

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE.

The meeting was called to order by Chairperson Les Donovan at 8:30 a.m. on March 14, 2001 in Room 245-N of the Capitol.

All members were present except: Senator Pugh

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

Conferees appearing before the committee: Rep. Bob Grant
Bob Totten, KS Contractors
Orville Spray, Venture Corp.,
R. J. Koreen, Andrews Asphalt Co.,
Steve Heft, Heft Sand & Gravel
Steve Sloan, Midwest Minerals
Woody Moses, KS Aggregate Producers
Terry Leatherman, KCCI
Don Moler, League of KS Municipalities
Randy Allen, Exec. Dir., KS Assoc. of Counties
Randy Riggs, City of Chanute, KS
Commissioner Hooley Alcorn, Jewel Co.
Ron Karn, Jefferson Co. Road Supt.
Dan Harden, KS Co. Highway Assoc./Riley Co. Engr.
Mike Graf, Ellis Co. Public Works Dir.
Glen Larson, Washington Co. Public Works Adm.
Commissioner Donnie Yarnell, Neosho Co.
Mayor Paul Pitts, Erie, KS
John M. Franiuk, Mayor, City of Tonganoxie

Others attending: See attached list.

HB 2369: CITIES & COUNTIES; PAVING MATERIALS; PROHIBITING SALE THEREOF

The following conferees all appeared as proponents of the bill.

Representative Bob Grant originally requested this bill because it was reported to him that some counties have been selling crushed rock to private individuals. He believes public entities should not be in competition with private businesses (Attachment 1). He included a balloon amendment in an attempt to remove the public entities objections to the bill. Bob Totten, Public Affairs Director, Kansas Contractors Association, also supports the bill because of efficiency and economic factors involved (Attachment 2).

Orville Spray, Chairman, Venture Corporation provided information on "contracting out" public works projects as compared to "in house" work (Attachment 3). R.J. Koreen, Vice-President and Business Manager for Andrews Asphalt & Construction Inc. addressed the unfair advantage enjoyed when a taxing authority imposes itself in production of or provision of services that the private sector can do (Attachment 4). Steve Heft, President, Kansas Aggregate Producers' Association addressed the "public purpose" and "home rule" issues (Attachment 5). Steve Sloan, President, Midwest Minerals, Inc., Pittsburg, KS. testified regarding their toughest competitors in the marketplace - county governments, and the major problems involved in this process (Attachment 6).

Edward Moses, Managing Director, Kansas Aggregate Producers' Association, speaking on behalf of the statewide trade association, explained the purpose of **HB 2369** is to provide a clear policy regarding appropriate roles of private and public sectors in Kansas. He further discussed the negative impact of current practices as they relate to his industry. He also supplied supporting documents relative to the subject (Attachment 7). Terry Leatherman, Vice-President, Legislative Affairs for Kansas Chamber of Commerce and Industry, explained why the Chamber supports **HB 2369**. They recognize that critical

CONTINUATION SHEET

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE at 8:30 a.m. on March 14, 2001 in Room 245-N of the Capitol.

public policy topics are clashing here - unfair government competition with private enterprise against home rule powers of local government. However, this bill proposes to halt a governmental entity overproducing a product which it then markets against private businesses (Attachment 8).

The following conferees all appeared as opponents of **HB 2369**.

Don Moler, Executive Director, League of Kansas Municipalities, emphasized constitutional home rule in Kansas and expressed his belief that this bill is unnecessary (Attachment 9). Randy Allen, Executive Director, Kansas Association of Counties, urged the committee to refrain from enacting a uniform prohibition on sale or provision of paving materials by counties or cities to other units of local government and suggested an amendment to address this wording in the bill (Attachment 10).

Randy Riggs, City Manager, City of Chanute requested **HB 2369** be killed. They view this as an attempt to force local governing bodies to abandon solutions developed at the local level (Attachment 11). Doyle "Hooley" Alcorn, Commissioner, Jewell County explained the demographics and economics of their small farming county/community which has no sales tax base and the reasons why this bill would be harmful to their area. At the annual meeting of the North Central Kansas County Highway Officials Association, March 8, 2001, the Association, representing sixteen counties, unanimously voted to oppose **HB 2369** (Attachment 12). Ronald Karn, President, Kansas County Highway Association commented that he felt the initiating reason for the bill could be addressed in some other manner. Also, that this bill or any bill limiting amount of shared resources is unnecessary (Attachment 13). Dan Harden, Riley County Engineer urged counties not be restricted as set forth in this bill, explaining the circumstances under which Riley County sells recycled asphalt pavement which it generates (Attachment 14). Mike Graf, Public Works Administrator, Ellis County expressed concern regarding conflicting issues resulting from this bill. He referred to statutory provisions which provide that the secondary road system is under the management and discretion of the Board of County Commissioners. He referred specifically to statutes regarding division of related costs among local governments. This bill would restrict that authority with regard to paving materials. He proposed either dismissal or tabling the bill until completion of an in-depth study to fully define the issues (Attachment 15). Glen Larson, Public Works Administrator, Washington Co., addressed the issue as one affecting counties. He has explored this issue with county and city officials and found none of them advocated that a government entity sell paving materials or any other property to a private entity, except thru existing Kansas Statute. Some statutes directly promote cooperation and pooling of resources by counties. **HB 2369** seems to diametrically oppose cooperation and pooling. They believe that compliance with, and enforcement of, present statutes is all that is needed (Attachment 16). Commissioner Donnie Yarnell, Chairman, Neosho County Commission, advised that misinformation has been circulated and that Neosho County does not sell to individual or private contractors as a matter of everyday business. He provided further details as to how they do operate (Attachment 17). John M. Franiuk, Mayor, City of Tonganoxie expressed their concerns about this bill, explained how their county/city operations function and their need to be able to maintain the current process because it is vital to their economic development (Attachment 18).

Charles McKinney, City Councilman, Erie advised that Mayor Paul Pitts was unable to attend and presented his written opposition testimony (Attachment 19). Lonie R. Addis, Labette County/Legislative Chair, Kansas County Commissioners Association was unable to attend but submitted written testimony in opposition to **HB 2369** (Attachment 20). Also received written opposition testimony from Tim Schook, City Administrator, City of Washington, Kansas (Attachment 21).

Chairman Donovan announced receipt of two more proposed amendments to this bill which will be worked at tomorrow's meeting;

Meeting adjourned at 9:30 a.m.

Next meeting is scheduled for Thursday, March 15, 2001.

SENATE TRANSPORTATION COMMITTEE

GUEST LIST

DATE: MARCH 14, 2001

NAME	REPRESENTING
MICHAEL GRAF	ELLIS COUNTY
Ronald Karn	Jefferson County
Randy Riggs	City of Chanute
RICHARD L. LOCK	CITY OF ERIE
Charlie McKinney	City of Erie
Ronald Clements	Neosho County
Vernon Shultz	Neosho County
Donnie Jarnal	Neosho County
FRANK YOUNG	NEOSHO COUNTY
R. J. KOREN	ANDREWS ASPHALT & CONST., INC.
William Girard	APAC / Shears Hutchinson ^{Ks.}
Doyle "Hooky" ALORN	COMM-TEAROLL Co.
Murray J Heinrich	Venture Corp, Great Bend ^{Ks.}
NORMAN WEHKE INC.	Universal Lubricant Co
DEVILLE SPRAY	VENTURE CORP
JAN HENRY	CITY OF STANTON
STEVE HEFT	HEFT & SONS LLC
Steve Sloan	Midwest Minerals
E.R. "Woody" Mason	KAMA
Ernie (Corky) G. Jackson	Beachman Const Co. Inc.
Dan HARDEW	RILEY COUNTY
BQ. DOWSTON	SPAC AS SUPC



TOPEKA

HOUSE OF REPRESENTATIVES

ROBERT "BOB" GRANT
REPRESENTATIVE, 2ND DISTRICT
MOST OF CRAWFORD COUNTY
AND PART OF CHEROKEE AND
NEOSHO COUNTIES
407 W. MAGNOLIA
CHEROKEE, KANSAS 66724

COMMITTEE ASSIGNMENTS
MEMBER: BUSINESS, COMMERCE AND LABOR
FINANCIAL INSTITUTIONS
INSURANCE
EDUCATION AND LEGISLATIVE
BUDGET COMMITTEE
SPECIAL CLAIMS
STATE BUILDING AND CONSTRUCTION

March 8, 2001

TESTIMONY ON HOUSE BILL 2369.

CHAIRMAN DONOVAN AND MEMBERS OF THE SENATE TRANSPORTATION COMMITTEE:

I WOULD LIKE TO THANK YOU FOR HAVING A HEARING ON HOUSE BILL 2369 AND GIVING ME THE OPPORTUNITY TO TESTIFY IN FAVOR OF THIS LEGISLATION.

I SEE A PROBLEM ON THE HORIZON THAT COULD CREATE A LARGER PROBLEM IF NOT STOPPED NOW.

THERE ARE SOME COUNTIES THAT HAVE PURCHASED THEIR OWN ROCK CRUSHING EQUIPMENT AND ARE TRYING TO SAVE MONEY FOR THE CITIZENS BY CRUSHING ROCK FOR USE ON THE ROADS WITHIN THE COUNTY. I SEE NOTHING WRONG WITH THIS. WHAT IS HAPPENING IN SOME SCATTERED INSTANCES IS HOWEVER, THAT ROCK HAS BEEN SOLD TO PRIVATE INDIVIDUALS OR CONTRACTORS. I FEEL STRONGLY THAT COUNTIES SHOULD NOT BE IN COMPETITION WITH PRIVATE BUSINESSES.

THESE BUSINESSES PAY TAXES TO THE VERY ENTITIES THAT THEY ARE COMPETING AGAINST. COMPETING ON A LEVEL PLAYING FIELD IS SOMETHING MOST BUSINESSES EXPECT.

I WOULD BE THE FIRST TO ADMIT THIS PROBLEM IS NOT WIDESPREAD, BUT I FEEL THIS LEGISLATION WILL CURTAIL SUCH ACTIVITY BEFORE IT BECOMES A BIGGER PROBLEM.

I WOULD STAND FOR QUESTIONS.

SENATE TRANSPORTATION
- COMMITTEE-DATE: 3-14-01 -
ATTACHMENT: 1

1-1

HOUSE BILL No. 2369

By Representative Grant

2-7

AN ACT concerning cities and counties; relating to the powers and duties of the governing bodies thereof.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in this section:

(1) "City" means any city.

(2) "County" means any county.

(3) "Governing body" means the governing body of any city and the board of county commissioners of any county.

(4) "Paving material" means crushed rock, asphalt, gravel, aggregate sand or other materials used to pave roads, streets and drives.

(b) ~~The governing body of any city or county shall not sell or otherwise provide paving material or paving services to any other city, county, private person or private entity, unless such governing body has made a determination that such paving materials are not readily available from a nongovernmental entity. The provisions of this subsection shall not apply if a governing body declares by resolution that a disaster has occurred or that the occurrence or threat of disaster or emergency may exist.~~

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Except as provided in subsection (c), the

- (c) The provisions of subsection (b) shall not apply if the governing body has:
 - (1) Made a determination that such paving materials are not readily available from a nongovernmental entity; or
 - (2) adopted a resolution declaring the existence of a disaster, emergency or the threat of disaster or emergency.
- (d) The provisions of this section shall not prohibit the governing bodies of any county and any city or cities located in such county, pursuant to an interlocal agreement from jointly purchasing paving material from a nongovernmental entity for the use by such county and city or cities.

THE KANSAS CONTRACTORS ASSOCIATION, INC.



OFFICERS

CHUCK GRIER, President
Wichita, Kansas

DICK KISTNER, Vice President
Marysville, Kansas

JOHN WALTERS, Treasurer
Manhattan, Kansas

STAFF

DAN RAMLOW, Executive Vice President
BOB TOTTEN, Public Affairs Director
JIM RAMSAY, Member Services Director

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Great Bend, Kansas

MARY SULLIVAN

Kansas City, Kansas

DAVID WITTWER

Wichita, Kansas

Testimony

By the Kansas Contractors Association before the Senate Transportation

Committee regarding County Contracts---H 2369

March 14, 2001

Mr. Chairman and members of the Senate Transportation Committee, I am Bob Totten, Public Affairs Director for the Kansas Contractors Association. Our organization represents over 400 companies who are involved in the construction of highways and water treatment facilities in Kansas and the Midwest.

Today, I want to thank you for allowing me to testify in support of House Bill 2369. This bill goes to the heart of matters that have concerned our organization since 1917 when many of laws were formulated pertaining to governmental entities contracting for bid or doing work with their own forces.

SENATE TRANSPORTATION

COMMITTEE-DATE: 3-14-01

ATTACHMENT: 2

2-1

As you easily can understand, our organization believes public works projects are done best by the private sector and not with government forces. The taxpaying public has the right to have its funds spent in the most efficient and economical manner possible on all public work projects. And we believe that is done through the private sector which pays taxes to the county.

When counties provide paving materials to the public or other governmental entities, they are getting into the construction arena. Our association believes the public loses when paving materials are provided without benefit of the public bid process. With public bids, the public obtains the service of competent contractors, the quality of the work or paving materials is bonded and the final costs of the materials or work is known and guaranteed. Unfortunately, when the county does work or provides the materials, they usually have less expertise since they don't do that kind of work all of the time. There is little oversight and if there happens to be a flaw in the project, the county forces have to do it again with the same costs incurred for a second time whereas when a contractor makes a mistake...the contractor has to do it again without any additional costs to the county.

Also, counties have a tax exempt status and don't pay taxes on the equipment they have and use whereas the private industry does. Unfortunately, when the government gets involved in construction, they buy machinery that is used for only a short period of time each year which costs the county more than if they would just contract the work and have it done by the private sector.

For these and other reasons, we support House Bill 2369. I would be happy to answer your questions.

Testimony

Before the Senate Transportation Committee
Regarding county sales of paving materials and
Services. House Bill 2369

Mister Chairman and members of the Senate Transportation Committee:

I am Orville (Butch) Spray, Chairman of Venture Corporation.

Venture Corporation is a prime contractor, specializing in asphalt paving.

I appreciate the opportunity to address this committee on the very important legislation.

The question is, should the counties be allowed to sell asphalt mix, crushed stone, etc to other governmental agencies or private entities. The answer is no. The real question is should counties or any governmental agency even owns the tools of production. The answer is no. Our nation was founded on capitalism, an economic system characterized by private or corporate ownership of the tools of production in a competitive & free market. Economic systems, which support government ownership, have never worked and will never work. I believe we all know why. It's called incentive and the ability to "Meet a payroll" in a free and competitive market.

- SENATE TRANSPORTATION
COMMITTEE-DATE: 3-14-01 - 3-1
ATTACHMENT: 3

If a governmental or private entities hires or contracts with a reputable qualified contractor or supplier they will receive a superior product at a reasonable cost. The contractor is subject to a real or implied warranty for his work. The contractor is also subject to all of the laws, taxes, safety, & insurance requirements and legal remedies available to the owner. In addition, I know of no governmental agency that has the equipment, knowledge, experience or technology to produce a quality product competitively.

You may hear they crush their own rock or make there own asphalt mix to “save money.” You may hear they sell to cities or townships at “cost” in cooperative projects. I know of no governmental agency that uses G.A.A.P. to even know their true cost. It would be interesting to see their actual cost accounting, if available, and have it analyzed by C.P.A.

Our company purchases large volumes of crushed stone & processed sand for K.D.O.T. projects. We have tried to produce these products, but find a local supplier is much more efficient and less costly. I believe we all know government can not even begin to produce these commodities competitively. It is time to break the bad habit of expecting something for nothing from our government.

I will leave you with a thought that is applicable. A public works director for a local county was addressing the county commissioners and

made the following statement “ We have received a price from a stripping contractor (for stripping county roads) for less than what we could do it for, so we can delay purchasing our new stripping machine for another year.”

Our entire industry urges you to support House Bill No. 2369

We Can Lower Local Taxes

ARTICLE 1
Phoenix

As pressures mount on municipal budgets, Phoenix and other cities are proving that taxpayer dollars can be saved even as more and better services are provided

"Reprinted with permission from the September, 1985 Reader's Digest. Copyright © 1985 by the Reader's Digest Assn., Inc."

