

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
March 06, 2007

[LR37]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, March 6, 2007, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR37. Senators present: Arnie Stuthman, Vice Chairperson; Ray Aguilar; Carol Hudkins; LeRoy Louden; and DiAnna Schimek. Senators absent: Deb Fischer, Chairperson; Mick Mines; and Dwite Pedersen.

SENATOR STUTHMAN: Good afternoon, everyone and welcome to the Transportation and Telecommunications Committee hearing. First of all, I want to introduce the committee members that are here. I am Arnie Stuthman, Vice Chair of the committee. To my immediate right we have Senator DiAnna Schimek; to my left Senator Ray Aguilar; and then we have Dustin Vaughan, the committee counsel; and Pauline Bulgrin, the committee clerk; and to my far left Senator LeRoy Louden that has just entered the building; and we have Senator Carol Hudkins who is here to introduce the first bill that we have. But, first of all, I want to introduce our pages. We have Michael Schaeffer of Lincoln; and Kristen Kallsen from Big Springs. So if anyone needs anything or needs something handed out, please refer to our pages. Since today we only have one legislative resolution, and that's the only bill that we're going to hear today, and then we will go into an Executive Session after that. So with that, I would like to have the opening of LR37 by Senator Hudkins. Good afternoon.

SENATOR HUDKINS: Good afternoon. Thank you, Senator Stuthman. I am Senator Carol Hudkins, H-u-d-k-i-n-s. I represent the 21st Legislative District and I'm here today to ask for your support for LR37. LR37 was brought to me by the Nebraska Grain and Feed Association. The resolution, and you should have a copy of that, is self-explanatory with regards as to why this issue is important to the state of Nebraska and to the producers of products that require transportation from the field to storage, and from storage to the products final destination for processing. Nebraska is really in quite a dilemma as we're practically surrounded by states that had extended lengths of trucks before 1991, or have received exemptions from the federal government to allow for longer lengths. The result is that in order to move product from the state of Nebraska to other locations or from other locations to Nebraska or through Nebraska, the vehicles used must be shorter in Nebraska than in our surrounding neighbor states. That results in a higher cost of shipment in our state for the same quantity as in our neighboring states. This is unfair to our producers of agricultural products. And if you look at the resolution, what we're asking is that we ask Congress to look at this issue, because the ISTEA act, in 1991, froze the lengths for Nebraska of truck combinations at 65 feet. In other states they are different, some are 81 feet 6 inches off the Interstate, and 110 feet on the Interstate. The Nebraska Beet Growers have benefitted for some time under an exemption that allows trucks to be at 81 feet 6 inches. Last year, the Nebraska...or custom harvesters working in Nebraska obtained a federal exemption also for 81 feet 6 inches. And what we're asking in this legislative resolution is to review the current

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federal ISTEPA restrictions that have been imposed upon Nebraska. There would be an examination of the feasibility for seeking a federal exemption for combination truck lengths that would be hauling grain. We would be asking the grain warehouse and feed industry, the trucking industry, farm commodity organizations, and state and local government representatives, representatives from the Department of Roads, the Nebraska State Patrol, the Department of Motor Vehicles, the Department of Agriculture, and the Nebraska Safety Council to look at all of the practical issues and to examine applicable laws and regulations in the states already permitting extended lengths. So that's what the bill does. One more point, the resolution doesn't support repeal of the restrictions, rather an examination of the practicality of these restrictions in today's environment. So with that, I would ask you to vote for LR37 and advance it to the floor for full legislation. And I would answer any questions. [LR37]

SENATOR STUTHMAN: Thank you, Senator Hudkins. Does the committee have any questions? Senator Louden. [LR37]

SENATOR LOUDEN: Yes, Senator Hudkins. I see where they list, you know, corn, wheat, soybeans and all kinds, and it says other grain would be fine. But what about hauling baled hay? Because I've had some of the baled hay haulers, in western Nebraska, complain that they can't haul as long in Nebraska, but as soon as they get to the Colorado line then they can have longer trucks. Would that be a place to put this in here? [LR37]

