

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Nick Jordan at 8:05 A.M. on February 18, 2005 in Room 123-S of the Capitol.

All members were present except:

Susan Wagle- excused

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department

Helen Pedigo, Revisor of Statutes

Jackie Lunn, Committee Secretary

Conferees appearing before the committee:

Kim Gulley, League of Kansas Municipalities

Richard Nienstedt, Ft. Scott City Manager

Mike Lackey, Kansas Society of Professional Engineers

Scott Heidner, American Council of Engineering Companies of Kansas

Secretary Miller, Secretary for Kansas Department of Transportation

Andy Haney, Public Works, City of Ottwa

Carole Jordan, Department of Ag Marketing

Susan Kang, KDHE

Patty Clark, Department of Commerce

Others attending:

See attached list.

Chairperson Jordan opened the meeting by calling on Terry Leatherman, KCCI and Jim DeHoff, AFL-CIO to ask if they have come to agreement on **SB 55**. Mr. DeHoff stated they cannot agree on the standards for the Breathalyzer test. Terry Leatherman, KCCI confirmed that fact. They are offering an amendment to the bill.

There was discussion with the Committee on the Breathalyzer test. In some cases the "0" tolerance might not be acceptable. If you take cold medication you would register .3 on the test. Reference was made to a letter Senator Emler forwarded to Senator Brownlee regarding "0" tolerance.

Senator Brownlee offered a proposed conceptional amendment to **SB55**. (Attachment 1) Senator Brownlee moved to accept the conceptional amendment. Seconded by Senator Kelly. Motion carried. Motion was made by Senator Emler to accept agreed upon changes. Senator Barone seconded. Motion carried. Senator Schodorf moved to pass the bill out favorably for passage. Senator Wysong seconded. Motion carried.

Chairperson Jordan offered information that Senator Barnett had asked the Committee to consider for funding of a summer program at Emporia State University and possibly add to **SB 139**. (Attachment 2) After discussion with the Committee the decision was made not to attach it to **SB 139**.

Chairperson Jordan referred to attachment 2 from Senator Barnett and feels it is a good idea and would give opportunity for students not wanting to leave their school during the school year. There was discussion on keeping the best and brightest in the schools and on the dynamic impact it will have as it grows.

Chairperson Jordan explained the balloon on **SB 139** (Attachment 3) which contained changes in language requested by Dr. Reggie Robinson, President of the Board of Regents. Helen Pedigo assisted Chairperson Jordan with the explanation of the balloon.

Senator Emler made a motion to accept the amendments of the balloon for SB 139. Senator Brownlee seconded. Motion carried. Senator Brownlee offered an amendment to add paragraph D to Page 2 allowing the Board of Regents the ability to establish summer academies. Senator Barone made motion to accept amendment. Senator Emler seconded. Motion carried. Senator Brownlee made motion to pass SB 139 out favorably as amended. Senator Reitz seconded. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on February 18, 2005 in Room 123-S of the Capitol.

Senator Schodorf made motion to approve the minutes for February 9th and February 10th. Senator Wysong seconded. Motion carried.

Upon approval of the minutes, Chairperson Jordan opened the hearing on **SB 173** by introducing Kim Gulley, Director of Policy Development & Communications for the League of Kansas Municipalities, to give her testimony. Ms. Gulley stated the League of Kansas Municipalities support **SB 173** and offered written testimony. (Attachment 4)

Chairperson Jordan introduced Richard Nienstedt, City Manager for the city of Ft. Scott to give his testimony. Mr. Nienstedt stated the city of Ft. Scott was in support of **SB 173**. Mr. Nienstedt offered written testimony. (Attachment 5) He stated in his testimony there were two major issues in Ft. Scott and with the passage of **SB 173** they would be able to solve these problems.

Chairperson Jordan introduced Mike Lackey from the Kansas Society of Professional Engineers to give his testimony. Mr. Lackey stated he was retired from the Department of Transportation where he spent 36 ½ years. He stated that the Kansas Society of Professional Engineers are opposed to **SB 173** and offered written testimony. (Attachment 6)

Chairperson Jordan introduced Scott Heidner with the American Council of Engineering Companies of Kansas to give his testimony. Mr. Heidner stated that the American Council of Engineering Companies of Kansas were opposed to **SB 173** and offered written testimony. (Attachment 7)

Chairperson Jordan introduced Secretary Deb Miller from the Department of Transportation to give her testimony. Secretary Miller stated that the Department of Transportation was opposed to **SB 173** and offered written testimony. (Attachment 8)

Chairperson Jordan introduced Andy Haney, Public Works for the City of Ottwa to give his testimony. Mr. Haney stated that the City of Ottwa was opposed to **SB 173** and offered written testimony. (Attachment 9)

Upon completion of Mr. Haney's testimony there was discussion with the Committee and Secretary Miller regarding new programs in place, particularly the Partnership Project. Also the discussion included the problem of speed limits and access points. Secretary Miller explained how they research and gather information from Traffic Engineering regarding the problems with speed limits and access points. She stated they try to be accommodating to the cities with all things considered. The issue is one of balance. They seek to work with the communities considering all things involved. Discussion on two situations in Ft. Scott, Secretary Miller stated the Walmart issue in Ft. Scott had been resolved and did not have knowledge of the other situation. Senator Barone stated it was a "Mon and Pop" situation. Secretary Miller stated they give upmost consideration to small businesses across the state. The consensus of the Committee was since the major issue has been resolved with the Walmart issue there possibly would not be a need for this bill. Clearly with the resolution of these two issues it appears the Department of Transportation does try to work for a conclusion to every situation they are faced with. The Committee feels the system which is in place with the Department of Transportation and the cities may be working.

