

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

Transportation and Telecommunications Committee
February 17, 2009

[LB106 LB255 LB497]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, February 17, 2009, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB106, LB255, and LB497. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Kathy Campbell; Tim Gay; Galen Hadley; Charlie Janssen; Scott Lautenbaugh; and LeRoy Louden. Senators absent: None. []

SENATOR FISCHER: I'd like to welcome all of you to the Transportation and Telecommunications Committee. I'm Deb Fischer. I am the senator from the 43rd District from Valentine, Nebraska, and I'm Chair of the committee. At this time, I would like to introduce our committee members to you. On my far left is Senator LeRoy Louden. Senator Louden is from Ellsworth, Nebraska. Next we have Senator Galen Hadley. Senator Hadley is from Kearney. Next we have Senator Scott Lautenbaugh. Senator Lautenbaugh is from Omaha. Our committee clerk is to my immediate left, Ms. Laurie Vollertsen. On my immediate right is our committee counsel, Mr. Dustin Vaughan. Next to Mr. Vaughan is our Vice Chair, Senator Arnie Stuthman. He is from Platte Center. Next we have Senator Tim Gay, and Senator Gay is from Papillion. We have a couple other members who will be coming later. As many of you know, we introduce bills in other committees, and so there...if you see a senator coming and going, it is nothing personal. We just have bills to introduce in other committees. Our page today is Rhianna Needham, and Rhianna is from Bellevue, and she is here to assist you with anything you may need in distributing testimony or other papers. We will be hearing the bills in the order that they are listed on the agenda. Those wishing to testify on a bill should come to the front of the room and be ready to testify as soon as someone finishes testifying in order to keep the hearing moving. I would ask that you please complete the yellow sign-in sheet at the on-deck table and have that ready to hand in when you testify. We have a computerized transcription program that we use, and so it is very important that the directions on the sign-in sheet are followed, and I ask that you hand that sign-in sheet to our committee clerk before you testify. For the record, at the beginning of your testimony, please spell your last name and also your first name if it can be spelled in several different ways. Please keep your testimony concise and try not to repeat what someone else has covered. If you do not want to testify, but you want to voice your support or your opposition to a bill, you can indicate so at the on-deck table on the sheet that's provided there, and this will be part of the official hearing. If you want to be listed on the committee statement, however, you will need to come forward as a testifier at the hearing and complete that yellow sign-in sheet. You have to come forward actually to testify even if it's just to state your name and your position on the bill. If you don't choose to testify, you may submit comments in writing. Those will be part of the official record. I would ask that you turn off all your cell phones. That means no text messaging in this committee. And with that, I will open the hearing on LB106, and I see Senator Harms is here. Welcome, Senator Harms. [LB106]

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SENATOR HARMS: My name is John, J-o-h-n N. Harms, H-a-r-m-s. Senator Fischer, thank you for giving me the opportunity to be here to visit with you about this bill. This bill is for me, is nothing but about safety. And motor vehicle crashes are the number one cause of death in injuries not only in this great state, but in this nation. When safety belts are worn by people involved in serious crashes, the chances of being killed are seriously reduced by at least 50 to 60 percent. That's particularly if you're in a car or in a light truck; over 50 percent reduction of fatalities in frontal impacts and 70 percent in regard to fatality roll-overs. There is no other action that is lifesaving as seat belts that we have documented. What LB106 does, it creates a primary seat belt use law. This law would allow the law enforcement officer to simply stop you and ticket you and give you a citation for not wearing a seat belt by just those who are in the front seat. Senator Fischer, there may be other people who will come after me who would give you a lot of data and statistics so I'm not going to do that today. I'm going to give you some things that I think are important to me and things that I think that I would like for the committee to have. But there is a phenomenal amount of data here that I could give that supports this position. I'm choosing not to do that today, because of the time issue and another important bill that's coming up, so. During the year 2007, 256 people died; 18,983 were injured in traffic accidents in this great state. One collision occurs every 15 minutes in Nebraska. One in every 23 licensed drivers in Nebraska will be involved in some type of motor vehicle accident this year. Fatality rates in rural areas are two times higher than they are in the urban locations, and to put this a little bit differently, 77 percent of the motor vehicle traffic fatalities are in rural Nebraska. I'd have to tell you, that was a surprise to me as I began to look at the data and statistics. There's a lot more on the rural accidents, but I won't go into those. The National Highway Traffic Safety Administration shows that...studies show that the unrestrained motorists are more likely to be uninsured or uncovered by government support programs. So an unbuckled crash victim or victims are more likely than the buckled motorist victims to be hospitalized; their injuries are two to four times more severe; they'll be required to stay in the hospital longer; and their costs are two to seven times greater. And Nebraska has this opportunity, and I think this will probably be the last opportunity we're going to have to...if we pass LB106 to receive federal dollars. The federal government provides incentive to states when they enact and enforce primary state laws. Nebraska can receive about \$7.4 million if this is passed, and in order for this to happen, if you'd look at the fiscal note, it will have to be an emergency clause in order to qualify for that. According to the National Highway Safety Administration, when this bill is signed and approved, it will save 21 lives annually. There will be 361 less serious injuries, and would prevent almost \$66 million in economic costs would be saved. There are several arguments in regard to this bill and seat belts. And, Senator Fischer, I'd like, if I could, to concentrate a little bit in these issues, because these will...I'm sure they will come up. And I'd like to tell you, as I see it, and what the data and what the research shows us. There is an ongoing argument against mandatory seat belts used and the alleged infringement on individual rights to choose, to use the belts or not use the belt. This