SENATOR HUDKINS: I would not be opposed to that, yes. [LR37]

SENATOR LOUDEN: Okay, thank you. [LR37]

SENATOR STUTHMAN: Are there any other questions? Senator Schimek. [LR37]

SENATOR SCHIMEK: Thank you, Mr. Chairman. Senator Hudkins, I'm not sure I understand why we have to do it exactly this way? So I'm missing a piece here. In the resolution, on page 1, and you talked about this, it says that the beet growers have benefitted from a federal exemption for some time now. And then the custom harvesters also obtained a federal exemption. [LR37]

SENATOR HUDKINS: Um-hum. [LR37]

SENATOR SCHIMEK: Did they have to go to Congress to get that exemption? [LR37]

SENATOR HUDKINS: Yes. [LR37]

SENATOR SCHIMEK: This is a strange way of doing business, it seems to me, that for every little, tiny exemption you have to go back and get yet another change in the law?

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[LR37]

SENATOR HUDKINS: Well, and, Senator Schimek, you know we have all of these other exemptions. The beet growers got one, the harvesters got one. Perhaps it's just a case of when those exemptions were being talked about, the rest of the people, including the grain and feed dealers and the farmers, too, for that example, because there are individual farmers that do have semis, and they just were not aware of the fact that this is going to affect them. And now with, you know, the price of fuel, the distances that are involved, it just needs to be done as a longer length rather than the 60...whatever I said, 65 feet. [LR37]

SENATOR SCHIMEK: And the 65 foot refers to what kind of conveyance? [LR37]

SENATOR HUDKINS: There is going to be someone behind me is going to be passing out a sheet that shows you exactly. [LR37]

SENATOR SCHIMEK: Okay, okay. Well, thank you. I wonder if we're going to have to continually come back with issues like this for those exemptions? Seems to me there ought to be a little bit of flexibility in federal law, like there is with Medicare and those kinds of issues, where you can actually...the state can actually get waivers if it needs them. I'm not sure. I'm not making any comment on whether it's needed or not, I'm just saying the process is weird. Thank you. [LR37]

SENATOR STUTHMAN: Thank you. Any other questions from the committee? I have one. Have you any idea why they froze them in Nebraska and not other states? [LR37]

SENATOR HUDKINS: No. [LR37]

SENATOR STUTHMAN: Okay. Thank you. That will be all right now? First of all, I'd like to mention that anyone that wants to testify, that they would give their sign-in sheet to our committee clerk and then we'll take the proponents first, the opponents, and then the neutral testimony. So with that, will have the proponents testimony. Good afternoon. [LR37]

PAT PTACEK: (Exhibits 1 and 2) Thanks, Senator Stuthman. Appreciate being here today. My name is Pat Ptacek, that's P-t-a-c-e-k. I'm the executive vice president of the Nebraska Grain and Feed Association, appearing today in support of LR37 and to give you a little bit of background and some issues that at least we'd like to discuss with you today. And you're right, Senator, it is kind of interesting. I was in Washington last week already, talking to our congressional delegation about the possibility, telling them that we were going to be pursuing some parallel activity in Nebraska to support our position, if in fact we can reach a position in Nebraska, so that we can make their argument stronger. There are six states currently trying to do the same thing that we are just

