

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 8:30 a.m. on February 5, 2009, in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Mike Corrigan, Office of the Revisor of Statutes  
Hank Avila, Kansas Legislative Research Department  
Jill Shelley, Kansas Legislative Research Department  
Cindy Shepard, Committee Assistant

Conferees appearing before the committee:

Pat Hubbell, Kyle Railroad  
John Giles, President, Rail America  
Bob Alderson, General Counsel, Mid-States Port Authority (MSPA)  
Tom Tunnell, President & CEO, Kansas Grain & Feed Association  
Deb Miller, Secretary of Transportation, State of Kansas

Others attending:

See attached list.

The Chairman opened the hearing on **SB 46 - Procedures for sale of certain property by port authorities.**

Pat Hubbell, proponent, representing Kyle Railroad, gave background information on the bill. Twenty-five years ago the Kyle entered into an agreement with the Mid-States Port Authority (MSPA) to lease-purchase the former Rock Island rail lines. MSPA, with a \$18 million loan from the Federal Railroad Administration, had acquired more than 500 miles of rail lines from the Rock Island's bankruptcy. The loan was repaid in monthly rental installments by the Kyle Railroad, and at the end of their lease agreement with MSPA, June 1, 2009, the Kyle can exercise their right to purchase the property for one dollar. **SB 46** is needed to clarify a 1987 change to the Kansas Port Authorities Act that limits a port authority's power to negotiate the sale of property. The 1987 amendment was never intended to apply to lease-purchase arrangements. If the lease-purchase agreement is dishonored by MSPA, based on a misapplication of the 1987 law, Kyle could, theoretically, be found to pay for the line twice.

John Giles, President & CEO, Rail America, appeared as a proponent. Mr. Giles presented an overview of the Kyle Railroad (Attachment 1). Rail America became Kyle's owner in 2002 and has invested close to \$20 million in bridges, crossings, signals, track, equipment, and structures. Passage of **SB 46** would allow the lease-purchase agreement to proceed as the parties intended. Three letters of support were provided to the committee.

Bob Alderson, General Counsel, on behalf of Mid-States Port Authority (MSPA), spoke in support of the bill. He indicated that MSPA is a joint port authority that was formed in 1980 by the Joint Cooperative Agreement of 14 Kansas Counties in north central and northwest Kansas. These counties were adversely affected by the loss of rail service by reason of the bankruptcy and proposed liquidation of the Chicago, Rock Island and Pacific Railroad Company. The MSPA was created to serve the public purpose of restoring rail service in the affected counties. MSPA requested amending **SB 46** to protect the shippers/lessees on the Kyle's line, clarifying that all shippers' leases in effect at the time of transfer will remain valid (Attachment 2).

Tom Tunnell, President & CEO, Kansas Grain & Feed Association, testified as a proponent of the bill. **SB 46** facilitates the orderly transfer of railroad assets from MSPA to Rail America. Mr. Tunnell also requested the approval of MSPA's amendment (Attachment 3).

Written testimony in support of **SB 46** was submitted by:

Leslie Kaufman, Executive Director, Kansas Cooperative Council (Attachment 4)

There being no further conferees, the hearing on **SB 46** was closed.

The Chairman indicated his desire to work **SB 46** after MSPA, Rail America/Kyle, and the affected shippers

CONTINUATION SHEET

Minutes of the Senate Transportation Committee at 8:30 a.m. on February 5, 2009, in Room 136-N of the Capitol.

have reached an agreement in regard to their leases.

Presentation on the Transportation Leveraging Investments in Kansas (T-LINK) Report by Secretary Miller Continued from February 4, 2009

Secretary Miller continued her overview of the *New Approaches for Transportation Final Recommendations of the T-LINK Task Force* January 2009 (See Attachments 1, 2, & 3 in February 4, 2009 minutes).

Secretary Miller's presentation on the T-LINK report will continue at the next regularly scheduled meeting.

The meeting was adjourned at 9:27 a.m. The next meeting is scheduled for February 6, 2009.