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right, I think, is...right to choose is overshadowed by several factors. First of all, Nebraska law requires you to wear your seat belt. The fact that it's only enforced secondarily is really immaterial. It's the law of Nebraska to wear the seat belt. If you don't, you're breaking the law every time you get in your automobile. Second, from the moment you're in an individual accident, a serious crash begins to cost government about one-third of the total of hospital costs per crash victim is incurred by the general public when they don't have insurance; they're not covered. When costs associated with preventable death and injuries are paid for by the public and the government and the involvement of this state government is important. And it should occur; it's justified. Although many individuals assume it exists, there is no constitutional right here to operate a motor vehicle; it's simply a privilege, and that privilege costs this state a great deal of money annually. A driver's vehicle and environment are already regulated by government through a driver's license, through traffic laws, motor vehicle standards, and that list goes on. I can give you many other examples of where government is involved in regulating. We do that for 90 days; we pass laws that regulate. We do it for 60 days where we pass laws that regulate, so it does occur. In a statement that "it would only affect me" argument doesn't hold up with medical and rehabilitation, unemployment, and welfare costs are added up. Freedom does not include the liberty to take unreasonable risks with one's life or other people's lives. One man's freedom to kill himself is a slavery of leaving his family in poverty for the rest of their life. In the eyes of the court, the protection of safety of all users of the highway system, even against the consequences of their own actions, is a legitimate use of power by the state. This becomes a reality when safety belt use laws are passed and enforced. In a civilized society, there are opportunities to give us...to make life better. There are opportunities that makes things better for us, a little safer, actually more civilized, requires safety restraints used in motor vehicles is a very simple measure to ensure continued good health in the future and safety. There is also another issue that comes up, Senator Fischer, and I want to touch on it just briefly, and that is racial profiling. Racial profiling...first of all, I want to make sure that you understand, I do not tolerate racial profiling. I'm not in favor of anything along that line. But we have laws that deal with racial profiling and usually when we begin to hear the term "racial profiling," that's when somebody wants to take on a block, a measurement such as this that is going to automatically be caused by racial profiling is going to take place. We have laws that address this issue. I guess what I would say to you as senator, is if that law is broken, then we need to fix it. If racial profiling is an issue here, we need to correct it. And so, you can look at racial profiling. You can look up the law; you can see just exactly what the standards are. But we have ways to determine whether or not people are being stopped or whether or not people are being arrested because of the color of your skin. We have that data in those statistics. So I hope that as you begin to look at this issue, that you understand that if that part of the law is broken, let's fix that, and next time we have the opportunity to introduce bills, let's introduce one that corrects the issue of racial profiling. Senator Fischer, that ends my comments. I'd be happy to answer any questions or, you know, you've got a lot of people following me, and they may have the

