

MINUTES OF THE HOUSE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Gary Hayzlett at 1:30 P.M. on February 19, 2008 in Room 519-S of the Capitol.

All members were present except:

Representative Mike Burgess- excused
Representative Pat George- excused
Representative Julie Menghini- excused

Committee staff present:

Hank Avila, Kansas Legislative Research
Bruce Kinzie, Revisor of Statutes Office
Mike Corrigan, Revisor of Statutes Office
Betty Boaz, Committee Assistant

Conferees appearing before the committee:

Representative Candy Ruff
Carmin Alldritt, Director of Motor Vehicles
Duane Simpson
Leslie Kaufman
Terry Heidner, Legislative Liaison, Kansas Dept. of Transportation

Others attending:

See attached list.

Vice-Chairman Peck called the meeting to order. He opened the hearings on **HB 2770**.

HB 2770 - An act giving secretary of revenue rule and regulation authority to set fees for photos, not to exceed \$20.

Vice-Chair Peck asked staff to explain what this bill does. According to staff, the bill provides for an increase in the photo fee fund. This is the photo fee relating to drivers' licenses and other state issued identification cards.

The first proponent was Representative Candy Ruff. (Attachment #1) According to Representative Ruff this bill asks that the Department of Revenue have the authority through rules and regulations to set the cost of driver's license/identification cards She said this bill will help implement Photo First, an important part of insuring that those who apply are who they claim to be.

The Vice-Chairman recognized Carmen Alldritt, Director of Vehicles, as the next proponent. (Attachment #2) According to Director Alldritt, Kansas has been on the path of secure identity management for many years and has one of the most secure drivers license documents and issuance process in place. Director Alldritt said with the disaster experience in Greenburg and the Southeast Kansas floods the need has arisen for secure identity management. She said they were recently notified by the National Guard that they have been directed to require any disaster responders to show proof of identify by presenting a Real ID compliant drivers license or Identification Card. This will allow the National Guard to manage who should or should not be allowed to enter a disaster site. She pointed out that the drivers licenses used to be a license to drive and now the drivers license is a license to drive as well as the number one identification document proving lawful presence, Kansas residency and that you are who you say you are.

The Vice-Chairman Peck asked if there were any other proponents and Randy Mettner, with the Adjutant General Department came forward saying on behalf of the Adjutant General and the National Guard they support **HB 2770**. He said they have been working with Department of Revenue so that any tracking or verification system the National Guard might use for disaster sites would mesh with what the state is doing.

There were no other proponents and no opponents so the Vice-Chairman closed the hearing on **HB 2770**.

Chairman Hayzlett opened the hearing on **HB 2824**.

CONTINUATION SHEET

MINUTES OF THE House Transportation Committee at 1:30 P.M. on February 19, 2008 in Room 519-S of the Capitol.

HB 2824 - Railroad Leasing Act, track leases

The Chairman recognized Duane Simpson, Chief Operating Officer and Vice President for the Kansas Grain and Feed Association and the Kansas Agribusiness Retailers Association. (Attachment #3) Mr. Simpson explained what transpired to cause them to ask for this bill and that **HB 2824** would amend the Railroad Leasing Act. It was noted that if the lessees have no recourse to challenge the reasonableness of the lease rate they would be placed in an unfavorable economic situation. The amendment would grant the track lessees the same access to recourse as land lessees currently are afforded. The bill would amend the definition of "lease," as an agreement between a railroad and a tenant, to include track leases when the railroad is a Class II or a Class III railroad as defined by federal regulations.

The next proponent was Leslie Kaufman, Executive Director for the Kansas Cooperative Council. (Attachment #4) Ms. Kaufman asked for support of **HB 2824** to give shippers the same tools for negotiating track leases that they have been relying on in realty negotiations. She pointed out that the land would do no good if the track was too expensive to lease, and if the lease goes, the rail traffic will diminish.

The Chairman drew the Committee's attention to written testimony submitted by the Kansas Department of Transportation in support of **HB 2824**. (Attachment #5)

There being no other proponents and no opponents, the Chairman closed the hearings on **HB 2824**.

It was the Chairman's desire to work **HB 2691**, the Gold star family license plate bill. After some discussion Representative Swanson made a motion to amend this bill to say "Gold Star Mother," not "Gold Star Family." The motion was seconded by Representative Peck and the motion carried.