By RANDY FITZGERALD

TWENTY MILES southeast of Phoenix, a new waste-water treatment plant is nearing completion in the fast-growing city of Chandler. Because it will be a privately owned and operated facility—the first in the nation to serve a city this size—taxpayers will save about \$1 million a year.

• In neighboring Mesa, janitorial services were turned over to a private contractor in 1981. Now the city's buildings are kept pristine for \$250,000 less than when the city performed the service.

• In Scottsdale, adjoining Phoenix, the first U.S. city to use a private company for fire protection boasts of better-than-average fire-response times, at less than half the cost in cities of comparable size.

Across Arizona, rapid growth and tight budgets have stimulated new approaches to providing local government services, with "privatization"—contracting out to the private sector—as the centerpiece. Nowhere have changes been more rapid or far-reaching than in Phoenix, the ninth-largest city in the United States. Its innovations, which produce more services with fewer resources, are apparent in subtle but significant ways:

In new residential construction, for example, a single city inspector checks for structural safety, compliance with electrical and plumbing standards, soundness of mechanical systems, and adherence to the zoning code—tasks which in many cities involve four or more inspec-

tors. This consolidation alone saves the city over \$1 million annually.

In the city's Human Resources Department, a middle manager takes daily inventory of her productivity. She oversees dozens of employees, yet her salary is not based solely on that fact, or on how large her budget is; her pay is also tied to a Performance Achievement Program, rewarding her for improved performance and provision of services at the lowest possible cost.

A pivotal moment in the Phoenix success story came in 1978, in the wake of California's Proposition 13 and a nationwide tax revolt. Faced with the dilemma of trimming costs without curtailing services, the city council approved a call for bids from private companies to collect city refuse.

"Are you going to compare their bids with your own costs?" then-Mayor Margaret Hance asked Ron Jensen, director of the city's Department of Public Works.

"Yes, and we will bid too," Jensen replied offhandedly.

When the council meeting ended, Jensen realized that he had committed his department to compete with private contractors. Doubts began to surface. Could a large municipal agency ever outbid efficient private companies? After conferring with his staff, Jensen decided: Why not? In fact, why not use contracting out as a way to force city agencies to be more efficient?

To keep politics out of the bidding process, a city auditor examined the books of municipal departments, estimated equipment and labor costs, then prepared the city's sealed bids. Public Works lost to private contractors on the first four contracts let for trash collection in various parts of the city. But these setbacks only strengthened Jensen's resolve to make his department more productive.

Private-sector management techniques, new technology and other fine-tuning were added. Attrition and transfers reduced the number of sanitation employees by more than a third. But the biggest turnaround, says Jensen, came in employees' attitudes. "Before contracting out, there was little pressure on our department. We had nothing to compare our performance against; there were no real incentives. Now employees have been seized by a competitive spirit."

The result: last year Public Works outbid five contractors for the right to collect garbage in one section of the city, beating the next-lowest bidder by almost \$1 million a year. This will save taxpayers \$6.8 million over the life of the contract. "Morale among our employees skyrocketed," Jensen reports proudly. "We discovered that we can compete with the private sector."

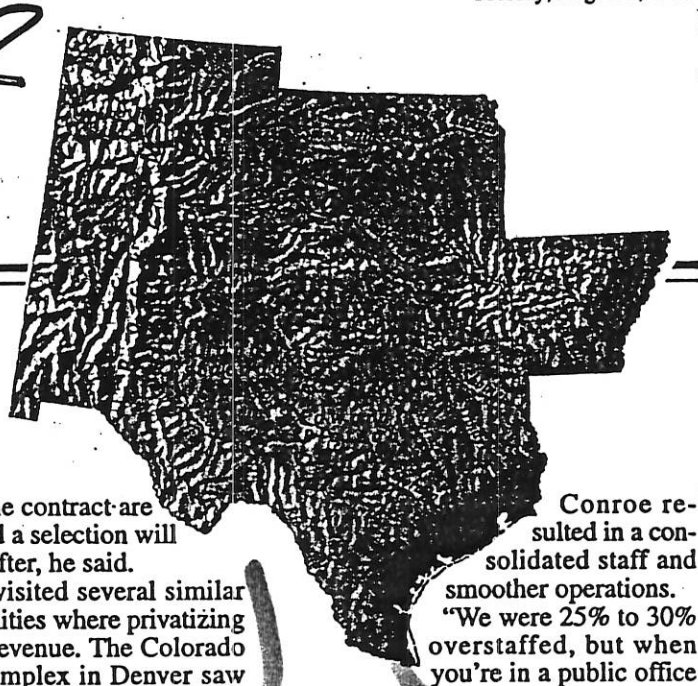
Since 1978, Phoenix has placed 43 major contracts up for bid—for such tasks as landfill operation, street-median maintenance, water-meter repair, cleaning of municipal buildings, and bill processing. City departments have won 15; private companies have won 28. But the real winner has been the taxpayers—to the tune of some \$3 million a year.

For Phoenix, contracting out quickly became part of a larger program to streamline bureaucracy. The police department was able to keep costs down by replacing uniformed officers with lower-paid police aides on routine duties such as traffic-accident investigation, thereby permitting officers to spend more time patrolling high-crime areas. City departments are asked to see if they can finance new programs without new funds.

SOUTHWEST

ARTICLE 2

Ark. • Colo. • Kan. • N.M. • Okla. • Tex.



35

TRENDS IN THE REGION

Privatization Can Be Downgrade Vaccine

By Julie Carrick Dalton

While privatizing government services rarely enhances the credit ratings of debt issuers, it may redeem some municipalities in danger of rating downgrades, rating analysts said.

Movements to privatize have gained momentum across the country since the early 1990s, as governments find privatization can reduce labor costs by cutting unneeded jobs and reducing fringe benefits.

Especially in the Southwest, where unions are weaker, privatization faces little resistance and will probably increase, said Ken Gear, associate director at Standard & Poor's Corp.

When Tarrant County, Tex., privatized jail functions, the county did not save a substantial amount of money, nor has it improved its AA-plus rating from Standard & Poor's or its Aa1 from Moody's Investors Service. But services and efficiency of the jail improved, said Peter D'Erchia, a tax-based analyst with Standard & Poor's.

Although the county had been operating with about a \$23 million annual surplus, Standard & Poor's analysts noted a lack of cost-effective operations in jail management before

the privatization. The Corrections Department faces losing more revenue next month when the state cuts off payments for housing state prisoners in county jails, D'Erchia said.

"There are several counties who will have fairly large holes in their budgets," D'Erchia said. Tarrant County's move to privatize was a defensive ma-

Poe. Bids for the contract are due Aug. 25 and a selection will be made soon after, he said.

Poe said he visited several similar convention facilities where privatizing had increased revenue. The Colorado Convention Complex in Denver saw \$700,000 in savings last year as a result of privatizing, Poe said.

Conroe resulted in a consolidated staff and smoother operations.

"We were 25% to 30% overstaffed, but when you're in a public office

it's hard to cut jobs and then try to run for office again and expect to win. This took it out of the political limelight," Thornton said.

"We were tarred and feathered locally, but nationally, we won awards," Thornton said, referring to the 1994 award given by the National Council for Public-Private Partnerships. The Hospital Authority now is privatizing its emergency medical services, Thornton said.

Based on the hospital's financial success, which resulted in \$29 million of initial savings, Thornton said he is optimistic that the emergency service privatization will save taxpayers \$2 million to \$3 million per year.

"I think government should be a purchaser of services. Private industry is a lot more creative and resourceful," Thornton said. □

'There are several counties who will have fairly large holes in their budgets. ... If they didn't privatize, the rating would go down,' says S&P's Peter D'Erchia.

neuver and may have prevented a rating downgrade, he said.

D'Erchia said that in some rare instances privatizing can boost ratings.

"But it happens more often in the reverse," D'Erchia said. "If they didn't privatize, the rating would go down. It's about at least maintaining a rating."

Dallas is soliciting bids to privatize the Dallas Convention Center, which has been losing money consistently, said Convention Center director Frank

Privatizing would not affect the \$200 million in revenue-backed outstanding debt issued on behalf of the Convention Center, Poe said. But it would stem the tide of red ink; during the last fiscal year, the convention center lost \$1.1 million on revenue of \$3.5 million.

Ken Thornton, executive director of the Montgomery County, Tex., Hospital Authority, said the decision to privatize the Conroe Medical Center in

MARKET

Pickup in Activity Expected to Follow

Southwest Invisible Supply

Issuer and purpose	Amount	Approval status
Arkansas	\$200	Approved
State Development		

Underwritten by: **ATLANTIC**

35

ARTICLE 3

HUD

(1)



U.S. Department of Housing and Urban Development
Office of Policy Development and Research

Delivering Municipal Services Efficiently

A Comparison of Municipal
and Private Service Delivery

Summary

EXHIBIT 7: Results of Cost Comparisons Holding Other Factors Constant

Service	Percent Difference		Variable Controlled For			Percent of total cost explained
	MU-CO CO	Scale	Level of Service	Quality	Condition	
Street Cleaning	43%	Curb miles cleaned/year*	Times cleaned per year	Rating -- block faces	Retail sales/curb mile	86%
Janitorial	73%	Square feet in buildings to clean*	Standard time per square foot	Quality rating -- cleanliness	NA	92%
Refuse Collection (residential)	28-42%	Cubic yards of refuse collected	**Refuse/household	Quality rating (lids replaced, etc.)	Population/curb mile*	98%
Payroll	None	# of checks issued*	% salaried	% with errors	NA	83%
Traffic Signal	56%	# of intersections maintained*	# preventive maintenance visits/intersection/year*	# of items in need of repair	NA	93%
Asphalt Overlay Construction	96%	Tons of asphalt laid*	% with reinforcing material*	Rating (cracks, etc.)	NA	93%
Turf Maintenance	40%	Acres mowed*	# of activities*	Rating -- visual	% of area with no problems*	83%
Street Tree Maintenance	37%	# of tree trimming visits*	Weighted level of pruning*	Rating -- by arborist	# of activities performed	89%

*Variable is significantly related to total cost.

**All cities studied had once a week curb or alley refuse collection.

3-8

ARTICLE 4

Folks get their tax \$\$ back in best-run town in America

City Clerk, Administrator May

708

Crestwood, Ill., is the best-run town in America — because it operates just like a business.

That's what residents of the 12,000-population town say about their home, which is run so efficiently that this year citizens are receiving a 26 percent rebate on their property taxes.

What's more, the town is so well-off that residents over age 55 get free household repairs and their shrubs cut for free!

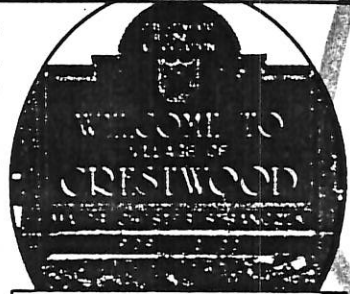
The super-efficient government may soon be able to totally eliminate property taxes!

"I've had my business in Crestwood for eight years and it's the best town in the U.S.," declared restaurant owner Joe Cistaro.

"Mayor Chester Stranczek's philosophy is simple — he contracts out everything.

"And our police are under or-

Real friends are those who see heart to heart even when they don't see eye to eye. — Herm Albright



HAPPY town of Crestwood, Ill., has a secret.

ders not to clog our court system by chasing after speeders hoping to get a \$50 fine. They're told to give speeders a severe warning and then get on with the business of fighting serious crime. So there is almost no crime!"

Stranczek, 64 — a trucking company owner — has been Mayor of this town 25 miles south of Chicago since 1969.

"Businesses don't become successful by running at a loss," he said.

"When I became Mayor we scrapped the huge Public Works Department that handled water

main leaks, etc. We simply contracted these problems out to private contractors.

"So instead of having a bunch of workers sitting around when it was raining, collecting wages, insurance and medical benefits, plus machinery like backhoes rusting, we hired firms to do the work. The savings are fantastic.

"The same goes for book-keeping. We simply pay an auditor \$8,000 a year to do the work. Savings: maybe \$35,000 a year."

Thanks to efficient government, there's plenty of money to pay for needed services, said Mayor Stranczek.

"We have only three full-time policemen. But we have 40 part-time officers who live in Crestwood and put in 10 to 12 hours a week patrolling the streets. As a result we have one of the safest towns in America.

"This year alone we've given our taxpayers a \$1 million rebate. When you pay your taxes in Crestwood, you get a 26 percent rebate.

"And because of the sales taxes we're getting from new busi-



TOWNSPEOPLE CHEER Mayor Chester Stranczek after the city gave them a \$1 million tax refund.

nesses moving into this desirable area, we hope that within four years, homeowners will have NO property taxes!"

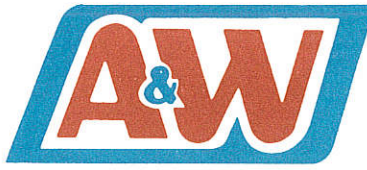
Incredibly, Crestwood has just 17 full-time employees, compared to a nearby town of the same population that has about 150 workers.

"Our budget is \$2 million a

year while a town of similar size, with 12,000 people, might have a budget of \$10 million!" said City Director Frank Gassmere.

Added Mayor Stranczek: "Folks are happy here — and I intend to keep them that way."

— JAMES McCANDLISH



ANDREWS ASPHALT & CONSTRUCTION, INC.

Testimony

By Andrews Asphalt & Construction, Inc.

Before the Senate Transportation Committee
Regarding county sales of paving materials and
Services. House Bill 2369

Mister Chairman and members of the Senate Transportation Committee:

I am R. J. Koreen, Vice President and Business Manager for Andrews Asphalt & Construction, Inc. located here in Topeka, Kansas. We are a small paving contractor and an asphalt producer servicing northeast Kansas. I represent our 40 seasonal employees, 6 full-time employees and, I would like to think, the small private business enterprises in the great state of Kansas.

I have come here to speak in support of Representative Bob Grant's House Bill No. 2369, concerning the participation of a governing, political, and taxing authority in the free market of paving services and asphalt production.

We, as a company, have been concerned with this situation for many years and have recently addressed our concerns with our local county authorities.

Three years ago, I returned from lunch to find a county crew with the "county paving machine" and three truck loads of asphalt and eight employees lined up alongside NW 25th Street- 200 feet from our plant gate. The county was putting a leveling course on the top of the paved road.

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SENATE TRANSPORTATION
COMMITTEE-DATE: 3-14-01
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PHONE
785-232-0188



P.O Box 750015
TOPEKA, KANSAS 66675-0015



FAX
785-232-0122

Subsequent inquiry revealed the following information:

- 1.) The project was not put out for bid because the county needed to hold some projects to do with their new paver.
- 2.) The employees doing the work also do grass cutting, sign installation and other duties as assigned.
- 3.) The asphalt used was purchased from our competitor across town.
- 4.) The final result is not of the quality that we are held to by state, county or city inspectors.

Add to this, we as a private contractor, are subject to market forces of competition and financial survival. Our work has to be top quality or we won't survive. Our workers are trained in paving and only in paving. Our workers depend on the amount of work we bid and contract.

We bid all of the work that is available in order to keep our crews fully employed through the construction season.

I want to make this committee aware that we perform work within a 60+-mile radius of Topeka. We have traveled as far as Hiawatha and Atchison to do work. We bid the work on the parking lots and roads at the casinos against competitors located in the more immediate area. The bid process insured the lowest costs to the customer. My point is that, if there is work to bid some company will bid it, even if it is located out of the area.

When a taxing authority imposes itself in production or in providing a service that the private sector can do, they have advantages that are not afforded companies like ours. Their costs are grouped as part of the annual operations of the department and the income is always

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shown separately as generated by the operation. There is no incentive to control or reduce costs. The operation is underwritten by the taxpayers.

Once equipment or real assets are acquired there can be no reason offered to not utilize them. Once in the budget, additions of other equipment become easier to justify and even becomes a necessary part of their budget.

A small example. The city, state and county send their trucks to our yard to buy asphalt. The trucks they drive are newer and shinier than the trucks we drive and we helped them to buy that new equipment with our taxes. Our company, as a taxpaying unit, paid over \$50,500 in property taxes alone last year. A cost that the county is not burdened with.

In summary, I submit, 1.) that it is not the city's, the county's or the state's business to be in the paving business; 2.) that the free market will draw private sector business, new or existing, to supply the needs of the market; and 3.) it is to the state's advantage to encourage and support the start up and growth of private enterprise in all areas within its borders.