Chairperson Jordan closed the hearing on **SB 173**.

Chairperson Jordan opened the hearing on **SB 233** by introducing Carole Jordan to give her testimony. Ms. Jordan stated food safety laws and regulations need to be universally applied to be effective. Therefore, they do not support exempting certain food service operations from these requirements. Ms. Jordan presented written testimony. (Attachment 10)

Chairperson Jordan introduced Susan Kang, Policy Director for the Kansas Department of Health and Environment. Ms. Kang stated that KDHE believes the licensing of all food service establishments is a critical element in protecting the health of all Kansas consumers. Ms. Kang presented written testimony. (Attachment 11)

Next Chairperson Jordan introduced Patty Clark, Director of Ag Marketing & Community Development for

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:30 A.M. on February 18, 2005 in Room 123-S of the Capitol.

the Department of Commerce. Ms. Clark stated the Department of Commerce believes consideration should be given to raising the cap on the number of times an operation can provide food to the public without licensing. The cap currently is six times per year. Another suggestion is to move to a tiered licensing system in which the size of the operation or food service establishment would determine licensing fee. Ms. Clark presented written testimony. (Attachment 12)

Chairperson Jordan addressed Ms. Clark and asked if the three departments would get together and come up with a recommendation that might help the agritourism operator.

Chairperson Jordan closed the hearing and announced to the Committee they will be working bills on Monday and Tuesday of next week. Chairperson Jordan adjourned the meeting at 9:30 a.m. with the next meeting scheduled for Monday, February 21, 2005 at 8:30 a.m. in room 123S.

PROPOSED AMENDMENT
SB 55
SENATOR BROWNLEE
February 18, 2005

New Sec. 2. (a) The secretary of labor shall adopt rules and regulations to promulgate reasonable standards for the use of a breath alcohol test. The rules and regulations promulgating such standards shall be adopted in the manner prescribed by K.S.A. 2004 Supp. 77-421, and amendments thereto, after notice has been given and a hearing held in the manner prescribed by K.S.A. 2004 Supp. 77-421, and amendments thereto. The secretary may amend or alter such standards by duly adopted rules and regulations, but no person, other than the secretary, shall have authority to amend or alter the standards so adopted.

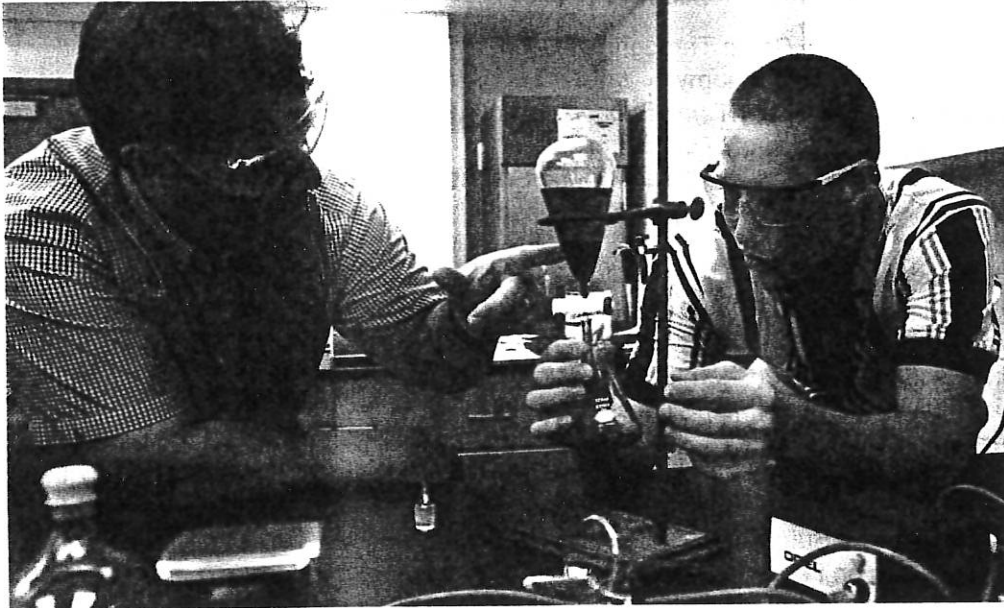
(Renumber the remaining sections of the bill.)

Senate Commerce Committee

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Attachment 1-1

Future Bio-Scientists For Kansas
The Programs of Emporia State University



- Program would build upon core of existing summer programs at ESU
 - Future Teacher Academy
 - Master – It For Mathematics and Sciences
 - Expanding Your Horizons – Mathematics and Sciences
 - Those programs would receive additional promotion and expansion related to Biosciences throughout 2005-2006
- The First Biosciences Camp Would Be Initiated During Summer of 2006
 - Would Be Directed to High School Juniors/ Seniors
 - Initial Camp Would Be Directed to 24 High Achieving Students
 - Focus upon students who excel in Math and Science
 - Include components directed toward teaching Math and Science
- The Initial Academy Would Be A Two Week Program
 - Would Include Follow-Up Throughout The Year
 - Featuring on-line interaction and “chats” among participants
 - Possible College Credit Provided
- Academy Would Feature Multiple Media Exposure to Mathematics and Science
 - Lectures
 - Laboratory Experiences
 - Field Trips
 - Involvement of Past Participants as Mentors During Future Years



