MINUTES

SENATE COMMITTEE ON TRANSPORTATION AND UTILITIES

November 1-2, 1993
Room 519-S -- Statehouse

Members Present

Senator Ben Vidricksen, Chairperson
Senator Lillian Papay, Vice-Chairperson
Senator Richard Rock, Ranking Minority Member
Senator Paul "Bud" Burke
Senator Sherman Jones
Senator Todd Tiahrt

Staff Present

Hank Avila, Kansas Legislative Research Department
Ben Barrett, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes Office

November 1, 1993

Conferees -- Issues Relating to the Use of Motorcycle Helmets

Rosalie Thornburgh, Kansas Department of Transportation
Pat Poull, Head Injury Association of Kansas City and Greater Kansas City
L. E. Richardson, II, D.O., American College of Emergency Physicians
Ray Petty, Department of Health and Environment
Terry Maple, Kansas Highway Patrol
Kenneth R. McNeill, ABATE of Kansas
Roger McCollister

Conferee -- Department of Transportation Briefing on Intermodal Surface Transportation Efficiency Act Update and Related Transportation Matters

Deb Miller, Director of Planning and Development, Kansas Department of Transportation

Conferees -- S.B. 294, An Act Mandating the Suspension of a Person's Driving Privileges for a Minimum of Six Months for Conviction of a Drug-Related Offense

Secretary Michael Johnston, Kansas Department of Transportation
Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators Association
Kyle Smith, Kansas Bureau of Investigation

Conferees -- S.B. 330, An Act Exempting Compressed Natural Gas from the Motor Fuel Tax and Related Issues.

Ron Hein, Mesa Corporation
Dick Brewster, AMOCO (written testimony only)
Dr. Jefferey Seisler, Natural Gas Vehicle Coalition (written testimony only)
Lee Eisenhauer, Propane Marketers Association of Kansas
Robert Haley, Kansas Department of Transportation

Morning Session

Approval of the September 2-3, 1993 Minutes.

Staff informed the Committee of one change needed to be made to the minutes. Staff said that Ed Newson needed to be added to the list of conferees who addressed the Committee on S.B. 162. Senator Tiahrt moved the approval of the Committee minutes as amended. The motion, seconded by Senator Papay, was adopted.

Issues Relating to the Use of Motorcycle Helmets.

Rosalie Thornburgh explained that the federal policy is directed toward getting the states to require all persons riding motorcycles wear helmets. She noted that P.L. 102-240 (a provision of the Intermodal Surface Transportation Efficiency Act (ISTEA)) contains an incentive grant program intended to promote the passage of motorcycle helmet and safety belt laws that are in compliance with the federal act. In order for a state to be eligible for funding, it must have in effect both a law requiring all individuals riding a motorcycle to wear helmets and a law requiring individuals in the front seat of passenger vehicles to wear safety belts. Failure to meet such requirements before October 1, 1993 subjects the state to a transfer of funds from three federal-aid highway programs to the state's highway safety program. The transfer is 1.5 percent, or $1.9 million of federal highway construction funds. For noncompliance at the beginning of federal fiscal year 1995 and beyond, the transfer will increase to 3 percent or $3.1 million. Total estimated funds to be diverted through federal fiscal year 1997 is $8.1 million. (For statement see Attachment 1.)

Pat Poull testified that riding a motorcycle on highways is a privilege rather than a right. He disputed claims of motorcyclists that helmet use contributes to spinal column injuries and motorcyclists' claims that wearing helmets increases the likelihood of having an accident due to a loss of hearing or peripheral vision. He pointed out that he could not find any corroborating article substantiating such claims. He cited personal tragedies of close acquaintances who either were killed or disabled because they chose to operate a motorcycle without wearing a helmet. (For statement, see Attachment 2.)

Dr. L. E. Richardson, II presented a video which recounted the findings of a study in the City of Los Angeles on the use of motorcycle helmets. The study was sponsored by the National Highway Traffic Safety Administration. Among other things, the study found:

1. accidents occurred because drivers of automobiles could not see the motorcyclist;
2. 60 percent of motorcyclists involved in accidents were not wearing a helmet;
3. 26 percent of riders said that they did not wear a helmet because it was inconvenient;
4. 53 percent of motorcyclists did not expect to be in an accident;
5. 77 percent of all accidents occurred where the automobile had a straight-ahead view of the motorcycle;
6. helmets did not impair peripheral vision;
7. vision and attentiveness were more important safety factors than hearing; and
8. helmets which cover more of the head area tend to provide the best protection to motorcyclists.

Dr. Richardson also provided written testimony. He made the following points:

1. States that have repealed helmet laws have experienced 25 percent to 50 percent increases in motorcycle rider mortality.
2. Many head injury patients sustain permanent brain injury from motorcycle accidents.
3. Attempts to make riding safe through training programs have failed.
4. Most motorcycle accidents occur during the day, in good weather, on good roads, and in moderate traffic.
5. The severity of injuries involving unhelmeted motorcyclists varies greatly, but often they are dramatic. (For statement, see Attachment 3.)

Ray Petty noted, among other things, that the cost of all 1992 motorcycle crashes in Kansas, including wages lost, medical expenses, insurance administration costs, and property damage is estimated to be $39.7 million. He said that repealing the mandatory use of helmets results in increases of fatalities. He cited Oregon, Nebraska, Texas, and Louisiana as examples of states in which a decrease in motorcycle fatalities occurred when helmet laws were reenacted. He also noted that in Louisiana, after the enactment of a mandatory helmet law, the state experienced a decrease in reportable motorcycle-related serious injuries and a substantial reduction in the average medical cost per injury. Also noted were increases in medical costs on the order of $600,000 per year in Kansas hospitals due to the absence of a universal motorcycle helmet law. (For statement, see Attachment 4.)

Sergeant Terry Maple expressed support for measures intended to enhance the safety of the motoring public. He said that in addition to providing safety of the motoring public, a mandatory helmet use law would make enforcement easier. He said that law enforcement officers would no longer be required to make a personal assessment whether a rider or passenger was under 18 and, thus, required to wear a helmet. (For statement, see Attachment 5.)

Kenneth McNeill reported to the Committee that ABATE was instrumental in proposed legislation in Congress which would provide relief from the penalty provisions in the federal mandate. He disputed many of the studies by the proponents of mandatory helmet legislation. Among other things, he pointed out that proponents' claims over excessive medical costs needed by victims of motorcycle accidents failed to note that health care costs have risen more than twice as fast as inflation over the past ten years. His testimony also indicated that motorcycle accidents account for a very small percentage of all accidents. (For statement, see Attachment 6.)

Roger McCollister said he opposes helmet laws for adult riders and passengers because motorcycle riders simply do not want or support a helmet law for adults. He also said that helmet laws are ineffective in preventing accidents. He said he favored better highway safety and driver education programs as one way to prevent accidents and injuries. He proposed a highway safety program which, in his view, would save the state money. Specifically, he recommended that the proposed helmet law be rejected for three years, that a public citizen advisory group for highway safety be created to focus on the issue of accident prevention, that a meaningful highway safety program be developed, that the results of the safety program be evaluated, and that the helmet law proposal again be considered in three years if safety program results are not satisfactory. (For statement, see Attachment 7.)

Afternoon Session

Department of Transportation Briefing on the Intermodal Surface Transportation Efficiency Act Update and Related Transportation Matters

Deb Miller presented a slide presentation entitled "Kansas Transportation: Moving Into the 21st Century." The presentation included matters relating to the federal Intermodal Surface Transportation Efficiency Act, information pertaining to the various modes of transportation, such as airports, railroads, specialized transportation programs, metropolitan bus operations, bicycle transportation trends, information on Kansas waterways, and revenue trends. (For statement, see Attachments 8 and 9.)

S.B. 294 -- An Act Mandating the Suspension of a Person's Driving Privileges for a Minimum of Six Months for Conviction of a Drug-Related Offense

Secretary Michael Johnston informed the Committee that the Kansas Department of Transportation has had federal funds withheld ($7.5 million this year) because the Legislature failed to enact a law such as S.B. 294 or a resolution such S.C.R. 1611. (Next October the amount withheld would be $7.9 million.) Federal law requires the withholding of certain federal-aid highway funds from states that do not enact and enforce legislation requiring the revocation or suspension of an individual's driver's license upon any conviction for any violation of the Controlled Substances Act (P.L. 91-153) or any drug-related offense. Alternatively, a state can avoid the withholding of funds by submitting to the Secretary of Transportation a written certification stating that the Governor is opposed to the enactment or enforcement of such a law and that the Legislature has adopted a resolution expressing its opposition to such a law. He indicated that the Legislature has until September 30, 1995 to comply with the federal mandate. If the Legislature enacts complying legislation, withheld funds will be restored to Kansas. Noncompliance after that date will result in federal funds actually being lost to the state. (For statement, see Attachment 10.)

Gene Johnson said that the Kansas Community Alcohol Safety Action Project Coordinators Association supports the contents of S.B. 294. He proposes an amendment to the bill which would provide a first-time offender diversion from a drug offense with the understanding that the offender undergo an evaluation by a qualified alcohol safety action project. He noted an evaluation would provide prosecutors with information on an individual's alcohol/drug problem. In order to satisfactorily complete a diversion program, the offender would be required to complete an educational process of not less than eight hours at a certified alcohol safety action project or complete a treatment program for alcohol and drug abuse. (For statement, see Attachment 11.)

Kyle Smith said that the Kansas Bureau of Investigation supports the ideas contained in S.B. 294. He said that the bill addresses the demand aspect of the drug use problem. He explained that at present there is minimal risk for a casual drug user. He believes suspension or revocation of a driver's license can be much more effective than the current methods intended as drug use prevention measures. He also pointed out that if a person loses his or her driver's license as a result of a drug-related offense and operates a vehicle, law enforcement officials will be provided an automatic probable cause for arrest and a search incident thereto. He added the law also could be used to facilitate the arrest of persons involved in drive-by shootings. (For statement, see Attachment 12.)

S.B. 330 -- An Act Exempting Compressed Natural Gas from the Motor Fuel Tax and Related Issues

The study was requested by Mesa Corporation in an effort to provide incentives for the development and use of natural gas in automobiles. 1993 S.B. 330, as introduced, addressed solely the issue of exempting compressed natural gas from the motor fuel tax. Hearings on the measure were conducted in the Senate Transportation and Utilities Committee during the 1993 Session. The bill was suggested for interim study in order to facilitate consideration of the broader issues associated with compressed natural gas and other alterative fuels such as propane.

Ron Hein presented testimony on behalf on Mesa. He noted that Mesa is one of the nation's largest independent gas producers and currently has approximately 60 percent of its natural gas reserves in the State of Kansas. His testimony included the following main points:

1. The greatest burden of the natural gas industry is the combined severance tax and property tax burden.

2. Kansas is one of the five largest natural gas producing states in the country, and the Hugoton Field is one of the largest natural gas fields in the world.

3. Natural gas is a cheap domestic fuel which is abundantly available, clean-burning, safer, and better for the environment.

4. At the national level, the Clean Air Act of 1990 and the Energy Policy Act of 1992 have prompted awareness of the value of natural gas as a transportation fuel.

5. Natural gas vehicles will first be utilized by fleet operators. As fleets convert to natural gas, the infrastructure of the distribution of natural gas will develop and individual vehicle owners will begin using this fuel.

6. The Energy Policy Act requires federal, state, the gas industry, and eventually commercial fleets to purchase a statutorily mandated percentage of alternative-fuel vehicles.

7. There are about 50,000 natural gas vehicles in the United States. By the year 2000, 10 percent of all vehicles may be running on natural gas.

8. Converting to natural gas will help the United States' balance of trade. Forty percent of the trade deficit is the result from foreign oil imports.

9. Natural gas vehicles are safer than gasoline powered vehicles. Gas tanks of these vehicles have been submitted to a variety of tests to insure their safety.

Mr. Hein said that Mesa favors exempting compressed natural gas from the motor fuel tax. He recommended consideration of a two-year sunset clause on the exemption, or a sunset in the event that the cost to the Highway Fund reaches a certain level, such as $250,000, or that legislation be structured so that an individual is only entitled to the exemption for the first two or three years. (For statement, see Attachment 13.)

Dick Brewster was unable to appear but provided written testimony which reiterated the benefits of natural gas. His written testimony pointed out that AMOCO has compressed natural gas refueling locations in Colorado, Michigan, Illinois, Georgia, Nebraska, and New Mexico. He pointed out that these stations are expensive and do not yet bring a return on investment. He said that AMOCO persists because the company is convinced that the future of compressed natural gas is a strong, viable one. (For statement, see Attachment 14.)

Jefferey Seisler's testimony also was distributed to the Committee. Dr. Seisler appeared before the House Transportation Committee on October 26, 1993. His testimony noted that state governments typically had developed as many as eight different types of alternative fuels programs. He summarized the different incentive approaches used by other states. (For statement, see Attachment 15.)

Lee Eisenhauer recommended that the proposed motor fuel tax exemption for compressed natural gas be extended to propane and all alternative motor fuels listed in the federal Clean Air Act. She pointed out that propane is a low-emission fuel and good for the environment. She said all types of vehicles may be modified to be powered by propane, ranging from lawn mowers to forklifts. She added that new technology also is providing a method of combining propane and diesel fuel. (For statement, see Attachment 16.)

Robert Haley expressed concern with legislation which would exempt any fuel from the motor fuel tax. He pointed out that when rating agencies assigned a rating to the Department of Transportation's bonds, one of the key concerns was the stability of the projected motor fuel revenues over the 20-year life of the bonds. He cautioned that any cap on exemptions granted to alternative fuels tend to be expanded or extended. (For statement, see Attachment 17.)

November 2, 1993

Conferee -- Regulation of Natural Gas Production in Kansas

David Pierce, Washburn Law School

Conferees -- S.B. 394, An Act Concerning Assessment of Expenses of Investigations or Appraisals of Public Utilities and Common Carriers

Tom Day, Corporation Commission
Alan Decker, Citizens' Utility Ratepayer Board

Conferee -- Alternative Fuel Vehicles

T. Boone Pickens, Mesa Corporation

Conferees -- Legislative Review of Citizens' Utility Ratepayer Board

Alan Decker, Citizens' Utility Ratepayer Board
John Sutter, Member, Citizens' Utility Ratepayer Board

Conferee -- Recommendations from the Kansas Association of Airports Regarding Small Airport Development

Timothy Rogers, President, Kansas Association of Airports

Conferees -- Recommendations for 1994 Legislation

Betty McBride, Director, Division of Vehicles, Kansas Department of Revenue

Pat Hubbell, Kansas Railroad Association

The Committee opened the second day with a presentation on natural gas production in Kansas.

David Pierce provided an overview of the evolving state and federal regulatory systems that control the production and marketing of natural gas. Professor Pierce explained that the Federal Energy Regulatory Commission, through a series of orders, provided producers with the ability to market gas directly to end users, relying on interstate pipelines for transportation services. He noted that the changes were in response to a need for market-responsive pricing of natural gas. These changes allow buyers and sellers to interact freely and be able to transport gas to fulfill their agreements. He explained that in the short term, consumers of natural gas appear to have been the beneficiaries of the regulatory changes, while certain pipeline companies and natural gas producers have been adversely affected by these changes. Professor Pierce said that in the long term, however, the regulatory changes will benefit industry, consumers, and states, such as Kansas, where a significant portion of the nation's natural gas resource is found. (For statement, see Attachment 18.)

The next item on the agenda was S.B. 394. The bill was requested by the Corporation Commission and permits the direct assessment of costs incurred by the Commission for participation in proceedings before federal agencies, specifically, the Federal Energy Regulatory Commission (FERC).

Tom Day testified in support for the measure. He noted that currently, costs incurred by the Commission in proceedings before FERC are assessed to all utilities under the authority of the Commission through general quarterly assessments. He said that the proposed change, if adopted, would result in the utilities on whose behalf the costs were incurred, primarily Western Resources, to be charged directly for such costs, subject to provisions currently found in the statute. (For statement, see Attachment 19.)

Alan Decker pointed out that the Citizens' Utility Ratepayer Board (CURB) supports the changes in the bill. He indicated that because questions have been raised in the past regarding CURB's specific authority to issue its own assessment orders, CURB supports the proposed changes to clear any uncertainty regarding its authority to assess its cost to utilities. (For statement, see Attachment 20.)

The next subject before the Committee was a presentation by Mr. T. Boone Pickens on the subject of alternative fuel vehicles. His testimony was a continuance of November 1 hearings on the issue.

T. Boone Pickens presented testimony that focused on the benefits of natural gas as a transportation fuel and the leadership role he believes that Kansas can and should play in developing this new market. He asserted that the nation is going to shift to alternative transportation fuels, due to federal legislation such as the Clean Air Act and the National Energy Policy Act. He believes that natural gas is the only choice readily available to the states. In his view, other fuels either cost too much or are lacking in technology. Mr. Pickens said that much of the natural gas that will be used will be Kansas-produced natural gas. He pointed out that leadership is needed from the private sector and from government at all levels to develop the use of this fuel. He offered examples of private sector leadership including rebates of up to $1,750 for vehicles converted to natural gas, the leasing of fuel cylinders to consumers for $1 a year (according to Mr. Pickens, cylinders are the costliest part of natural gas vehicle conversions). With respect to government leadership, Mr. Pickens said that state and local governments in natural gas-producing states such as Kansas, Texas, Louisiana, and Oklahoma need to begin converting their fleets to natural gas. In the process, they will build a fueling infrastructure necessary to support widespread public conversions. Next, he said, government must join the private sector in putting money into this venture. Ford, General Motors, and Chrysler are all producing natural gas vehicles, according to Mr. Pickens. At Mesa, a new subsidiary, Mesa Environmental, has been created to develop and market state-of-the-art natural gas vehicle conversion equipment, Mr. Pickens said. Mr. Pickens also noted that:

1. natural gas as a transportation fuel should not be taxed until it becomes a major industry;

2. at some point, natural gas as a transportation fuel should and will be taxed;

3. promotion of this industry should take place which would reclaim about 450,000 jobs lost in the oil and gas business the past decade; and

4. the first year the motor fuel tax exemption would be in place, the estimated fiscal impact would be about $27,000. (For statement, see Attachment 21.)

The next subject considered by the Committee was a legislative review of the Citizens' Utility Ratepayer Board.

Alan Decker pointed out that CURB is a consumer advocate for residential and small commercial utility ratepayers in the state. As the state utility consumer advocate, CURB represents residential and small ratepayers in most cases before the Corporation Commission and in appeals of Commission decisions to district and appellate courts. He noted that prior to CURB, residential and small commercial ratepayers had no practical way of appealing Commission decisions, due principally to costs. Mr. Decker provided information on the history of CURB, the manner in which members are appointed, CURB activities, and funding. It was pointed out that Kansas is one of 38 states which has established a consumer advocate office. CURB estimates that over a 40-year period, CURB's recommendations will result in savings to ratepayers of about $38 million. (For statement, see Attachment 22.)

John Sutter, member of CURB, appeared before the Committee to express support for CURB. He recounted incidents of CURB interventions. He distributed a copy of the Silver-Haired Legislature Resolution No. 1015, which expressed continued support of the Citizens' Utility Ratepayer Board. (For copy of the resolution, see Attachment 23.)

The Committee next turned its attention to recommendations of the Kansas Association of Airports (KAA) regarding small airport development. The Committee, at its September meeting, instructed KAA to return in November with proposed recommendations intended to enhance small airport development.

Timothy Rogers of KAA presented the organization's proposals. Mr. Rogers said that the Kansas Legislature should consider taking the following action to enable the Aviation Division of the Kansas Department of Transportation to participate in the Federal Aviation Administration's (FAA's) block grant program for the state's general aviation airports and to develop a state airport development program.

1. Establish a state airport development fund with a one-time contribution of economic development funds.

2. Provide ongoing revenue for a state airport development fund by requiring all existing state taxes collected on aviation fuels to be paid into the airport development fund.

3. Direct the Secretary of Transportation to develop a state airport development program funded by the a state airport development fund. The program would include participation in the FAA state block grant program.

With respect to local concerns about land use and zoning issues, Mr. Rogers suggested that various groups collaborate to study and update existing airport zoning and land use legislation. (For statement, see Attachment 24.)

The next item on the agenda pertained to proposed bill requests for the 1994 Legislative Session. **Betty McBride** of the Division of Vehicles, and **Pat Hubbell**, representing the Kansas Railroad Association, appeared before the Committee. **Ms. McBride** informed the Committee that the Division's proposed legislation had been submitted to the Governor but had not been approved. She said that the Division's proposed legislation was clean-up pertaining to the International Registration Plan. She also mentioned the bill and resolution relating to mandatory suspension and revocation of a driver's license of persons convicted of any drug-related offense. She said that the Division prefers something like adoption of 1993 S.C.R. 1611, rather than the enactment of S.B. 294.

Pat Hubbell also appeared to request that certain language in K.S.A 66-227 be repealed. This language requires railroad grade crossings to be on the same grade as the track for 30 feet on each side of the center track, unless county commissioners find such a requirement to be unnecessary. In addition, beyond the 30 feet the roadway cannot exceed a 6 percent grade. (A six-foot fall for every 100 feet.) According to Mr. Hubbell, the current language is antiquated. He pointed out that sometimes the 30 feet and 6 percent grade requirements cannot be adhered to. Failure to comply with such standards has created the potential for liability problems for the railroads, especially shortline railroads with limited financial resources.

Committee Discussion. The Committee discussed a proposed resolution requested at the September meeting which urges opposition to federal legislation requiring revocation or suspension of drivers' licenses for any drug-related offense. The proposed resolution was patterned after an Idaho resolution which was thought to be more forcibly worded than the Kansas resolution, S.C.R. 1611. After some discussion, the Committee elected to reintroduce a resolution similar to S.C.R. 1611. The Chairman also asked the Committee to allow him to work with staff in preparing specific recommendations on the various interim topics considered by the Committee. The Committee by consensus agreed to the Chairman's suggestion.

Following Committee discussion, the Committee adjourned.

Prepared by Hank Avila

Approved by Committee on:

November 23, 1993
(Date)

93-0007691.01/HA

1.

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Michael L. Johnston
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Governor of Kansas

TESTIMONY BEFORE
SENATE TRANSPORTATION AND UTILITIES COMMITTEE

REGARDING
ISSUES RELATING TO THE USE OF MOTORCYCLE HELMETS

November 1, 1993

Mr. Chairman and Committee Members:

Mr. Chairman and members of the committee, I am Rosalie Thornburgh, Administrator of the Office of Traffic Safety. On behalf of the Department of Transportation, I am here today to provide testimony regarding the federal requirement for all individuals on a motorcycle to wear helmets.

OVERVIEW.

Section 1031 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (P.L. 102-240) authorizes a incentive grant program designed to promote the passage of, and compliance with, motorcycle helmet and safety belt laws. To be eligible for funding, a state must have in effect both a law requiring all individuals on a motorcycle to wear helmets and a law requiring individuals in the front seat of passenger vehicles to wear safety belts (or be secured in child passenger safety systems).

A state that fails to adopt and put into effect both laws before October 1, 1993 (the beginning of federal fiscal year 1994), is subject to a transfer of funds from three federal-aid highway programs to its section 402 highway safety program.

A state not in compliance at the beginning of federal fiscal year 1994 (October 1, 1993) will experience the transfer of 1 1/2 percent of its federal highway construction funds for federal fiscal year 1995.

For non-compliance at the beginning of federal fiscal year 1995 and beyond, the transfer will rise to 3 percent.

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STATUS OF COMPLIANCE.

Since the 1993 Kansas Legislature did not pass a mandatory helmet bill, Kansas does not comply with the helmet provisions of Section 153 and will incur the 1 1/2 percent penalty in federal fiscal year 1995 (beginning October 1, 1994). An estimated $1.9 million in construction funds will be diverted to the section 402 highway safety program.

If the universal helmet law is not passed by the Legislature prior to October 1, 1994, an estimated $3.1 million of construction funds will be diverted in federal fiscal year 1996 (beginning October 1, 1995).

If the universal helmet law is not passed prior to October 1, 1995 an estimated $3.1 million of construction funds will be diverted in federal fiscal year 1997.

Total estimated funds to be diverted through federal fiscal year 1997: $8.1 million. In addition, without the helmet legislation in place, we are not allowed to apply for available grant funds.

A detailed breakdown of estimated diversion by highway programs is shown in attachment 1.

National compliance.
As of September 16, 1993, 31 states/territories have universal helmet laws. A list of those states is shown on attachment 2.

COMPONENTS OF THE LAW.

Kansas' safety belt law is in compliance with the Act.

Motorcycle helmet laws of less than universal application or whose enforcement is by any means other than primary enforcement would be non-complying.

COMPONENTS OF THE INCENTIVE GRANT PROGRAM.

If a helmet law is in effect anytime during federal fiscal year 1994, a state can receive an incentive grant to implement a traffic safety program. The program must include education, law enforcement training, monitoring of the usage rate of compliance, and enforcement of laws.

The third and final year of funding is available through federal fiscal year 1994 (beginning October 1, 1993). The amount any state receives is contingent upon the number of states applying. Currently 22 states plus D.C. and Puerto Rico comply with the Act. Estimated initial allocation is $230,000.

PERTINENT STATISTICS.

Studies by the National Highway Traffic Safety Administration (NHTSA) indicate that an unhelmeted motorcyclist is 40 percent more likely to incur a fatal head injury and 15 percent more likely to incur a non-fatal head injury than a helmeted motorcyclist when involved in a crash. NHTSA estimates that motorcycle helmets reduce the likelihood of a fatality by 29 percent.

I have attached (attachment 3) a Kansas Motorcycle Fact Sheet which describes the motorcycle crash picture in Kansas in 1992. Twenty-nine (29) fatalities resulted from over 970 crashes. Of those fatalities, 17 percent were reported to be wearing helmets. Of those reported to be wearing helmets, the fatality rate is 1.98 per 100; of those reported not to be wearing helmets, the fatality rate is 4.07 per 100.

USE OF SAFETY SEAT AND MOTORCYCLE HELMETS

Following is the Division of Planning and Development's estimate of the total funds (in millions of dollars) which will be transferred under the penalty provisions of Section 153 of Title 23, Use of Safety Belts and Motorcycle Helmets.

	FFY 1995	FFY 1996	FFY 1997
NHS	$ 48.1	$ 48.2	$ 48.2
STP	51.5	51.5	51.5
CMAQ	4.9	5.0	5.0
Hold Harmless	19.1	0.0	0.0
Total	$123.6	$104.7	$104.7
% Transferred	1.5%	3.0%	3.0%
TRANSFER AMT.	1.9	3.1	3.1

NHS = National Highway System
STP = Surface Transportation Program
CMAQ = Congestion Mitigation and Air Quality

Division of Planning and Development
October, 1993

UNIVERSAL MOTORCYCLE HELMET LAW STATES/TERRITORIES

DATE: September 16, 1993

Alabama	Massachusetts	Pennsylvania
American Samoa	Michigan	Puerto Rico
Arkansas	Mississippi	Tennessee
California	Missouri	Texas
Dist. of Columbia	Nebraska	Vermont
Florida	Nevada	Virgin Islands
Georgia	New Jersey	Virginia
Guam	New York	Washington
Kentucky	No. Marianas	West Virginia
Louisiana	North Carolina	
Maryland	Oregon	

States 25
D.C. + Territories 6
TOTAL 31

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KANSAS
MOTORCYCLE FACT SHEET
FOR THE YEAR 1992

There were 975 motorcycle crashes

* 2.9% were fatal crashes
  - twenty-nine motorcyclists died

* 81.6 were injury crashes
  - 903 cyclists were injured
  - * 21% of the injury crashes resulted in serious or incapacitating injuries to 189 cyclists

* 15.5% were Property Damage Only (PDO) crashes
  - 237 of the cyclists involved in the crashes were not injured

These crashes amount to 2.7 crashes per day -
resulting in -
2.5 injuries per day,
and
one fatality every 12.6 days

The cost of all crashes, including wages lost, medical expenses, insurance administration costs and property damage is $39.7 million

Five (17%) of the 29 fatalities were wearing helmets

207 (23%) of the 903 injured motorcyclists were wearing helmets

Motorcycle registration is approximately 2.1% of all registered motor vehicles in Kansas, but -

Motorcycle fatalities represent 7.5 percent (a disproportionate amount) of the 387 motor vehicle fatalities in Kansas 1992

Five of the fatalities were wearing helmets, fourteen of the fatalities were not wearing helmets. Of those reported to be wearing helmets, the fatality rate is 1.98 per 100, of those reported not to be wearing helmets, the fatality rate is 4.07 per 100.

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KDOT - OTS 10-27-93

2.

Record of Testimony
Kansas Senate Transportation and Utilities Committee
November 1, 1993

Who: Pat Poull, volunteer.

From: Head Injury Association of Kansas and Greater Kansas City

Thank you, Mr. Chairman and fellow senators, for this opportunity to address you.

My name is Pat Poull, and I represent the Head Injury Association of Kansas and Greater Kansas City, a chartered member of the National Head Injury Foundation. Our mission is to improve the lives of all survivors of head injury, as well as their families lives. Our other mission is to help prevent as many head injuries as possible. Which is the reason I'm here today, to offer my thoughts on mandatory helmet laws for all motorcyclists.

Saving lives is the bottom line that defines the helmet law debate. It is not about personal freedom. It is not about discrimination, It is not about any of the multitude of disguises used in arguing against the proven effectiveness of helmets.

Let's talk about personal freedom. Every motorcyclist is a member of society and most are members of a family. Those families, and society, pay the dear price of motorcyclist's poor judgment in not protecting themselves from injury.

Riding, like driving, is a privilege, not a right. Laws regulating seatbelt use, non-smoking in public places, and many other supposedly "personal" behaviors, have been shown to be constitutional. Such laws are merely society's way of expressing the kind of responsibility its adult members are expected to demonstrate.

We sometimes hear that motorcycle helmet laws are discriminatory, since helmet use in automobiles would help alleviate head injuries also. Cars are enclosed, and by law are required to have numerous safety features, from padded dashes to seatbelts to airbags, and the list could go on and on. Requiring motorcyclists to use one proven safety device hardly seems discriminatory when compared to the many devices required for cars, not to mention that the state requires the use of seatbelts.

The other major disguise used to argue against helmet use is that helmets somehow actually contribute to worsened injuries to the spinal column, or increase the likelihood of having an accident due to a loss of hearing or peripheral vision. I have personally researched a

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university library, attempting to come up with even one corroborating article, in a respected journal or publication, in support of these contentions. None could be found. This speaks volumes about the misinformation being used to dissuade the passage of a proven lifesaving measure.

On May 8, 1991, I was riding my motorcycle to work in Kansas City when I became involved, on I-70, in a high speed collision with an 18-wheeler. I suffered massive blood loss and concussion. My recovery to date is nearly complete, thanks to the fact that I was wearing a helmet.

In contrast, my bankers son is in lifetime nursing care, in a nursing facility, thanks to the fact that he was not wearing a helmet when he crashed.

My daughter's school nurse's husband is unable to care for himself, has constant supervision and nursing care, due to the fact that he was not wearing a helmet.

I have a friend, Virgean, who has lifetime motor dysfunction and is unable to hold a full time job, thanks to the fact that she was not wearing a helmet.

I had a friend, Terry, who died. He wasn't wearing a helmet.

I survived a high speed collision with an 18-wheeler, with complete recovery from neurological damage, due to my use of a helmet. I have a friend whose friend did not survive a parking lot encounter with a pothole. He was not wearing a helmet.

I would ask the committee to remember that the bottom line concerning helmet use is saving lives. It is time to act I'm living proof.

Thank you very much.

3.

Kansas Chapter of the
American College of Emergency Physicians
~~1300 Topeka Avenue~~ • Topeka, Kansas 66612 • 913) 235-2383
Kansas WATS 800-332-0156 FAX 913-235-5114

November 1, 1993

To: Senate Transportation Committee

From: Kansas Chapter, American College of Emergency Physicians

Subject: Motorcycle Helmet Legislation

Thank you for the opportunity to represent over one hundred emergency physicians in Kansas who endorse motorcycle helmet legislation in our state. We are the people who try our best to mend those individuals who sustain catastrophic injuries from motorcycle accidents. It takes merely moments for us to recognize which accident victims were wearing helmets and which ones were not.

States that have repealed their helmet laws have seen 25 to 50% increases in mortality. When a state has re-instituted its helmet law, mortality decreased. We must keep in mind that not only do we reduce deaths, but also permanent damage. If we were to tour extended care hospitals and especially those facilities which cater to head injury patients, we would find many individuals who have sustained permanent brain injury from a motorcycle accident.

Rather than dwell on statistics, I wish to share with you the types of injuries that we see with unhelmeted riders. The severity of injury varies greatly, but is usually dramatic. Many times, the victim sustains a "scalping wound" where his hair and scalp are literally peeled from his skull. These victims bleed to death. Victims sustain crush injuries to the skull. The head was not created to sustain impact with pavement at 45 miles per hour. Commonly, the rider sustains horrendous disfigurement as his face impales a hard surface. Most importantly, the brain must absorb a much greater force of impact, thereby causing serious and possible permanent damage. Many times, these victims survive only to become organ donors.

There is little that can be further done to make motorcycling safer. Attempts to have greater training in safe riding have failed. Making cycles drive slower will do little if anything to reduce injury. Most motorcycle injuries occur because a car did not see the cycle and thereby pulls in front of the bike. Most motorcycle accidents occur during the day, in good weather, on good roads in moderate traffic.

We are trying to give the citizens of our great state the finest in emergency care. We cannot resuscitate a dead patient. We ask that the Legislature please recommend the reinstitution of helmet laws for our state. Please help to give us a living patient.

Thank you very much for the privilege to speak to you today.

Senate Transportation & Utilities
Nov. 1-2, 1993
Attachment #3

4

State of Kansas
Joan Finney, *Governor*

Department of Health and Environment
Robert C. Harder, *Secretary*

Testimony presented to

Senate Transportation Committee

by

The Kansas Department of Health and Environment

House Bill 2175

HB 2175 proposes to expand KSA 8-1598, to require that people of all ages must wear a helmet when operating or riding upon a motorcycle or a motorized bicycle. Kansas law currently requires only motorcyclists under the age of 18 to wear helmets.

Extent of the Problem

The overall number of motorcycle crashes is low, but almost all of these collisions result in injury. Motorcycle registration is approximately 2.1% of all registered motor vehicles in Kansas but motorcycle fatalities represent 7.5 percent (a disproportional amount) of the 387 motor vehicle fatalities in Kansas in 1992. Five of the 29 fatalities in 1992 were wearing helmets, fourteen of the fatalities were not wearing helmets. Of those reported to be wearing helmets, the fatality rate is 1.98 per 100, of those reported not to be wearing helmets, the fatality rate is 4.07 per 100. The cost of all motorcycle crashes, including wages lost, medical expenses, insurance administration costs and property damage is $39.7 million.

Head injury is the leading cause of death in motorcycle crashes. An unhelmeted motorcyclist is 40% more likely to incur a fatal head injury than a helmeted motorcyclist.

Kansas History

In 1966, the Highway Safety Act was passed requiring all states to pass a helmet use law in order to qualify for safety and highway funds. By 1975, the District of Columbia and 47 states required all motorcyclists to use helmets and there was evidence that there was compliance. In 1976, Congressional financial pressure was lifted and within 2 years, 26 states had rescinded or weakened their laws. Kansas was among those states who repealed their helmet use law. The result was predictable and overwhelming. The repeal or weakening of motorcyclist helmet laws was followed by an almost 40% increase nationally in the numbers of fatally injured motorcyclists. In Kansas, the fatality rate increased with repeal from 15 deaths per 1,000 motorcycle crashes to 25 deaths per 1,000 motorcycle crashes. A study conducted at the University of Southern California concluded that helmet use was the single most important factor governing survival in motorcycle crashes.

Senate Transportation + Utilities
Nov. 1-2, 1993
Attachment # 4

Effect of Helmet Laws

Helmet use laws governing all motorcycle occupants significantly increase helmet use and are easily enforced because of the occupant's high visibility. The National Highway Traffic Safety Administration (NHTSA) conducted a helmet survey in 1986 that compared helmet usage in seven cities with mandatory helmet laws to helmet usage in 12 cities with no or limited helmet use laws. Surveyors observed a helmet usage rate of essentially 100% in cities with helmet use laws governing all motorcycle occupants as compared to the range of 34 to 54% at cities with no helmet use laws or laws governing only minors. Data on crashes in states where only minors are required to wear helmets show that fewer than 40% of the fatally injured minors are wearing helmets even though the law requires them to do so. This is attributed to the fact that helmet laws governing only minors are extremely difficult to enforce.

Motorcycle helmet laws are an intervention that have been proven effective in preventing unnecessary injuries and fatalities. In Oregon, there was a 33% reduction in motorcycle fatalities the year after its helmet law was reenacted; Nebraska experienced a 32% reduction in the first year of its law; and Texas experienced a 23% reduction. In Louisiana, the collision rate for motorcycles significantly decreased by 48% from 1981 when no mandatory helmet law was required until 1987 when mandatory helmet legislation was enacted.

Cost to Kansans

If motorcyclists who choose not to wear helmets were only hurting themselves, the question of mandatory helmet laws might not be such an issue for public concern. However, helmet use is an economic issue as well as a personal safety issue. The experience of the State of Louisiana is an example of the benefits to be gained by enacting a universal helmet law. This state enacted a mandatory helmet use law in 1981. An analysis revealed that following enactment, fatalities fell from 3.63 per 100 collisions to 1.07 per 100 collisions. Crashes resulting in reportable serious injuries fell from 84% to 74%. They also benefited by a substantial reduction in the average medical cost per injury: $2,071 before enactment, $835.00 after enactment.

A study reported in the October 1990 issue of The Journal of Trauma reported that the repeal in Kansas cost almost $600,000 per year. Kansas is still losing $744,000 per year in hospital costs (1989 dollars) without a motorcycle helmet law or a total of $9.7 million since 1976. An increase in medical costs was noted in a recent study as a result of the greater number of head injuries that increased hospital days, Intensive Care Unit (ICU) days and days of disability. In Kansas, the medical cost for non-helmeted riders was 189.3% higher than for helmeted riders. More recently, two hospitals in Wichita compiled data from their trauma registry that indicated that 112 motorcycle crash injury victims were treated for major trauma in 1991. The cost for acute care hospital care for these victims was over $1.2 million; 78% of them were not wearing a helmet. Clearly, the public has an interest in minimizing the resources directly involved in motorcycle crashes.

Ineffectiveness of Rider Education

Despite the strong advocacy by the various motorcycle organizations for educational efforts and against legislation, this approach has proved to be a dismal failure. A course developed in cooperation with the American Motorcyclists' Association, called the Motorcycle Operator Skill Test II was used in California. This program was designed to increase the awareness of helmet use and improve the individual's ability to ride the motorcycle beyond any standard education a rider might have. In other words, it was developed as the ultimate education course. The participants in this course had 18% more crashes in the first year than did the non-participants. This group also received 9% more traffic convictions according to a 1988 status report. A similar training program developed in New York had a similar outcome.

Rider Impairment

Helmets do not cause collisions. According to the October 1990 Journal of Trauma, even full facial helmet coverage allows almost complete peripheral vision of 180 degrees. This is slightly reduced from the normal 200 degrees, but is not a functionally significant impairment. The question about hearing is a bit different. The sound of an automobile approaching from the side or rear must compete with the sound of the motorcycle engine. Both the wind and motorcycle engine, however are louder than that of the approaching car. The sound of the approaching car is obscured by this additional sound. Helmet use reduces all sound levels equally. It does not differentially reduce the sound of approaching cars. Therefore, the ability to detect approaching vehicles is not impaired by helmet use.

The question of injuries induced by the extra weight of the helmet on the head to the cervical spine is answered by four studies that demonstrate decreased cervical spine injury when helmets are worn.

Summary

Effective comprehensive programs encompassing motorcycle helmet usage, rider education, motorcycle operator licensing, and the responsible use of alcohol will have the greatest positive effect on motorcycle safety. Motorcycle helmets offer motorcyclists involved in traffic crashes the best protection from head injury. The passage of helmet use laws governing all motorcycle occupants is the most effective method of ensuring that all motorcyclists wear helmets.

Testimony presented by:

Ray Petty
Disabilities Prevention Coordinator
Office of Chronic Disease
and Health Promotion
November 1, 1993

5

Kansas Highway Patrol

Summary of Testimony
Motorcycle Helmet Issues
Before the
Senate Transportation & Utilities Committee
Presented by
Sergeant Terry L. Maple
November 1, 1993

Good morning Mr. Chairman and members of the Committee. My name is Sergeant Terry Maple and I appear before you this morning on behalf of Colonel Lonnie McCollum to let you know the Patrol's stance on the motorcycle helmet issue.

Since the Patrol is a traffic safety organization, we are naturally supportive of measures designed to enhance the safety of the motoring public. We feel that motorcycle helmets,if worn, enhance the safety of riders and passengers. Depending on the content of legislation presented during the upcoming legislation the Patrol will, in all likelihood, appear in support of mandatory helmet use laws.

In addition to providing safety for riders, a mandatory use law would make enforcement much easier. Law enforcement officers would no longer be required to make an educated guess to determine if a rider or passenger is required to wear a helmet. This clarification would lead to less confusion among the public and law enforcement officers as well.

#######

Senate TRANSPORTATION + Utilities
Nov. 1-2, 1993
Attachment #5

TESTIMONY PRESENTED TO KANSAS HOUSE TRANSPORTATION COMMITTEE HB 2175

TESTIMONY WRITTEN
BY
GREG P. HARDY

TESTIMONY PRESENTED BY
KENNETH R. McNEILL
ABATE OF KANSAS INC.

Senate TRANSPORTATION & Utilities
Nov. 1-2, 1993
Attachment # 6

ABATE OF KANSAS

Mr. Chairman, Ladies & Gentlemen of the Committee. Thank you for the opportunity to testify in opposition to S.B. 1.

Regarding the material from the Kansas Medical Society the study by Daniel M. Sosin, M.D. of the CDC, Atlanta Georgia, states 28,749 motorcycle deaths during the period 1979-86. Of that number 15,194 (53%) involved head injury. The unanswered questions from this type of report are: (1) How many were helmeted, unhelmeted or helmet use unknown? (2) Of the 53% involving head injury in how many were head injuries the cause of death? Often in studies of this type, such as the one done in California, no matter what the cause of death was if there was any head injury shown in the I or E coding on the death certificate (no matter of location on the certificate) it was shown on the study as a head injury.

During this same time period Kansas had 389 fatalities, representing slightly over 1% of the study, of those only 36% were not wearing a helmet and we don't know how many of those suffered head injuries as the cause of death. What does the death rate per million residents have to do with anything if we don't know the number of motorcycles per million population?

The information from the ENA in their report from Stormont-Vail Regional Medical Center, state 25 severely injured motorcycle riders were admitted in 2 years, of these 25 only 1 died. Unfortunately we don't know what from, in fact nothing in the report says anything about type or location of injury or cause of death.

Kansans for Highway Safety state from 1984-1989, 77% of the fatally injured motorcyclists (169 of the 217 killed) were not wearing a helmet. According to the information from Kansas DOT there were only "47 out of 208" who were known to not have been wearing a helmet which represents 22.6%. Other parts of this report will be compared elsewhere. One of their biggest arguments seems to be the "astronomical" costs of head injuries as a result of no helmets. They use the case of a 22 year old from California. First, what proof is there he wouldn't have suffered a severe head injury with a helmet? Second, it says that he is a quad, is this head injury or spinal injury? Yes, head injuries costs are astronomical but as we know the majority of head injury cases nationwide are not motorcycle injuries.

The Kansas Department of Health & Environment state Nebraska experienced a 32% reduction in fatalities the first year of reinstatement of mandated helmet use. During 1989, the first year of Nebraska's full helmet use, Kansas showed a reduction in fatalities of 38% with no change in mandated helmet use.

This same Department sent a report to NHTSA stating "We have found no evidence that the death rate for motorcycle accidents has increased in Kansas as a result of the repeal of the helmet law. We have also not found any such evidence on a national basis." (Fatal Accident Report System NHTSA)

In their testimony this year they tell us the percentage of fatalities that purportedly were and were not wearing helmets, but fail to show what the cause of death was and do not separate unknowns.

They also state "According to the October 1990 Journal of Trauma even full facial helmets allow almost complete peripheral vision of 180 degrees." In order to meet FMVSS 218 DOT Standards they are required to have 210 degrees peripheral vision.

The report from the Kansas Department of Transportation tells us what we already know about the Federal Blackmail of transferring funds from construction to safety programs if we as a State do not comply with the Federal Mandate.

In reviewing the "Legislative Fact Sheet," let's look at the key facts. According to the National Safety Council Accident Facts 1991 in 1990

(1) There were 46,300 total vehicle fatalities. Of these motorcycles represent 6% of the total, behind pedestrians 16%, trucks and buses 18% and passenger cars 56%.

(2) Your chances of having an accident in an automobile are 110 times more likely than on a motorcycle, and you are 10 times more likely to die of a head injury in an automobile.

(3) According to NHTSA "Helmet Use vs Injury Distribution By Body Area" head injury is not the leading cause of injury for either helmeted or non-helmeted riders. (See attachment 2 PG. 5)

(4) DOT says that an unhelmeted rider is 40 percent more likely to incur injury. If this were true, why is the fatality rate per 10,000 registrations highest in those states with Mandatory Helmet use for all riders.

(5) The USC study that the DOT refers to is not very useful and gives an improper result.. In this study they used any head injury in the I and E coding, no matter where it was located in the coding. In other words a fatality could occur from chest wounds but if that person had a cut on the head it was included as a head injury in the study.

(6) Motorcycle accidents have declined by 43% since 1982, while motorcycle fatalities have declined by 39%. Total motorcycle registrations during the same time period showed a decline of 27%. The fatality rate of 6.87 in 1991 (fatalities per

10,000 registered motorcycles) is the lowest rate in over 10 years and represents a decline of 16% since 1982.

(7) DOT tests helmets by a 6-foot vertical drop impacting at 13.66 m.p.h.. Even at these low impacts 52% of the helmets tested by DOT since 1974 have failed..... and only ONE has passed since 1984. The only helmets on which tests are made are medium sized helmets. (DOT Helmet Test Report, 1974-1990). This equates to a 150 pound person striking his head at 4.5 m.p.h.. (See Label Warning, Attachment 3, PG. 8)

(8) The report from the Kansas Department of Health and Environment starts out stating the fatality rate went up after repeal in 1976. In Kansas, repeal was effective 7-1-76 which gives us a unique opportunity to look at six months mandatory helmet law and six months with partial helmet law. (See Attachment 1 PG 4) The facts for 1976 are as follows: Of the 21 head injury fatalities, 9 (40.86%) were wearing a helmet, 7 (33.3%) were not wearing a helmet and in 5 (23,81%) helmet use was not known. There were no neck injury fatalities for those not wearing a helmet, only 1 where helmet use was unknown, and 6 (85.71%) of the neck injury fatalities were wearing a helmet, 36.36% were caused by multiple injuries or injuries other than head/neck.

In logic, a faulty premise necessarily produces a false conclusion, and "the public burden" theory is flawed from the beginning because its advocates assume that a helmet always makes the difference between sound health and debilitating injury. In fact, the helmet rarely makes a significant difference, simply because it is not designed and built to do so. It is designed and built to satisfy FMVSS 218, (test method above) which demands only that the helmet provide protection at impact speeds below 15 m.p.h..

As its second faulty premise "the public burden" theory assumes that only injured motorcyclists, and no other people impose a burden on the public health system. True, there are motorcyclists who don't have insurance or enough of it to cover the medical expenses they incur as a result of accidents. However, about the same percentage of all other type of motorists lack insurance too. Thus, as previously stated motorcyclists impose no more "public burden" than the vastly larger number of other people who suffer head injuries.

By looking over the leading cause of death in the U.S. from the National Safety Council Accident Facts 1991 we can derive some interesting figures. (See attachment 4 PG 9 &PG 10) Please note that motorcycle accidents comprise only 0.1% of the fatalities.

How are runaway health care costs the patients fault? According to the Health Care Finance Administration Office of National Costs Estimates, health care costs rose more than twice as fast as inflation over the past ten years. At a time when it seems as though government is trying to control almost every aspect of its citizen's lives they have done nothing to control doctor's fees, hospital costs, or drug costs. The only thing government has done is cut $40 billion from Medicare with $10 billion coming out of the pockets of those who can least afford it.

Why has total health expenditures increased around 256% with only a 10% increase in population. (See attachment 5 PG.6 & 7)

From the period of 1980 through 1992 prescription drugs costs rose at six times the inflation rate or 128%. (1993 Council for the Aging)

On C-Span TV Network, September 11, 1992 former Vice President Quayle remarked "America was built by taking risks." He also stated the American people need to get regulatory agencies off their backs and went on to say people his generation want less government regulation involved in their private life.

To quote James J. Baxter "What has been lost among the safety zealots is the simple fact that human beings formed societies for the specific purpose of sharing the burdens of certain risks, including old age. The security of a society was not designed to limit personal freedom and individual discretion. The freedom to make decisions concerning your own welfare and for protection against the tyranny of man and nature."

We urge you not to support SB 1 and would request you to introduce a Resolution letting the Federal Government know that the State of Kansas doesn't need them inflicting themselves on our state sovereignty.

Respectfully submitted,

Greg P. Hardy

ATTACHMENT 1

MOTORCYCLE FATALITIES 1976

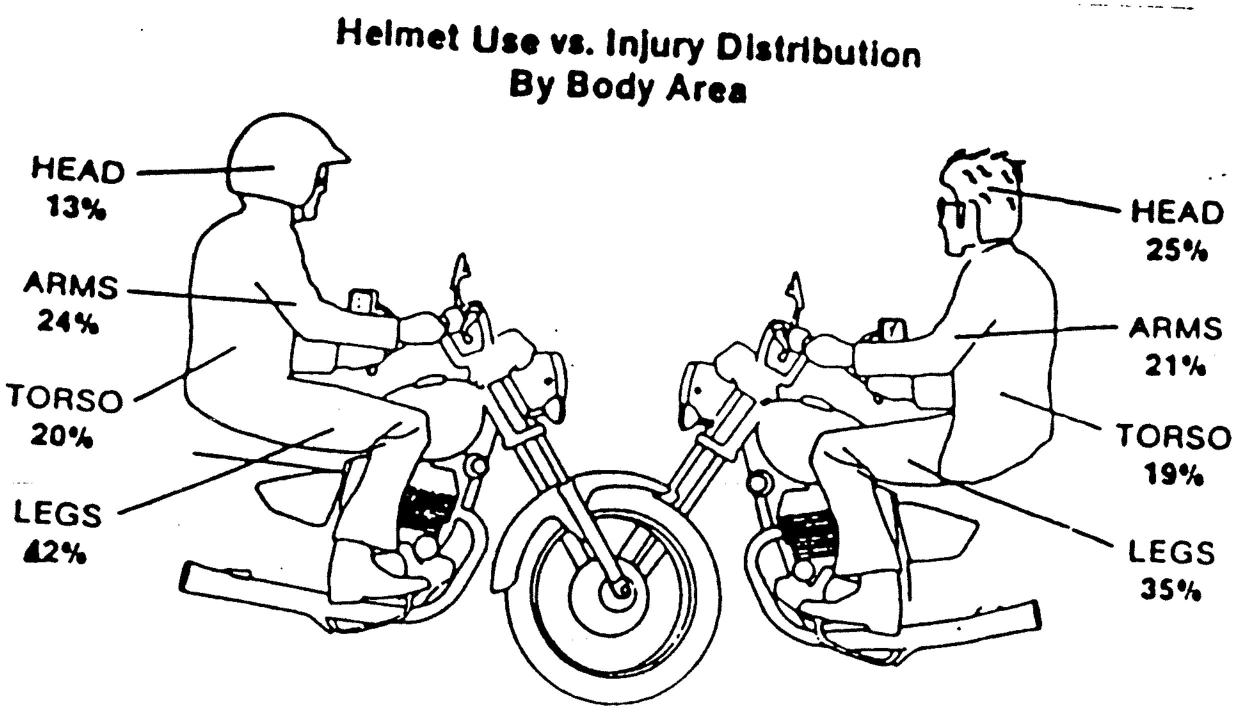
	JAN.1-JUN 30			JULY 1-DEC. 30			
	HELMET WORN	NO HELMET	UNKNOWN	HELMET WORN	NO HELMET	UNKNOWN	TOTAL
Head Injury % of Total	4 28.57%	1 7.14%	1 7.14%	5 16.67%	6 20%	4 13.33%	21 47.73%
Neck Injury % of Total	5 35.72%	0	1 7.14%	1 3.33%	0	0	7 15.91%
Total Head & Neck Injuries % of Total	9 64.29%	1 7.14%	2 14.28%	6 20%	6 20%	4 13.33%	28 63.64%
Other Injuries % of total	2 14.28%	0	0	1 3.33%	3 10%	2 6.67%	8 18.18%
Both Head & Other Injury	0	0	0	1 3.33%	3 10%	0	4 9.09%
Cause of Death Unknown	0	0	0	3 10%	1 3.33%	0	4 9.09%
Total % of Total Fatalities	11 78.57%	1 7.14%	2 14.29%	11 36.76%	13 43.33%	6 20%	44

Of the 21 head injury fatalities 9 or 40.86% were with a helmet, 7 or 33.3% were without a helmet and 5 or 23.81% it was not known if a helmet was worn.

There were no neck injury fatalities without a helmet, only 1 where it was not known if a helmet was worn, and 6 or 85.71% of the neck injuries were with a helmet.

