

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:30 A.M. on February 3, 2005 in Room 527-S of the Capitol.

All members were present except:  
Vicki Schmidt- excused  
Anthony Hensley- excused

Committee staff present:  
Hank Avila, Kansas Legislative Research Department  
Bruce Kinzie, Revisors of Statutes  
Maggie Breen, Committee Secretary

Conferees appearing before the committee:  
Ken Gudenkauf, KDOT  
Senator Phil Journey  
Tom Whitaker, Kansas Motor Carriers Association

Others attending:  
See attached list.

**Introduction of bills**

Ken Gudenkauf, KDOT, said he had a request for 2 bills. The first request is repealing the division of aviation. KDOT is in the process of moving to a multi-modal division which will include rail, transit and aviation all in one. Present law has a division of aviation so it needs to be repealed. KDOT believes they have administrative authority to establish the new division. The second request basically deals with outdoor advertising. They want to introduce a bill that will change some rates and do a lot of administrative stuff on advertising.

Senator O'Connor moved to introduce both bills. Senator Petersen seconded the motion. Motion carried.

**SB 76 - Motorized bicycle license, habitual violators**

Proponent:

Senator Journey said the main area of practice for him is traffic and criminal law, he's done over 60,000 cases in Sedgwick County. The effect of **SB 76** would be to allow the licensing of individuals, declared to be habitual violator by the Kansas Department of Revenue, to operate a moped. Individuals who have been placed on probation for convictions of crimes such as driving under the influence are required, as a condition of their probation, to attend probation meetings, outpatient substance abuse counseling and Alcoholics Anonymous meetings. They have to get there somehow. The intent of the bill is to give a viable means of transportation to people without transportation so they can get to and from work and/or school, and complete the tasks of their daily lives. (Attachment 1)

**Discussion**

**SB 94: Roads and highways, contracts**

At the time the bill was heard, Senator Donovan asked Mr. Lutz and Mr. Totten to come to an agreement on the number of days allowed for the successful bidder to enter into a contract with the County and to provide the required performance and statutory bonds. The present is 10 days and the bill proposed 30, which was unsatisfactory to the Kansas Contractors Association. The two parties met and came to an agreed of 21 days. Mr. Lutz submitted a proposed amendment changing the days to 21. Bruce Kinzie said there are actually 2 amendments needed to change the days to 21. Change Section 1, Page 2, Line 12 of **SB 94** and add a new section to modify KSA 68-1117 as amended in 2004 by **SB 449**. (Attachment 2)

Senator O'Connor moved to approve both amendments. Senator Petersen seconded the motion. Motion carried.

Senator O'Connor raised a concern on another part of the bill. The portion dealing with qualified bidders as

## CONTINUATION SHEET

MINUTES OF THE Senate Transportation Committee at 8:30 A.M. on February 3,2005 in Room 527-S of the Capitol.

defined in the project contract document. The concern was that they might define the qualifications in such a manner that perhaps only local contractors would be allowed to bid. She asked Chairman Donovan for another day or two to do some checking. After further discussion, Senator O'Connor suggested that if "as defined in the project contract documents" was deleted on line 37, and the word "qualified" on line 36 be left in, this would allow some recourse if someone had an objection to how the bids were being handled. Chairman Donovan said the committee wouldn't take action on the amended bill, he would allow Senator O'Connor some time to work with the people who requested the bill.

### **Final Action**

#### **SB - 124 Roads and highways, classification of**

Senator Palmer moved to introduce SB 124. Senator O'Connor seconded the motion. Motion Carried.

Bruce Kinzie stated that there were technical amendments on **SB 124**. Chairman Donovan said he would entertain a motion that the committee reconsider their action. Senator Palmer moved that the committee reconsider their action. Senator O'Connor seconded the motion. Motion carried.

Senator Palmer moved to amend SB 124 with the technical amendments. Senator O'Connor seconded the motion. Motion carried. Senator Palmer moved to pass SB 124 as amended. Senator O'Connor seconded the motion. Motion carried. Chairman Donovan said he would carry the bill.

#### **SB 119 - Division of vehicles records, statistical reports**

Senator Wilson moved to pass SB 119 favorably. Senator O'Connor seconded the motion. The motion carried. Chairman Donovan asked Senator Wilson to carry the bill.

#### **SB 76 - Motorized bicycle license, habitual violators**

Senator Wilson moved to pass SB 76. Senator O'Connor seconded the motion. Motion carried. Chairman Donovan said Senator Journey would carry the bill.

### **Introduction of Bill**

Tom Whitaker, Kansas Motor Carriers Association, said they have a situation where, under the dealers licensing act, you can only carry 2,000 pounds of cargo on a D tag. They have a trailer manufacturer that manufactures flatbed trailers, or semi-trailers. When they transport these, they like to stack them but can't under the dealers licensing law. They would like to correct the situation for the trailer manufacturer so they can deliver their trailers to their distribution points.

Senator Gilstrap moved to introduce the bill. Senator O'Connor seconded the motion. Motion carried.

The meeting adjourned at 9:09 a.m.

The date of the next meeting will be sometime next week.

