

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION.

The meeting was called to order by Chairman Rex Crowell at 1:30 p.m. on January 13, 1994 in Room 519-S of the Capitol.

All members were present except: All Present

Committee staff present: Tom Severn, Legislative Research Department
Hank Avila, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Donna Luttjohann, Committee Secretary

Conferees appearing before the committee: John Smith, Division of Vehicles
Rosalie Thornburgh, Kansas Department of Transportation
Bob Totten, Kansas Contractors Association
Pat Hurley,
Tom Whitaker, Kansas Motor Carrier Association

Others attending: See attached list

Chairman Crowell recognized John Smith. He informed the Committee his department wished to make some bill requests.

The first request was in regard to the suspension or revocation of drivers licenses for persons convicted of drug related offenses. Mr. Smith informed the Committee that this bill would not comply fully with the federal mandate and that the resolution is also needed to comply with the federal mandate. The motion was made by Rep. Shore to introduce the bill. It was seconded by Rep. King. The motion carried.

The second request was for a bill concerning the confidentiality of photographs maintained by the Division of Vehicles in connection with issuance of drivers' licenses. Rep. King made the motion to introduce the bill. It was seconded by Rep. Dillon. The motion carried.

The third request from Mr. Smith concerned identification of drivers' licenses for all persons under the age of 21. Rep. Pauls made the motion to introduce the bill. It was seconded by Rep. King. The motion carried.

The last bill request was regarding the civil procedure concerning the use of nonerasable optical image reproductions. Rep. Smith made a motion to introduce a bill assuring the photographs were acceptable in court. It was seconded by Rep. King. The motion carried.

Chairman Crowell opened the hearing regarding all legislation, including the bill which the committee voted to introduce on this day, pertaining to the revocation or suspension of drivers' licenses for persons convicted of drug offenses.

The Chairman recognized Rosalie Thornburgh as the first conferee. She stated that when this federal mandate was first discussed, Kansas did not meet the criteria in Section 159 of Title 23. Since that time, however, the NHTSA has changed their position stating that diversion of first-time drug offenders to a treatment program in lieu of a conviction would comply with the requirements. See Attachment 1.

Chairman Crowell recognized Bob Totten as a proponent of the legislation. He testified that his Association is in support of either the resolution or the bill, whichever places Kansas in the position to regain lost revenue and retain future revenues for the highway program.

Patrick Hurley was recognized by the Chairman as a proponent of legislation that would retain federal funding for highways and reinstate the \$7 million Kansas lost because the mandated legislation was not enacted last year. See Attachment 2.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION, Room 519-S Statehouse, at 1:30 p.m. on January 13, 1994.

The Chairman then recognized Tom Whitaker who also testified as a proponent in favor of legislation that would regain and retain federal money for highways. See Attachment 3.

John Smith was recognized by the Chairman. Mr. Smith discussed the merits of both the bill and the resolution. The resolution satisfies the requirement for Kansas to receive the lost federal funds.

Chairman Crowell noted the written testimony from Robert Corkins, Kansas Chamber of Commerce and Industry, which was handed out to committee members and was admitted as part of the record. Attachment 4.

The Chairman then closed the hearing on the subject matter of the suspension or revocation of drivers's licenses due to drug offenses.

Chairman Crowell called the Committee's attention to HB 2425 regarding the issuance of license tags for recipients of the Purple Heart Medal. Rep. Shore made the motion to pass the bill favorably out of Committee. It was seconded by Rep. Correll. The motion carried.

The Chairman adjourned the meeting at 2:07 p.m. The next meeting is scheduled for January 18, 1994, at 1:30 p.m. in Room 519-S of the Capitol.