There was 28 head/neck injury fatalities combined, which is 6.64% of the total fatalities. 53.57% of these were with a helmet on--25% of these were with no helmet and in 21.43% of them it was not know if a helmet was worn.

34.09% of all falalities were head/neck injury fatalities with a helmet—15.9% were with no helmet–13.64% it was not known if a helmet was worn, and 36.36% were caused by multiple injuries or other than head/neck injuries.


Helmet Use vs. Injury Distribution
By Body Area
HEAD
13%
ARMS
24%
TORSO
20%
LEGS
42%
HEAD
25%
ARMS
21%
TORSO
19%
LEGS
35%

SELECTIONS FROM THE U.S . STATISTICAL ABSTRACT, 1991

1) U.S. Popluation	1979	1989
	225,055,000	247,350,000

2) Motorcycles (Source: MSF)		
Registrations	4,933,401	4,208,986
Accidents	175,280	107,264
Fatalities	4,875	3,128

3) Motor Vehicle accident fatalities	1980	1989
Passengers	36,800	34,900
Pedestrians	8,100	6,600
Motorcycles	5,100	3,100
Bicycles	1,000	800

4) Total expenditures for health	1980	1989
	$249,100,000,000	$604,100,000,000
Per capita health expenditures	$930	$2,354

5) Public expdenditures, federal	1980	1989
Medicare	$37,533,000,000	$102,108,000,000
Medicaid	$28,007,000,000	$ 66,681,000,000
State/local hospitals	$ 5,589,000,000	$ 12,899,000,000

6) Medicare	1980	1989
Total enrollment	28,478,000	33,579,000
Beneift payments	$35,699,000,000	$ 98,305,000,000

7) Medicare, non-hospital	1980	1989
Enrollment, over 65	24,680,000	33,579,000
Enrollment, disabled	2,719,000	2,883,000
All payments	$10,635,000,000	$ 38,294,000,000
		1988
Payments, physicians	$ 8,358,000,000	$ 23,473,000,000

8) Medicare, hospital	1980	1989
Admissions	9,258,000	7,876,000
Hospital Charges	$28,615,000,000	$ 78,840,000,000
Physician's charges	$ 9,011,000,000	$ 26,274,000,000

9) Hospital Use	1980	1987
Days of Care, per 1000 pop.	1,217	889
Beds used per day	337	244

10) Health Professionals, number	1970	1987
Doctors	348,000	612,000
Per 100,000 populaton	168	252
Registered Nurses	750,000	1,627,000
Per 100,000 popluation	368	668

11) Doctors' incomes, median	1980	1988
Gross	$132,200	$214,000
Net (taxable)	$ 83,799	$117,800

12) Hospital Costs	1980	1988
Average per day	$ 245	$ 586
Average per stay	$ 1,851	$4,207
		1990
Average room charges	$ 127	$ 315

13) Hospital costs, sources of payment	1988
Private Insurance	41.1%
Workers' compensation	1.5%
Personal funds	6.3%
Other private sources	4.7%
Medicare	34.4%
Medicaid	9.5%
No charges	7.0%

WARNING

READ BEFORE EACH USE

EXAMINE HELMET FOR DAMAGE BEFORE DONNING. NO HELMET CAN PROTECT FROM ALL FORESEEABLE IMPACTS OR INJURIES. ON IMPACT, HELMET MAY BE DAMAGED BY THE ABSORPTION OF ENERGY AND THE SHELL MAY CRACK OR BREAK. THE LINER MAY BE SEVERLY DAMAGED IN A WAY NOT VISIBLE TO THE USER. THE FUNCITON OF THIS HELMET IS TO BE DESTROYED AS IT ABSORBS ENERGY FROM THE IMPACT.

NEITHER THE MAKER NOR THE SELLER OF THIS HELMET CAN FORESEE OR PREDETERMINE THE NATURE OR SEVERITY OF ALL IMPACTS. THIS HELMET EXCEEDS FEDERAL STANDARD FMVSS218. EVEN SO, DEATH OR SEVERE INJURY MAY RESULT FROM IMPACTS AT SPEEDS AS LOW AS 15 M.P.H. WHILE WEARING A HELMET.

PERFORMANCE MAY BE ADVERSELY AFFECTED BY LOOSE FIT, FAILURE TO FASTEN STRAP SNUGLY, OR TO POSITION HELMET SQUARELY ON HEAD. APPLY NO CHEMICALS. USE CLEAR WATER AND MILD SOAP ONLY FOR CLEANING.

THIS HELMET IS NOT DESIGNED TO PROVIDE NECK OR LOWER HEAD PROTECTION.

RETURN TO THE MANUFACTURER FOR INSPECTION OR REPLACEMENT AFTER EVERY IMPACT.

MOTOR SPORTS REQUIRE GOOD TRAINING AND CAREFUL ATTENTION TO THE CARE AND USE OF SAFETY EQUIPMENT.

DUNS 07-322-0632

TYPICAL WARNING LABEL FROM INTERIOR OF DOT APPROVED HELMET. (TAKEN FROM MAXON HELMET PURCHASED ON JUNE 3, 1989.

WHY TARGET MOTORCYCLES?

Motorcycles Represent Just 2% Of Total U.S. Vehicles

Total Vehicle Population	
Passenger Cars 75%	194.5 Million
Trucks and Buses 23%	144.9 Million
Motorcycles 2%	44.5 Million
	4.3 Million

Motorcycles Represent Only 1% Of Total Vehicle Accidents

Total Accident Involvement	
Passengers Car 72%	19.8 Million
Trucks and Buses 22%	14.3 Million
Motorcycles .9%	4.4 Million
	180 Thousand

Motorcycles Account For Under 6% Of Total Vehicle Fatalities

Total Vehicular Fatalities	
Passenger Cars 56%	46,300
Trucks and Buses 18%	25,700
Pedestrians 16%	8,200
Motorcycles 6%	7,400
Other 4.5%	2,900
	2,100

Motorcycles Account For 0.1% Of Total Annual Fatalities In The U.S.

Total U.S. Fatalities	
Heart Disease 35%	2,167,999
Cancer 22.3%	765,156
Stroke 6.9%	485,048
Motor Vehicle 2%	150,517
Motorcycles 0.1%	43,400
	2,900

- Automobile drivers are at fault in over 2/3 of all motorcycle vs. car accidents.
- 92% of the motorcyclists involved in accidents had no formal training, and 45.5% had no motorcycle license.
- Motorcycle accidents represent only 1/10 of 1% of total U.S. health care costs.

Motorcyclists have been a political target for such discriminatory legislation as mandatory helmet laws, catastrophic health insurance and an assortment of other "safety" measures. Is the special attention aimed at motorcycles justified in view of the fact that motorcyclists represent only 2% of total vehicular traffic, less than 1% of total vehicles involved in accidents and just .01% of annual U.S. health care costs? Despite their relatively small numbers, an estimated 8% of America's 4.5 million registered motorcycle owners have joined forces in politically active organizations to protect their right to ride. These organizations advocate motorcycle awareness campaigns and rider training courses, both of which are proven to reduce accidents and resulting injuries and fatalities, as reasonable alternatives to legislation that unnecessarily targets motorcycles.

Source: NSC *Accident Facts, 1991*
Compiled by: Bikers Against Manslaughter ®

Total U.S. Fatalities: 2,167,999
Motorcycle Fatalities: 2,900

Leading Causes Of Death in The United States
(Source: NSC *Accident Facts, 1991*)

Heart Disease	765,156
Cancer	485, 048
Stroke	150, 517
Accidents	**97,100**
Motor vehicle:	46,300
Passenger cars:	25,700
Trucks:	8,200
Pedestrians:	7,400
Motorcycles:	2,900
Bicyclists:	1,000
Buses/taxis/tractors:	130
Other:	970
Falls.	12,096
Poison	5,353
Drowning	4,966
Fires/burns	4,965
Surgical complications	2,858
Other	20,562
Chronic obstructive pulmonary disease	82,853
Pneumonia	77,662
Diabetes Mellitus	40,368
Suicide	30,407
Chronic liver disease, cirrhosis	26,409
Homicide	22,032
AIDS	16, 602

7

TESTIMONY BEFORE THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Roger L. McCollister
712 S. Kansas Ave
Suite 200
Topeka, Kansas 66603
(913) 233-2068

NOVEMBER 1, 1993

RE: Testimony in opposition to RE-enactment of a Kansas Motorcycle Helmet Law.

I am a 49 year old motorcyclist, having begun riding at age 14. I am currently riding my fifth Harley Davidson, a 1991 FXSTC (Softail). I am an attorney in Topeka.

I have had two accidents, one with a helmet, and one without. I was not seriously injured either time.

As a long time motorcycle rider, I am opposed to helmet laws for adult riders and passengers.

The following are my reasons:

1. MOTORCYCLE RIDERS, AS CONCERNED AND RESPONSIBLE CITIZENS, SIMPLY DO NOT WANT OR SUPPORT A HELMET LAW FOR ADULTS.

2. HELMET LAWS ARE INEFFECTIVE IN PREVENTING ACCIDENTS WHICH CAUSE INJURY.

Helmets may reduce injury once an accident occurs. However, an injury to the head is only one risk of a cycle accident.

Helmets do not prevent accidents. Cycle accidents are the cause of injury. If all cycle accidents were eliminated, only 4.6% of all head injuries would be prevented. 42.2% of all head injuries occur in other motor vehicle accidents (cars and trucks). See U.S. Department of Transportation, National Highway Safety Administration Report to Congress, 1980.

If preventing head injuries was the goal, we would make car drivers and passengers wear helmets. Car drivers would strongly oppose helmet laws for the same reasons cyclists oppose them: **Helmet Laws infringe on our right to make our own decisions for personal safety!**

The most effective way to reduce injury is to reduce accidents. That can be done by better highway safety and education programs.

Senate TRANSPORTATION + Utilities
Nov. 1-2, 1993
Attachment #7

3. KANSAS, WITH FEDERAL FUNDS, SHOULD EXPLORE BETTER HIGHWAY SAFETY AND DRIVER EDUCATION PROGRAMS AS A MEANS TO PREVENT ACCIDENTS AND THEREBY, INJURY.

Kansas will receive $100 million per year for six years pursuant to PL 102-240 for special road projects, not as part of a highway program (Congressional Quarterly, December 21, 1991; page 3739). Kansas will receive up to $275,000 per year for three years Federal Matching money for highway safety education if they pass a helmet law by October 1, 1993.

If Kansas fails to pass a helmet law by October 1, 1993, they will be required to spend $1.5 million of the $100 million the first year on highway safety and education programs. If no helmet law is passed by October 1, 1994, Kansas must spend $3 million of the $100 million on such programs. Also, Kansas would be ineligible for the $275,000, three year incentive grants.

Kansas currently spends $200,000 per year for safety belt education and $320,000 for education relating to alcohol safety counter-measures. No funds are identifiable as to helmet use education. This is inadequate if preventing accidents and thereby, injury, is important.

An adequate highway safety program may cost $1.5 - 3 million per year. We should commit that amount, especially since the $1.5 - 3 million "penalty" does not require State Matching Funds and is a free gift from the Federal Government if we don't pass a helmet law.

An adequate program may save the State five times the cost, as follows:

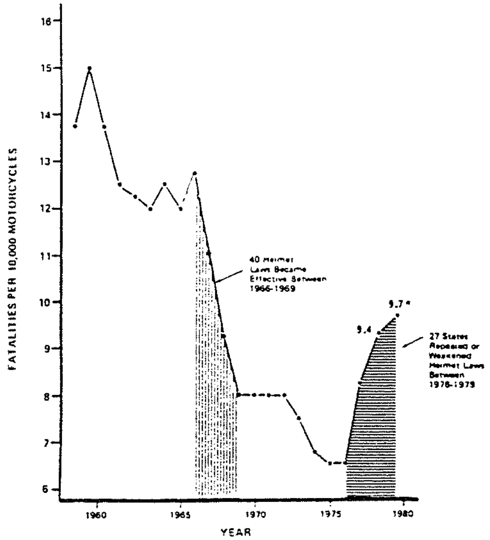
1. Lost wages and State tax receipts;
2. State's expenses for medical bills of all drivers and passengers - including cyclists;
3. Lower cost of traffic law enforcement due to better driver awareness; and
4. Long term public cost of the disabled.

RECOMMENDATIONS:

1. Reject a helmet law for three years.
2. Create a Public Citizen Advisory Group for Highway Safety - uniting the groups testifying today behind a common goal of accident prevention.
3. Develop meaningful highway safety programs for the Public.
4. Study the results as to accident and injury prevention.
5. If injury prevention as a result of safety programs is not satisfactory, reconsider a helmet law in three years.

7-3

A REPORT TO THE CONGRESS
ON
THE EFFECT OF MOTORCYCLE HELMET USE LAW REPEAL -- A CASE FOR HELMET USE



APRIL 1980

U.S. Department of Transportation
National Highway Traffic Safety Administration

FIGURE 1

FIGURE 2

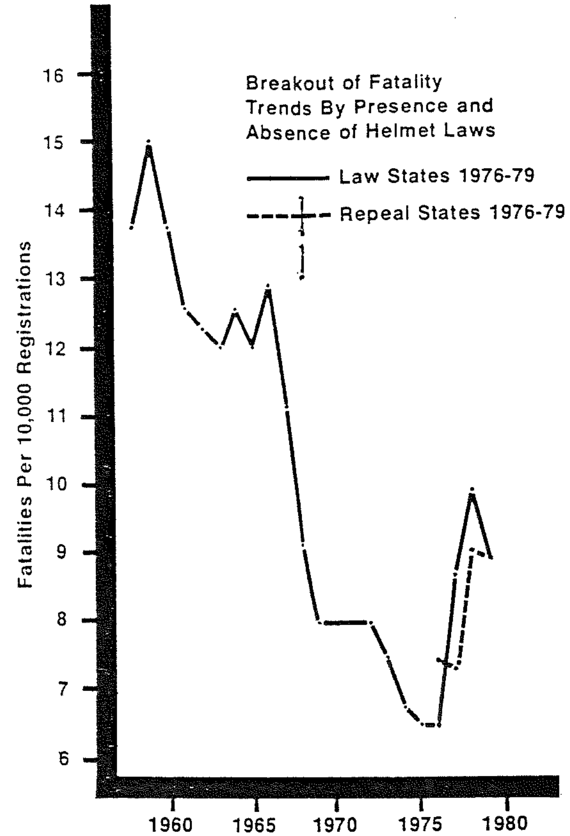
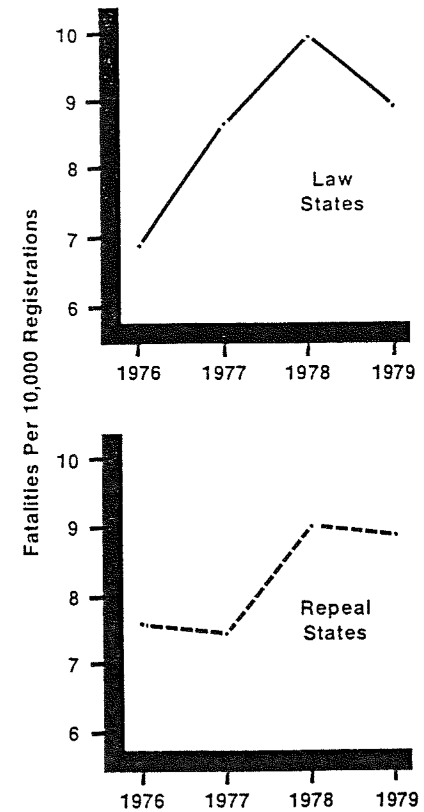


FIGURE 3



NHTSA has widely publicized — including on its Helmet Law Report cover — a graph apparently linking declines and increases in motorcycle fatalities with presence and absence of mandatory helmet laws, shown above in Figure 1.

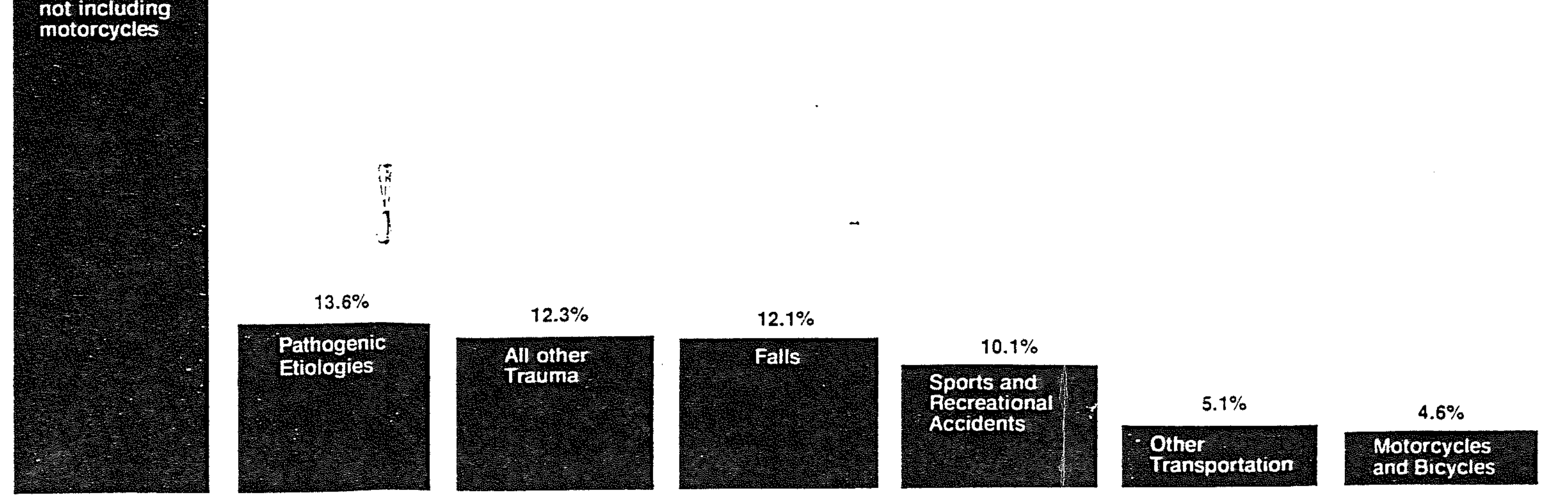
However, while NHTSA's graph reveals alarming changes in fatality rates, it fails to distinguish between states which have or don't have mandatory helmet laws.

When the states repealing or weakening helmet laws between 1976 and 1979 are broken out from states retaining their laws, as shown in Figure 2 above, there is no appreciable difference. The law states (solid line) show fatality rates rising as rapidly as the repeal states (broken line).

This comparison is more clearly seen in Figure 3, where the graphs focus on only the four years in question. Also, Figures 2 and 3, using accurate 1979 data, reveal that NHTSA's projection of even higher fatalities in 1979 was wrong. Both in repeal and law states, fatalities per 10,000 registrations declined, further calling into question NHTSA's contention that more repeals would bring more deaths.

NHTSA has focused on head and spinal injuries among motorcyclists in an attempt to argue that mandatory protection of head and neck may be justified. However, data available from the Rocky Mountain Regional Spinal Injury Center, displayed in Figure Four, show that two-wheeled vehicles, including bicycles and motorcycles rank well below other causes of head and neck injury. While other forms of transportation are the cause of nearly half the head and neck disabilities, two-wheeled vehicles account for less than five percent.

FIGURE 4
Causes of Head and Spinal Injuries, 1979



KANSAS TRANSPORTATION

Moving Into the 21st Century

Informational Meetings
August 10 - 18, 1993

Produced by
Kansas Department of Transportation
Division of Planning and Development

Senate TRANSPORTATION & Utilities
Nov. 1-2, 1993
Attachment 8

8

8-2

The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991

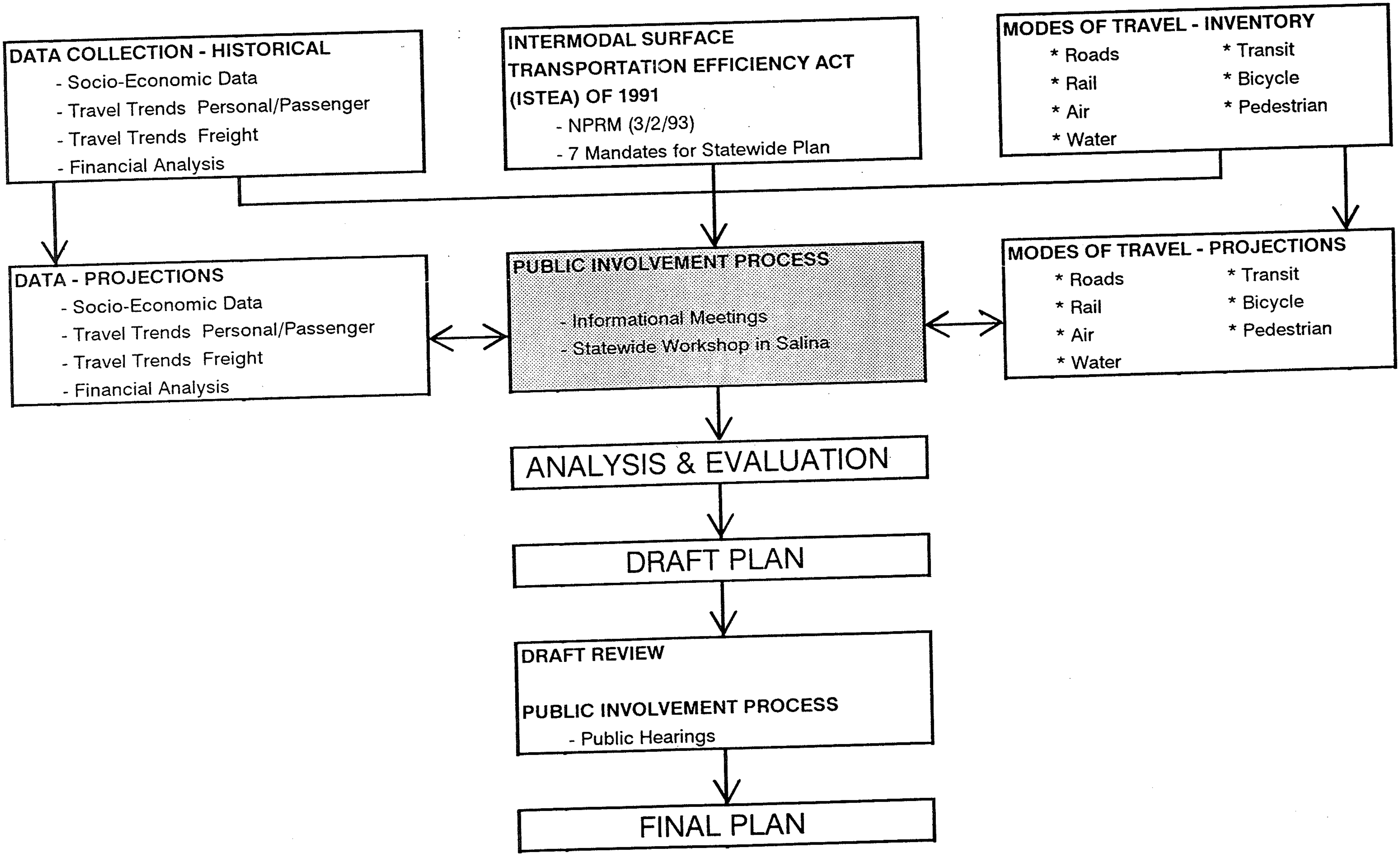
Requires each state to develop a Long-Range Transportation Plan for all areas of the state

8-3

The Plan Will:

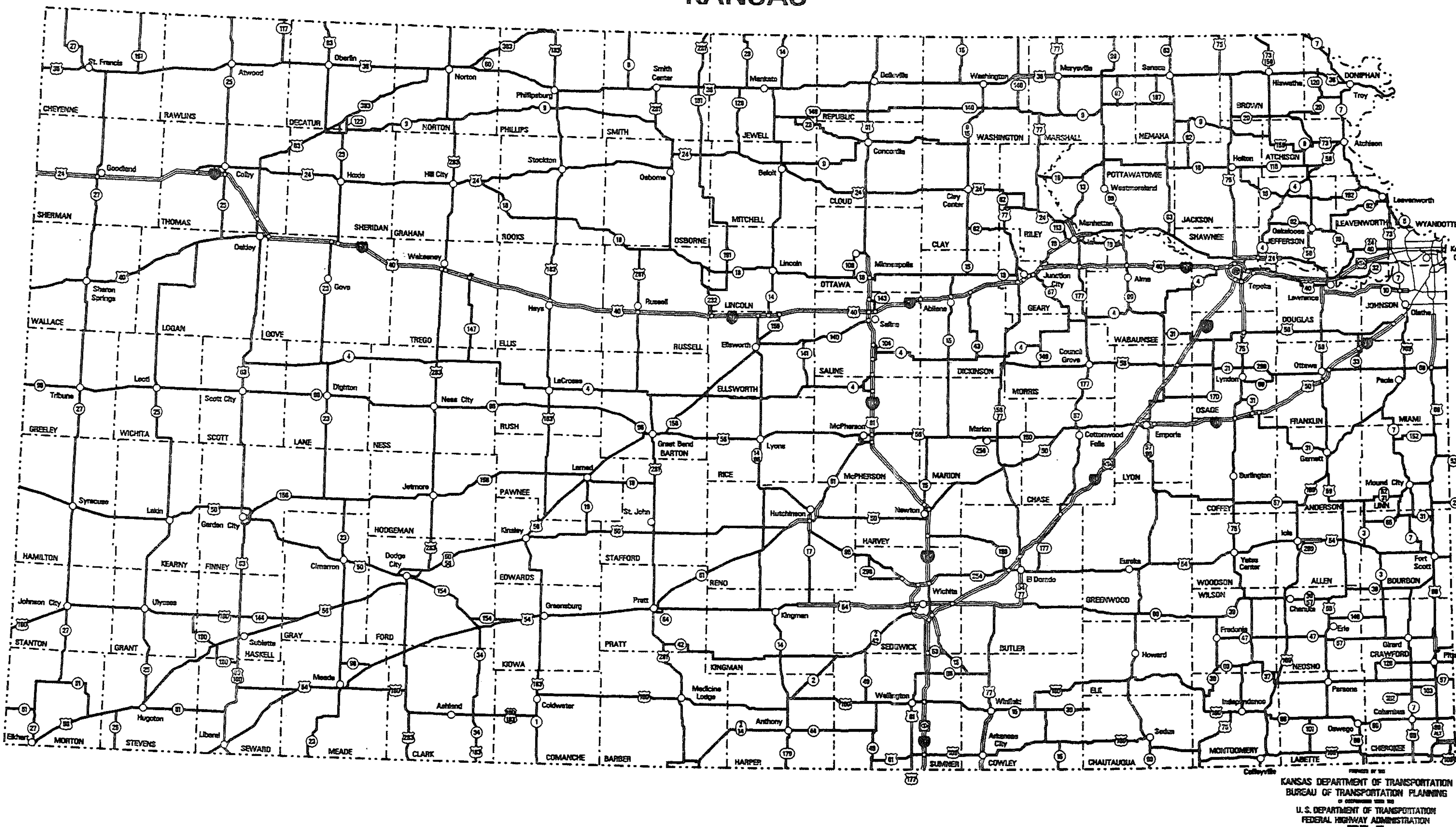
- Cover a period of at least 20 years
- Be Intermodal and Statewide in Scope
- Address 23 factors
- Reflect substantive coordination
- Provide for public involvement

KANSAS LONG-RANGE TRANSPORTATION PLAN



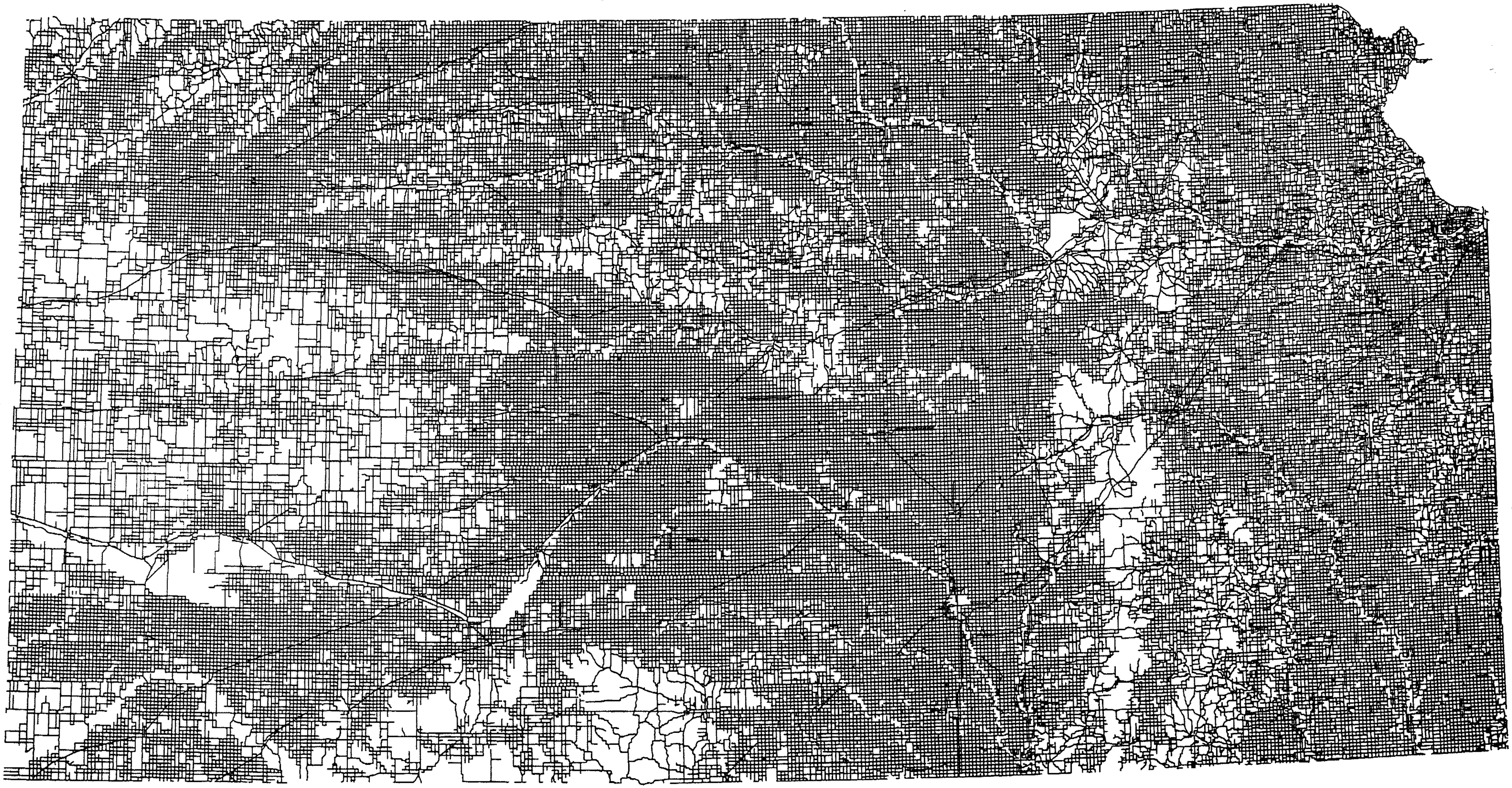
8-5

KANSAS

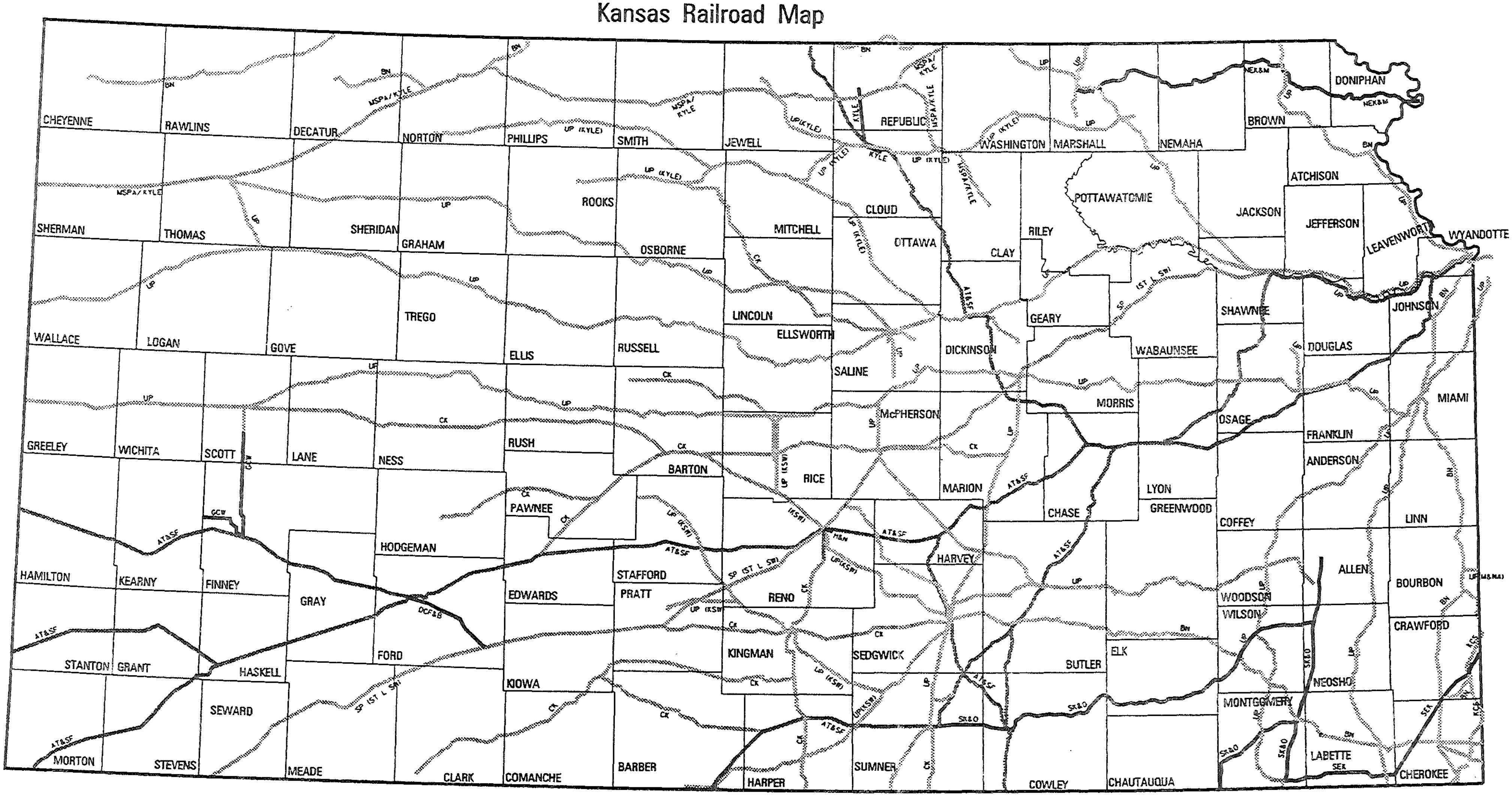

CHEYENNE
RAWLINS
DECATUR
NORTON
PHILLIPS
SMITH
JEWELL
REPUBLIC
WASHINGTON
MARSHALL
NEMAHA
BROWN
DONIPHAN
SHERMAN
THOMAS
SHERIDAN
GRAHAM
ROOKS
OSBORNE
MITCHELL
CLOUD
CLAY
RILEY
POTTAWATOMIE
JACKSON
ATCHISON
JEFFERSON
LEAVENWORTH
WYANDOTTE
WALLACE
LOGAN
GOVE
TREGO
ELLIS
RUSSELL
LINCOLN
OTTAWA
SALINE
DICKINSON
GEARY
WABAUNSEE
SHAWNEE
DOUGLAS
JOHNSON
GREELEY
WICHITA
SCOTT
LANE
NESS
RUSH
BARTON
ELLSWORTH
RICE
McPHERSON
MARION
MORRIS
CHASE
LYON
OSAGE
FRANKLIN
MIAMI
COFFEY
ANDERSON
LINN
HAMILTON
KEARNY
FINNEY
HODGEMAN
PAWNEE
EDWARDS
STAFFORD
RENO
HARVEY
BUTLER
GREENWOOD
WOODSON
ALLEN
BOURBON
STANTON
GRANT
HASKELL
GRAY
FORD
KIOWA
PRATT
KINGMAN
SEDGWICK
WILSON
NEOSHO
CRAWFORD
MORTON
STEVENS
SEWARD
MEADE
CLARK
COMANCHE
BARBER
HARPER
SUMNER
COWLEY
ELK
CHAUTAUQUA
MONTGOMERY
LABETTE
CHEROKEE
KANSAS DEPARTMENT OF TRANSPORTATION
BUREAU OF TRANSPORTATION PLANNING
U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

8-6

ALL RURAL ROADS IN KANSAS



Kansas Railroad Map



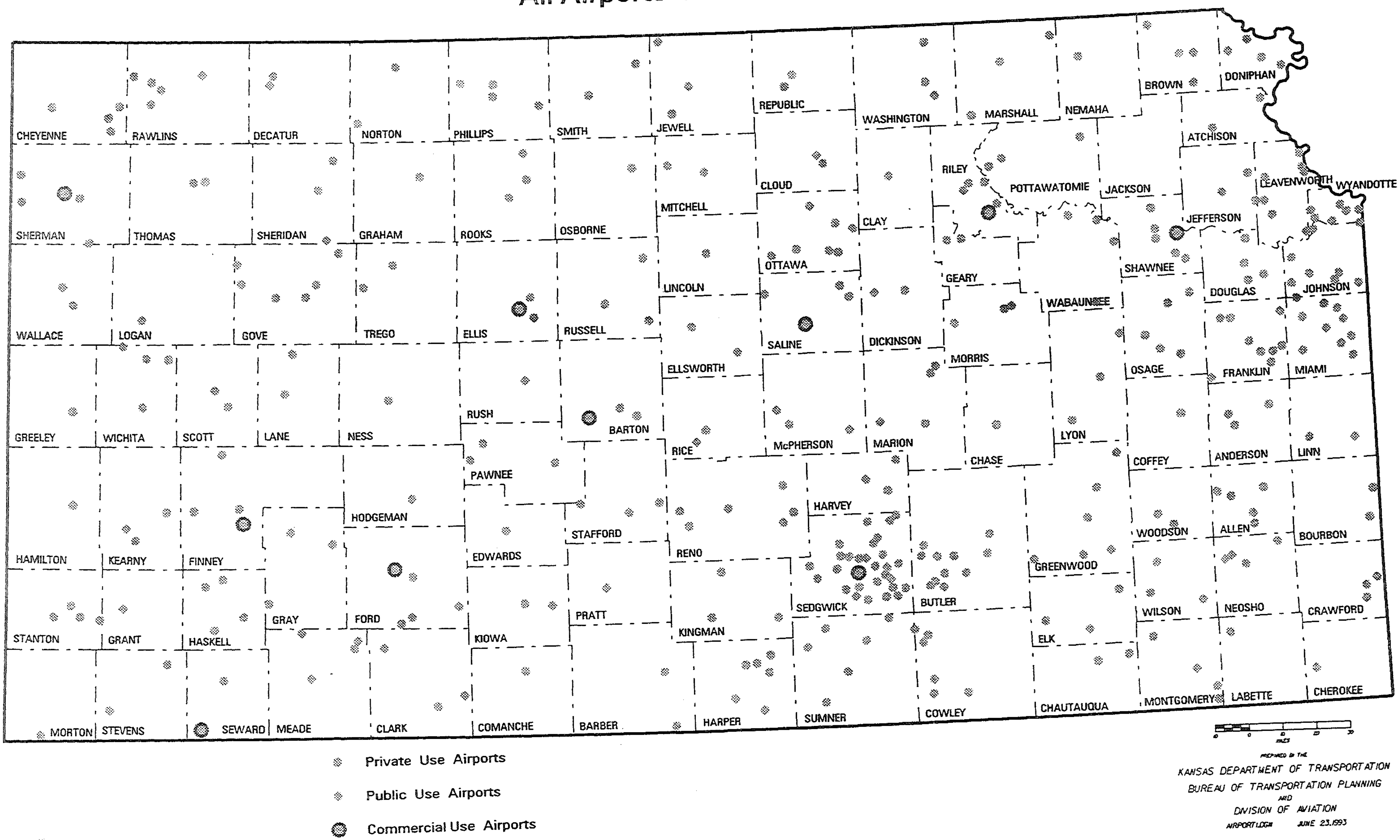
	RAILROAD	MILEAGE
AT&SF	ATCHISON TOPEKA & SANTA FE	1,208
BN	BURLINGTON NORTHERN	578
CK	CENTRAL KANSAS	818
DCF&B	DODGE CITY FORD & BUCKLIN	25
GCW	GARDEN CITY WESTERN	45
H&N	HUTCHINSON & NORTHERN	3
JCIA	JOHNSON COUNTY INDUSTRIAL AIRPORT RAILWAY	4

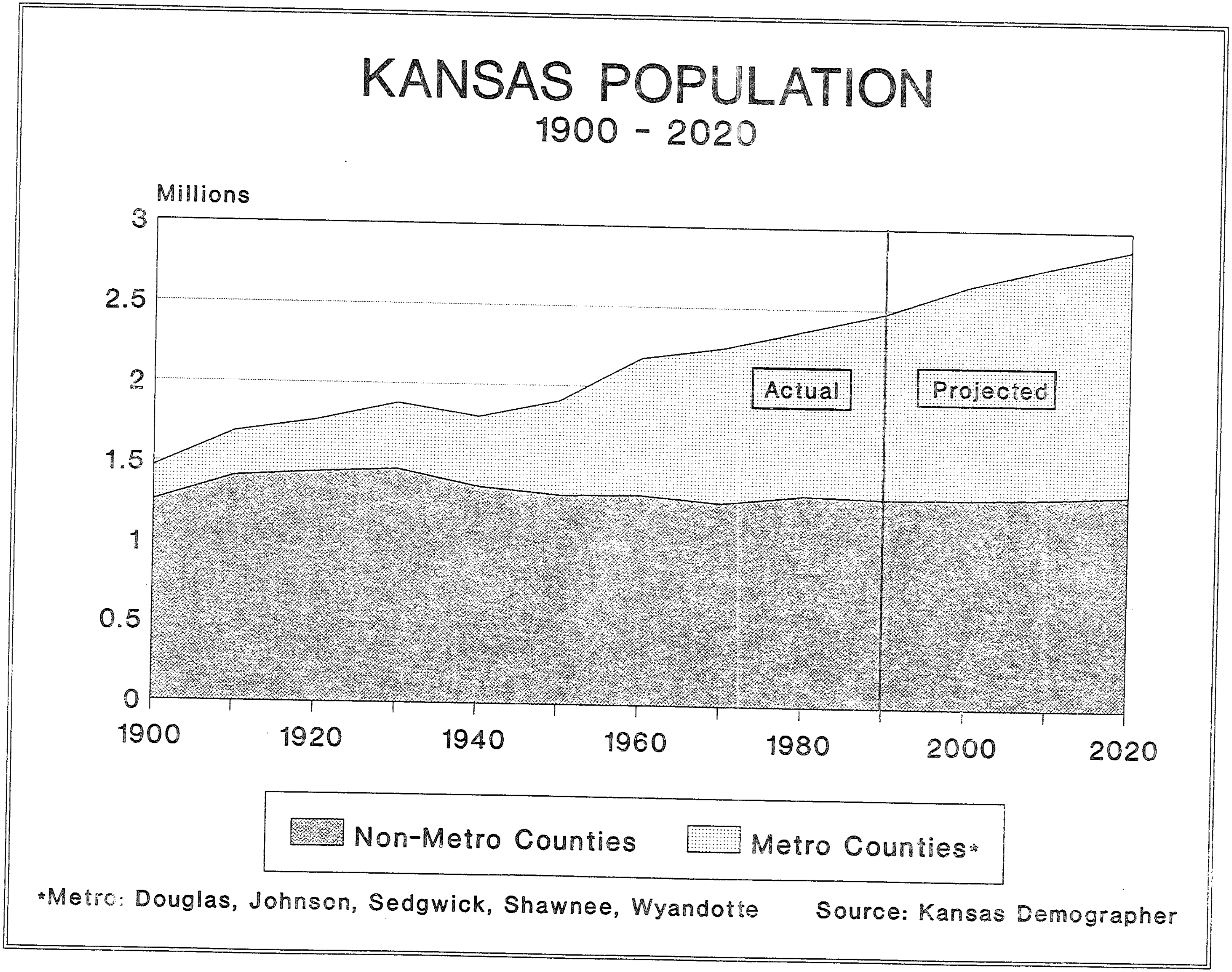
	RAILROAD	MILEAGE
KCS	KANSAS CITY SOUTHERN	28
KCTR	KANSAS CITY TERMINAL RAILWAY	6
KSW	KANSAS SOUTHWESTERN	**
KYLE	KYLE	15
MSPA	MID-STATES PORT AUTHORITY (KYLE OPERATOR)	324
MIDL	MIDLAND RAILWAY	11
M&NA	MISSOURI & NORTHERN ARKANSAS	**
NEK&M	NORTHEAST KANSAS & MISSOURI	107

	RAILROAD	MILEAGE
NS	NORFOLK SOUTHERN (NORFOLK & WESTERN)	*
SOO	SOO-LINE	*
SEK	SOUTHEAST KANSAS	71
SK&O	SOUTH KANSAS & OKLAHOMA	216
SP	SOUTHERN PACIFIC LINES (SP, D&RGW, SSW)	348
T&P	T & P RAILWAY	41
UP	UNION PACIFIC SYSTEM (MKT, MP, OKT, UP)	2,636
WUT	WICHITA UNION TERMINAL	2

KANSAS DEPARTMENT OF TRANSPORTATION
BUREAU OF RAIL AFFAIRS
AND
BUREAU OF TRANSPORTATION PLANNING
REVISED JUNE 1993

All Airports in Kansas

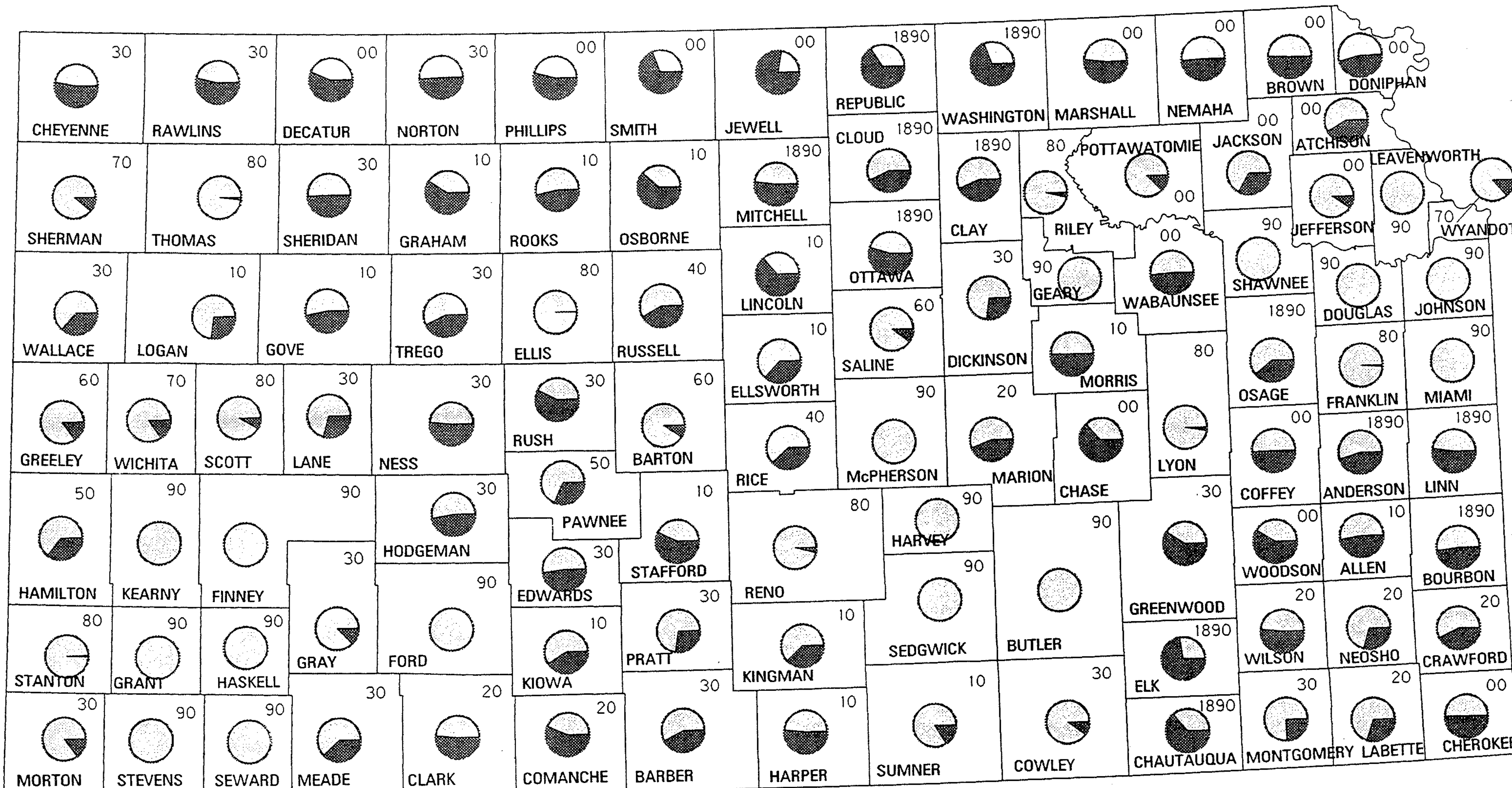



KANSAS POPULATION
1900 - 2020
Millions
3
2.5
2
1.5
1
0.5
0
1900
1920
1940
1960
1980
2000
2020
Actual
Projected
Non-Metro Counties
Metro Counties*
*Metro: Douglas, Johnson, Sedgwick, Shawnee, Wyandotte
Source: Kansas Demographer

8-9

8-10

POPULATION TRENDS
RETAINED AND LOST



PREPARED BY THE
KANSAS DEPARTMENT OF TRANSPORTATION
BUREAU OF TRANSPORTATION PLANNING

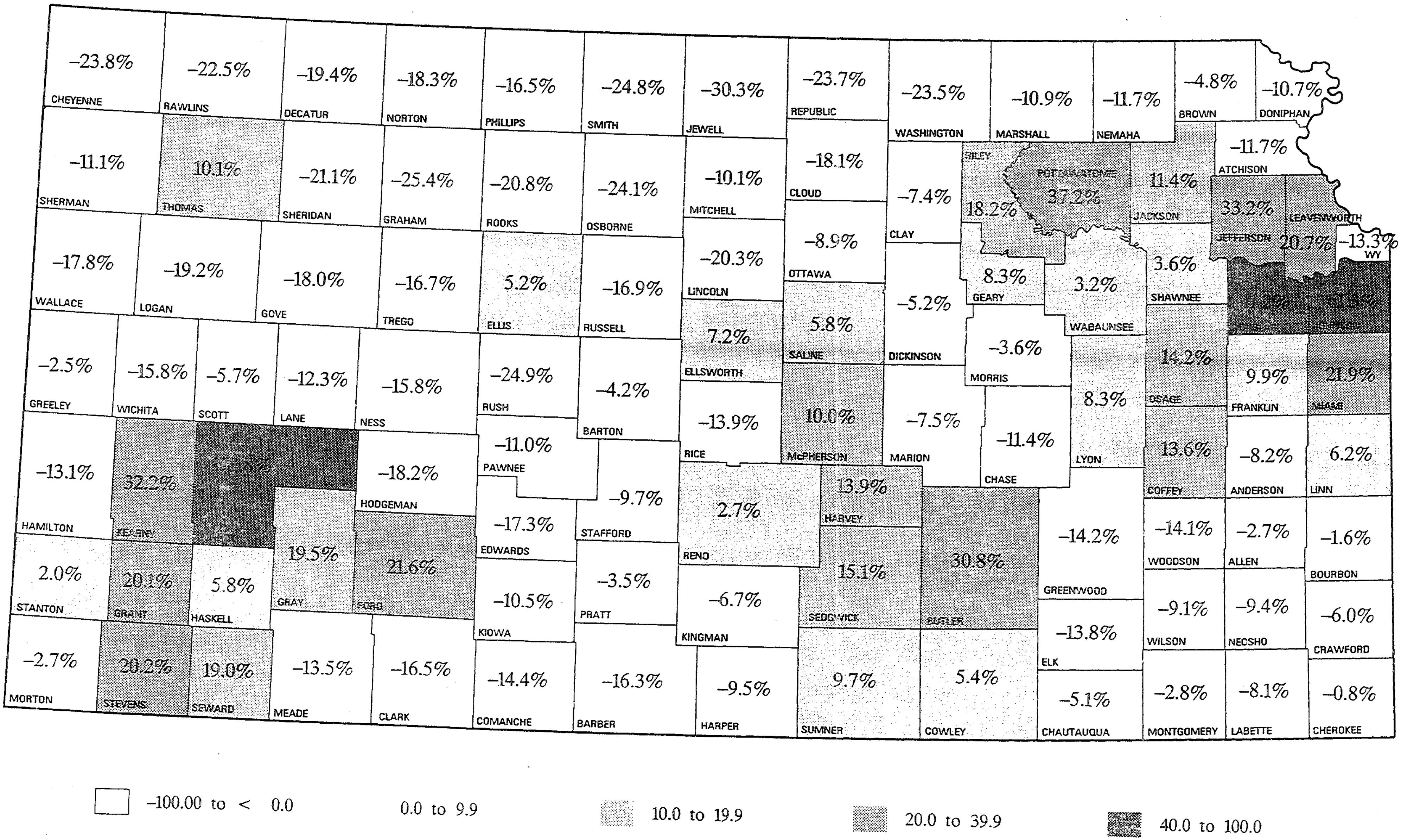
FARMPOP.DGN OCT.15, 1990
USING CANSYS DATABASE 1-1-91

