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## For Lack of a Word

Senate recalls SB 1507 as legislators have second thoughts about "heretofore"; Last-minute amendment to proposed law may have opened door to SmartPorts and the NAFTA SuperCorridor

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The state Legislature narrowly avoided bringing about what some say would have been "Oklahoma's worst nightmare" last week.

On its face, the otherwise innocuous Senate Bill 1507, by Sen. Jay Paul Gumm, D-Durant, and Rep. Joe Dorman, D-Rush Springs, would have merely allowed the Oklahoma state government to save a few thousand dollars on postage and paperwork by authorizing the Office of State Finance to send certain forms electronically.

But, an 11th-hour, one-word amendment might have opened the door for something a bit more ominous, according to a number of lawmakers and public policy watchers.

"This authorizes the NAFTA SuperCorridor and a SmartPort in Oklahoma and allows for foreign ownership," warned Ken Sellers, vice-president of Oklahomans for Sovereignty and Free Enterprise (OK-SAFE) upon learning of the bill's passage.

"This bill is Oklahoman's worst nightmare," he added in an e-mailed statement in which he exhorted recipients to call the Governor's office to urge him to veto the bill, and to contact their state legislators to ask them to add their own voices to the opposition.

For those unfamiliar, the NAFTA SuperCorridor is a proposed four-football-fields-wide, international, multimodal transportation corridor along Interstate 35, which many understand to be a component of an unfolding plan to merge the United States, Canada and Mexico into a single entity, modeled after the European Union (for a full explanation, see "TransAmerica" in the June 7-13, 2007 issue of UTW at [www.urbantulsa.com](http://www.urbantulsa.com); or just Google "TransAmerica Urban Tulsa Weekly").

The SmartPort controversy is a lesser-known component of the NAFTA Superhighway scenario.

City leaders in Kansas City, Mo. proposed a "SmartPort" in their city after the passage of the North American Free Trade Agreement in the early 1990s as a way to facilitate trade, for the stated purpose of fostering economic development in the city.

The proposal was to have foreign trade partners base their customs officials there, as well as U.S. customs officials, in the interest of expediting trade by speeding up imports and exports.

The U.S. State Department has yet to approve the proposal, due to questions about whether those foreign nations would be granted a measure of sovereignty on American soil.

Also, many critics have opposed the SmartPort proposal out of fear that those foreign nations would be able to exercise eminent domain over U.S. citizens for the establishment of their facilities.

Identical concerns were behind the outcry over the recent amendment to SB 1507.

"This is a major step into creating a connecting NAFTA Superhighway through Oklahoma. This bill must be stopped immediately!," said the OK-SAFE spokesman.

The offending language is the result of the removal of a single word: "heretofore."

It would have struck the word from existing statutes related to international trade processing authorities.

"'International trade processing authority' means a public trust (heretofore) created . . . with powers to construct, acquire, equip and operate an international trade processing center," current statutes read.

Existing statutes also specify that such authorities are "authorized and shall be deemed and held to be the performance of an essential government function."

Sen. Anthony Sykes, R-Moore, told UTW, that the language "passes the 'duck test' for a SmartPort."

Except, that language only applied up until 2003, which meant that no more entities that look like, walk like or quack like a SmartPort could be established in Oklahoma after that time.

That is, until that one word was removed by the last-minute amendment.

"The removal of the word 'heretofore,' meaning 'up until now,' opens the floodgates for a SmartPort," Sykes warned.

He said there is currently an international trade processing authority in McClain County, "but it's not very active," he added.

"The door might have been opened before for a SmartPort in Oklahoma, but it was only cracked. Now, it's wide open. And other actors can get involved whose intentions might be different than those that already have one of these entities," Sykes said.

Everyone in the Legislature had already agreed weeks earlier that Gumm and Dorman's bill was a good piece of legislation, so when it continued along through the process, no one thought to scrutinize it further.

So, when Dorman submitted the amendment in the House, removing that single word, no one thought it had any more significance than routine "housecleaning" language.

When it came time for the Senate to approve the amendment, everyone voted "yes" without a second thought.

Sykes was the sole exception, who caught the crucial change before the floor hearing.

"I do my best to read every bill before I vote on it," he said when asked how he caught it.

"I've got a system I use to review bills," he added.

After the Senate floor session concluded, Sykes made his objections known to his colleagues, including Sen. Randy Brogdon, R-Owasso, who's made a name for himself in Oklahoma and across the nation for his ongoing and outspoken efforts to oppose the NAFTA Superhighway and other components of the feared North American Union.

Brogdon then alerted like-minded Oklahomans like Sellers, who then called on people to contact the Governor's office to veto the bill.

Of course, that begs the question of why Sykes didn't speak out before the bill passed the Senate.

"I didn't get up and debate against it, but quite frankly, there was nobody around me. There were a lot of people off the floor at the time when it was coming through," he told UTW.

"And you've got to remember, it was attached to a bill that makes a lot of sense--being able to file these reports electronically, and saving the state a bunch of paperwork and postage, and it's a bill that I supported when it left the Senate, because it's a good bill," Sykes added.

But, the objections he raised after the fact seemed to do the trick.

The next day, the Senate recalled the bill. As Sykes and Brogdon explained, the next step is to remove the offending language in a conference committee, thereby restoring the bill's original benign intent.

Sykes' concerns have also led Dorman to reconsider the language he offered.

He told UTW that he submitted the amendment at the request of Sen. Jonathan Nichols, R-Norman.

As Dorman explained, rather than requesting the language at the behest of some sinister, unseen hand, bent on dissolving American sovereignty, Nichols only wanted to give the economy in his district a leg up.

"I've trusted his judgment," Dorman said, recounting, "Jonathan approached me to add this language because that one word was preventing an area in his district from becoming a foreign trade zone."

"That's an area you can ship into to avoid tariffs and save on costs associated with manufacturing--it helps the businesses out quite a bit by doing a direct transfer," he explained.

He said a foreign trade zone would essentially allow manufacturers to save on costs by removing some of the trade barriers.

But he acknowledged that, as an unintended consequence to his amendment, it's possible that the language could have opened up the possibility of a SmartPort in Oklahoma, and the resultant NAFTA Superhighway.

"I've had different attorneys look over it, who had different interpretations of the law, but we didn't want to run anything at risk of the courts interpreting it as anything opening it up to more than we wanted," said Dorman.

"As much as can be left open to the interpretation of the courts, it's better today to run clear, concise language in the bills, because when they become statutes, the courts will interpret what can and can't happen when there's a lawsuit," he added.