

TESTIMONY BEFORE
HOUSE COMMITTEE ON ENERGY, UTILITIES AND TELECOMMUNICATIONS

REGARDING HOUSE BILL 2701
RELATING TO CREATING A STATEWIDE BROADBAND TASK FORCE AND THE
EXPANSION OF BROADBAND SERVICES

FEBRUARY 14, 2017

Mr. Chairman and Committee Members:

Good morning. I am Larry Thompson, P.E., Director of Operations for the Kansas Department of Transportation (KDOT), and am here today to provide testimony in support of HB 2701, but more specifically to request that a representative of the Secretary of Transportation be added as a voting member of the task force.

At the outset, I'd like to begin by introducing myself. I have worked for KDOT as a professional engineer for over 30 years. I took a sabbatical from KDOT for 12 years and worked as a principal in a small construction firm doing highway construction for KDOT. After returning to KDOT, I served for 21 years as the District Engineer for KDOT's District 6, headquartered in Garden City, which encompasses 19 counties in the southwest corner of the state. When Catherine Patrick became KDOT's State Transportation Engineer two years ago, I moved to Topeka to assume my current position in which I have responsibility to oversee the construction and maintenance operations across the entire state. With this background I hope you see I have a broad range of experience with rural areas in our state, but I also have experience with and oversight of highways in the more urban areas of our state as well.

KDOT believes the stated mission of the task force is commendable. The part of the mission which specifies the task force is "to remove barriers that may hinder deployment of broadband infrastructure or access to broadband services," is where we believe KDOT's involvement in the committee can serve a valuable role. We have heard that KDOT should make state highway right of way more accessible for use by fiber companies. Unfortunately, we believe this viewpoint is often expressed without a clear understanding of KDOT's duties and responsibilities with regard to state highway right-of-way, and the vast differences in the types of highway facilities across the state, including interstates, expressways, freeways, divided highways, two-lane highways with no shoulder facilities, highways that are on the national highway system, or a typical rural state highway.

KDOT is statutorily required to designate areas of highway right-of-way available for use by all utilities if utilities are going to occupy highway right of way. However, that requirement is tempered by the statutory duty to authorize only uses of right-of-way that will not interfere with the safety of the traveling public and which comply with state and federal regulations relating to highways. KDOT has had a policy in place since 1959 (most recently updated in 2007) which establishes a permitting process

for placement of utilities on KDOT right-of-way, and which takes into account the many different right-of-way and highway scenarios found in this state. The policy has served to balance the duty of the agency with the needs of various utilities well for many years.

The ability to have a representative of the Secretary of Transportation on the committee will, we believe, help to educate the task force on the underlying reasons for KDOT current utility accommodation policies, the various types of highway facilities and adjacent right-of-way situations, federal restrictions placed on use of highway right-of-way on interstates and other highway projects in which federal funding was invested, and treatment of utilities currently located on state right-of-way. Along with being able to provide this type of information during the process, KDOT can also identify ways in which its current Utility Accommodation Policy may be improved (within state and federal restrictions) to potentially allow greater opportunity for placement of fiber optic cable facilities on KDOT right-of-way.

The agency believes it would be far more productive to be involved collaboratively in the task force from the beginning, and therefore, as stated earlier, requests HB 2701 be amended to include a representative of the Secretary of Transportation on the Statewide Broadband Expansion Task Force.

Thank you for your attention. I am happy to answer any questions the committee has at this time.