We strongly urge your support of House Bill No. 2369 as it is written.

I will stand for questions . . . if you have any.

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HEFT & SONS, L.L.C.

P.O. Box 326 GREENSBURG, KS 67054 (316) 723-2495

TESTIMONY

Date: March 14, 2001
By: Steve Heft, President
Kansas Aggregate Producers' Association
Regarding: House Bill 2369
Before: The Senate Committee on Transportation

Good Morning Mr. Chairman and Members of the Committee:

My name is Steve Heft, partner with my father and brother in Heft & Sons, L.L.C., Greensburg, Kansas, and the President of the Kansas Aggregate Producers' Association. Our company was organized shortly after World War II by my grandfather Russell Seacat as Seacat Sand. Initially providing sand, we now produce asphalt, sand, gravel, and concrete in Kiowa and surrounding counties. In our sparsely populated area of the state, we depend upon a wide and diverse customer base in order to provide quality paving materials at a reasonable cost. I am here before you today to discuss with you a very real, and very important problem.

Imagine, if you will, that you are farming 160 acres of ground, and that you routinely sell your crop each year, making a fair living. Then one year you harvest your crop, and take it to the local elevator for sale, only to be told by the manager, "No thank you, the county has already provided us all the crops we need." How can this be?

Well, let us assume that in order to feed local inmates at a lower cost, the county decided to buy 160 acres and grow its own food. Now let's take this one step further and assume the county realizes it only needs 60 acres to feed the inmates, so it decides to sell the excess thus depriving you of a market and a living. Doesn't this seem a bit farfetched?

Yes it does, but as farfetched as it sounds, this actually happens everyday in the asphalt, rock, sand, gravel and concrete business. Why? Because, while counties would never dream of farming, selling fuel, or providing income tax preparation services, they seem to think the selling of paving materials is fair game. And in doing so they have violated one of the basic theories of government by entering the private sector. This is especially true in Kansas where a number of conflicting opinions regarding serving the "public purpose" and "home rule" have lead to some very loose interpretations, which include entering into competition with local businesses.

In recent years, this trend has accelerated to the point that almost 600,000 tons of rock alone are produced by four separate counties in Southeast Kansas. As these counties only need, by our best estimates 250,000-300,000 tons of rock for their own use, they have literally flooded the market with excess rock. This has in turn set off a virtual stampede to give rock away or in some more sublime instances (Neosho County) actually offer it for sale at one price and then cut that price (see attached article). Or in other cases, as in Bourbon County, where city and county owned asphalt plants compete with each other.

We think it is time for this activity to end. As you can see, HB 2369 is a simple bill with a clear directive to local government to stay in the public sector. Adoption of this bill will provide a clear bright line for all to see and observe. We urge your support of HB 2369. Thank you for your time and consideration.

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TESTIMONY

Date: March 14, 2001
By: Steve Sloan, President
Midwest Minerals
Regarding: House Bill 2369
Before: The Senate Committee on Transportation

Good afternoon Mr. Chairman and Members of the Committee:

My name is Steve Sloan. I am president of Midwest Minerals, Inc., Pittsburg, Kansas. Midwest Minerals is a 54-year old company that sells crushed stone products and redi-mixed concrete to customers primarily in the six most southeastern counties of Kansas. I am here today to speak in favor of House Bill 2369.

I would like to tell you a little bit about a few of Midwest Minerals toughest competitors in the marketplace. These entities have a few competitive advantages over Midwest Minerals' 80-employee team.

- 1) Upon entering business our competition does not perform a cost benefit analysis for their operations.
- 2) Our competition does not pay taxes.
- 3) Our competition utilizes equipment that is paid for solely by Midwest Minerals and thousands of other taxpayers.
- 4) Our competition utilizes labor that is paid for solely by Midwest Minerals and thousands of other taxpayers.
- 5) Our competition produces no profit and loss statement and is not aware if their expenditures of taxpayers funds are truly profitable.
- 6) Our competition has production capacity far in excess of its demand. To justify their existence our competition gives their excess capacity away free of charge to selected private entities and municipalities or sells the product at prices below the production costs of private companies in the marketplace.
- 7) Our competition is revered in the newspapers because of their dispersals of their product without charge. The taxpayer recipients of these products have actually paid in advance for their gift without fully realizing the cost of the product they are receiving.

The competitors of which I speak are County governments

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County governments are openly competing with private enterprise within the aggregate and asphalt industry in our state. The cost of this competition is a loss of jobs, tax revenue, and business development within the private sector. I know firsthand because our company was forced to close a quarry operation because of county governments operating in the marketplace. It is difficult to compete and make payroll when your competition gives away their product or services.

When home rule was established in 1974, the legislature had no intention of putting government in competition with private enterprise, yet here we are today discussing the issue. Where does it stop? Opponents of HB 2369 raise the issue that it is quite all right for counties to give away or sell their products to towns, cities, and private entities. They argue that the citizens of these businesses and communities are county taxpayers and therefore entitled to the county's gifts. Under that rationale the county should be able to start a repair shop and compete against the local mechanics, they should be able to enter the landscape and mowing business and compete against local yard service providers, they can enter the welding business and compete against the local welding shop, they can start their own trucking company and take over regional trucking markets from local trucking companies. Under this rationale it should be logical for the government to start their own contracting company and give Beachner, Eby, Donlinger and J E Dunn a run for their money. The same argument can be made allowing or even encouraging the State of Kansas to enter into businesses that would give goods and services that are currently being supplied by private entities to counties, cities, and towns. The federal government could do the same for the state and so on down the line. It just so happens that in this country rather than relying on state organizations to do public work, we have, through our capitalistic system, encouraged, and even demanded that private enterprise provide goods and services to the federal, state, and local governments.

Collectivism has failed in major countries throughout the world because there is no incentive for efficiency when managers of production are using someone else's money.

Favoritism, patronage, and corruption are by products of using public facilities for purposes other than which they are designed. We are experiencing these horrendous by products in Southeast Kansas right now. Rock is being given to public and private entities. Local suppliers bids to contractors are being undercut by county government supply. County government is brokering rock to contractors with cities and other municipalities acting as middlemen.

Some say this is a local issue and the state needs to stay away. My concern is that the misguided practices of which I speak are at the local level. We need help. The bottom line is to ask yourself how you would feel as a taxpayer if your tax dollars go to support government operations that entered your business arena. Not to mention they gave their product or service away for free. You can only imagine the feeling of frustration and injustice you would feel if your county bought an automobile dealership, purchased a farm operation or law practice. Well that is the feeling many of us in this room live with day to day. We have met with local officials to attempt to stop these practices but have failed. The only possibility left to right this wrong is through legislative avenues.

The Kansas House voted 120-4 in favor of HB 2369 and I stand confident that the Senate will also tell government that it is fundamentally wrong to compete against private enterprise using taxpayer funds. Thank you for your time and consideration.

KAPA

Kansas Aggregate
Producers' Association

Edward R. Moses
Managing Director

TESTIMONY

Date: March 14, 2001
By: Woody Moses, Managing Director,
Kansas Aggregate Producers' Association
Regarding: HB 2369
Before: The Senate Committee on Transportation

Good Morning Mr. Chairman and Members of the Committee,

My name is Edward R. Moses, Managing Director of the Kansas Aggregate Producers' Association. The Kansas Aggregate Producers' Association is an industry wide trade association comprised of over 250 members located in all 165 legislative districts in this state, providing basic building materials to all Kansans. On behalf of our members, I am happy to appear before you today in support of HB 2369 as amended by the House. I commend you for holding this hearing today on a measure having a great impact on all Kansans.

The purpose of HB 2369, a measure approved by the Kansas House of Representatives on a 120-4 vote, is to provide a clear policy regarding the appropriate roles of the private and public sector in Kansas. Many centuries ago a famous predecessor of yours Lucius Seneca, a member of the Roman Senate wrote, "Most powerful is he who has himself in his own power."

This quote is appropriate, as today's discussion will concern the use and abuse of power, especially by those who are given the power to tax. Unfortunately, in recent years, this power to tax has increasingly been wielded to the detriment of our industry. I am speaking specifically of counties who use their power to compete against those who they are elected to represent the taxpaying members of the Kansas mining and construction industry. Passage of HB2369 would put limits on counties who fail to understand Seneca's advice on using power wisely.

This abuse of power has a particularly negative impact on our industry as the loss of business leads to higher operating costs and ultimately higher prices. Simply put, the construction and mining industry depends upon the public sector for a large amount of our volume. In the last several years, this volume has been flat or declining and corresponds with the increasing trend of local governments to purchase mining and construction operations usually at a level far in excess of their own needs. In recent years it seems to have led to the desire on their part to sell or give away their excess production to other local units of government or in some cases even private entities. Generally, this is done, at least outwardly to save the taxpayer money, but usually the "law of unintended consequences" comes to bear; and the activity ends up costing the taxpayer more. Take, for example, the taxpayers in Ft. Scott who are forced to pay for two asphalt plants rather than one or none. But, the law of unintended

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consequences goes even further by forcing all Kansas taxpayers to subsidize publicly owned paving material operations. This is because other non-producing units of government are required to pay more for the paving materials due to our loss of market, and this results in the shifting of taxes from producing counties to non-producing counties.

For example, if a producer is making 400,000 tons of rock a year with a fixed cost of \$200,000 per year (\$2.00 per ton), loses 80,000 tons per year of market to local units of government, they must then charge an additional \$1.33 per ton to cover costs. This cost is then passed on to non-producing cities, counties, townships and the state when sold. Douglas, Johnson, Leavenworth, Sedgwick, Shawnee, and Wyandotte Counties, and the Kansas Department of Transportation suffer the most tax shifting, as they are the largest consumers of construction materials in this state. Incidentally, despite the potential savings not one of these agencies has established a materials production operation. Is this because they are financially sophisticated enough to discern the pitfalls? We believe so.

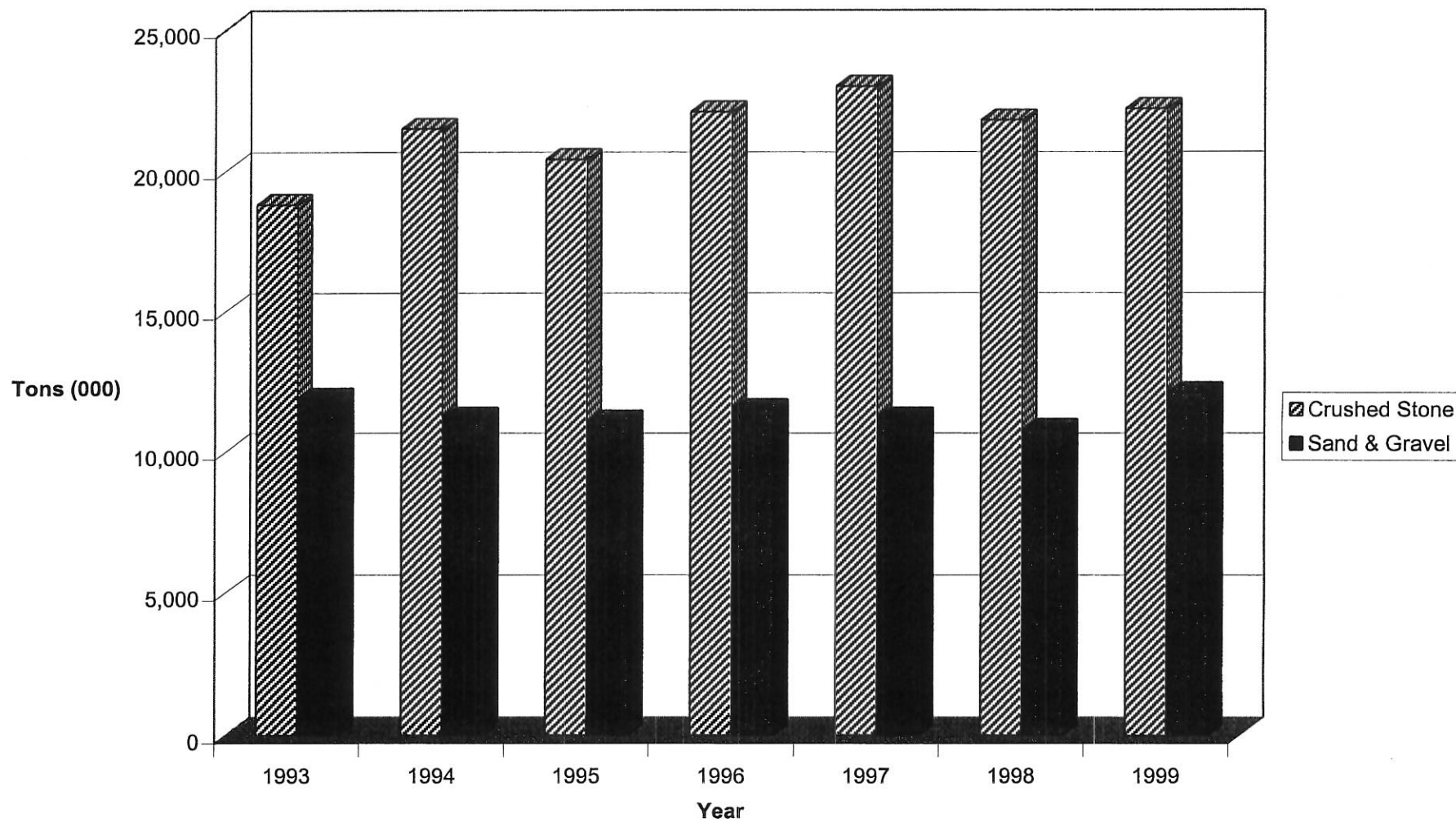
You will hear a lot today from the opponents of this bill saying that it violates the principal of local control and that it will prevent counties from helping smaller cities and townships. We would suggest that these small units of government might be better served if these counties got out of the business and returned the money expended in the form of lower mill levies. Giving smaller units more room to set their own mill levies upholds the principal of local control.

But for all the talk about local control bear in mind, all counties are still political subdivisions of this state. So when their local actions affect this state and its citizens they should be legitimately scrutinized. In this instance, the question is quite clear. Should local units be allowed to enter the private sector under the guise of saving taxes when they are merely being shifted to all Kansans? We maintain otherwise. This legislature routinely puts limits on all forms of governmental activity for that is your job. We ask that you put some reasonable limits on local authority today by recommending HB 2369 favorable for passage for the following reasons:

1. It restores the traditional balance between the public and private sector,
2. It prevents the shifting of tax burden by one local unit of government to another, and
3. It provides a clear policy statement regarding governmental participation in the private sector.

Let us heed Seneca's advice and learn to live within our power. Thank you for your time and consideration. I will be happy to respond to any questions you may have at this time.

Aggregate Sold or Used in Kansas



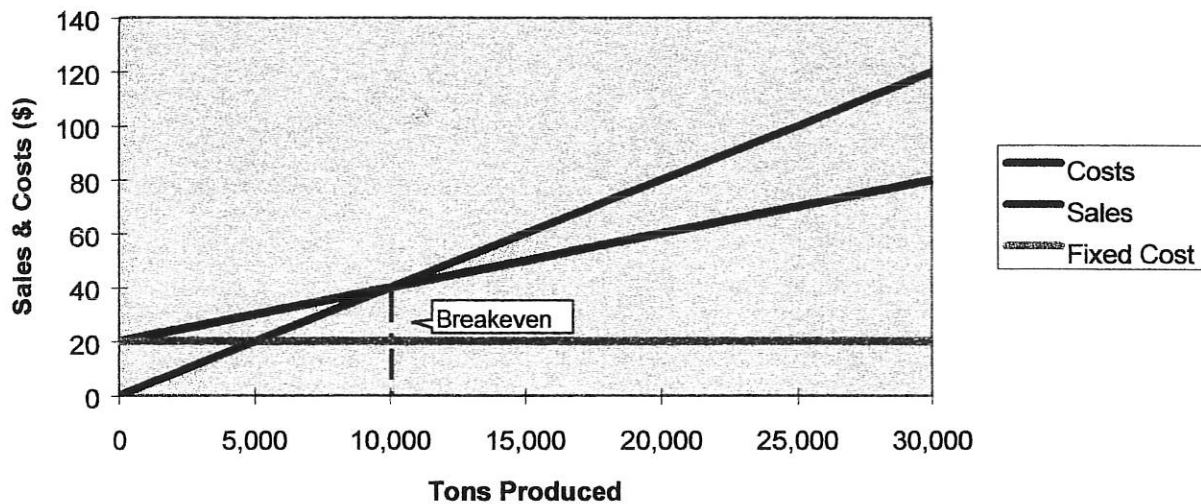
Operating Leverage

Business risk depends in part on the extent to which a firm builds costs into its operations – if fixed costs are high, even a small decline in sales can lead to a large decline in margin, so, other things held constant, the higher a firm's fixed costs, the greater is its business risk. Higher fixed costs are generally associated with more highly automated, **capital intensive firms** and industries. Also, businesses that employ highly skilled workers who must be retained and paid even during recessions have relatively high fixed costs.