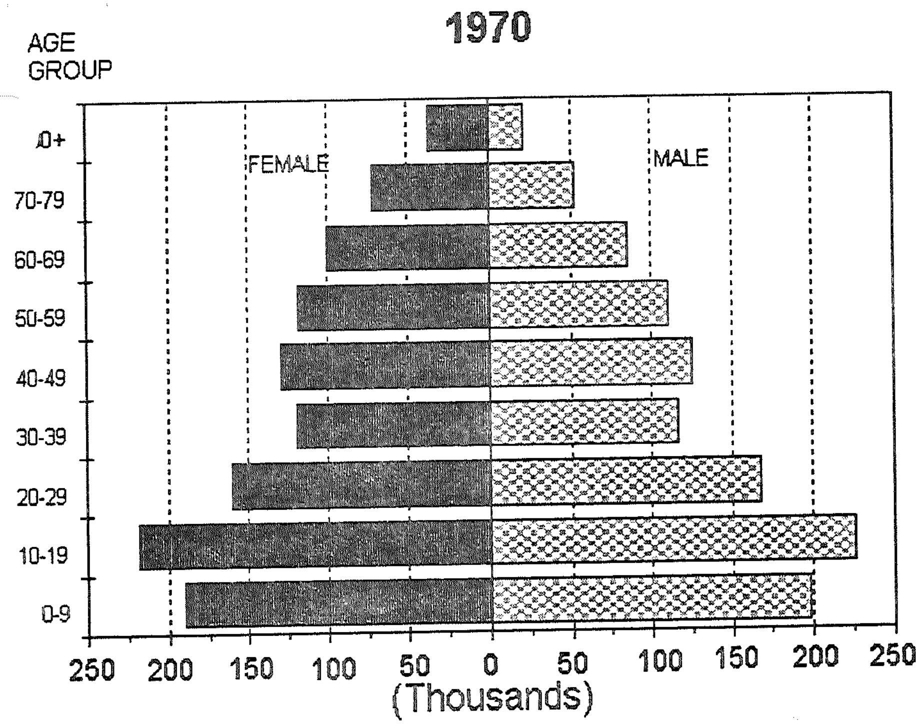
00 YEAR MAXIMUM POPULATION ATTAINED

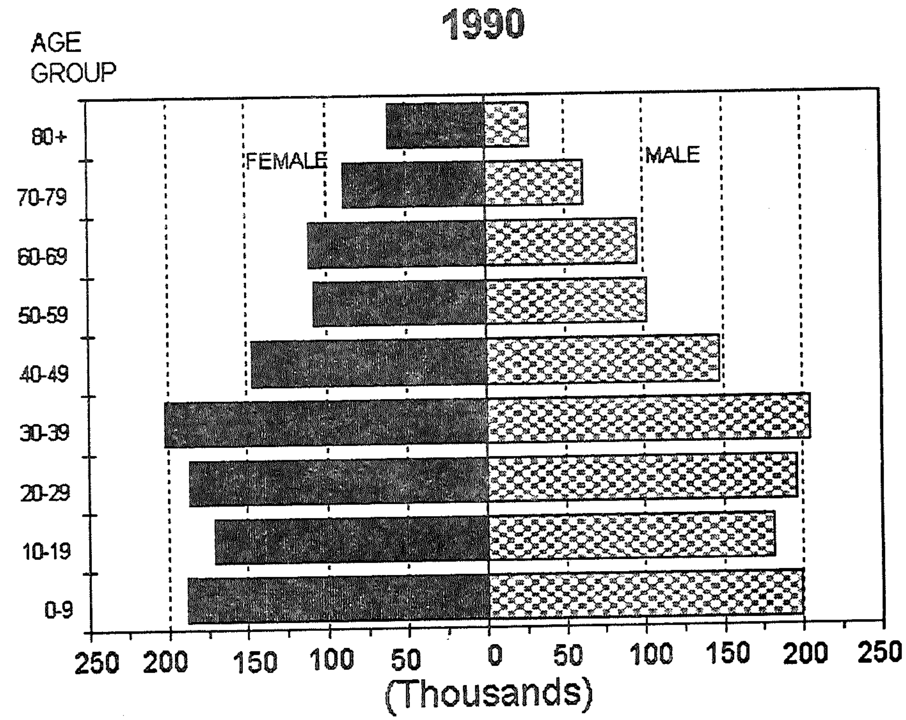

CURRENT POPULATION
LOST POPULATION SINCE MAXIMUM ATTAINED

II-8

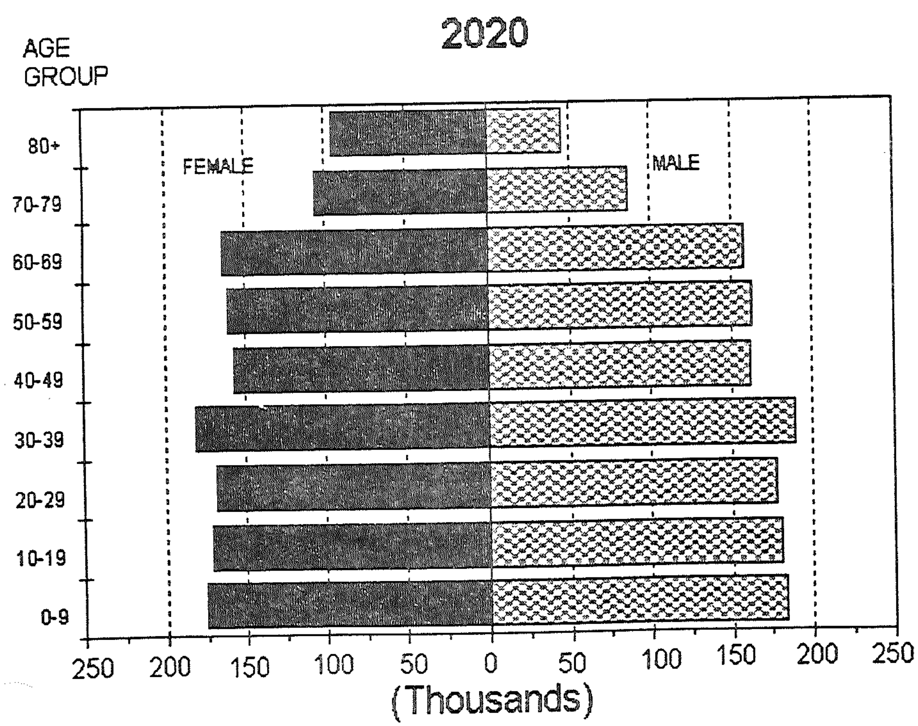
Percent Population Change of Kansas Counties 1970 to 1990







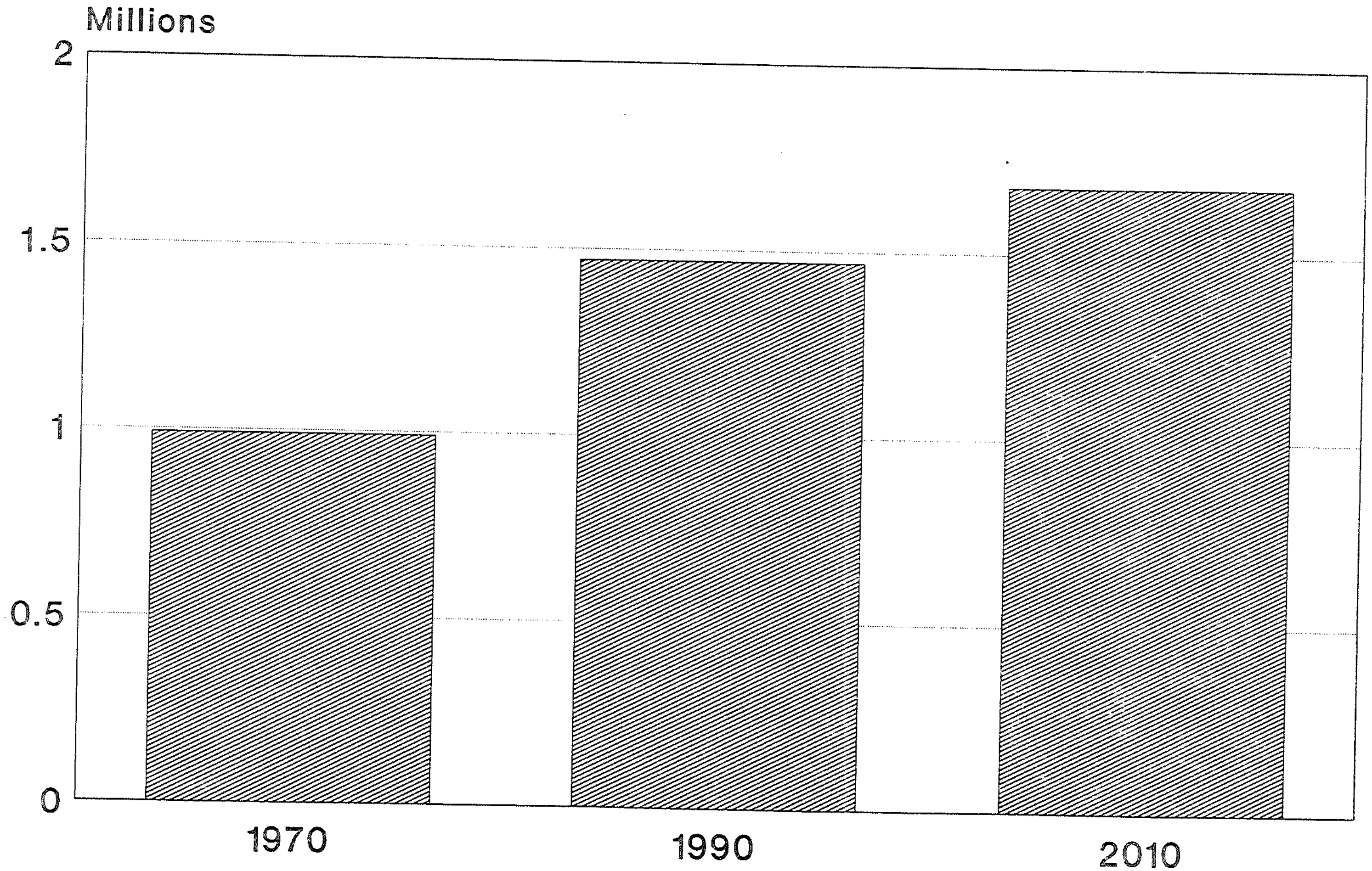
8-12



COMPARISON OF KANSAS POPULATION AGE DISTRIBUTION

8-13

TOTAL EMPLOYMENT IN KANSAS
1970 - 2010



Source: 1970, 1990 Data - U.S. Dept. of Commerce
2010 Data - Woods and Poole Economics, Inc.

8-14

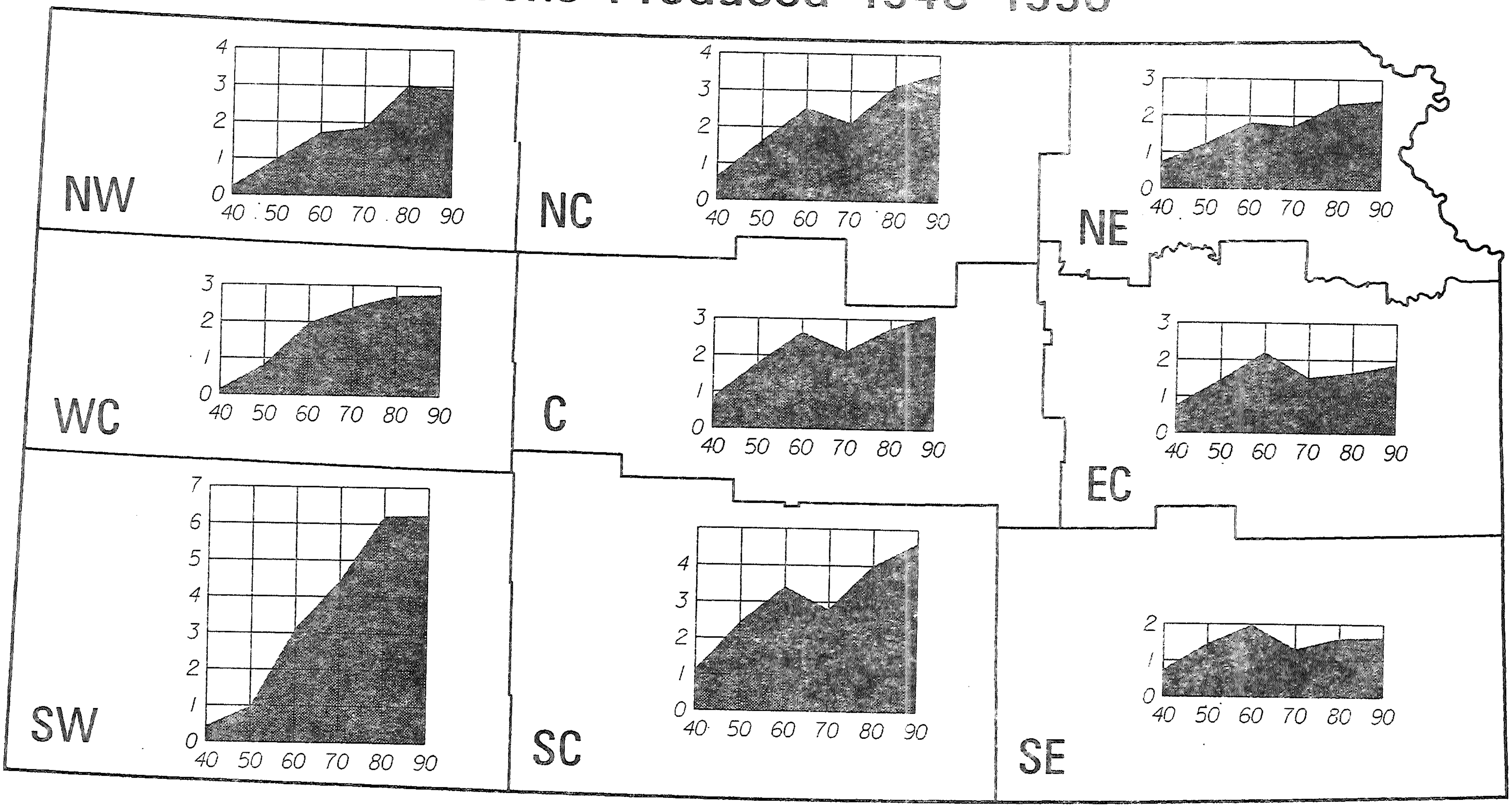
EMPLOYMENT TRENDS IN KANSAS 1970 - 2010

Employment Type	1970	1990	2010
Agriculture	111,230	95,510	86,230
Mining & Construction	62,950	92,400	97,400
Manufacturing	138,700	184,670	214,430
Transportation, Public Utilities & Communications	57,830	77,670	90,850
Retail/Wholesale Trade	203,290	307,370	356,770
Services	211,390	454,530	566,050
Federal: Civil & Military	79,580	81,650	76,320
State & Local Government	131,980	185,910	194,590
Total	996,950	1,479,710	1,682,640

8-15

FARM CROP PRODUCTION
Tons Produced 1940–1990

(Millions)



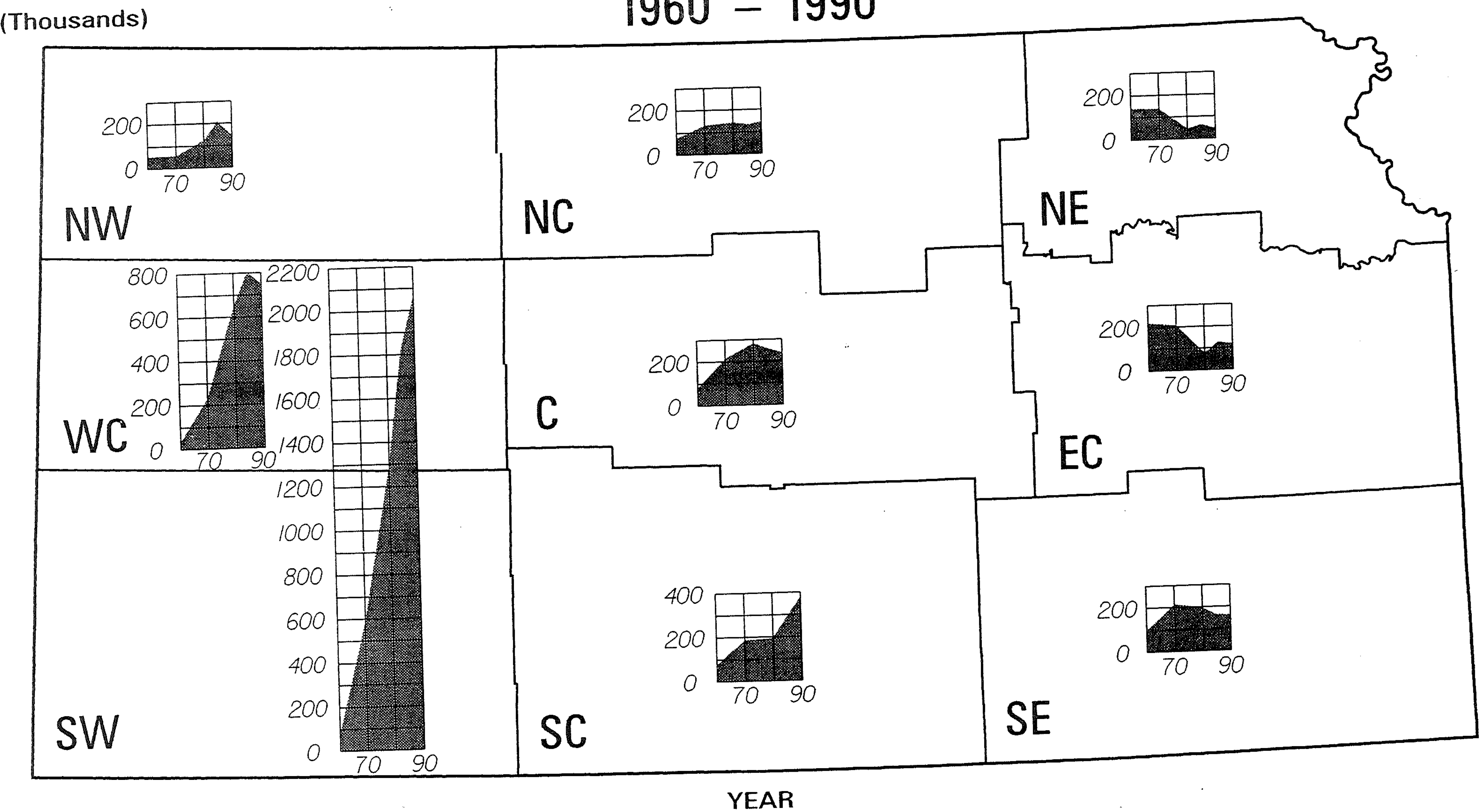
YEAR

Tons Produced (Millions)

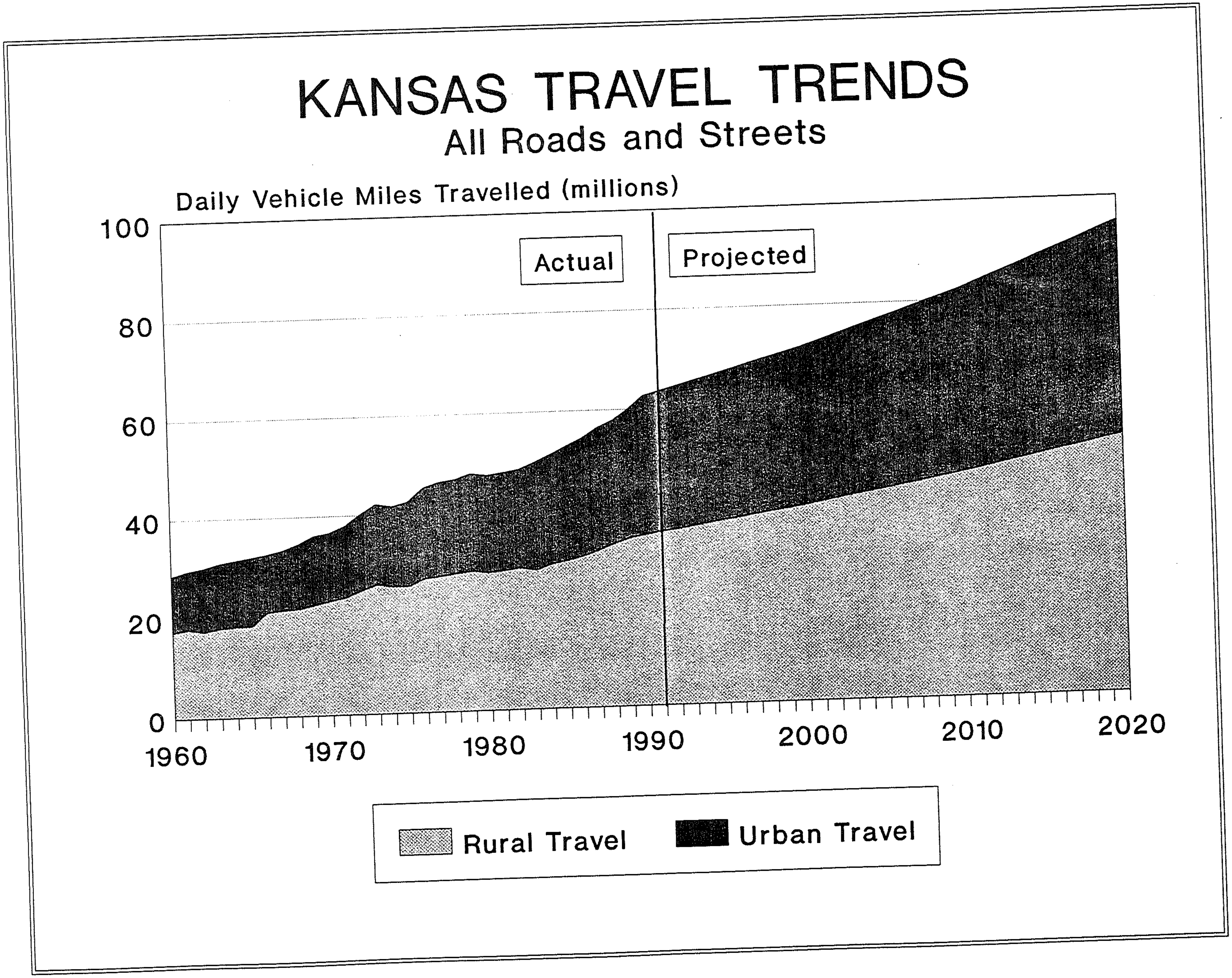
Source: Kansas Agricultural Statistics

8-16

GRAIN–FED CATTLE PRODUCTION
District Summary of Cattle Marketings
1960 – 1990



Source: Kansas Agricultural Statistics


KANSAS TRAVEL TRENDS
All Roads and Streets
Daily Vehicle Miles Travelled (millions)
100
80
60
40
20
0
Actual
Projected
1960
1970
1980
1990
2000
2010
2020
Rural Travel
Urban Travel

KANSAS PUBLIC ROAD MILES BY JURISDICTION - 1991

SYSTEM	MILES	%	TRAVEL*	%
State Highway & City Connecting Links	10,433	7.8	31,884,225	50.2
County-Township Hwys	110,063	82.4	11,191,[illegible]	17.6
Municipal	12,505	9.4	17,661,[illegible]	27.8
Toll Road - Turnpike	256	.2	2,702,[illegible]	4.2
State Parks	230	.2	[illegible]	.2
TOTAL	133,467	100	63,524,2[illegible]	100

*Daily Vehicle Miles Travelled

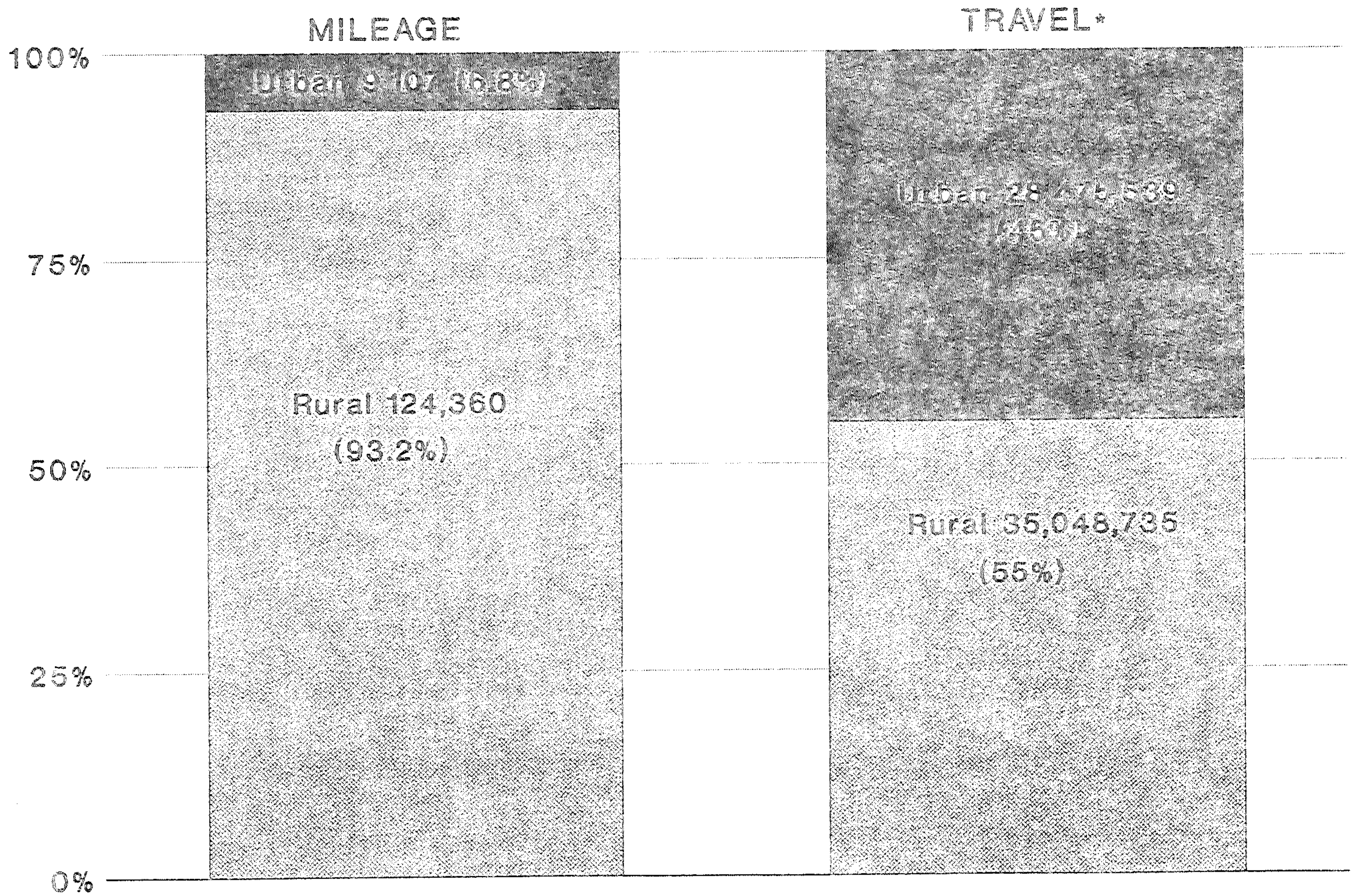
Source: KDOT Mileage & Travel Tables

8-18

8-19

KANSAS 1991 MILEAGE & TRAVEL

All Roads and Streets

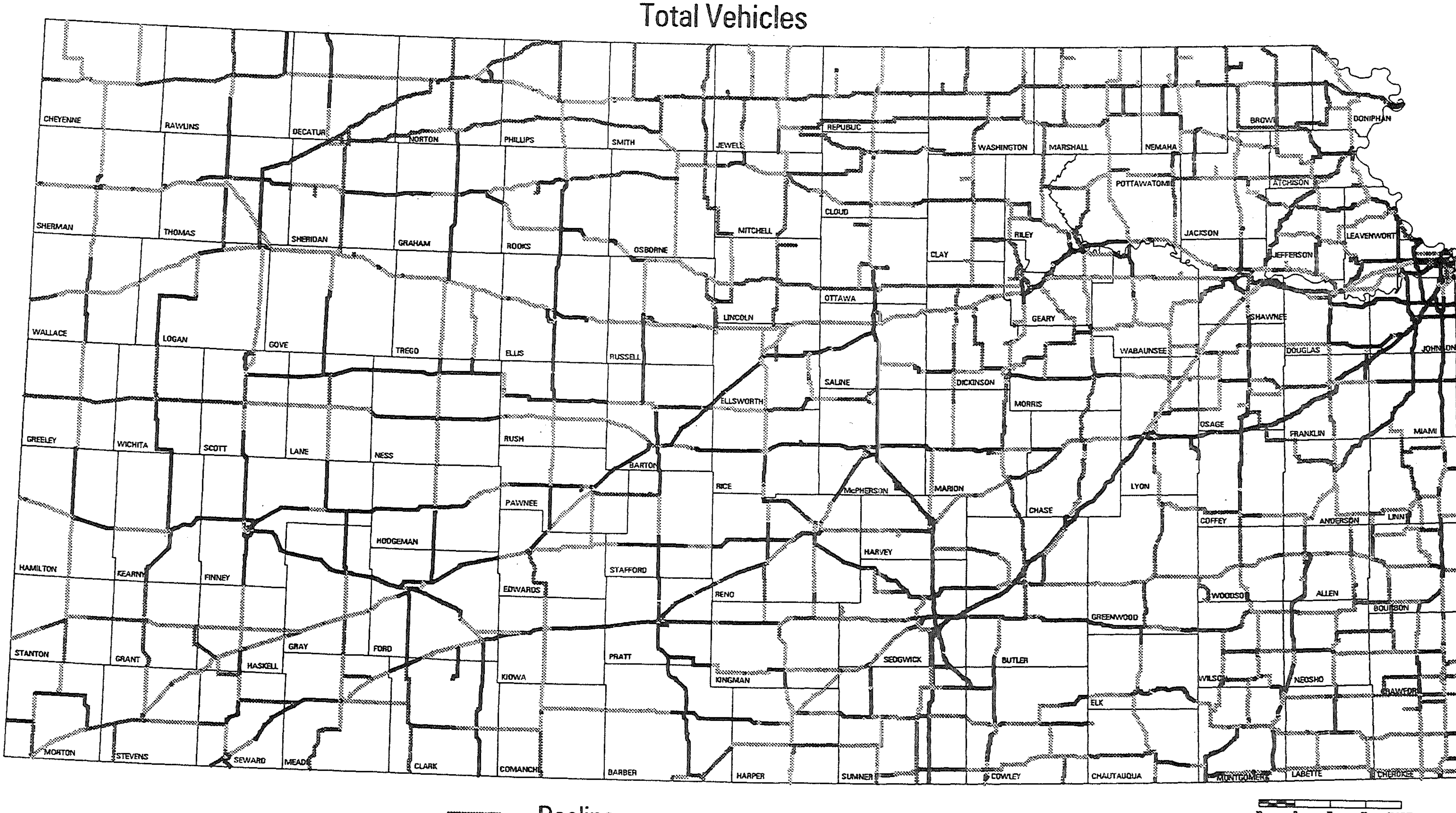


*Daily Vehicle Miles Travelled

8.20

TRAFFIC GROWTH PATTERNS ON STATE HIGHWAY SYSTEM

Total Vehicles



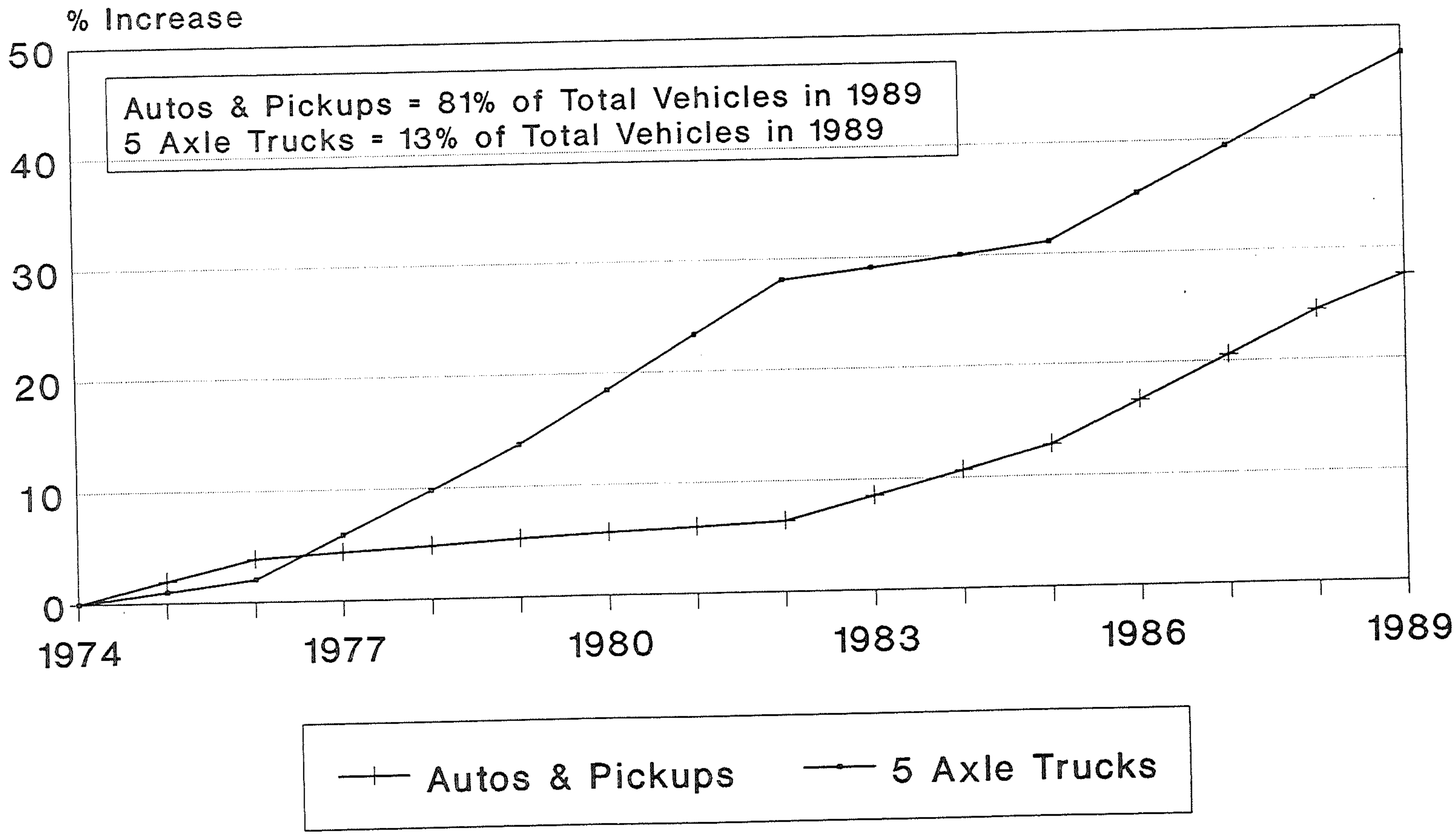
Decline

Growth less than Statewide Average

Growth greater than Statewide Average

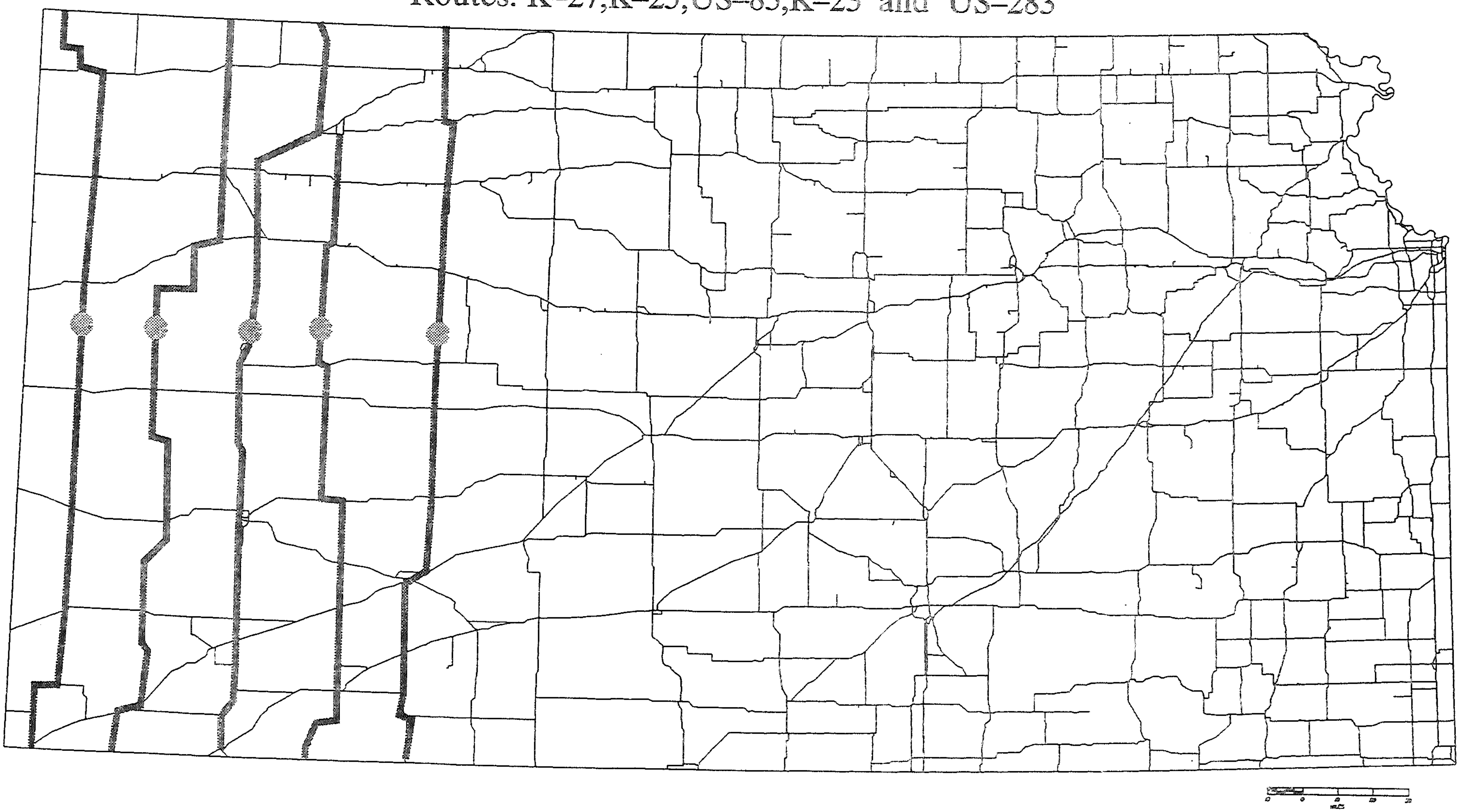
KANSAS TRAVEL TRENDS

By Vehicle Type
Rural State Highway System*



*Includes Turnpike
*Excludes City Connecting Links

North /South Routes in Western Kansas
Routes: K–27,K–25,US–83,K–23 and US–283

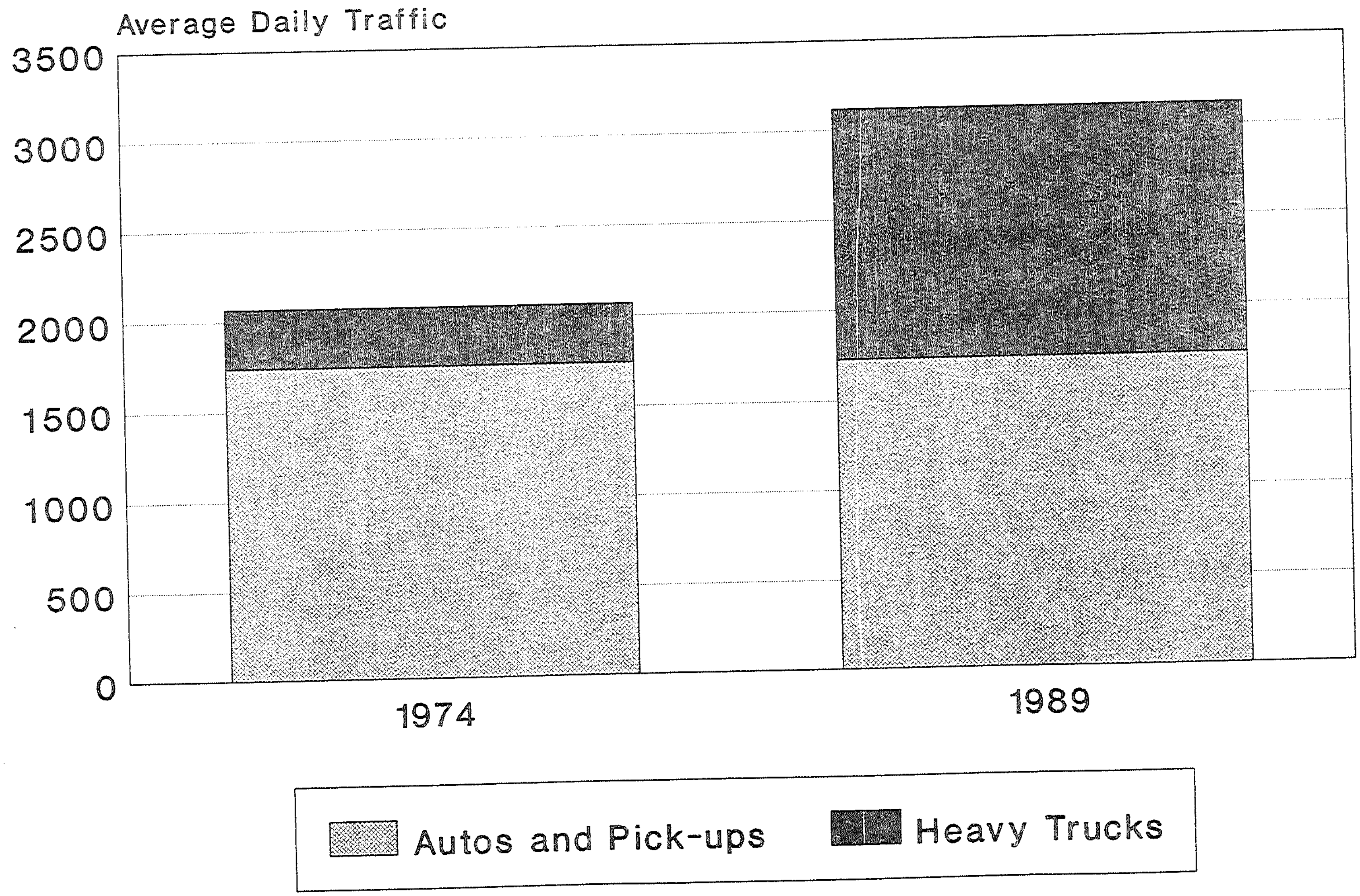


LOCATION OF COUNTS

PREPARED BY THE
KANSAS DEPARTMENT OF TRANSPORTATION
BUREAU OF TRANSPORTATION PLANNING
ROUTEWS.DGN JUNE 17,1993
USING CANSYS DATABASE 3-93

TRUCK SHARE OF TOTAL TRAFFIC

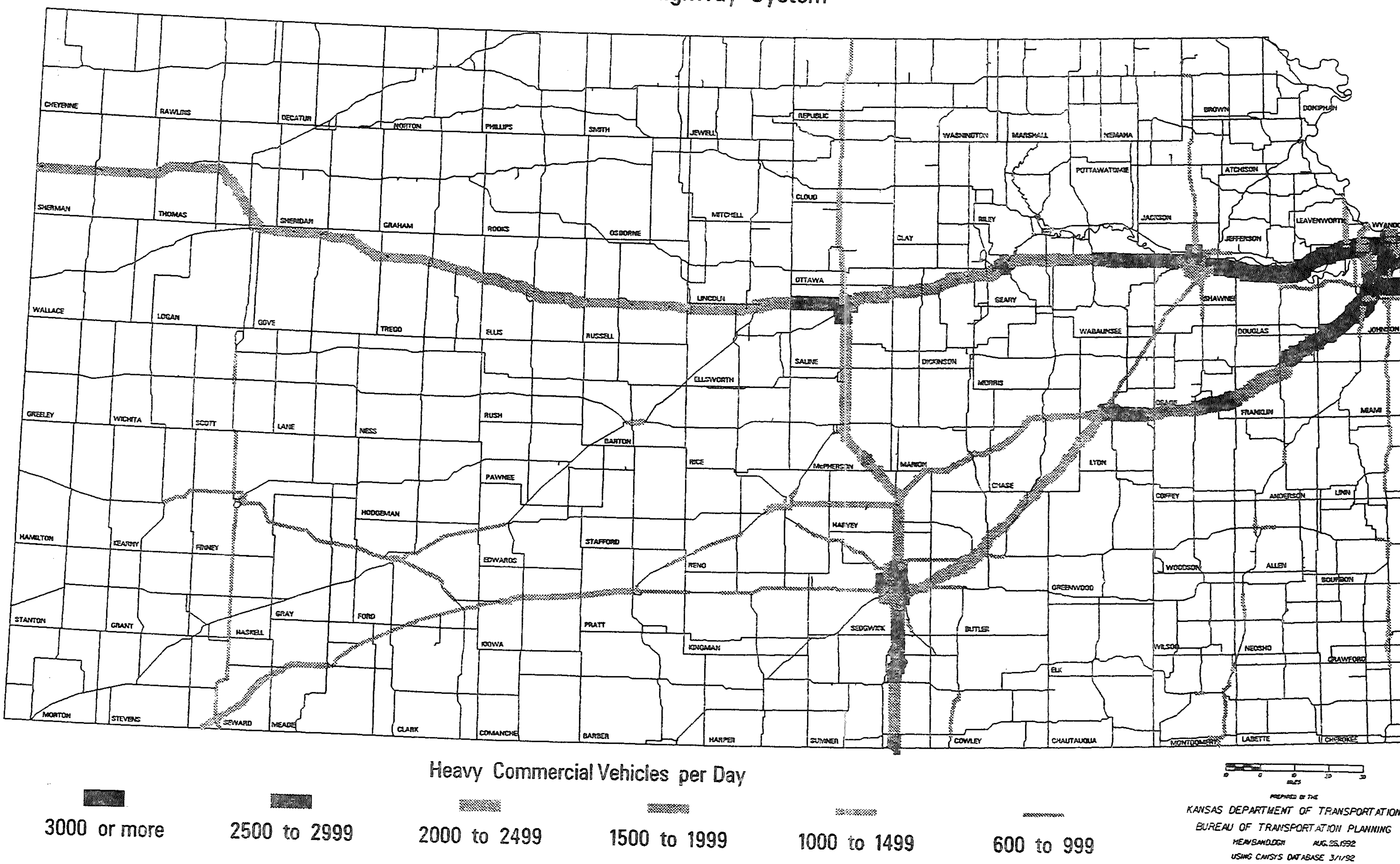
North/South Routes in Western Kansas*



*Routes: K-27, K-25, US-83, K-23, US-283

8-24

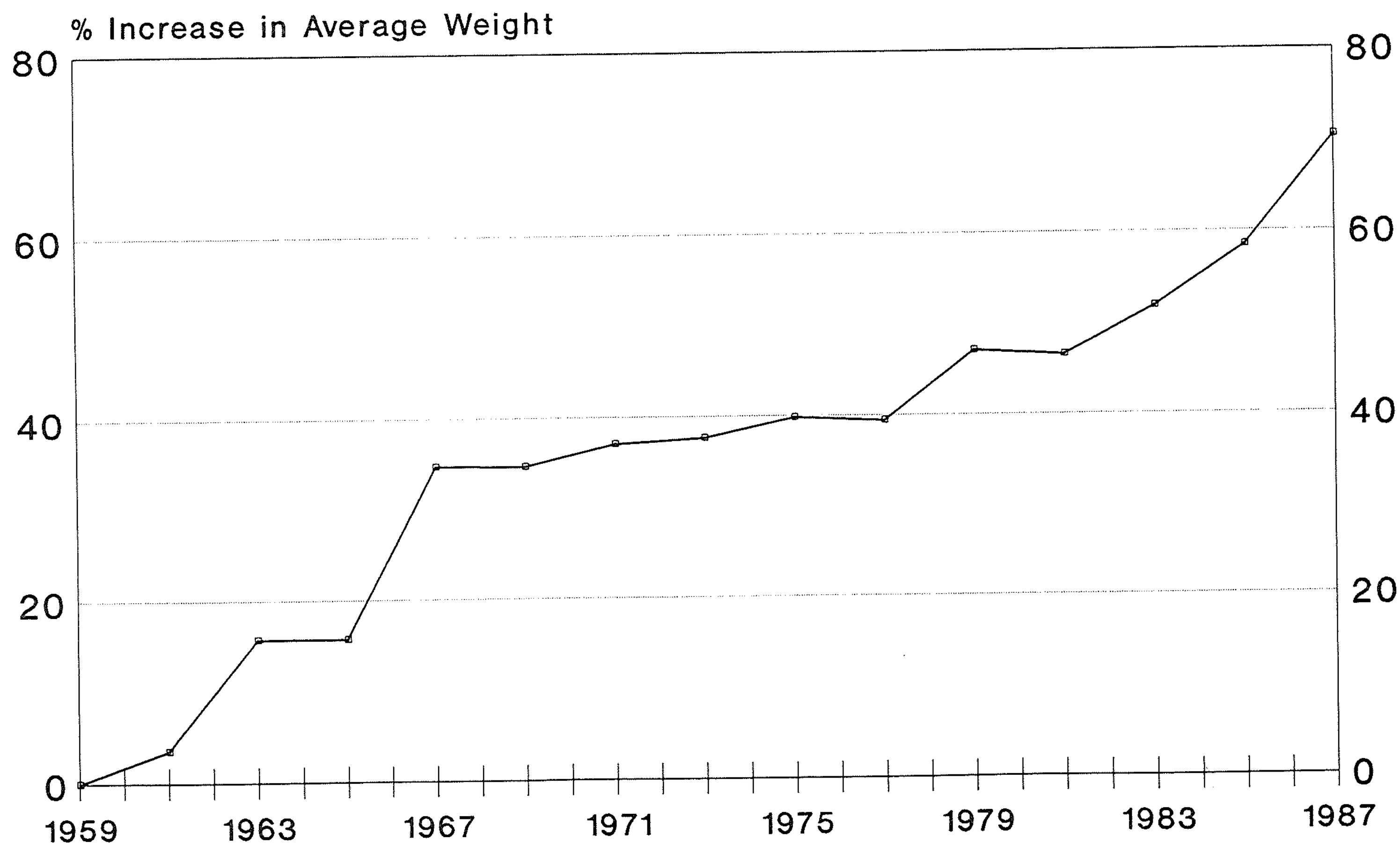
HEAVY COMMERCIAL VEHICLE VOLUME
State Highway System