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answer to the questions, so it's your pleasure. [LB106]

SENATOR FISCHER: Thank you, Senator Harms. I would like to mention for the record that we have been joined by Senator Charlie Janssen from Fremont and Senator Kathy Campbell from Lincoln. Are there questions for Senator Harms? I see none. Thank you very much. At this time, I would like to ask how many people are here to speak in support of the bill today? Okay, I see nine. How many in opposition? Zero. Anyone neutral? Zero. Okay, we will not use the light system then, but I would ask that you try and keep your testimony to five minutes or less and not repeat testimony that has come before the committee previous to your time in coming forward to testify. With that, I would ask the first proponent to step forward, please? I would think we could finish this bill in less than an hour possibly, so thank you. Welcome. (See also Exhibits 1 and 2.) [LB106]

ROSE WHITE: (Exhibit 3) Thank you, Senator Fischer, members of the committee. My name is Rose White, R-o-s-e W-h-i-t-e, and I'm the public affairs director for AAA Nebraska. I'm here today to express our organization's strong support of LB106, a bill to change our state's safety restraint law from secondary enforcement to standard enforcement. Now with safety restraint use in Nebraska currently at an all-time high of 83 percent, you may be asking, well, why do we need to make the change to our law if most people are buckling up? I can give you 72 reasons. That's how many unrestrained people died on our roadways last year after being ejected or partially ejected from their vehicle. Now, this includes 17 teenagers who lost their lives very early in their life, of course. Now, I can also give you another 43 reasons. That's how many unbuckled vehicle occupants died in 2008 as a result of injuries they sustained in car crashes on Nebraska roadways. And it's estimated that nearly 2,000 motorists suffered disabling injuries last year alone. Now, the states that enforce the primary law report that safety belt use rates of 90 percent or more over the course of the past ten years. We can estimate that if Nebraska had a primary law and a safety belt use rate of 90 percent, we may have saved nearly 200 lives and prevented thousands of serious and disabling injuries. The change we're asking you to consider today with LB106 is minimal, but will provide numerous rewards and benefits. Using calculated formulas developed by the National Highway Traffic Administration, we can expect that with an 8.5 percent increase in our safety belt use rate, we can expect to save a minimum of 17 lives each year, and see approximately 293 fewer serious disabling injuries. The annual economic savings calculated by NHTSA which includes healthcare costs, lost wages, is estimated at \$56.8 million, and, again, that's a conservative number. I believe Senator Harms reported a number a little bit higher than that. In addition, we receive a one-time incentive gift of at least \$7.4 million from the federal government to support our federal highway fund. Now, in 1992, our state legislators had the wisdom to pass a safety restraint law. They understood the effectiveness of the occupant restraint system in preventing serious injuries and death, but they were also well aware that only 33 percent of the motorists in Nebraska, at that time, utilized their safety belts. And I can't

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state for certain that the low usage rate may have been a reason why they decided to make our state safety belt laws secondary enforcement law. We are very grateful for the action they had taken back in 1992, but we're asking you today to make one improvement to this law that will help to ensure that we receive the maximum full benefits of this law. With safety belt use currently at 83 percent, Nebraskans have accepted the fact that safety belts save lives. They prevent disabling injuries. We do know that. We ask that you advance LB106 and make our state safety belt laws standard law. In fact, it is the only motor vehicle law in Nebraska that is enforced on a secondary basis despite its proven lifesaving benefits, and I think that point is worth restating. It's the only secondary law on the books right now. But we do have to...what can we lose if we don't pass this legislation? Simply, it's just lives. Federal money we've been throwing away and wasted dollars for hospital care. Nebraskans are already required to buckle up. We're just simply asking you to make that one change. And I did provide some support material, other information that's available on the DMV Web site, so I hope at some time you'll have the opportunity to study that. But I do welcome your questions at any time. Thank you. [LB106]

SENATOR FISCHER: Thank you, Ms. White. Are there questions? Senator Stuthman. [LB106]

SENATOR STUTHMAN: Thank you, Senator Fischer. Ms. White, on the information that you gave us, Nebraska is one of twenty-three states that have the secondary primary seat belt. [LB106]