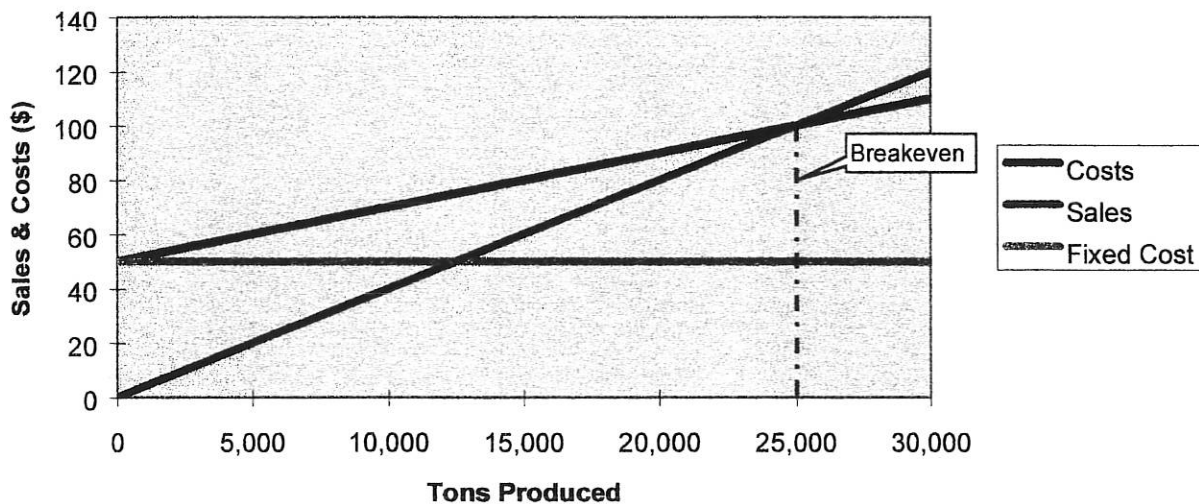
If a high percentage of a firm's total costs are fixed, then the firm is said to have a high degree of *operating leverage*. In physics, leverage implies the use of a lever to raise a heavy object with a small force. In politics, if people have leverage, their smallest word or action can accomplish a lot. *In business terminology, a high degree of operating leverage, other factors held constant, implies that a relatively small change in sales results in a large change in operating income.*

In general, holding other factors constant, the higher the degree of operating leverage, the greater the business risk.

Example A



Example B

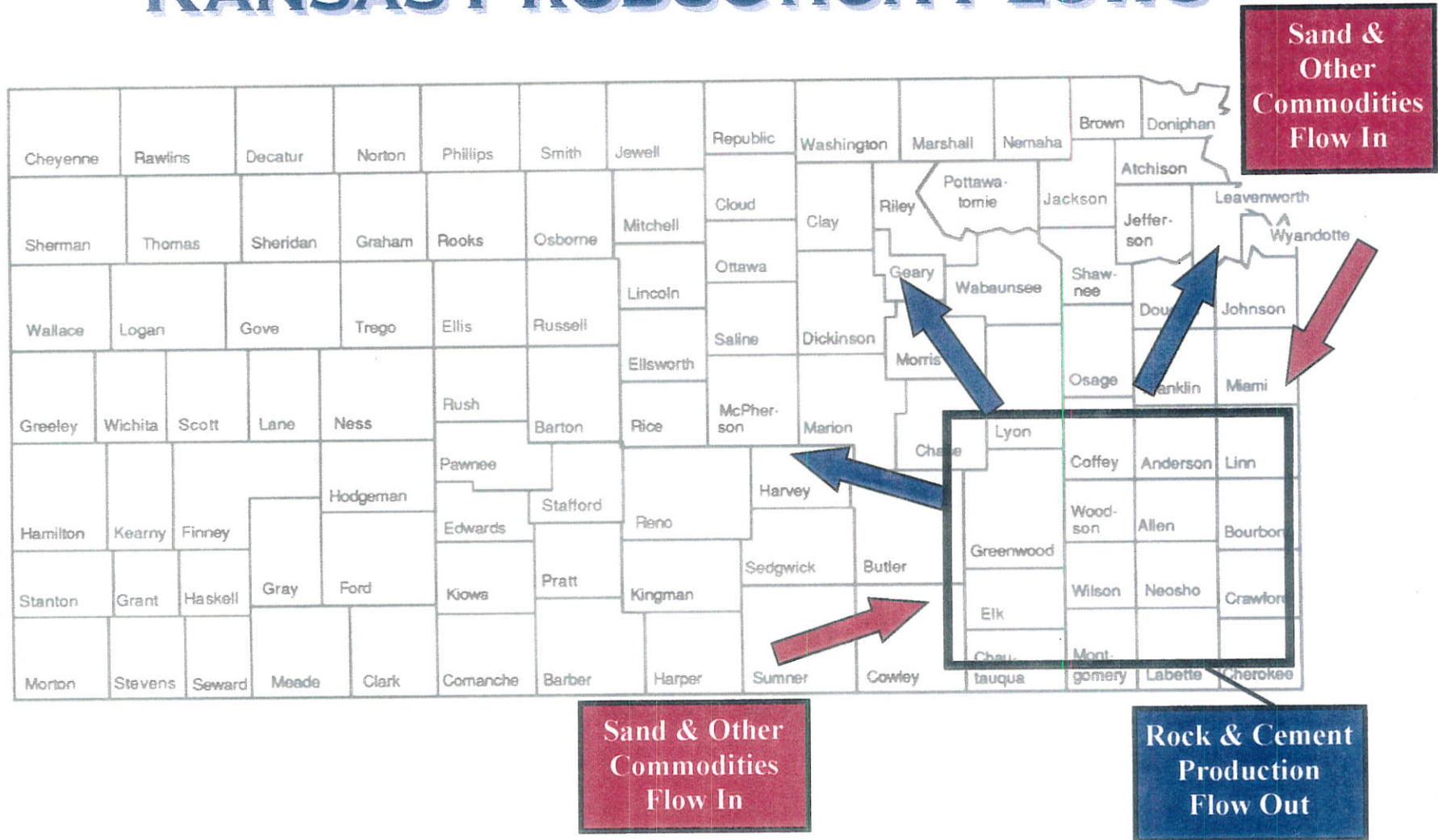


Effects of Reduced Volume on Prices

	<u>Example A</u>	<u>Example B</u>
Customers:		
County A	40,000	0
County B	40,000	0
City of Wichita	40,000	40,000
Johnson County	40,000	40,000
Kansas Department of Transportaton	40,000	40,000
	<hr/> 200,000 <hr/>	<hr/> 120,000 <hr/>
Fixed Costs:	$400,000/200,000 = \$2.00$ per ton	$400,000/120,000 = \$3.33$ per ton
Overhead and Profit:	\$1.00 per ton	\$1.00 per ton
Total Price	\$3.00 per ton	\$4.33 per ton

Result is a \$1.33 per ton increase in extra cost shifted to non-producing local and state units of government and commercial customers.

KANSAS PRODUCTION FLOWS



SELECTED PRESS CLIPPINGS

Kansas Aggregate Producers' Association
800 SW Jackson Suite 1408
Topeka, KS 66612
Phone: 785.235.1188
Fax: 785.235.2544

Del

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Parsons Sun

PARSONS, KANSAS, 67357 TUESDAY, AUG. 19, 1997

10 PAGES

50¢

Commission tentatively accepts WSKT incentives

By Jamie Willey
Parsons Sun

Parsons city commissioners tentatively accepted a plan Monday to offer incentives for a local company to relocate and expand.

The city will help Wichita Southeast Kansas Transit move from its current location at 1801 S. 21st to the Flynn Industrial Park north of town on U.S. 59.

WSKT will move to three buildings on the southwest corner of the industrial park. The city will furnish two lots, and JOBS Inc., a local economic development organization, will furnish two lots that it owns.

Roger Area, economic development coordinator, said the city has been working

closely with the company for about 1 1/2 years and really started to reach an agreement on the expansion within the last few months.

Kelly Rector, WSKT president, said the company received offers from other communities but decided to stay in Parsons because of its strong employee base and geographical location.

Rector said the move will allow WSKT to have a larger maintenance shop. He said with a larger shop, the company will have room for more daytime workers. Currently the company has three shifts, and Rector said it is hard to find qualified people to work late at night.

"Right now we've been advertising in the

summer. We've got room for 15-18 people," Rector said.

The trucking company now has 425 employees, 150 of which work in Parsons.

The move also allows WSKT to have room for future expansion and increases its loading bays from five to 10.

Besides the 24.3 acres offered by the city and JOBS Inc., the city's incentive package offers city utilities to the buildings' walls, provides a five-year total tax abatement and pays up to \$25,000 to move the company's computer system. The city will also buy WSKT's existing facility for \$294,000.

The city will ask Labette County to provide 8,000 tons of rock to complete an 8-inch base for a five-acre parking area.

The entire incentive package is worth about \$870,000.

The city still needs to draw up a written agreement before incentives can be provided. The commissioners only accepted the incentive package in principle on Monday because they need an industrial revenue bond before property taxes can be waived for the first five years.

Rector said the tentative completion date for the move is April 1998.

IN OTHER BUSINESS, commissioners:

- Reached an agreement with the owner of property at 2308 Corning that is on the city's list of dilapidated structures. The owner asked for more time to make improvements

to the house. The commissioners said he could take 30 days to fix the exterior of the house and another 30 days to have the house completely acceptable or it will be condemned.

Commissioner Marvin McKnight expressed displeasure with the city's demolition program.

"I don't want to see anyone lose a house. I don't want to see a house torn down, but somewhere along the line we need to enforce these codes. Otherwise we should take them off the books," McKnight said.

- Met in executive session for 30 minutes to discuss potential property acquisition.

See "City" on Page 10.

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Developer wants more city help

By Ray Nolting *Dick*
Parsons Sun

Parsons city commissioners are thinking about taking a larger role in a housing development project west of town on Gabriel.

Jack Kynion is developing 28 acres in the 4400 block of Gabriel, on the south side, into building lots for homes. The new addition, to be called Country Meadow Estates, will be developed and annexed in stages.

Kynion, his wife, and his son, Jack II, met with commissioners Thursday to discuss the development. Commissioners were meeting to review the agenda for Monday's meeting.

Kynion said he needs to fill in some gaps in order to complete development plans.

Jack Kynion II said his father is within \$30,000 to \$40,000 of being able to do the housing project. He wondered if the city could increase its participation in the development.

So far, the city has been willing to supply materials for water and sewer service, and the county

would supply rock for the roads. The developer would have to seek bids for actually installing the water and sewer lines and building streets.

The city also would contribute by doing the engineering and inspection work and deferring principal payments on bonds.

City Manager Glen Welden said this would add up to about 46 percent of the total development cost.

Jack Kynion II said some developers in the area — he mentioned Iola and Independence — don't have the money to complete projects because installing infrastructure is so costly. Selling the lots and building homes takes several years, too.

"The problem that's taking place is development just isn't happening," Jack Kynion II said.

Kynion said he considered housing an economic development issue. Property taxes on houses in the addition would supply income to the city and other taxing districts, he said.

Chuck Brown, one of the city's co-directors of the economic development department, said housing is a supply and demand issue, too. Now,

there's not much growth in the area so demand is down.

When Tyson Foods was considering a plant in Parsons, city leaders began to look at the housing shortage, Brown said. The city came up with a program to help developers by supplying materials for infrastructure.

Welden said the city doesn't want to pay the majority cost of the development.

Commissioner Bob Bartelli said the commission wants to make housing development work for both the developer and the city. He did not know if the city would be willing to contribute more than 50 percent, however.

Kynion said he wanted to keep the cost of the special assessments — the cost of installing water and sewer lines and roads — down for the homeowners to make the development attractive.

Bartelli said he would be willing to up the city's contribution to 50 percent of the development costs, which would be about \$121,500 for the Kynion development. He said the city has contributed that amount to previous housing projects.

SUNDAY'S FORECAST: MOSTLY SUNNY AND WARMER WITH THE HI

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City attorney says city asphalt sales are OK

By Lynn Johnston
Tribune Staff Writer

City attorney Bob Farmer says it's OK for the city to sell asphalt to businesses.

At the last Fort Scott City Commission meeting Jan. 3, city commissioners were confused on Farmer's interpretation of Attorney General Carla Stovall's decision on when government agencies can sell asphalt to the public and to private businesses. Farmer answered that question Tuesday.

City Commissioners John Keating, Bill Brittain, Joy O'Neal, Dick Hedges and Mayor Ken Lunt were of differing opinions and asked for clarification from Farmer, who missed the earlier January city meeting.

In 1999, Se-Kan Asphalt Services, Gas, complained to the state's legal authority that Fort Scott was selling city asphalt at cost to private customers. The complaint said that the city was taking work better left to private contractors.

Farmer, who was absent from the Jan. 3 meeting, said a government agency, in this case, Fort Scott, can sell its asphalt to businesses for economic development purposes at cost.

As an example, Farmer said if Key Industries wanted to purchase city asphalt for a parking lot, it would be OK because that would be an economic development project.

Farmer, under questioning, cited other examples — including sales to businesses to fill pot holes.

Nienstedt said he has spoken with Bourbon County coordinator Jim Harris, who said the Bourbon County Commission spoke with Sen. Jim Barone, D-Frontenac, and Rep. Andrew Howell, R-Fort Scott, about asphalt sales because the county also operates an asphalt plant.

Bourbon County Commissioners drafted a letter, dated Sept. 8, to Howell requesting Legislative action amending the law to allow government agencies to sell asphalt to individuals and companies when asphalt isn't available from a private company.

Nienstedt said city officials should work with the Bourbon County Commission to push those changes. The suggestion met with agreement of city commissioners.

"It is a common-sense issue," Brittain agreed.

During the citizen comment session, Harold April, local property manager, said he manages property between Sixth and Seventh streets on Main Street, behind Jump Start. According to April, a storm drain at Jump Start is about five feet in the air and shoots water into the alley creating massive pot holes. In the winter, the water creates a solid

(Continued on Page 10)

Government vs. Private Business: Four Kansas Counties Enter the Rock Crushing Business

BY BOB REILLY

When the Wichita Southeast Kansas Transit Company decided it was time to relocate and expand its operations four years ago, officials in Parsons, Kan., knew they had a challenge on their hands.

The trucking company had been a strong economic presence in the community for years, employing 425 workers—150 of which worked in Parsons itself.

So, when other cities began offering enticements for Wichita Southeast to move its operations to their communities, the Parsons economic development machine roared to life.

Working with the company for nearly 18 months, city officials put together an impressive \$870,000 incentive package, including: a total tax abatement for five years, financing to move the company's computer system—and 8,000 tons of rock from the Labette County-owned rock crushing operation for a company parking lot.

Fast-forward a few years. Parsons officials were now working with a local developer on a 28-acre housing development. Again, as incentive to help the project along, they turned to Labette County—and not the local quarries—to supply crushed rock for the development's roads.

Labette County is not alone. Three other counties in southeastern Kansas—Allen, Neosho and Bourbon—have their own rock-crushing operations.

That in and of itself is not all that strange. Counties and state departments of transportation from across the country have at one time or another produced rock for their own road projects, said Valentin Tepordei, mineral commodity specialist for the U.S. Geological Survey.

Likewise, other state DOT's and federal government agencies often lease land out to private companies or local governments for mining.

The practice is so common that the U.S. Forest Service placed 73rd on the USGS' 1998 list of top U.S. crushed stone producers and 59th on the 1998 list of top aggregate producers, while the U.S. Bureau of Land Management placed 12th among the top aggregate producers for 1998.