8-25

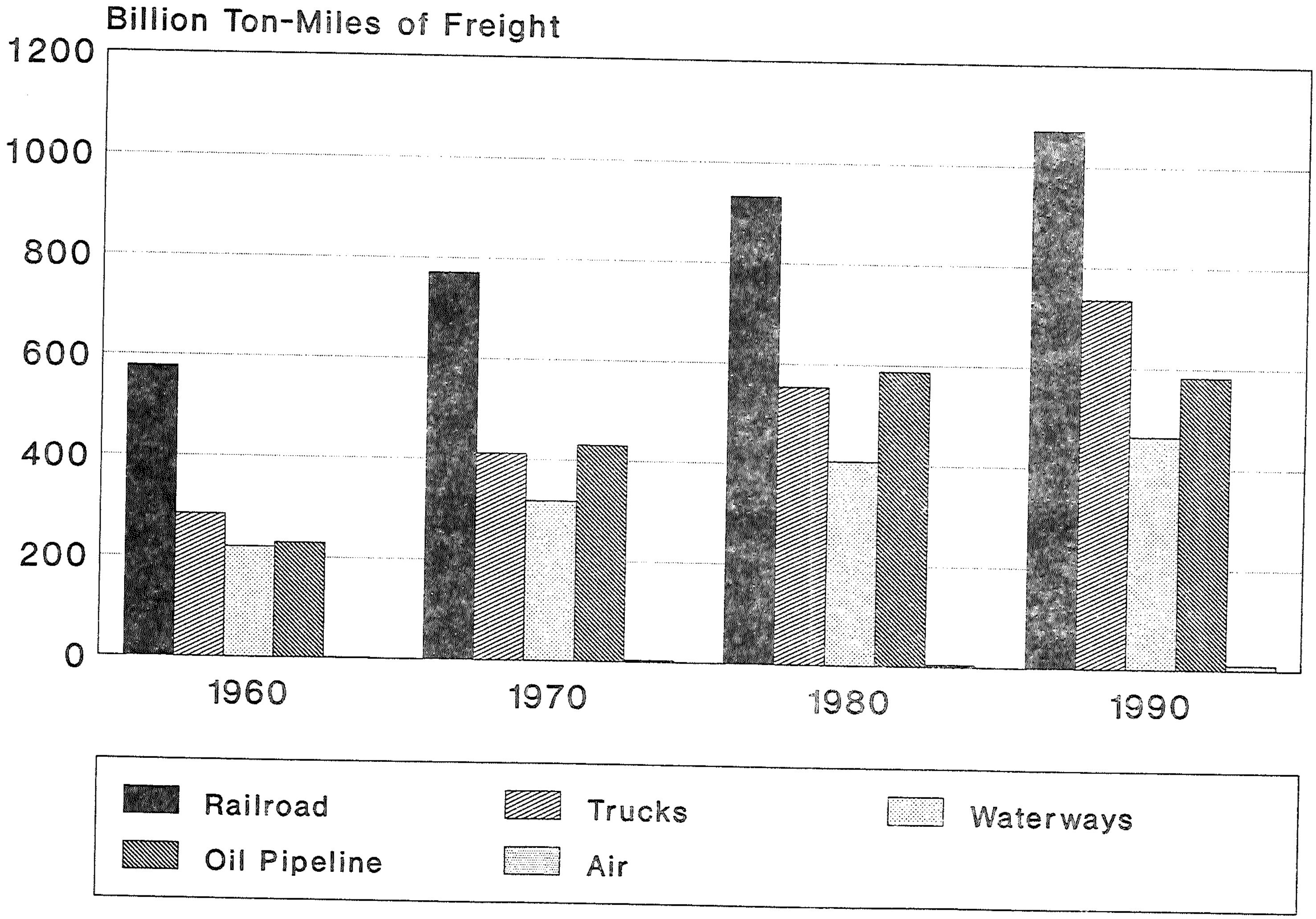
KANSAS LOADING TRENDS

All Trucks on the Rural State Highway System*



*Loaded & Empty Trucks; Includes Turnpike/Excludes CityConnecting Links

U.S. FREIGHT DISTRIBUTION BY MODE



Source: AAR Railroad Facts 1992

8-26

8-27

KANSAS PAVEMENT NEEDS
Rural State Highway System

- Resurfacing

- Rehabilitation/Reconstruction

KANSAS GEOMETRIC NEEDS
Rural State Highway System

Type	1993 Needs	1993-97 Program	Unmet Needs
Lane Width	1,249	47	1,202
Shoulder Type:			
Full Width Paved*	298	183	115
3 Feet Paved**	4,280	870	3,410
Shoulder Width***	2,228	489	1,739

*More than 600 Heavy Trucks Per Day
**100-600 Heavy Trucks Per Day
***More than 2 feet under standards

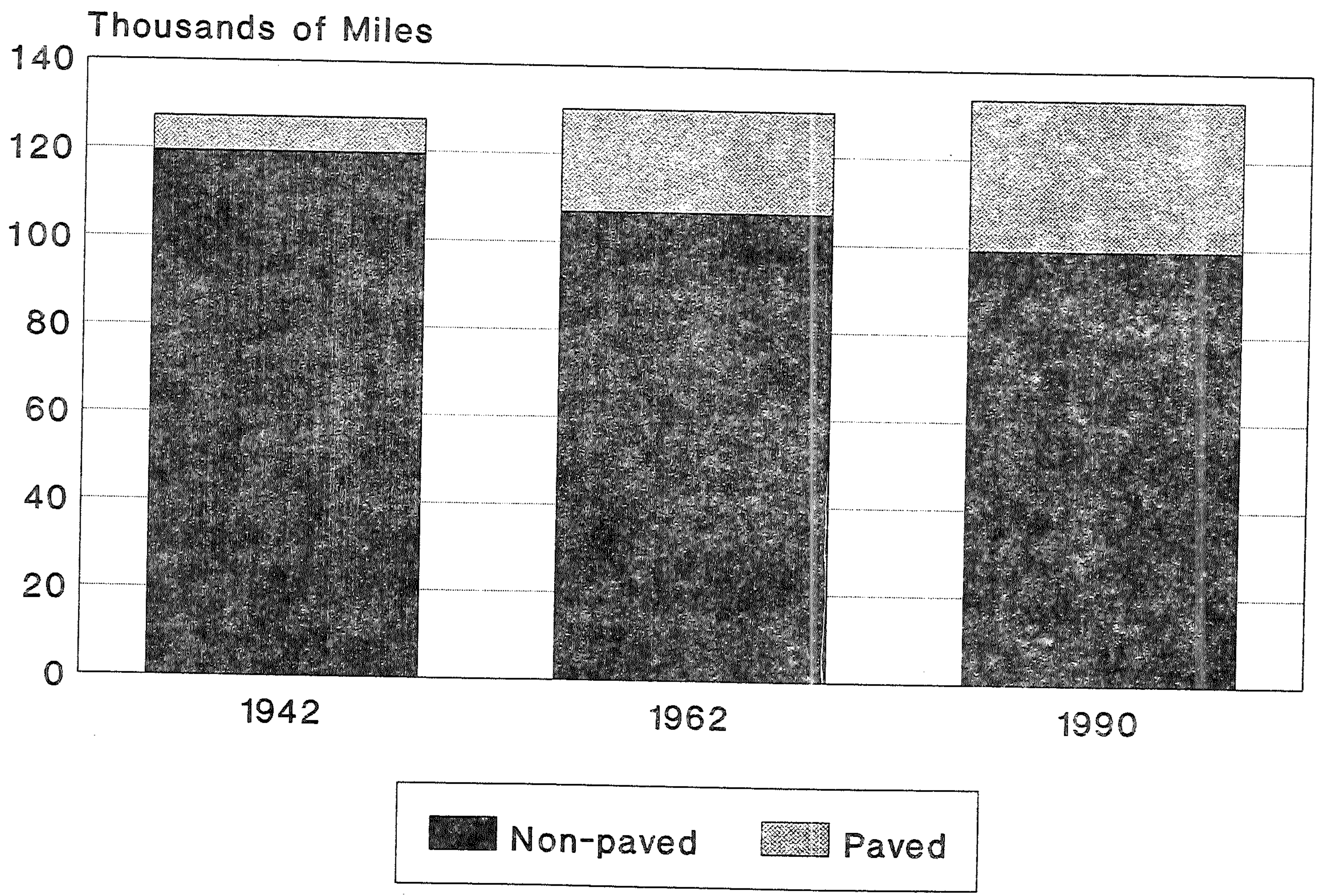
KANSAS BRIDGE NEEDS
Rural State Highway System

Type	1993 Needs	93-97 Program	Unmet Needs
Widen/Replace	733	241	492
Posted	98	68	30

8-29

KANSAS ROAD MILES

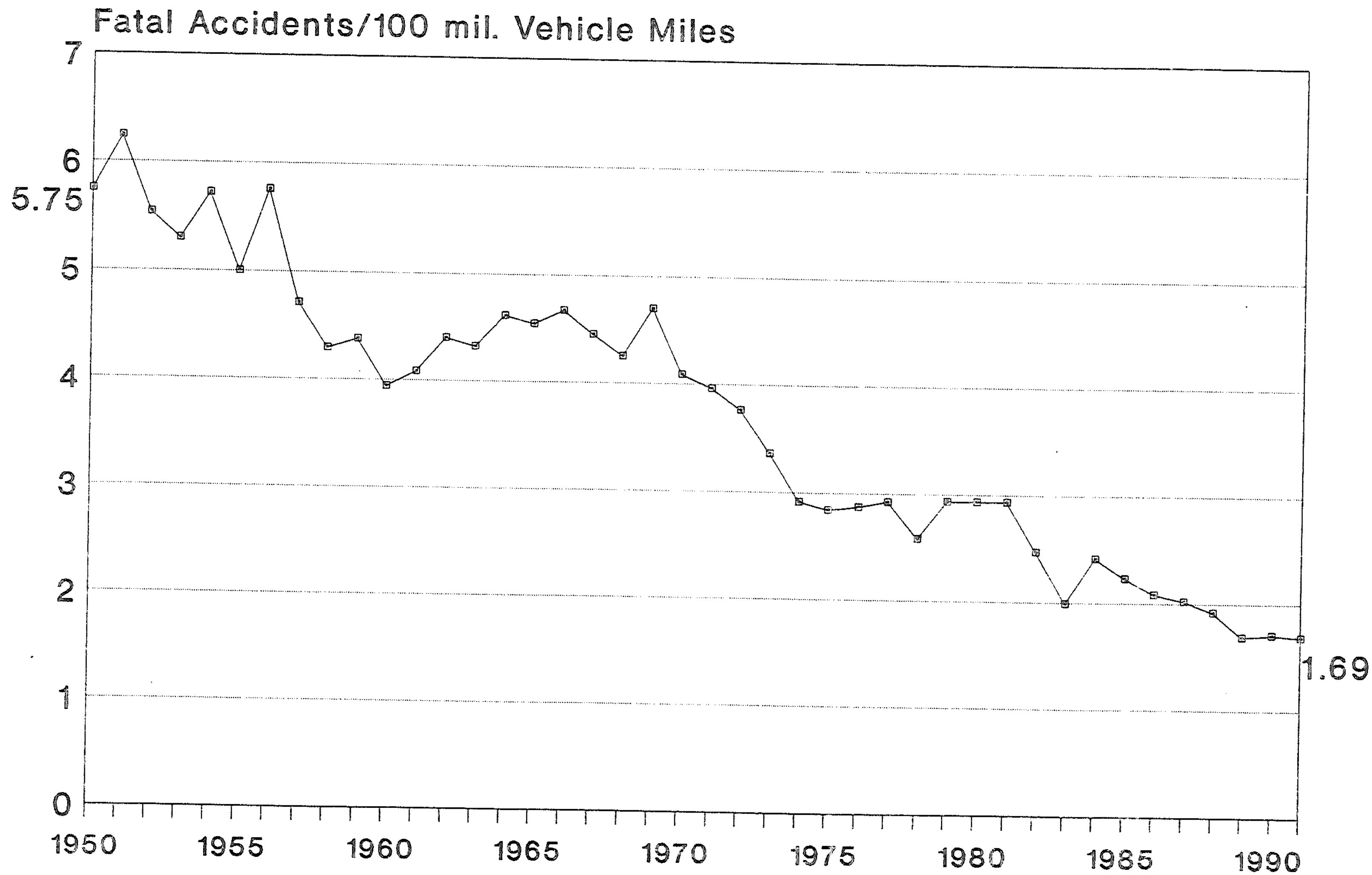
By Surface Type



KANSAS BRIDGE NEEDS - 1992

SYSTEM	TOTAL BRIDGES	STRUCTURALLY DEFICIENT	FUNCTIONALLY OBSOLETE
CITY	853	126	157
COUNTY	19,600	4,090	2,795
STATE HIGHWAY	4,753	266	909
TURNPIKE	374	25	238
TOTAL	25,580	4,507	4,099

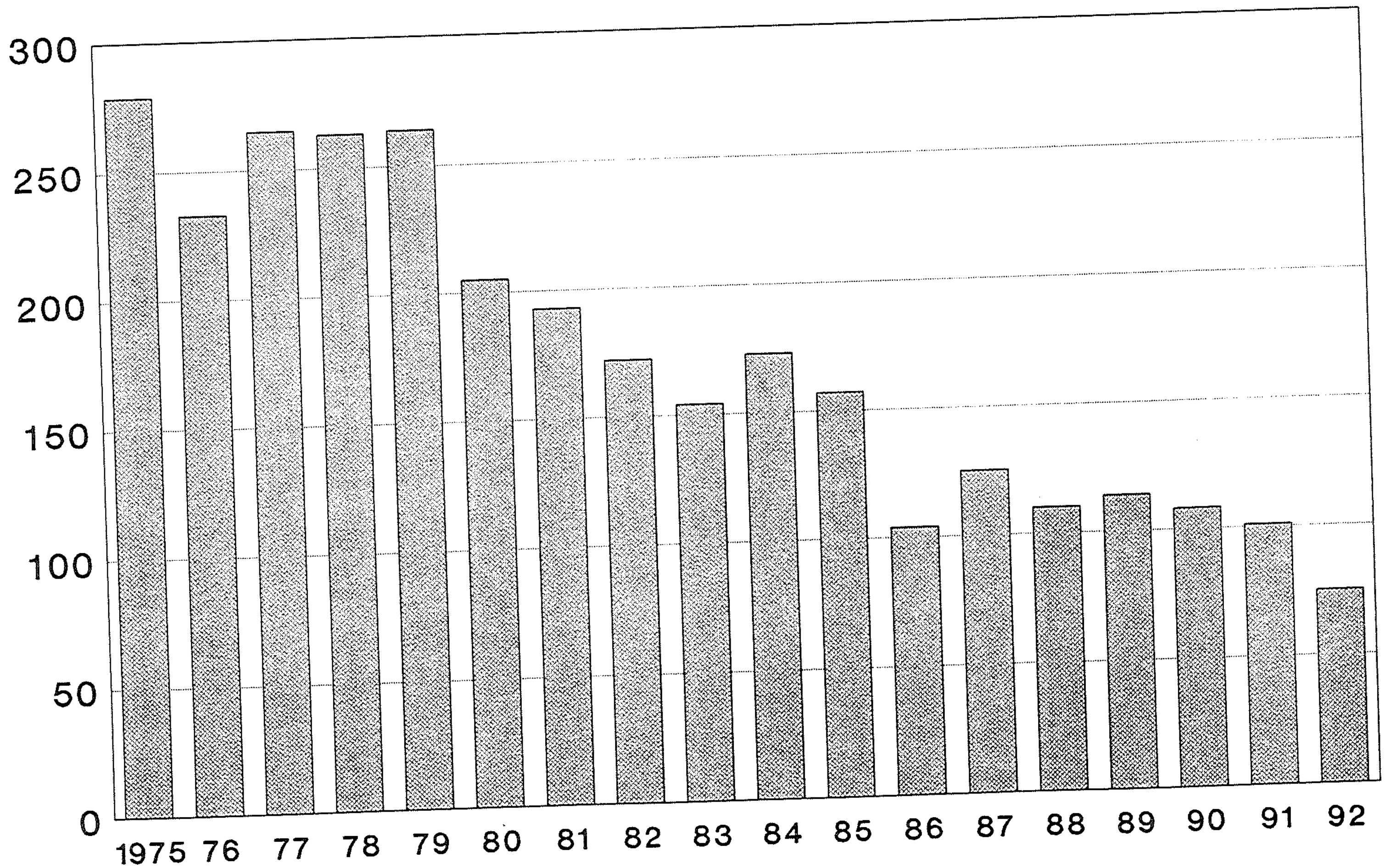
KANSAS FATAL ACCIDENT TRENDS*



*All Roads in Kansas

8-32

KANSAS RAIL-HIGHWAY GRADE CROSSING ACCIDENTS

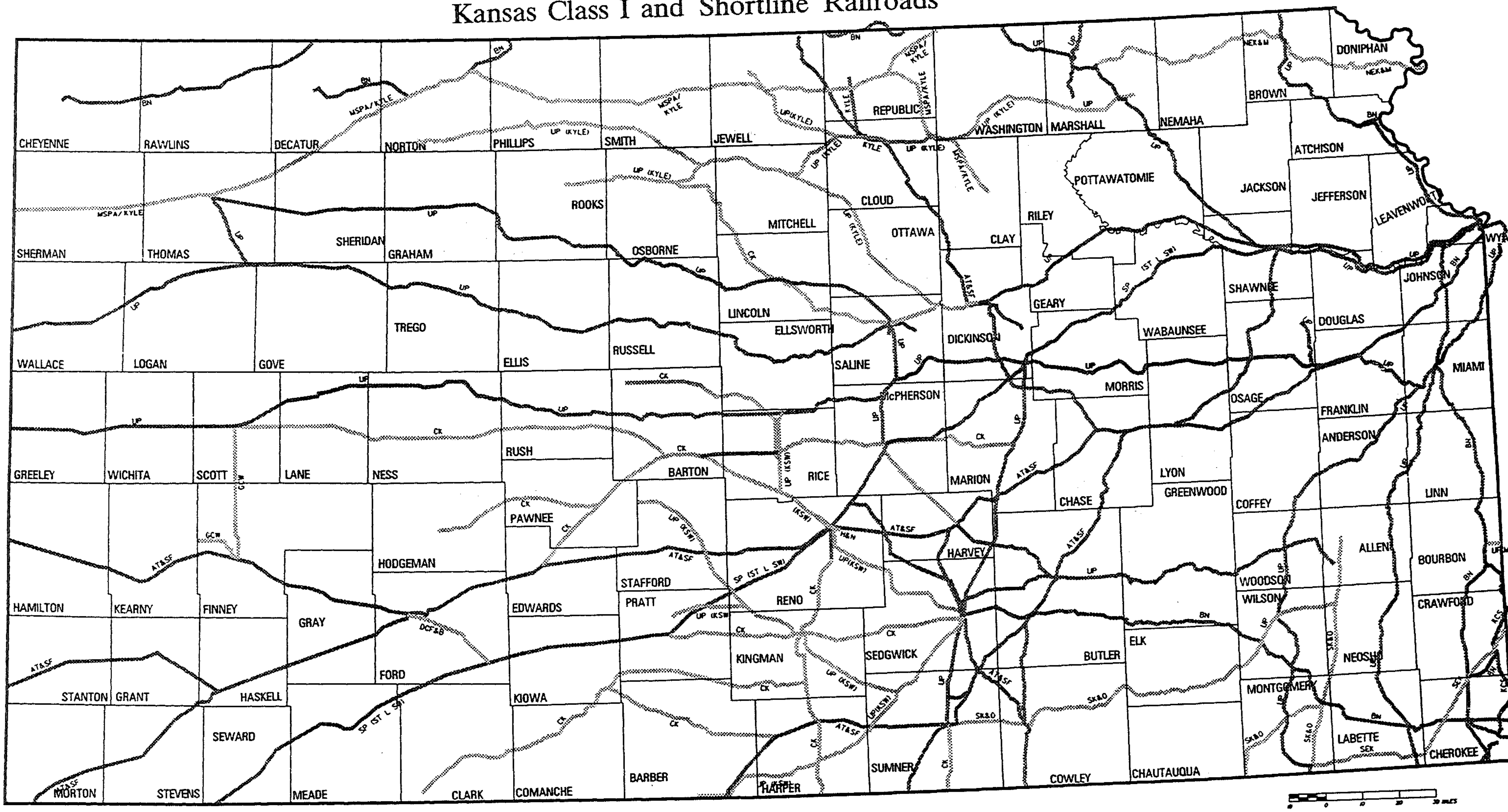


Source: KS Railroad Safety Statistics

8-33

8-34

Kansas Class I and Shortline Railroads



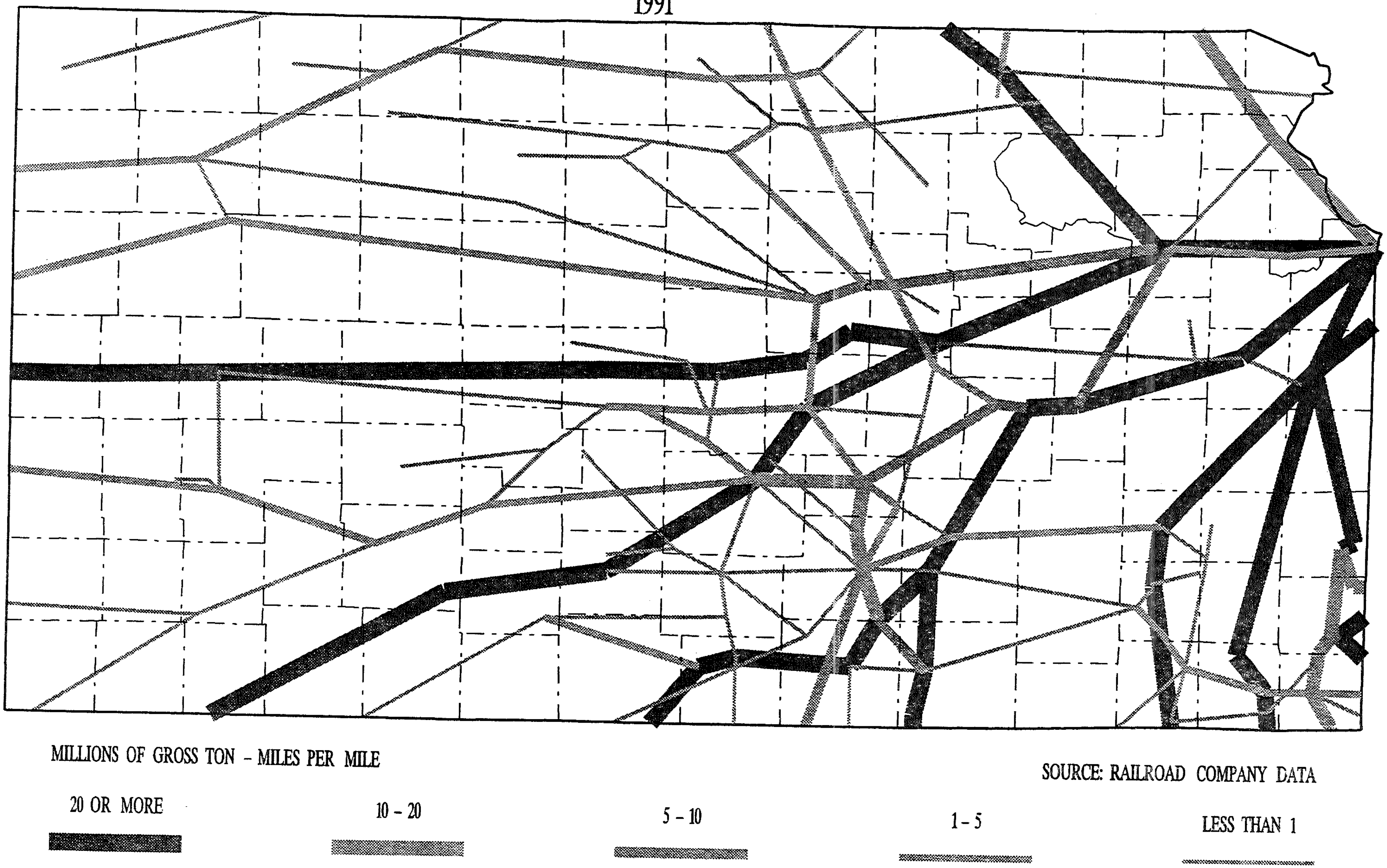
Class I

Shortline

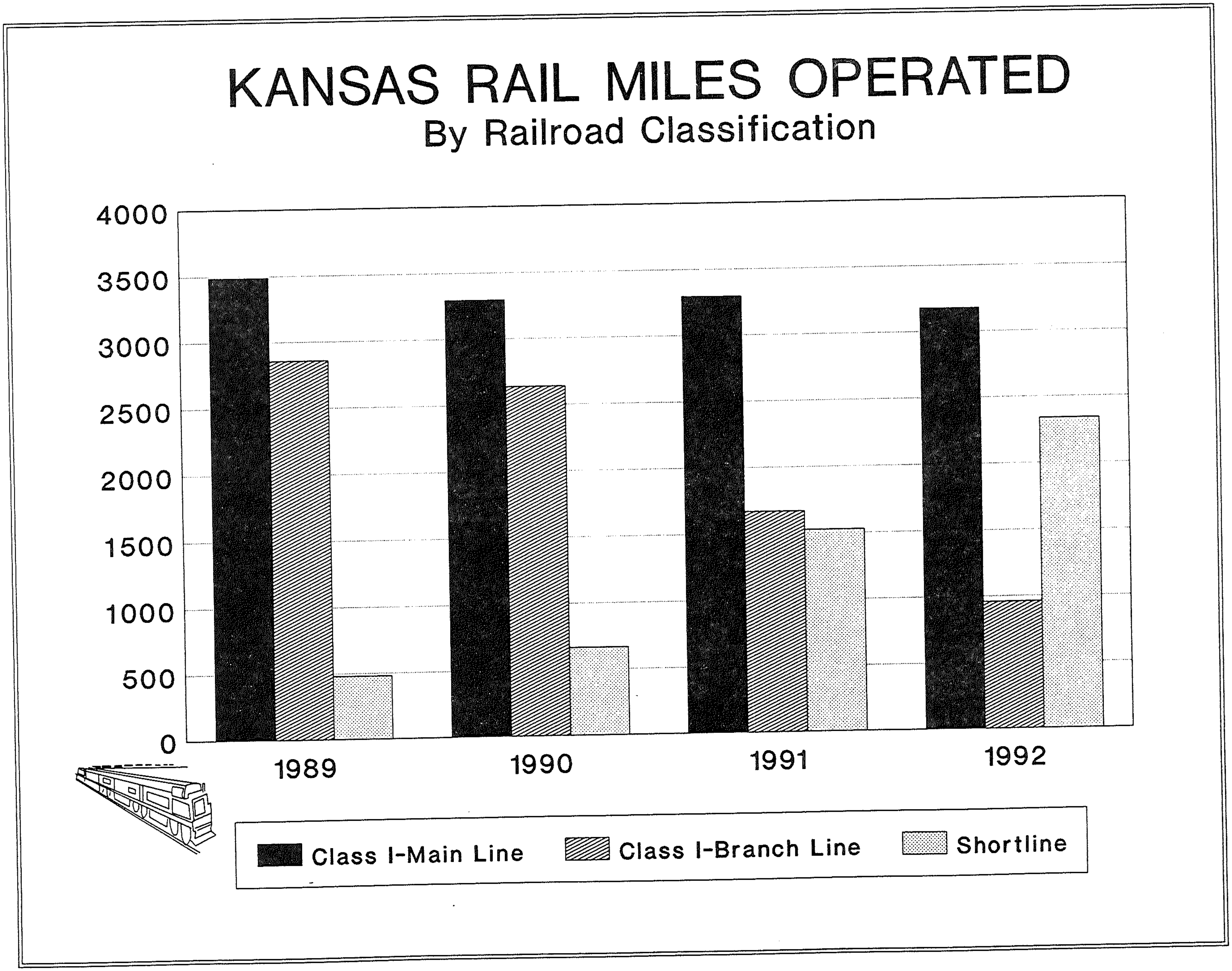
KANSAS DEPARTMENT OF TRANSPORTATION
BUREAU OF RAIL AFFAIRS
AND
BUREAU OF TRANSPORTATION PLANNING
REVISED JUNE 1993

8-35

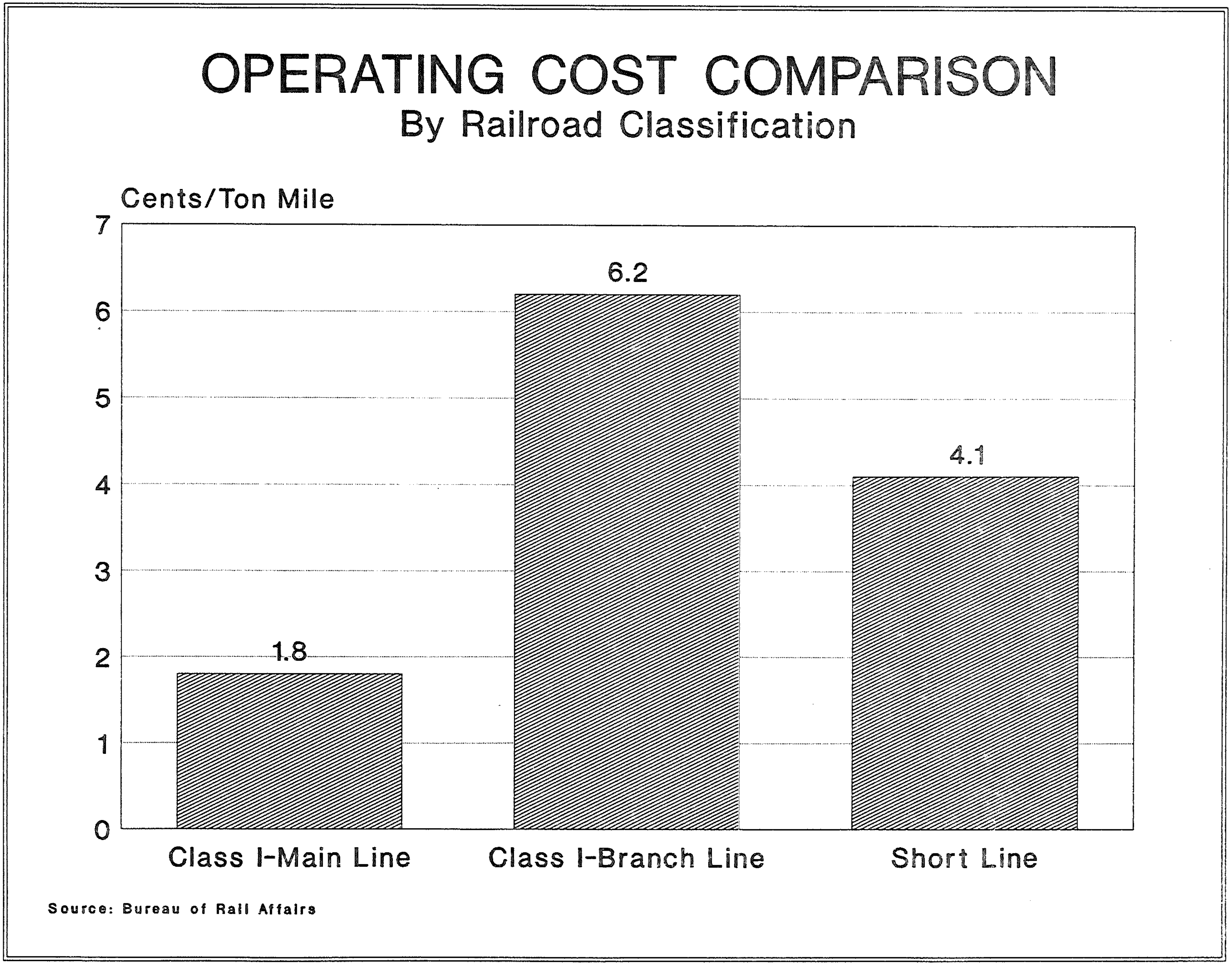
KANSAS RAIL FREIGHT DENSITY
1991



8.36

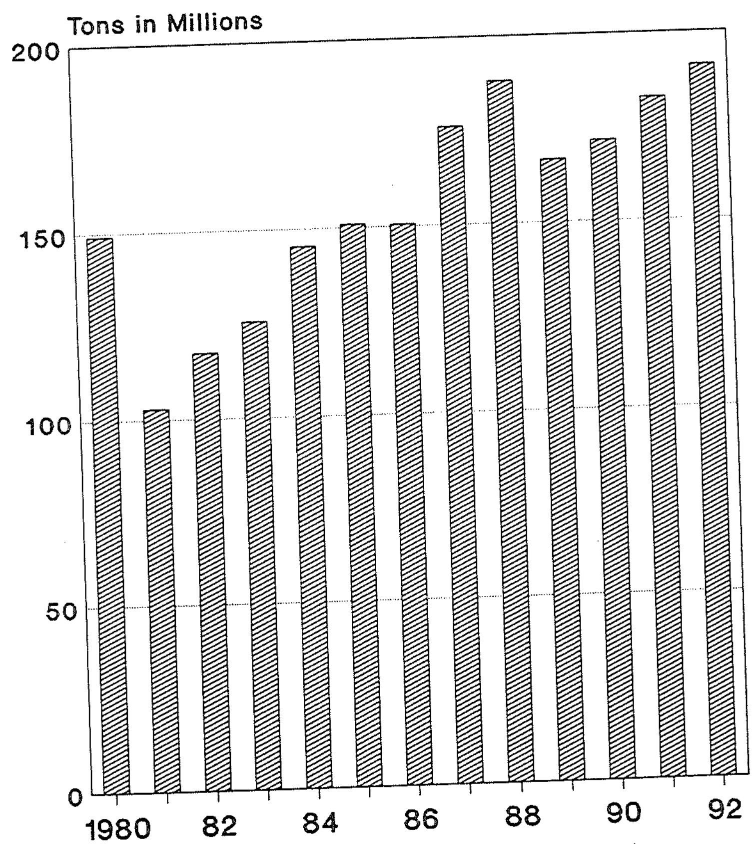


KANSAS RAIL MILES OPERATED
By Railroad Classification
4000
3500
3000
2500
2000
1500
1000
500
0
1989
1990
1991
1992
Class I-Main Line
Class I-Branch Line
Shortline


OPERATING COST COMPARISON
By Railroad Classification
Cents/Ton Mile
7
6
5
4
3
2
1
0
6.2
4.1
1.8
Class I-Main Line
Class I-Branch Line
Short Line
Source: Bureau of Rail Affairs

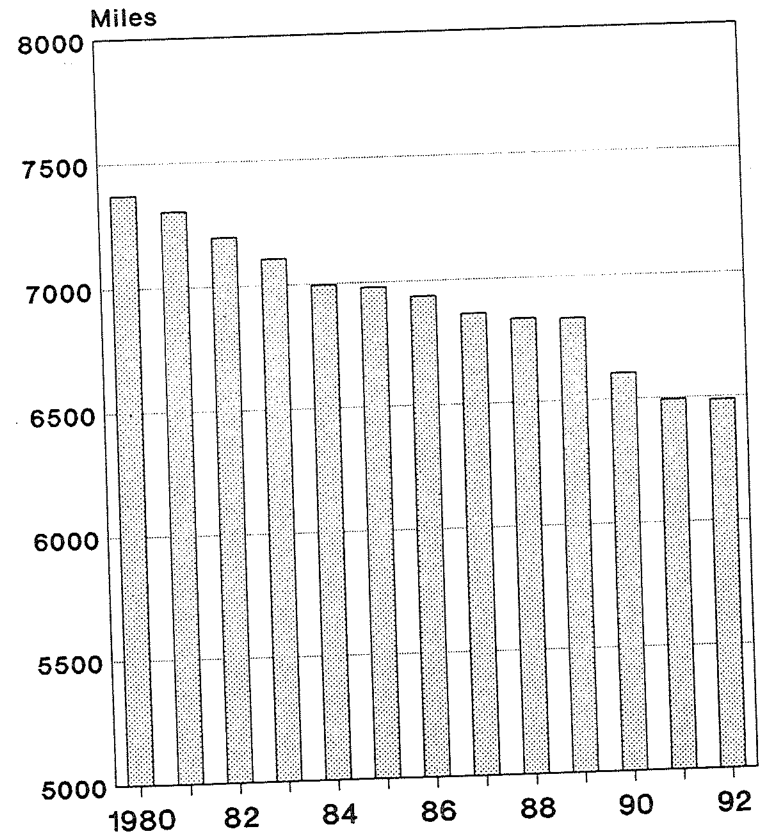
TRENDS IN RAIL OPERATIONS

Total Tons Moved by Rail Carriers in Kansas



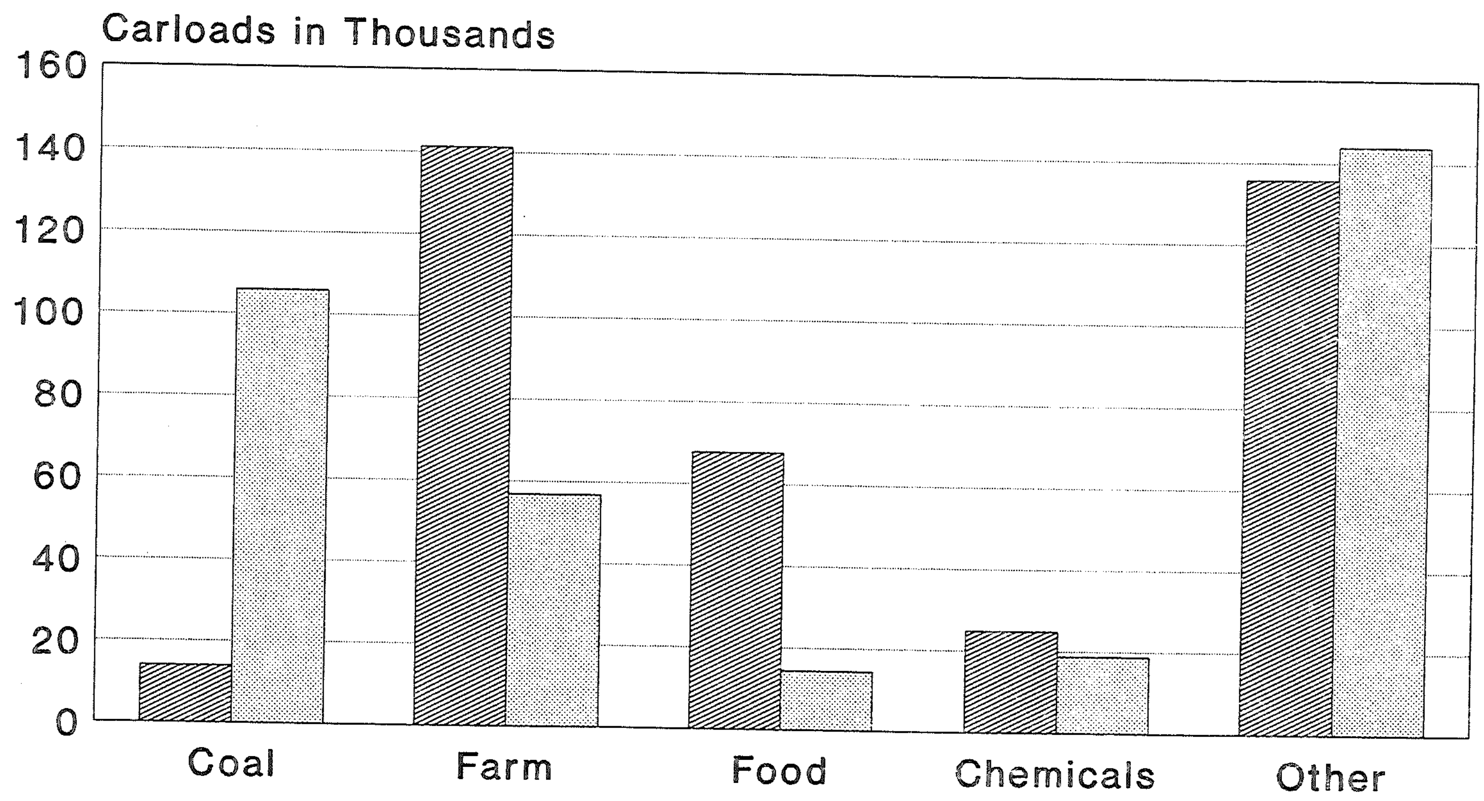
Source: Carriers R-1's

Total Miles of Railroad Trackage in Kansas



Source: KDOT Bureau of Rail Affairs

COMMODITIES ORIGINATED/TERMINATED IN KANSAS IN 1992

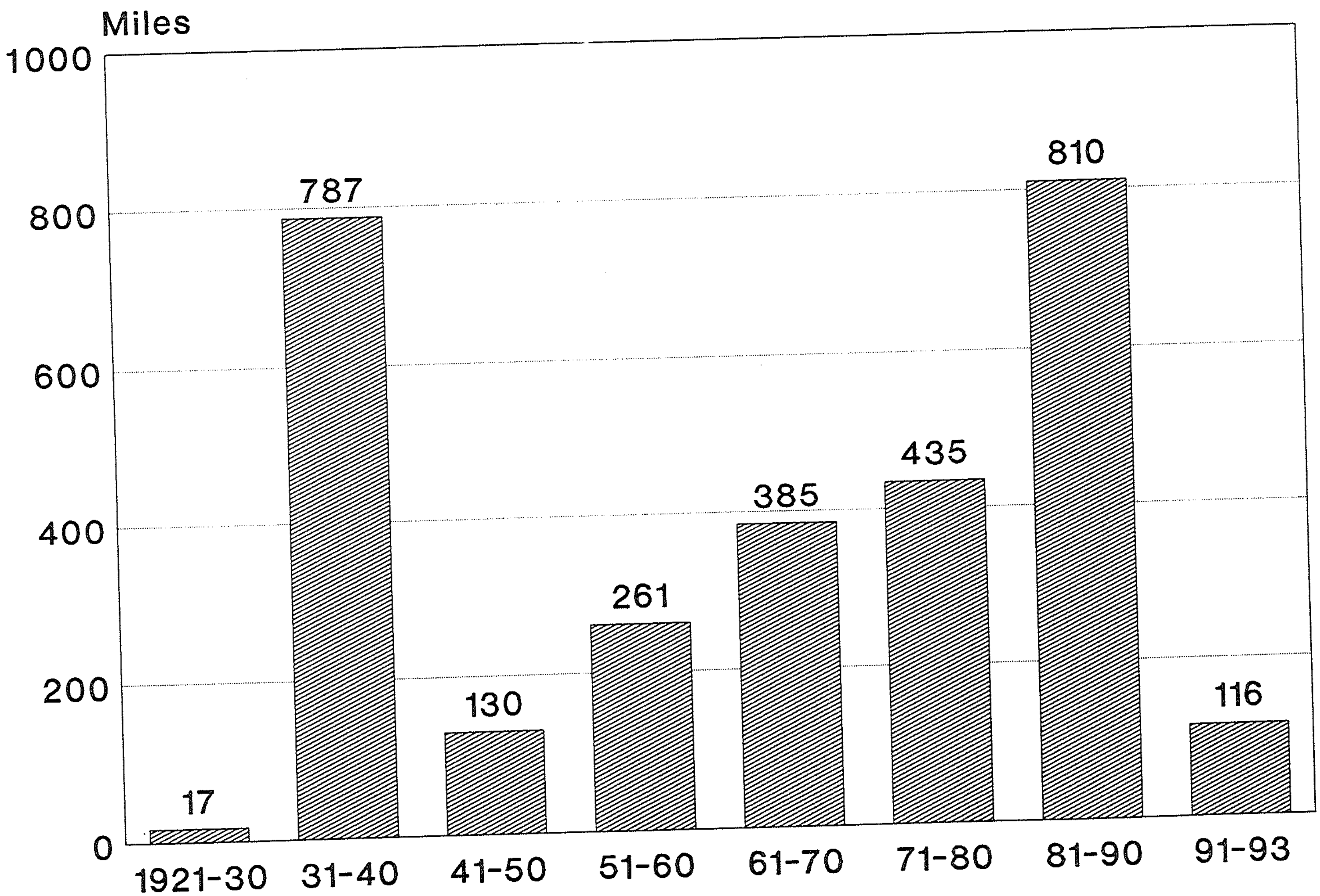


Source: Rail Carriers R-1's

8-39

8.40

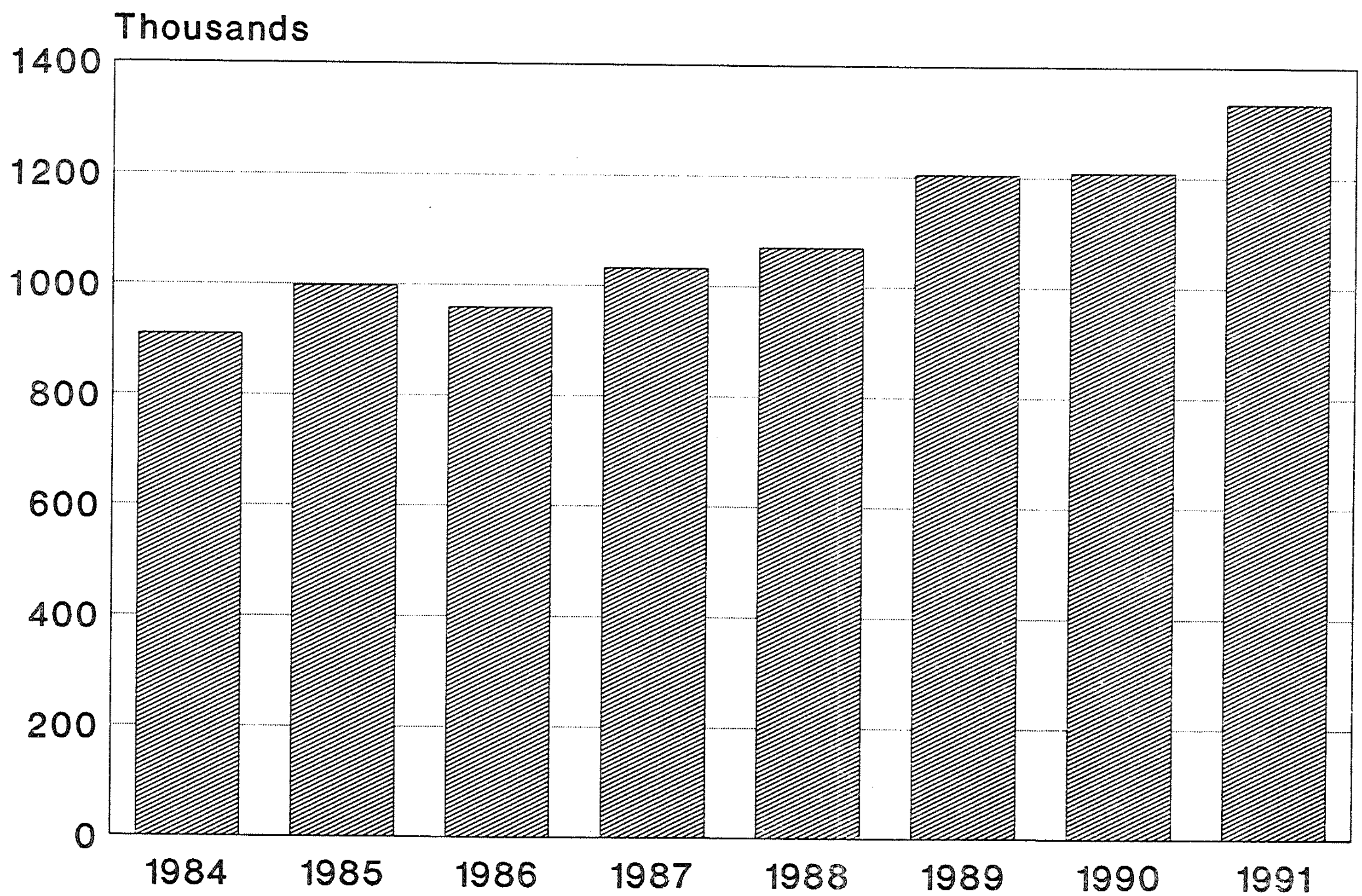
KANSAS RAIL ABANDONMENTS



Source: Bureau of Rail Affairs

INTERMODAL TRAFFIC IN KANSAS

Total Trailers and Containers

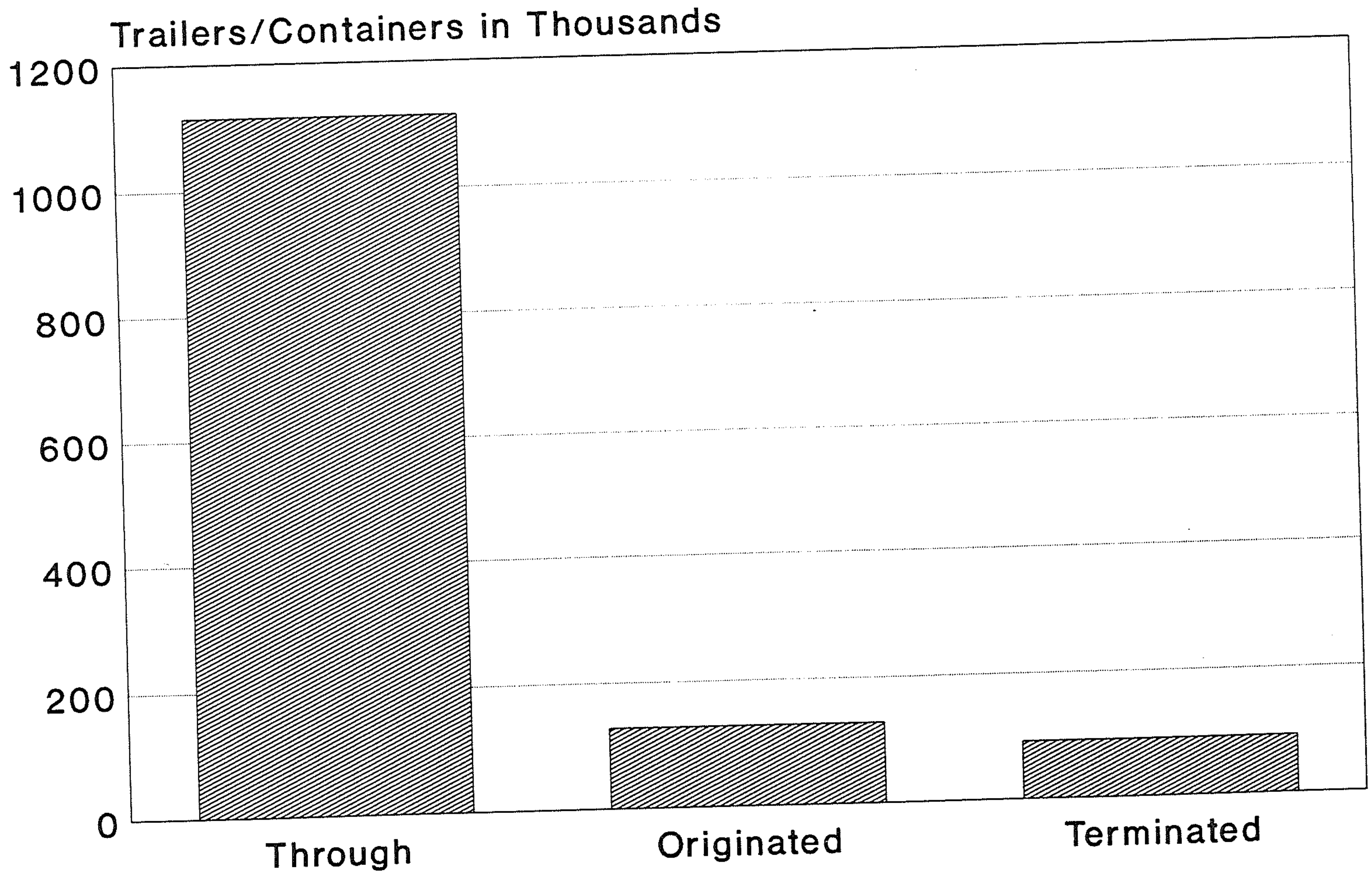


Source: ICC Carload Waybill Sample

14-8

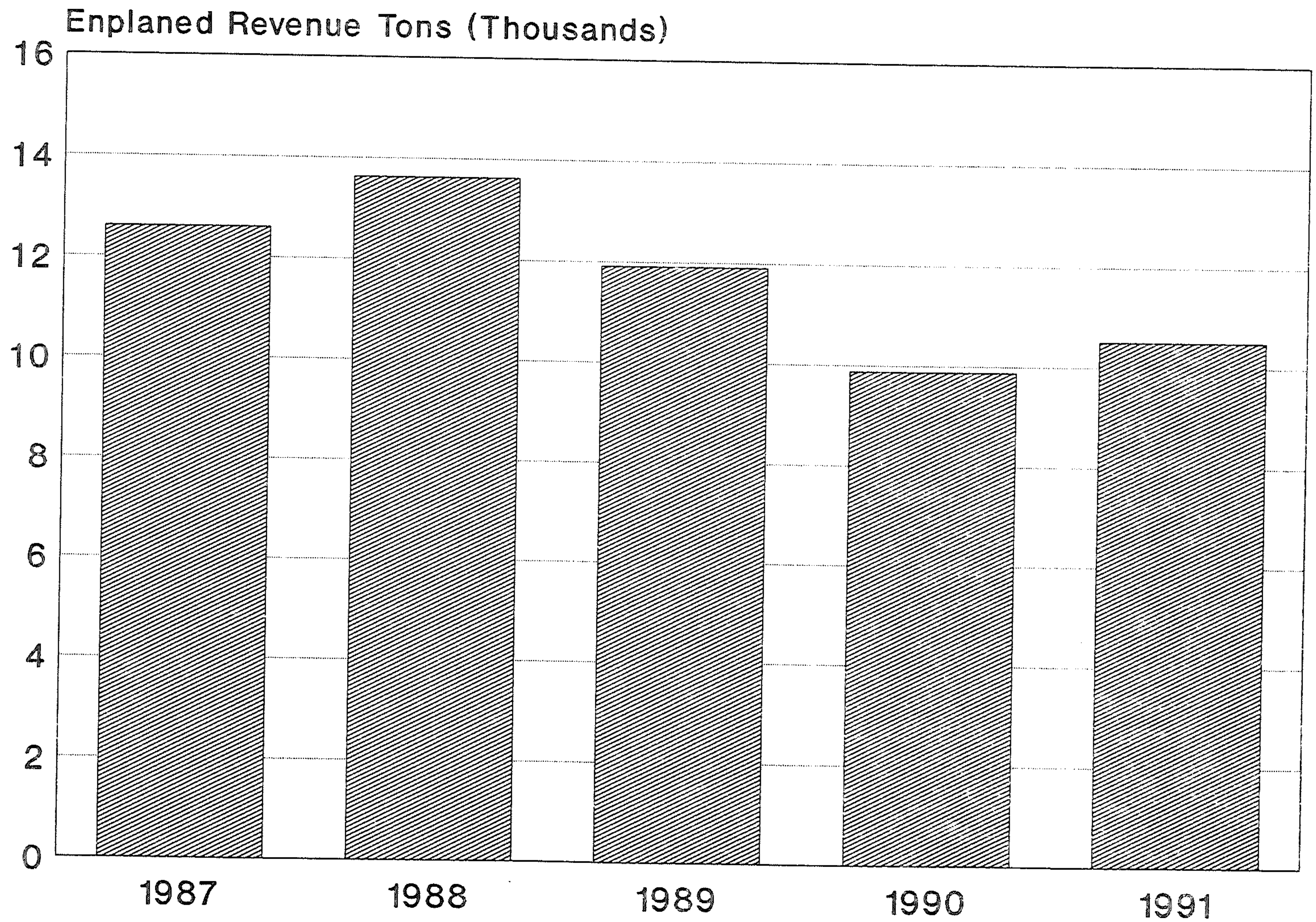
8-42

1991 INTERMODAL TRAFFIC IN KANSAS
By Movement Type



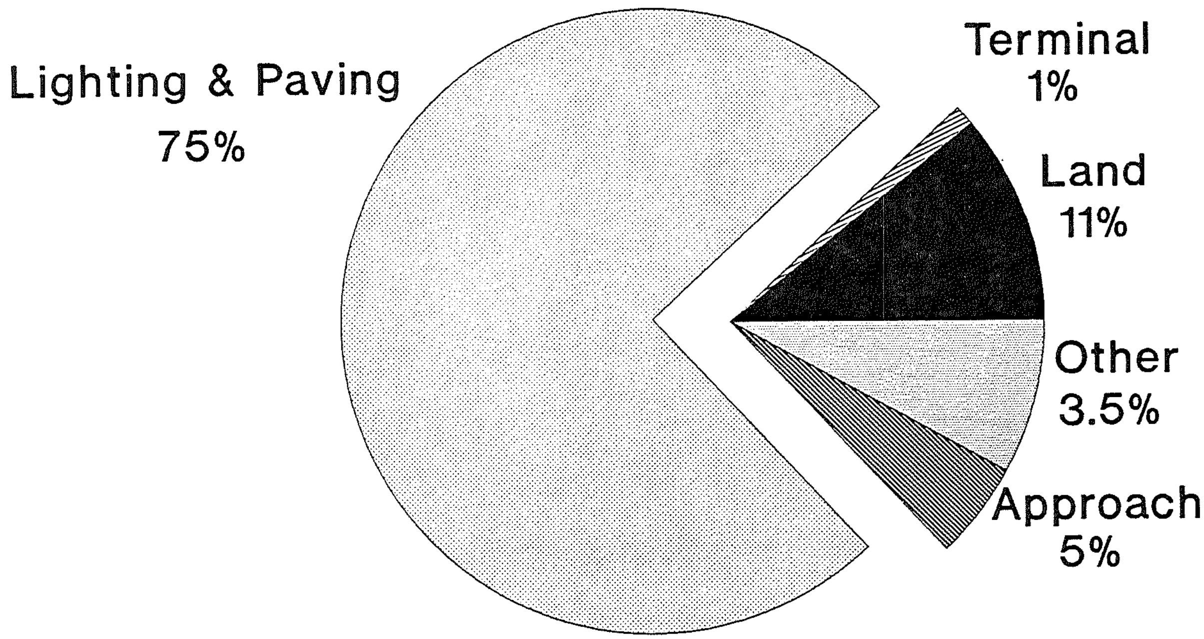
Source: ICC Carload Waybill Sample, 1991