49

HOUSE TRANSPORTATION COMMITTEE

January 13, 1994

Name

Address

Representing

ROBERT MADDEN

AIDE - REP WEBB

Joseph (Duke)

Isabel

TIADA

Glenn Stephens

✓

KPOA

Satrick Hurley

Торрека

Economic Reforms

Bill Watts

10000

KDOT

Kosatie Thornburgh

Topelka

KDOT

Nancy Boome

Topika

1207

JAMES CLARIC

1

K C D A

Mike Boyer

K31

Tom Whitaker

ТОРЖКА

KS/Motor Carriers Assn

Glen Coulter

T. J. [Signature]

85 Good Road

STATE OF KANSAS



KANSAS DEPARTMENT OF TRANSPORTATION

Michael L. Johnston
Secretary of Transportation

Docking State Office Building
Topeka 66612-1568
(913) 296-3566
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Joan Finney
Governor of Kansas

TESTIMONY BEFORE
HOUSE TRANSPORTATION COMMITTEE

REGARDING
DRUG OFFENDER'S DRIVER'S LICENSE SUSPENSION

January 13, 1994

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 driver's license sanctions against drug offenders.

Secretary Michael Johnston provided detailed testimony about the drug offender's driver's license suspension requirements at your meeting on November 30, 1993.

During the November meeting, Mr. Norman McPherson, Regional Administrator for the National Highway Traffic Safety Administration (NHTSA), stated that NHTSA's opinion was that diversion would not meet the requirements of the driver's license suspension bill. Since that meeting, officials from NHTSA, the lead agency in enforcing this legislation, have provided information to indicate that there is a change in their position. Two memoranda attached to this testimony clearly state that "...Kansas' proposal to include a provision in its legislation that would provide for diversion of first-time drug offenders to a treatment program in lieu of a conviction would comply with the requirements of section 159 of title 23, ...".

HOUSE TRANSPORTATION
January 13, 1994
Attachment 1-1

Testimony on Drug Offenders
House Transportation Committee
Page Two
January 13, 1994

The estimates of the total funds which will be withheld if the statutory requirements are not met for FFY94 have changed slightly, from a total estimate of \$7.7 million to an estimate of \$7.5 million. The total loss through calendar year 2000 is estimated to be around \$100 million.

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 FFY94, a total of \$7.5 million will be withheld from Kansas this year.

NHTSA has reviewed House Concurrent Resolution 5024 and has found only one change that is needed to comply with the requirements under the resolution provision of Section 159. Specifically, the language contained in lines 16 through line 18 on page 2 of the proposed resolution should read as follows:

"issuance and reinstatement of the drivers' licenses of convicted drug offenders as set forth in 23 U.S.C. Section 159."

I have attached a copy of the document indicating the area of concern.

In summary, if the Kansas legislature acts to pass a complying resolution or law during this session, the FFY94 highway construction funds currently withheld will be returned to the State of Kansas and no subsequent loss of funds will occur. We ask your support for passage of either a resolution or a law during the 1994 legislative session.

This concludes my testimony, but I would be happy to answer any questions you may have.



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

Memorandum

Subject: Inclusion of Diversion in a
Section 159 Drug Offenders License
Suspension Law

From: National Highway Traffic Safety Admin.
Kansas City, MO

To: Rosalie Thornburgh, Administrator
Kansas Office of Traffic Safety

Date: December 10, 1993

Reply to
Attn. of:

Attached is a copy of the opinion from the NHTSA Office of Chief Counsel referencing the above subject. As diversion is defined in the opinion, the inclusion of diversion, for first time offenders, would comply with the requirements of Section 159.

Earlier, I had been told by our Washington office that an opinion had been rendered stating that inclusion of diversion for first time offenders would not meet the requirements of Section 159. The confusion was over the definition of "diversion for first time offenders". They were using a definition that would include a conviction for the drug offense and allow for diversion into treatment in lieu of the license suspension.

If you need further clarification on this issue let me know.

Norman B McPherson
Regional Administrator

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DEC 13 1993

Office of Traffic Safety/
TOS/ET-1

HOUSE TRANSPORTATION
January 13, 1994
Attachment 1-3





U.S. Department
of Transportation

National Highway
Traffic Safety
Administration

Memorandum

Subject: Response to Kansas' Drug Offender's Driver's License Suspension Law Date: DEC 9 1993

John Womack

From: John Womack
Acting Chief Counsel

Reply to
Attn of:

To: Norman McPherson
Regional Administrator

THRU: Adele Derby
Associate Administrator for
Regional Operations

This is in response to your request for an interpretation of whether Kansas' proposal to include a provision in its legislation that would provide for diversion of first time drug offenders to a treatment program in lieu of a conviction would comply with the requirements of section 159 of title 23, United States Code, as enacted by the Department of Transportation and Related Agencies Appropriations Act for FY 1992 (§333, P.L. 102-143).

