

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Gary Hayzlett at 1:30 P.M. on February 2, 2005 in Room 519-S of the Capitol.

All members were present except:

Representative Jene Vickrey- excused

Committee staff present:

Chris Courtwright, Kansas Legislative Research

Bruce Kinzie, Revisor of Statutes Office

Betty Boaz, Committee Secretary

Conferees appearing before the committee:

Mike Hoeme, Director, Transportation, KCC

Terry Heidner, Director, Div. Of Planning & Development

Doug Wareham, KS Bankers Association

Bill Henry, KS Credit Union Association

Pat Hubbell, Pat Hubbell Associates, Inc.

Others attending:

See attached list.

Chairman Hayzlett opened the Committee meeting by asking for bill introductions. Tom Whitaker, KS Motor Carriers Association asked the Committee to introduce a bill requiring motor carriers to notify the Div. Of Vehicles of CDL holders who test positive for drugs. The purpose is to make information available to future employers. Motion was made by Representative Burgess to introduce this bill, seconded by Representative Olson, motion carried.

The Chairman had a request from a constituent of Representative Sloan concerning the installation of non-deployed or previously deployed (salvaged) airbags. A motion was made by Representative Faber, seconded by Representative Olson and the motion carried.

There being no other bills to introduce, the Chairman opened hearings.

HB 2123 - Transfer power, duties and functions of Kansas Corporation Commission relating to railroads to Kansas Department of Transportation

Chairman Hayzlett recognized Mike Hoeme, Director of the Transportation Division of the Kansas Corporation Commission. According to Mr. Hoeme (Attachment 1) The KCC proposes to transfer its railroad statutes and authority to the Kansas Department of Transportation. Mr. Hoeme said that over the past eighteen months the KCC has worked with KDOT and the railroads on the proposal to rationalize existing state law with current practices and regulatory duties. They had agreed that KDOT was better equipped with the engineering and technical knowledge needed to exercise the residual authority over the railroads that have not been assumed by the federal government. According to Mr. Hoeme this bill will eliminate many duplicate processes between the two agencies and allow for a more efficient and effective process.

The next proponent of the bill was Terry Heidner, Director of the Division of Planning and Development at the Kansas Department of Transportation. According to Mr. Heidner (Attachment 2) **HB 2123** would amend KSA Chapter 66 so that all powers, duties, and functions of the KCC as it relates to the regulation of railroads, would be transferred to KDOT. He said virtually all railroad regulation is done at the federal level through the Federal Railroad Administration. Mr. Heidner said this is primarily a cleanup bill and the KDOT agrees with the KCC's request to take on the few remaining railroad responsibilities from the Commission. According to Mr. Heidner the KDOT will be come the repository for various filings by Class I railroads operating in Kansas and the primary point of contact with the Surface Transportation Board as it relates to railroad filings for abandonment and decisions by the Surface Transportation Board affecting rail transportation in Kansas.

Pat Hubbell was recognized by Chairman Hayzlett. Mr. Hubbell made a few comments about this being the

CONTINUATION SHEET

MINUTES OF THE House Transportation Committee at 1:30 P.M. on February 2, 2005 in Room 519-S of the Capitol.

end of an era that KCC was founded to regulate the railroad industry. He urged support of **HB 2123**.

There were no other proponents and no opponents.

Chairman Hayzlett closed the hearing on **HB 2123**.

HB 2124 - Certificates of title, security interest in vehicle registered by Indian tribe.

The Chairman introduced Doug Wareham, Vice President-Government Affairs, Kansas Bankers Association as the first proponent of **HB 2124**. Mr. Wareham explained (Attachment 3) that **HB 2124** amends KSA 8-125 by inserting language that recognizes, under Kansas law, a security interest in a vehicle registered by a federally recognized Indian tribe. **HB 2124** will also ensure that a perfected lien under applicable tribal laws is recognized by Kansas law when the lien is noted on the face of the tribal certificate of title. Mr. Wareham said that the adoption of **HB 2124** will ensure lenders that their security interest in vehicles titled under Indian Nation Laws are valid.

Chairman Hayzlett drew the Committee's attention to written testimony submitted by Ron Hein, legislative counsel for Prairie Band Potawatomi Nation, who also supported this bill. (Attachment 4)

The next proponent introduced was Bill Henry, Director of Governmental Affairs for the Kansas Credit Union Association. (Attachment 5). According to Mr. Henry **HB 2124** will allow state recognition of a security interest in a vehicle registered by a federally recognized Indian tribe if the security interest was validly perfected under the applicable tribal law and the lien is noted on the face of the tribal certificate of title.

There were no other proponents and no opponents.

After all questions were answered, Chairman Hayzlett closed the hearing on **HB 2124**.

