

MINUTES OF THE SENATE TRANSPORTATION COMMITTEE

The meeting was called to order by Chairman Les Donovan at 8:30 A.M. on March 16, 2006 in Room 527-S of the Capitol.

All members were present except:

Pat Apple - 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:

Others attending:

See attached list.

Chairman Donovan opened the discussion on HB 2709 - Rail service improvement program, funding.

Chairman Donovan said the bill as written would do away with the sunset of the \$3 million per year funding from the state highway fund, which was scheduled to expire at the end of FY 2007. There was testimony stating it was intended to be more or less a revolving loan fund with a stipulation that it would allow granting in certain instances. It seemed to be the committee's thought that the granting part got used more than anticipated going into the program. He said, after talking to different people, he thought the comfort level of the committee would be to extend the program for 2 years at the level of \$2 million per year. And there will be an amendment offered to require a report be made to the House and Senate Transportation Committees once a year, hopefully early in the session. He said they want to make the statement that they want the revolving loan program to operate where enough money is going into the fund to make it viable. He asked how fast the money is being repaid. Pat Hubble said KDOT told him they expect \$1 million a year through FY 2009.

Pat Hubble asked if the committee went to \$2 million a year, would they be allowed to loan out \$3 million a year. Chairman Donovan said yes. The \$2 million is how much more would be put into the program for 2 more years.

Chairman Donovan asked Senator Palmer to explain her amendment.

Senator Palmer said her amendment would add an explanation of the expenditure of money for the three areas where grants are being provided: public education, railroad service, and the aviation fund, to the annual report from the Secretary of Transportation to the Senate and House Transportation Committees

Senator Palmer made a motion to adopt the amendment. Senator Petersen seconded the motion. The motion carried.

Chairman Donovan asked Bruce Kinzie if he had the other amendment ready with the changes he mentioned. Bruce said he can do it but needs to know if the committee wants to keep it as a loan/grant plan or simply as a loan program.

Chairman Donovan asked what other big projects they see coming down the road that would warrant a grant. He said that obviously if anyone was given the choice, of whether they want a grant or a loan, they will choose a grant.

Pat Hubble, Kansas Railroads, said the other two areas, public transit and airports have all grants. The railroad grant was used in an emergency situation to save a large piece of railroad. He knows of no like project that would fall under that category. But if all of a sudden someone decides to build an ethanol plant, or new tire plant, and it needs to have a rehab to the branch line to it, he thinks the legislature would want to do that. Or, it could come from economic development if it were a big enough project. There's nothing

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out there now but there could be in the future.

Senator Palmer questioned why the aviation fund was given grant money and the railroad fund was basically intended to be loans. Chairman Donovan said, as he recalls, when the plan was put together the small airports across the state were in horrible shape and their ability to raise money as a function of business is so much less than the railroad's as they haul freight. He said that although they were given grants, there needed to be matching funds.

Bob Alderson, Midstates Port Authority & Kyle Railroad, said, at the time this program was brought into being, as part of the Comprehensive Transportation Program, he lobbied hard and failed because then Secretary Carlson had in mind that this could be a self-sustaining fund, thus kept it from running the formal length of the CTP. Now, due to the need for some grants, the program is not self-sustaining and the railroads are being penalized. He knows what the committee is doing but it doesn't set well with shortlines.

Chairman Donovan said he understands that but KDOT is not as healthy as it used to be.

Chairman Donovan asked the committee their wishes. Senator Palmer asked if there was an amendment for what he was suggesting. Chairman Donovan said it was being drawn up and asked Bruce to go through the amendment. Bruce said the current funding of \$3 million would be continued through June 30, 2009. Then go to \$2 million through FY 2010.

Senator Palmer questioned the rationale of going to \$2 million, rather than leaving it at \$3 million, as it appears they lost money from some of the decisions made by KDOT. Chairman Donovan said it was because there is no money. Senator Palmer said that when the shortlines are used, they take wear and tear and maintenance off of the highways. Chairman Donovan said using that argument, how do we compensated for the loss of fuel taxes the trucks would be paying?