But having a government entity produce rock in direct competition with pri-

ivate quarrying businesses is not so common—and has Kansas' aggregates industry up in arms.

For it is the local industry's assertion that Allen, Bourbon, Neosho and Labette counties produce too much capacity for their own needs and justify the existence of these crushing operations by giving it away free to nearby cities—and taking the money away from private aggregate companies.

"It's starting to eat away at us," said Edward Moses, managing director of the Kansas Aggregate Producers Association, who has four members—Ash Grove

"If we thought there was a benefit to the taxpayers, we wouldn't say a darn thing, because it'd be sour grapes on our part. But we're not convinced that's true," said Steve Sloan, vice president of Midwest Minerals, Inc. of Pittsburg, Kansas.

Aggregates, Nelson Quarries, Midwest Minerals and Hunt Midwest Mining—directly affected by the county operations.

"It's reaching crisis proportions."

ANYTHING YOU CAN DO, I CAN DO BETTER...

County-owned rock crushing operations are not exactly a new concept in southeastern Kansas, with a couple of these counties producing their own crushed rock since the 1930s and 1940s.

For county officials, the recent resurgence in the practice is simple: they say they can do it cheaper.

Take for example, Bourbon County, which entered into a 10-year, \$2.2 million lease and purchase agreement this past November to set up a quarry, rock crushing and asphalt mixing operation.

For years, the county's road and bridge

funding had been declining steadily, County Coordinator Jim Harris said, with 950 miles of gravel roads and 107 miles of blacktop roads still needing attention.

"So how do we fix our roads if we're getting less money, without raising taxes," Harris said.

Not helping matters was the continued price increases coming from the local quarries, which according to Harris, came in 25¢ a ton increments each of the past few years. By 1999, the county was paying \$4.35 a ton for road rock, with another 25¢ increase on the way.

"We kind of saw a pattern here and we were afraid that if we continued to get price increases, it was going to get to the position where we couldn't do hardly anything to our roads," Harris said.

In an October 1999 survey of 409 Bourbon County residents, 51 percent said the county should "operate its own quarry to save money on rock and asphalt." Twenty-nine percent disagreed and 18 percent had no opinion.

But Tom DeGonia, general manager of Ash Grove Aggregates, which does more business with Bourbon County than any of the other counties, said prices have hardly budged in the last few years.

Prices are currently hovering in the neighborhood of \$4.50 a ton for crushed rock, DeGonia said, which is about 50 percent cheaper than prices in the Kansas City region.

And in real dollar terms, those prices are cheaper now than they were 20 years ago, he said.

Yet, Harris insists the county can do it cheaper. In a December 1999 article in the *Tribune* newspaper, Harris estimated that 175,000 tons of crushed rock and 13,000 tons of asphalt would be needed annually to perform Bourbon County's already-scheduled road maintenance.

That is equivalent to 11.66 tons for every citizen in Bourbon County, Moses said, which is far above the national average.

Using an average purchase price of \$4.10 a ton, the county estimated it would cost \$717,500 to purchase that much crushed rock from local quarries.

As a comparison, the county said it could produce its own crushed rock for \$2.44 a ton, thereby saving \$1.66 a ton, or \$290,500 a year, the newspaper reported.

Likewise, by producing its own asphalt, the county expected to save \$6.87

a ton for a total cost reduction of \$89,310.

The local aggregate industry disputes those costs.

"If they can crush rock at a cheaper rate is the critical question. It's our contention that they can't do it," Moses said. "And my biggest response to that is the counties that can use more volume, such as Sedgwick County, Johnson County and the Kansas DOT, have all studied this at one time or another and routinely come to the conclusion that they cannot provide aggregates cheaper than the private market can."

But Bourbon County is not alone in these assessments.

According to a May 15 article in the *Parsons Sun* newspaper, Allen County purchased a primary and secondary crushing plant in 1993 for about \$500,000.

In 1999, the county reported that it crushed just under 285,000 tons of rock, which supposedly cost just \$1.03 a ton to quarry and crush—one third of what it would have cost to purchase from a privately-owned quarry, the county said.

Allen County then claimed its total operating costs and expenses for the year were \$293,450, which included 95,740 lbs. of diesel fuel and 24,505 lbs. of commercially prepared explosives.

Now, you do the math: that comes out to about 12 tons of rock for every pound of explosives.

A quick look at the National Stone Association's *Aggregate Handbook* will tell you that 2 to 3 lbs. of blasting agent is needed per ton of rock in underground quarrying and a 1/2 lb. per ton of rock is needed in surface blasting.

Either Allen County has found a way to improve upon industry blasting standards by tenfold, or something doesn't add up here.

Moses asserts that these smaller counties do not use standardized accounting procedures, thereby improperly configuring direct and indirect expenses such as labor costs, reclamation, equipment and materials and supplies.

"If they were to restrict themselves to crushing their own rock (instead of giving away material for economic development), then the volumes would play out to where it's a false economy," Moses said. "They think it's costing them \$1.03 a ton to produce that rock, where it's really costing them a lot more."

Harris, for his part, said he's comfortable with Bourbon County's figures. He said he calculates basic operational costs of the crusher and two loaders, labor, lease purchase payments, royalties, pro-

duction, blasting and drilling costs and maintenance.

"I would never compare my numbers to their numbers," Harris said, who despite his earlier estimates in the newspaper article, would not release the county's current cost-per-ton.

The Kansas Aggregate Producers Association has hired Berberich Trahan & Co. of Topeka, Kan., a certified public accountant firm, to test the direct and indirect costs for several of these county crushing operations.

Moses expects the results of that study back in late summer.



A fifth county in southeastern Kansas, Crawford County, was seriously considering entering the rock crushing business in mid-1999, Moses said, but changed its mind after it allowed aggregate industry officials to go over the actual costs of operation.

"If the county residents are getting a benefit, that's good. But we're not convinced they're getting a benefit," said Steve Sloan, vice president of Midwest Minerals, Inc. of Pittsburg, Kan.

THE LAY OF THE LAND

The county operations in question are no match for the Vulcan Materials' or the Martin Marietta's of the world.

The *Parsons Sun* newspaper reported in May 1999 that Labette County has a primary and a secondary crushing plant, conveyors and a generator.

Labette County Commissioner Dale McBride said the county could crush a maximum of about 230,000 tons of rock per year and averaged costs of about \$4.24-\$4.40 per-ton last year.

Neosho County only has a primary crusher, but may add a second plant in

the future. Officials there told local newspapers their goal is to produce 100,000 tons per year, and estimate their costs at about \$2.50 per ton of crushed rock.

Despite their size, however, these operations are beginning to put the squeeze on the private sector quarries.

"The biggest problem for us is that these are small populated counties, so there's not a lot of commercial development and there's not a lot of customers for our product," DeGonia said. "The county is a big customer, so they're taking sales away from us."

Sloan points to a recent arrangement between Neosho County and the nearby city of Chanute, where the county will reportedly provide about 40,000 tons of free rock over the course of the year—a potential six-figure sale for one of the local quarries.

Now, none of these companies are going to go out of business, Moses said, but any aggregate produced by the counties and handed out for free is money out of the pockets of private industry.

To be fair, not all of these counties give away their crushed rock to neighbors or for economic development projects. Allen County said they almost exclusively use their crushed rock to repair the county's 900 miles of roads.

The same goes for Bourbon County—with one small caveat.

"We have no intentions of selling any material, we're not going to compete against the private industries, but we want to fix our roads, and we only have so many dollars to spend and we believe our program will let us do that," Harris said.

Yet, Harris admits that if a local city needed 1,000 tons of crushed rock to help an incoming business, the county commissioners would at least consider it.

And McBride said we're not talking top-grade aggregate here, noting the material Labette County donates out to the community is 3-in. minus scrap with dirt, shales and clay.

Harris said he has a simple solution for the local quarries: stop raising your prices. Aggregate industry officials counter by saying they have offered the counties prices on road rock as low as \$3.25 a ton and have tried to accommodate the county's needs for years.

RIGHT OR WRONG, IT'S LEGAL

In August 1997, State Rep. Ed McKechnie (D-3rd District) wrote Kansas Attorney General Carla J. Stovall

7-12

and asked whether Labette County was improperly competing with private enterprise in furnishing crushed rock for economic development projects.

The attorney general noted that with the 1974 advent of home-rule powers in Kansas, "counties are no longer limited to performing only such acts as the legislature expressly authorizes, but enjoy broad power to determine their local affairs."

According to Moses, home-rule powers strictly limit a county's taxing authority, thereby giving them much greater discretion in running county operations.

In either case, it doesn't help Kansas' aggregates industry.

"A county may furnish crushed rocks for parking lots and streets pursuant to its home rule power if such action fulfills a public purpose and promotes the public welfare," Stovall responded.

That kind of wide latitude bothers Sloan, who noted that almost any kind of construction or maintenance project could fall under that definition.

And legislative attempts to bring attention to these practices have also fallen short.

State Senate Bill 561, which would have required that any county-expended courthouse, jail or bridge project that exceeded \$100,000 be put out for bid, died during the 2000 session, Moses said.

The Kansas Aggregates Producers Association offered an amendment to that bill requiring that any \$100,000-plus county project which leads to direct competition with a local business, must first be subject to both a public hearing and a standardized cost-benefit analysis.

Moses intends to pursue that law during the next legislative session.

SETTING A PRECEDENT?

NSA's vice president of marketing, Lawrence Quinlivan, and its vice president of operations, David Thomey, said their members haven't complained about having similar competition problems with government-operated crushing operations.

"That is fairly unusual. One, the cost of getting into business is not small, I mean there's a heavy capital investment needed for getting into the quarrying business," said Quinlivan. "And the environmental laws are the same for all of us, getting a site and getting the community involved takes a lot of time—it's not an easy business."

When it came to regulations, Bourbon County had a few bumps on its road to the quarrying business. The county failed to initially register or license its quarry with the state conservation commission and Harris admitted the site had a few minor MSHA violations.

Quinlivan and Thomey agreed with their Kansas counterparts that the cost estimates coming from the county sounded unrealistic.

"As a taxpayer, I would be opposed to it, because I think the private sector could do it more efficiently," Quinlivan said.

FEDERAL LANDS OPEN TO MINING

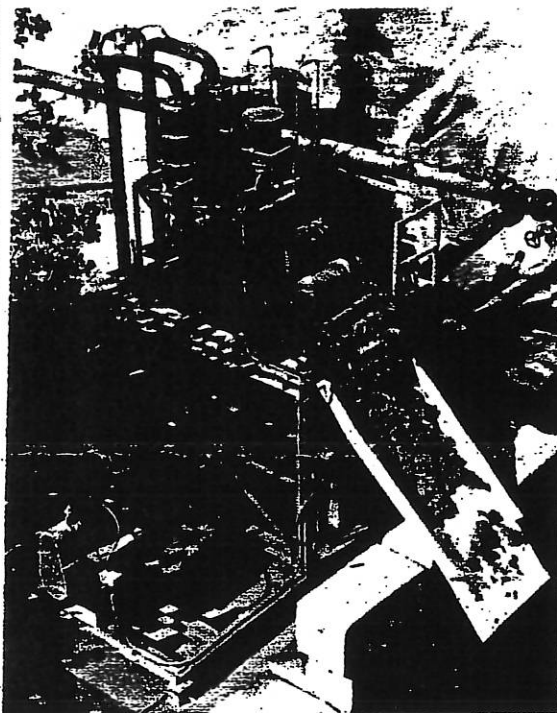
As mentioned before, those four Kansas counties don't have the playing field to themselves, since the federal government often leases land out to private companies or local governments for mining.

There are federally administered lands in 19 states where mining sites may be located, including: Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming.

The U.S. Bureau of Land Management manages the surface of public lands and the U.S. Forest Service manages the surface of the National Forest System lands. Areas off-limits to mining include national parks, national monuments, Indian reservations and wildlife protection areas.

"We used to produce crushed rock for our own road construction, but we don't do much of that anymore," said Durga Rimal, mineral materials senior specialist for the U.S. Bureau of Land Management.

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7-13

The BLM sells such mineral materials to the public at fair market value—but also gives them free to states, counties, or other government entities for public projects.

Mike Greeley of the U.S. Forest Service said a small amount of materials are still produced in-house, including rip-rap for river stabilization and materials for road construction.

Neither Rimal nor Greeley could detail how many mining sites are currently

operating on BLM or forest service lands.

However, Greeley said about 9.7 million short tons of crushed stone and sand and gravel were produced on forest service lands in 1998, while Rimal noted that 11.7 million cubic yards of mineral materials were produced for the BLM in 1999—at a value of \$9.5 million.

Similar operations exist at the state level.

Lon Ingram, chief of the Bureau of Materials and Research for the Kansas DOT, said many states identify aggregate resources, lease the property mineral rights and then when they let a project, make the land available for contractors to use the material.

Although the Kansas DOT has gone so far as to identify the state's aggregate resources, they've never taken the additional step of leasing the property.

"We have a hard enough time keeping up with what we're supposed to be doing, let alone running a crushing operation and things like that," Ingram said.

THE DEBATE GOES ON

Moses said he doesn't dispute that some counties need to produce their own crushed rock, noting there are some areas of the state that can't be serviced by the industry, given they're too remote or their volumes aren't high enough.

But the concern with Allen, Bourbon, Neosho and Labette counties is that they produce too much capacity for their own needs and that some of them justify the existence of these crushing operations by giving it away free to nearby cities.

And local aggregate operations are getting more vocal with their frustration.

Once the CPA firm's report comes back, Moses hopes to develop a pricing model that accurately reflects the costs of the county crushing operations. Using that, his first step will be to approach the legislature and push them to adopt his public hearing law. Secondly, he hopes to convince the counties and the general public that while they are justified in wanting to save taxpayers' money, they've latched onto the wrong solution.

McBride, for his part, admits Labette County is hurting the local quarries when it gives away crushed rock for local projects, but stressed the importance of economic development in attracting business.

"I just felt it was one area where we could help and not really be a big dollar investment as far as the county was concerned," McBride said. "That rock was just going to lay there."

Harris too said the local aggregate industry is justified in their concern about the competition, but added: "We don't want to hurt their business, we just want to improve our road system at affordable prices to our taxpayers."

"If we thought there was a benefit to the taxpayers, we wouldn't say a thing, because it would be sour grapes on our part," said Sloan. "But we're just not convinced that's true." ▲

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7-14

Officials want legal roadblock removed

By Michael Shead
Tribune Staff Writer

Bourbon County Commissioners are asking legislators to change a state law to help pave the way for businesses and the public.

In a letter dated Sept. 8, commissioners requested a state law be changed to allow government agencies to sell road materials to private entities. Both the city of Fort Scott and Bourbon County have asphalt plants and have been approached by private residents about purchasing paving materials.

Copies of the letter were addressed to Sen. Robert Tyson, R-Parker, Sen. Jim Barone, D-Frontenac, and Rep. Andrew Howell, R-Fort Scott.

The letter said Se-Kan Asphalt Services in Gas City had contacted the city of Fort Scott about selling asphalt to private entities.

According to the letter, commissioners checked with an attorney

and were advised that "any material sold must be to another governmental agency and must be declared for a public use."



Judy

materials from governmental agencies — even when no private company produces the products within the county.

"I need to see why that law is in place," Tyson said.

He said that, in situations like this, he is in favor of allowing private citizens to buy road materials as long as it is not at the expense of

(Continued on Page 2)

(Continued from Page 1)

or subsidized by taxpayers.

"I still wonder if there is a way to make this law work," Howell said.

He said he is philosophically opposed to situations that place governmental agencies in competition with private businesses, but, without such businesses in the county, he is open to the idea.

Barone said he is glad commissioners sent the letter.

"I'd certainly support a change to the law as they requested," he said. "If there is no other commercial asphalt, the county ought to be able to sell to private (citizens)."

He said he would prefer law that referred to mileage rather county lines so businesses near county lines are not affected.

For now, legislators are looking at law books to see if there is a way to accommodate people and not compete with private enterprises.

Barone said he would bring the issue up during the next legislative session. The Kansas Legislature will reconvene in early January.

The commissioner's letter was the result of a request from Fort Scott business man Bob Tuchscherer.