ROSE WHITE: Correct. [LB106]

SENATOR STUTHMAN: And we're adjacent to Iowa. Can you tell me, did the accident...not the accident rate, but the injury rate or death rate go down in Iowa when they enacted their primary seat belt law? [LB106]

ROSE WHITE: I will be happy to look into that for you, Senator, and I'll find out when it was passed. And as far as the percentage of people buckling up as we have done in our surveys and provide those results to you, I'll be happy to study that for you. [LB106]

SENATOR STUTHMAN: I'm not as much interested in the percentage of people buckling up as the fact that, you know,... [LB106]

ROSE WHITE: Once it was passed. [LB106]

SENATOR STUTHMAN: ...that did...were there a great number or very few people that were, you know, since it passed that bill, you know, no one was killed because they were all buckled up or...I want to know some of that information. [LB106]

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ROSE WHITE: I'll be happy to gather that for you. [LB106]

SENATOR STUTHMAN: Okay. [LB106]

ROSE WHITE: And in the packet of information I provided, it does show information on when Nebraska enacted its law, and how there was a dramatic drop in fatalities plus a dramatic increase in safety belt use the following year. We went from 33 percent to 53 percent following that year it was enacted, and we saw a substantial drop in fatalities, but I will be happy to look for the Iowa numbers on their primary law. [LB106]

SENATOR STUTHMAN: Okay. Thank you. [LB106]

ROSE WHITE: Thank you. [LB106]

SENATOR FISCHER: Other questions. Senator Gay. [LB106]

SENATOR GAY: Thank you, Senator Fischer. So, for an 83 percent and 53 percent, that's a big jump between 92...to go 53 to 83. What's attributed 30 percent increase in seat belt usage because of the way the vehicles...or why is that, would you say? [LB106]

ROSE WHITE: I think a lot of it is education. As AAA, one thing that we've done is we invested in five roll-over units that we've taken to schools and fairs across the state, the State Patrol utilizes, and they give hundreds of demonstrations a year that effectively demonstrate what occurs in a roll-over accident if you're not buckled up. And so I think a combination of education from the other organizations here plus just awareness of people realize, you know, once they've experienced a car accident, they know how dangerous it can be, and so it's an awakening for many people if they've survived that first crash without serious injuries. They realize that it doesn't take much just to buckle up. [LB106]

SENATOR GAY: Yeah, that's pretty effective, because your kids always say, "buckle up" (laugh)... [LB106]

ROSE WHITE: It is, and especially with the... [LB106]

SENATOR GAY: ...so that the youth thing is... [LB106]

ROSE WHITE: The youth thing and the responsibility of parents to set that example. They have to buckle up their children. I think children expect their parents to be buckled up as well, so that helps as well. [LB106]

SENATOR GAY: Thank you. [LB106]

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SENATOR FISCHER: Other questions? Senator Hadley. [LB106]

SENATOR HADLEY: Senator Fischer. On the handout, am I correct, at the bottom where you say benefits with passage of LB106, that the use rate will go from 82.7 to 91.2. Is that...what is that based on, just a good estimate of what you think the deterrent...? [LB106]

ROSE WHITE: Yeah, that's an estimate by NHTSA for those states that did move from a secondary to a primary law, kind of a general average of what they expect would happen if we passed that law that we can expect to see an increase in safety belt use of about 8.5 percent. [LB106]

SENATOR HADLEY: Then a second question. How many people did you say basically were killed...was it...you gave a number of people that were injured or killed because of the lack of...? [LB106]

ROSE WHITE: Basically, I indicated that there were 72 people...that's how many were unrestrained that were ejected in Nebraska. And that included 17 teenagers. And there were also 43 people that were unbuckled vehicle occupants in 2008 that died as a result of injuries they sustained in their car crashes. And to me, that's 43 opportunities we could have saved their lives, and, of course, the 72 ejections. We see those very common right now with the roll-overs. SUVs are very popular. Pickup trucks are very popular in Nebraska, and roll-overs are very common, unfortunately in our state. [LB106]

SENATOR HADLEY: Could I ask one more question? If this is so important for the front seat, why do we do nothing about the back seat? [LB106]