KANSAS AIR FREIGHT



Source: FAA Airport Activity Statistics

KANSAS AIRPORT IMPROVEMENT NEEDS*
By Type



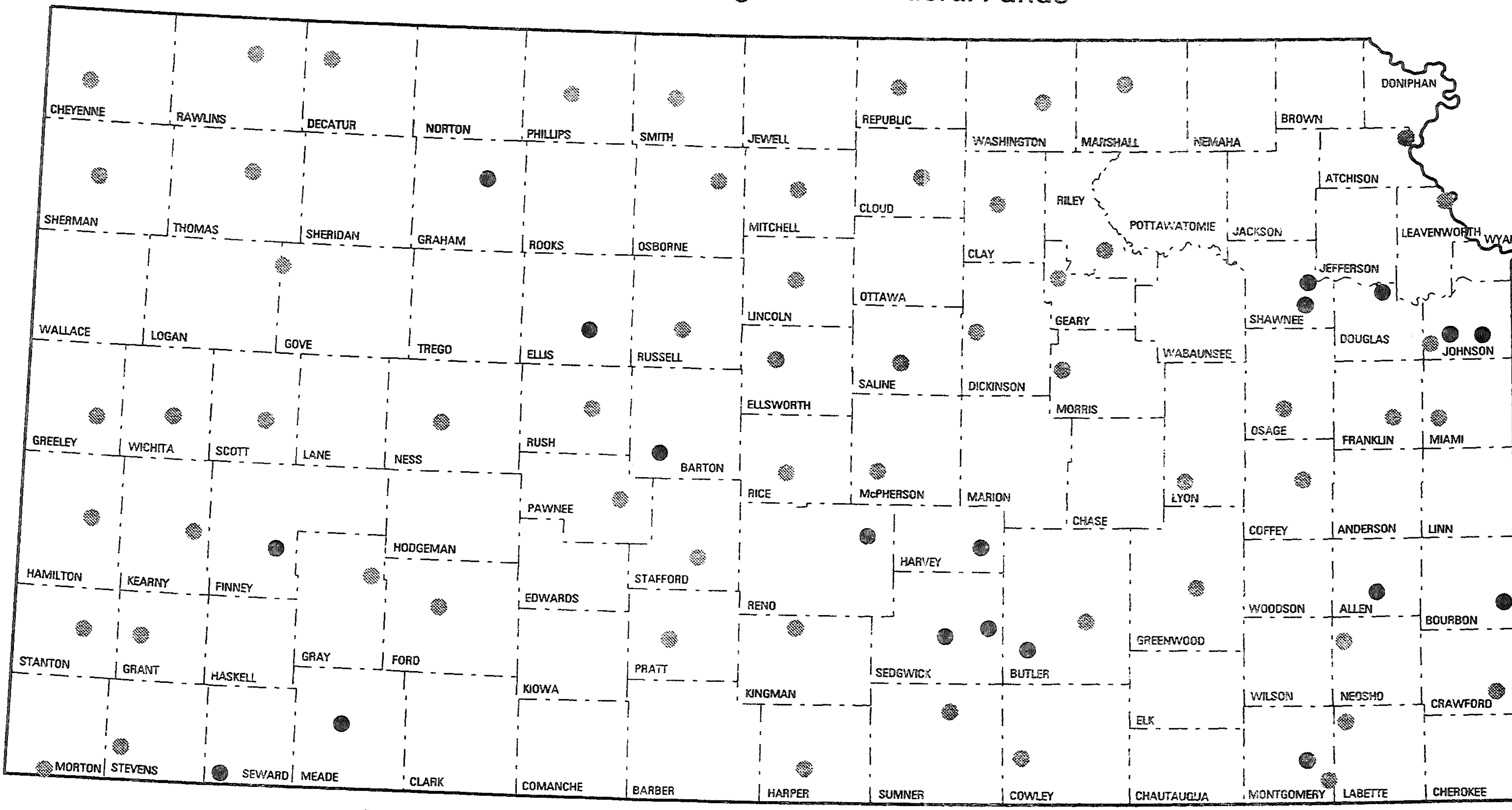
Total $185 Million

*Estimate of Existing or Proposed Airports

8.44

8-45

Kansas Airports Eligible for Federal Funds

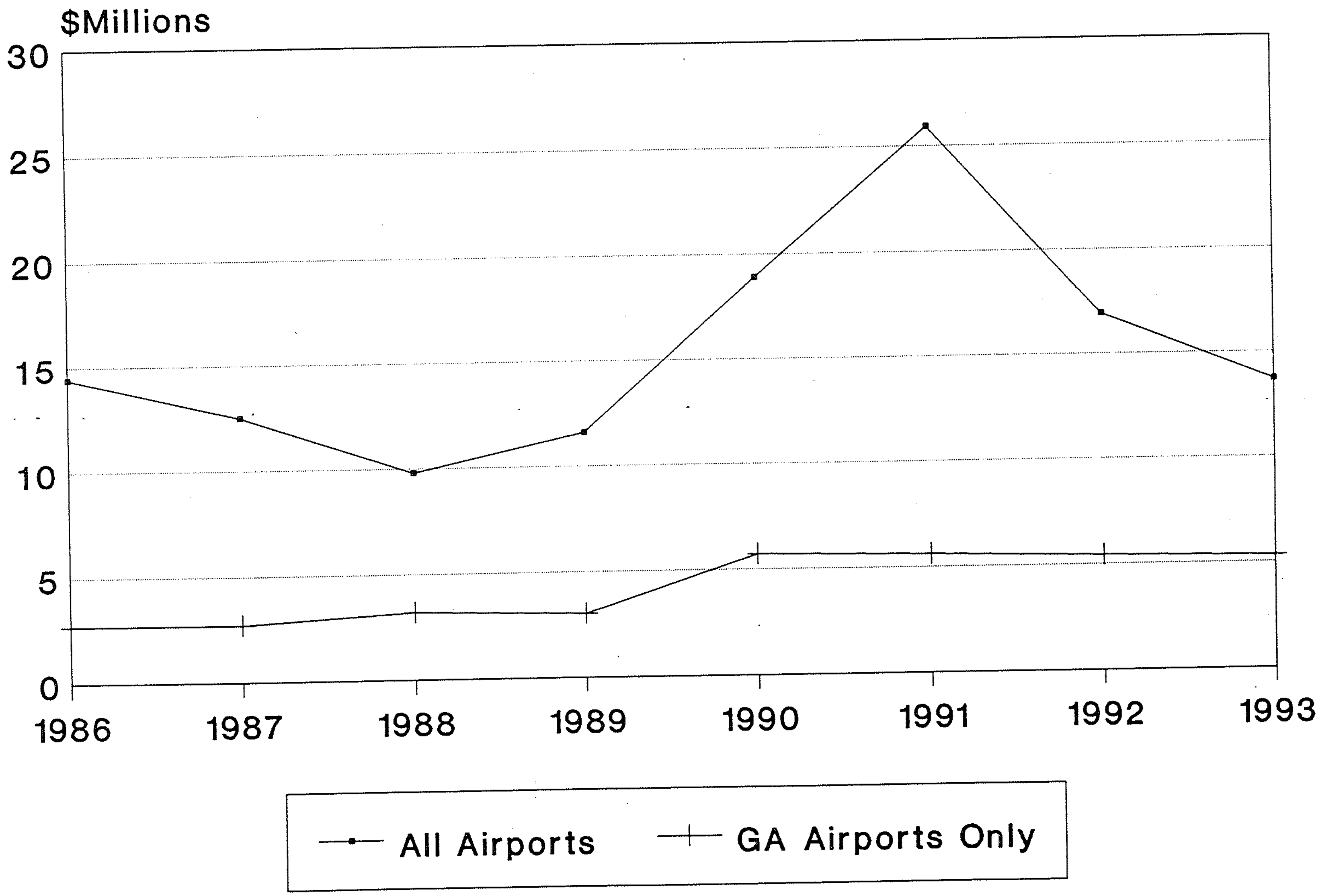


Eligible for Funding

Received Funding

PREPARED BY THE
KANSAS DEPARTMENT OF TRANSPORTATION
BUREAU OF TRANSPORTATION PLANNING
AND
DIVISION OF AVIATION
AIRPORT2.DGN JUNE 23,1993

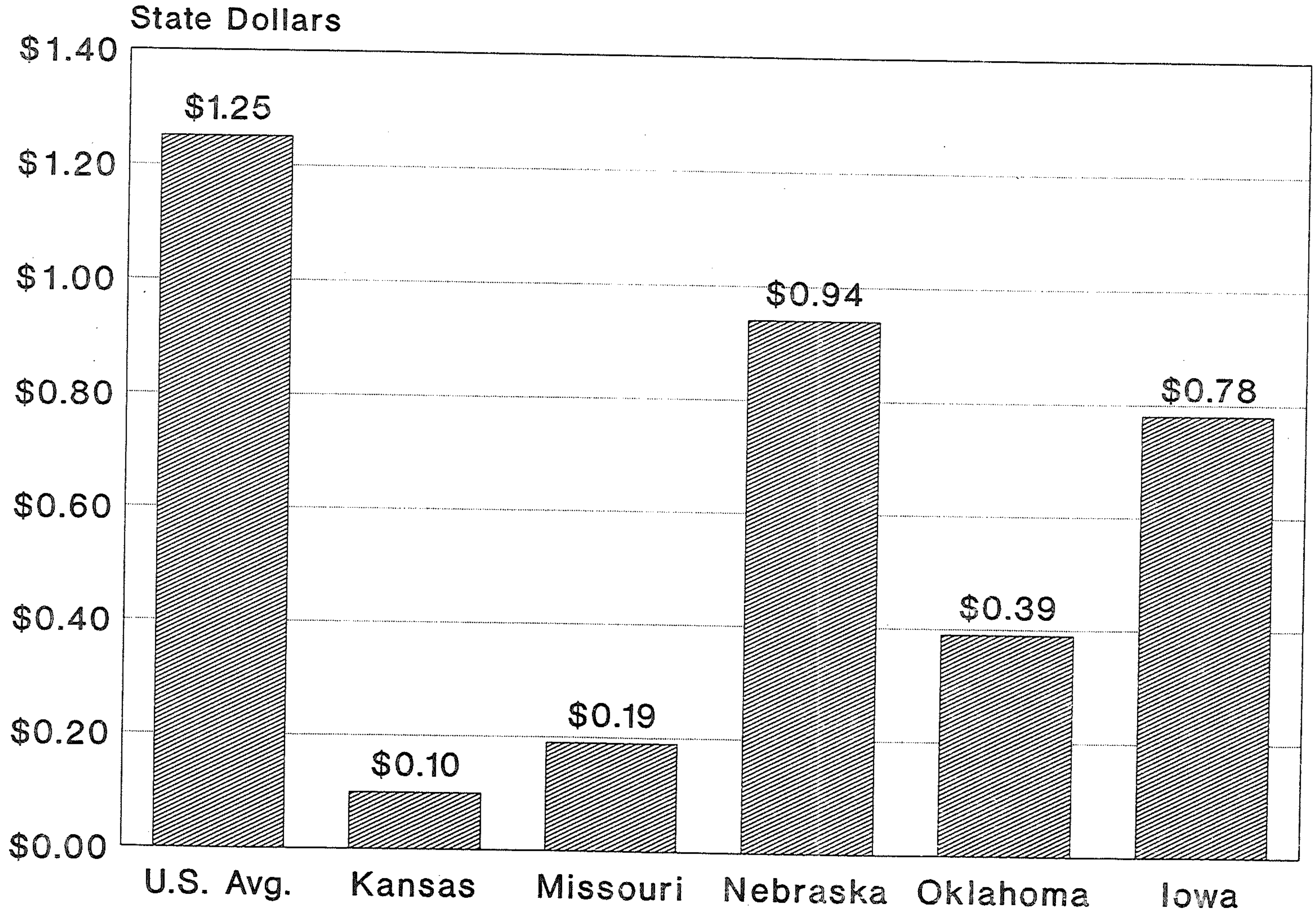
FEDERAL AID TO KANSAS AIRPORTS



8-46

8-47

STATE AVIATION SPENDING PER CAPITA*



*Based on 5-year average 1987-91

8-48

KANSAS PUBLIC TRANSPORTATION PROGRAMS

RURAL PUBLIC TRANSPORTATION

SPECIALIZED SERVICES

METROPOLITAN BUS OPERATIONS

KANSAS RURAL PUBLIC TRANSPORTATION

8-49

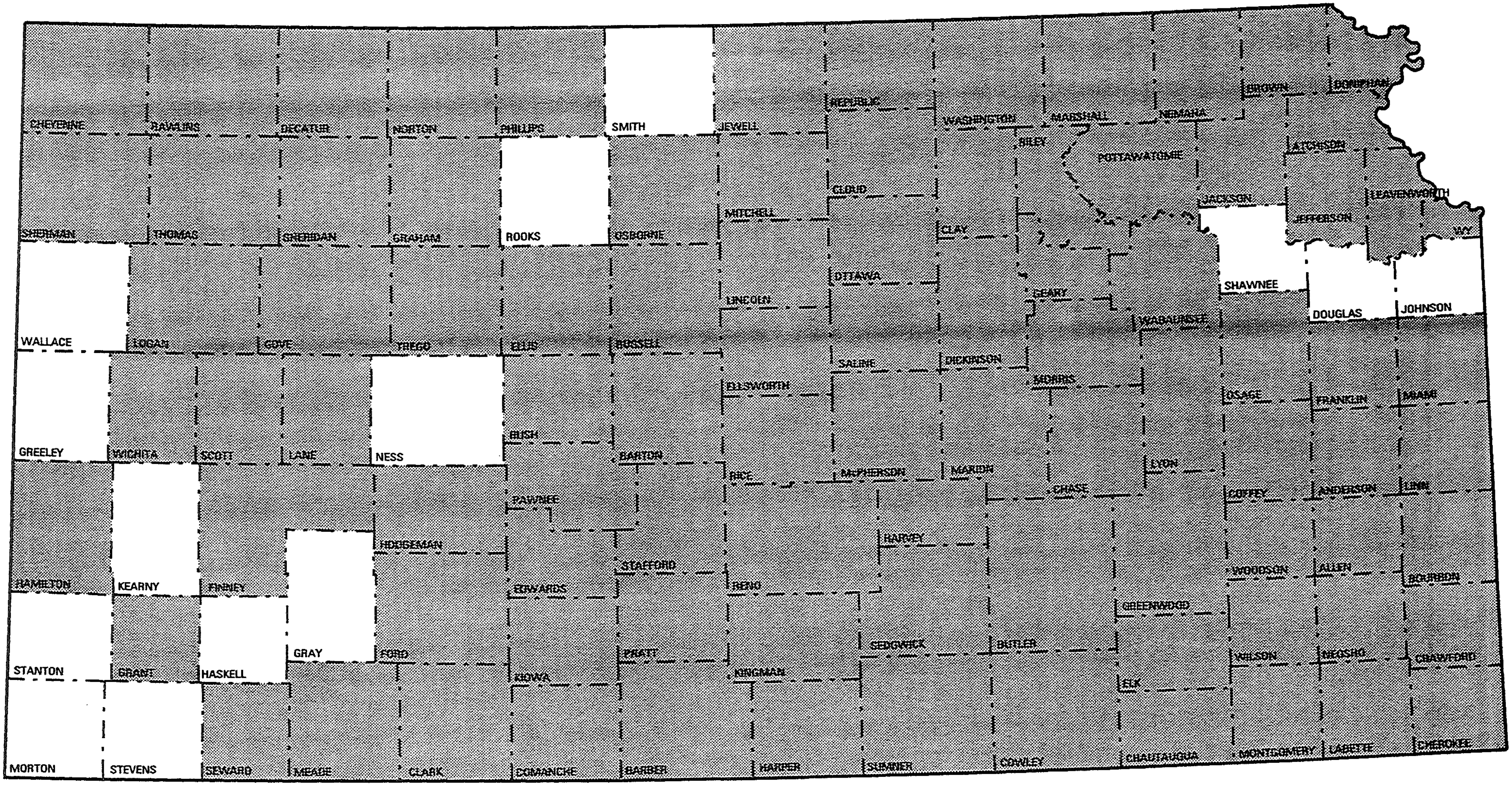
Provides Planning, Capital, Operating
and Administrative Assistance Grants
for Transportation of the General Public

Program Specifics:

331 Vehicle Fleet
115 Active Providers
91 Counties Served
Average 1 Million Riders/Year
Average 3 Million Miles Travelled/Year
$1.3 Mil. Approx. Federal Apportionment/Year

8-50

Counties Served by Rural Public Transportation Programs



8-51

KANSAS SPECIALIZED SERVICES

Provides Capital Assistance Grants for Transportation of Elderly Persons and Persons with Disabilities

Program Specifics:

134 Vehicle Fleet

66 Active Providers

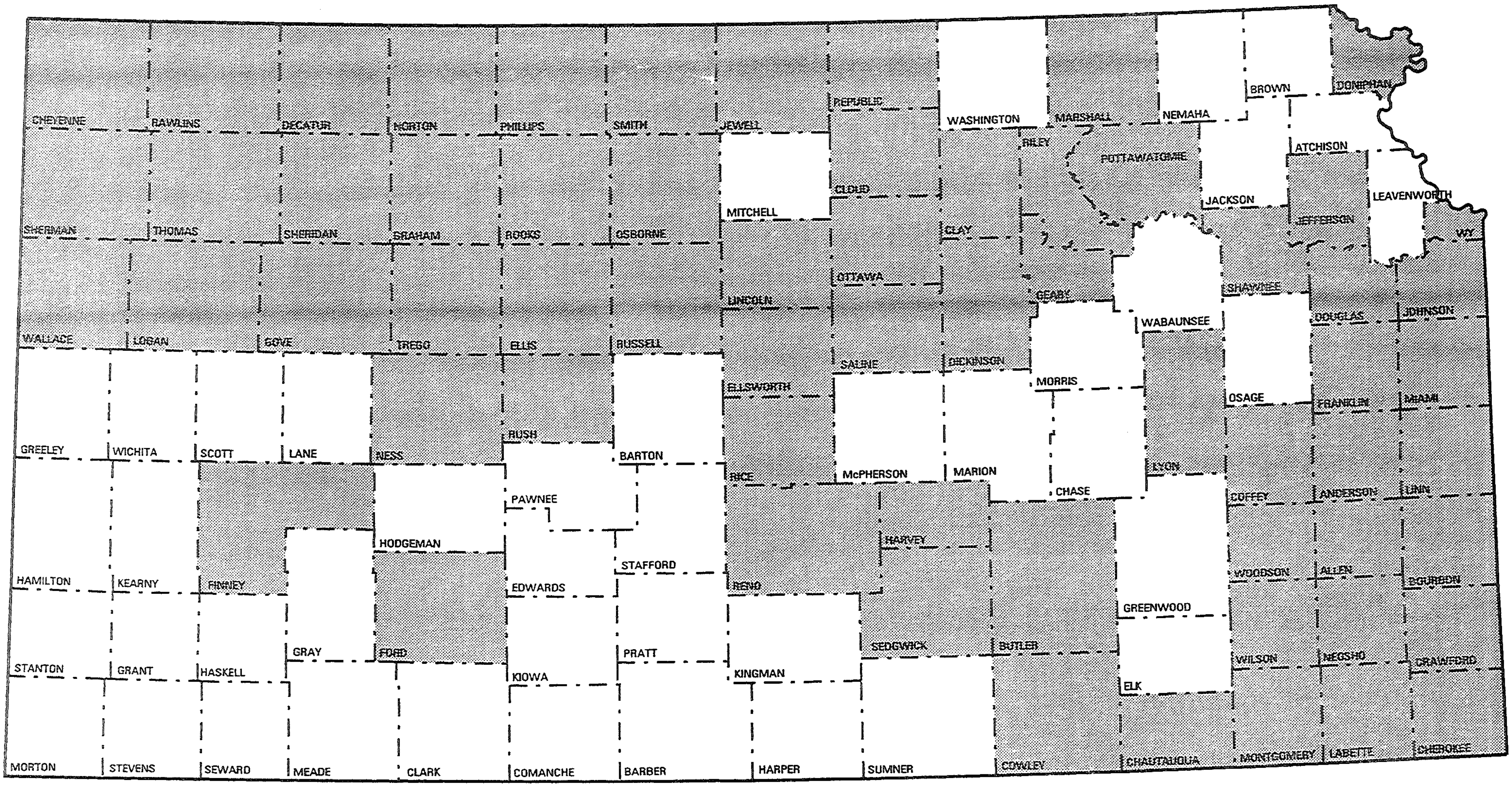
64 Counties Served

Average 1 Million Riders/Year

Average 2.5 Million Miles Travelled/Year

$530,000 Approx. Federal Apportionment/Year

Counties Served by Specialized Public Transportation Programs



8-53

KANSAS METROPOLITAN BUS OPERATIONS

Provides Planning, Capital & Operating Assistance Grants for the Urbanized Areas of Kansas City, Topeka and Wichita

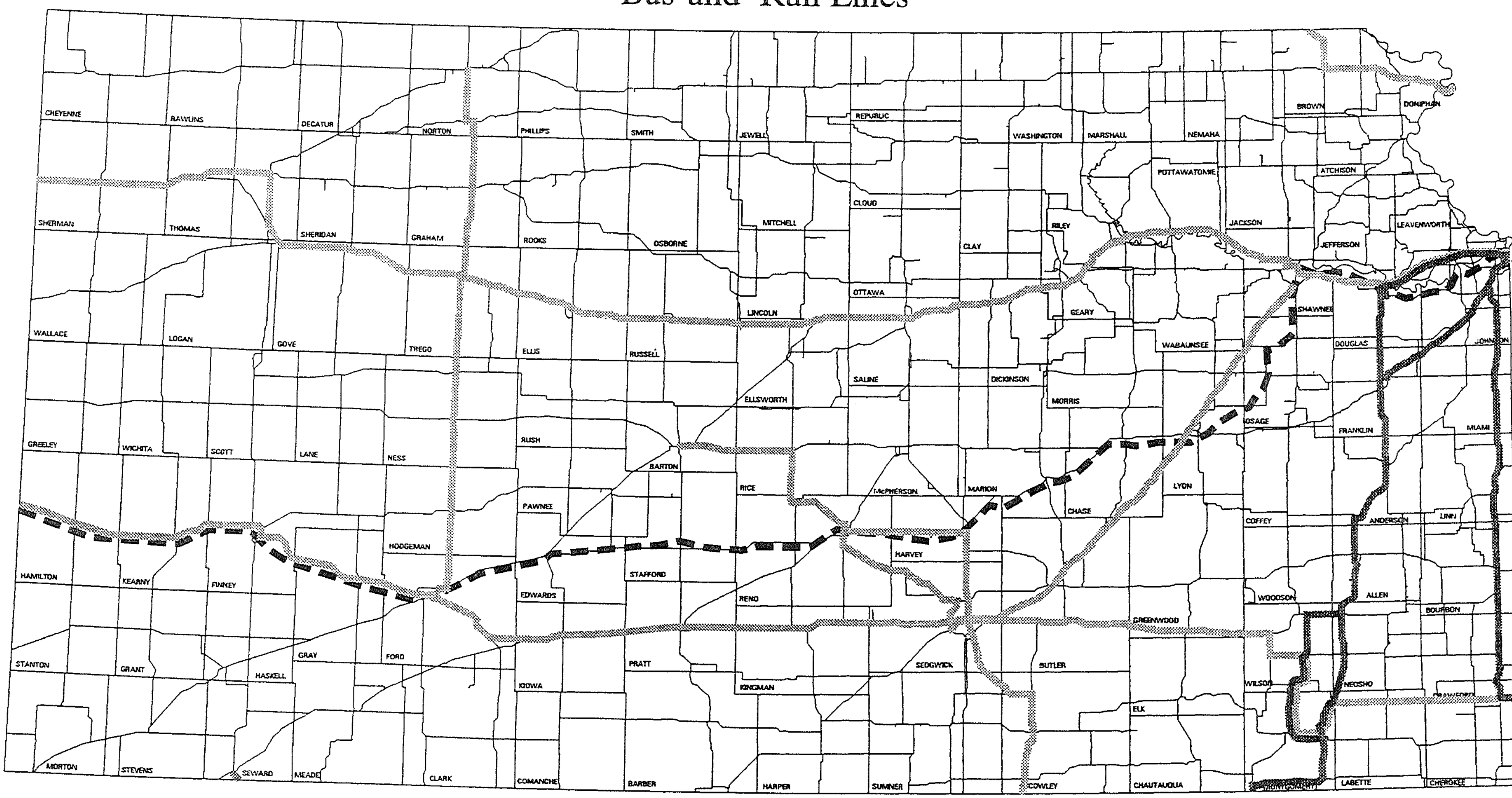
Program Specifics:

Program	Fleet Size	Ridership
Johnson County Transit	28	231,718
K.C. Area Transit Authority	17*	960,880*
K.C. Kansas Public Transit	21	323,886
Topeka Metro. Transit Authority	40	949,000
Wichita Metro. Transit Authority	52	2,375,000

*Kansas-Side Only

8.54

Intercity Passenger Transportation in Kansas
Bus and Rail Lines



Greyhound Lines
Jefferson Lines
TNM & O
Bickel Bus Lines
Viking Trailways
Hutchinson Bus Lines
Trailways Bus System
AMTRAK Rail Line

PREPARED BY THE
KANSAS DEPARTMENT OF TRANSPORTATION
BUREAU OF TRANSPORTATION PLANNING
BUSRAILDGN JUNE 17,1993
USING CANSYS DATABASE 3-93

KANSAS WATERWAYS

- 20 Commercial River Terminals on the Missouri River System in Kansas
- Sand and Gravel are the Commodities Most Frequently Transported
- Other Items Transported Include: Grain, Fertilizer, Scrap Steel and Molasses
- Commercial Navigation Season typically runs from late March to late November due to low water levels

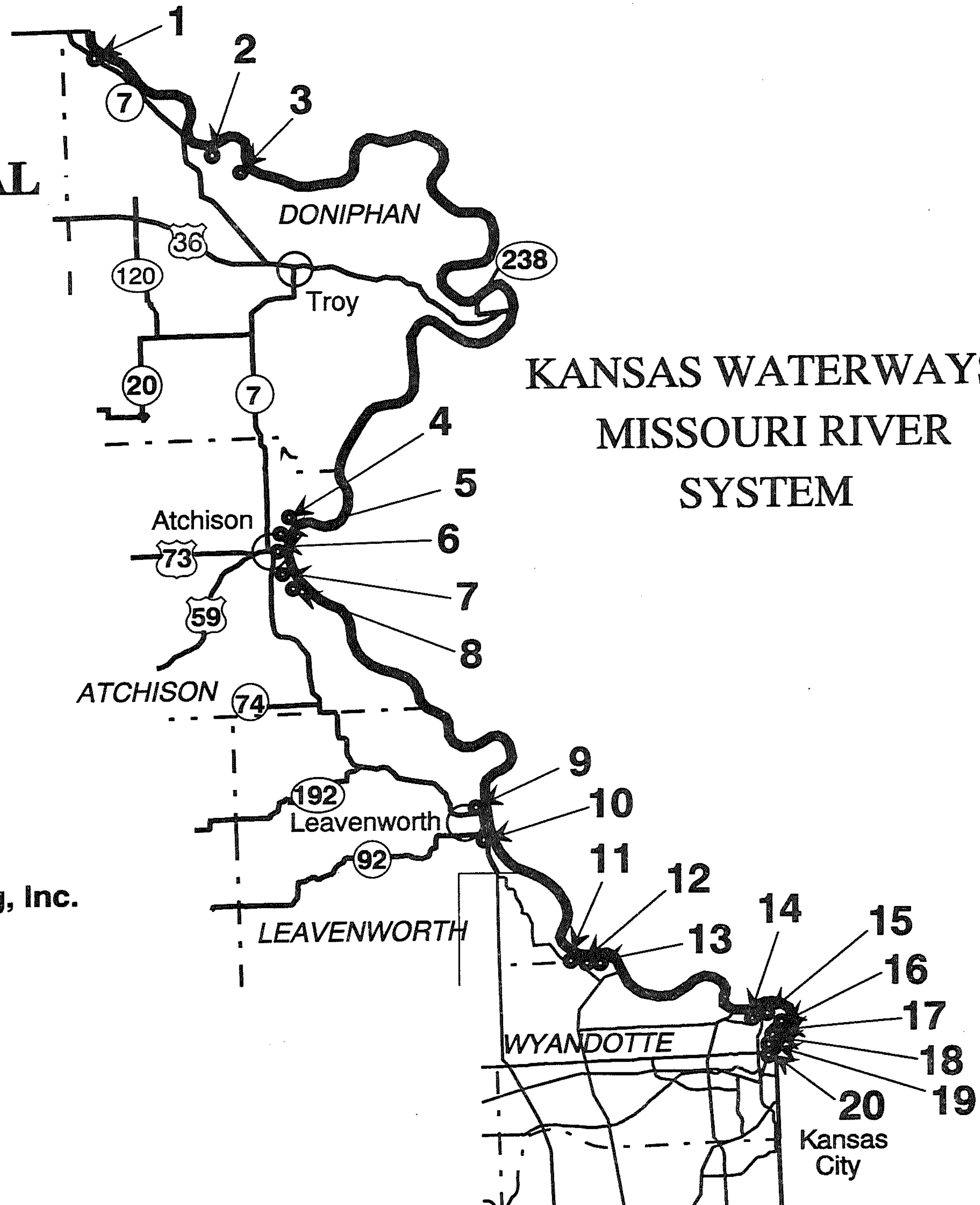
8-55

8-56

NON - RECREATIONAL PORT TERMINALS

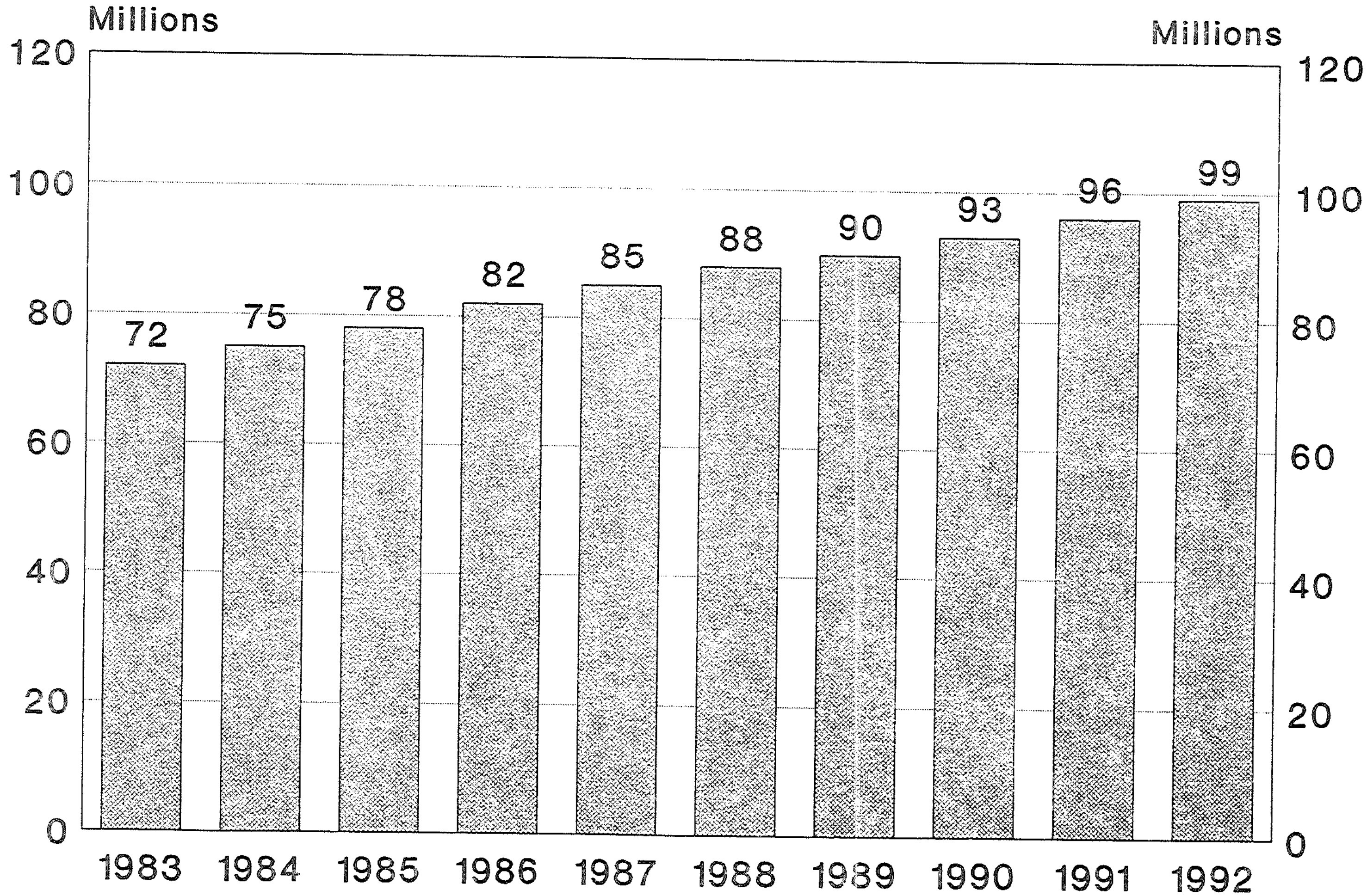
1 - White Cloud Grain Co.
2 - Buffalo Hollow Quarry
3 - Mount Vernon Quarry
4 - Mazcuk, Inc.
5 - Elders Grain Inc.
6 - Atchison Municipal Dock
7 - Atchison Dock
8 - Atchison Co-op Association
9 - U.S. Coast Guard
10 - Leavenworth Municipal Dock
11 - Smoot Grain Co.
12 - Cargill, Inc.
13 - Holiday Sand and Gravel Co.
14 - Union Equity Co-op
15 - Bennett Rodgers Pipe Coating, Inc.
16 - Williams Bros. Pipeline Co.
17 - Bartlett and Company, Inc.
18 - K.C., Kans. Public Terminal
19 - Missouri River Queen
20 - Amer. Compressed Steel Co.

KANSAS WATERWAYS MISSOURI RIVER SYSTEM



U.S. BICYCLE TRENDS

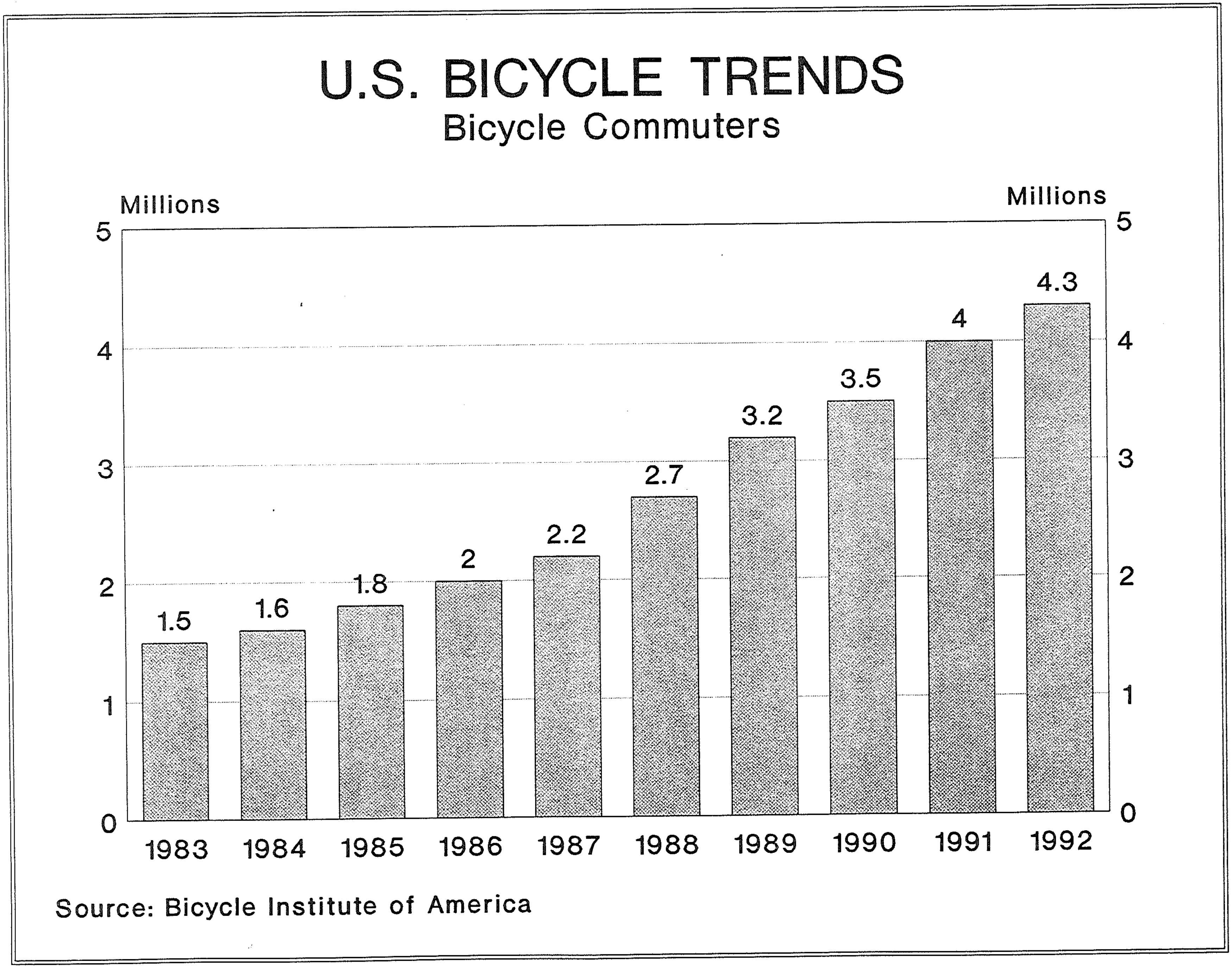
Total Bicyclists



Source: Bicycle Institute of America

8-57

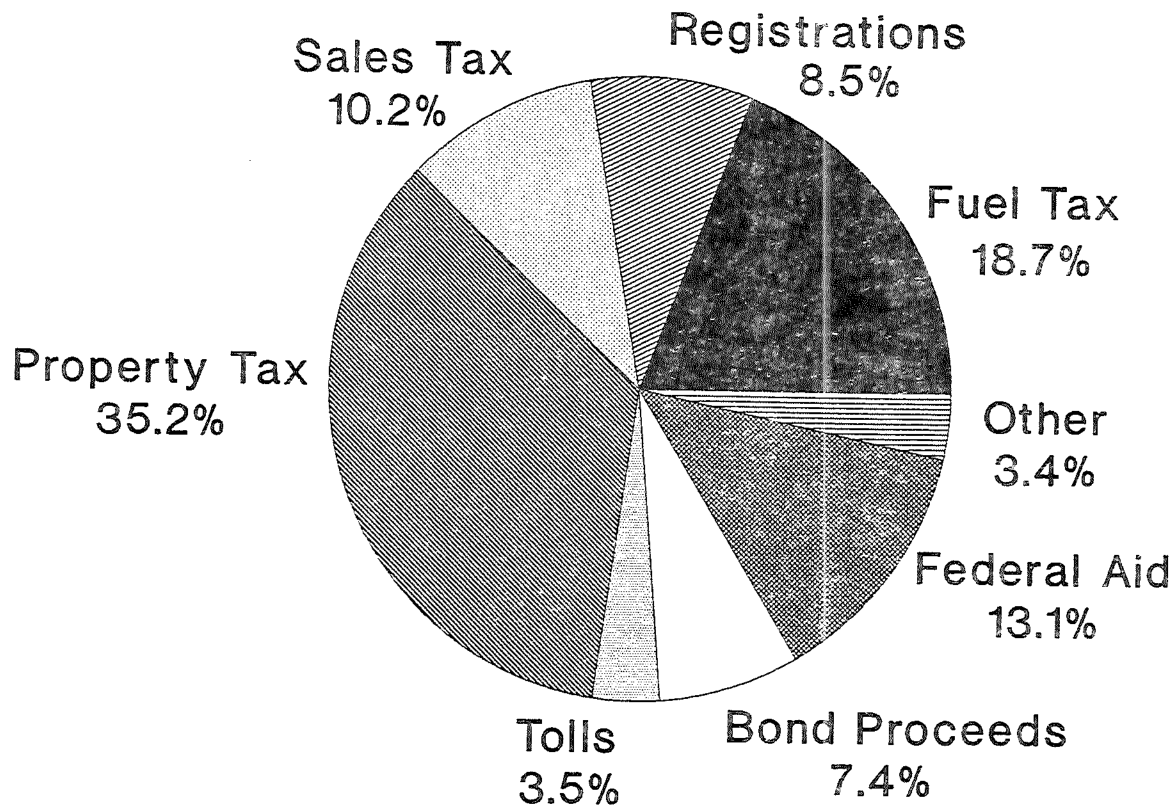
8-58



U.S. BICYCLE TRENDS
Bicycle Commuters
Millions
Millions
5
4
3
2
1
0
1.5
1.6
1.8
2
2.2
2.7
3.2
3.5
4
4.3
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
Source: Bicycle Institute of America

8-59

KANSAS ROADWAY RECEIPTS*
1991 Revenue By Source

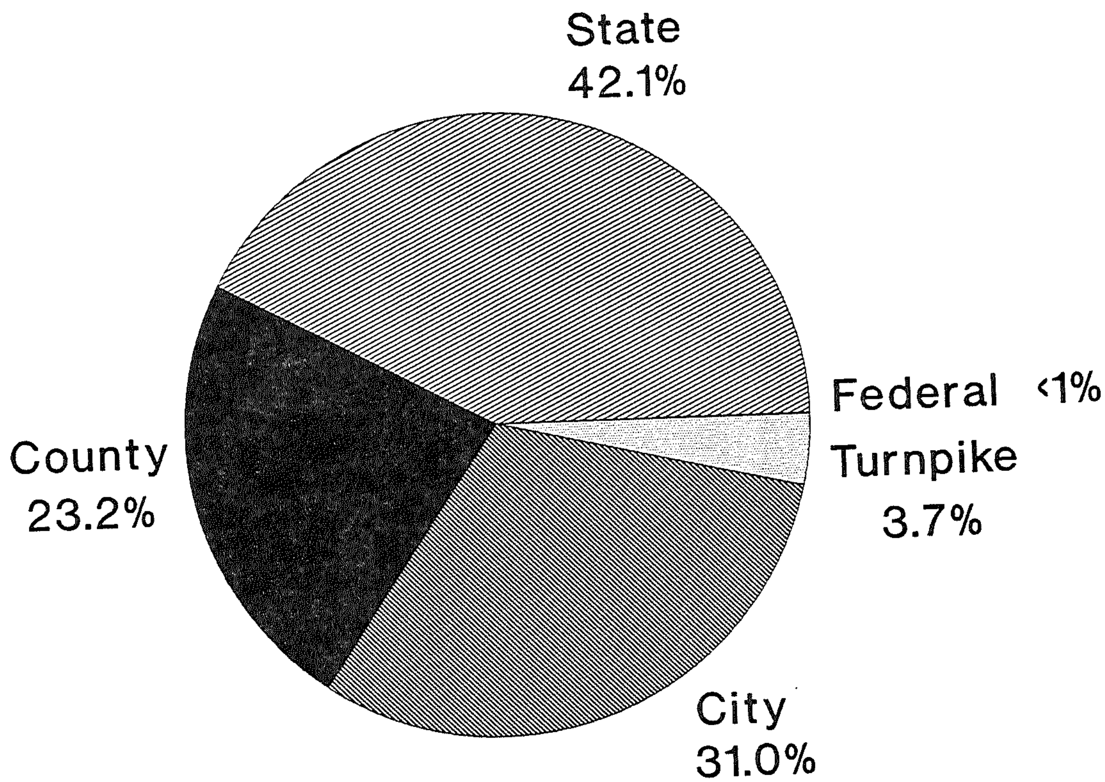


TOTAL $1.2 Billion

*All Units of Government

8.60

KANSAS ROADWAY RECEIPTS*
1991 Revenue By Jurisdiction

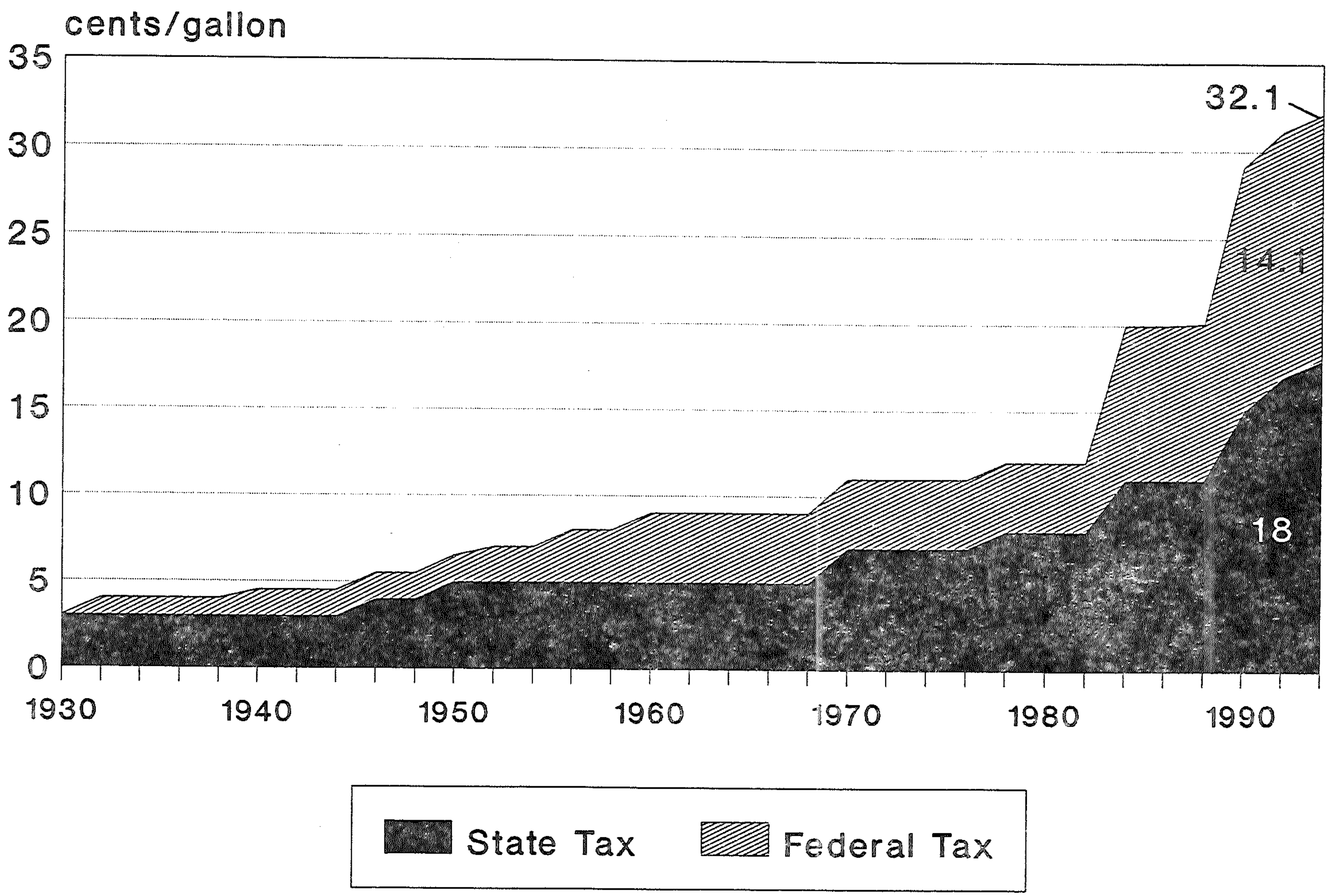


TOTAL $1.2 Billion

*All Units of Government

STATE AND FEDERAL FUEL TAX

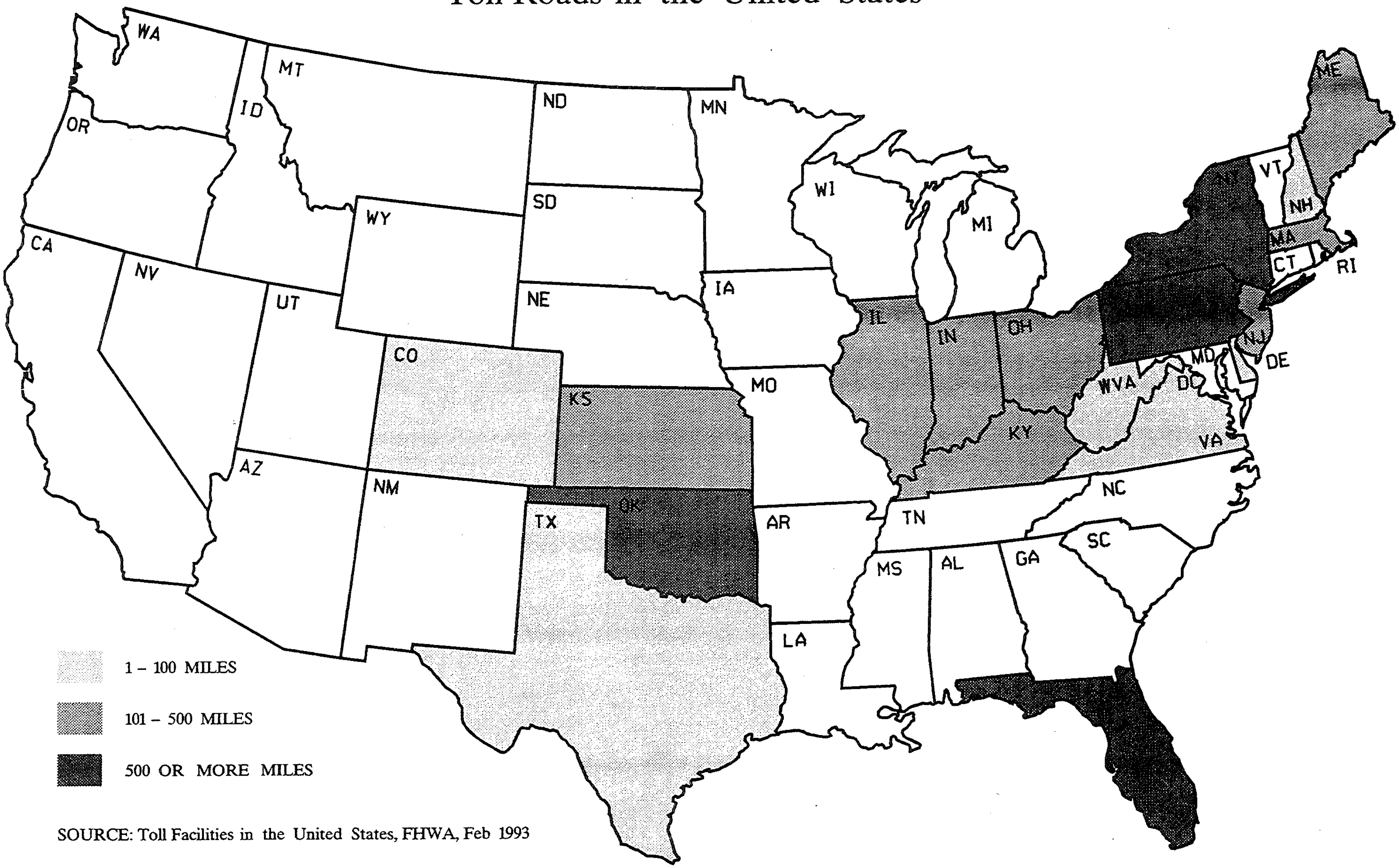
1930 - 1993



19-8

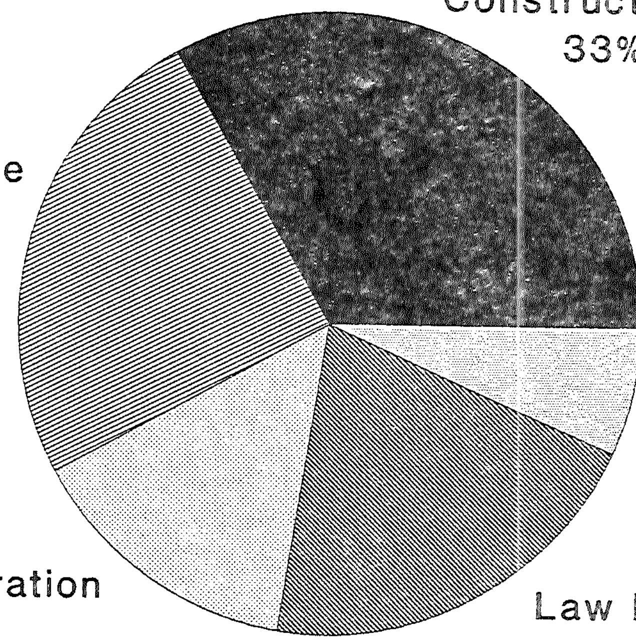
8-62

Toll Roads in the United States



SOURCE: Toll Facilities in the United States, FHWA, Feb 1993

KANSAS ROADWAY DISBURSEMENTS*
1990



TOTAL $1.1 Billion

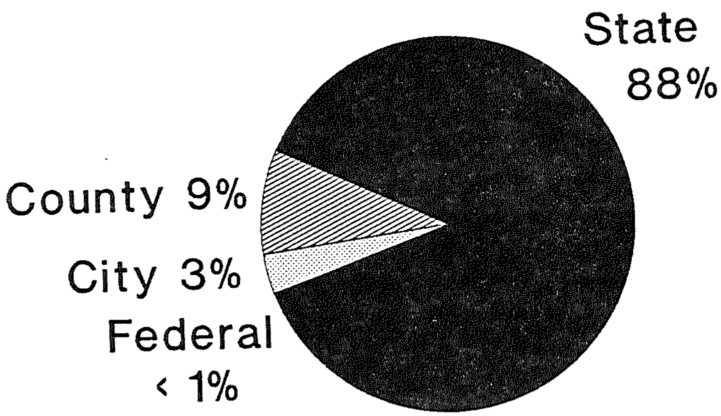
*All Units of Government

8-63

8-64

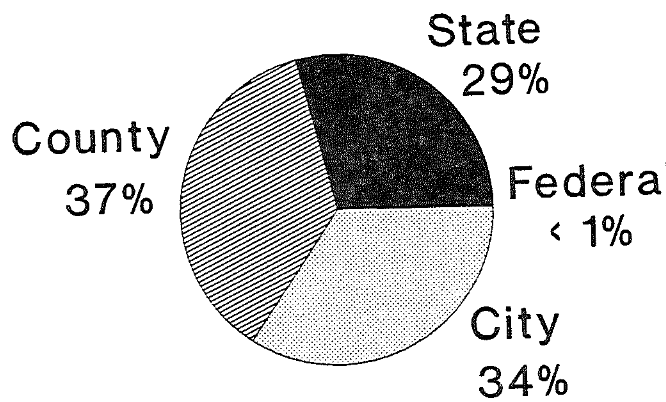
KANSAS DISBURSEMENTS 1990
CONSTRUCTION AND MAINTENANCE