Chairman Hayzlett called for final action on **HB 2078**. Bruce handed out an amendment to this bill and explained to the Committee that for clarification purposes the language which states that ... (g) Any motor vehicle may be equipped with head lamps which alternately flash from high to low beams will be changed to ...head lamps which alternately flash or simultaneously flash ... in addition to some clean-up language. Representative George made a motion to amend **HB 2078**, seconded by Representative Olson and the motion to amend this bill carried. Representative Henry then made a motion to pass this bill as amended, seconded by Representative Ballard and the motion to pass this bill, as amended, carried.

Chairman Hayzlett called for final action on **HB 2123**. Representative Jack made a motion to pass this bill out favorably, seconded by Representative Yonally and the motion carried.

The Chairman then called for final action on **HB 2124**. Representative Burgess made a motion to pass this bill out favorably, seconded by Representative Jack and the motion carried.

Representative Olson asked to recognize his five pages and asked them to stand.

Representative Ruiz recognized his intern, Leo Cangiani, a student from Washburn University.

Representative George recognized his intern, Chase Schnebel from Kansas University.

The meeting was adjourned. The next meeting will be at 1:30 on February 8, 2005 in Room 519-S.

HOUSE TRANSPORTATION COMMITTEE GUEST LIST

DATE: 2/2/05

NAME	REPRESENTING
John R. Hubbell	Kansas Railroad
Doug Wareham	Kansas Bankers Association
Tom Day	KCC
Larry R. Baer	LKM
Bill Hey	Ks Credit Union Assn
Pam Scott	Ks Funeral Directors Assn
Carrie Coulson	Rep. Vickroy
Chase Schnebel	Rep. Pat George
Tom Whitaker	Ks Motor Carriers Assn
Sarah Novascone	Federico Consulting
Matthew Moran	KDOT DOT

Testimony of Mike Hoeme
Director of Transportation
Kansas Corporation Commission
House Bill 2123
January 25, 2005

Good afternoon Mr. Chairman and members of the committee. My name is Mike Hoeme. I am the Director of the Transportation Division of the Kansas Corporation Commission ("Transportation Division" and "KCC," respectively) I am here to testify as a proponent of House Bill 2123.

The KCC proposes to transfer its limited Railroad statutes and authority over to the Kansas Department of Transportation (KDOT). In 1999, many of the enabling statutes regarding the KCC's authority to regulate railroads were repealed or federally preempted. Consequently, over the past eighteen months the KCC has worked with KDOT and the railroads on this proposal to rationalize existing state law with current practices and regulatory duties. We all agree that KDOT is better equipped with the engineering and technical knowledge needed to exercise the residual authority over the railroads that has not been assumed by the federal government. In addition, HB 2123 will eliminate many duplicate processes.

There will be a minimal financial impact on the Commission for giving up this area of regulation. During FY 2004, the Commission assessed the railroads for \$22,500. Currently, during the first three quarters of FY 2005, the amount assessed and paid by the railroads is \$7,500. At this time, KCC administrative staff time is spent compiling and updating the Kansas Railroad map and the Kansas Railroad safety statistics, both of which are also maintained by KDOT.

As you can imagine, given that railroads have been a part of the Kansas transportation system since the state began, a good number of statutes have been enacted to regulate the industry, and thus many amendments are required. Generally, the amendments required will fall under one of the following classifications:

- Amendments to remove any reference to Railroads as a common carrier
- Repeal of statutes regarding KCC authority that are then re-enacted under Article 2 of Chapter 66 in order to transfer the authority to KDOT
- Repeals necessary due to federal preemption

The KCC realizes the changes proposed are significant, however, as noted above, this transfer of authority will eliminate many duplicate processes between the two agencies and allow a more efficient and effective process to begin.

This concludes my testimony, and I will stand for any questions you may have.

House Transportation
Date: 2-2-05
Attachment # 1



KANSAS

DEPARTMENT OF TRANSPORTATION
DEB MILLER, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

TESTIMONY BEFORE THE HOUSE TRANSPORTATION COMMITTEE

REGARDING HOUSE BILL 2123 RELATING TO RAILROADS

FEBRUARY 2, 2005

Mr. Chairman and Committee Members:

Good afternoon. My name is Terry Heidner and I am the Director of the Division of Planning and Development at the Kansas Department of Transportation (KDOT). I appreciate the opportunity to testify on House Bill 2123.

House Bill 2123 would amend K.S.A. Chapter 66 so that all powers, duties, and functions of the Kansas Corporation Commission (KCC), as it relates to the regulation of railroads, would be transferred to and conferred and imposed upon KDOT. Statutes within K.S.A. Chapter 66 which are preempted by federal law will be repealed. Virtually all railroad regulation is done at the federal level through the Federal Railroad Administration.

This is primarily a cleanup bill and the Kansas Department of Transportation agrees, with the Kansas Corporation Commission's request, to take on the few remaining railroad responsibilities from the Commission. If this bill becomes law, current KDOT staff will be able to take on the additional responsibilities and there should be no effect on the agency budget.