Senate Commerce Committee

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Attachment 2-1

Future BioScientists For Kansas
Budgetary Components For FY 2006

Promotion of 2006 BioScience Camp Through Existing Programs and Pre-Planning		
Expand Future Teacher Academy	\$	20,000
Stabilize Funding for Master IT and Expanding Your Horizons		32,000
Advertising and Promotion of 2006 Camp		5,000
Faculty Director for Program (25% Fall/ Spring Semester, including fringe)		19,500
Graduate Assistant for Follow-Up With Participants		8,616
 Summer 2006 BioScience Camp		
Faculty/ Staff Support		37,440
Senior Faculty Member (Biology)	6,000	
Senior Faculty Member (Chemistry)	6,000	
Senior Faculty Member (Mathematics)	6,000	
Workshop Instructor	2,000	
Workshop Instructor	2,000	
Student Counselors (4 counselors X \$1,200 counselor)	4,800	
Technical/Clerical Support	2,000	
Fringe Benefits on Faculty/ Staff Salaries	8,640	
Honoraria / Travel Costs for Speakers (5 honoraria at \$1,000 each)		5,000
Lodging for Participants (\$16.60 daily, double occupancy, X 24 X 14 days)		5,600
Meals for Participants (\$15.50 daily X 24 X 14 days)		5,200
Consumable Supplies		5,000
University Conf Fee (\$2.75 per participant)		66
Field Trips (based upon motor coach for 5 trips at \$3,500 each)		17,500
Sponsorship of 2 hour credit for participants (\$130 X 2 cr hrs X 24)		6,240
On-line component for follow-up (credit for 3 hour class for participants)		9,360
Equipment		22,000
 Total	 \$	 198,522

Senate Commerce Committee

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Attachment 2-2

SENATE BILL No. 139

By Committee on Commerce

1-28

PROPOSED AMENDMENT
SENATOR JORDAN
February 17, 2005

Senate Commerce Committee
2-18-05

Attachment 3-1

9 AN ACT establishing the Kansas academy of mathematics and science.

10

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

12 Section 1. As used in this act:

13 (a) "Kansas academy of mathematics and science" or "KAMS"
14 means: (1) An accelerated residential program for Kansas high school-age
15 pupils who are academically talented in science and mathematics; and (2)
16 a rigorous, two-year program of college coursework tailored to individual
17 abilities and taught by the faculty at a postsecondary educational insti-
18 tution designated by the board. The purpose of KAMS is to provide an
19 opportunity for academically talented pupils to live and work in a com-
20 munity of peers and to earn simultaneously college credits and a high
21 school diploma.

22 (b) "Academically talented pupil" means a pupil who: (1) Is a Kansas
23 resident; (2) is eligible for enrollment in the 11th grade or equivalent; (3)
24 has completed at least two years of high school with distinction in math-
25 ematics and science by the end of 10th grade; (4) has achieved minimum
26 composite scores of 23 on the ACT or 1100 on the SAT; and (5) demon-
27 strates the maturity and capacity to benefit from the KAMS experience.

OR

28 (c) "Postsecondary educational institution" has the meaning ascribed
29 thereto in K.S.A. 74-3201b, and amendments thereto.

30 (d) "Board" means the state board of regents.

31 Sec. 2. (a) The state board of regents shall adopt any rules and reg-
32 ulations necessary for the administration of the provisions of this act and
33 shall:

34 (1) Provide for establishment and operation of the Kansas academy
35 of mathematics and science at a postsecondary institution designated by
36 the board;

37 (2) establish guidelines and procedures for operation of KAMS and
38 for selection of academically talented pupils who apply for admission to
39 KAMS;

40 (3) prescribe the curriculum of KAMS, including coursework in
41 mathematics through calculus II, chemistry, biology, physics, computer
42 science, English, history and political science.

43 (b) The guidelines and procedures for the operation of KAMS shall

1 address:

2 (1) Selection and admission of academically talented pupils on the
3 basis of mathematics ~~and~~ science career interests, standardized tests
4 scores, transcripts, teacher evaluations, essays, family commitment ~~and~~
5 personal interviews;

or

,

and other such factors as the board identifies

- 6 (2) selection of faculty and faculty qualifications;
- 7 (3) research, laboratory and field trip activities;
- 8 (4) extracurricular activities;
- 9 (5) college and career counseling services;
- 10 (6) college credit to be awarded;
- 11 (7) preparation and utilization of manuals to be provided to high
12 school counselors for use in advising academically talented pupils;
- 13 (8) ways and means of encouraging and facilitating parental involve-
14 ment in KAMS; and
- 15 (9) manner and method of publicizing KAMS and acquainting aca-
16 demically talented pupils and their parents with the benefits to be gained
17 by attending KAMS.

18 (c) The procedure for selecting academically talented pupils for ad-
19 mission to KAMS shall provide for admission of ~~one~~ academically talented
20 pupil from each of the 40 senatorial districts in Kansas for the first two
21 years of operation followed by admission of ~~two~~ academically talented
22 pupils from each of the 40 senatorial districts in Kansas for the next two
23 years and thereafter. No more than ~~two~~ academically talented pupils shall
24 be selected from a school district to ensure equitable participation from
25 throughout the state without adversely affecting any single school district.

no more than

one

26 Sec. 3. Academically talented pupils shall be admitted to KAMS
27 without charge for tuition, fees and books, but shall be responsible for
28 room and board charges. Academically talented pupils who demonstrate
29 financial need may be provided room and board without charge.