CONSTRUCTION



TOTAL $368 Million

MAINTENANCE

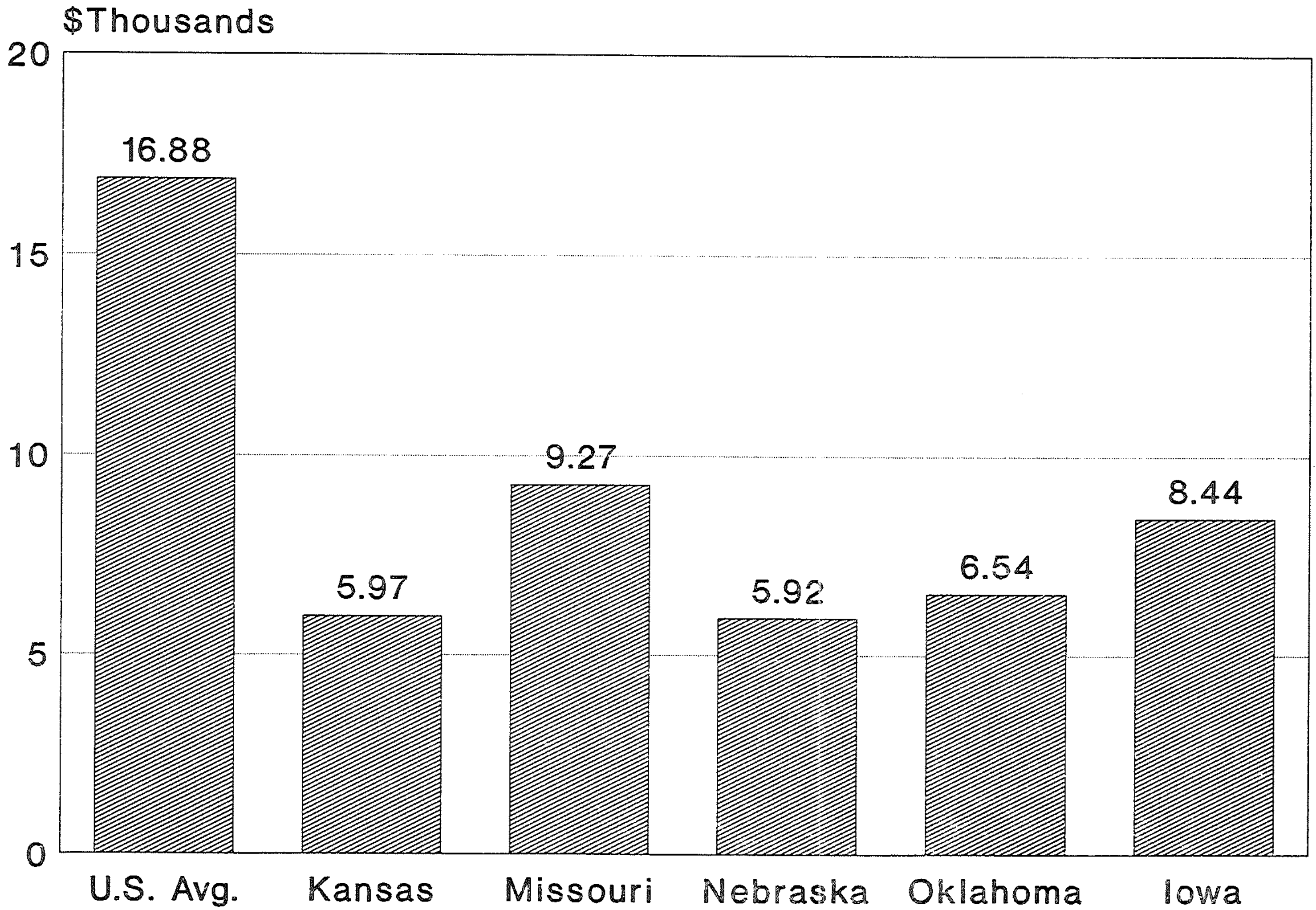


TOTAL $272 Million

*All Units of Government

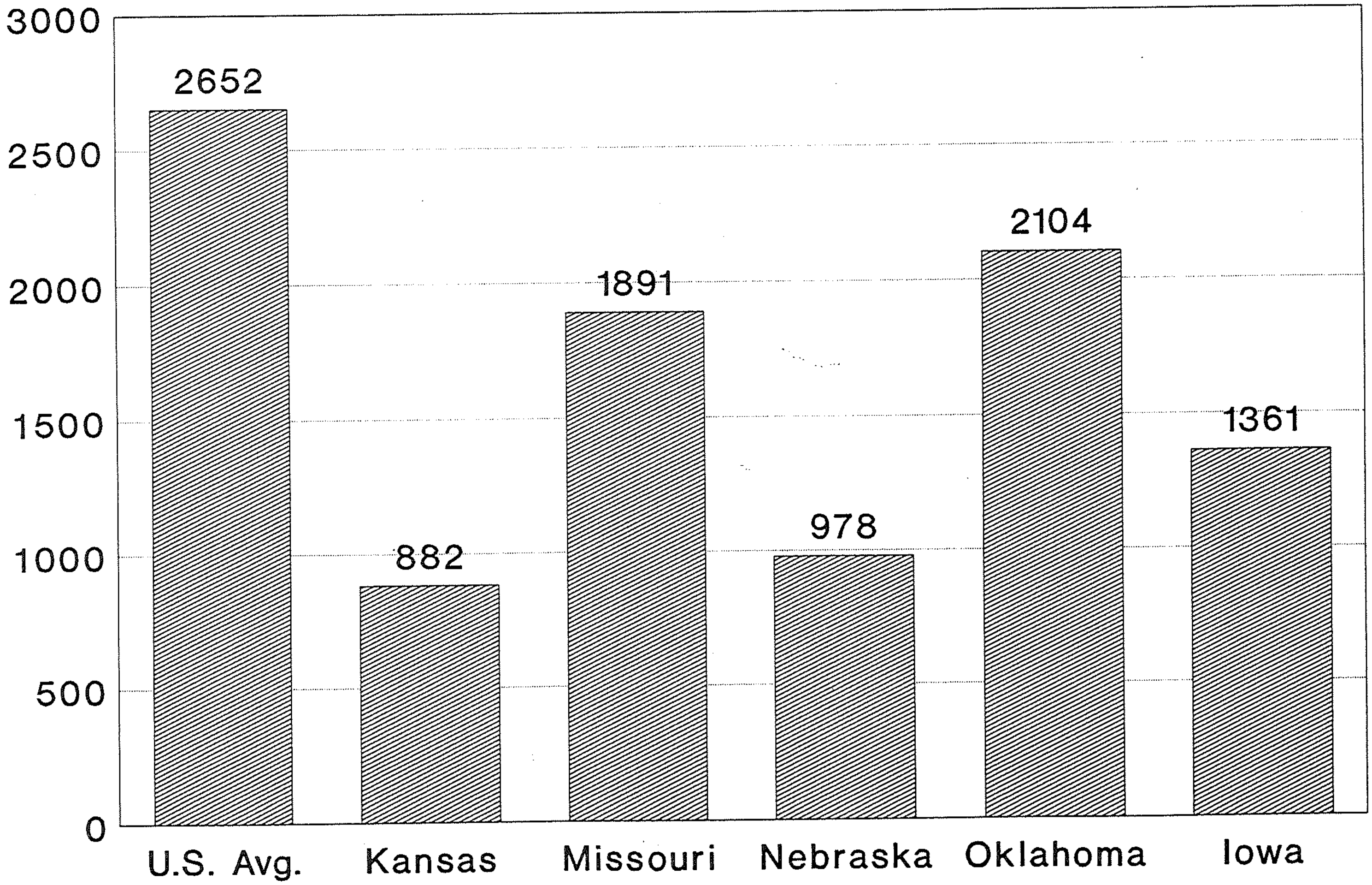
8-65

STATE RECEIPTS PER MILE OF ROAD*



*All public roads - all receipts

STATE AVERAGE DAILY TRAFFIC
On Rural Federal Aid Routes



99-8

KANSAS RANKINGS

- 4th in Public Road Miles
- 4th in Number of Bridges
- 4th in Rail Miles
- 18th in Number of Airports
- 32nd in State Population

8-67

FIVE KEY VARIABLES THAT AFFECT FUTURE TRANSPORTATION

- Demographics
- Economic Forces
- Energy
- Technology
- Environment

8-69

STATEWIDE WORKSHOP IN SALINA

Bicentennial Center

August 24, 9 a.m. to 4 p.m.

Alan Pisarski on Travel Behavior Issues

Breakout Sessions to develop a transportation agenda for Kansas

§ 450.214 Statewide Transportation Plan.

(a) **The State shall develop a statewide transportation plan for all areas of the State.** The portion of the plan in metropolitan planning areas shall be **developed in cooperation with the MPOs** and shall be consistent with the metropolitan transportation plans required under 23 U.S.C. 134. The **portion** of the plan for areas of the State **under the jurisdiction of an Indian tribal government shall be developed in cooperation** with such government and the Secretary of the Interior. The State shall **provide for public involvement** as the plan is being developed, as required under § 450.212. When the document, or documents, comprising the plan is completed or amended, **the State shall provide a mechanism to establish the plan as the official statewide transportation plan.**

(b) In addition, **the plan shall:**

(1) **Be intermodal** (including consideration and provision, as applicable, of elements or rail, waterway, and aviation facilities, particularly with respect to intercity travel) **and statewide in scope** in order to facilitate the efficient movement of people and goods;

(2) Be reasonably consistent in time horizon among its elements, but **cover a period of at least 20 years;**

(3) **Contain**, as an element, **a plan for bicycle transportation and pedestrian walkways** in appropriate areas of the State which is interconnected with other modes;

(4) **Reflect those (23) factors** to which substantive **consideration** was provided under § 450.208;

(5) **Reflect substantive coordination** provided under § 450.210 of this part;

(6) **Reference, summarize** or contain any applicable short range **planning studies, strategic planning** and/or **policy studies**, transportation **need studies, management system reports** and any statements of policies, **goals and objectives that were significant to development of the plan**; and

(7) **Reference, summarize** or contain information on the **availability of financial and other resources needed to carry out the plan.**

(c) The plan may be revised using the procedures in this section for development and establishment of the plan.

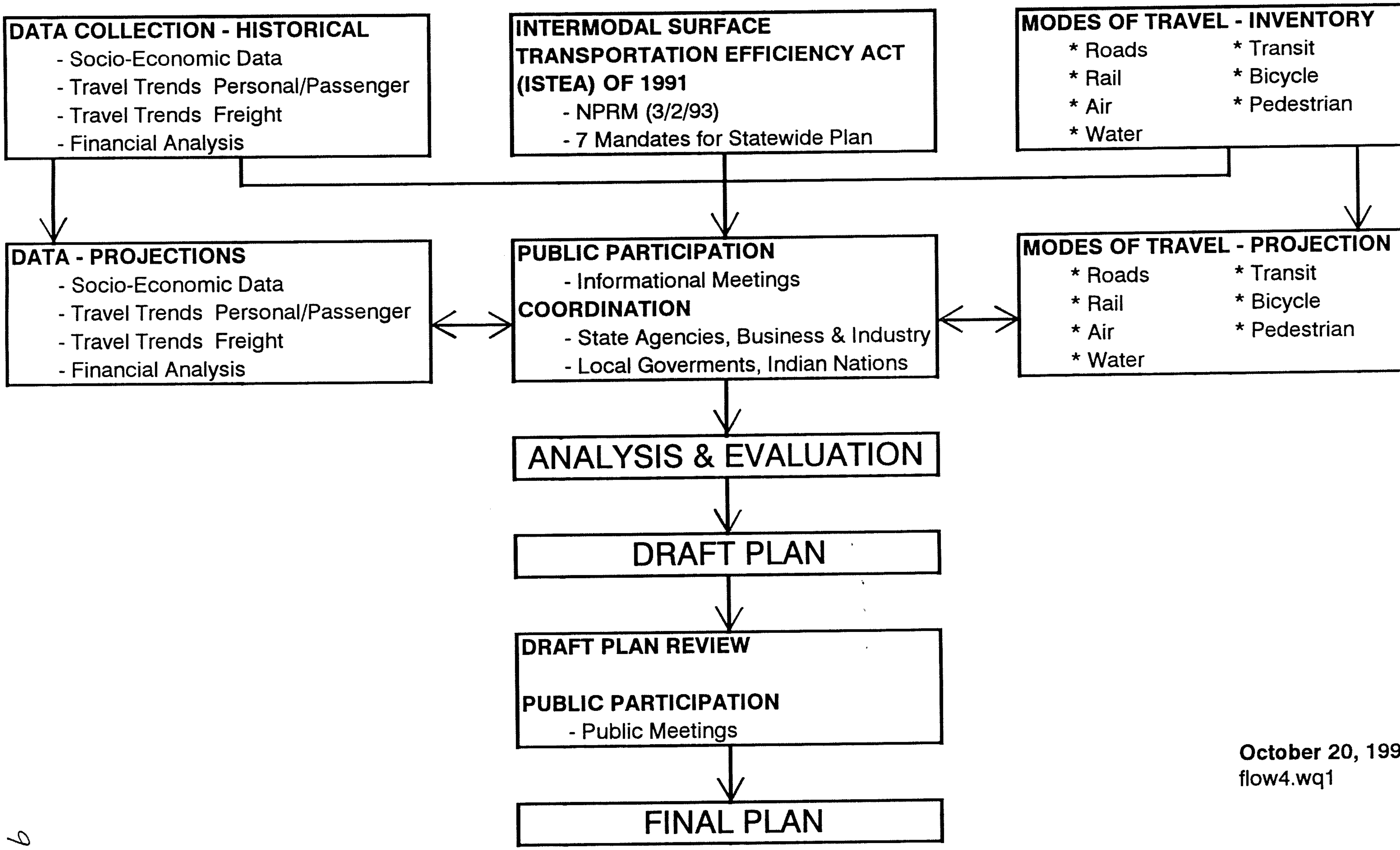
Senate TRANSPORTATION & Utilities
Nov. 1-2, 1993
Attachment #9

Kansas's Long-Range Transportation Plan

Issues to be considered throughout the statewide planning process:

- Management systems for pavement, bridges, safety, congestion, intermodal facilities and public transportation
- Federal, state and local energy goals
- Strategies for incorporating bicycle and pedestrian facilities
- Access to border crossings, ports, airports, recreation areas
- Transportation needs in non-metropolitan areas
- Metropolitan transportation plans
- Connectivity of metropolitan areas
- Recreation travel and tourism
- State water pollution plans
- Overall social, economic, energy and environmental effects of transportation decisions
- Methods to reduce congestion and to prevent traffic congestion
- Methods to expand and enhance transit ridership
- Effects on land use decisions and land development
- Innovative finance methods
- Preservation of rights-of-way for future transportation projects
- Long-range transportation needs
- Life-cycle costs in the design of transportation facilities
- Public involvement in the transportation planning process
- Air quality impacts
- Concerns of the Indian tribal governments

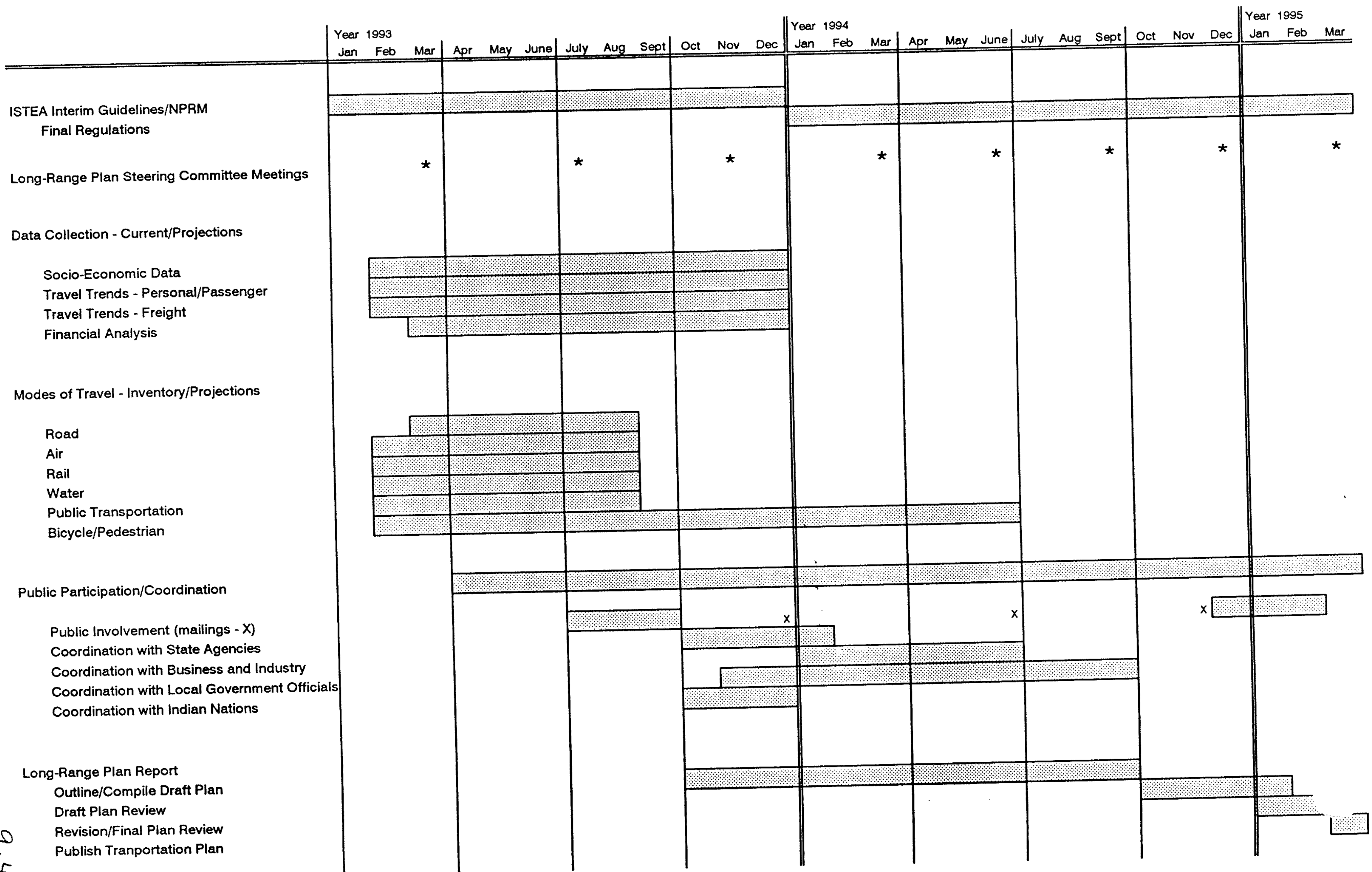
KANSAS LONG-RANGE TRANSPORTATION PLAN



October 20, 1993
flow4.wq1

Kansas Long-Range Transportation Plan - Schedule

10/20/93 pltime6.wq1



Kansas Department of Transportation
Public Participation - Coordination

Early Public Involvement

10 Informational Meetings throughout the State --
August 10-18, 1993 - 283 participants

Statewide Workshop in Salina --
August 24, 1993 - 120 participants

Slide presentation to civic groups --
On-going activity

Coordination with State Agencies

Meetings with state agencies to discuss to transportation related concerns --
November and December 1993

Kansas Department of Wildlife and Parks
Kansas Board of Agriculture
Kansas Water Office
Kansas Corporation Commission
Kansas Department of Social and Rehabilitation Services
Kansas Department on Aging
Kansas Department of Commerce and Housing
Kansas Department of Health and Environment
Kansas Board of Education
Kansas Highway Patrol
Kansas Department of Revenue
Kansas Historical Society

Coordination with Business and Industry

Regional meetings with business and industry leaders --
January to March 1994

Coordination with Local Government Officials

Meet with city and county officials dealing with transportation --
Fall 1993 and throughout 1994

Coordination with Indian Nations

Visit State's four Indian Nations and meet with leaders to discuss transportation issues --
Fall 1993

(Handout available at the Informational Meetings and Statewide Workshop)

THE FUTURE OF KANSAS TRANSPORTATION
Where Do We Go From Here?

1. **Should the focus for highway improvements be placed on maintaining the existing system, or should the focus be on fewer, but more major, improvements?**

   • *In the Kansas Comprehensive Highway Program, Substantial Maintenance projects are designed to protect the State's investment in the highway system by preserving existing roadways and bridges. From 1990 to 1997, an estimated $643 million will be spent for construction of Substantial Maintenance projects.*

   • *Major Modification projects go beyond preservation and focus on extending service life and enhancing the operational and safety characteristics of the roadways. In the same eight-year period, an estimated $1.8 billion will be spent on Major Modification projects.*

2. **How should highway construction be financed?**

   • *State sources of highway funds include motor fuels tax, sales tax, vehicle registration fees, and a number of miscellaneous fees such as drivers' license fees, mineral royalties and signboard permit fees. In addition, the 1989 Kansas Legislature authorized up to $890 million in revenue bond sales through FY 1997.*

   • *Federal funds for highway construction are distributed annually to the State and local units of government.*

3. **Should the State provide more or less funding for cities and counties to support roads which are a local responsibility?**

   • *The Kansas Comprehensive Highway Program has, for several years, included a number of Local Partnership Programs in which a project's cost is shared by the State and the local unit of government. One program requires a 50 percent match in local funds, and State funds are limited to a maximum of $100,000 per project. Another program requires local matching funds on a sliding scale based on the city's population.*

   • *Concerning Federal funds, KDOT has a long-standing policy for sharing the funds with cities and counties. In FY 1992, counties received 10.5 percent of the total Federal funds, small urban areas received 5.1 percent and metropolitan areas received 2.4 percent. Also, about 40 percent of the State motor fuels tax collected in Kansas is returned to cities and counties.*

4. **Should the State pursue the development of additional toll roads for new facilities or for improved existing facilities?**

• There are currently 18 states which have toll roads. New York has the greatest number of toll miles, 588, followed by Oklahoma at 553. Kansas, with the Kansas Turnpike, ranks 9th among the 18 states, with a total of 236 miles.

5. **Should the State actively seek to preserve corridors for future transportation development?**

• Corridor preservation programs can reduce costs and displacements, minimize environmental and economic impacts, prevent the loss of desirable locations, and permit orderly project development by preserving the right-of-way for future highway development.

• The preservation of corridors requires costly environmental studies and right-of-way purchase long before the construction of a highway actually occurs.

• Thirteen states, including Nebraska, Iowa and Missouri, have adopted corridor preservation legislation.

6. **Should the State implement stricter access management measures on existing routes to maintain the efficient flow of traffic in the future?**

• Access management programs are directed towards protecting the capacity and operational integrity of an existing highway.

• KDOT has an Access Management Policy which requires anyone desiring to construct a driveway connecting to a State Highway to obtain a permit.

• In order to maintain safe and efficient traffic flow, stricter access control measures will most likely include limits on the number and location of driveways.

7. **In urban areas, should strategies which reduce the demand for transportation, such as increased parking fees, ridesharing/carpooling, and restricted land use, be employed to reduce congestion and improve air quality?**

• A number of states, including Oregon, Washington, Florida, New Jersey, and California, have enacted land use or growth management laws that require state or regional land use planning. Oregon uses growth management to control urban sprawl and cut public works costs. All Oregon cities and counties have State-approved comprehensive plans.

• California requires a congestion management plan, with trip reduction targets, for all counties that contain at least one city with a population of 50,000 or more.

8. **Should the State place more emphasis on the funding of airport planning, maintenance and improvements?**

- *At this time, Kansas is constitutionally prohibited from investing State funds in internal airport improvements. The State does spend funds on planning for airports, however.*

- *In comparison to other states which spend, on the average, $1.25 per capita in State funds for airport planning, maintenance and improvements, Kansas spends only 10 cents.*

9. **Should the State take an active role in the preservation of rail service?**

- *Kansas ranks fourth in the total number of rail miles, following Texas, Illinois and California.*

- *Since 1980, 926 miles of rail line have been abandoned in Kansas.*

- *Since 1988, one-third of Kansas' rail lines operations have been transferred from major railroads (Santa Fe, Union Pacific) to shortline operations (Kyle, Central Kansas, South Kansas and Oklahoma).*

- *Some states, including Nebraska and Oklahoma, own rail lines and lease them.*

10. **Should the State provide more funding for Public Transportation?**

- *There are three public transportation programs: the Section 9 program provides public transportation for urban areas; the Section 16 program provides specialized transportation services for older adults and the disabled; and the Section 18 program provides public transportation in rural areas of the State.*

- *In FY 1992, Kansas contributed $390,000 in State funds for the three programs.*

- *This amount compares with $1.5 million in Nebraska and Missouri; $1.9 million in Oklahoma; $5.9 million in Iowa; and $38.5 million in Minnesota. Conversely, six states, including Colorado, do not fund public transportation programs with State dollars.*

11. **What level of emphasis should the State place on bicycle and pedestrian projects?**

- *In 1992, KDOT established a Bicycle Coordinator position in the agency. The same year, 61 applications for Federal funds for bicycle and pedestrian projects were submitted to KDOT; 21 were selected for funding at a total cost of $7.3 million. The projects represent 69.4 miles of new bicycle facilities.*

- *Other states, such as Minnesota and Oregon, have well-established bicycle/pedestrian facilities. Minnesota has more than 750 miles of bike paths and by 1999, hopes to add 500 additional miles. The state spends $4-15 million on bicycle transportation annually, even though Minnesota's climate is not "bike friendly" during much of the year.*

12. Should the State be actively involved in the development of scenic highways?

• *While KDOT has been studying scenic highways for a number of years, it was just recently that the agency pursued the development of a program. KDOT received $140,000 for FY 1993 from the Federal government for initial planning and design of a Scenic Byways Program.*

• *A Scenic Byways Advisory Committee has been established and efforts are underway to develop procedures for the nomination of highways for the program. With additional funding, the Committee might be able to expand the program and also promote legislation to aid in the development of the program, such as the control of billboards along the scenic highways.*

13. Should the State spend additional funds on the improvement of rest areas?

• *There are approximately 100 rest areas along the State's highways, most at least 20 years old and some approaching 40 years of age.*

• *In FY 1990, the State spent approximately $178,000 on the improvement of rest areas; in FY 1994, $420,000 is budgeted for improvements. The majority of repair improvements at the facilities includes rebuilding the comfort stations and installing new sewage systems.*

• *None of the funds budgeted for FY 1994 will address the requirements of the Americans with Disabilities Act for accessible facilities for the disabled.*

14. Are there safety issues the State should be concerned about?

• *While the total number of motor vehicle accidents in Kansas increased from 1991 to 1992 (61,920 vs. 63,964), the percent of accidents related to alcohol use decreased from 6.3 percent in 1991 to 5.9 percent in 1992, representing the lowest rate in the last 10 years.*

• *The number of traffic fatalities in the State in 1992, 387, was the lowest reported since records have been kept (1947). Of the total number of fatalities in 1992, 26.9 percent were alcohol-related, again the lowest rate in the past 10 years. Since 1982, 35 percent of all fatality accidents have been alcohol-related.*

• *The number of accidents involving trains has also decreased in the State during the past 10 years, from the high in 1982 of 161 accidents to a low of 78 in 1992.*

• *KDOT research has shown that dollar-for-dollar, there is a more significant reduction in the number of vehicle accidents due to the paving of shoulders than there is from widening narrow bridges.*

Kansas Department of Transportation
Summary of Discussion Groups at Statewide Workshop

Ten discussion groups were held during the Statewide Workshop in Salina on August 24, 1993. Each group submitted an individual summary of their discussions; this is the combined report of those summaries. (Note: The number which follows each topic is the number of groups which had discussion on the issue.)

Focus of Future Highway Improvements (10):

The State should put higher priority on maintenance of the existing system to prevent roads from deteriorating to the point where total replacement is required. KDOT needs to convince the public of the importance of maintenance. There was support for the "Super Two" concept, with passing lanes, in rural Kansas.

Each region of the State should be served by a four-lane road. Many different opinions on the location of new corridors were suggested. Several groups mentioned the need for new corridors in Northwest and Southeast Kansas, more diagonal roads statewide, and a need for a four-lane north-south roadway through Kansas.

An interest in the I-66 corridor in southern Kansas was expressed. It was suggested that future highway developments should be viewed from a regional perspective.

Transportation Funding (10):

Motor fuel taxes should go toward highway purposes. Fuel taxes could probably be increased without much public reaction. Sales tax is a good method to raise money for transportation projects because it produces revenue from tourists and residents. Overall, participants supported user taxes (including tolls) to pay for transportation.

Local units of government should be allowed to raise revenue for transportation purposes through user-based financing methods like fuel taxes and registration fees.

Toll Roads in Kansas (10):

Most believed that the Kansas Turnpike Authority (KTA) should continue in its current role and the road should not be taken over by KDOT. One group suggested the KTA should be placed under the jurisdiction of KDOT.

Toll roads should be examined in some corridors. There did not seem to be much resistance to toll roads. Several groups indicated they did not mind paying tolls if the service is good and it improves access.

Some groups believed that new toll roads do not hamper economic development but enhance it. It was mentioned that a turnpike does not always meet the needs of local communities. The facility can act as a wall to prevent or slow development.

Several groups believed that tolls need only subsidize or supplement the cost of the facility. It was suggested that perhaps the State would pay for the construction and the tolls would pay for maintenance of the facilities.

Consolidation of Roads and Services (3):

In some groups there was a consensus on decreasing the number of public road miles, but the groups concluded that no solution seemed politically viable and many local roads provide access for farmers.

Consolidation of government was suggested specifically at the township level. Townships were seen as one additional layer of government and a duplication of staff and equipment.

Some sentiment was expressed that in some areas, services of local units of government need to be combined to provide improved service at a lower cost. There was even some sentiment for combining certain services at the county level.

Economic Development (4):

Views were expressed that new four-lane facilities and/or improved highways means more growth and economic development to the area. Others expressed opinions that not having a four-lane road, which can serve as an easier and quicker way to travel to larger cities, has created a stronger downtown in the smaller cities.

Rural/Urban (3):

The State needs to have an objective method of evaluation that looks at needs and conditions on both the rural and urban system. It is important for the State to develop both rural and urban areas.

Aviation (7):

It is vital that essential air service be maintained. Improvements of airport facilities are important for rural accessibility and economic development. Many communities depend on aviation for medical needs and services. Roadways leading to airports need improvement. One group suggested an airport user tax should be used to fund airport facilities.

Railroad Service (10):

Shortline railroads are important; absence of rail service to local communities would be detrimental to the road system. KDOT should decide what shortlines are critical to the State and work to preserve those routes. KDOT should look at the "big picture" of freight movement and see how railroads and trucks fit together. There were mixed feelings about spending State funds on railroads. There was support for helping guarantee loans for rail operators.

Public Transportation in Kansas (6):

Public transportation is important to rural communities. Public transportation should be provided to insure that all communities have access to each other and so elderly and disabled citizens have transportation. Requirements under the Americans with Disabilities Act (ADA) are very costly. More public awareness is needed. Consolidation through a shared communications system, consolidated capital replacement and regional bus service is needed.

Bicycle and Pedestrian Facilities (6):

Bike and pedestrian facilities should be funded under the Transportation Enhancement program along with other enhancement categories but no additional State funding should be allocated. Railroad abandonments could be turned into bicycle and pedestrian paths. Safety is an important consideration when dealing with bicycles.

Rest Areas (5):

Concerns were expressed regarding rest area maintenance, cleanliness and safety. There should be fewer rest areas with better maintenance and full-time caretakers. It was suggested that perhaps rest areas could be privatized (like KTA).

Safety Issues (3):

Signs should be designed to meet the needs of our aging population. Lane reflectors are very helpful and should be used where possible. Narrow shoulders are a concern.

Comprehensive Highway Program (9):

Now is the time to be thinking beyond the end of the Comprehensive Highway Program in 1997. There were some concerns expressed that the existing funding levels of the highway program would not be maintained. Additional means of funding the highway program as well as expansion of the program need to be reviewed.

Other Issues Discussed:

- Unfunded federal mandates
- Renumbering the State Highway System
- Access management
- Corridor preservation
- New technologies
- Environmental issues
- KDOT's public image
- Overloaded trucks
- Multi-state planning

KDOT Planning and Development
September 17, 1993

THE FUTURE OF KANSAS TRANSPORTATION
Where Do We Go From Here?

We would like to receive your comments or suggestions about future transportation issues in Kansas. If you have any issues that are of particular concern to you, please take the time to write them down.

Return this sheet before leaving or mail it to:

Kansas Department of Transportation
Division of Planning and Development
915 Harrison, 8th Floor
Topeka, Kansas 66612-1568

Your name and address (optional):

STATE OF KANSAS

KANSAS DEPARTMENT OF TRANSPORTATION
Docking State Office Building
Topeka 66612-1568
(913) 296-3566
FAX - (913) 296-1095

Michael L. Johnston
Secretary of Transportation

Joan Finney
Governor of Kansas

TESTIMONY BEFORE
SENATE TRANSPORTATION AND UTILITIES COMMITTEE

REGARDING
DRUG OFFENDER'S DRIVER'S LICENSE SUSPENSION

November 1, 1993

Mr. Chairman and Committee Members:

I appreciate the opportunity to appear before you today to provide testimony regarding the federal requirement for driver's license sanctions against drug offenders.

William Watts, KDOT's Chief of Management and Budget, provided detailed testimony about the drug offender's driver's license suspension requirements at your meeting on September 3. I would like to provide some additional information in follow-up to that testimony.

During the September meeting, we indicated that officials from the Federal Highway Administration had informed us that Kansas would need to have complying legislation in place so that certification of compliance could be made on January 1, 1995. This would require action by the 1994 Legislature in order to avoid a loss of federal funds. Since that meeting, officials from the National Highway Traffic Safety Administration, the lead agency in enforcing this legislation, have provided information that indicates this is incorrect. The letter from NHTSA which is attached to this testimony indicates that states have until September 30, 1995 to certify compliance instead of January 1, 1995, in order to avoid the loss of funds in FFY 1996. The only category of funds that would be lost to states that are not in compliance by September 30, 1994 would be Interstate Construction funds. Kansas currently does not receive Interstate Construction Funds and therefore will not incur any actual loss of funds until September 30, 1995.

Several categories of funds are currently being withheld because the 1993 Kansas Legislature did not pass either the resolution or the law. Based on federal apportionments for FFY 1994, a total of $7.5 million will be withheld from Kansas this year. This includes $2 million in Interstate Maintenance funds, $2.4 million in

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Nov. 1-2, 1993
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National Highway System funds, $2.5 million in Surface Transportation Program funds and $.6 million in Hold Harmless funds. Depending on the funding category, the funds being withheld will remain available for release until at least September 30, 1997. However, any funds that are first withheld after September 30, 1995 will be lost.

Because the state is not in danger of permanently losing any funds as long as we certify compliance by September 30, 1995, it is not absolutely necessary for Kansas to pass complying legislation during the 1994 Legislative Session. However, if neither the resolution nor the law is passed during the 1994 Session, an additional $7.9 million will be withheld on October 1, 1994.

The policy questions involved in this issue will not change or become easier to deal with in 1995. In addition, Governor Finney has indicated she is willing to sign either a letter of certification or a qualifying law passed by the Legislature. We have no way to know how the next Governor will feel about this matter. Therefore, I would like to encourage this Committee to confront the relevant policy issues and take action to enact either the resolution or a complying law in 1994.

I would also like to respond to two additional questions that were raised during the November meeting. First, Kyle Smith of the KBI questioned the accuracy of information the Department provided about other states that have enacted laws or resolutions that comply with federal requirements. We have reconfirmed this information with NHTSA, and the information we provided is correct. Colorado made a decision to comply with the Act through a resolution, after working to develop a complying law. They did eventually pass a law, but it does not comply with the Act. NHTSA indicates no state has both a complying law and a complying resolution.

Second, a question was raised about compliance with the enforcement criteria; specifically, whether we would be in compliance if we had individual self-reporting at the time of driver's license application, with a sanction applicable to those who did not report. Staff in NHTSA's Washington office indicated that this would not be acceptable.

This concludes my remarks, but I would be glad to respond to any questions you may have.

U.S. Department of Transportation
National Highway Traffic Safety Administration

400 Seventh Street, S.W.
Washington, D.C. 20590

OCT - 6 1993

Ms. Rosalie Thornburgh
Administrator
Office of Traffic Safety
Thacker Building, 2nd Floor
217 SE, 4th Street
Topeka, KS 66603

Dear Ms. Thornburgh:

In response to your request, we have prepared the enclosed answers to Kansas' questions concerning the Section 159 requirements concerning drug offenders' driver's license suspension.

I hope that this information clarifies these issues for you. Please let me know if you need any additional information.

Sincerely,

Adele Derby

Adele Derby
Associate Administrator for
Regional Operations

Enclosures

RECEIVED
OCT 12 1993
Office of Traffic Safety
TOPEKA, KANSAS

Get it together!
SAFETY BELTS SAVE LIVES

AUTO SAFETY HOTLINE
(800) 424-9393
Wash. D.C. Area 366-0123

10-3

Enclosure 1

**ANSWERS TO
KANSAS' QUESTIONS REGARDING SANCTIONS
FOR NONCOMPLIANCE OF
23 U.S.C. 159
DRUG OFFENDER'S DRIVER'S LICENSE SUSPENSION**

QUES. #1: Because FY 1994 and 1995 funds which would be withheld due to noncompliance with 23 U.S.C. 159 remain eligible for release for a period of time, it appears that the first funds a State would actually lose due to noncompliance would be the 10 percent withheld in FY 1996 from Interstate Construction, Interstate Maintenance, NHS, and Hold Harmless. Is this correct?

ANS. #1: Period of Availability of Withheld Funds

If a State falls into compliance with 23 U.S.C. 159 at any time during the Fiscal Year (FY '94 or FY '95) in which the funds were withheld, the following provisions apply:

FY 1994 -- Interstate Construction funds will be available for release until **September 30, 1994.** Interstate Maintenance funds will be available for release until September 30, 1996. NHS and STP funds will remain available for release until September 30, 1997.

FY 1995 -- Interstate Construction funds will be available for release until **September 30, 1995.** Interstate Maintenance funds will be available for release until September 30, 1997. NHS and STP funds will remain available for release until September 30, 1998.

FY 1996 & Thereafter -- Funds withheld after September 30, 1995 (10% penalty in FY 1996 and thereafter), will not be available for apportionment to the State.

(PLEASE SEE ENCLOSURE 2)

10.4

Enclosure 2

Period of Availability of Withheld Funds

Funds withheld (5% penalty) in FY 1994 and FY 1995 will remain available for apportionment **after October 1, 1993 and October 1, 1994**, as follows:

104(b)(5)(A) Interstate Construction Funds will remain available until the end of the fiscal year for which the funds are authorized to be appropriated. (Current year)

104(b)(5)(B) Interstate Maintenance Funds will remain available until the end of the second fiscal year following the fiscal year for which the funds are authorized to be appropriated.
(Current year plus 2 years)

104(b)(1) National Highway System and 104(b)(3) Surface Transportation Program Funds will remain available until the end of the third fiscal year following the fiscal year for which funds are authorized to be appropriated.
(Current year plus 3 years)

Funds withheld (10% penalty) after September 30, 1995 (in FY 1996 and thereafter) will not be available for apportionment to the State.

Latest Date to Qualify for Release of Funds Before Funds Lapse

Penalty Fiscal Years	Interstate Construction 104(b)(5)(A)	Interstate Maintenance 104(b)(5)(B)	Nat'l Hwy System & Surface Transp Program 104(b)(1) & 104(b)(3)
FY 94 Apport'ment 5% penalty	Sept. 30, 1994	Sept. 30, 1996	Sept. 30, 1997
FY 95 Apport'ment 5% penalty	Sept. 30, 1995	Sept. 30, 1997	Sept. 30, 1998
FY 96 & Thereafter Apport'ment 10% penalty	Apport'ment Lost	Apport'ment Lost	Apport'ment Lost

10.5

QUES. #2 What is the latest date that a State can certify compliance to the Secretary of Transportation and not lose FY 1996 funds? Is it by January 1, 1995 (23 CFR 1212.5(a))? Is it by August 1, 1995 (1212.10(b))? Or, is it by September 30, 1995 (1212.4(b))?

ANS. #2 September 30, 1995, is the last date that a State can come into compliance and avoid the loss of FY 1996 funds.

The regulation cites:

> **§1212.4 Adoption of drug offender's driver's license suspension.**
> (b) The Secretary shall withhold ten percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b(3), and 104(b)(5) of title 23 of the United States Code on the first day of fiscal year 1996 and any subsequent fiscal year if the State does not meet the requirements of this section on that date.
>
> **§1212.6 Period of availability of withheld funds.**
> (b) Funds withheld under §1212.4 from apportionment to any State after September 30, 1995 will not be available for apportionment to the State.

QUES. #3 Section 1212.7 of 23 CFR Part 1212 is confusing. Can a State wait until September 30th of the last year of eligibility of previously withheld funds to submit certification (assuming eventual approval by FHWA and NHTSA regarding the appropriate legislation or legislative resolution) and still avoid loss of these funds?

ANS. #3 A State can wait to submit compliance documents until the last day of FY 1994 (September 30, 1994) or the last day of FY 1995 (September 30, 1995) and avoid the loss of withheld funds which have not lapsed.

However, to ensure sufficient time for review and approval, States are strongly encouraged not to wait until the last day of the fiscal year to submit their compliance documents. That is why the regulation states in §1212.5 that certifications should be submitted by "April 1, 1993 and by January 1 of each subsequent year."

11

Testimony
Senate Bill 294
November 1, 1993

To: Senator Ben Vidricksen, Chairman
Senate Transportation and Utilities Committee
The Statehouse
Topeka, KS 66612

Mr. Chairman and Members of the Committee:

I am Gene Johnson and I represent the Kansas Community Alcohol Safety Action Project Coordinators Association. In addition I represent the Kansas Alcohol and Drug Addiction Counselors Association and the Kansas Association of Alcohol and Drug Program Directors.

The Kansas Community Alcohol Safety Action Project Coordinators Association are those individuals who do the evaluation and monitoring of DUI offenders for the purpose of diversion and sentencing thru our Court systems throughout the State of Kansas. This DUI system presently in place and has been in operation for the past thirteen years.

We would recommend if this committee should pursue Senate Bill 294 in the upcoming legislative session as suggested by the Federal mandate, that the legislation be drafted very similar to the present DUI legislation. For the first time offender or the first caught offender, we would suggest that he/she be offered a diversion from his/her drug offense with the understanding that he/she would undergo an evaluation by a qualified alcohol safety action project. Keep in mind these projects are presently certified by the administrative judge with the approval of all the judges in that judicial district, or by the Alcohol and Drug Section of Social Rehabilitation Services. In most cases the alcohol safety action project carries a dual certification from the administrative judge and the Social and Rehabilitation Services.

The evaluation would offer the prosecutor some background information on the individual and where he or she stands with their alcohol/drug problem. In order to satisfactorily complete a diversion program, the offender would have to undergo an educational process of no less than eight

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Nov. 1-2, 1993
Attachment # 11

hours by a certified alcohol safety action project, or complete a treatment program for alcohol and drug abuse. Should that offender fail to complete the diversion requirements, they would be brought back to the court for the purpose of entering a plea to the charge of the drug offense.

By offering a solution such as this, the person who is not eligible for diversion, would already have completed an alcohol/drug evaluation by an alcohol safety action program, in order to give the sentencing court a better background of the individual and possibility of education or rehabilitation.

We are not in favor of any illegal drug usage and we do not support the term, "recreational drug." There is no recreation in using any drug that alters one's state of mind, which causes one's judgement to be impaired.

By offering diversion on first time offenders, we create the possibility of an intervention process, which may halt the addiction cycle of that offender. Also, we would expect that the $110 Evaluation Fee that is set forth in the DUI Statute, to be inserted in this proposed legislation and the cost of that evaluation and education or treatment be solely borne by the defendant and not by the taxpayers of the State of Kansas.

Thank you. I will attempt to answer any questions you may have.

Respectfully submitted,

Gene Johnson

Gene Johnson
Legislative Liaison
Kansas Alcoholism and Drug Addiction Counselors Association
Kansas Association of Alcohol and Drug Program Directors
Kansas Community Alcohol Safety Action Project Coordinators Association

12

ROBERT B. DAVENPORT
DIRECTOR

KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL
STATE OF KANSAS
1620 TYLER
TOPEKA, KANSAS 66612-1837
(913) 232-6000

ROBERT T. STEPHAN
ATTORNEY GENERAL

**BEFORE THE SENATE TRANSPORTATION AND UTILITIES COMMITTEE
KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
IN SUPPORT OF SENATE BILL 294
NOVEMBER 1, 1993**

Mr. Chairman and Members of the Committee:

I am Kyle G. Smith, Assistant Attorney General assigned to the Kansas Bureau of Investigation Narcotics Strike Force. I am here today in support of the idea behind Senate Bill 294, if not the precise language. In a way I am here to urge passage of neither and both Senate Current Resolution 1611 and Senate Bill 294.

As you are aware, the federal government has mandated that one approach or the other be inacted by Kansas. As you will remember from our last hearing, the suggestion was made that a substitute resolution be introduced along the lines of the lively Idaho resolution and there also be passage of an amended version of Senate Bill 294 which would be more adapted to Kansas' computerized records and individual needs. By passing a resolution we would be relieved from the compliance requirements that the federal mandate imposes and by passing a variation of that criminal statute we can still obtain the benefits of this useful tool on the war on drugs.

As to the benefits, sometimes we tend to see illicit drugs as a foreign threat. By intercepting the shipments of supplies we think the drug problem can be solved; this disregards the production of marijuana and methamphetamine by Americans. While it is important that the <u>supply</u>

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of drugs, both domestic and foreign, be attacked, the basic rule of economics of supply and demand applies in the drug world. Where there is a demand there will be a supply. As a practical matter, we will not succeed in the drug war until the demand for illicit drugs is removed. This will take place through education and treatment, but must also be done by more active demand reduction bills like Senate Bill 294.

The casual user, in contemplating purchasing a small amount of drugs for personal use, realizes there is minimal risk to anything he or she holds dear even if caught. They know the state is not going to spend it's precious jail space on a person involved in simple possession. At most they are facing a fine which will be less than a month's supply of drugs. Because of the minimal risk to these casual users there is minimal deterrence. Drug abuse is not a crime of passion that occurs on the spur of the moment, but for these casual users it's a choice of a form of entertainment.

The embarrassment and inconvenience of having their driver's license suspended can provide a cost-effective way to drive home that drug usage does have consequences and reduce the demand for drugs in this state. Restricted drivers licenses can be provided which will allow the casual user to keep their job, but still provide the deterrence. I recognize this will not deter a hard-core heroin addict, but we are looking at demand reduction, not elimination.

The point has been made that a drug dealer, as opposed to simple user, who by definition is willing to commit level 3 drug trafficking offenses, and possibly even murder, will not be detered from violating the traffic code by driving without a license.

However, the suspension of a driver's license would still create an effective tool for law enforcement. Either such a dealer will have to: (a) arrange transporation by other means, such as a driver, which is at a minimum an inconvenience, and also creates another link in the chain which risks exposure or (b) they will, in fact, ignore the law and drive even though their privileges have been suspended. This second option could be a boon to law enforcement supply side efforts.

One of the great frustrations for both citizens and law enforcement officers are those persons which we have reason to believe or even "know" are dealing drugs, but we do not have probable cause to make an arrest or obtain a search warrant. The dealer might have a record for an arrest on a trafficking offense, but was pled down to simple possession; Crime Stoppers calls may identify him as being a drug trafficker, but not have the sufficient particularity with which we can obtain search warrants. Arrested individuals may identify such a person as being their source for narcotics; we see that person using money in a manner inconsistent with their apparent income.

Law enforcement officers would love to have such individuals ignoring the traffic laws and driving while suspended. Catching them operating a vehicle while suspended would be an automatic probable cause for an arrest and a search incident thereto. Even if the individual was not "holding" at the time of the arrest for the driving while suspended charge, their transportation and communication lines would be disrupted and my view is that anything that makes drug dealing more difficult is a worthwhile goal.

To add yet another wrinkle, there have been suggestions from several quarters that these benefits would also occur if persons who were convicted for firearms offenses suffered a similar loss of their driving privileges. I believe such an extension could be justified, particularly in the case of drive-by shootings, and SB 294 is an obvious vehicle for such proposals.

I would be happy to stand for any questions.

#110

13

HEIN, EBERT AND WEIR, CHTD.
ATTORNEYS AT LAW
5845 S.W. 29th Street, Topeka, KS 66614-2462
Telefax: (913) 273-9243
(913) 273-1441

Ronald R. Hein
William F. Ebert
Stephen P. Weir

SENATE TRANSPORTATION
TESTIMONY RE: Alternative Fuel Vehicles
Presented by Ronald R. Hein
on behalf of
Mesa
November 1, 1993

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for Mesa. Mesa is one of the nation's largest independent gas producers and currently has approximately 60% of its natural gas reserves in the state of Kansas.

Over the past few years, much has been written and said about the economic impact that the natural gas industry has upon Kansas, and an equal amount of time has been spent discussing the negative impact that Kansas' tax policy has had upon this important industry.