The Agencies have interpreted such a provision as complying with the requirements of section 159, on the basis that section 159 applies to persons who have been convicted of drug offenses, and individuals who participate in diversion programs have not been convicted.

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HOUSE TRANSPORTATION
January 13, 1994
Attachment 1-4

1 government into enacting a law to revoke or suspend the driving
2 privileges of convicted drug offenders; and

3 WHEREAS, In order not to lose federal aid to highway funds,
4 the Governor of the state must also certify to the Secretary of Trans-
5 portation that the Governor's state is opposed to being forced by
6 the federal government into the enactment and enforcement of a
7 law revoking or suspending the driving privileges of convicted drug
8 offenders solely for the purpose of avoiding federal sanctions: Now,
9 therefore,

10 *Be it resolved by the House of Representatives of the State of*
11 *Kansas, the Senate concurring therein:* That the Kansas Legislature
12 certifies to the Secretary of Transportation, under the provisions of
13 Section 333 of the Department of Transportation and Related Agen-
14 cies Appropriations Act of 1991, that it is opposed to the enactment
15 and enforcement of a law relating to the revocation, suspension,
16 issuance and reinstatement of the driving privileges of persons con-
17 victed of violations of the Kansas Uniform Controlled Substances Act
18 simply for the purpose of complying with another federal mandate;

19 and

20 *Be it further resolved:* That the Kansas Legislature, so as not to
21 lose federal aid to highway funds, and in order to help the govern-
22 ment of the United States understand its limited mission, urges the
23 Governor of the State of Kansas also to certify to the Secretary of
24 Transportation that this state is opposed to being forced by the
25 federal government to enact and enforce a law revoking or sus-
26 pending the driving privileges of convicted drug offenders; and

27 *Be it further resolved:* That copies of this Concurrent Resolution
28 be transmitted to the Secretary of Transportation, the President of
29 the Senate and the Speaker of the House of Representatives of the
30 United States Congress, the Kansas congressional delegation and the
31 Governor of the State of Kansas.

Statement of
Economic Lifelines
Presented by Patrick J. Hurley

To the House Transportation Committee
The Honorable Rex Crowell, Chairman
January 13, 1994

Room 519-S - Statehouse
Topeka, Kansas

Mr. Chairman and members of the Committee:

I am Patrick J. Hurley and I appear on behalf of Economic Lifelines. Thank you for the opportunity to testify here today.

As you know, Economic Lifelines is the umbrella organization of numerous trade groups, associations, communities and individuals formed to support the Kansas Comprehensive Highway Program enacted by the legislature in the 1989 session.

Economic Lifelines has continued in existence since the 1989 session in order to defend the highway program against any reduction in highway revenues, federal or state, necessary to adequately finance all the highway improvement projects planned during the life of that program.

As such, we have consistently opposed any actions by the state legislature or the U.S. Congress which would reduce this revenue stream.

HOUSE TRANSPORTATION
January 13, 1994
Attachment 2-1

We appear today specifically to address one such measure which could cause Kansas to lose federal highway construction funds.

At the last meeting of the Board of Directors of Economic Lifelines on November 17, 1993, a resolution was adopted which is attached to this testimony.

Under the Intermodal Surface Transportation Efficiency Act of 1991, the U.S. Department of Transportation is authorized to withhold a portion of federal highway funds from states which fail to take certain actions relating to revocation or suspension of drivers' licenses for persons convicted of drug related offenses.

Under this act each state is required to certify annually to the U.S. Secretary of Transportation that they are in compliance with this requirement or face potential permanent loss of these revenues.

States which do not meet the requirements by October 1, 1993, were to have five percent of certain federal highway funds withheld for Federal Fiscal Year 1994, and if still not in compliance on October 1, 1994, would have another five percent withheld, and if not in compliance by October 1, 1995, would have ten percent withheld each year thereafter until that state is in compliance.