30 Sec. 4. This act shall take effect and be in force from and after its
31 publication in the statute book.



League of Kansas Municipalities

To: Senate Commerce Committee
From: Kim Gulley, Director of Policy Development & Communications
Date: February 18, 2005
Re: Support for SB 173

Thank you for the opportunity to appear before you today on behalf of the 565 member cities of the League of Kansas Municipalities (LKM). We appear in support of SB 173 and offer the following specific points for your consideration:

- **Local Control.** We believe that locally elected officials can and should make decisions regarding speed limits and access points within their city limits. I would like to stress that we are in no way advocating that engineer's reports be disregarded. In fact, we believe such reports are valuable information that city governing bodies should consider when making such determinations. We also believe that cities and KDOT should work closely together on such issues. However, as we all know, agreement cannot always be reached. And, we believe in those circumstances where agreement cannot be reached, that the locally elected officials who are directly accountable to their citizens should make the final determination.
- **Economic Development.** Determinations regarding speed limits and access points have a great impact on our business community and our main streets, many of which are state highways running through our communities. Local communities work very hard to bring good jobs and businesses to their city and they need the flexibility to work with them on issues of speed and access points.
- **Public Safety.** You will undoubtedly hear from opponents that this bill is a threat to public safety. To argue this, however, suggests that locally elected officials are not interested in the safety of their citizens. Nothing could be further from the truth. In fact, one of the most common complaints we receive from small and medium sized cities is that KDOT has refused to *lower* a speed limit on a state highway, even when local officials and their citizens have demonstrated a public safety need for the reduction.

In conclusion, I would like to reiterate that we believe that engineering studies are an important component of establishing speed limits and access points. However, they are only one component. Other issues, including the impact on the business community and the specific needs of the local citizenry must also be taken into consideration. Where no agreement can be reached, we believe that such decisions are best left to locally elected officials.

For these reasons, we respectfully request your favorable consideration of SB 173 and I would be happy to stand for questions at the appropriate time.

Senate Commerce Committee

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Attachment 4-1

CITY OF FORT SCOTT, KANSAS 66701

ESTABLISHED IN 1842

**SENATE BILL 173 TESTIMONY
FEBRUARY 18, 2005
RICHARD U. NIENSTEDT, CITY MANAGER
FORT SCOTT, KANSAS**

Senators, I am pleased to have this opportunity to make brief comments about Senate Bill 173 and how it relates to the City of Fort Scott. I am Richard U. Nienstedt and serve as Fort Scott City Manager. We are fortunate enough to be represented by Senator Jim Barone who has a clear understanding of why this bill needs to be passed.

First, I want to assure you and Kansas Department of Transportation officials that I am *not* here to criticize the Department and their staff. I have nothing but admiration and respect for Secretary Miller and I have been fortunate to work closely with KDOT staff over the past twenty-five years of public service on many important community projects. I have good friends in the Department and know that they serve this State well. So why am I here testifying in support of SB 173? Because we have an honest and professional disagreement about issues that affect the economic vitality of Fort Scott. In the final analysis, we believe that communities ought to be able to make these decisions within their borders provided they are safe, sound and feasible.

Within the past several years there have been three issues that we have discussed with KDOT officials and believe that the City's wishes should have prevailed. These issues directly affect the safety and economic opportunities in the community.

The first issue concerns the setting of speed limits on US 69 through Fort Scott. The Governing Body of Fort Scott felt that the speed limits should be lower than what was recommended by a KDOT road audit as requested by the City. We felt that due to the amount of traffic, especially truck traffic that the speed limits should be at least 5-15 miles per hour lower than what they were eventually posted.

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Attachment 5-1

Community leaders were given the opportunity to visit with the previous Secretary of KDOT, in Topeka, and present reasons supporting our position. While there was some accommodation made by KDOT, the majority of limits were posted higher than what City leadership felt was prudent. It is an example of local leadership having a better understanding of every day conditions in their community than an outside agency.

Two other examples directly affect the ability of Fort Scott in the area of economic development. The City has been negotiating with two businesses to locate in the community on US 69. Both businesses require an additional entrance with one business willing to install and pay for a stoplight. Local KDOT officials have not been willing to grant these concessions although local leadership is willing to approve the requests and accept responsibility for those actions.

If the businesses are not able to secure the entrances, it may cost the City jobs, needed new capital investment in the community and growth of the tax base so the burden can be lowered for all citizens through increased property and sales tax collections. It may mean the difference between the impression of a community that is growing or is stagnant. Such a decision is critical when it comes to economic and community development.

Finally, approval of this bill helps strengthen an important concept that was granted to cities over forty years ago by the people of the State of Kansas in a constitutional amendment: *HOME RULE!* Home rule is the ability for city government to make their own decisions about their communities and the future they want. It is an important constitutional grant that we in Cities do not take lightly but guard fiercely against any erosion or encroachment. Home rule is a grant by the citizens of the State of Kansas to their elected municipal officials in order that *they* have the ability to guide the destiny of their communities rather than State Departments.

For these reasons, the City of Fort Scott encourages you to give serious consideration to SB 173 and recommend it for passage by the entire Senate body. I appreciate this opportunity to visit with you on behalf of the City of Fort Scott and look forward to working with you for the passage of this important, critical and timely legislation.