The greatest burden facing the gas industry right now is the combined severance tax and property tax burden. That tax burden currently is about 19% of gross receipts on Mesa. That is the greatest disincentive currently to natural gas production, exploration, and investment in Kansas. The severance tax issue and the proposed changes on natural gas regulatory controls on production currently before the KCC continue to be the most pressing issues to Mesa.

However, another issue involving natural gas at the national level requires Kansas' attention. That issue involves natural gas vehicles (NGVs) and natural gas as a transportation fuel.

Kansas is one of the five largest natural gas producing states in the country, and the Hugoton Field, much of which is in Southwest Kansas, is one of the largest natural gas fields in the world.

Natural gas is a cheap, abundantly available, domestic fuel which is clean-burning, safer, and better for our environment than other fossil fuels. As America turns away from it's reliance on expensive, foreign oil, cheap domestic natural gas will be the obvious alternative. And Kansas will be a winner.

At the national level, the Clean Air Act (CAA) of 1990 and the Energy Policy Act of 1992 (EPACT), and on various state levels, the need to be in compliance with federal and state

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environmental laws, has prompted increased awareness of the value of natural gas as a transportation fuel.

As a large producer of natural gas, and as a proud supporter of a clean environment, Kansas should be on the cutting edge of state policy with regards to NGV.

NGVs will first be utilized by fleet operators. But as fleets convert to natural gas, the infrastructure of the distribution of natural gas will develop and individuals will begin utilizing this clean-burning fuel.

Several states with EPA designated non-attainment cities are under tremendous pressure to clean up their environment, and as such are taking significant actions to encourage the development of natural gas vehicles. Approximately 50-60% of air pollution is tailpipe emissions. These states are looking at income tax credits for conversion equipment; low interest loans to cities, counties, and school districts to convert their vehicles; exemption of natural gas fuels from fuels tax; and numerous other programs to encourage business and government to convert to natural gas vehicles.

The Kansas City area has been a non-attainment area, and is just now barely within the attainment level. Their need to eliminate air pollution, predominantly motor vehicle emissions, is one of the major reasons why this type of legislation is extremely important.

All taxpayers of the state benefit by some of the vehicles converting to natural gas, as the air will be cleaner, and the ability to comply with federal legislation, and thus avoiding penalties against business and industry will be accomplished.

EPACT builds on the CAA. It requires federal, state, gas industry, and eventually commercial fleets to purchase a statutorily mandated percentage of alternative-fueled vehicles (AFVs) pursuant to the schedule set out in the attachment to this testimony.

Today, there are approximately 50,000 NGVs on the road in the U.S. and about 700,000 worldwide. By the year 2000, 10% of all vehicles may be running on natural gas.

Motor vehicles account for approximately 40% of the ozone and 65% of the carbon monoxide pollution in the United States.

Compared with gasoline-powered vehicles, NGVs reduce emissions of carbon monoxide by more than 90 percent, hydrocarbons by up to 93 percent and nitrogen oxide up to 65 percent.

A natural gas vehicle will emit approximately 300-400 fewer <u>pounds</u> of pollutants per year than a gasoline powered car. This will help clean the environment, and hopefully avoid health problems relating to those pollutants.

Converting to natural gas will help the United States' balance of trade. Forty percent of the USA's trade deficit results from importation of foreign oil. The US could reduce consumption of oil by 500,000 barrels per day by the year 2000 if 10 million vehicles converted to natural gas.

Are natural gas vehicles safe? Yes, they are safer than gasoline powered vehicles. The gas tanks have not ruptured in studies where they have been exposed to fire, crashes, and a 44 caliber armor piercing bullet.

Even if the cylinder was punctured, the gas would simply escape, and would quickly disperse throughout the air since natural gas is lighter than air.

The Senate Transportation Committee has before it SB 330 which provides an exemption from fuels tax for CNG. The House Transportation committee has HB 2499 which provides for income tax credits for conversion of equipment or original equipment capable of burning CNG. The Natural Gas Commission created by the legislature and the Governor's Fossil Fuel Commission have both made recommendations for legislation in these areas, as well as other programs, such as low interest loans.

There may be some concern raised about the impact of a fuels tax exemption on the highway fund or an income tax credit on the SGF.

First of all, there are so few natural gas vehicles in the state right now that any impact would be minimal. In addition, conversions will be predominantly by fleet vehicles, and many of the natural gas vehicles that will convert will be city, county, state, federal and school vehicles. (See charts attached.)

Mesa is encouraging this type of legislation in order to jump start the natural gas vehicle industry, and does not desire for the exemption from fuels tax to be detrimental to the highway fund. We would recommend that amendments be placed on the legislation to provide for a two-year sunset clause, or a sunset in the event that the cost to the highway fund reaches a certain level, such as $250,000, or that the legislation be structured so that an individual is only entitled to the exemption for the first two or three years, and thereafter is subject to tax.

Often times there is considerable lip service paid to having a cleaner environment. NGV legislation will directly provide a cleaner environment, while benefiting the State of Kansas, a major natural gas producer, at minimal cost.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

EPAct Mandated Programs

	1996	1997	1998	1999	2000	2003	2006
Federal Fleet	25%	33%	50%	75%	75%	75%	75%
State Fleet(NEW)	10%	15%	25%	50%	75%	75%	75%
Private Sector(*)	30%	50%	70%	90%	90%	90%	90%
Private Sector(#)				20%	20%	40%	70%
Priv. Sector(NEW)						40%	70%

* Principal business is producing, storing, refining, processing, transporting, distributing, importing, or selling at wholesale or retail any alternative fuel other than electricity.

Principal business is generating, transmitting, importing, or selling at wholesale or retail electricity

Person who produces, imports, or combination of both, an average of 50,000 barrels per day or more of petroleum, and a substantial portion of business is producing alternative fuels.

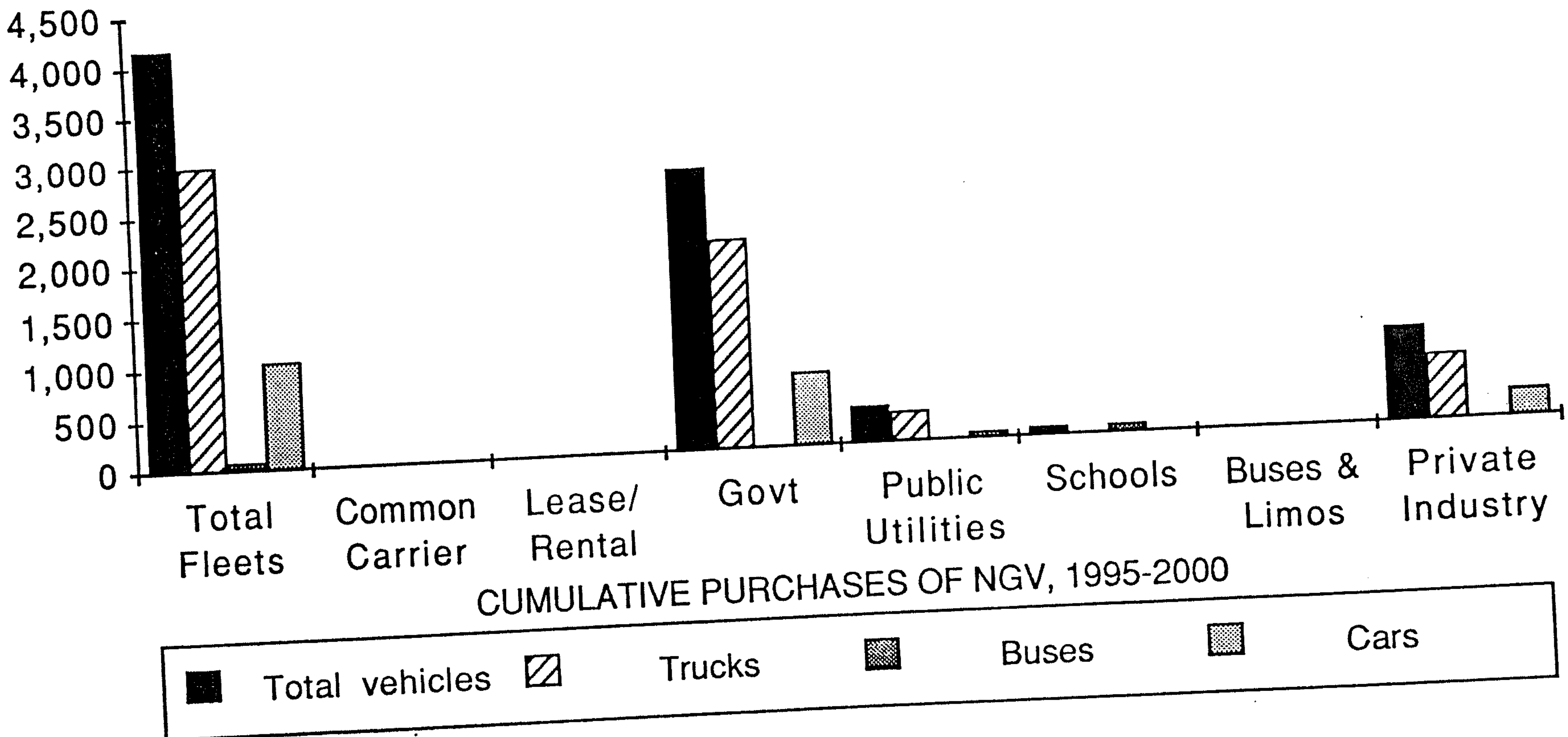
All other Private Sector, not already covered.

NEW New vehicles purchased in those years.

Hein, Ebert and Weir, Chartered, Oct.26,1993

13-4

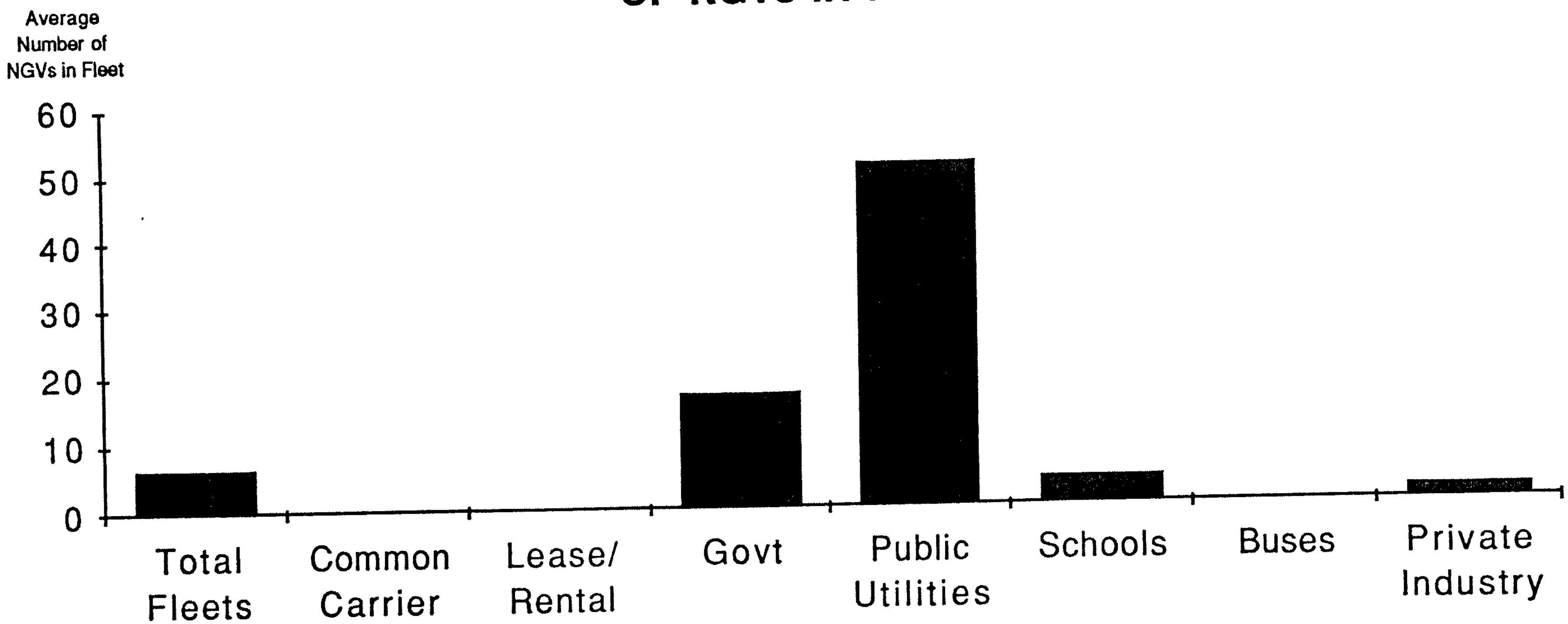
4,000 PURCHASES OF NGV IN KANSAS



NGV
THE NATURAL GAS VEHICLE COALITION

13-5

BY YEAREND 2000, MODERATE-SIZE GAS UTILITY FLEETS OF NGVs IN KANSAS



AVERAGE NUMBER OF NGVs IN FLEETS WHICH CONVERT, AFTER CUMULATIVE NGV PURCHASES 1995 - 2000

13-6

NGV
THE NATURAL GAS VEHICLE COALITION

Kansas — 1993 ESTIMATE OF NGV VEHICLE PURCHASES (larger of mandated % or econ attractive %)

Kansas	# of fleets	Flts purch NGV	Total vehicles	Trucks	Buses	Cars	(tractor/trailer, offro
Total Fleets	1409	0	3	0	3	0	0
Common Carrier	352	0	0	0	0	0	0
Lease/Rental	121	0	0	0	0	0	0
Government	217	0	0	0.	0	0	0
Public Utilities	95	0	0	0	0	0	0
Schools	30	0	3	0	3	0	0
Buses	17	0	0	0	0	0	0
Private Industry	577	0	0	0	0	0	0

Kansas — 1994 ESTIMATE OF NGV VEHICLE PURCHASES (larger of mandated % or econ attractive %)

Kansas	# of fleets	Flts purch NGV	Total vehicles	Trucks	Buses	Cars	(tractor/trailer, offro
Total Fleets	1439	0	3	0	3	0	0
Common Carrier	362	0	0	0	0	0	0
Lease/Rental	122	0	0	0	0	0	0
Government	221	0	0	0	0	0	0
Public Utilities	97	0	0	0	0	0	0
Schools	30	0	3	0	3	0	0
Buses	17	0	0	0	0	0	0
Private Industry	589	0	0	0	0	0	0

Kansas — 1995 ESTIMATE OF NGV VEHICLE PURCHASES (larger of mandated % or econ attractive %)

Kansas	# of fleets	Flts purch NGV	Total vehicles	Trucks	Buses	Cars	(tractor/trailer, offro
Total Fleets	1469	0	3	0	3	0	0
Common Carrier	373	0	0	0	0	0	0
Lease/Rental	124	0	0	0	0	0	0
Government	225	0	0	0	0	0	0
Public Utilities	99	0	0	0	0	0	0
Schools	31	0	3	0	3	0	0
Buses	17	0	0	0	0	0	0
Private Industry	600	0	0	0	0	0	0

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NGV
THE NATURAL GAS VEHICLE COALITION

Kansas — 1996 ESTIMATE OF NGV VEHICLE PURCHASES (larger of mandated % or econ attractive %)

Kansas	# of fleets	Flts purch NGV	Total vehicles	Trucks	Buses	Cars	(tractor/trailer, offro:
Total Fleets	1501	178	185	123	17	46	0
Common Carrier	385	0	0	0	0	0	0
Lease/Rental	125	0	0	0	0	0	0
Government	230	152	139	99	0	40	0
Public Utilities	101	7	30	24	0	6	0
Schools	31	20	17	0	17	0	0
Buses	17	0	0	0	0	0	0
Private Industry	612	0	0	0	0	0	0

Kansas — 1997 ESTIMATE OF NGV VEHICLE PURCHASES (larger of mandated % or econ attractive %)

Kansas	# of fleets	Flts purch NGV	Total vehicles	Trucks	Buses	Cars	(tractor/trailer, offro:
Total Fleets	1533	182	287	199	17	71	0
Common Carrier	396	0	0	0	0	0	0
Lease/Rental	126	0	0	0	0	0	0
Government	234	155	218	157	0	61	0
Public Utilities	103	7	52	42	0	10	0
Schools	31	20	17	0	17	0	0
Buses	17	0	0	0	0	0	0
Private Industry	625	0	0	0	0	0	0

Kansas — 1998 ESTIMATE OF NGV VEHICLE PURCHASES (larger of mandated % or econ attractive %)

Kansas	# of fleets	Flts purch NGV	Total vehicles	Trucks	Buses	Cars	(tractor/trailer, offro:
Total Fleets	1566	185	474	340	17	116	0
Common Carrier	408	0	0	0	0	0	0
Lease/Rental	127	0	0	0	0	0	0
Government	239	158	380	278	0	102	0
Public Utilities	105	7	76	62	0	14	0
Schools	32	20	17	0	17	0	0
Buses	17	0	0	0	0	0	0
Private Industry	637	0	0	0	0	0	0

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1999 ESTIMATE OF NGV VEHICLE PURCHASES (larger of mandated % or econ attractive %)

Kansas	# of fleets	Flts purch NGV	Total vehicles	Trucks	Buses	Cars	(tractor/trailer, offroa
Total Fleets	1599	618	1370	990	18	363	0
Common Carrier	420	0	0	0	0	0	0
Lease/Rental	129	0	0	0	0	0	0
Government	244	161	796	590	0	206	0
Public Utilities	108	7	103	85	0	18	0
Schools	32	21	18	0	18	0	0
Buses	18	0	0	0	0	0	0
Private Industry	650	429	454	315	0	139	0

2000 ESTIMATE OF NGV VEHICLE PURCHASES (larger of mandated % or econ attractive %)

Kansas	# of fleets	Flts purch NGV	Total vehicles	Trucks	Buses	Cars	(tractor, offroad)
Total Fleets	1,634	630	**1,850**	1,362	18	471	0
Common Carrier	433	0	0	0	0	0	0
Lease/Rental	130	0	0	0	0	0	0
Government	249	164	1,250	937	0	312	0
Public Utilities	110	7	108	90	0	18	0
Schools	32	21	18	0	18	0	0
Buses	18	0	0	0	0	0	0
Private Industry	663	438	474	334	0	140	0

CUMULATIVE NGV PURCHASES 1995 - 2000

Kansas	# of fleets	Total NGV fleet:	Total vehicles	Trucks	Buses	Cars	(tractor, offroad)
Total Fleets		630	**4,169**	3,014	89	1,066	0
Common Carrier		0	0	0	0	0	0
Lease/Rental		0	0	0	0	0	0
Government		164	2,782	2,062	0	721	0
Public Utilities		7	370	303	0	66	0
Schools		21	89	0	89	0	0
Buses		0	0	0	0	0	0
Private Industry		438	928	649	0	279	0

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Compressed Natural Gas (CNG)
An Alternative Fuel
for
Motor Vehicles

Comments to:

Kansas Senate Committee on Energy and Natural Resources

October 26, 1993

By:

Dick Brewster
Amoco Corporation

Senate Transportation & Utilities
Nov. 1-2, 1993
Attachment # 14

Mr. Chairman, Members of the Committee, my name is Dick Brewster, and I am Senior Government Affairs Representative for Amoco Corporation.

Compressed natural gas, or "CNG," is one of the cleanest, safest and most abundant vehicle fuels in the market today. Vehicles powered by CNG emit significantly less carbon monoxide (CO), nitrous oxides (NOX), and other pollutants as compared to vehicles powered by conventional, or even reformulated gasolines.

As you have heard and seen already during today's hearing, CNG can be safer than liquid fuels. And natural gas is abundant in the U. S. today. Reserves of natural gas from conventional exploration and production activities in the U. S. are estimated at a 75-year supply. If you include so-called non-conventional reserves such as coal-bed methane production, estimates are that we have a 200 year supply in the U. S. alone.

From a national perspective, then, the two reasons to encourage the use of natural gas as a vehicle fuel are energy security for the nation and the environmental benefits natural gas provides.

The largest contiguous natural gas production field in North America, and perhaps in the entire Western Hemisphere is located in Southwest Kansas. Thus, by geopolitical accident, Kansas has much to gain by encouraging the use of natural gas as a vehicle fuel, not only within the state, but throughout the nation. We would encourage the State of Kansas to "lead by example," in the use of natural gas as a vehicle fuel.

In addition to the obvious advantages of CNG listed above and discussed by other conferees today, we should keep in mind that the natural gas "wholesale infrastructure" is already in place: that is, the use of natural gas as a space heating fuel has become widespread throughout the nation in the past two decades: the pipeline and local utility system delivering natural gas to the nation exist now.

The additional infrastructure needed to make CNG available to the motor vehicle driver, CNG refueling stations, are not yet in place in sufficient numbers to adequately encourage vehicle owners and fleet operators to purchase CNG dedicated vehicles or to convert existing cars and trucks to bi-fueled vehicles. And, there are not enough CNG fueled vehicles to encourage fuel marketers and others to install CNG refueling facilities.

Thus, we believe the development of CNG fueled vehicles and the development of refueling facilities must proceed on a parallel track. And this development requires, we believe, a partnership between and among governments at all levels, natural gas producers, pipelines and utilities, traditional motor fuel marketers, manufacturers and vendors of equipment, regulatory officials, and others. Where such partnerships have been developed, the benefits have become clear.

Both the State of Kansas and Amoco have helped lead the way toward the development of the needed CNG infrastructure. As you may know, we installed the first retail CNG outlet in Kansas at the Amoco location at 6th and Quincy here in Topeka. This station was the result of an effort by KPL Gas Service (Western Resources), which provides the gas to that location; the State of Kansas, which converted a number of fleet vehicles to CNG; and Amoco, which installed the refueling equipment. Subsequently, we installed a CNG facility an Amoco location in Lenexa, Kansas.

Amoco also has CNG refueling locations in Colorado, Michigan, Illinois, Georgia, Nebraska and New Mexico. Several Amoco CNG outlets will be in place in time for the Olympic Games coming to Atlanta, during which many Olympic shuttle vehicles will be CNG powered.

These locations are expensive and do not bring the return on investment required of other ventures undertaken by our company. We persist, however, because we are convinced that the future of CNG is a strong, viable one.

There have been obstacles to overcome in the development of CNG. Jeff Seisler, of the Natural Gas Vehicle Coalition has alluded to some of the obstacles in reviewing a number of steps a state may take to encourage the use of CNG.

Kansas has taken a leadership role in overcoming some of these obstacles. Though traditionally a highly regulated commodity, delivered by regulated pipelines and utilities, it was quickly determined that natural gas for use as a motor fuel would not be subject to regulation as to price, nor would CNG be subject to rules prohibiting the sale-for-resale of natural gas. The speedy resolution of these two concerns, major obstacles in some states, indicate Kansas' leadership role.

Method-of-Sale for CNG has been a major concern. Since natural gas, even in its compressed form, is not a liquid but a gaseous substance, typical weights and measures regulations have required the sale of CNG by weight or volume. But we believe the motorist cannot make needed price, performance and value comparisons unless CNG can be sold in units comparable to the gasoline gallon. (How many miles per pound or cubic foot should your vehicle get?)

Thus, Kansas was the first state to adopt legislation creating a "gasoline gallon equivalent" unit (or GGE) for CNG, and permitting the sale of CNG by that unit. Since then, Colorado and Georgia have adopted similar legislation (though the determination of what constitutes a GGE is different in each of the three states.

We have been working closely with the National Conference on Weights and Measures to develop a national standard for the GGE, and I believe we are close to that goal. Again, Kansas led the way on this issue.

I believe there is more Kansas can and should do to encourage the widespread use of CNG:

Last year, in the House, H. B. 2499 was introduced. This bill would provide tax incentives, in the form of income tax credits, for the installation of CNG refueling facilities and for equipping motor vehicles to use CNG in addition to traditional liquid fuels. We would encourage adoption of this proposal. A "window" during which these tax credits are available will encourage speedy development of the infrastructure in Kansas, especially in parts of the state outside major metropolitan areas. We would encourage opening that "window" on January 1, 1994, and gradually decreasing the tax credit available until it closed completely three or four years hence.

Here in the Senate, I believe this committee introduced S. B. 330, (though it was referred to the Transportation Committee) which would exempt CNG from the state's motor fuel tax. We believe such an exemption would provide significant encouragement to motorists and fleet operators to convert existing vehicles to CNG. It would increase the fuel cost savings over traditional fuels, and would allow the conversion to pay for itself in a shorter period of time.

That bill simply exempts CNG from the tax altogether. We would suggest amendments which would exempt CNG from the motor fuel tax for three years, subject CNG to half the motor fuel tax for two years, to a three fourths of the tax for another year, and finally, subject CNG to the full motor fuel tax thereafter. This would provide early incentives to the development of this fuel, but ultimately CNG would shoulder its fair share of maintaining and building roads and highways.

We believe these two measures would allow Kansas to continue to set an example for other states; an example which speed development of natural gas as a vehicle fuel and encourage the use of this abundant Kansas resource. The fiscal impact of these bills should be fairly small, particularly when compared to the long term benefit to Kansas and to the nation.

Mr. Chairman, Members of the Committee, thank you for your time and attention. I'll be glad to answer any questions.

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THE NATURAL GAS VEHICLE COALITION

TESTIMONY
BEFORE THE STATE OF KANSAS LEGISLATURE
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
JEFFREY SEISLER, EXECUTIVE DIRECTOR
THE NATURAL GAS VEHICLE COALITION
26 OCTOBER 1993

THE NGV COALITION

The Natural Gas Vehicle Coalition is a broad-based national organization dedicated to promoting and stimulating the use of natural gas as a vehicle fuel. The Coalition's approximately 250 members include natural gas distribution companies, pipelines, automotive equipment vehicle manufacturers, NGV equipment suppliers, NGV users, educational institutions and other organizations interested in commercializing natural gas as a vehicle fuel.

The Coalition supports the development and implementation of federal and state policies that encourage the use of natural gas for cars, trucks, buses, and other vehicles. The Coalition also supports new technologies that advance or assist the growth and commercialization of the natural gas vehicle market and the natural gas vehicle (NGV) industry.

STATE GOVERNMENTS TYPICALLY HAVE DEVELOPED AS MANY AS EIGHT DIFFERENT TYPES OF ALTERNATIVE FUELS PROGRAMS, CURRENTLY IN 37 DIFFERENT STATES.

States across the country are adopting a variety of legislative programs favoring alternative fuel vehicles (AFVs) and natural gas vehicles (NGVs). A combination of incentives, mandates, taxes, and education are required to provide an alternative fuel infrastructure and motivate alternative fuel vehicle (AFV) technology developments. The challenge to state legislators and regulators is to develop balanced alternative fuel programs that are reasonable to implement, and that do not impose economic dislocation upon individuals or business, yet accomplish the clean air and energy security goals that can be achieved using alternative fuels, and particularly natural gas vehicles.

Senate TRANSPORTATION and Utilities
Nov. 1-2, 1993
Attachment #15

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The programs commonly developed at the state-level include (but are not necessarily limited to):

- **Alternative fuel vehicle conversion or purchase programs for state vehicles;**
- **Vehicle conversion and/or sales mandates for alternative fuel vehicles;**
- **Tax credits, deductions, rebates, or exemptions;**
- **Low interest loan funding or financing schemes;**
- **Standards, specifically for emissions, but also for safety and installation of equipment;**
- **Demonstrations and pilot programs;**
- **Studies evaluating alternative fuels;**
- **Public education.**

(A matrix of State Government Initiatives to Promote Clean Transportation Fuels is provided as an attachment to written testimony.)

STATE POLICY ISSUES AND OPTIONS

Increasingly, states will play an important role in helping to commercialize AFVs. States play a dual role in the commercialization process, as vehicle users (the ultimate customer) as well as policy leader to motivate consumers to use alternative fuels.

There are a number of key issues and policy options at the state-government level that affect commercialization and growth of the NGV market. These issues pertain to fuel taxes, state and local standards and codes, government procurement procedures, resale opportunities for NGVs and state utility regulatory considerations.

o *Fuel taxes* -- How fuel taxes are levied and the amount of fees charged can play an important role in defining the economics of NGVs relative to fuel prices, and the differential between alternative and traditional fuels. Assessing motor fuel taxes on natural gas while it is still in initial stages of market development makes it a lot less competitive. To help promote alternative fuels and capitalize on their contribution to clean air, taxes on all alternative fuels should be removed for at least an interim period, with an appropriate sunset clause. Arizona, Minnesota, Texas, and Utah all exempt natural gas (and some other alternative fuels) from the state fuels tax.

Additionally, there are currently no mechanisms at the state level for taxing fuel consumed through a home fueling appliance. A moratorium on taxes for alternative fuels alleviates this problem.

If states feel compelled to tax alternative-fuel vehicles

(AFVs), they can adopt the approach used in California and Colorado, where an annual sticker tax is imposed, to avoid penalizing high-volume users. Alternatively, fuel taxes can be reduced for AFVs, as has been done in South Dakota (18 cents to six cents for AFVs).

Sales tax exemptions on the incremental cost of an AFV is yet another tax incentive, and is used in California until 1995.

o *Tax Credits & Tax Deductions* -- Reductions in income taxes by rewarding investments in alternative fuels is an opportunity to reduce first costs of AFVs. Federal tax deductions for the incremental costs of AFVs and conversions, as well as for investments in fueling stations are now available through the Energy Policy Act of 1992. Tax credits are more valuable to consumers, but will have more impact on a state's revenue. Tax deductions on vehicles and fueling stations have less impact on state revenues, but are far less valuable to consumers.

Connecticut, Louisiana, Oklahoma, and Utah all have adopted a variety of tax credits and deductions pertaining to both personal income taxes and property taxes.

o *State and local standards and codes* -- Because the NGV industry still is in its infancy, many standards and codes remain to be developed. As standards are adopted by the appropriate national standards organizations, state and local governments need to recognize and adopt the standards.

Although standards are being written or finalized at the national level, local authorities are already issuing and applying their own standards on an ad-hoc basis, which may lead to delays or overly restrictive policies. In many instances, these actions are driven by the misperception of safety issues surrounding NGVs.

States should be encouraged to adopt uniform standards for NGVs, if it is required to support the commercialization effort. Code officials involved with fire prevention, buildings, compressor station sitings, and weights and measures all need to focus on the needs of the various fuel alternatives to encourage a rapid expansion of a fueling infrastructure to support AFV growth.

o *State and local government procurement procedures* -- These can create barriers to the penetration of natural gas in the transportation market. State and local governments often rely on low-bid procurement when purchasing vehicles and other equipment, and this approach does not properly consider the lower cost of fuel and maintenance over the life of an NGV compared with flexible-fuel vehicles that generally run on more expensive fuels. This is important when considering longer-life vehicles such as urban transit buses, garbage trucks and heavy-duty vehicles.

The implications of neglecting the life cycle costs of the alternatives can be great. It could, for example, send a signal to the transit industry and engine manufacturers that continued use of dirty technology would be tolerated, and that further expenditure of R&D dollars and efforts on developing cleaner bus engines would likely be wasted.

o *Opportunities to reduce costs for state vehicles* -- Today, there are only 30,000 NGVs on the road; thus there is a very small resale market for used NGVs. Local governments and municipal utilities in particular, which typically purchase used vehicles as a cost-cutting measure, have expressed concern about this lack of a used NGV market and the associated lack of a resale value for used NGVs. One solution is to develop partnerships among private businesses, municipal governments and utilities to develop a market for the gas industry and its customers to purchase used NGVs. In addition, states can be purchasers of low mileage, well-maintained federal government vehicles, and dramatically reduce the cost paid for these vehicles.

Another opportunity to reduce the first cost of AFVs is to create vehicle purchasing consortiums between federal, state, local governments, and possibly customers. Economies of scale can be achieved by ordering larger quantities of vehicles. (It also would help the development of the alternative fuel markets by encouraging the building of higher demand fueling stations.

o *Emissions standards and testing* -- Several states are evaluating opting in to the California Low Emission Vehicle (LEV) program, either instead of, or in addition to, the existing state requirements. One contentious issue involves the question of whether the LEV program can replace the Clean Air Act (CAA) fleet program in 22 metropolitan areas. Replacing the CAA fleet program with the LEV program would diminish the potential to build an alternative-fuel infrastructure and limit the application of the program to light-duty vehicles. Thus, no attention would be given to the higher-mileage, more fuel consumptive, higher-polluting, medium-to-heavy-duty vehicles. There would be no reduction of particulate emissions if only the LEV program were adopted to the exclusion of a CAA fleet program. We believe that an LEV-type program, combined with a fleet program, will provide maximum air-quality benefits.

o *Emissions testing requirements* -- The standard three-way tailpipe analyzers used in many state inspection programs measure only total hydrocarbons, and cannot account for the non-methane hydrocarbons fraction. An equipment recalibration would have to be developed to mitigate the potential for widespread NGV emission test failures due to limitations of existing test equipment.

o *Sale-for-Resale* -- The sale of natural gas for resale is prohibited in approximately half the states. These prohibitions are roadblocks to utilities opening up third-party-owned public refueling stations. Prohibitions prevent a natural gas utility from selling natural gas to a public fueling station that in turn sells the natural gas (unregulated) to customers. Section 404(b) of the Energy Policy Act of 1992 on vehicular natural gas now helps mitigate the problem by allowing non-utilities to sell natural gas at a fueling station without being subject to state or FERC regulations. It is likely that many states may review this issue and decide to regulate in this area.

o *Utility cost recovery of NGV-related equipment* -- As the alternative fuels market has expanded, natural gas distribution companies, pipelines and producers have become more active in the development of the NGV market. Because the industry is heavily regulated, and because neither the natural gas industry nor regulators are accustomed to thinking of vehicular fuel as a major natural gas market, many utility commissions do not allow inclusion of NGV-related equipment in a utility's base rates. In some states, utility commissions even prohibit the ratebasing of the conversion of the utility's own vehicles to natural gas, despite the fact that it is typically considered to be a cost of operation and is economically justifiable. Giving utilities the option of ratebase treatment for NGV-related expenditures would contribute significantly to development of the NGV market.

Regulators historically have taken a narrow view toward gas marketing, questioning whether increased gas sales will lower or at least not raise prices to "captive" or "core" customers. Arguments include: increased gas sale reduces unit costs by achieving fuller system utilization (assuming surplus delivery capability); and sizable demand increases likely could be accommodated with little wellhead price impact, given the surplus natural gas deliverability in the U.S. and Canada. With the new market for NGV technology, however, some utility regulators believe a different approach should be taken, one that does not involve cost-sharing among all utility customers. This approach fails to recognize that providing service to the transportation market benefits all utility customers, as does service to the traditional utility markets.

NGVs require fuel throughout the year, increasing off-season use of natural gas and reducing the seasonality of gas demand.

Thus, capacity utilization of the natural gas infrastructure improves, and the average annual cost of delivered gas declines. Moreover, NGVs use baseload capacity and do not typically negatively affect a utility's peakload capacity, thereby improving demand-size management. In terms of consumption characteristics and volume, NGVs can be viewed as an opportunity to increase utility efficiency for roughly the same cost as expanding the residential market.

Gas utility companies typically spend approximately $800 to $3,500 for each new residential customer. Similarly, it costs about an additional $1,500 to $3,500 per vehicle converted to run on natural gas. If the fueling dispenser normally is viewed as a residential meter, then states should allow a utility company to ratebase the cost of all the equipment and pipes on the utility side of the meter, which is consistent with usual public utilities commission practice.

Utilities also are allowed to include in their base rates the costs of installing compressor stations along their distribution main. State regulatory commissions should not dispute such justification and precedent when deciding whether or not to allow the cost of NGV compressor stations in its base rates.

SUMMARY

The State of Kansas, as one of the top five gas producing states in the country, should become proactive toward NGVs and alternative fuels. There are many opportunities to capitalize on NGV commercialization potential through sensible policies at the state level. The policy approach can be balanced among alternative fuels, but ultimately the growth markets and consumers will influence and determine the mix of fuels in the market. Leadership from government, however, is a critical element. In gas producing states, government vehicles need to be running on natural gas. Government policies -- incentives, mandates, public education, etc. -- need to provide direction for consumers.

We have now the ability to develop policies, and support an alternative fuel, that promotes better economics for vehicles, an improved environment, improved safety over other fuels, and an American fuel. Economic development and increased jobs will follow. By supporting natural gas vehicles, the state of Kansas has the opportunity to be part of the solution to pollution and rising fuel imports.

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STATE ALTERNATIVE FUEL VEHICLE INITIATIVES

STATE	AFV COMMISSIONS	STATE AFV PROGRAMS	AFV INCENTIVE PROGRAMS	TAX ISSUES	UTILITY ISSUES	OTHER ISSUES
Arizona		1987 - Certain public and private fleets in Phoenix required to use clean fuels. 1988 - Mandate extended to include buses. 1991 - Program to increase use of AFVs in state fleet adopted. 1992 - Fleet requirements expanded to require fleets to purchase AFVs.		1988 - NG sales temporarily exempted from state motor fuels tax		1992 - Conversions allowed to meet AFV requirements. LNG included as alternative fuel.
Arkansas	1991 - 9 member AF commission created.					
California		1989 - 25% of state vehicles must have AF capability. 1990 - Passenger vehicles - for-hire in non-attainment areas must use AFs.		1989 - Incremental cost of AFVs exempt from sales tax until 1995. 1990 - $1,000 auto and $3,500 truck tax credits adopted for LEVs. 1990 - CNG and LPG fuel purchases taxed by annual flat sticker tax.	1990 - PUC to evaluate policies to encourage NGVs. 1991 - CNG sales alone not a utility activity. Utilities allowed to recover NGV related costs.	1990 - CARB adopts vehicle emission standards. 1992 - AF providers required to publicize LEV fuel information.
Colorado	1990 - AF commission created by executive order.	1990 - Beginning in 1991-92, 10% of state fleet purchases to be AFVs, increasing by 10% per year thereafter.	1989 - $200 rebate for AFV purchases or conversions. 1992 - Rebate of up to $1,000 for new or converted AFVs.	1988 - CNG and LPG fuel purchases taxed by annual flat sticker tax.	1990 - NG vehicle fuels sales deregulated.	1992 - Certification program for AFV conversion mechanics implemented.
Connecticut				1991 - 10% tax credit for AFV investments and expenditures until 1993 adopted. AFV purchases, conversions and CNG fueling station purchases exempt from sales and use tax.	1992 - NGVs, electric vehicles and other AFVs are promoted and encouraged.	1990 - Use of AFVs to be evaluated to address global warming. 1991 - Study of adopting California emission standards begun. AFV tunnel restrictions removed.

STATE ALTERNATIVE FUEL VEHICLE INITIATIVES (continued)

STATE	AFV COMMISSIONS	STATE AFV PROGRAMS	AFV INCENTIVE PROGRAMS	TAX ISSUES	UTILITY ISSUES	OTHER ISSUES
District of Columbia		1990 - Government and private fleets of 10+ vehicles must convert 5% of fleets to AFs beginning in 1993, and increasing by an additional 5% per year until 1998. Commercial fleets to submit compliance plans beginning in 1992.				1990 - Beginning in 1998, non-AF commercial vehicles banned from operating in Central Area Employment from sunrise to sunset from May 1 to September 15.
Florida		1991 - Executive Order mandates AFs in state vehicles beginning in FY 1992-93 in nonattainment areas. Target of 100% state fleet AFVs by 2000. Florida Energy Office developing state AF and fueling infrastructure plan.				
Georgia					1992 - Retail sale of NG as motor fuel removed from PSC jurisdiction.	
Hawaii	1991 - Department of Business, Economic Development and Tourism to study various AF issues and report in 1992.					
Iowa		1991 - Beginning in 1992, 5% of state fleet purchases to be AFVs, increasing to 10% in 1984.	1991 - State, local government and school district AFV purchases may be financed through Iowa Energy Bank Program.			
Kansas	1991 - Commission established to evaluate state NG policies.					

STATE ALTERNATIVE FUEL VEHICLE INITIATIVES (continued)

STATE	AFV COMMISSIONS	STATE AFV PROGRAMS	AFV INCENTIVE PROGRAMS	TAX ISSUES	UTILITY ISSUES	OTHER ISSUES
Kentucky					1992 - Rates for sale of CNG as motor fuel not to be regulated by PSC. Transportation and distribution to retail sellers of CNG still regulated. PSC to oversee allocation of utility/non-utility costs.	
Louisiana	1990 - State agency fleet vehicles to be clean-fuel capable: 9/1/94 - 30% 9/1/96 - 50% 9/1/98 - 80% Department of Environmental Quality to review program.			1991 - 20% tax credit for AFVs and AF fueling equipment.	1990 - PSC directed to deregulate direct sales of NG for vehicles.	
Maryland					1992 - Sales of NG as motor fuel deregulated for non-public utilities.	
Massachusetts						1990 - State will opt-in to the California LEV Program beginning in May 1993. May be delayed if the NE states don't opt-in.
Minnesota				1991 - Exempts sales of NG as vehicle fuel from local franchise fees or taxes.	1984 - Deregulates resale of NG as vehicle fuel.	

STATE ALTERNATIVE FUEL VEHICLE INITIATIVES (continued)

STATE	AFV COMMISSIONS	STATE AFV PROGRAMS	AFV INCENTIVE PROGRAMS	TAX ISSUES	UTILITY ISSUES	OTHER ISSUES
Missouri		1991 - Government fleets of 15 or more vehicles to begin converting to AFVs: 7/1/96 - 10% 7/1/98 - 30% 7/1/2000 - 50% 30% of AFVs must operate solely on AFs by 7/1/2002.				
Nevada	1991 - Requires State Enviornmental Commission to report on AF use in vehicles.					1991 - Requires State Environmental Commission to adopt certain California laws relating to vehicle emission testing.
New Mexico	1991 - Clean Alternative Fuels Task Force created to make recommendations on a variety of AFV issues.	1992 - State and university light-duty vehicles must convert to AFs: FY93-94 - 30% FY94-95 - 60% FY95-96 - 100%	1992 - A revolving loan fund of $5 million established to fund vehicle conversions.		1992 - The sale-for-resale of NG as a vehicle fuel is deregulated.	
New York		1991 - N.Y. City ordinance requires 385 AFVs be purchased by 6/30/92. 1990 - N.Y. State starts 6-year AFV demonstration program.				1989 - N.Y. State Energy Plan adopted - calls for encouraging use of CNG as a vehicle fuel. 1990 - Triborough Bridge and Tunnel Authority opened bridges and tunnels to NGVs.
North Carolina	1991 - Study of clean fuels in state-owned vehicles initiated and NGV demonstration project developed.					

STATE ALTERNATIVE FUEL VEHICLE INITIATIVES (continued)

STATE	AFV COMMISSIONS	STATE AFV PROGRAMS	AFV INCENTIVE PROGRAMS	TAX ISSUES	UTILITY ISSUES	OTHER ISSUES
Oklahoma			1990 - $1.5 million Alternative Fuels Conversion Fund established to reimburse state agencies, counties, cities and school districts that convert vehicles to operate on AFs, up to $3,500 per vehicle. Up to $100,000 per fueling station can be reimbursed. Repayment to be made from fuel cost savings.	1991 - A 50% tax credit for conversion of vehicles to operate on AFs is applicable through 1/1/95.	1991 - Sale of NG as a vehicle fuel deregulated.	
Oregon	1991 - Study of NGVs commenced by Department of Transportation. Department of Energy to study renewable fuels.	1991 - State fleet vehicles to be converted to operate on AFs to maximum extent practicable. After 7/1/94, only AFVs to be acquired by state mass transit vehicles to use AFs whenever economically feasible.		1991 - AFV purchases eligible for energy conservation tax credit programs.	1991 - Utilities authorized to assist industrial and commercial customers to acquire AFVs and fueling facilities.	
Pennsylvania						1989 - Resolution to Congress to mandate shift to AFVs and provide tax incentives and financial assistance to do so.
South Dakota				1993 - Reduced the state motor fuel tax from 18¢ to 6¢ for AFs.		1990 - Adopted resolution similar to Pennsylvania's 1989 memorial to Congress.
Tennessee						1992 - Legislative resolution urging the development of domestic, environmentally-beneficial AFs.

STATE ALTERNATIVE FUEL VEHICLE INITIATIVES (continued)

STATE	AFV COMMISSIONS	STATE AFV PROGRAMS	AFV INCENTIVE PROGRAMS	TAX ISSUES	UTILITY ISSUES	OTHER ISSUES
Texas		1989 - Certain vehicles in non-attainment areas, including buses, state fleets over 15 vehicles, and school bus fleets over 50 vehicles, must begin using clean-fuels: 9/1/94 - 30% 9/1/96 - 50% and 9/1/98 - 90%, if approved by Texas Air Control Board. TACB authorized to set mandates for local government fleets over 15 vehicles, with certain exemptions.		1991 - NG and LPG as vehicle fuels exempt from state sales tax.	1989 - Sale-for-resale of NG as vehicle fuel to end-user is deregulated.	
Utah		1992 - Requires Utah Air Quality Board to implement program to convert vehicle fleets to AFs.	1991 - Established a Clean Fuel Private Sector Incentive Program and a revolving Clean Fuel Conversion Fund for private and public fleets, respectively.	1992 - Exempts AFs from franchise taxes. 1992 - Corporate and personal tax credits established for purchase of AFVs.		
Virginia	1990 - Joint subcommittee appointed to study NGVs and other AFVs.	1991 - A variety of AF legislation enacted to do demonstration projects or convert school bus fleets to NG.	1992 - Virginia Alternative Fuels Revolving Fund established to provide loans for the conversion of government vehicles to AFVs. The Literary Fund authorized to purchase AF buses, do AF conversions, and build AF fueling stations.		1991 - SCC authorized to deregulate sales of NG as a vehicle fuel on a case-by-case basis.	

STATE ALTERNATIVE FUEL VEHICLE INITIATIVES (continued)

STATE	AFV COMMISSIONS	STATE AFV PROGRAMS	AFV INCENTIVE PROGRAMS	TAX ISSUES	UTILITY ISSUES	OTHER ISSUES
Washington		1991 - After 7/1/92, 30% of state vehicle purchases must be AFVs, increasing by 5% per year. 1991 - King County ordinance requires AFV purchases or conversions: 1992 - 50% 1993 - 75%			1991 - NG fueling infrastructure development found to be in public interest.	
West Virginia		1991 - Group of state vehicles to be converted to operate on CNG. CNG fueling stations to be constructed by 9/30/91.			1991 - Sale by a non-utility of NG as a vehicle fuel deregulated. PSC to develop demonstration programs for AFs.	
Wisconsin	1989 - Task Force appointed by Governor to develop state policy on AFs.		1991 - Fund established to reimburse municipalities $2,000 per vehicle up to $30,000 maximum for conversion to AFs.			

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Propane Marketers Association of Kansas

STATEMENT
BY
LEE EISENHAUER

Concerning Senate Bill 330

Presented Monday, November 1, 1993
to the
Senate Transportation and Utilities Committee
Senator Ben Vidricksen, Chairman

Mr. Chairman and Members of the Committee:

I am Lee Eisenhauer, executive vice-president of the Propane Marketers Association of Kansas. I want to thank you for allowing me this time, on behalf of the propane marketers in each of your districts and throughout the state.

I am here to repeat opposition to Senate Bill 330 as it is written; and ask that consideration of a motor fuel tax exemption includes propane and all the alternative motor fuels listed in the federal Clear Air Act. Each fuel has been recognized as a transportation fuel whose use will accomplish the goals of improving the quality of our environment, utilizing our natural resources and enhancing the economy.

With your copy of this statement is included some information regarding propane in general and its use in powering all types of vehicles throughout Kansas, the U.S. and the world. I'd like to just briefly touch upon some additional basic background information and current data.

Propane, also known as LP-gas, is certainly not new in its use as a motor vehicle fuel. It's been used since the 1920's. Although it's always been low in emissions and good for the environment, most consumer usage has been due to the cost savings compared to gasoline, until the 1980's when gasoline prices lowered.

Prior to that time, there was a tremendous number of conversions to propane carburetion in the 1970's when, as you may recall, gasoline supply was limited and costly. Some fleets operating in Kansas converted during those times and continue to utilize propane because

- more -

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of the proven savings in the cost of the product, in vehicle maintenance and extended engine life. Those who come to mind are the City of Salina, the Oxford School District, U.S.D. #259 in Wichita, and the Haysville Police Department. Additionally, the Kansas City, Kansas school buses are propane-powered, as are the Schwann's Food Sales trucks operating nationwide, Tony's pizza vehicles and the trams at Worlds of Fun.

The State of Kansas-owned Ford pickup driven by an inspector in the Weights and Measures Division of the Board of Agriculture is propane-powered.

Propane is actually a by-product of both natural gas and oil. Approximately two-thirds of the supply comes from natural gas processing and the other one-third from oil refining. Kansas is a leading propane producer and has the second largest amount of underground storage in the U.S. These businesses, along with over three hundred propane marketers in numerous communities, provide employment for thousands of Kansans, contributing to the economy of our state.

All types of vehicles may be modified to be powered by propane -from lawn-mowers to forklifts to automobiles to pickups to heavy-duty trucks. There are a number of individuals throughout the state trained to do these modifications, or conversions, including one in the State Motor Pool. The cost varies, determined by the type of engine, size of the fuel tank and labor charge, but normally will not exceed $1,700. Vehicles may be converted to run strictly on propane or may be modified to be dual-fueled, powered by both gasoline and propane, if desired.

New technology is also providing a method of combining propane and diesel fuel.

In most cases, miles-per-gallon will be a little less than with gasoline and is offset, generally, by the lower cost of propane in most areas of Kansas. Distance driven can be extended by the installation of larger capacity propane fuel tanks, particularly on pickups and trucks, and also on some automobiles.

Tanks are manufactured to meet stringent ASME codes and are tested to be extremely safe.

As previously mentioned, engines last longer and time and money spent on maintenance are reduced because of propane's clean-burning qualities.

There is generally no difference in the power between propane and gasoline powered engines but can be more or less, depending upon the engine and the type of modification or conversion.

Propane motor fuel may be acquired at most propane dealer businesses, which, as I mentioned previously, numbers upwards of

- more -

three hundred in Kansas. Some truck stops and rental companies are also equipped to supply propane. Refueling requires the same amount of time as gasoline refueling.

Most fleet owners prefer to install their own storage and refueling facilities, affording more savings through bulk purchases of propane and central refueling. A facility installed with all new equipment and storage tank runs approximately $4,000 to $5,000. Cost varies, depending upon the type of equipment and size of storage tank required. If used equipment and tank are installed, the cost is, of course, reduced. Some propane marketers may install refueling facilities on a lease basis.

At the present time, propane is one alternative motor fuel that receives no subsidies or motor fuel tax exemptions. Users must pay a total of 35.3 cents a gallon - 18.3 cents federal tax and 17 cents state tax.

In closing, I would just like to comment that here in Kansas we are fortunate to still enjoy the quality of air not yet requiring extreme federal mandates for the use of alternative fuels. If we are to maintain, and improve, that quality through the use of "clean-air" motor fuels, equal incentives should be available on those fuels, enabling vehicle owners the choice most applicable to their needs and requirements.

Thank you, again, for this time. I will be happy to respond to questions.

PMAK

Propane Marketers Association of Kansas

Lee Eisenhauer
Executive Vice-President

Propane

The Proof is in the Product!

A VIEW OF FACTS AND FIGURES ON PROPANE USE WILL PROVE THIS CLEAN-BURNING FUEL HAS A LOT TO OFFER!

Ever since 1912, when the first home was heated with propane, enterprising Americans have found a variety of uses for this abundant source of energy. The United States continues to be the world's leading consumer of propane, expending it to dry crops, brood chickens, power tractors, warm greenhouses, barbecue and, since 1938, to run vehicles.

Concern over air quality has resulted in the development of a set of environmental standards by the federal government that will help reduce air pollution. Fortunately, propane's characteristics will make compliance with these Environmental Protection Agency regulations easy. At the same time propane-powered vehicles help clean up the air, they provide a number of other measurable benefits.

One significant advantage propane has over other alternate fuels being explored for possible use as a motor fuel, is that propane is proven. It already has a track record, one the propane industry is proud of.

For more than *half a century* propane has proven itself to be a clean-burning, economic, and safe motor fuel. According to the Department of Energy, propane fuels about 10 percent of Holland's vehicles, and is also used in Italy and elsewhere in Europe. Propane has been promoted for use in taxis in Japan, South Korea, and Thailand. There are about 4 million propane-powered vehicles worldwide. Propane is also used extensively to fuel vehicles in Canada and about 425,000 vehicles in the United States.

Another critical advantage propane has over other trendy fuels being studied is that the infrastructure to dispense this practical fuel is already in place. Currently, there are numerous sites throughout Kansas and the United States capable of providing refueling services. It took *many years* of hard work and a *substantial capital investment* for the industry to set up this refueling network.

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Another factor fleet and vehicle owners must consider before they convert to an alternate fuel is whether or not trained labor is available to provide service. Because propane is proven, an able force of mechanics stands ready to meet service demands. Choosing a newer, fledgling motor fuel can put vehicle owners in a frustrating position when looking for reliable service personnel.

And propane is safe, which is one of the reasons many school districts and law enforcement agencies choose propane to fuel their buses and fleets. Tanks are manufactured in precise accordance with regulations developed by the American Society of Mechanical Engineers. Installations and systems are monitored by the Kansas Fire Marshal's Office to ensure strict compliance with regulations.

A study of the facts and figures of propane will prove that this efficient, economical, and clean-burning fuel is the most practical choice for environmentally and efficiency conscious Kansans!

