

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 3:45 p.m. on March 15, 2010, in Room 548-S of the Capitol.

All members were present except:

Senator Anthony Hensley- excused

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes
Jill Shelley, Kansas Legislative Research Department
Cindy Shepard, Committee Assistant

Conferees appearing before the Committee:

Reynaldo Mesa, Commissioner, Garden City, Kansas
Rick Sowers, Mayor, Dodge City, Kansas
Steve Phillips, on behalf of Kansas Association of Airports
Alice Amrein, Johnson County Transit
Ann Smith, Director, Riley County Area Transportation Agency
Lyle Martin, Transportation Coordinator, Four County Mental Health Center Connections
Pat Hubbell, on behalf of Short Line Railroads
Bob Totten, Public Affairs Director, Kansas Contractors Association
Brian Hansen, Vice President, Kansas Contractors Association
Eugene "Corky" Beachner, President, Beachner Construction Company, Inc.
Mary Lou Reece, President, Reece Construction Co., Inc.
Mary Sullivan, CEO, Amino Brothers Construction Company
Ed Desoigne, Executive Director, Heavy Constructors Association of the Greater KC Area
Edward R. Moses, Director, Kansas Aggregate Producers Association and Kansas Ready Mixed Concrete Association
Kent Eckles, Business & Industries
Thomas Palace, Executive Director, Petroleum Marketers & Convenience Store Association
Gratz Peters, Retailer/Convenience Store in Southeast Kansas
Tom Whitacker, Executive Director, Kansas Motor Carriers Association

Others attending:

See attached list.

The Chairman opened the continued hearings on **SB 498 - Transportation works for Kansas program, financing** and **SB 515 - Transportation works for Kansas, financing, sales tax on motor-vehicle fuels.**

Testimony received from the proponents was grouped by: city governments; air, transit, and rail service providers; contractors, transportation-related businesses and associations.

City Governments

Reynaldo Mesa, Commissioner, Garden City, and Rick Sowers, Mayor of Dodge City, testified, representing the Southwest Kansas Coalition, in favor of Transportation Works for Kansas Program (T-WORKS). Mr. Mesa stated that transportation is the lifeline for our survival in Southwest Kansas. No region in the State is forced to travel further to access a four-lane highway for retention and recruitment of industry. Roads in rural Southwest Kansas can no longer meet their transportation needs and it's the Coalition's opinion, that any comprehensive transportation program should make improving roads and the further development of roads in the western half of Kansas a top priority.

Rick Sowers continued, stating that the Southwest Coalition believes that identifying an east-west four-lane corridor in southern Kansas could pay dividends to the region as well as the entire state. Rural congestion and urban congestion are very different and they should not have to compete for funds. The T-WORKS program should have some guarantee that rural Kansas will not be left out. According to Mr. Sowers, if the State does not implement a new comprehensive transportation plan, all the work the State has done over the last 20 years will be in vain because KDOT will not have the means to maintain our existing infrastructure,

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let alone the funding necessary to execute projects that will assist in the development of regional economies ([Attachment 1](#)).

Written testimony in support of **SB 498** and **SB 515** was submitted by:

Don Moler, Executive Director, League of Kansas Municipalities ([Attachment 2](#))

Ron Fehr, City Manager, Manhattan, Kansas ([Attachment 3](#))

Air / Transit / Rail

Steve Phillips, on behalf of Kansas Association of Airports appeared in support of the next transportation program and associated revenue strategies ([Attachment 4](#)). He identified the following Kansas airport funding needs related to airport sustainability:

- 1) Preservation of existing airport pavements - \$6 million annually
- 2) Provide all-weather access for emergency medical services - \$3 million annually
- 3) Fund the remaining gap of total airport infrastructure needs - \$2 million annually

Alice Amrein, Johnson County Transit, testified as a proponent of **SB 498** and **SB 515** as it relates to the T-WORKS Program. According to Ms. Amrein, the various members of the Kansas Public Transit Association, which includes both urban and non urban operators, provided more than 11 million rides to Kansas citizens in FY 2009. For many who received these rides, they had no other transportation alternative. She noted that public transit needs increased levels of funding if we want to develop a more balanced transportation system that provides mobility options for all our residents ([Attachment 5](#)).