Thank you.

Senate Commerce Committee

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Attachment 5-2



Kansas Society of Professional Engineers

A state society of the National Society of Professional Engineers

My name is Mike Lackey and today I am representing the Kansas Society of Professional Engineers as the Chair of the Government Relations Committee. We are appearing to oppose the passage of SB 173. The basis of our opposition is New Section 3 which gives cities veto power over the setting of speed limits and entrances on city connecting links.

For those of you who do not know me, I am retired from the Kansas Department of Transportation after 36 ½ years of service, the last 13 as Assistant Secretary and State Transportation Engineer. I have had extensive experience with all aspects of city connecting links and have personally, or through subordinates, had relationships with probably a majority of the cities in the state. Normally after a study and discussion the setting of speed limits and location of entrances the city and KDOT are able to arrive at a mutually agreeable solution. I know that Deb Miller, current Secretary of KDOT, has set cooperation with citizens and local units of government as one of her highest priorities. She has demonstrated that commitment continually during her administration.

Both the setting of speed limits and granting of entrances to a city-connecting link are matters of safety and preservation of public investment in the facility. Usually requests for speed limits on city connecting links are to lower the limit in belief that it is "safer". This is not always true. Research has proven time and again over many years that the speed limit should be set at the speed that 85% of the drivers use. This has been proven to be the safest speed by promoting the best compliance. Setting the speed too low or too high results in speed differentials that promote erratic driving and accidents. The more entrances there are on a road, the more conflicts and potential accident sites exist.

City connecting links, by definition, are the roads in a city, which connect the highway on each edge of the city and have different responsibilities than a rural highway. The basic rule is that it is a major route and not a local collector road. It is to serve the through and longer distance trips and is not primarily there to serve local access to property. That function is for local roads and frontage roads in the case of a limited access facility. The taxpayers of Kansas have spent literally millions of dollars to construct, in most cases, the highway to serve the function noted. Permitting the unnecessary lowering of a speed limit or granting excessive entrances, destroys the efficiency of the intended facility and eventually produces demands for expanded capacity or bypasses to get traffic through the city.

Without pointing fingers, I can cite numerous examples around the state where, over time and without proper planning, an expensive highway has become obsolete well before it's time. Among these are State Avenue in western Kansas City, the northern Dodge City bypass, east and west Kellogg in Wichita, the old US-81 bypass in Salina, to name a few. All of these highways were "state of the art" when built and over time, the lack of access

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825 S Kansas Avenue, Suite 500 — Topeka, Kansas

(785) 233-2121 • FAX (785) 233-2206 • kansasengineer@kansasengineer.com

Attachment

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control has gradually caused the speed to be lowered and level of service to deteriorate. We have learned from these past mistakes and now purchase access control to preserve the function of the highway and the huge investment of the taxpayers.

This new section, as written, does not eliminate this from applying to fully controlled access facilities like the Interstate which by law are city connecting links within city limits. It also does not relive KDOT of the legal responsibility for safety on the "highway". It gives the final decision to the city, but does not prevent legal liability for the action on a route under the responsibility of KDOT. This would result in lawsuits for which there is no defense for KDOT.

In summary I would note that local access and is the main responsibility of the city and the developer. Statewide taxpayer's dollars should not be spent to convert a state highway into a local street in order to save developer money on frontage and circulation roads. We have spent billions of dollars statewide in the last two major highway programs to construct a safe and efficient highway system. This bill would be like cutting a hole in the middle of that system. We ask that this bill be voted down.

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Attachment

6-2



AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Kansas

Affiliated with
American Council of Engineering Companies
Kansas Society of Professional Engineers
National Society of Professional Engineers
Professional Engineers in Private Practice

TESTIMONY
SENATE BILL 173
AMERICAN COUNCIL OF ENGINEERING COMPANIES OF KANSAS

Chair Brownlee, members of the committee, thank you for the opportunity to appear today. My name is Scott Heidner, I am the Executive Director for the American Council of Engineering Companies (ACEC Kansas). Our association represents private engineering companies in Kansas.

We appear today in opposition to SB 173. Decisions regarding speed limits and access points are decisions that should be made by qualified personnel with the proper training and education. Many cities and counties in Kansas do not have people with this training on staff. These decisions should not be made by elected officials or untrained staff. These decisions are critical to maintaining public safety, as well as maximizing efficiencies in regulating traffic.

The Kansas Department of Transportation (KDOT) has the properly trained staff and expertise to make these decisions. It has long been the policy of this state to leave the final decisions in these matters to KDOT. ACEC Kansas asks that you continue this good public policy and vote "no" on SB 173.

Thank you, and I'll be happy to answer any questions.

Senate Commerce Committee

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Attachment

7-1

KANSAS

DEPARTMENT OF TRANSPORTATION
DEB MILLER, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

TESTIMONY BEFORE THE SENATE COMMERCE COMMITTEE

RELATING TO SENATE BILL 173 MAIN STREET GROWTH AND BUSINESS PROTECTION ACT

FEBRUARY 18, 2005

Mr. & Ms. Co-Chairpersons and Members of the Committee:

Good morning, my name is Deb Miller, Secretary of Transportation. On behalf of the Kansas Department of Transportation (KDOT), I appreciate the opportunity to share with you our concerns with the proposed changes in Senate Bill 173.