Senator Gilstrap asked if the committee would be acceptable to \$2 million from the Highway Fund and \$1 million from the EDIF fund. Chairman Donovan said KDOT and the railroads would be agreeable to the idea but the problem is there is a big bill in the House right now that takes a big chunk from the EDIF funds and this effort would complicate things a lot. If nothing is done with this bill, the program sunsets on July 1, 2007, meaning there would be no more money going into the fund. It's already been amended to require information in the annual report. What the proposed amendment does is put \$4 million dollars into the fund over 2 years

Senator Palmer asked if the bill was passed out the way it's written, with the amendment that's on it, would it basically leave the \$3 million there. Chairman Donovan said yes, it would give it to them indefinitely as it removes the sunset program. Senator Palmer asked if any of the other funds have a sunset. Bruce said no.

Senator Palmer made a motion to pass **HB 2709** out favorably as amended. Senator Wilson seconded the motion. The motion carried.

**SB 456** - Open records; disclosure of certain records pertaining to drivers of motor vehicles transporting members of the public.

Chairman Donovan said that at the last meeting the committee talked about requiring anyone that has an S endorsement on a Commercial Drivers License (CRL) to submit to a background check. He said Bruce advised him that this is not going to be very easy to do. Bruce said Alan Anderson, who handles the drivers's license part of the Motor Vehicle Department, said the KBI can do the background checks but they need some direction as to what's being looked for and what will be done with the information once it's received. He gave the example of the adult care home section where they do background checks. There is a laundry list of things they are looking for. KBI does the background checks and the nursing homes get the information from Health and Human Services.

Alan Anderson, Chief of Driver's License Bureau, said they are currently doing background checks on HAZMAT drivers for CDL. He is absolutely willing to work with this. Capturing the fingerprints and submitting them to the KBI or FBI creates no problems. The problem is what to do with the work once they

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get it back. Currently, under HAZMAT, the federal government came out and told them what disqualifying offenses were. Federal make's the decisions as to whether the person is qualified to be a HAZMAT driver. The adjudication of the issue is totally out of their hands, they are strictly the "middleman." If they could get together and work with the KBI, the school bus contractors, the school districts, and the board of education to develop a plan it would work. They could come up with a laundry list of things that would qualify or would not qualify, or possibly be something to take a deeper look at as to whether the person was qualified or not. Even some of he driving records might be helpful to them. He doesn't want to put the Division of Vehicles in the position of having to make the decisions. He said right now they have about 9,500 licensed school bus drivers in Kansas.

Senator Petersen pointed out that Missouri authorized the State Board of Education to promulgate the rules for these background checks and set up exactly what they were looking for. They don't have a laundry list in their statute but they refer to another statute which states what they want to check.

Diane Gjerstad, Wichita Public Schools, said the bill really has two strands. They not only have the yellow buses but often the school districts will contract with Village Charter or Prestige to haul the football team or the bands, as the buses are larger and can handle their equipment better. They contract about a hundred of those a year. So the bill is broader than just the yellow buses.

Chairman Donovan asked if the school district who have their own drivers are already covered under the school district policy. Diane deferred to Jim Edwards, Kansas Association of School Boards, who said they may or may not be. All certified employees have a background check when they're licensed by the State Department of Education. School districts aren't required to do the same for all employees.

Senator Schmidt asked if the charter bus drivers have S endorsements. Diane said no, they just had passenger endorsements.

Chairman Donovan said it started out being a real simple bill and has become very complicated. We're talking about a big policy change. He said he wasn't going to take any action now and asked all parties involved to get together and come up with a list of what we're looking for and exactly how it can best be addressed.

The meeting adjourned at 9:15 a.m.

The next meeting is scheduled for Tuesday, March 21, 2006.

Minutes were sent around for corrections before considered approved on March 31<sup>st</sup>. No corrections were made.