During the Aug. 25 commission meeting, Tuchscherer spoke with commissioners about buying asphalt.

"If I can't utilize what is in Bourbon County then that is wrong," Tuchscherer said. "You have an asphalt plant that I'm part owner in and I want to be able to use it. I'm paying taxes and taxpayers are part owners, right?"

At Tuchscherer's suggestion the commission agreed to write letters to legislators.

Commissioner Fred Judy liked the suggested change, but said he would not approve if there was a private asphalt company within the county.

"If there was one (asphalt company) in the county, that'd be a different story," he said.

Bourbon County Clerk Barbara Wood said the letter was mailed Aug. 25.

The Fort Scott

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7/6

FOR SCOTT, KANSAS #701, THURSDAY, MARCH 11, 2001

Officials say pavement bill would hurt small cities

By Robin Hixson
Tribune Staff Writer

Concerns are high among Kansas counties and third-class cities that the state legislature could pass a bill to prevent them from working together to maintain small town streets.

State Rep. Robert Grant, D-Cherokee, who introduced House Bill No. 2359 that passed the Kansas House of Representatives Feb. 23, said he has received a number of late phone calls about the bill.

The concerns, said Bourbon County coordinator Jim Harris stem from the bill's following passage:

"The governing body of any city or county shall not sell or otherwise provide paving material to any other

city, county, private person or private entity, unless such governing body has made a determination that such paving materials are not readily available from a non-governmental entity."

He said the bill, backed by commercial quarry owners and paving contractors, was introduced with the intent to keep counties from engaging in undue competition with their businesses.

"We support their ideal here, but they went overboard," Harris said.



Grant

The worry, Harris said, is that third class cities, which often depend on their counties to provide materials and labor for their paving programs, would be forced to discontinue those agreements and turn to commercial businesses for their materials, necessitating additional trucking expenses that most third-class cities do not have the means to afford.

"The trucking costs will take all their money, and they won't have any to buy the material," he said.

Uniontown mayor Herb Headley said his city can only afford to pay what is currently budgeted for paving, and being forced to turn entirely to commercial businesses would seriously damage its ability to maintain its streets properly.

Currently, Headley said, Uniontown purchases its asphalt, oil and gravel from Bourbon County, and then county workers apply the material without extra charge, as part of the county services financed through taxes.

"The county has been real good to work with us on that," Headley said.

Part of his concern, he said, is that such a law would not allow for application of paving materials by county workers.

Both Harris and Headley said they have contacted legislators about their concerns.

"I have talked to (Sen. Robert) Tyson and (Rep.) Andrew Howell, and I think they're going to work with us to see that this (law) won't

happen," Headley said.

Sen. Jim Barone, D-Frontenac, having been contacted by Harris and other concerned officials, said he has spoken to Sen. Leslie Donovan, R-Wichita, chairman of the Senate transportation committee, who has told him there is a possibility that third-class cities could be exempted from the bill.



Barone

"I talked to them (other legislators) about putting in inter-local agreements, because we've got to figure out a way to let the cities and

counties work together for the public good," Barone said. "My sense is that most of the contractors — even the contractors who were complaining — are willing to work out reasonable solutions."

Barone said he has been made aware of instances where some counties have provided goods and services in competition with tax-paying businesses.

"There have been some abuses, but we're got to figure out ways to make this thing work — and that's my goal — either excluding third class cities or permitting inter-local agreements that would be documented in advance."

Grant said he wants to emphasize

(Continued on Page 2)

Officials

(Continued from Page 1)

that the bill, even with its current wording, allows the counties, themselves, the discretion to decide whether the paving materials in question would be readily available to their third-class cities from other non-governmental, commercial sources.

"It leaves it wide open, and that's what we've been trying to tell county commissioners from every county that we've heard from," he said.

However, the counties would be accountable to the law if they abused that provision, Grant said.

He said his intent was not to penalize or impose hardship on counties or their third-class cities. Rather, he said, he is trying to prevent counties from competing against private industries in their

areas, which pay taxes and provide employment to county citizens.

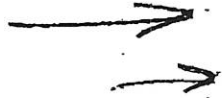
Headley said he believes citizens and businesses in third-class cities, as taxpayers in their counties, should have access to materials produced by county quarries or asphalt plants, to supply their city paving programs.

"I can't see why there would be anything wrong with buying it from them," he said.

Marian Holman, secretary to Sen. Donovan, said the bill is scheduled for Senate transportation committee consideration at 8:30 a.m. Wednesday in Room 245-N of the state capitol building.

"Anyone who wants to testify should contact me," she said.

That telephone number is (785) 296-7385.



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US 12/01 MUN 17:10 FAX 1 660 678 6761 ASH GROVE AGGREGATES 02/02

Briefly

SEK high school students to join voices in concert

The voices of 180 students from across southeast Kansas will blend together tonight in a concert to be given in the Bowlus Fine Arts Center, Iola.

Students from 35 to 40 high schools auditioned in front of a panel of judges for a spot on the risers for the SEK All-District Choir. Among them are 17 students from Chanute High School. Those students are:

Sopranos Kristin Cotton, Joni Képley and Angie Umberger; altos Tanika Bossell, Leslie Collins and Sandra Klingensmith; tenors Trevor Adwell, Allen Arthur, Masson Craft, Cody Peterson, Tyler Selbel and Nathan Woodard; basses Luke Johnson, Andrew Powell, Jacob Williams, Brent Wilson and Bobby Wood.

The students will rehearse all day under guest clinician Marles Preheim, retired director of choral studies at Bethel College. During the day, the students will be excused individually to audition for state choir.

The concert is to begin at 7 p.m. in the fine arts center. There is an admission charge.

Atchison Castings cutting 220 jobs

KANSAS CITY, Mo. (AP) — An Atchison, Kan., company is closing two of its casting foundries in an effort to cut financial losses.

Atchison Casting Corp. will close one of three steel foundries in its Pennsylvania Foundry Group and one of two iron foundries in its PrimeCast division in Betoit,

County appoints attorneys; signs lease-purchase agreement

Mikulka, Clover contracted for public defense in court cases

Gary Engel
Tribune writer

County commissioners appointed attorneys for children and certain groups of indigent persons when they met Friday. They also signed a lease-purchase agreement with Martin Tractor Co. of Chanute for the new track loader at the landfill and discussed how to price rock to a dirt work contractor for the new jail/law enforcement center.

They also heard from a property tax payer about an assessment which saw his tax bill for this year jump from approximately \$14 to more than \$147 for a parcel of land.

Two Chanute attorneys were contracted for public defense. Tom Mikulka was appointed attorney ad litem to represent the interests of children in court proceedings, and Tim Clover will be the defender for indigent persons on the bulk of misdemeanor cases, as well as traffic and fish & game

matters.

The lease-purchase arrangement sees the county paying Martin Tractor \$90,000 and then financing the remaining \$67,000 on the new track loader for the county landfill.

Also, the commission instructed County Engineer Frank Young to present a price of \$5.25 per ton to CJ2 Excavating, Inc., of Crestline for it to purchase rock from the county for the jail project.

Young said CJ2 believes county road rock is of the quality that can be used for base work on the new jail. The company was presented a price of \$5.50 elsewhere, said Young.

"I think we can shut down other operations" to haul the material for CJ2, Young said. He thought it would take four to five days to truck the projected 6,000 tons — half for the building's foundation and the remainder for the parking lot.

The group discussed possibly pricing the the gravel at \$5, but decided on the slightly-higher figure.

"I want to put some money back into the taxpayers' pocket instead of it going out," said Commissioner Donnie Yarnell.

The group decided that if CJ2's objections on the \$5.25 price were too strident, the price could be lowered to \$5 per ton.

Related to the dirt work at the site, the commission approved a \$116,750 bid from CJ2, which will begin moving dirt Monday.

Also approved was the sale of rock to the City of Erie to assist with its sewer improvements.

The commission approved the \$9,000 purchase of a dual-purpose (defense/drug detection) dog from Elliott's Police Canine, Hutchinson. The money is in the county's special law enforcement fund.

Commissioners approved a contact with Chanute-based Community Planning & Development, which is operated by Robert Hosack. Its main mission is to be the administrative consultant for the Micro-Loan Fund grant. County Counsel Dan Creitz noted that the contract contains a clause allowing the county to bow out at any time with 30 days' notice.

Young reported that KDOT had informed the county that the more than \$741,000 bid submitted by the Dufur Co. of Waverly was "acceptable" for replacement of the two bridges on old U.S. 169 North near Ash Grove Cement Co.

The bid was about \$60,000 less than KDOT had estimated.

Neosho County's share is some \$163,000. Young said a partial payment will be made to Dufur before Jan. 4, with 30 days following to pay off the balance.

County Road Supervisor Larry Dillinger will begin taking steps to lower the railroad crossing on Gray Road between 190th and 200th roads at the request of Commissioner Hugo Spieker, who said that vehicles travel over the crossing at high speed in an attempt to become airborne, "and somebody is going to get killed."

The crossing goes over the old AT&SF line which ran from Chanute to Erie and is southeast of the Chanute landfill.

After talking about the unsafe crossing matter, discussion turned to illegal dumping which is taking place just outside the boundaries of the landfill. Much of the material is leaves and brush.

"I don't understand it," Spieker said of the illicit dumping. "The city's leaf (and brush) collection site (on Ford Road southeast of town) is open all the time, and it's free."

The commission invited Steve Fickel of Chanute to return next

week to discuss his tax bill and appraisal with County Appraiser Bob Kline. Friday marked a rare absence from the courthouse for Kline.

Fickel wondered about the county's methodology for appraising taxes after his bill went from about \$14 to almost \$148 in a year for a parcel of land, a lot where there are no buildings or other improvements. The statement shows an appraisal increase of more than 800 percent.

Fickel said an acquaintance needed a place to stockpile some concrete posts, so he was keeping them at Fickel's.

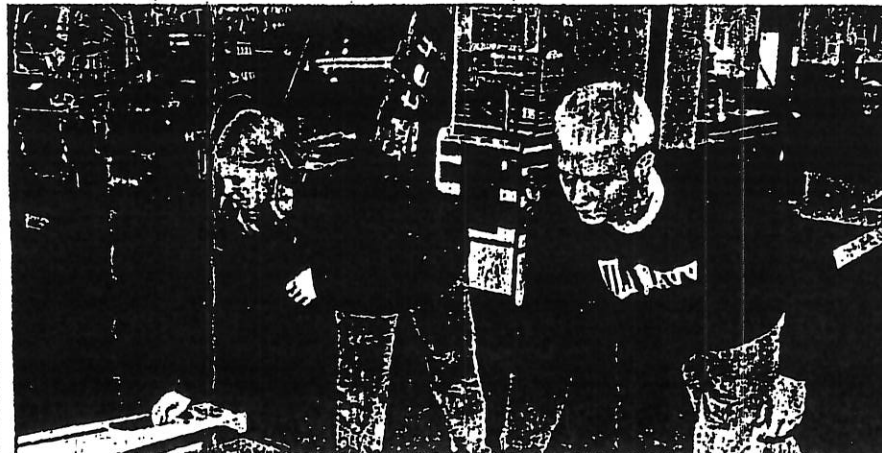
The lot has "now been classified for business use," said Fickel. "It's the other man's income" — not his.

He showed a copy of the tax bill for a similar open plot adjacent to his. It's for \$13.88.

Commissioners said the appraiser's office is bound by a plethora of state regulations regarding appraisal methods. They encouraged Fickel to return and discuss the matter with Kline next week, and he said he would do so.

The commission will meet on Thursday for its next session due to the county employees' dinner being scheduled that day.

Skee break



School board to review three charter proposals at meeting on Tuesday

State expected to approve 15 next year

Connie Woodard
Tribune writer

The school board will look at suggestions for how a charter school could operate in Chanute when it meets in regular session Tuesday night.

The meeting has been moved

The state is expected to approve 15 new charter schools in Kansas for 2001-2002.

In other business Tuesday night, the school board will hear what progress has been made on a study of district buildings or facilities.

A committee has met several times to discuss alternative uses for the schools, space needs

A district committee of staff, teachers and community mem-

THURSDAY, JULY 20, 2000

◆ PARSONS SUN ◆

Two businesses to get county aid

Eco-devo panel wants more info about job center

BY JAMIE WILLEY
PARSONS SUN

ALTAMONT — The Labette County Economic Development Committee agreed to give assistance to two Parsons businesses but wants more information from the Southeast Kansas One-stop Career Center before agreeing to more funding for that agency.

The committee will recommend that the Labette County Commission approve a \$30,000 low-interest loan to Nu Alpha Manufacturing. The company, which is being started in Parsons by Charles Beckett, will mold aluminum into 10,000 different forms by using high temperature and pressure for use in several products such as window frames.

Carolyn Kennett, economic development director for Parsons and a member of the committee, said Beckett needs a larger electrical system for the building in which it will locate. Nu Alpha is moving into the former F&M Engineering building on the south side of the Flynn Industrial Park.

Kennett said the current electrical system in the building will not handle Nu Alpha's equipment. She sought assistance from Western Resources for the electrical upgrade as part of that company's economic

development efforts, but Western Resources committed only to installing a transformer to handle the extra power.

Kennett told the committee that it will cost Nu Alpha \$46,000 to upgrade the electrical system.

Nu Alpha, which also has received start-up assistance from the city of Parsons and from a state grant, is expected to employ 125 people after two years of operation.

Rock donated

The committee agreed to give 1,100 tons of rock from the county's quarry to Ervin Auto and Marine Service. The rock will be used as a base for parking lots at the business' new location on south 16th Street.

Ervin moved to the new location after the April 19 tornado destroyed its former building at 2121 Main.

Kenny Ervin said he will spend about \$200,000 more on the new site than what he received from insurance for the damage to his former building. The new building is undergoing expansion. Ervin is the former owner of the business but now owns only the new building.

The rock will be used as a base for two asphalt parking lots. Ervin said there is a 22- to 30-inch rise on the surface of one of the future parking lots, so some of the land will have to be tilled. The rock is valued at an estimated \$4 per ton. Ervin Auto will hire four to six more technicians

See ECO-DEVO, Page 12.

Continued from Page 1.
when the expansion is complete.

One-stop review

Debbie Cruse, service coordinator for the SEK One-stop Career Center, requested funding for the center. The county gave the center \$30,952 last August and the committee said it would consider more funding this year.

Cruse gave the committee a review of the center's operations since its opening in 1998, but committee members wanted to see a budget for the center before approving any funding.

FROM PAGE 1

Committee member Phil Blair said the committee has always requested a budget from private industries before granting or lending money and the same should be expected from the center.

"I think we would not be doing our job if we did not see something in black and white, albeit projections," Blair said.

Bob Bartelli, Parsons city commissioner and chairman of the committee, told Cruse the committee needs to see how much Labette Community College, the city of Parsons and private industries have contributed as well as revenue from state grants. The committee also needs to see how the money will be spent, he said.

Blair said the committee would like to see more representation outside of Parsons on the one-stop board. Only one board member is now a Parsons resident.

The one-stop center formerly served Labette County only, but was designated by the state as a center for the area. It now serves five counties in Southeast Kansas, and will expand soon to take in three other counties.

LEGISLATIVE TESTIMONY



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HB 2369

March 14, 2001

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Committee on Transportation

by

Terry Leatherman
Vice President – Legislative Affairs

Mr. Chairman and members of the Committee:

My name is Terry Leatherman. I am the Vice President for Legislative Affairs for the Kansas Chamber of Commerce and Industry. Thank you for this opportunity to explain why the Kansas Chamber supports HB 2369.

KCCI did not appear on this bill during House deliberations. That was our mistake. This bill speaks to the heart and soul of the mission of the Kansas Chamber of Commerce and Industry,

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 2,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 48% of KCCI's members having less than 25 employees, and 78% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

SENATE TRANSPORTATION

COMMITTEE-DATE: 3-14-01

ATTACHMENT: 8-1

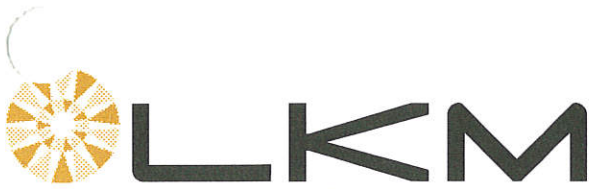
the preservation of our system of free, competitive, private enterprise and our adamant opposition to the entry of government into competition with the private sector.