The Committee then worked the bill as amended. Representative Peck made a motion to favorably pass **HB 2691**, as amended. The motion was seconded by Representative Swanson and the motion carried.

Chairman Hayzlett opened **HB 2704** for discussion and motions. After some discussion Representative Peck made a motion to favorably pass **HB 2704**, seconded by Representative Wetta and the motion carried.

The Chairman opened **HB 2720** to the Committee for discussion and motions. Representative Ballard made a motion to favorably pass **HB 2720**, seconded by Representative McLachlan and the motion carried.

There being no further business before the Committee, the meeting was adjourned. The next meeting will be on February 20, 2008, at 1:30 p.m. in Room 519-S.

HOUSE TRANSPORTATION COMMITTEE

DATE 2-19-08

NAME	REPRESENTING
CARMEN ALDRITT	KDOR
TAMI ROBERTS	KDOR
TERRY MITCHELL	KDOR
RANDY METTNER	Adjutant Generals Office

HOUSE TRANSPORTATION COMMITTEE

DATE 2-19-08

NAME	REPRESENTING
Duane Simpson	KGFA - KARA
John Maddox	KDOT
Terry Heidner	KDOT
Michael Hooper	Kearney & Assoc.
Patricia May	Priger, Smith & Assoc.
Leland F. Miller	KDOT / KOSF
Patrick Nulbelle	Ks Railroads
Alex Coellar	KH/LAAE
SEAN MILLER	CAPITOL STRATEGIES
Leslie Kaufman	Ks Co-op Council
Jim Conant	KDOR
Mavis Cockrell	KDOR
Alan Wagner	KDOR

STATE OF KANSAS



TOPEKA

HOUSE OF

REPRESENTATIVES

COMMITTEE ASSIGNMENTS

RANKING MINORITY MEMBER: VETERANS, MILITARY &
HOMELAND SECURITY AFFAIRS
MEMBER: COMMERCE & LABOR
MEMBER: JOINT COMMITTEE ON ARTS AND
CULTURAL RESOURCES

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E-MAIL: Ruff@house.state.ks.us

To: House Transportation Committee Members

From: Rep. L. Candy Ruff

Re: SB 9

Date: Feb. 19, 2008

Although criticized initially for burdensome requirements to obtain a state-issued driver's license and identification cards, the federal Real ID Act has moved from mountain to a mole hill. Alarmed at how states would implement this federal legislation, state officials reacted quickly and with emphatic desire asking for an ease in implementation. In one of the few instances when the federal government listed, Kansas officials have crafted SB 9 to further comply with federal mandates.

Asking that the Department of Revenue's Division of Motor Vehicles have the authority through Rules and Regulation to set the cost of driver's license/identification card, this bill will help implement Photo First, an important part of insuring that those who apply are who they claim to be. Although DMV will explain further all the components of this legislation, I wanted to explain the work my House Committee of Veterans, Military Affairs, and Homeland Security did last year on Real ID.

Having explored all the components of the federal law, our committee toured DMV's headquarters to witness how their system of identification and fraud operates. Impressive for its thorough nature and impressive results, the newly implemented standards are having an identifiable reduction in the number of instances of fraud.

Please consider passage of SB 9 as an important step to further reducing the instances of driver's license fraud in Kansas. Photo First deserves the funding it will take to implement Real ID.

House Transportation
Date: 2-19-08
Attachment # 1

TESTIMONY

TO: Gary Hayzlett, Chairman
House Transportation Committee

FROM: Carmen Alldritt, Director of Vehicles

DATE: February 19, 2008

RE: House Bill 2770

Mr. Chairman, members of the Committee, thank you for the opportunity to provide information on House Bill 2770.

During the 2007 legislative session, Senate Bill 9 was passed and required the Kansas Department of Revenue to report annually to the House Veterans, Military and Homeland Security and Senate Federal and State committees on fraud prevention with regards to drivers license and identification card issuance. Both committees also asked for an update on the Real ID Act.

Within our update, we indicated the Final Rules were issued January 11, 2008 and were much more relaxed than any of us had anticipated. The Department of Homeland Security actually paid attention to huge concerns voiced by all 50 states. Kansas has been on the path of secure identity management for many years and has one of the most secure drivers license documents and issuance process in place. Real ID actually merged onto our path of identity management.