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discussing right now that we ran into from other state associations that I've talked to. Kansas is one of them that are looking at working with their congressional delegation. Of course in Wyoming, and in Montana, and in the Dakota's we already have extended vehicle lengths. And to be quite honest with you, to answer a question, I think back in 1991, when the feds basically took over these combination vehicle lengths, we just had a 65 foot limit in Nebraska, and diesel fuel prices and commodity transportation patterns at that time weren't a big, real concern at that time. And so I'd like to just go over a little bit of background for you and then maybe we can talk about some of the other practicalities of pursuing this on some different levels. We'd like to again thank Senator Hudkins for introducing the legislative resolution calling for the, and excuse me, I forgot my eyes at home today so I'm kind of looking at the medium print here, looking at the restrictions in Nebraska prohibiting extending the length of combination vehicles and to examine the feasibility of seeking a federal exemption that would in fact allow extended combination truck lengths for the purposes of hauling grain. Senator Loudon, I will tell you that I think in Wyoming and Montana they do have extended vehicle lengths. And I'll try to answer your question exactly how long for hay. But I think in Montana it could be as long as 120 feet, but I want to get a clarification for a special use permit for that for you. Okay? Because Nebraska would have to be granted a federal exemption, which could take some time to obtain, the association asserts that it would be important to start the process now and engage other stakeholders to determine if in fact enough support exists to move forward to seek such an exemption. There are others at today's hearing that I hope can offer some historical perspective on this issue, but I would also like to make the observation that in today's transportation society, where we encourage mass intrastate trade and travel and are promoting existing and proposed hemispheric free trade agreements that more has not been done by the federal government to encourage more weight or axle standardization between states and governments. Perhaps this issue could be used as a springboard for a broader discussion of vehicle standardization at least on a regional basis. And I'll refer to NAFTA. NAFTA was enacted almost 15 years ago. We are now allowing Mexican truck and trailers, without adhering to certain U.S. standards, to cross borders, where I think the feds are going to have to inevitably look at these free trade agreements and look at some sort of standardization. I'll give you another example. The Bunge plant, in Council Bluffs, sources well over 50 percent of their soybeans from eastern Nebraska. Yet there is a 4,000 pound weight differential between the Interstates of Nebraska and Iowa. So a lot of these guys that are coming into Nebraska, not knowing of these limitations, are getting popped \$500 fines. Other exemptions preceded this effort. As Senator Hudkins said, several years ago, the Nebraska Beet Industry obtained a federal exemption that allows their beet trucks to run at the 81.6 foot length. Over the past several years, Nebraska custom harvesters worked with our congressional delegation to obtain a federal exemption which the state of Nebraska enacted in 2006, allowing the operation of commercial vehicle combinations not exceeding 81.6 feet for custom harvesters. Commonly referred to on the grain side, these trailers are called "pups", or the auxiliary trailer on a train truck tractor semi trailer combination can add as much as 40 per cent

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more commodity on the same trip. And I've handed out also a diagram of those exemptions permitted in South Dakota. And I'd ask you to refer to the middle one, that will show you the combination 81.6 foot. We would argue that extended lengths will optimize the efficient transportation of grain. Today, Nebraska grain elevators and producers alike are faced with serious transportation challenges. These include sustained record fuel prices, hauling longer distances to originate commodities for our terminal markets or processing facilities, and the practicality or lack of capacity by our railroads to haul grain by rail. In Nebraska, as well as nationally, well over 50 percent of all grain is transported or hauled by truck versus rail. Continued expansion of the ethanol industry provides country elevators that are not situated on a rail line or unable to procure adequate service the opportunity to provide right on time corn deliveries to these processing plants in Nebraska. The survival of our country elevators and cooperatives depend upon the ability to take advantage of these new and expanding markets. Consolidation in the grain and feed industries continue. Some branch storage facilities will be closed, adding miles between the warehouses and processing plants. Therefore, the commercial and farm truck market that is so important to meeting the increased demands of the domestic grain market must be granted a reasonable tool to continue to adjust and fill these needs. NGF feels that extended trucks are one of these tools. And I'd just like to go off my written testimony a little bit and indicate to you that grain elevators, over ten years ago, were encouraged to put in rail facilities to accommodate the larger trains. Now, instead of procuring that commodity within 50 miles of those terminals shipping, we're having to go out 100 to 120 miles to procure those. Which means to put those trains together, competing against those ethanol markets and also supplying those ethanol markets, we have to originate and source that grain from farther distances. Again, adding these trailers would give us somewhat of an advantage to meet that demand. I'd also like to talk about the ethanol industry. The ethanol industry, we have 12 operating plants in Nebraska, another 11 that are coming on-line, and probably another two dozen in the planning stages. If cellulose ethanol is ever perfected, and we are talking taking switch grass into production, we're talking about millions of acres possibly going to switch grass production in five to seven years if, in fact, the technology is perfected to make that work. However, you're talking about a very light load. I mean when you're talking about hauling cellulose or switch grass long distances on a 65 foot trailer, the efficiency is just not there. So the fact of the matter is if we're going to pump up for that, we're going to have to find ways to make that product not only more dense to haul, but also give it an advantage, if we can, by adding some trailers, some capacity. The resolution again calls on representatives from the Grain Department or the Roads Department, the State Patrol, the Department of Motor Vehicles, the State Department of Agriculture, and the Highway Safety Council to examine all practical issues and safety considerations surrounding any combination vehicle extension in Nebraska, into applicable laws in other states already permitting extended lengths. The association understands the serious safety and infrastructure concerns that many of these representative will have on this issue. However, if we look to those states that have had a positive experience with safe extended truck lengths for