In this instance, counties are engaging in crushing rock for their needs, and looking to sell or give away the product they do not need. Private business is being asked to compete against an enterprise that was built and operated on taxpayer dollars, does not have any tax obligations, and does not need to worry about turning a profit or losing money. There are reports of county operations giving away their product. How is private enterprise expected to compete with "come and get it ... it's free."

KCCI recognizes that critical public policy topics are clashing here. Unfair government competition with private enterprise is being pitted against the home rule powers of local government. If the issue before you were whether a city or county, in meeting its responsibilities to provide good roads by crushing rock to meet its needs has stepped too far, then a healthy debate could follow. However, when the debate is about a governmental entity overproducing a product which it then markets against private businesses, then the shades of gray give way to black and white. That is what HB 2369 proposes to halt.

Thank you for this opportunity to include the Kansas Chamber of Commerce and Industry in the list of supporters of HB 2369. We encourage you to consider the important lines that separate government service and private enterprise, and to recommend HB 2369 to the Kansas Senate for passage. I would be happy to respond to any questions.

8-2



League of Kansas Municipalities

300 SW 8th Avenue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

To: Senate Transportation Committee
From: Don Moler, Executive Director
Date: March 14, 2001
Re: Opposition to HB 2369

First I would like to thank the Committee for allowing the League to appear today in opposition to HB 2369. As I know you are all aware, one of the cornerstones of local government in Kansas is Constitutional Home Rule for cities. This power is not taken lightly by cities and we believe it is a very important aspect of the intergovernmental structure in this state. As a result, the League appears regularly whenever we believe there is a piece of legislation which will adversely impact Home Rule. Today I appear in opposition to HB 2369, a bill which clearly undermines local control and Constitutional Home Rule.

HB 2369 prohibits a city or county from selling or providing paving materials and services to other cities, counties, private persons or private entities except in certain limited circumstances. Not only does this preempt local control, it severely limits intergovernmental cooperation between local governments in the area of road and highway maintenance. Locally elected officials are in the best position to decide what is best for their communities and the state should not dictate or preempt their ability to do so. We urge the Committee to reject HB 2369 as unnecessary and an assault on the Constitutional Home Rule authority of cities in Kansas.

Again, thank you for the opportunity to appear today, and I would be happy to answer any questions the Committee may have.

SENATE TRANSPORTATION
COMMITTEE-DATE: 3-14-01
ATTACHMENT: 9

9-1



KANSAS
ASSOCIATION OF
COUNTIES

TESTIMONY
concerning House Bill No. 2369
re. County Sale of Paving Materials
Senate Transportation Committee

Presented by Randy Allen, Executive Director
Kansas Association of Counties
March 14, 2001

Mr. Chairman and members of the committee, my name is Randy Allen, Executive Director of the Kansas Association of Counties. I am here today to express our opposition to House Bill No. 2369. As the bill left the House, it would prohibit cities and counties from selling or otherwise providing various paving materials to any other city, county, private person or private entity.

It is our understanding that among the 105 Kansas counties, the vast majority of counties (as local policy decisions) do not routinely sell crushed rock or gravel or asphalt to other counties or to cities, and even fewer sell paving materials to private persons or private entities.

The underlying assumption in HB 2369 is that counties should not be in the business of selling paving materials - whether it is to other local governments or to private persons or entities. In reality, many of our counties and county officials probably agree with or at least would not disagree with prohibiting the sale of paving materials to private persons or private entities.

We urge the committee to refrain from enacting a uniform prohibition on the sale or provision of paving materials by counties or cities to other units of local government. This is an unnecessary invasion of local control that will limit policy options that are or may prove to be beneficial to counties, cities, townships, and their citizens. In lieu of the current language in the bill, we respectfully urge the committee to consider an amendment to Section 1(b) of HB 2369 as follows:

- (b) The governing body of any city or county shall not sell or otherwise provide paving material to any ~~other city or county~~, private person or private entity, unless such governing body has made a determination that such paving materials are not readily available from a non-governmental entity. The provisions of this subsection shall not apply if a governing body declares by resolution that a disaster has occurred or that the occurrence or threat of disaster or emergency may exist.

Thank you for your consideration of our position.

6206 SW 9th Terrace
Topeka, KS 66615
785•272•2585
Fax 785•272•3585
email kac@ink.org

SENATE TRANSPORTATION
COMMITTEE-DATE: 3-14-01
ATTACHMENT: 10

10-1



Chanute

a TRADITION of INNOVATION

March 14, 2001

Senate Transportation Committee
State Senate
State Capitol
Topeka, Kansas 66612

Dear Honorable Senators:

The City of Chanute (located within Neosho County) requests that House Bill 2369 by Representative Grant be killed. The Bill was approved on February 23, 2001 by a 120 – 4 vote and sent to the Senate. The communities and taxing jurisdictions within Neosho County and the Neosho County Commissioners have been communicating with legislators regarding our opposition to the attempt to eliminate our cooperative work.

Neosho County has a rock crusher that produces road rock for the county. The citizens of Neosho County voted and paid for the crusher operation. The municipalities within Neosho County obtain a small portion of the rock produced for roads and alleys. This arrangement makes financial sense to the governing bodies within Neosho County.

Our interpretation of the intent of House Bill No. 2369 is that the Neosho County citizens will no longer be able to have their rock crusher provide rock for the alleys and roads they drive upon. Instead, we will be mandated by the State Legislators to buy rock from some private, for – profit enterprise. The Chanute City Commission reviewed the Bill at their March 12, 2001 meeting, and they are unanimous in their opposition. A copy of their resolution is attached for your review.

House Bill 2369 is an attempt to force local governing bodies to abandon solutions they developed for their communities. Constitutional home rule serves the State quite well. The State of Kansas should not preempt local elected officials, and the local citizenry (who voted to tax themselves to pay for the crusher) as they work to improve roadways in Neosho County.

Thank you for your time and work.

Sincerely,

Randy Riggs
City Manager

SENATE TRANSPORTATION
COMMITTEE-DATE: 3-14-01
ATTACHMENT: 11

11-1

Resolution # 2001-06

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CHANUTE, KANSAS:

That the City of Chanute opposes House Bill 2369 proposed by Representative Grant:

Whereas, the citizens of Neosho County voted and paid for a rock crushing operation; and

Whereas, the municipalities within Neosho County obtain a small portion of the rock produced to help maintain roads and alleyways; and

Whereas, the current arrangement between Neosho County and the municipalities makes good financial sense for it's citizenry; and

Whereas, by passing House Bill 2369, it would mandate the City and County abandon their Interlocal Agreement and require they purchase rock from private sources, thus increasing costs for the County and it's municipalities.

Now, therefore, be it resolved by the Governing Body of the City of Chanute, Kansas:

That the Chanute City Commission has reviewed House Bill 2369 and is unanimous in their opposition.

Adopted by the Governing Body of the City of Chanute, Kansas this 12th day of March, 2001.



Joan Howard, Deputy City Clerk

RECOMMENDED:

Randy Riggs
Randy Riggs, City Manager

Ed Cox
Ed Cox, Mayor

Doug Klaassen
Greg Chang
[Signature]
John R. Stewart

REF: House Bill Number 2369

Mr. Chairman and Members of the Committee:

I'm Doyle "Hooley" Alcorn, Commissioner of Jewell County, Second District. We, the Commissioners of Jewell County, want to thank you for allowing us time in your busy schedule to comment on House Bill number 2369.

Jewell County is located in North Central Kansas and borders the Nebraska line.

Jewell County is a small populated county of 3,800 plus, with a valuation of \$30,993,800,⁰⁰ and a county mill levy of 77.10 mills.

Jewell County is operated as a county unit system. All roads in the county are maintained by the county, approximately 1500 miles. We have 6 limestone rock quarry's in the county. These are on land owned by landowners and the rock is sold to the county. One pit is owned by the county.

We are very concerned about house Bill No. 2369, as are all small counties. Jewell County has no problem with our local hauling and material contractors. We work together with them. They help us at times and we in turn, help them. However, there are some material cost involved.

We also work with Republic County and share a landfill with Smith County. Jewell County has less than twenty-five miles of oil road. By working with Republic County in helping with sealing, etc., we do not need to have a large inventory of sealing material on hand or as much equipment. However, we do reimburse for material costs.

As we are a farming community we have to depend on Property Tax for our main source of revenue. We do not have a Sales Tax base in Jewell County. We have no new car dealers and only one small used car dealership, one major grocery store and two small ones. We border Nebraska and they do not charge Sales Tax on groceries. This has a monetary effect on us. Consequently, we have to work together, with all the resources we have, to get things done.

Jewell County works very close with our cities within the County. Most are small towns with few resources to work with, Esbon, Burr Oak, Jewell City, Mankato, Formoso and Randall.

These smaller towns cannot afford to keep large inventories of material on hand let alone, some very high priced equipment. We help them and they help us. However, there are times when we have to bill them for surfacing material. By working together and sharing costs we can keep things going and keep people living in our county.

12-1

- SENATE TRANSPORTATION
COMMITTEE-DATE: 3-14-01 -
ATTACHMENT: 12

Aggregate Producers, Public Affairs Director for Kansas Contractors Association, Venture Corporation & Andrews Asphalt and Construction.

There were only two who testified against the bill: Kansas Association of Counties Director and Kansas League of Municipalities. Doesn't it seem odd there were no Commissioners, Mayors, Council Member or Road Supervisors from smaller counties? Our Representatives never let us know or asked if we had any problems with this Bill.

As President of the annual meeting of the North Central Kansas County Highway Officials Association at their annual meeting in Clay Center, Kansas, March 8, 2001, there was a lot of discussion ^{heard} on House Bill No. 2369, and many comments made. At the end of the discussion & comments there was a motion made and seconded that the Association representing 16 counties was oppose to House Bill No. 2369. The motion carried unanimously.

What happened to Home Rule? We feel as if local governing bodies have a better understanding of their counties needs and how to take care of them than the people in large organizations and larger counties. Small counties cannot "Buck" big money!

What we ask of you is that you take a good look at this bill before you make a decision or, before you vote on it.

The way small counties look at it is, "if its" working well -- leave it alone. Do not try to fix it.

We thank you Mr. Chairman & Members of the Committee & we trust in you as our elected officials to make the right decision.

HOUSE TRANSPORTATION COMMITTEE

Testimony of Ronald Karn

February 13, 2001

Representative Donovan, and Members of the Senate Transportation Committee.

I am the Road Superintendent for Jefferson County and currently President of the Kansas County Highway Association.

I want to thank you for giving me the opportunity to speak to you today in opposition to HB 2369.

This bill would greatly prohibit city's and county's ability to provide low cost services to it's citizens.

Counties want to have the ability to work with cities especially very small cities that cannot afford to otherwise provide this service.

Taxpayers that live within the city limits as you know still pay county taxes and deserve to get something for those taxes.

Jefferson County doesn't provide help to cities within our county unless they ask for it. We also cannot provide all the services they need but we want the opportunity to help them when we can.

We do not need this bill or any bill that would limit the amount of shared resources currently being used to save taxpayer's money.

Thank you again for this opportunity to speak to you on this very important issue.

Ronald Karn, President
Kansas County Highway Association

13-1

- SENATE TRANSPORTATION

COMMITTEE-DATE: 3-14-01 -

ATTACHMENT: 13

Testimony of Dan Harden
Before the Senate Transportation Committee
Regarding House Bill 2369 as amended
14 March 2001

Senator Les Donovan
Chair

Senator Donovan, and members of the Senate Transportation Committee; my name is Dan Harden. I am a professional engineer. I am employed as the Riley County engineer.

I am here today to urge you to allow counties to do 2 things that are not presently allowed in House Bill 2369.

The bill, as written, appears to stop counties from selling paving material to private contractors. This will be troublesome for Riley County as Riley County sells the recycled asphalt pavement it generates from making road repairs to the local asphalt contractor. This practice is a sound practice both economically and environmentally. If Riley County is banned from selling recycled asphalt pavement to the local asphalt contractor, it will end up being stockpiled and wasted in the environment. I suggest an exclusion to the no sale provision to private contractors be made for recycled asphalt pavement generated by counties.

14-1

The second provision I suggest is that counties be allowed to sell aggregate out of county owned stockpiles purchased from members of the Kansas Aggregate Producers Association to other cities and townships in their respective counties. Riley County routinely purchases aggregates from members of the Kansas Aggregate Producers Association and stockpiles the material. Several times a year the cities in Riley County and or the townships will purchase aggregates from Riley County from these stockpiles on an emergency basis. The only reason Riley County agrees to sell the stockpiled rock is because the local quarry is not open for business at the time of the emergency need. Given the fact quarries do not supply aggregate on a 24X7 basis and counties do, I respectfully request counties be allowed to continue to "remarket" aggregate under these conditions.

I stand for questions.

ELLIS COUNTY PUBLIC WORKS

Highway Department--Road & Bridge

Environmental

Landfill--Transfer Station

Noxious Weed

1195 280th Avenue
P.O. Box 691
Hays, Kansas 67601-0691

Phone 785-628-9455
FAX 785-628-9457

TESTIMONY

Regarding House Bill 2369
Concerning sale or providing paving materials
Senate Transportation Committee

Presented by Mike Graf, Public Works Administrator
Ellis County, Kansas
March 14, 2001

Mr. Chairman and members of the committee, my name is Mike Graf, Public Works Administrator for Ellis County, Kansas. I am here today to express my concerns and those of the Ellis County Commission regarding the House Bill 2369 under consideration by the Senate Transportation Committee.

In specific terms, this bill as proposed would restrict the sale or providing of paving materials, as defined, between cities, counties, or private persons or entities. In broader terms, this bill dictates the management of materials potentially used on the roadways in the State of Kansas secondary road system, either in direct conflict or contrary to statutory provisions that provide that this roadway system is under the management and discretion of the Board of County Commissioners.

As a local government representative concerned with serving the public need at the local level, I would ask that the committee consider the conflicting issues resulting from this bill. KSA 68-506, 506a, 506f, KSA 68-169, and KSA 68-572 grant the governing boards of cities and counties the authority to enter into agreements for connecting links, benefit districts, or any road or street in the county system. These statutes allow for the division of related costs among the local governments. Expenditures made pursuant to such agreements are considered proper expenditures of public funds. Under the proposed bill, this authority is restricted with regard to paving materials.

Aside from the statutory issues, any departure from local government ability to work cooperatively with other government entities due to reduction in local control of expenditures may have a negative impact on those entities and the citizens they serve.

SENATE TRANSPORTATION
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15-1

Local government decisions are routinely based on stretching limited financial resources, while providing services considered in the best interest of the public. House Bill 2369 does not address the potential impact to the public, either financially or with respect to level of service. Keep in mind that with respect to counties, the taxpaying citizens of cities are also residents of the county, and therefore, should be afforded local government entities that serve the collective interest of its citizens. In debating the philosophical issue of counties or cities selling paving materials, please consider that other than the statutory options, the sale of paving materials may be isolated, or limited in scope.

On behalf of Ellis County, I would suggest that the bill be dismissed due to the apparent conflict with Home Rule and the wide-ranging impact on the aforementioned statutes. In the absence of elimination of the bill, I would propose that the committee table any other action on the bill, until such time that an in-depth study be completed fully defining the issues. If an extensive problem exist, the study may better identify an agreeable solution that does not impact local government options.

Mr. Chairman, I thank you and the committee for the opportunity to comment.

WASHINGTON COUNTY

**Washington County
Public Works
Department**
P.O. Box 277
1561 Rainbow Road
Washington, KS 66968
Phone: 785-325-2318
Fax: 785-325-2383
e-mail: wcpw@washingtonks.net

**GLENN LARSON
ADMINISTRATOR**

BOARD OF COUNTY COMMISSIONERS

**ALISON MUELLER
MARCIA FUNKE
GENE HELMS**

March 14, 2001

Honorable Senators,

Thank you for this opportunity to express my opinion on HB 2369. I testify today as the representative of Washington County and the Board of County Commissioners. Since I represent a county, and I am not well versed in Statutes regarding cities, I will address the issue as one affecting counties only. However, I believe that much of what I will say does apply to cities as well.