Final Rules call for phased-in implementation of Real ID with completion by 2017. To accomplish this and continue down the path of secure identity management, both committees directed the department to draft a bill (HB 2770) which would increase the photo fee fund authorizing the Secretary of Revenue "not to exceed \$20.00." We believe by increasing our current photo fee by \$8.00 we will be able to implement all systems and processes that will be required.

Please see the list below:

1. Photo First – By 12/31/09 implement new procedures for capturing the photo of all applicants, even if the DL or ID will not be issued.
2. Document Verification with various data bases by 12/31/09.

House Transportation
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Attachment # 2

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- Verify an applicants lawful presence status through the SAVE system.
 - Birth Certificates through EVVE.
 - US Passports through CLASS.
 - Other State issued Drivers Licenses through DRIVERS
3. New Enhanced/Next Generation Driver License that deters fraud and prevents tampering by 5/11/2011.
 4. Ability to retain (image) the documents presented by the applicant when applying for a drivers License by 12/31/09.
 5. Ongoing review and update of our security plan. Annually after 12/31/09.
 6. Ongoing training for our employees on fraud detection.
 7. Background checks on all employees including county treasurers, drivers license examiners and others.

In the meantime, with our disaster experience in Greenburg and Southeast Kansas floods we have seen the need for secure identity management.

Recently, we were notified by the National Guard that they have been directed to require any disaster responders to show proof of identity by presenting a Real ID compliant drivers license or Identification Card. This will allow the National Guard to manage who should or shouldn't be allowed to enter a disaster site.

Yesterday, the drivers license was just a license to drive. Today, the drivers license is a persons license to drive as well as the number one identification document that proves lawful presence, Kansas residency and you are who you say you are.

The Department requests the committee's favorable passage of this bill.

Kansas Grain & Feed Association

Kansas Agribusiness Retailers Association

Joint Statement in Support of House Bill 2824
House Transportation Committee
Gary Hayzlett, Chair
February 19, 2008

Thank you Mr. Chairman and members of the Committee; I am Duane Simpson, Chief Operating Officer and Vice President for the Kansas Grain and Feed Association (KGFA) and the Kansas Agribusiness Retailers Association (KARA). KGFA is a voluntary state association with a membership encompassing the entire spectrum of the grain receiving, storage, processing and shipping industry in the state of Kansas. KGFA's membership includes approximately 900 Kansas business locations and represents 98% of the commercially licensed grain storage in the state. KARA's membership includes over 700 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry. On behalf of these associations I appear in support of House Bill 2824.

The Railroad Leasing Act was passed in 1998 in response to a shortline railroad that was dramatically raising the leases on our members' property. Our members had the choice of paying the unfair and unjust new lease rates or go out of business. The Legislature responded to the crisis by passing the Railroad Leasing Act to guarantee that railroad leases would be fair and just. The law gives our members the right to negotiate railroad leases in good faith with the railroad. If either party chooses, they can request mediation. If mediation does not lead to a fair and just lease contract, either party can take the case to court. Since passage of the Railroad Leasing Act, not a single case has had to go to court to be resolved.

Late last year, RailAmerica, which owns the Kyle Railroad in Northwest Kansas found what it believed is a loophole in the Railroad Leasing Act. RailAmerica notified our members that they would pay dramatically higher track lease rates effective immediately. Many of our members would see single year increases in their leases of over \$30,000. Not satisfied with the increased rates, they also attempted to charge increased lease rates for the previous 5 years that had already passed. When our members objected and attempted to use the Railroad Leasing Act, they were told by RailAmerica that the act does not specifically include track leases. After reviewing the law, we urged our members to claim their rights under the act and to test it in court if necessary, meanwhile our Board of Directors decided to pursue legislation to make sure the law covers track leases.

RailAmerica has recently begun negotiating the track leases in question. However, many of the leases will expire in only one year. We believe this is an opportunity for the Legislature to make it clear that track leases should be treated in the same manner as other railroad leases.

You will notice that HB 2824 only extends the law to cover track leases for Class II and Class III railroads. The National Grain and Feed Association has a national arbitration agreement with the Class I railroads that covers track leases making it unnecessary to cover them under this statute. Shortline railroads can also sign the agreement and Watco has signed that agreement. In other words, this bill only affects the Kyle Railroad and its unfair business practices or any other shortline railroad that moves into Kansas.