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many years, including restrictions on certain combinations and on certain highways, we may be able to bridge this gap. NGF believes that it's vital to any extended federal exemption Nebraska might pursue meet the strictest safety criteria. We believe that the Transportation Committee could serve to host and bring the various stakeholders together between now and the end of the legislative session for a series of meetings that could serve to inform and educate all stakeholders on the history behind the current Nebraska truck length limitations. Other transportation agencies again charged with the design and enforcement of their extended truck program should be invited to offer their experience. Our congressional delegation again will be critical in securing any federal exemption on the state's behalf. The exemption could take several years to secure. If the various stakeholders could come together on the pursuit of a federal exemption now, the Legislature could provide leadership in the examination of extended truck lengths. Thank you again for the opportunity to express our opinion on LR37 and to discuss with you ways that we can promote the safe and efficient transportation of farm commodities. It's somewhat frustrating, again, that given the various free trade agreements, including NAFTA, and all the other state weight and axle variations on trucks that more discussion has not occurred on a universal standard. Perhaps this hearing today will serve as a starting point for further discussion. With that, that would conclude my written testimony. If I could answer any questions or engage in a conversation, I'd be more than happy to do that. Thank you, Senator. [LR37]

SENATOR STUTHMAN: Thank, Mr. Ptacek. Does the committee have any questions? Senator Louden. [LR37]

SENATOR LOUDEN: Yes, Pat. On this, if you extend the length now, does that extend the total weight? Or do they still have to stay under that 80,000 pounds? [LR37]

PAT PTACEK: They're still going to have to stay under the weight...the axle limitations that you run. But by distributing those more evenly it becomes less of an issue, as I understand that. And I'm hoping that maybe someone from the Department of Roads can help with that issue as well, to clarify that. [LR37]

SENATOR LOUDEN: But we're not raising that, that gross vehicle weight or anything on it? [LR37]

PAT PTACEK: No, no. [LR37]

SENATOR LOUDEN: It's just that...well, these beet trucks with that, are they only hauling 80,000? [LR37]

PAT PTACEK: They're 81.6 foot, so they're running a pup trailer on the back of a normal size... [LR37]

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SENATOR LOUDEN: Yeah, I know, but I...yeah, I drive by them all the time. But I'm wondering, are they over...what are they scaling at? What's their gross weight? [LR37]

PAT PTACEK: I will have to get back to you on that, Senator. I can certainly find that out. [LR37]

SENATOR LOUDEN: Okay, and that's what I didn't know. [LR37]

PAT PTACEK: Absolutely. [LR37]

SENATOR LOUDEN: They have extra axles, but I didn't know if they could haul more than...gross out more than that 80,000. Because that's the Interstate deal, I guess. [LR37]

PAT PTACEK: Um-hum. [LR37]

SENATOR LOUDEN: Okay. Well, I think that's all the questions I have, other than the hay haulers have asked a long time ago about longer trucks. [LR37]

PAT PTACEK: Absolutely, and I'll get that question answered for you. [LR37]

SENATOR LOUDEN: But that weight isn't a problem with them. Thank you. [LR37]