House Bill 2369 would prohibit the sale of paving materials by a county or city to another county, city or private entity except in certain narrow situations. The bill attempts to allow the sale of paving materials, if materials are not reasonably available from a private source, or in an emergency. The idea of time spent to explore whether a contractor will be working in the neighborhood next year, then drive miles to his plant to accept whatever product he is producing at whatever price he charges, is not reasonable, ever. These provisions are simply a kind of permit. We already have enough permits in our business.

During two weeks of discussion with county and city officials, I have talked to no one who would advocate that a government entity should sell paving materials or any other property to a private entity except through existing Kansas Statute. It is inherently improper for a government to compete with its private citizens or private commerce. In the immediate instance of selling paving materials, it would seem prohibitively cumbersome to comply with that Statute just so a county could sell paving materials privately. In any case, there should not be opposition to any kind of statute that would regulate the sale of paving material or other property to a private entity.

One thing counties and cities hear repeatedly from citizens, federal and state government is that they should cooperate, pool resources and generally use resources more efficiently. Some Kansas Statutes directly promote cooperation and pooling by Counties. The basic concept of HB 2369 would seem to be diametrically the opposite concept of cooperation and pooling.

Probably the most significant effect of HB 2369 would be to place physical and financial constraints on the paving and repair operations of Counties and Cities. The result of that action will be higher taxes and decreased pavement quality. The Safety of travel on Kansas County roads would be degraded.

SENATE TRANSPORTATION
COMMITTEE-DATE: 3-14-01
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Washington County produces about 10,000 tons of cold mix asphalt annually. About 1500 tons of that is then sold to cities in the county. The effect of the bill would be twofold. Cities would have to travel further to pay a higher price for their patching material. Washington County would benefit 15% less from the economy of scale.

In 1997, Washington County contracted for 3000 tons of cold mix asphalt. The contractor produced the material. Later in the summer when the county was ready to use the material, they had sold it to someone else. The county was able to purchase hot mix asphalt from a neighboring county to do the planned work.

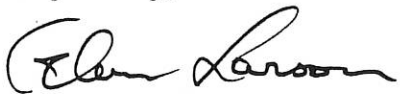
In 1998, Washington County had contracted with an aggregate producer for sealing chips. The producer failed to deliver the promised amount. The county was able to purchase enough chips from a neighboring county to finish the planned work.

In 1999, Washington County cooperated with a neighboring county to purchase a semi-load of pothole patching oil. The county realized a good savings in freight because of our ability to cooperate.

Washington County believes the primary benefit of this bill if passed will be to enhance the position of private contractors at the expense of small counties and cities. Washington County believes there is no need for this bill at all. We believe that if present Statute were complied with, and enforced, the bill would not be needed.

Washington County urges you to stop this bill in committee. Your action to stop this bill will encourage cooperation among local governments, lower taxes and enhance the quality and safety of roads in Kansas.

Respectfully,



Glenn Larson
Public Works Administrator

16-2

Neosho County

Organized 1864

COUNTY COMMISSIONERS

Donnie G. Yarnell-1st District

R. E. Clements -2nd District

Vernon Shultz-3rd District

TESTIMONY ON HOUSE BILL 2369 SENATE TRANSPORTATION COMMITTEE MARCH 14, 2001

In regards to House Bill 2369, which would ban the sale or otherwise providing of paving materials by our county to any other city, county, or private person or private entity: **The Neosho County Commissioners hereby express their concern over the content of this bill and the economic effects it would have on our county.** Agreements have been reached among local city governments, cemetery districts, and Neosho County to initiate road and street improvements in these entities using rock produced in our county quarry. This bill would contradict agreements that have been in place and functioning satisfactorily for the entities involved.

Neosho County has produced rock continuously since 1948 with county equipment and personnel on leased private property in Neosho County. In 1995-1996 a major upgrade of equipment used in this operation incurred a great deal of expense to our county government. In order to pay for this upgrade, a ½ cent countywide sales tax was implemented for capital improvements, including quarry equipment. Day to day operational expenses of this facility are funded by property tax revenues also paid by the entire county. Since the upgrade, the quarry has continued to improve in efficiency and now produces enough rock to provide for all our county road maintenance needs as well as provide economical materials for street and alley improvements in the cities. To remove this option by state mandate would not only be unfair to the people who voted for the sales tax, it also would set back the street improvement programs in our county by several years if not canceling them altogether.

Neosho County supplied the following quantities to the following entities in the year 2000:

City of Chanute (pop.9488) 10522 tons

City of Erie (pop. 1276) 2022 tons

City of St. Paul (pop. 687) 612 tons

City of Thayer (pop. 435) 1449 tons

City of Galesburg (pop. 160) 391 tons

City of Stark (pop. 79) 416 tons

Galesburg Cemetery 244 tons

Total Rock Production for 2000 by Neosho County forces = 163,641 tons

As you can see, the quantities are not great compared to our total production and are not going to burden the county's regular maintenance operation. In many cases the development that results from the street and road improvements leads to greater economic activity that actually aids the aggregate industry sales. In addition, the days of the small aggregate producer are long gone with consolidation and buy-outs leaving little competition between producers in our area. Neosho County used to have five active quarries. We now have one active quarry at Chanute with "ghost" quarries elsewhere; used mostly for specific KDOT projects scattered around the area. This has resulted in increasingly higher costs and longer hauls for crushed rock used in road building projects.

Some misinformation about sales to private contractors by Neosho County has also been circulated. Neosho County does not sell to individuals or private contractors as a matter of everyday business. The only time Neosho County has supplied rock to private contractors has been for use on our own projects. We are currently supplying rock for a joint County/Corps of Engineers erosion-control project in the Neosho River near St. Paul, Kansas. This project would not have been feasible without the use of County resources to reduce costs. We are also currently supplying rock to be placed by a private contractor under the new Neosho County jail. Because of the nature of these bids, it was more practical for the county to be reimbursed for the cost of production of this material than to supply it in other ways. If the provisions of this bill had been in effect, both of these projects would have still used county rock with the

SENATE TRANSPORTATION

COMMITTEE-DATE: 3-14-01

ATTACHMENT: 17

Courthouse-100 South Main

Erie, Kansas 66733

Phone (620) 244-3855

FAX (620) 244-3860

17-1

contracts written in more complicated ways to allow the use of county resources. To create new legislation to regulate this activity seems like a waste of the State's time and resources. Neosho County and three other counties in Southeast Kansas are the only counties in Kansas that still run rock crushers and produce their own crushed limestone aggregate. We feel this bill is aimed directly at our operations and single out the residents of Southeast Kansas in an unfair manner. Please take measures to stop passage of this effort by the aggregate industry to eliminate competition and further their goal of putting the counties out of the aggregate business. To pass such a self-serving law for one segment of private enterprise is grossly unfair to the taxpayers of Neosho County. If this logic is extended to all county services, we may see legislation eliminating road maintenance operations, such as rock hauling and grading, for fear of damaging the trucking and earthmoving industries. County crews would no longer be able to build bridges for fear of damaging the bridge building industry. Health department activity could compete unfairly with the medical establishment. Law enforcement could be done more efficiently by private security agencies. The list goes on and on.

Government entities are often left the unprofitable jobs by private industry because no one else will do them. Originally, counties produced rock because no one else would do it for them, at any price. Our operation may be a hold over from those days, but now we find that still, no one will produce rock for a price we can afford. If our county had to buy crushed rock for the amount of money we currently spend producing it, we would have to cut our road maintenance projects in half. Production of aggregates by counties is indeed unusual in this state. The myriad of federal and state regulations has made it increasingly more difficult and costly to maintain our operations. Competition from the private sector has made it more difficult to find and keep qualified employees. All these factors already limit the ability of counties to compete with private sector producers. We ask that you restrain from adding another mandate to this list.

Thank you for your assistance in this matter.

Sincerely,

Donnie Yarnell
Chairman
Neosho County Commission

City of Tonganoxie, Kansas

P.O. Box 326
Tonganoxie, KS 66086

TESTIMONY

Concerning House Bill No. 2369
Re. County Sale of Paving Material, Services
Senate Transportation Committee

City Hall
321 S. Delaware
(913) 845-2620

City Shop
316 S. Main
(913) 845-2640

Water Plant
1536 E. 4th
(913) 845-2135

Chief Tonganoxie
Swimming Pool
222 S. Main
(913) 845-9515

Library
305 S. Bury
(913) 845-3281

City Administrator
321 S. Delaware
(913) 845-2652

City Attorney
P.O. Box 707
Leavenworth, KS
66048
(913) 682-0166

Fire Station
Headquarters
825 E. 4th
(913) 845-9494

Police Department
Administrative
Office
325 S. Delaware
(913) 845-3750

Police Dispatch
(913) 845-2311

Emergency
911

Universal Fax
(913) 845-9760

**Presented by John M. Franiuk, Mayor of the City of Tonganoxie
March 14, 2001**

Mr. Chairman and members of the Committee, my name is John Franiuk, Mayor of the City of Tonganoxie. I am here today to express my concerns about House Bill No. 2369 as proposed. The bill would prohibit cities or counties from working cooperatively on roadway projects.

Many small cities lack the staff to do roadway projects or do not have the mechanism to do Chip & Seal while the County does. This bill would hurt those communities who can least afford the impact. County services are the primary resource. County and City government try to stretch their resources while not increasing property taxes. This bill would cause communities to raise property taxes or reduce roadway improvement services.

Our City has received requests for Annexation from outlying areas over the last couple of years. The City lacks the funding to pave the streets but has utilized the County to Chip & Seal the roadways. The recent requests have come to the City in the form of a benefit district. The taxpayers of the Benefit District want a quality project at a reasonable rate. The City has successfully cooperated with the County to Chip & Seal these roadways. This method has saved the City and the Benefit District participants money. Why should the taxpayers not benefit from a cooperative effort of City and County government?

A failure to continue to allow for this cooperative action will only result in the continuation of gravel roads. It has been the City's experience that even Chip & Seal Roadways has promoted economic development in comparison to gravel.

As Mayor of Tonganoxie, I want to promote development in my community. How will forcing us to have more gravel roads help my community?

We have over 20 miles of existing roadway in the community. Our annual budget to renovate the roadway system is around \$100,000, which does not go very far. This proposal is anti-government cooperation, anti-development and will only degrade the City's Infrastructure.

18-1

— SENATE TRANSPORTATION
COMMITTEE-DATE: 3-14-01 —
ATTACHMENT: 18

Senate Hearing Committee for bill #2369

Chairperson & Committee Members,

We the City Council and the Mayor for the City of Erie, strongly oppose bill 2369. We feel not only as Representatives for the City of Erie, but also as taxpayers in Neosho County, the State should not be allowed to dissolve a good working relationship between cities and county. The materials being questioned are all paid by tax dollars, and most of those tax dollars are coming from the people in the cities, so why shouldn't the cities benefit, if the county is willing and able to provide this service.

The State has always tried to promote Economic Development and this service the County has provided has played a big part in those projects. So why would you want to do away with it. We just find it hard to believe, that the State wants to tell taxpayers that your County can't provide these services anymore.

Sincerely,



Mayor of Erie
City Council of Erie



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- SENATE TRANSPORTATION
COMMITTEE-DATE: 3-14-01 -
ATTACHMENT: 19

HB 2369

Position Statement Kansas County Commissioners Association

Chairman Donovan and members of the Senate Committee on Transportation:

On behalf of the 335 county commissioners in the 105 Kansas counties, I submit our opposition to HB 2369. Said passage of this bill would place an added hardship on counties and curtail the cooperation that exists with cities and other municipalities. More and more, cities and counties are working together to create a more efficient system of local government while striving to curtail the increase in taxes that we all dread. If HB 2369 passes the Senate, the wrong message will go out to Kansas municipalities. The real losers from HB 2369 will clearly be the people of Kansas.

In Labette County, cooperation among municipalities is a common occurrence. The voters of Labette County adopted the county unit system in 1921 and it remains in affect today. City and rural residents share equally in maintaining all aspects of our Road and Bridge Department, including our quarry operations that produces the majority of our aggregate. Only in the past ten years have we tried to provide benefits to county residents that reside in our incorporated cities.

Parsons has been hit severely by recent economic developments. When the MKT (Katy) Railroad sold its interests to the Union Pacific Railroad in the late 1980's, we lost jobs that we had in the community since 1871. These were well paying, highly skilled jobs that could not be replaced. In 1941, land for the Kansas Army Ammunition Plant was purchased - consuming and thus removing 13,000 acres of Labette County land from productivity and the tax roles. In 1941 we knew we were on the brink of war, and the sacrifice seemed a small price to pay when later in that year, we found ourselves embroiled in a global war. Those same facilities used to manufacture munitions in that war, later were used during Korea, Viet-Nam and later the Persian Gulf conflict. During the Second World War, 10,000 employees worked at this facility. The Viet-Nam era workforce was at 3500 employees. When I was first elected commissioner in 1982, 1500 individuals were employed at KAAP. When the White House announced military cutbacks, our facility was among those targeted. Today that work force is at 150 and looks to decrease even further. These lands are unsuited for other uses because of contamination and thus will remain as a federal reserve indefinitely.

We began a collaborative effort with the city of Parsons to retain our remaining industries. Labette County has limited resources. Three times Labette County has supplied a low-grade crushed rock to the City of Parsons for industrial expansion and retention projects. The material is good for base or fill, but not really suited to what we needed for our roads. Labette County roads were never neglected nor were any Labette

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County trucks used in transport. The City of Parsons and independent truckers and contractors moved and distributed the material.

We have denied requests involving service/retail businesses. Our intent is not to compete with local private aggregate producers. We do not sell or give aggregate material to individuals. In addition, we do not sell aggregate materials to any of our eight incorporated cities, because we do not have the adequate type of material they need. Suitable crushing material is becoming scarce in our county. When individuals request materials or paving services, we refer them to an independent contractor or to a business where they can purchase the materials and services they need.

In our smaller cities of Oswego, Chetopa, Altamont, Edna, and Mound Valley, we have loaned equipment during the weekends so they may repair and improve their streets. Without our lending this equipment, they could never hope to pursue these endeavors. They purchase all the necessary materials needed from local aggregate producers. We supply none. Without our assistance, nothing could be done to many of their streets due to fiscal restraints. We, as a county commission, take pride in this level of cooperation.

The language in HB 2369 cites that there are circumstances when exceptions can be made upon the unavailability of paving materials from a non-governmental entity and in cases of emergency, but that doesn't cover the whole picture or all the scenarios that can occur. It should be quite evident that we as county commissioners need to continue our current level of discretionary authority. I cited above what can happen in one county, and why we acted in the rational manner we did. We at the local level realize the necessity to work in harmony and being cooperative with other local units of government. What we are forming is a partnership that can more adequately serve Kansas. The Kansas County Commissioners Association respectfully requests that HB 2369 not move favorably out of this committee.

Thank you,

Lonie R. Addis
Labette County/Legislative Chair
Kansas County Commissioners Association

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Dear Senators:

My name is Tim Schook, I am the City Administrator of the City of Washington. We are located at the Kansas highway 15 and U.S. 36 junction in the north central portion of the state. Our population is approximately 1300 people.

I am here representing the City of Washington to speak out in opposition of HB2369.

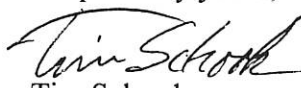
I have lived in Kansas for six and a half years; I have been city administrator for the past three and a half years. In those years attending workshops, meetings, etc. we here from various state agencies on how we need to create intergovernmental relationships so that we can provide more or better services to the tax payers in our areas.

In Washington we have done these very things for years, it is one way that our small towns survive, for years now we have placed orders with the county public works department for grader blades, culverts, and asphalt. The reason we do this is to buy in quantity, along with public works and the other towns in our area we pool our resources so that we can get the best price possible and then buy these items through the county. The city of Washington also assists the local school and the county hospital with the maintenance of their parking lots. They buy their asphalt from the county public works also, which we then apply and seal.

We believe the intent of this bill is to prevent cities and counties from competing with private entities, we agree with this, but the wording of this bill does not allow us to create or continue with relationships such as ours. We feel that the wording can be changed to just read "the sale of paving material to any private person or private entity" which will still allow city's and counties to share their resources and buy in quantity.

We feel that this is the beginning of the end of cities and counties building relationships that benefit the taxpayers in their areas. If we cannot pool our resources together it will cost all of our local taxpayers more money.

Respectfully yours,


Tim Schook
City Administrator

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