The state of Kansas was heavily involved in saving the Kyle Railroad. The state cannot afford for the Kyle railroad to see its business dry up due to unreasonably high track lease rates. If RailAmerica can successfully demonstrate that traffic has dried up, they could abandon the line and pick up the track. There are not enough commercial truck drivers in Northwest Kansas to handle all of the traffic that would result from abandonment of the line and the cost to the state for additional road repair would be significant. As you can see, this is the time for the state to protect Kansas businesses and Kansas roads by making sure businesses along the Kyle Railroad have fair and just lease rates. I urge this committee to pass HB 2824 and I'll stand for questions at the appropriate time.



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Date: 2-19-08
Attachment # 3

Attachment 3

House Committee on Transportation

Feb. 19, 2008
Topeka, Kansas

HB 2824 - expanding the Ks RR leasing act to cover track leases.



Kansas Cooperative Council

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Chairman Hayzlett and members of the House Committee on Transportation, thank you for the opportunity to appear in support of HB 2824. As you know, this bill will extend the protections offered under the Kansas Railroad Leasing Act to cover track leases.

I am Leslie Kaufman, Executive Director for the Kansas Cooperative Council. The Kansas Cooperative Council represents all forms of cooperative businesses across the state -- agricultural, utility, credit, financial and consumer cooperatives. Approximately half of our members are grain elevator/farm supply cooperatives. We would be hard-pressed to find a facility that is not on a rail line, some on a "short line".

The Kansas Cooperative Council was one of the original proponents of the 1998 Kansas Railroad Leasing Act. It provided our members the opportunity to gain a more level footing in negotiating real property leases with rail operators. In our opinion, the fact that no lease case has gone to court since the inception of the Act illustrates the usefulness of this tool to both shipper (lessee) and railroad (lessor). It further serves as a model for addressing other types of leases, thus the request in HB 2824 to expand the Act to track leases.

Shipping grain is a major component of an ag cooperative's business. Rail transport is often a key to managing inventories. It is not always the easiest system to work within, though. Car availability, short turn around times for loading/unloading, and timely pick-up are reoccurring challenges for grain handlers. Still, rail shipment is critical to our industry. Shortlines are an integral component in the transportation system we rely on. We have been long-time proponents of state-funded incentives to improve shortlines because we believe in the need to maintain and enhance these corridors. This past year, this long-time support was met with unexpected and exorbitant proposed rate increases. Not only were the additional charges being assessed going forward, but RailAmerica was attempting to recoup additional charges for past years.

In our opinion, our members were thrown back into a similar negotiating position that prompted the 1998 Act. We saw the need to clearly extend that level footing under the Act beyond just reality. After all, what good is the land if the track is too expensive to lease? And if the lease goes, the rail traffic will diminish, track miles will be pulled up and rural Kansas will suffer in many ways: increased truck traffic, increased heavy traffic on highways, and diminished competition in the transportation sector. Thus, we are seeking your support for HB 2824 giving shippers the same tools for negotiation track leases that they have come to rely on in realty negotiations. Thank you for your consideration.

The Mission of the Kansas Cooperative Council is to promote, support and advance the interests and understanding of agricultural, utility, credit and consumer cooperatives and their members through legislation and regulatory efforts, education and public relations.

House Transportation
Date: 2-19-08
Attachment # 4

**TESTIMONY BEFORE
HOUSE JUDICIARY ON TRANSPORTATION**

**REGARDING HOUSE BILL 2824
Railroad Leasing Act, track leases**

February 19, 2008

Mr. Chairman and Committee Members:

The Kansas Department of Transportation (KDOT) is providing written testimony in support of House Bill 2824, regarding track leases.

The Railroad Leasing Act came into existence when the issue of reasonableness of land leases was raised. This bill would clarify the definition of a "lease" to make it clear that track leases fall under this act.

Prior to 2007, there had been few, if any, lease issues brought to the attention of KDOT. However, a railroad operating in Kansas recently began raising the track leases of lessees on its railroad. If the lessees have no recourse to challenge the reasonableness of the lease rate they are put in a potentially unfavorable economic environment. This amendment gives the track lessees the same access to recourse as land lessees are currently afforded.

KDOT has historically worked with the Midstates Port Authority, all shortline railroads in Kansas and the shippers along those lines to maintain rail service. Maintaining service on these lines is important to the economy of the region and the state as a whole.

Therefore, KDOT supports passage of HB 2824.

If there are any questions, please contact John Maddox, KDOT Freight and Rail Unit at 785-296-3228.

House Transportation
Date: 2-19-08
Attachment # 5