Ann Smith, Director, Riley County Area Transportation Agency presented testimony in favor of **SB 498** and **SB 515**. She stated that the Flint Hills region of Kansas is experiencing dynamic growth with the return of the First Infantry Division to Fort Riley and the anticipated construction of the new NBAF facility at Kansas State University. It is imperative that public transit services in the Flint Hills region become a more coordinated and efficient system if we are going to keep pace with the needs of this growing workforce. State funding, according to Ms. Smith, is a vital component in any transit funding equation, and **SB 498** and **SB 515** provide funding to transit ([Attachment 6](#)).

Lyle Martin, Transportation Coordinator at Four County Mental Health Center Connections, dba, Connections in Independence, Kansas, appeared supporting **SB 498** and **SB 515**, as they relate to a new transportation plan. According to Mr. Martin, public transit is much needed in the rural market of Southeast Kansas, particularly in Chautauqua, Elk, Montgomery, and Wilson counties. In October 2008, approximately 1,000 rides were provided, utilizing 15 drivers and eight vehicles. In comparison, October 2009, had approximately 10,240 rides provided, utilizing 60 drivers and 36 vehicles. The continued need of transportation is extremely warranted in this area of Kansas. Included with Mr. Martin's testimony, is a table providing data showing total county population, percent of residents that are disabled, and percent of residents below the poverty line ([Attachment 7](#)).

Pat Hubbell, on behalf of Short Line Railroads, appeared as a proponent of **SB 498** and **SB 515** as they relate to a new transportation program, specifically any rail program associated with such a program. He stated that short line railroads account for about 41 percent of the nearly 4,780 miles of rail line across the state, and are critical to the economic vitality of many rural Kansas communities and the state's agricultural sector.

The state's freight rail loan/grant program under the Comprehensive Transportation Program (CTP) provided resources, in addition to matching contributions by short line railroads using the program, for essential track rehabilitation projects throughout the state. During the T-LINK meetings across the state, shippers and community leaders stressed the importance of continuation of the program and the fact that short line railroads are a critical component of the state economy. ([Attachment 8](#))

Written testimony in support of **SB 498** and **SB 515** was submitted by:

Tim Rogers, Director, Salina Airport Authority ([Attachment 9](#))

Contractors / Businesses / Associations

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Bob Totten, Public Affairs Director for the Kansas Contractors Association testified in support of **SB 498** and **SB 515**. According to Mr. Totten, his organization, which was founded in 1923, represents more than 300 companies who are involved in the construction of highways, dams, roads and water treatment facilities in all 105 counties in Kansas and the Midwest. The bills would allow the present construction industry to continue as it has in the past 20 years. A survey of their membership shows most have reduced their workforce by 20 percent, and that was before KDOT's most recent cuts announced last week. With members bidding on work in Oklahoma or Nebraska, fewer Kansans will be employed, and fewer people will be able to pay sales tax, property tax, or income tax in the future. They need the work and the state needs an employment base to get back to a better economy (Attachment 10).

Brian Hansen, Vice President, Dustrol, Inc. and Vice President of the Kansas Contractors Association, presented testimony in full support of a new transportation program using **SB 498** or **SB 515**. He stated the following reasons to support a new highway program:

- 1) Economic development - a good transportation system addressing the local economic needs
- 2) Safety - reducing the number of fatalities and serious injury crashes through road improvements
- 3) Preservation - preserve what we have with new preservation techniques that are less costly
- 4) Jobs - without passage of a new program in the near future, there will be significant reductions to the workforce, adding to the unemployment roll and further depleting a greatly reduced State Unemployment Fund

He added that quick and timely passage of the next transportation program is important to his industry and Kansas communities. We can't depend on Washington to bail us out of this situation (Attachment 11).