**SENATE TRANSPORTATION COMMITTEE  
GUEST LIST**

**DATE:** February 3, 2005

NAME	REPRESENTING
Tom Whitaker	KS Motor Carriers Assn
Ken Gudenkauf	KDOT
Randall Allen	Ks. Association of Counties
Marcy Balsta	KDOT-DMV
Amber Shaverdi	PMAA

## SENATOR PHILLIP B. JOURNEY

STATE SENATOR, 26TH DISTRICT  
P.O. BOX 471  
HAYSVILLE, KS 67060

STATE CAPITOL—136N  
300 S.W. 10TH AVENUE  
TOPEKA, KANSAS 66612-1504  
(785) 296-7367  
E-mail: [journey@senate.state.ks.us](mailto:journey@senate.state.ks.us)



TOPEKA

SENATE CHAMBER

## COMMITTEE ASSIGNMENTS

MEMBER: SPECIAL CLAIMS AGAINST THE STATE  
(JOINT), CHAIR  
HEALTH CARE STRATEGIES  
JUDICIARY  
PUBLIC HEALTH AND WELFARE  
TRANSPORTATION

CORRECTIONS AND JUVENILE JUSTICE  
OVERSIGHT (JOINT)

Testimony in support of Senate Bill 76  
Presented by State Senator Phillip B Journey, 26th District

On February 3, 2005 for the Senate Transportation Committee the Hon. Les Donovan,  
Chair

First I would like to thank the committee for allowing me to testify in support of Senate Bill 76-Senate Bill 76 amends K.S.A. 8-235, 8-286, 8-287 and 8-288. The effect of this legislation would be to allow the licensing of individuals declared to be habitual violators by the Kansas Department of Revenue to operate a moped. The Kansas Department of Revenue may declare an individual to be a habitual violator upon the conviction of three serious traffic misdemeanors any five-year period. The revocation of a habitual violators drivers license upon three convictions is for a minimum three years. Conviction of operating a motor vehicle after being declared a habitual violator is a Class A misdemeanor subject to a penalty of up to one year in custody and a \$2,500 fine. Under current Kansas law individuals whose driver's license has been suspended for other reasons such as failing to pay for traffic ticket for failing a breath alcohol test may receive a moped only license from the Kansas Department of Revenue, habitual violators may not. Offenses that can trigger the declaration of someone being a habitual violator include, no proof of insurance, driving while suspended, transporting an open container, hit and run and driving under the influence.

Mopeds are motor vehicles defined in Kansas statutes as having less than three and half brake horsepower and a maximum speed of 30 mi. per hour. Kansas citizens who have run afoul of law must still continue with their lives. I am sure no one on this committee nor I wish to ease the legal penalty imposed upon drunk drivers. The reality of the situation individuals are confronted in these situations are difficult to say the least. With little or no public transportation in the vast majority of the State of Kansas habitual violators who must go to work, attend school, and complete the tasks of their lives. They are faced with an impossible choice. They must decide whether they should violate the law and risk a year in jail or lose their jobs. They must decide whether to take the children to the doctor in a medical emergency and risk a \$2,500 fine or wait until the taxi arrives.

Individuals who have been placed on probation for convictions for crimes such as driving under the influence are required as a condition of their probation to attend probation meetings, outpatient substance abuse counseling and Alcoholics Anonymous meetings. The reality is they must get there somehow. Too many Kansas citizens faced with this choice make the wrong choice. This bill gives them a real choice. It presents



no threat to public safety and allows habitual violators the opportunity to support their families and get the help they need to deal with their issues. I hope that the committee sees past the political side of this issue and recommends Senate Bill 76 favorably.

Respectfully submitted

A handwritten signature in cursive script that reads "Phillip B. Journey". The signature is written in dark ink and is positioned to the right of the typed name.

Phillip B. Journey

**WRITTEN TESTIMONY  
SB 94**

**RE: An act relating to roads and highways; concerning bids.**

**Senate Transportation Committee  
Senator Les Donovan, Chairman**

Presented by: Darryl C. Lutz, P.E., Butler County Engineer & Chairman of the KCHA  
Legislative Committee

February 3, 2005

To: Mr. Chairman and Members of the Senate Transportation Committee

SB 94 is a bill proposed by the Kansas County Highway Association to amend the road bidding statutes to align with the revisions made in 2004 to the bridge bidding statutes and to make minor policy changes. The KCHA testified in favor of the bill before the Senate Transportation Committee on Wednesday morning, February 2, 2005.

During the hearing, the Kansas Contractors Association (KCA) testified that they are not in favor of extending the time allowed for the successful bidder to enter into a contract with the County and to provide the required performance and statutory bonds. The current language in the statute allows 10 days and SB 94 proposed extending this time to 30 days. Representatives of the KCHA met with Mr. Bob Totten who represents the KCA following yesterday's hearing. It was jointly agreed to propose amending SB 94 to allow 21 days for the successful bidder to enter into a contract with the county.

Since the KCHA's goal is to make the statutes consistent, the following 2 related amendments to SB 94 are proposed:

- 1 SB 94, Section 1, Page 2, Line 12: Strike the number "30" and replace with the number "21"
- 2 Add a new section to the bill to modify KSA 68-1117 as amended in 2004 by SB 449: In the first sentence of the text of 68-1117, strike the number "30" and replace with the number "21" to read as follows: "Within **21** days after any public letting, the bidder to whom any contract shall be awarded shall enter into contract with the board of county commissioners .....

Thank you for the opportunity to propose this legislation on behalf of the KCHA and thank you for your continued support in our endeavor to update Chapter 68.