Under current law the Secretary has the responsibility to manage the state highway system including the setting of speed limits and approving access points. This bill would change the law by giving cities the authority to make the final decision on speed limits and access points inside the city limits on state highways where the city and the Secretary cannot come to an agreement. We feel that such a change would be poor public policy which could affect the safety of the citizens of Kansas.

KDOT feels that decisions about speed limits and access points should be made based upon the preponderance of available evidence and knowledge. There is a substantial body of knowledge on both the setting of speed limits and the configuration of access points to maximize public safety.

After being named Secretary, I ordered a top-to-bottom review of KDOT to determine how we could work more cooperatively with cities on both speed limits and access. This review is known as the KDOT Partnership Project and we're making good progress with that effort. You can talk with communities across the state and they will attest to the fact that KDOT's culture is shifting and that we're more open and flexible.

I recognize that KDOT can do a better job of working with communities, and that we don't always agree, but, let's look at the magnitude of agreement. Of all the speed limits reviewed on an annual basis, approximately 95 percent are resolved. As shown on Attachment A, commercial access permit requests within a city had an approved rate of 85 percent in 2003. In 2004, 73 percent of requests were approved. Currently, when an agreement on a speed limit or access permit cannot be reached, the State Transportation Engineer makes the final decision on behalf of the Secretary. The State Transportation Engineer is usually involved in disputed speed limit decisions 3 to 4 times per year and approximately 5 or 6 times per year regarding disputed access permits.

Senate Commerce Committee

Attachment 8-1

In 2004, as a part of the Partnership Project, KDOT surveyed all 371 cities with city connecting links. A specific question was asked if the city would like to have less, more, or the same administrative oversight on city connecting links regarding speed limits and access. In all city population categories, the majority preferred having the same administrative oversight on speed limits and access. Another question that we asked was how KDOT can improve relationships with cities that have city connecting links. The majority of responses, across the board, were to allow more input from the city in the decision making process.

KDOT has heard the cities loudly and clearly. One of the top priorities of the Partnership Project identified last fall is to “philosophically shift KDOT’s approach to allow more flexibility and input from cities, counties and the Districts on speed limits, traffic signals, access and other transportation issues on City Connecting Links”. This partnership committee has been and will continue to invite a wide range of city representation to help develop an implementation plan to make this shift.

Like the stated purpose of this bill, I wholeheartedly want to strengthen the economy of areas where Main Street is the lifeblood of Kansas communities. However, the provisions allowing cities to have final say on speed limits and access would in my opinion not be in the best interest of Kansas. The decisions are currently based on the best available evidence and that process should remain in place. KDOT strives for a balance between safety, economic growth and protecting the investments of the state. The State has spent hundreds of millions of dollars building and improving sections of roads to add capacity for moving people and goods. If not managed properly, the operational efficiency of the road can be severely degraded. The state needs to stay involved in the management of this investment to ensure a safe and efficient highway system. For the reasons that I have outlined, KDOT is opposed to this bill.

Mr. & Ms. Co-Chairpersons, I would be pleased to respond to questions.