Eugene "Corky" Beachner, President, Beachner Construction Company, Inc., appeared in favor of **SB 498** and **SB 515**. He stated that most of their work has been centered in Kansas but last year due to the cutbacks in KDOT's budget, they have had to move some of their construction efforts to Oklahoma, as their road program is in better shape than it is here in Kansas. He noted the following for consideration in a new transportation plan:

- 1) An adequately funded program used fairly throughout the six KDOT transportation districts
- 2) Use of System Enhancements/Community Improvements programs to maintain high local support
- 3) Only let projects in the amount of \$40 million or lower - keeping projects small provides greater opportunity for Kansans to get the jobs and hire Kansans to do the work
- 4) Continue to use the lowest and best bid concept for letting public work - the lowest bid procurement process has worked for the past 80 years

Mr. Beachner concluded with encouragement to get a transportation program passed as soon as possible to help the economy (Attachment 12).

Mary Lou Reece, President, Reece Construction Co., Inc. presented testimony encouraging passage of a highway bill and the funding to assure it. She stated that her company began in Kansas in 1926, and employs 100 full-time employees in communities throughout the state. According to Ms. Reece, by allowing smaller contracts and using exclusively the lowest and best bid method of contractor selection, makes it possible for Kansas contractors to participate (Attachment 13).

Mary Sullivan, CEO of Amino Brothers Construction Company, appeared in support of a comprehensive transportation program. She noted that her company has been a Kansas Contractor for more than 75 years. Without a new program they will be forced to lay off employees, and can no longer be a provider of good paying jobs. She indicated that a new transportation program should be funded effectively and justly for all the districts in Kansas. Improvements to community and their involvement are crucial and she requested some way to keep communities involved in the process (Attachment 14).

Ed Desoigne, Executive Director of the Heavy Constructors Association of the Greater Kansas City Area, spoke in favor of action on transportation funding this session. He stated that Kansas has one of the best transportation systems in the nation, but during the 1980's it was one of the worst systems. Now, twenty plus

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years later, after two sizeable transportation programs, it is at the top. It wouldn't take long for that to change and that is reason number one to consider a revenue increase. The second reason to consider a funding increase is jobs, and specifically jobs in the construction industry. The third reason is, we don't just invest in transportation today, we also do it for tomorrow ([Attachment 15](#)).

Edward R. Moses, Managing Director, Kansas Aggregate Producers Association and Kansas Ready Mixed Concrete Association, appeared in support of **SB 498** and **SB 515** as it relates to a transportation program. Mr. Moses stated that Kansas traffic fatality rates have dropped as a result of the previous two transportation programs with estimations of more than 1,000 lives saved. Providing safe transportation is a legitimate function of government.

He continued stating that transportation provides economic stimulus and long term sustainability. He indicated that every dollar spent on construction converts to three dollars of economic activity. An example, as a result of the previous programs, the cement mills located in Southeast Kansas are able to transport cement to Wichita for \$10 to \$15 less per ton than prior to these programs. The savings to the Wichita market over the last 20 years of approximately \$90 million, is one of the reasons Wichita's building costs have remained competitive with Tulsa and Oklahoma City. Public financing is the only way these projects can be had. He concluded that it is always difficult to support additional revenue measures, however, if they are properly dedicated to good public investment, citizens will be supportive ([Attachment 16](#)).

Written testimony in support of **SB 498** and **SB 515** was submitted by:

Troy Sporer, Vice President, Sporer Land Development, Inc. ([Attachment 17](#))

Curt Mauler, Vice President, L & M Contractors, Inc., Great Bend, Kansas ([Attachment 18](#))

Kip Spray, President, Venture Corporation, Great Bend Kansas ([Attachment 19](#))

Dewey Fore, Vice President Sales, Midwest, Ashgrove Cement Company ([Attachment 20](#))

Vern Hopkins, Vice President, Asphalt, Paving & Construction (APAC)-Kansas, Inc., Shears Division ([Attachment 21](#))

James R. Hanni, Executive Vice President, AAA Allied Group ([Attachment 22](#))

The Chairman called upon opponents of **SB 498** and **SB 515**.