Essentially, the Kansas Department of Transportation will become the repository for various filings by Class I railroads operating in Kansas and the primary point of contact with the Surface Transportation Board as it relates to railroad filings for abandonment and decisions by the Surface Transportation Board affecting rail transportation in Kansas. The Kansas Department of Transportation will review, prior to July 1, 2005, and shall take custody of all Kansas Corporation Commission records, memoranda, writings, entries, prints, or combinations thereof relating to railroads.

KDOT has worked closely with the KCC in accomplishing this transfer of authority and supports House Bill 2123.

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House Transportation
Date: 2-2-05
Attachment # 2

~~77~~



Date: February 2, 2005
To: House Transportation Committee
From: Doug Wareham, Vice President-Government Affairs
Re: H.B. 2124

Mr. Chairman and members of the Committee, I am Doug Wareham appearing on behalf of the Kansas Bankers Association (KBA). KBA's membership includes 360 Kansas banks, which operate more than 1,300 banking facilities in 440 towns and cities across the state. KBA appreciates the opportunity to appear in support of H.B. 2124.

H.B. 2124 amends K.S.A. 8-135 by inserting language that recognizes, under Kansas law, a security interest in a vehicle registered by a federally recognized Indian tribe. H.B. 2124 will also ensure that a perfected lien under applicable tribal laws is recognized by Kansas law when the lien is noted on the face of the tribal certificate of title.

KBA first became aware of the need for a legislative solution to this situation last year, when the State of Oklahoma adopted very similar language in response to a bankruptcy court ruling that failed to recognize a bank's security interest in a vehicle where the vehicle was titled under an Oklahoma Indian Tribal Law. The Oklahoma legislature addressed this discrepancy and we hope this committee will take positive action on H.B. 2124 to help address the same situation we are now dealing with in Kansas.

At present, there is only one Kansas tribe, that being the Potawatomi Prairie Band Tribe, which has enacted a motor vehicle code (Prairie Bank Motor Vehicle Code). The Potawatomi Tribe presently requires that all vehicles owned by persons living on the Reservation be titled under their code. As you can imagine, lenders that provide financing for vehicles titled by the Potawatomi Prairie Band Tribe currently find themselves in the precarious position of having a lien placed on a tribal vehicle title that is presently not recognized by Kansas law and therefore, might not be recognized in a Kansas court of law.

Simply put, the adoption of H.B. 2124 will ensure lenders that their security interest in vehicles titled under Indian Nation Laws are valid. Once again, thank you for the opportunity to appear in support of H.B. 2124 and I would be happy to stand for questions.

House Transportation
Date: 2-2-05
Attachment # 3

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Testimony re: HB 2124
House Transportation Committee
Presented by Ronald R. Hein
on behalf of
Prairie Band Potawatomi Nation
February 2, 2005

Mister Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for Prairie Band Potawatomi Nation. The Prairie Band Potawatomi Nation is one of the four Kansas Native American Indian Tribes.

The Prairie Band Potawatomi Nation supports HB 2124. This bill permits lending institutions to perfect their security interest in vehicles registered with a federally recognized Indian Nation. Although this bill applies to all recognized Tribes, since the Prairie Band Potawatomi Nation does provide for vehicle registration, the provisions of this bill would permit our Tribal members to achieve financing which is dependent upon perfected security interests.

Although the PBPB vehicle registration system has been upheld by the district court, there is an appeal to the 10th Circuit Court of Appeals. Regardless of the outcome of that case, this bill would be necessary in order to permit a security interest in other states Tribally registered vehicles operating lawfully in this state.

The Kansas Bankers Association has adequately explained the specifics of this legislation, and we simply want to express our support for the bill.

Thank you very much for permitting us to submit written testimony in support of HB 2077.

House Transportation
Date: 2-2-05
Attachment # 4



KANSAS CREDIT UNION ASSOCIATION

Testimony for the
House Transportation Committee
HB 2124
February 2, 2005

Mr. Chairman, members of the committee I am Bill Henry, Director of Governmental Affairs for the Kansas Credit Union Association, and I appear before you today as a proponent of HB 2124.

This bill will allow state recognition of a security interest in a vehicle registered by a federally recognized Indian tribe if the security interest was validly perfected under the applicable tribal law and the lien is noted on the face of the tribal certificate of title.

There are several credit unions in Topeka who include the tribal communities in their geographic communities of interest and who would be pleased to do more lending with tribal residents. This bill's provisions enable reciprocity with tribal perfected security interests if they were validly perfected under tribal law and would increase the comfort levels of doing lending for financial institutions in this area of the state.

We support a favorable recommendation for passage for HB 2124.

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Respectfully Submitted,

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House Transportation
Date: 2-2-05
Attachment # 5