A number of Kansas fleets utilize propane's advantages, such as:

* The Kansas City, Kansas Public Schools: 100 vehicles
* City of Salina: 90 vehicles ranging from pickups to heavy duty trucks-since 1979
* USD #259, Wichita: 65 vehicles - 1/2 Ton and 3/4 Ton pickups and larger trucks - since 1981
* Haysville Police Department: 14 police cars - since 1981
* Oxford School District: their buses - since early '80's.
* Kansas Department of Agriculture, Weights and Measures Division state sealer's pickup recently converted
* Schwan's Foods sales vehicles in Kansas and throughout the nation have been propane-powered for many years.

Propane Powered Vehicles

Recent interest in reducing air pollution has sparked a surge in the number of people exploring the advantages of propane. It continues to gain world-wide recognition as increasing numbers of fleet vehicle owners see the advantages of using propane.

Clean Burning: Propane emits less carbon monoxide and fewer reactive hydrocarbons than gasoline and propane exhaust is lower in aldehyde.

High Octane: Propane's 100-plus octane rating means propane is all fuel. Propane is not augmented with additive boosters, which can cause "knocking". Drivers of propane-powered vehicles travel on an even flow of power.

Low Maintenance Costs: Propane leaves no lead, varnish or carbon deposits that cause premature wearing of pistons, rings, valves and spark plugs. It doesn't contaminate the crank case or combustion chambers of the engine. Oil and oil filters last three to four times longer than oil in gasoline or diesel vehicles because propane doesn't contaminate or dilute. Because propane is clean-burning, engines last approximately two to three times longer.

No Fuel Pump: Propane is self-pressurizing, so no fuel pump is needed.

Less Carburetor Expense: The carburetor on a propane fueled system is simple, with few moving parts. The carburetor in a gasoline engine functions to create a vapor of fuel and air. Since propane is already a vapor when it enters the motor, the carburetor does not have to perform this complex function.

Conversion Cost: $900 - $1600, depending upon type of vehicle.

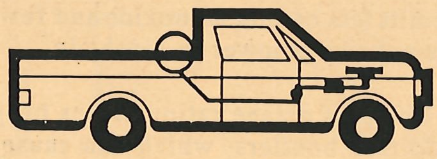
Refueling Sites: Refueling sites located throughout the state of Kansas and the United States. Vehicle owners also have the option of setting up their own refueling facility with a minimal investment, cost dependent upon the number of vehicles.

Driving Range: Propane motor fuel tanks range from 30 gallon capacity for cars to 116 gallons on a pick-up. Truck saddle tanks are also available. Filled at 80 percent capacity and calculated at 16 miles per gallon, the range on an 84 gallon motor fuel tank is 1,092 miles. It takes only minutes to refuel.

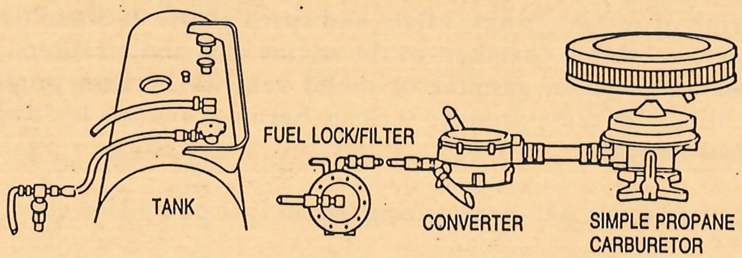
Service: There are 25,000 propane dealers in the United States, plus shops that specialize in carburetion conversion.

Safety: Propane motor fuel tanks must be constructed to codes and specifications established by the U.S. Department of Transportation and the American Society of Mechanical Engineers (ASME). Industry trade publication reports on high-impact collision tests support testimony of many that, when comparing the safety and integrity of the fuel systems, they would rather ride with a propane tank than with a thin sheet metal gasoline tank.

Switch to Propane



Typical propane conversion for a pickup.



Propane Profile

Propane is a by-product of natural gas and crude oil. Roughly two-thirds of the propane used in the United States comes from the processing of natural gas. Raw natural gas (gas that hasn't been processed yet) is about 90 percent methane, five percent propane, and five percent other gases. The propane is separated from the other gases at a gas processing plant.

The remaining one third of the propane used in this country comes from the refining of petroleum. During the refining process, petroleum is separated into its various parts - producing gasoline, home heating oil, jet fuel, propane, and other petroleum products.

A propane gas molecule contains three carbon atoms bonded to eight hydrogen atoms, thus its chemical formula, C3H8. Propane is non-toxic. It is also colorless and odorless. For this reason, an odorant is added to the fuel (as it is to natural gas) to serve as a warning agent for escaping gas.

Propane changes from a gas to a liquid two ways: 1) when it reaches -43.8 degrees Fahrenheit; and 2) when it is placed under a moderate amount of pressure. Propane is 270 times more compact as a liquid than as a gas, thus enabling concentration of a great amount of energy in a small space - 91,500 BTU's of heat energy per gallon.

In any size tank, propane exists as both a liquid and a gas. As the gas is removed, the escaping propane gas molecules lower the pressure inside the tank. The lower pressure causes some of the liquid propane to boil, replacing some of the gas that has been extracted.

This highly efficient, clean, and safe fuel can be easily stored in tanks of all sizes from the smaller size attached to a barbecue grill to bulk storage tanks with more than 30,000 gallons.

Propane Safety

Safe storage and handling of propane is a primary concern to the propane industry. Without safe practices the propane industry could not exist. Assisting the industry in its continuing efforts to safeguard people and property, the National Fire Protection Association (NFPA) prepares detailed standards published in NFPA Pamphlet No. 58, "Storage and Handling of Liquefied Petroleum Gases".

NFPA 58, first issued in the 1930's, reflects the combined thinking of experienced people in regulatory, insurance, and industry fields. It was recognized by the American National Standards Institute in the 1960's.

As an American National Standard, NFPA 58 is referenced in federal regulations such as the Federal Highway Motor Carrier Safety Regulations, the Hazardous Material Regulations, and the Occupational Safety and Health Administration Regulations. Propane Marketers Association of Kansas dealers must abide by these safety rules adopted and enforced by the State Fire Marshal.

Transportation of Propane

Propane has been routinely transported within the U.S. for nearly 75 years. Long distance domestic movement is primarily by pipelines, whereas local distribution and customer deliveries almost always require shipment by tank truck or rail car.

Propane is normally shipped from the oil refinery or natural gas processing plant by pipeline. Most propane is shipped in two stages; from the refinery or processing plant to an intermediate terminal; and from there to the local marketer for delivery to the end user.

Trucks have been shipping propane since 1926. Two types of trucks are used for transporting: the highway transport and the small bulk delivery truck called a "bobtail".

Highway transports are used for most movements to and from distribution terminals to bulk plants, large end users, and otherwise as needed in the propane production and distribution system. Transports generally have between 7,000 and 12,000 gallons capacity and are constructed of high strength steel.

Bobtails are primarily used for movements from bulk plants to individual residential, commercial and agricultural users. The capacity of a bobtail is typically between 2,000 and 3,000 gallons water capacity.

Both bobtails and transports must comply with the DOT Hazardous Materials Regulations. The cargo tank is constructed in accordance with the Pressure Vessel Code of the American Society of Mechanical Engineers.

Rail tank cars are used to supply distribution terminals that are not served by a pipeline. Tank cars are also used for deliveries to some local marketers and certain large volume costumers.

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STATE OF KANSAS

KANSAS DEPARTMENT OF TRANSPORTATION
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Michael L. Johnston
Secretary of Transportation

Joan Finney
Governor of Kansas

TESTIMONY BEFORE THE
SENATE TRANSPORTATION AND UTILITIES COMMITTEE
REGARDING
MOTOR FUEL TAX EXEMPTION
FOR NATURAL GAS
November 1, 1993

Mr. Chairman and members of the Committee:

My name is Robert Haley and I am Director of Administration for the Kansas Department of Transportation. I appreciate the opportunity to appear before the Committee, on behalf of the Department, to express concern with legislation which would exempt any fuel from motor fuel taxes when used as a motor vehicle fuel. This should not be interpreted as opposition to the use of alternative fuels as motor vehicle fuels. The Department's opposition only reflects concern with the financing of highways.

The State of Kansas currently applies a highway user's tax, in the form of motor fuel taxes, on all fuels, except electricity, used to power vehicles on the state's roads and highways. As the use of alternative fuels increases, the state should not expect revenues to decline. The Department is very concerned with any decline in the revenues currently projected to be available for the Comprehensive Highway Program.

When the Department asked that the rating agencies assign a rating to the Department's bonds, one of the key concerns was the stability of the projected motor fuel revenues over the 20-year life of the bonds. The fact that Kansas had the taxes in place to accommodate a shift to almost all alternative fuels was a consideration in the credibility of the revenue projections and the favorable "double A" rating assigned to the bonds.

The Department would be concerned with this an exemption for any alternative fuel even if a cap was provided on the loss to the Highway Program. The Secretary has expressed concern that any cap tends to come under a great deal of pressure to be expanded or extended.

In conclusion, the Department is concerned with any legislation which would encourage the use of alternative fuels by exempting their use from motor vehicle taxes.

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REGULATION OF NATURAL GAS PRODUCTION IN KANSAS--AFTER THE REVOLUTION

by

David E. Pierce

Professor of Law
Washburn University School of Law

Tuesday, November 2, 1993

I. Background Statement

I am a Professor of Law at Washburn University's School of Law where I teach courses in oil and gas law and natural gas regulation. I have been asked to appear before the Senate Transportation and Utilities Committee today to provide a background discussion of state and federal regulation affecting natural gas production. My goal today is to provide an overview of the evolving state and federal regulatory systems that control the production and marketing of natural gas.

II. Significance of the Topic

A regulatory revolution has occurred in the natural gas industry. It began in 1984 with the Federal Energy Regulatory Commission's issuance of Order 380 and ran full course through 1992 with issuance of Order 636. The pervasive and radical changes initiated by the Federal Energy Regulatory Commission (FERC) have been obliquely countenanced by Congress in the Energy Policy Act of 1992; FERC's broad regulatory authority to act has been acknowledged by the United States Supreme Court.

At this time, the true victor of the revolt appears to be the natural gas consumer. However, as with any revolution, there have been casualties. Certain pipeline companies and natural gas producers have been devastated by the change--all have been, and will continue to be, profoundly impacted by the change. The State of Kansas has been, and will continue to be, profoundly impacted by the change. However, I predict FERC's actions, on the whole, have been beneficial to the industry, consumers, and states, such as Kansas, where a significant portion of our nation's natural gas resource is found.

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III. The Revolt

A. Fifty-Five Years of Federal Regulation

In 1938 Congress, through the Natural Gas Act, set about regulating interstate natural gas pipelines by employing traditional public utility regulatory techniques. The transportation of natural gas in interstate commerce was viewed as a classic natural monopoly that should be encouraged, but regulated. Therefore, the entry into and exit from the business would be controlled. The monopoly would be regulated by defining the pipeline's service obligations and by determining, through cost-of-service ratemaking, what it could charge for its services. However, in an attempt to ensure consumers at the terminus of the pipeline received the lowest-cost gas possible, Congress refused to make natural gas pipelines into common carriers. Instead, the pipeline could control access to its facilities which resulted in a monopoly not only over the _transportation_ function, but also over the _merchant_ function of buying and reselling gas.

Since gas producers could not gain access to the interstate pipelines, they were forced to sell gas at or near the field of production to an available pipeline. The pipeline would then take title to the gas and resell it to its customers. The prices paid for gas would be rolled-in to the pipeline's overall cost of providing the service and consumers would be charged a rate reflecting the pipeline's weighted average cost of gas (the "WACOG"), transportation costs, and the cost of meeting its service obligations. This public utility form of regulation was radically expanded in 1954 when the United States Supreme Court held that independent gas _producers_ were subject to regulation under the NGA whenever they sold gas to an interstate pipeline. Therefore, the contract price negotiated between the pipeline and producer was subjected to federal price regulation to ensure the producer recovered only its cost-of-service plus a reasonable rate of return.

This ushered in 38 years of federal regulation of the price and non-price (entry, exit, and service obligation) aspects of natural gas sales between producers and interstate pipelines. As federal pricing mechanisms failed to keep pace with the market value of gas, as reflected by the unregulated _intra_state markets, producers refused to enter into the _inter_state market which resulted in severe gas shortages in areas served by interstate pipelines. Congress responded in 1978 by enacting the Natural Gas Policy Act (NGPA) which extended regulation to the intrastate markets and offered pricing incentives to encourage the discovery and development of new gas reserves.

The NGPA worked. The price incentives spurred producers to find new reserves and contract for their sale to pipelines. In an

18.2

effort to control gas supplies to meet their merchant function service obligations, pipelines entered into long-term contracts with producers that provided that the pipeline would pay the NGPA "maximum lawful price" for the gas. However, producers insisted that if their gas would be dedicated to a particular contract, the pipeline must agree to take a minimum quantity of gas--or pay for it if not taken. As pipelines scrambled to add gas to their dwindling supply portfolios, consumer prices began to rise gradually as the higher-cost gas was rolled-in with the pipeline's existing lower-priced gas. However, as the pipeline's weighted average cost of gas (WACOG) increased, some consumers, particularly high-load industrial customers, began to switch to lower-cost substitutes for gas, such as fuel oil. All consumers began to practice some level of conservation as a result of increasing gas prices.

As supplies were being aggressively acquired by the pipelines, and as prices continued to escalate under the formula prescribed by the NGPA, the demand for gas fell precipitously. Pipelines were unable to resell, at regulated prices, all the gas they had contracted to take. Producers had made investment decisions based, in part, upon the NGPA pricing mechanism and their gas contracts with pipelines which agreed to take stated volumes of gas, or pay for them, at NGPA prices.

B. FERC's Prescription for an Ailing Regulatory System

FERC's responses to a regulatory system out of sync with reality--the market, would aggravate the pipelines' problems. FERC's "cure" would kill some of the patients, but the Commissioners felt they had to commence treating an ailing regulatory system. The cure was to inject competition into the system where the natural monopoly rationale for regulation did not apply. The one remaining natural monopoly, requiring public utility regulation, would be the interstate <u>transportation</u> of natural gas. The <u>merchant</u> role of the interstate pipeline would not be subject to public utility regulation and, for all practical purposes, pipelines would cease serving a merchant function and focus solely on providing transportation services. The merchant function would be provided by gas producers, marketers, and brokers, in a new competitive environment. However, to achieve its goal, FERC had to attack existing regulatory enclaves that impeded demand, supply, and access to transportation that would permit supply and demand to be met on a competitive basis.

1. Liberating the Demand Side of the Equation

The major "demand" for natural gas has traditionally been created by local distribution companies (LDCs) that purchase gas from pipelines and then distribute it through their system to end

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users: residential, commercial, and industrial customers. The LDC is your local gas company that is regulated by the state public utility commission. Part of the pipeline's service agreement with the LDC included a "minimum bill" which required the LDC to pay a minimum fee to the pipeline regardless of how much gas it actually took. The minimum bill reflects the cost the pipeline must incur to be ready to provide the LDC with its peak demand for gas at any time. This means the pipeline must have facilities, and gas reserves, available to meet its service obligation. Therefore, the minimum bill at the LDC level is designed, in part, to compensate the pipeline for the take-or-pay obligations it incurs at the producer level.

However, FERC found that the minimum bill inhibited the LDC's ability to shop for cheaper gas sources because the LDC would, in any event, have to pay its minimum bill to the pipeline even though it acquired its gas from other sources. In 1984, FERC issued Order 380 which permitted LDCs to avoid their minimum bill obligations to interstate pipelines. This made it possible for LDCs to shop around for competitively-priced gas supplies. Order 380 seriously aggravated the ability of pipelines to cover their take-or-pay obligations to producers.

2. Liberating the Supply Side of the Equation

In 1985 FERC issued Order 451 which was designed with the goal of causing a pipeline and producer to renegotiate their portfolio of gas contracts to arrive at agreements more in line with current market conditions--or to terminate the contracts if the parties could not agree. The Order gave producers the ability to trigger the renegotiation of certain "old" lower-priced gas contracts while giving pipelines the ability to respond by bringing certain "new" higher-priced gas contracts to the negotiation table. The end result in many cases was the release of the gas supplies from the contract obligations and from the service obligations imposed by the Natural Gas Act. In 1988 FERC issued Order 490 which provided pre-granted abandonment of the service obligation associated with expired or terminated gas contracts.

3. Opening Access to Transportation so Demand Can Meet Supply

In 1985 FERC sought to create competition in the sale of natural gas by attacking the pipelines' traditional merchant function. In Order 436 FERC sought to "encourage" pipelines to become "open-access transporters" of natural gas. Essentially, the electing pipelines would have to provide any shipper with access to the pipeline pursuant to a stated transportation tariff. The shipper may be an LDC or other gas consumer, or the gas producer, or intermediate marketers or brokers who package gas for sale or resale. Order 436 was ultimately refined in 1987 with the issuance of Order 500, and the finishing touches were placed on open-access with the issuance of Order 636 in 1992.

Orders 436 and 500 also contained additional provisions designed to free-up the demand side of the equation by permitting LDCs and other pipeline firm sales customers to reduce the amount of gas they were contractually obligated to purchase and convert their purchase rights to transportation rights. Order 500 also offered the pipelines some potential relief from their burgeoning take-or-pay obligations by requiring that producer gas transported on a pipeline could, under defined circumstances, generate a take-or-pay credit for the pipeline. Order 500 also offered various mechanisms for the pipeline to recover certain take-or-pay costs from LDCs and other gas customers.

Order 636 is the latest in FERC's attempts to ensure open access is provided to all shippers on an equal basis with the pipeline. Order 636 requires the "unbundling" of pipeline services so shippers can shop, package, and purchase the precise services they need. The concern was that the pipeline "sales" service would not be comparable to a third party's sales service because the pipeline sale may include unidentified transportation-related services. Therefore, the goal was to break out all transportation-related services, such as storage, and provide a menu with regulated rates at which the services can be packaged and bought.

IV. The Regulatory Environment After the Revolt

The Natural Gas Act of 1938 (NGA) divvied-up power between the federal and state governments by granting the federal government exclusive jurisdiction to regulate the following:

1. Transportation of natural gas in interstate commerce.

2. Sale in interstate commerce of natural gas for resale.

3. Companies engaged in interstate transportation or interstate sales of gas for resale.

4. Facilities used to conduct the regulated activities.

The NGA then specified the areas in which the states would exercise jurisdiction. The NGA "shall not apply to any other transportation [i.e. <u>intra</u>state] or sale [i.e. a "direct" sale for use instead of resale] of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas." Therefore, the following areas were left for state regulation:

1. Production of natural gas.

2. Gathering of natural gas.

3. Transportation in intrastate commerce (intrastate pipelines).

4. Sale in interstate commerce for use instead or resale.

5. Local distribution of natural gas.

Although these areas have never been subject to direct federal regulation, for 55 years they have been under indirect federal control through the combined transportation and merchant function of the interstate pipelines. The pipelines often owned (and often still do) the gathering systems associated with individual wells and often had operational control over the production of gas from wells connected to pipeline facilities. The lack of open access to pipeline transportation services also meant that direct sales to LDCs and other gas users could be controlled.

The situation is changing under the new regulatory regime which divorces the pipeline transportation function from the merchant function. FERC must now rely upon the interstate transportation function for its authority to regulate. Even the sale in interstate commerce for resale has been limited as a jurisdictional basis when dealing with wellhead sales of gas following phase-in of the Natural Gas Wellhead Decontrol Act of 1989.

V. State Regulation: Chasing The Rule of Capture

Absent state regulation, a person can drill wells bottomed anywhere within the surface boundaries of their property and produce as much oil and gas from their wells as physically possible. If this causes oil and gas to migrate from adjacent properties, the person owning the property where the producing wells are located obtains title to the "captured" oil and gas. To maximize drainage from adjacent properties, property owners would drill close to their neighbor's lands, drill many more wells than technically required to recover the resource, and produce them to obtain the maximum short-term volumes of production possible. These practices resulted in waste of the resource when brought to the surface, damage to the reservoir, excessive capital investment to recover the resource, and injury to the correlative rights of other owners in the reservoir.

A. Conservation Regulation

Producing states responded to the negative impacts of the rule of capture by adopting rules for playing the capture game. In Kansas, for example, K.S.A. § 55-701 (1983) prohibits the production of natural gas "in such manner and under such conditions and for such purposes as to constitute waste . . . ." "Waste" is defined to include its "ordinary meaning" plus "economic waste, underground waste and surface waste." K.S.A. § 55-702 (1983). "Economic waste" is defined by the statute to mean the wasteful use of natural gas. K.S.A. § 55-702 (1983).

The Kansas Corporation Commission (KCC) is given broad authority in K.S.A. § 55-703 (Supp. 1992) to regulate the production of natural gas to prevent waste and protect correlative rights. Although the focus of the statute is to prevent "waste," the Commission must ensure that in restraining the free exercise of the rule of capture all affected parties are dealt with fairly. The techniques adopted by the KCC to restrain the rule of capture include well location restrictions and production limitations.

B. Location Restrictions

Absent the adoption of special field rules, K.A.R. § 82-3-108(a) limits the drilling of a gas well "nearer than 330 feet from any lease or unit boundary line." This provision ensures a minimum set-back from adjacent properties to provide some protection from drainage. The number of wells that can be drilled on a single tract of land is limited by K.A.R. § 82-3-312(b) which provides for a "standard drilling unit" of 10 acres. This well density requirement is enforced by reducing the amount of gas that can be produced from a well whenever the drilling unit includes less than the required 10 acres. K.A.R. § 82-3-312(c) & (d).

C. Production Limitations

Limiting the location of a well does not address harm that may be inflicted on the reservoir by excessive production from a properly located well. Absent the adoption of special field rules, K.A.R. § 82-3-312(a) limits daily production from any gas well to 25% of the actual open flow potential of the well. However, the KCC provides for a minimum daily allowable of 65 Mcf (thousand cubic feet). K.A.R. § 82-3-312(a). Therefore, if the open flow potential of a well is 1000 Mcf/day, and it is located on a standard drilling unit, the daily allowable will be 250 Mcf/day (1000 x 25%).

However, where the wells are capable of producing significant volumes of gas, the KCC will typically establish special field rules that utilize custom-made spacing, density, and allowable formulas. K.S.A. § 55-703(a) (Supp. 1992) specifies:

> In promulgating rules, regulations and formulas, to attain such results the commission shall give equitable consideration to acreage, pressure, open flow, porosity, permeability and thickness of pay, <u>and such other factors, conditions and circumstances as may exist in the common source of supply under consideration *at the time*</u>, as may be pertinent.

Often times the special field allowables will be established following "market demand" hearings which attempt to project the demand for gas from the field during a designated period, such as six months. K.S.A. § 55-703(a) (Supp. 1992) provides, in part:

> Whenever the available production of natural gas from any common source of supply is in excess of the market demands for natural gas from the common source of supply [<u>excess *supply* situations</u>], or whenever the market demands for natural gas from any common source of supply can be fulfilled only by the production of natural gas from the common source of supply under conditions constituting waste [<u>excess *demand* situations</u>], or whenever the commission finds and determines that the orderly development and production of natural gas from any common source of supply requires the exercise of its jurisdiction [<u>commission's discretion</u>], then any person . . . may produce only that portion of all the natural gas that may be currently produced without waste and to satisfy the market demands [<u>prevent waste</u>], as will permit each developed lease to ultimately produce approximately the amount of gas underlying the developed lease and currently produce proportionately with other developed leases in the common source of supply without uncompensated cognizable drainage between separately owned, developed leases or parts thereof [<u>protect correlative rights</u>].

In determining market demand the commission must consider: "the reasonable current requirements for current consumption and use within and without the state, and such other factors, conditions, or circumstances that would aid in establishing the market demand." K.S.A. § 55-703(a) (Supp. 1992).

Once the market demand is determined for the common source of supply, the demand is "prorated" among the wells in the reservoir by assigning each well an "allowable." This is often called "market demand prorationing" and the resulting allowables represent a property's proportionate share of the market demand which the producer can attempt to meet through production.

D. Ratable Take Requirements

Historically, the gas market has consisted of a producer that removes gas from the ground and then sells it at or near the field of production to a gas pipeline company under long-term gas sales contracts. The pipeline company would take title to the gas, transport it through various pipeline networks, and then sell it to end users and local distribution companies (LDCs). Gas pipeline companies were not operated as common carriers--they typically refused to transport gas for third parties. This often left producers at the mercy of pipelines for the marketing of the producers' gas. States attempted to respond to this problem by requiring pipelines to take gas ratably from individual producers within a reservoir and among various reservoirs within the state. For example, K.S.A. § 55-703(a) (Supp. 1992), provides:

> [T]he commission shall regulate the taking of natural gas from any and all common sources of supply within this state in order to prevent the inequitable or unfair taking of natural gas from a common source of supply by any person [<u>including purchasers</u>] . . . and to prevent unreasonable discrimination in favor of any one common source of supply as against another and in favor of or against any producer in any common source of supply.

K.A.R. § 82-3-301 provides:

> In each common source of supply under the jurisdiction of the commission, each purchaser shall take gas in proportion to the allowables from all the wells to which it is connected. Each purchaser shall maintain all such wells in substantially the same proportionate status as to overproduction or underproduction. . . .

E. Impact of Federal Regulation on Ratable Takes

Federal regulation has traditionally impaired the ability of States to effectively regulate the production of gas to prevent waste and protect correlative rights. Section 1(b) of the Natural Gas Act gives the federal government exclusive jurisdiction over the:

> [T]ransportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale . . . and to the natural gas companies engaged in such transportation or sale . . . .

However, the Act expressly reserves to the States the ability to regulate intrastate transportation, direct sales for consumption, local distribution of natural gas, and the "production or gathering" of natural gas.

In Northern Natural Gas Co. v. State Corporation Comm'n, 372 U.S. 84 (1963), the Court held that a state could not impose ratable take requirements on an interstate pipeline company. The Court held that such requirements, being directed at the pipeline purchaser, could have an impact on their purchasing practices and the ultimate price consumers paid for gas. Therefore, after Northern, the States could not rely upon the interstate pipeline to assist in maintaining ratable takes; the focus shifted to regulating what producers can produce (as opposed to what interstate pipelines can take) to try and deal with the ratability problem.

VI. Impact of a Restructured Marketing System on State Regulation

As pre-restructuring long-term gas sales contracts expire, and as pipeline capacity and other pre-restructuring problems are worked out, gas producers should have ready access to interstate pipeline facilities to pursue marketing opportunities. This should reduce the need to adjust production rates to ensure that producers have a fair opportunity to market their gas. The primary focus of regulation will be upon determining the maximum efficient rate at which a well can produce without damage to the reservoir.

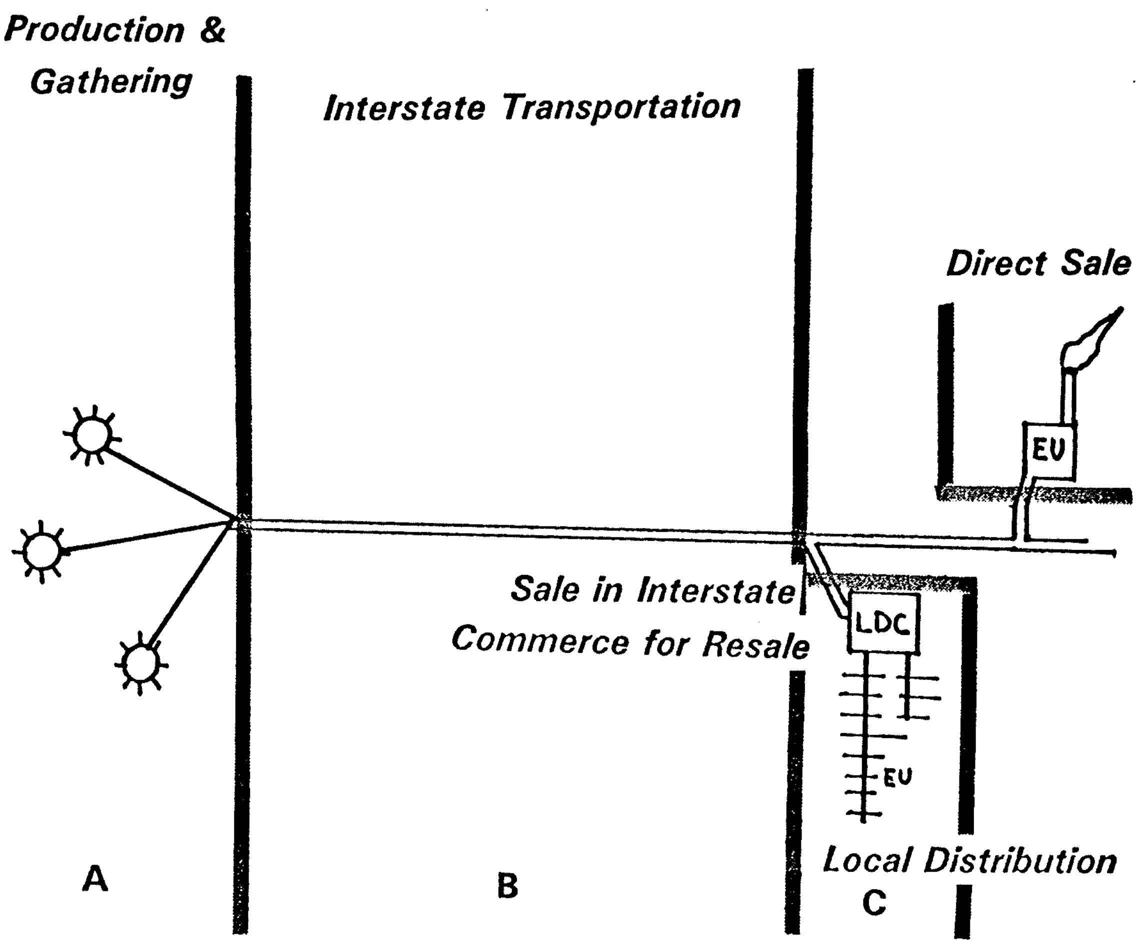
However, the State will continue to play a role in ensuring that bottlenecks in the system do not occur. For example, getting gas from the wellhead to the transporting pipeline may require movement through a gathering system. The gathering system may not be subject to the same open access policy applied to the transportation pipeline. Also, bottlenecks may develop at the user end of the pipeline when gas exits the transportation pipeline and enters into facilities owned by LDCs.

Some states, notably Louisiana, Oklahoma, and Texas, are adjusting their gas production controls to reduce allowables to address what they perceive to be a gas supply far exceeding demand. As one commentator has noted:

> In response to a decade-long problem of low natural gas prices, several states have taken steps to institute statewide limitation of gas production or prorationing. The goals of such regulation are to manage gas surplus, stabilize prices, prevent shortages, and encourage conservation and new drilling.

1 B. Kramer & P. Martin, **The Law of Pooling and Unitization** §5.01[3], 5-10 (3d ed. 1992). It would seem that a better approach would be to ensure that all producers have a fair *opportunity* to market their gas without concern for the volumes sold or the price received. So long as the gas can be produced without waste, and

all affected parties are treated equitably, the State effectively limits the negative impacts of the rule of capture. The State also avoids the risk of placing an artificial value on the commodity when a competitive market to value the commodity already exists. The federal experience tells us that a government-fixed price for natural gas has always been either too high or too low.



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Joan Finney
Governor

Jim Robinson
Chairman

F. S. Jack Alexander
Commissioner

Rachel C. Lipman
Commissioner

Judith McConnell
Executive Director

Brian Moline
General Counsel

Kansas Corporation Commission

Testimony of the Kansas Corporation Commission
Tom Day, Dir. of Administrative Services
to the
Senate Transportation and Utilities Committee (Interim)
concerning S.B. 394
November 2, 1993

Chairman Vidricksen and members of the committee, thank you for allowing the Kansas Corporation Commission to testify on Senate Bill 394.

The Kansas Corporation Commission supports the change in S.B. 394 to K.S.A. 66-1502 that permits the direct assessment of costs incurred by the KCC for their participation in proceedings before federal agencies, specifically the Federal Energy Regulatory Commission. Currently those costs are being assessed to all jurisdictional utilities through their general quarterly assessments, pursuant to K.S.A. 66-1503. The proposed change to the statute, if adopted, would result in the utilities on whose behalf the costs were incurred, primarily Western Resources, to bear those charges. This change would not affect the company's ability to recover the assessments from ratepayers. The fiscal note to this change is approximately $102,000 for FY 94. This consists of the $60,000 contract, in FY 94, with the Washington, D.C. law firm of Lane & Mittendorf which assists the KCC in its participation in proceedings at the FERC. It also includes 90 percent of one staff attorney whose salary and benefits do not exceed $42,000.

Again, thank you for this opportunity to testify before this interim committee. I will be happy to answer any questions relating to this amendment. The Corporation Commission respectfully asks for your favorable consideration and support to the requested amendment in K.S.A. 66-1502.

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Attachment # 19

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SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Comments on

SENATE BILL No. 394 - Assessment of Utilities

By

THE CITIZENS' UTILITY RATEPAYER BOARD
Alan Decker - Consumer Counsel

In general, there are two substantive changes to K.S.A. 66-1502 being requested in this bill. The Kansas State Corporation Commission ("Commission") will address one subatanitve change and the Citizens' Utility Ratepayer Board ("CURB") will address the other.

The changes which CURB is sponsoring attempt to clarify CURB's authority to assess its costs to utilities and their ratepayers. Because there have been questions raised in the past regarding CURB's specific ability to issue its own assessment orders, CURB seeks these changes to alleviate any uncertainty regarding its authority to assess its costs to utilities.

A brief review of how questions regarding CURB's assessment authority arose may be helpful. CURB began as a division within the Kansas Corporation Commission. While CURB was a part of the Commission, its budget and assessments were a part of the Commission's budget and assessments process. However, in 1991 the legislature established CURB as a separate agency, including providing for separate budget and assessment authority. Thus, CURB's expenses are assessed to and collected from the utility's and ultimately the ratepayers who are represented by CURB.

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CURB's transition to a separate agency was completed by July 1992, and CURB issued its first assessment orders during the summer of 1992.

After CURB issued its first assessment orders, a utility filed a formal objection with the Commission questioning whether CURB had the power to issue those orders. The utility contended that K.S.A. 66-1502 did not provide CURB with the authority to issue its own orders. In light of that contention, CURB felt it would be beneficial to all parties to clarify CURB's assessment authority under K.S.A. 66-1502.

CURB's general authority to assess its costs is outlined in K.S.A. 66-1225. That statute provides:

> The budget of the board [CURB] shall be financed in the same manner as the budget of the state corporation commission is financed. . . .

K.S.A. 66-1225.

The current K.S.A. 66-1502 further specifies CURB's assessment authority. However, after the objection was raised, CURB felt all parties would benefit from a clarification of CURB's authority under K.S.A. 66-1502.

Also, please note that the requested changes use as much of the existing statutory language as possible to ensure that there were as few changes as possible to the statute. In that regard, the requested changes on page 2, lines 23 through 30, were offered to clarify and insure that the Commission's assessment limits were not reduced. There was some question whether the current assessment limit was for both the Commission and CURB or whether each agency had a separate assessment limit. If the assessment limit was a combined limit for both agencies, then that could effectively reduce the Commission's assessment by the level of CURB's assessment. The proposed changes establish a separate limit for each agency.

It should also be noted that CURB's budget appropriations prevent it from assessing to the limit outlined in the proposed bill. To insure that there is no question regarding CURB's assessment level, CURB supports adding language to this section of the statute which would indicate that the assessment limit is subject to CURB's fiscal year budget appropriation.

66-1222. Citizens' utility ratepayer board; establishment; composition; terms; organization; meetings; compensation and expenses; powers and duties. (a) There is hereby established a citizens' utility ratepayer board which shall consist of five members appointed by the governor. Subject to the provisions of K.S.A. 1992 Supp. 75-4315c, the governor shall appoint one member from each congressional district and the remainder from the state at large. The members of the board shall serve for a term of four years. All vacancies in office of members so appointed shall be filled by appointment by the governor for the unexpired term of the member creating the vacancy.

(b) The board shall organize annually by the election from its membership of a chairperson and shall adopt such rules of procedure as the board deems necessary for conducting its business.

(c) The board shall hold such meetings as in its judgment may be necessary for the performance of its powers, duties and functions. Appointive members of the board shall receive compensation, subsistence allowances, mileage and other expenses for attending meetings of the board as provided by K.S.A. 75-3223, and amendments thereto.

(d) The state corporation commission shall provide such technical and clerical staff assistance as may be requested by the board in the administration of the provisions of this act.

(e) The board shall administer this act and shall have and may exercise the following powers, duties and functions:

(1) Employ an attorney as a consumer counsel;

(2) guide the activities of the consumer counsel; and

(3) recommend legislation to the legislature which in the board's judgment would positively affect the interests of utility consumers.

History: L. 1989, ch. 162, § 3; L. 1991, ch. 205, § 1; L. 1992, ch. 262, § 6; July 1.

66-1223. Consumer counsel, powers. The consumer counsel may do the following:

(a) Represent residential and small commercial ratepayers before the state corporation commission;

(b) function as an official intervenor in cases filed with the state corporation commission, including rate increase requests;

(c) initiate actions before the state corporation commission;

(d) represent residential and commercial ratepayers who file formal utility complaints with the state corporation commission;

(e) intervene in formal complaint cases which would affect ratepayers; and

(f) make application for a rehearing or seek judicial review of any order or decision of the state corporation commission.

History: L. 1989, ch. 162, § 4; July 1.

66-1224. Limit on jurisdiction of board and counsel. Neither the board or the consumer counsel shall have the power or authority concerning any action taken by an electric or telephone cooperative with a membership of less than 15,000.

History: L. 1989, ch. 162, § 5; July 1.

66-1225. Budgeting, purchasing and management functions; expenditures; financing. All budgeting, purchasing and related management functions of the citizens' utility ratepayer board shall be administered under the direction and supervision of the board. All vouchers for expenditures from appropriations made for the use of the board shall be approved by the chairperson of the board or by a person or persons designated by the chairperson for such purpose. The budget of the board shall be financed in the same manner as the budget of the state corporation commission is financed, except that no assessments for financing the budget of the board shall be levied against electric or telephone cooperatives specified in K.S.A. 66-1224, and amendments thereto.

History: L. 1989, ch. 162, § 6; L. 1991, ch. 205, § 2; July 1.

Attorney General's Opinions:

Citizens' utility ratepayers board; contracting for professional services. 91-152.

Article 13.—MOTOR CARRIERS

Cross References to Related Sections:

Regulation of motor carriers of persons and property, see 66-1,108 et seq.

66-1301.

History: L. 1933, ch. 89, § 1 (Special Session); Repealed, L. 1972, ch. 342, § 120; July 1.

66-1302. Rules and regulations of superintendent of the highway patrol; appeals by aggrieved agencies; hearing and determination by governor. The superintendent of the Kansas highway patrol may adopt rules and regulations to secure proper and efficient enforcement of the laws of the state in relation to motor carriers of passengers and property for hire, not inconsistent with or in derogation of the powers, duties, and responsibilities placed by existing statutes upon the corporation commission. It is declared necessary for the corporation commission, the department of transportation, the department of revenue, and the Kansas highway patrol to cooperate and to coordinate their actions and effort for the proper and efficient enforcement of laws relating to motor carriers of passengers and property for compensation.

If the corporation commission, department of transportation or department of revenue shall feel aggrieved by any order, rule, or regulation adopted by the superintendent of the Kansas highway patrol and shall desire to resist

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BOONE PICKENS

REMARKS TO

SENATE TRANSPORTATION COMMITTEE

TOPEKA, KS

AJL

NOVEMBER 2, 1993

Senate TRANSPORTATION & Utilities
Nov. 1-2, 1993
Attachment # 21

- Thank you.

  -- I appreciate the opportunity to testify before you today.

- I'm going to focus my remarks on the benefits of natural gas as a transportation fuel...

  -- ...and the leadership role I think Kansas can and should play in developing this critical new market.

- **I'm going to speak from three different perspectives this morning.**

  -- **First, as chairman and CEO of MESA, one of the nation's largest independent natural gas producers, with 63 percent of our reserves located in the Hugoton field of southwest Kansas.**

- **Second, I'll be speaking as chairman of the Natural Gas Vehicle Coalition.**

  -- **The Coalition has more than 250 member companies, representing all aspects of the natural gas vehicle industry, including all three Detroit automakers.**

- **And, finally, I'm addressing you as an entrepreneur who sees tremendous business opportunities in the natural gas vehicle market, not only for MESA, but for the Kansas economy as well.**

- **Let me spend a few minutes outlining what I think is going to take place in America during the next few years as far as the oil and gas industry is concerned.**

- **[Diagram at Easel]**

- **The bottom line is this: The nation is going to shift to alternative transportation fuels.**

- **The Clean Air Act and the National Energy Policy Act guarantee it.**

- **If we want to meet the mandates of the Clean Air Act and the National Energy Policy Act, there's only one choice.**

-- That's natural gas.

- **The other fuels either cost too much or are lacking in technology.**

- **The only question is: How fast is the natural gas vehicle market going to develop?**

- **I think you're looking at 20 million NGVs on U.S. roads by the year 2010.**

  -- **That means every tenth vehicle in the U.S. will be a natural gas vehicle.**

- **What does that mean?**

    -- **If we get to that level, you're looking at an annual increase in natural gas consumption of 3 Tcf.**

    -- **Much of that, of course, will be Kansas gas.**

    -- **You're also talking about reducing foreign oil imports by 570 million barrels each year, or by 25 percent.**

- **To reach the 20 million mark, however, we need to look for leadership from the private sector, and from government at all levels.**

- What sort of private sector leadership am I talking about?

  -- SoCal Gas in California is offering rebates of up to $1,750 for vehicles converted to natural gas.

  -- Atlanta Gas is leasing fuel cylinders to consumers for $1 a year.

  -- Keep in mind that the cylinders are the costliest part of natural gas vehicle conversions.

- **As the market develops, you're going to see more and more incentives and private sector leadership.**

- **What sort of leadership do we need from government?**

- **Let me give you a few quick examples.**

- **First, I think it's important for state and local governments in natural gas producing states such as Kansas, Texas, Louisiana and Oklahoma to begin converting their fleets to natural gas.**

  -- **In the process, they will build a fueling infrastructure necessary to support widespread public conversions.**

- **Next, government has to join the private sector in putting money on the table.**

    -- **Ford, General Motors and Chrysler are all producing NGVs.**

    -- **At MESA, we've created a new subsidiary, MESA Environmental, to develop and market state-of-the-art natural gas vehicle conversion equipment.**

- **We're making a significant investment in this industry, and, if this is going to work, I think it's critical that government work with us, not against us.**

- **[Story: "Don't need you to do something for me, just don't do something to me."]**

21-15

- **For the NGV industry to take off in Kansas, I think Kansas has to have a hands-off tax policy.**

- **In other words, don't tax natural gas as a transportation fuel until it becomes a major industry.**

- **That's the objective of SB 330, which I support.**

- As you know, that legislation exempts natural gas used as a transportation fuel from the state's transportation tax.

- At some point, natural gas as a transportation fuel should and will be taxed.

  -- But first, let's promote the development of this domestic industry, so we can begin reclaiming some of the 450,000 U.S. jobs lost in the oil and gas business the past decade.

21-17

- **The first year the exemption would be in place, you're looking at a negligible fiscal impact in the range of $27,000.**

  -- **I doubt you can pave 50 feet of highway for that.**

- **Let me close with this.**

  -- **It's rare that the cleaner, better option is the cheaper option, but that's the case with natural gas.**

- You have an opportunity to develop this new market, for the benefit of your environment and your economy.

- Again, I appreciate the opportunity to testify before you this morning, and I look forward to your questions.

- Thank you.

    -- [Questions]

21-19

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SENATE TRANSPORTATION AND UTILITIES COMMITTEE

Comments on

Review of the Citizens Utility Ratepayer Board

THE CITIZENS' UTILITY RATEPAYER BOARD
Alan Decker - Consumer Counsel

INTRODUCTION AND CURB'S PURPOSE

The Citizens' Utility Ratepayer Board is the consumer advocate for residential and small commercial utility ratepayers in the state. As the state utility consumer advocate, CURB represents residential and small commercial ratepayers:

(1) in cases before the Kansas State Corporation Commission ("Commission"); and

(2) in appeals of Commission decisions to the district and appellate courts.

CURB's ability to appeal Commission decisions on behalf of residential and small commercial ratepayers is CURB's most important contribution to the regulatory process. Before CURB was established, residential and small commercial ratepayers had no practical way of appealing Commission decisions. In contrast, prior to CURB, all other rate case parties could appeal commission decisions. But because of the number of customers in the residential and small commercial customer classes, the comparatively small size of each customer's bill, and the cost of an appeal, the small consumers did not have a practical way of appealing Commission decisions. Whereas, the utility and the industrial customers would typically have the resources and a financial interest sufficient to justify an appeal.

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Moreover, the Commission staff could not pursue an appeal on behalf of residential and small commercial ratepayers. Once the Commission issues its order in a case, the Commission legal staff must represent the Commission. Thus, with its right of appeal, CURB presents a strong effective voice for residential and small commercial ratepayers, insuring that all customer classes have the same opportunity to be heard.

Because the Commission Staff cannot appeal Commission decisions, CURB and the Commission Staff have different roles in the regulatory process. For example, CURB has recently filed an appeal of a Commission decision in which the Commission approved creation of a $30 million paper asset, without, CURB contends, sufficient evidence. Without CURB, consumers would have been unable to appeal this Commission decision.

The other benefit from CURB's participation in the regulatory process, comes from CURB's ability to vigorously advocate on behalf of residential and small commercial customers in Commission cases. As indicated previously, prior to CURB, the parties typically involved in those cases included: the utility, industrial customers, and the Commission Staff. In those cases, the utility and industrial customers would vigorously advocate their positions. However, it was the duty of the Commission Staff to represent all interests. Thus, residential and commercial ratepayers did not have an advocate focusing solely on their interests. With the creation of CURB, residential and small commercial ratepayers now have a representative which can advocate vigorously on their behalf.

CURB HISTORY

Having indicated what CURB does it may be helpful to understand a bit of the history of CURB. For a number of years there were attempts made in the legislature to establish a utility consumer advocate. Those attempts were unsuccessful. After his election, Governor Mike Hayden established a task force to recommend a method for increasing small consumer representation in the regulatory process. That task force disbanded after being unable to reach a consensus. In January 1988, Commission Chairman Keith Henley carved out a piece of the Commission budget and announced the creation of CURB.

However, as a creation as a part of the Commission, there was some concern and debate about CURB's power and authority. The most important question was whether CURB had sufficient legal autonomy from the Commission to appeal a Commission decision. Recognizing these problems, the 1989 legislature "re-created" CURB as a separate statutory agency from the Commission.

When CURB was created by statute, the legislature limited CURB's authority, and CURB is not authorized to participate in proceedings of electric and telephone cooperatives with less than 15,000 customers.

CURB ORGANIZATION

The Board itself consists of five volunteer consumer advocates, one from each state congressional district and one at-large. The Board members are appointed by the Governor for four year terms.

The staff of the agency consists of the Consumer Counsel, an Office Specialist, and a Secretary II. Also, during the current fiscal year CURB has a Special Projects Attorney on staff. This position was only approved for Fiscal Year 1994, but to evaluate the effectiveness of that position, CURB has requested that it be approved again for Fiscal Year 1995.

OTHER STATES

Kansas is not the only state to recognize a need for a utility consumer advocate. Kansas was the thirty-eighth state to establish a consumer advocate office. The other states offices typically have a larger number of employees and a larger budget than does Kansas' office, even though they may have fewer utilities and ratepayers. For example, although it is difficult to make direct comparisons because of the differences in circumstances, Nevada, with approximately two-thirds of the ratepayers of Kansas, has a staff over twice the size of CURB's and a budget of almost three times that of CURB's.

RATEMAKING PROCESS

To understand why the great majority of states have recognized the need for an advocate for small utility consumers, one must understand how the regulatory process works. Rate-setting is a technical, legalistic process. Rates are set on the basis of evidence that is introduced in formal hearings with the Commissioners setting as judges. The decisions of the Commissioners can be and frequently are appealed to the courts.

In this rate-setting process, the utility's lawyers and expert witnesses act as an advocate for the company's interests. The utility's large customers usually hire lawyers and witnesses to advocate for their interests. The Commission Staff does not act as an advocate for anyone. It's job, instead, is to assist the Commission in its legal duty of balancing the interests of the company and all the company's customers.

This leaves a gap in the process. The residential and small business customers, who make up the great majority of the utility's customers, are underrepresented. That's why, as far back as 65 years ago, states began to fill this gap by creating offices like CURB. This also illustrates the legal inaccuracy of the argument that CURB simply duplicates what the Commission Staff already does.

KANSAS UTILITIES

To place CURB's responsibilities in perspective, Kansas has:

(1) nine major electric utilities with annual operating revenues in excess of $10,000,0000;

(2) twelve major natural gas companies with revenues in excess of $10,000,000; and

(3) five major telephone companies.

CURB ACTIVITIES

Because of the number of state utilities, the changing economic and regulatory environment, and the utilities' right to file rate cases, there are always a number of major cases before the Commission. And to adequately represent ratepayer interests, CURB has participated in a number of those cases. Since its inception, approximately five years ago, CURB has participated in over 60 major cases and assisted in some 130 minor or informal matters. CURB accomplishments include successful appeals to the Kansas Court of Appeals and its recommendations being upheld by the U.S. Supreme Court. Although the Commission does not accept all of CURB's recommendations, CURB's participation in Commission proceedings has benefitted ratepayers. For example, the order in the Kansas Power & Light and Kansas Gas and Electric merger case indicated that the Commission considered CURB's recommendation when rendering its decision. It is estimated that over a 40 year period, CURB's recommendation will result in savings to ratepayers of approximately $38 million.

CURB'S FUNDING

Although the legislature sets CURB's budget, CURB's funding does not come from the state's general fund. Rather, CURB's funding comes from assessments to the utilities, which are passed on to ratepayers. Thus, those who benefit from CURB's representation pay for that representation. CURB estimates that on average, ratepayers are assessed approximately $.60 a year for CURB's budget.

Also, please note that CURB's assessments are based only on actual expenditures, up to the budget amount approved by the legislature. Thus, if CURB's expenditures are less than its approved budget, that difference is not assessed to utilities and ratepayers.

CURB's total approved budget for Fiscal Year 1994 is approximately $350,000. Of this amount, CURB estimates that approximately one-half will be used for salaries, benefits, and other expenses and one-half will be used for rate case consultants and experts. This level of funding allows CURB to participate in approximately 8 to 10 major cases and 20 or so minor matters.

CONCLUSION

In conclusion, the Citizens' Utility Ratepayer Board believes that it has been, and can continue to be, a voice for ratepayers where in the past they did not have a voice. Moreover, with its right to appeal Commission decisions on behalf of small ratepayers, the Board has a responsibility and a duty not supplied by any other party to the regulatory process. The Board believes that it has used the ratepayers money wisely to be an effective advocate on their behalf.

The Board would like to thank the Committee for the opportunity to present this review of CURB.

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SHL 1015

SILVER HAIRED LEGISLATURE RESOLUTION NO. 1015

By PSA 3

A RESOLUTION encouraging the Kansas Legislature to continue the existence of the Citizen Utility Ratepayer Board.

WHEREAS, the citizens of Kansas need an agency to monitor utility rate increase requests; and

WHEREAS, the Kansas Silver Haired Legislature supported the creation of the Citizen Utility Ratepayer Board (SHL 401, 1987); and

WHEREAS, the Citizen Utility Ratepayer Board (as established by the 1989 Kansas Legislature, K.S.A. 66-1222) has served the citizens of Kansas well by monitoring requests for rate increases; and

WHEREAS, the Citizen Utility Ratepayer Board has saved Kansas citizens millions of dollars since its establishment: Now, therefore,

Be it resolved by the Silver Haired Legislature of the State of Kansas: That the Kansas Silver Haired hereby urges the Kansas Legislature to support the continuance of the Citizen Utility Ratepayer Board.

Senate TRANSPORTATION + Utilities
Nov. 1-2, 1993
Attachment # 23

2-1

Recommendations Concerning Kansas Airports
and the Kansas Department of Transportation, Division of Aviation

Prepared for the Kansas Senate Transportation and
Utilities Committee
November 2, 1993 - 9:00 A.M.

Prepared and Presented by:
Timothy F. Rogers, A.A.E.
President, Kansas Association of Airports
Executive Director, Salina Airport Authority

Chairman Vidrickson and members of the Committee.

The KAA recommends that the Kansas Legislature consider taking the following action which will enable KDOT to prepare the KDOT Division of Aviation for participation in the Federal Aviation Administration,s block grant program for the State's general aviation airports and to develop a State airport development program.

1. Establish a State airport development fund with a one-time contribution of economic development funds.

2. Provide ongoing revenue for a State airport development fund by requiring all existing state taxes collected on aviation fuels to be paid into the airport development fund.

3. Direct the Secretary of Transportation to develop a State airport development program which would be funded by the State airport development fund. The program should include, but not be limited to, participation in the FAA State block grant program for general aviation airports.

The KAA further recommends that the Kansas Legislature take the following action regarding necessary updates to State airport zoning enabling statutes.

1. Direct the Kansas Legislative Research Department to form a working group to include the KDOT Division of Aviation, the Kansas Association of Counties, the Kansas League of Municipalities and the Kansas Association of Airports to update existing airport zoning and land use legislation.

Thank you for taking committee time to consider these important aviation issues.

Senate TRANSPORTATION + Utilities
Nov. 1-2, 1993
Attachment # 24