critical item. Sending mixed messages to motorists, particularly motorists from other states, does more harm than good.

We continue to believe EDUCATION and ENFORCEMENT are vital to school bus safety issues.

We are not in favor of the additional option of the use of alternating head lamps on school buses as we believe it may have a negative effect on safety. We must work on continuing to educate the public on the importance of stopping for school buses when they are loading or unloading children and for new ways to protect our children.

Thank you for your concern for school bus safety,

Barbara Pringle

North East District Vice President

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Larry Pence ~ Transportation Director USD 416 ~ School Services &
Leasing Inc.

March 15, 2000

Ladies and Gentlemen
Kansas State Congress
Topeka, Kansas

Dear Congressman,

I would like to speak to you on behalf of the thousands of children in the state of Kansas who are transported to and from school every day and for the hundreds of drivers that transport them.

I am the transportation director for USD 416 in Louisburg Kansas. I am also District Vice President of the KSPTA. I am an accident investigator, driving instructor, and bus driver for the last fourteen years.

Rep. Doug Gatewood has proposed House Bill 2582 so that school buses would be more visible to passing motorists. He says this bill is patterned after a similar bill that has been passed in Tennessee.

I would like for you to look at this bill with genuine concern and ask yourself whether adding the alternate flashing headlamps on school buses would be the safest thing we can do to protect our children or whether it would create a more dangerous situation at the bus stops.

I have seen the demonstration of the alternate flashing headlamps and I am not convinced that adding them to our buses is the right thing to do.

There are times of the year when buses pick up students early in the morning when it is still dark. The film clearly shows that from a distance, you can not tell whether the lights are from a police car, ambulance, fire truck, or school bus.

Charles Eakins who is a board member of the KSPTA, at one time was a state trooper. His reaction to the film was that the flashing headlamps drew attention to the bus and not the surroundings of the bus where children have to cross the road.

SENATE TRANSPORTATION & TOURISM
COMMITTEE -DATE: 3-15-00
ATTACHMENT: 4

He states that he " could not recognize the fact that it was a school bus, and that he would have believed it to be an emergency vehicle and would proceed slowly by, watching for emergency personnel. He could not see by the flashing headlights to recognize the red flashing lights of the school bus.

It is difficult enough to see the red and yellow flashing lights of a school bus in the dark because of it's headlights. When we add the alternating flashing headlamps to a school bus, you will not be able to see the colored lights at all until you are already too close to stop.

When you add the alternate flashing lights to school buses, you are taking the chance of blinding the driver of oncoming traffic who may not see the students crossing the road.

I believe the passage of H B 2582 will be signing the death warrants for our children and motorists we share the road with.

I applaud Rep. Gatewood for trying to do the right thing, because we have already lost too many children to motorists who pass the school bus while it is loading or unloading, but this is not the right thing.

I understand that this bill would be an option to the school district or contractor whether they wanted to fit them onto their buses or not. The Transportation industry for many years have been trying to standardize the school bus so that no matter what state you are driving in you will recognize it as just that, a school bus, and not an emergency vehicle.

If this bill were to pass, it would put the bus driver at a much higher risk and liability in a court of law. School bus drivers today are not paid enough to do the job that they do without adding any more liability to them. No amount of driver training or safety devices that are put on a school bus can save the life of a child if an oncoming car decides not to stop or passes the bus from the rear and runs over a child.

If anything is to be done at all, I believe that through the legislative branch of our government, we should educate those who hold a drivers license on the importance of stopping for a school bus, and through the judicial branch of our government , insure heavy penalties for those who pass a school bus with the red lights flashing and the stop arm extended instead of a fine of a few dollars. The types of fines that are being handed out today are not worth the life of a child.

I would like to thank you for allowing me to speak to you today and I hope that when this bill does come to a vote, you will give thought to your children and grand children and all of the children across this great state of Kansas and vote no.