Access Permits

Access Permits 2003

Total Access Permits in 2003 = 184

159 (86%) approved

1 (1%) denied

7 (4%) pending

17 (9%) withdrawn

Access Permits within a City 2003

Total = 65

51 (78%) approved

0 (0%) denied

6 (10%) pending

8 (12%) withdrawn

Commercial Access Permits within a City 2003

Total = 47

40 (85%) approved

0 (0%) denied

1 (2%) pending

6 (13%) withdrawn

Access Permits 2004

Total Access Permits in 2004 = 247

213 (86%) approved

5 (2%) denied

13 (5%) pending

16 (7%) withdrawn

Access Permits within a City 2004

Total = 96

73 (76%) approved

4 (4%) denied

11 (12%) pending

8 (8%) withdrawn

Commercial Access Permits within a City 2004

Total = 75

55 (73%) approved

4 (5%) denied

11 (14%) pending

5 (7%) withdrawn

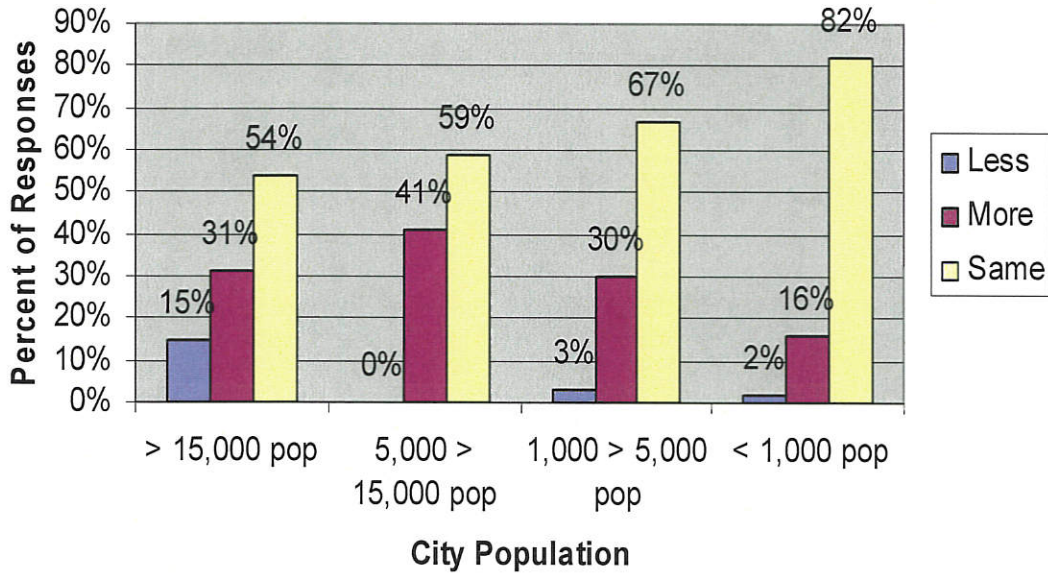
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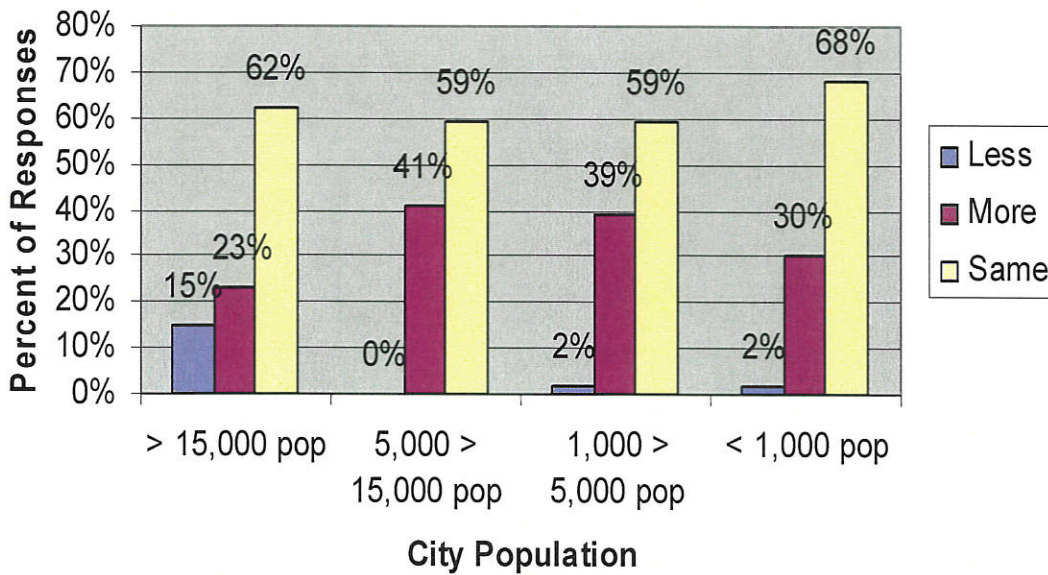
Attachment

8-3

Access / Driveways - Less, More or Same Admin Oversight?



Speed Limits - Less, More or Same Admin Oversight?



Honorable Members of the Kansas Senate Commerce Committee:

Senate Bill 173 states that if the Secretary of Transportation and the governing body of a city cannot agree on speed limits and access points along the state highway system within the corporate limits of that city, "the governing body of each city shall determine the speed limits and the number and location of such access points." As written, I believe this proposal is potentially a threat to public safety.

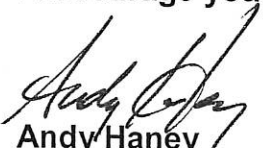
As an active member of the Kansas Chapter of the American Public Works Association, I can state that the general consensus of discussions among my APWA peers is that governing bodies, particularly those in small communities, may act in good faith, but without appropriate technical advice, and implement a change that results in danger to citizens using state highways. In the last meeting of the APWA Board of Directors, a licensed professional engineer with significant experience in this field stated, "unengineered traffic control design and access is a threat to public safety." He further stated that when a governing body makes "politically inspired traffic engineering decisions the traveling public's physical well being is put at risk." Another member of the Kansas APWA Board stated that this legislation "turns a detailed, safety-based, technical traffic engineering decision over to elected officials who may not fully understand the impact of their actions." These statements at the last meeting of the Kansas APWA Board of Directors were met with unanimous consent. The president of the Kansas Chapter of the APWA has submitted a letter for your consideration stating their position.

As Public Works Director for the City of Ottawa, I am well aware of the economic development impact of decisions made that restrict access points along highly traveled state highways. We struggle through these issues routinely with developers and with the Kansas Department of Transportation. We are not always in agreement with KDOT on all the details, but we do appreciate the sound reasoning behind their decisions and positions. We have recently discovered a more cooperative attitude when discussing these difficult situations, finding that KDOT is more flexible than they have been in the past.

While every situation cannot result in a "win-win", I believe the swing of the pendulum that would result with passage of SB 173 is not the right move. I believe the KDOT gears are in motion to work with cities for growth initiatives, and that they are gaining flexibility in the decision process.

This testimony is not offered in any official capacity on the part of the APWA or the City of Ottawa, but as a practicing individual public works professional.

I encourage you NOT to pass Senate Bill 173, as written.


 Andy Haney
 Public Works Director
 City of Ottawa, Kansas

FEB 18 2005

Senate Commerce Committee

2-18-05
 Attachment 9-1



KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on SB 233
to
The Senate Commerce Committee**

**by Carole Jordan
Director of Agriculture, Rural and Legislative Affairs
Kansas Department of Agriculture**

February 18, 2005

Good morning Co-Chairpersons Brownlee and Jordan and members of the committee. I am Carole Jordan, director of Agriculture, Rural and Legislative Affairs, with the Kansas Department of Agriculture. I appear today in support of food safety.