SENATOR STUTHMAN: Thank you. Any other questions? Senator Schimek. [LR37]

SENATOR SCHIMEK: Yes, thank you, Mr. Chairman. Pat, there are other states that are also seeking some kind of exemptions? [LR37]

PAT PTACEK: Yes, as I mentioned... [LR37]

SENATOR SCHIMEK: Very many? [LR37]

PAT PTACEK: At least a half a dozen that I could find out when I was in D.C. that we were just tripping over some other folks. We normally go into D.C. and meet with our state grain and feed affiliates from other states. And I know Kansas was one of them actively working with their congressional...like we are right now, just in the beginning stages, as well as Oklahoma looking at something like this. [LR37]

SENATOR SCHIMEK: Any others in this Midwestern region that you can think of? [LR37]

PAT PTACEK: Right now, again, Iowa I don't believe is. Minnesota I don't believe is at this point in time. And as I said, the Dakota's already have it, Wyoming, Montana has it.

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And I think there are some again sugar beet exemptions in Colorado. [LR37]

SENATOR SCHIMEK: Thank you. [LR37]

PAT PTACEK: And again, I think you're right, Senator, to look at...you know, I think there were...you know, they wanted to maybe start standardizing limitations under the 1991 ISTE Act. And that's why they basically froze those combination lengths as they were at that time. Again, diesel fuel prices weren't near the issue that they are not, nor has the transportation pattern completely shifted from what we were used to two or three years ago with that local feedlot market, or that terminal market now becoming a very competitive ethanol market as well. [LR37]

SENATOR SCHIMEK: I guess my thinking is that if something is going to be done, it ought to be more standardized, and the more states that you can involve in that study, or look at what the standards should be, the better chance, I think, you'd have of getting that, that overall standard. [LR37]

PAT PTACEK: Um-hum. [LR37]

SENATOR SCHIMEK: Is there anything that argues against the same standard for every state? I suppose maybe population and amount of traffic on the highways. And there might be some differences, mightn't there? [LR37]

PAT PTACEK: Absolutely, absolutely. And I hope, again, if someone with the Department of Roads has some other historical perspective that they can bring to the table today, that they would share that. But I'm sure there's engineering concerns as well. [LR37]

SENATOR SCHIMEK: Probably. [LR37]

PAT PTACEK: From other highway departments perspective. And in the Dakota's it's much less sparse than, obviously, eastern Nebraska. So, you know, you're going to be running those without a lot of...I mean there has not been the concern that I'm sure something like this would, you know,...at least we're anticipating that concern. That's why we'd like to bring the stakeholders to the table now. [LR37]

SENATOR SCHIMEK: Okay, thanks. [LR37]

SENATOR STUTHMAN: Thank you, Senator Schimek. Any other questions? I have one. Pat, there are some other states that have the over length that they can go a lot longer. [LR37]

PAT PTACEK: Um-hum. [LR37]

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SENATOR STUTHMAN: How did they get to that point? [LR37]

PAT PTACEK: Well, that point that...I would assume that those exemptions had evolved prior to 1991, prior to the feds, you know, freezing those where they were. They were grandfathered in, in 1991. So I'm just assuming that those states evolved to those lengths at that point in time. And when that magic time struck, that's what they were stuck with. So those states that, like Nebraska, that looked at certain exemptions, I know that, you know, we addressed those, but we've only addressed just a small portion, a small segment of the ag industry. I will tell you that the cattlemen may be interested in looking at this as well, because there are instances where they have to break trucks apart to cross borders. [LR37]

SENATOR STUTHMAN: Okay, thank you. Any other questions? Seeing none, thank you. Are there any other proponents for this legislative resolution? Are there opponents? Is there anyone that wants to speak in the neutral testimony? Seeing none, do you want to...Senator Hudkins waives closing. And that will...I will close on the legislative resolution and the hearing for today. Thank you. [LR37]

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Disposition of Bills:

LR37 - Reported to the Legislature for further consideration.

Chairperson

Committee Clerk