HOUSE TRANSPORTATION
January 13, 1994
Attachment 2-2

A state is able to come into compliance with the requirements of this Federal law by either of two methods: the state may enact a law imposing the required penalties for drug related convictions, or in the alternative, the state legislature may adopt a resolution setting forth that state's opposition to enactment or enforcement of such a law and the Governor must then certify annually that the legislature has so expressed its opposition to the enactment of legislation.

Due to the failure of the Kansas legislature in the 1993 session to approve either such legislation or resolution, Kansas was not in compliance with the federal requirement on October 1, 1993, and a total of \$7.1 million in federal funds was withheld from Kansas.

If no action is taken pursuant to either of these options by the Kansas legislature during the 1994 session, Kansas will remain in noncompliance on October 1, 1994, and an additional \$7.5 million will be withheld from the state. If the Kansas legislature continues to fail to enact either option by October 1, 1995, the amount of federal highway funds withheld will increase to \$13.9 million for that year and each year thereafter until Kansas is in compliance with the federal requirement.

Although these federal highway funds are being withheld from Kansas, it is Economic Lifeline's understanding that the funds remain available for restoration if the Kansas legislature acts by a specified date. However, upon failure to take such timely action, funds that are first withheld can become permanently lost to the state.

It is estimated that if the Kansas legislature fails to take either of these actions indefinitely, a total of almost \$100 million in federal highway funds would be lost by the year 2000.

The Board of Economic Lifelines in adopting the attached resolution does not indicate a preference for the alternative methods of compliance which can be taken by the Kansas legislature. We strongly recommend that you determine the most appropriate method and take the action necessary during the 1994 session to bring Kansas into compliance with the Federal law and thereby protect the integrity of the Kansas Comprehensive Highway Program.

Thank you for your consideration and I would be happy to answer any questions committee members may have.

HOUSE TRANSPORTATION
January 13, 1994
Attachment 2-4

RESOLUTION OF THE BOARD OF ECONOMIC LIFELINES

WHEREAS, Economic Lifelines is an organization of various associations, businesses and individuals formed to promote and support the Kansas Comprehensive Highway Program enacted by the Legislature in 1989; and

WHEREAS, Economic Lifelines has consistently opposed the transfer, reduction or loss of any of the revenue components of the Kansas Comprehensive Highway Program, including Federal and State revenues; and

WHEREAS, Under the Intermodal Surface Transportation Efficiency Act of 1991, the U.S. Department of Transportation may withhold a portion of the Federal highway funds from states which fail to take certain actions relating to revocation or suspension of drivers' licenses for persons convicted of drug related offenses; and

WHEREAS, Each state is required to certify annually to the U.S. Secretary of Transportation that they are in compliance with this requirement or face potential permanent loss of these revenues; and

WHEREAS, States not meeting the requirements by October 1, 1993 will have five percent of certain Federal highway funds withheld for Federal fiscal year 1994, and if not in compliance on October 1, 1994, will have another five percent withheld, and if not in compliance by October 1, 1995, will have ten percent withheld each year thereafter until the state is in compliance; and

WHEREAS, A state can come into compliance by either of two methods: enactment of a law imposing the required penalties for drug related convictions, or adoption of a resolution setting forth the state's opposition to enactment or enforcement of such a law together with a letter from the Governor certifying such opposition; and

WHEREAS, Due to the failure of the Legislature to give final approval to either a bill or resolution Kansas is not now in compliance with the Federal requirement and on October 1, 1993, a total of \$7.1 million in Federal funds was withheld; and if Kansas continues in noncompliance an estimated \$7.9 million will be withheld on October 1, 1994, and \$13.9 million will be withheld October 1, 1995 and every year thereafter.

Now therefore be it resolved: That the Board and members of Economic Lifelines urges the Kansas Legislature to approve one of the required methods to bring Kansas into compliance with the Federal requirements in the 1994 session of the Kansas Legislature to avoid any further withholding and permanent loss of Federal highway funds to Kansas.

This Resolution adopted by formal action of the Board of Economic Lifelines on November 17, 1993.

