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TESTIMONY BEFORE
SENATE COMMERCE COMMITTEE

REGARDING HOUSE BILL 2701
RELATING TO CREATING A STATEWIDE BROADBAND TASK FORCE

MARCH 9, 2018

Madam. Chair and Committee Members:

The Kansas Department of Transportation (KDOT), would like to provide written testimony in support of HB 2701.

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 will 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 Utility Accommodation Policy (UAP) 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 the Secretary of Transportation or his designee 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. KDOT can also identify ways in which its current UAP 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.

Thank you for the opportunity to provide written testimony in support of House Bill 2701.