

**Testimony of Fred Berry, Chairman, Berry Companies, Inc. Wichita, KS
Before the Senate Ways & Means Committee regarding House Bill 2234
March 20, 2013**

I am Fred Berry and am here today to oppose the passage of HB 2234.

I am Chairman of Berry Companies, Inc., founded and headquartered in Wichita, which sells construction and industrial equipment through 30 locations in 6 states. Nearly 250 of our 500 employees are in Kansas, in 6 cities from Olathe to Garden City. We love the Kansas transportation system.

I have been actively involved in Republican political activities. I became involved with Kansas transportation issues when Governor Mike Hayden's proposed the first of our three successful highway programs, back in 1989. Some of you may not remember that Kansas highways were ranked in the bottom five of the 50 states at that time. Our roads were a dangerous embarrassment. We are now ranked among the top five. The transportation coalition known as Economic Lifelines was founded to support that effort and I was its co-chairman for nearly 20 years. It played an important role in encouraging the legislature to bring our system out of the dark ages. I worked with 4 KDOT Secretaries and became familiar with their responsibilities. The executive of the Kansas Turnpike was always on our board and I also became familiar with its operations. I came to know Michael Johnston well and am impressed with his management skills.

Others will testify about the serious potential consequences of diverting turnpike toll revenues to non-turnpike uses. I see other problems as well, but crossing that line would start us down a very slippery slope, and would break faith with toll customers. I would hope you would not want such a vote on your record.

I will focus my remarks today on the issue of effective management of two large, complex enterprises by one Chief Executive Officer, who is to have "input in day to day operations" of both, according to the testimony of Secretary King. One enterprise has a budget of \$1.7 billion and its employees are under civil service; the other \$84 million and is non-civil service. The two executive offices are 127 turnpike miles apart.

I do not think one executive, whoever it might be, could manage both as well as two qualified executives, one appointed and one hired, each for specific responsibilities.

This is no criticism of Secretary King. The Secretary brings successful experience from business and the construction industry to his role. He should be an effective KDOT Secretary. The proposed structure is just not sound.

The Turnpike's management structure has worked extremely well. I have been well acquainted with its two chairpersons since 1995, Frank Becker and Mary Turkington—both Governor appointees. Frank was a successful banker and truck line owner in Eldorado before retiring to Lawrence to be closer to his duties as Chairman of the billion dollar KU Endowment Foundation. Mary had an illustrious career as the executive of the Kansas Motor Carriers Association.

The board sets turnpike policy and hires and directs the chief executive. It is the proper business model for a quasi-government agency that is much more a business than an agency.

The KTA board also includes the chairs of the Senate and House Transportation Committees, and two appointees of the Governor in addition to the Governor's KDOT Secretary. The Senate, as well as the House, has meaningful input to those board responsibilities, as you certainly should have. The new role of the board under HB 2234 is unclear. Their chief executive would be appointed and not be responsible to them. I have not known of a board of directors who did not hire and supervise its chief executive. Board policies regarding tolls, where to spend construction money--any policy--might be implemented by the executive, or might not. What could the board do about it? Any concerns about the performance of the executive would have to go back to the Governor. The structure is unworkable. I could not serve on such a board.

I must say a word about the Governor, who supports HB 2234. I first met Sam Brownback when he was the youngest Secretary of Agriculture in Kansas' history. I have supported him as a U.S. Congressman and Senator, and now as Governor. We do not always agree, as is certainly true in this case, but we share mutual respect. As a member of Congress and now as Governor, he has always supported our efforts to improve Kansas highways. I met with then Sen. Brownback and Landon Fulmer often in my role with Economic Lifelines.

Secretary King has testified that he wants to share "best practices." KDOT Secretaries have always been members of the turnpike board, and have always been charged with finding ways to improve the effectiveness of both organizations. The board has instructed its CEO to cooperate fully with KDOT and look for any potential benefits. Those savvy board members, including for many years Sen. Les Donovan, a successful businessman himself, did not overlook many potential benefits. Sen. Donovan has been a strong supporter of KTA.

I would recommend that Governor Brownback instruct his Secretary and his other board appointees to try even harder to find additional benefits from cooperation. His most recent appointee, successful contractor and now state representative Mark Hutton, a good friend of mine, will bring valuable input to that process. HB 2234 will not enhance this effort.

I conclude by reiterating that as a business person of long experience, and as one familiar with both KDOT and KTA missions and operations, I do not think HB 2234 should be enacted. It is not workable. It is far more likely to do damage than to find savings. I encourage you to differ with the Governor on this issue and vote No.