HOUSE TRANSPORTATION
January 13, 1994
Attachment 2-5

STATEMENT

By The

KANSAS MOTOR CARRIERS ASSOCIATION

Supporting action to protect
highway construction funds.

Presented to the House Transportation
Committee, Rep. Rex Crowell, Chairman;
Statehouse, Topeka, Thursday, January 13,
1994.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Tom Whitaker, Governmental Relations Director of the Kansas Motor Carriers Association. I appear here today on behalf of our members and the highway transportation industry. We wish to re-submit the basic testimony presented to this Committee by Mary Turkington, our Executive Director, on November 29, 1993.

We strongly support the need for this Committee and the Kansas Legislature to take positive action in the 1994 Legislative Session to protect the current funding streams for the state's highway program -- including action to prevent withholding of federal highway funds for failure to take certain actions relating to revocation or suspension of drivers licenses for persons convicted of drug related offenses.

Pat Hurley has explained these issues clearly, we believe. We are a part of the coalition that comprises Economic Lifelines. We, too, do not favor one type of action over the other. Appropriate statutory provisions which would impose required penalties for such drug related convictions are an option.

HOUSE TRANSPORTATION
January 13, 1994
Attachment 3-1

The second acceptable method is approval by both houses of the State Legislature of a resolution stating that the Governor and the state are opposed to enactment or enforcement of such a law together with a letter from the Governor to the U.S. Secretary of Transportation certifying such opposition. We understand the Governor is willing to write such a letter.

Our industry further urges enactment of a mandatory motorcycle helmet law. Disregarding the emotional issues of helmet comfort and federal government direction in matters some prefer to handle as a personal choice, let me remind you that an estimated \$3.1 million of construction funds will be diverted in federal fiscal year 1996 (beginning October 1, 1995), unless the Legislature adopts such legislation prior to October 1, 1994. Another \$3.1 million will be diverted from construction funds if such a law still is not enacted prior to October 1, 1995.

I don't know what a million dollars means to each of you -- but I know to those in our industry who currently are paying some 40% of the highway user taxes that fund federal highway programs -- it is a lot of hard-earned company dollars that need to be utilized for the improvement of roads and bridges.

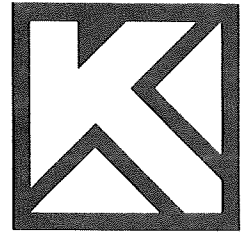
Our industry must comply with countless safety rules and regulations. Our cars and trucks are equipped with expensive safety devices of many kinds -- including the seat belts motorists are required to wear. Enactment of a mandatory helmet law seems to most of us a prudent, positive public policy that helps save lives, reduce serious injury -- and keep highway tax dollars working for improved, safely maintained trafficways for ALL citizens.

We ask your help accordingly.

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HOUSE TRANSPORTATION
January 13, 1994
Attachment 3-2

LEGISLATIVE TESTIMONY



Kansas Chamber of Commerce and Industry

835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-6321 357-4732

Drug Offenses/Highway Funding

January 13, 1994

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
House Transportation Committee

by

Bob Corkins
Director of Taxation

Mr. Chairman and members of the Committee:

My name is Bob Corkins, director of taxation for the Kansas Chamber of Commerce and Industry. I appreciate the chance to express our members' support today for both transportation safety and steadfast financial support of Kansas' 1989 comprehensive highway program.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

HOUSE TRANSPORTATION
January 13, 1994
Attachment 4-1

For over 20 years, KCCI has affirmed its formal policy statement advocating stringent penalties for the operation of motor vehicles under the influence of intoxicating drugs. This objective need not conflict in any way with adequate funding for our state's highways.

KCCI believes that HCR 5024 would not undermine the peaceful coexistence of these two laudable objectives. That formal resolution merely articulates the state's objection to be *coerced* into enacting a specific drug offense penalty.

We therefore support HCR 5024, but we also support a stringent penalty for intoxicated driving *which may or may not* conform precisely with federally mandated content. The two legislative measures would not be mutually exclusive -- both could be enacted.

Again, thank you for this opportunity to express our views.

HOUSE TRANSPORTATION
January 13, 1994
Attachment 4-2