Food safety is an important function of state government. On October 1, 2004, our agency became responsible for licensing and inspecting grocery stores, restaurants in grocery stores, food processors and manufacturers, food wholesalers and warehouses, convenience stores, mobile ice cream vendors, and food vending machine companies and dealers. Before adding these new duties, we guaranteed public safety by regulating the production and sale of eggs, meat, poultry and dairy products.

The Kansas Department of Health and Environment is responsible for licensing and inspecting food service establishments, including restaurants, school food service operations, senior meal sites, mobile food units and all lodging facilities. Our understanding is that the food service establishments referred to in this bill most likely will be under their jurisdiction.

Food safety laws and regulations need to be universally applied to be effective. Therefore, we do not support exempting certain food service operations from these requirements.

Thank you for the opportunity to testify. I will gladly stand for questions at the appropriate time.

Senate Commerce Committee

2-18-05

Attachment 10-1

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K A N S A S

RODERICK L. BREMBY, SECRETARY

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DEPARTMENT OF HEALTH AND ENVIRONMENT

**Testimony on Senate Bill 233
To
Senate Committee on Commerce**

**Presented by Susan Kang
Policy Director
Kansas Department of Health and Environment**

February 18, 2005

Chairpersons Brownlee and Jordan and members of the Senate Committee on Commerce, I am pleased to appear before you today to discuss Senate Bill 233 regarding the amendments to the Food Service and Lodging Act, (specifically K.S.A. 36-503) that will exempt agritourism activities from the food service licensure requirements found in this act. In addition, the bill, as written, would also exempt the same establishments from food safety inspections and regulation.

Kansas Department of Health and Environment is responsible for administering the Food Protection and Consumer Safety Program. The goal of this program is to prevent foodborne illness and injury from consumer products. Program activities are authorized by the Kansas Food Service and Lodging Act (K.S.A. 36-501 et seq), and the Kansas Food, Drugs and Cosmetic Act (K.S.A. 65-655 et seq.) The Kansas Food Code (regulations adopted under the Food Service & Lodging Act) originates from the U.S. Public Health Service Food and Drug Administration's (FDA) Model Food Code and applies to food service establishments statewide. The food safety program is responsible for 10,300 food service establishments. It implements the program with 16 inspectors and contracts with eight (8) local health agencies to provide inspections and food safety education in fourteen (14) counties.

Food service establishments have been required to obtain licenses since the statewide inspection program was initiated in 1913. The food safety program performs pre-licensing inspections for establishments that are preparing to begin operations along with food safety education and training. In addition, the program investigates consumer complaints; conducts follow up inspections to ensure compliance with the food safety

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Senate Commerce Committee

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regulations; evaluates the risk level of establishments and investigates foodborne illness. License fees, in lieu of SGF, fund the program's activities; the fees not only support the inspection services, but also allows for tracking and compliance checks on all food service establishments in the state.

The importance of food safety is not readily measurable. In fact if food is safe, the public health indicator, incidences of confirmed foodborne illness, will be low. Unfortunately, foodborne pathogens are not selective in the type of activity or food establishment in which they choose to thrive and be passed onto the consumer. There could be nothing more economically devastating for an activity or food service establishment than a number of consumers becoming ill after dining in the establishment.

The food safety program has responded to numerous disasters (tornadoes, power outages, fires, floods, etc.), performing the duties necessary to protect the public's health during and immediately after the disaster. Similarly, the department has been called upon to marshal forces in the event of major disease outbreaks such as the 2001 Hepatitis A outbreak in Hutchinson that occurred concurrently with the state fair. In order to ensure the public that the state's largest agritourism event was a safe place visit and a safe place to consume food, the department dispatched 13 inspectors on a rotation basis to cover the event. The food program conducted 216 routine and licensing inspections, 1201 compliance checks, and spent hundreds of work hours to ensure that the food at the state fair was safe.

KDHE believes that the licensing of all food service establishments is a critical element in protecting the health of all Kansas consumers: the public expects safe food no matter where they consume it. We estimate that there may be as many as 3,500 establishments that could choose to become registered agritourism businesses, making them exempt from licensure and thus basic food safety oversight.

Thank you and I would be happy to stand for any questions.

Senate Commerce Committee

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Attachment 11-2



KANSAS

DEPARTMENT OF COMMERCE
HOWARD R. FRICKE, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony to the Senate Committee on Commerce
Provided by Patty Clark
Director of Ag Marketing & Community Development
February 18, 2005

Senate Bill 233

Chairwoman Brownlee and Chairman Jordan, I am Patty Clark, Director of the Ag Marketing and Community Development Divisions of the Kansas Department of Commerce. We appreciate the opportunity to provide comment on SB 233 this morning before your Committee.

SB 233 would totally exempt all agritourism operations in Kansas from the licensing and inspection for food safety purposes. This licensing and inspection regulatory program is administered by the Kansas Department of Health and Environment but we would respectfully suggest that this proposed legislation is neither equitable to all the other restaurants and food service establishments in Kansas, nor is it prudent public policy in light of food safety and public health concerns.

We believe consideration should be given to raising the cap on the number of times an operation can provide food to the public without licensing. The cap currently is six times per year. Another suggestion is to move to a tiered licensing system in which the size of the operation or food service establishment would determine the licensing fee.

Finally, we have over 120 agritourism operations registered with Commerce, we have conducted workshops and conferences which were attended by over 500 people and we work continuously with our Agritourism Advisory Council and at no time has a concern for food service licensing and inspection been elevated as a concern.

Thank you for the opportunity to comment on SB 233. I would be happy to answer questions at this time.