Kent Eckles, Vice President of Government Affairs, Kansas Chamber of Commerce, presented testimony in opposition to **SB 498** and **SB 515**. Mr. Eckles stated that in their Annual CEO Poll conducted in November 2009, they asked the following question: "What is most important to the profitability of your business?" The results showed 43 percent indicated that lowering taxes on business is a top issue facing their profitability.

He continued noting in protecting existing funding streams, their members find it very disheartening they are already providing hundreds of millions of dollars in annual revenues for infrastructure spending and the State continues to use the State Highway Fund (SHF) as a savings account for other government spending. According to Mr. Eckles, until the State gets its State General Fund in order, our members question the wisdom of embarking on a massive 10-year tax-and-spend proposal. The Chamber is not opposed to enacting a comprehensive transportation program, but their membership strongly believes any "program" should focus on preservation and maintenance and not increase the cost of doing business ([Attachment 23](#)).

Thomas Palace, Executive Director of Petroleum Marketers & Convenience Store Association of Kansas (PMCA of Kansas) appeared in opposition to **SB 498** and **SB 515** in regard to motor fuel tax increases. He stated PMCA members desire a safe, efficient highway system, especially since they transport flammable material over the highways of our state. The increase in motor fuel taxes is one of several tax increases that the Kansas Legislature is considering that will have a direct impact on the convenience store retailers in Kansas. He noted consumers won't change what they buy, they will change where they buy. It is no secret that there is a tax disparity for retailers that compete on the border.

He provided a spread sheet to show what the price of fuel would be in the next 40 years in comparison to surrounding states, if **SB 498** were enacted. Also included for review, an article in regard to a Quik Trip on the Kansas side, moving 100 feet away in Missouri, better for their business since customers won't have to pay the higher Kansas taxes on cigarettes and gas. Mr. Palace concluded that this bill appears to fund a new comprehensive transportation plan, but in reality (as history shows) this is simply a funding mechanism to

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set up a reserve that highways may use - as long as the legislature does not need the money ([Attachment 24](#)).

Gratz Peters, convenience store retailer in Southeast Kansas (SEK), testified in opposition to **SB 498** and **SB 515**. He stated that his stores are in 17 SEK communities and four communities in Oklahoma and Missouri. According to Mr. Peters, they see first hand the effects of the tax disparities from the other side of the Kansas boarder. If the motor fuel tax and/or sales tax increase, many Kansans will cross borders to purchase fuel, not to mention tobacco purchases, groceries, alcohol, home improvements, and even cars ([Attachment 25](#)).

Tom Whitacker, Executive Director for the Kansas Motor Carriers Association (KMCA) presented testimony in opposition to certain provisions of **SB 498** and **SB 515**. He noted the trucking industry has been hit particularly hard by the severe downturn in the U.S. economy. The KMCA cannot support additional revenue enhancements for a new transportation program until they can be assured that the taxes paid will be used for transportation and not as a rainy day fund for the State General Fund.

Mr. Whitacker continued stating they cannot support a transportation plan that funds additional dollars for railroads, transit and aviation on the backs of highway users. Additional concerns include provisions relating to tolling, registration fee increases on semi-trailers, indexing of the motor fuel tax to the Consumer Price Index and removing the sales tax exemption from motor fuels. He indicated that the KMCA does support the provisions of **SB 498** and **SB 515** related to cash flow and debt management strategies, including 18% debt service cap, the authority to issue 25 year bonds, the use of Build America Bonds, and the authority to refund both principal and interest ([Attachment 26](#)).

Written testimony in opposition of **SB 498** and **SB 515** was submitted by:

Bob Alderson, Attorney, Casey's General Store Inc. ([Attachment 27](#))

Derrick Sontag, State Director, Americans for Prosperity - Kansas ([Attachment 28](#))

Dan Murray, State Director, National Federation of Independent Business-Kansas ([Attachment 29](#))

The Chairman announced the hearings on **SB 498** and **SB 515** would continue at the next scheduled meeting.

The meeting was adjourned at 6:15 p.m. The next meeting is scheduled for March 16, 2010.