ROSE WHITE: That's a very good question, Senator, and realistically, I think every safety and health organization would like to see everyone buckled up, but I believe that the senators who looked at the law the first time around back in 1993, realize that there's probably some people for health reasons or other various choices, they might not want to buckle up, so they always have that opportunity to sit in the back seat. [LB106]

SENATOR FISCHER: Other questions? Senator Louden. [LB106]

SENATOR LOUDEN: Yes. I noticed here that the violation will be \$25, and that's what it is now? [LB106]

ROSE WHITE: That's correct, Senator. [LB106]

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SENATOR LOUDEN: Do you think that would make any difference whether it's \$25 or what? Should we just pass this law and not have any number at all on there? I mean, for 25 bucks, there's a lot of county attorneys won't take that to court for 25 bucks because, first of all, they don't get the \$25, and it's probably going to cost them a couple hundred dollars to run it through court. [LB106]

ROSE WHITE: Yeah, and we welcome the opportunity to increase that. I think the reason it was left at that level is because it's \$25 for each case or person not buckled up in that vehicle. And a lot of times, if you don't have the driver, there might be other passengers not buckled up as well, and so that would be a violation for each person. [LB106]

SENATOR LOUDEN: Well, if there's only two people in the front seat, it would be \$50 so. Now, one other question, when you talk about people that were ejected. Were they in the front seat or the back seat on your statistics you have here? [LB106]

ROSE WHITE: I don't have that information, but I'd be happy to get that for you. And some of them are ejected out of the sunroof; it's not always a passenger window, and so...but I'll be happy to look that up for you. [LB106]

SENATOR LOUDEN: Okay. And do you have it then...I think it was how many were killed in DUI crashes here I thought in some of this here? And what percentage of those were buckled up that were drunk drivers, and how many of them weren't? I'm wondering, you know, and that's altogether different problem, I guess, if you're going to...are you going to hope that all drunk drivers buckle up? Or are you going to hope that they don't get in there to start with, I guess? [LB106]

ROSE WHITE: Yeah. I can look that information up for you. I can tell you in some of the reports I've read, the high risk drivers are the ones that are in that DWI group, and oftentimes they're the ones not using safety belts at all just because they are high risk drivers. [LB106]

SENATOR LOUDEN: Okay. Then we really don't have a safety belt problem; we have an alcohol or DUI problem more than a safety belt problem on something like that. [LB106]

ROSE WHITE: It can be both. Certainly it can be both. [LB106]

SENATOR LOUDEN: As I see the national average here on one place on your deal, for Nebraska we're at what, 79 percent for 2007, that's your last time? And the national average is just a touch above that, so are we getting there anyway with what we're doing at the present time? [LB106]

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ROSE WHITE: Yeah, and the last survey conducted was in 2008 which doesn't show on this report, and that showed 82.7 percent, so we're just under 83 percent right now. And so education efforts are working, but it's just a matter of we know we can get there a lot faster; we know we can change lives now. We know that after waiting ten years, we could have saved maybe 200 lives, prevented serious injuries, so we're just simply asking, let's make the change now. It'll probably happen eventually, but if we make it now we'll see some immediate impact. [LB106]

SENATOR LOUDEN: You think with this law then, your red line and your blue line would get together here? [LB106]

ROSE WHITE: I don't know, Senator. I don't know. I know that...like it says, we haven't seen...I'm not aware of any states that don't have a primary law that have been able to achieve ratings of close to 90 percent. We're actually doing extremely well compared to those other states with secondary laws. [LB106]

SENATOR LOUDEN: Their red lines are above...or longer than the blue lines? [LB106]

ROSE WHITE: Their levels of usage are much lower than ours even though we have a secondary law and they have a secondary law. Our education efforts have been very strong here in Nebraska. [LB106]

SENATOR LOUDEN: Can you get that information for me that...on your...where you make it a primary...in these states that have primary offense if their red line is longer than the national blue line? Okay, thank you. [LB106]

ROSE WHITE: I'll check into that. Okay. Thank you for your good questions. [LB106]

SENATOR FISCHER: Other questions? I see none. Thank you, Ms. White, for being here today. [LB106]

ROSE WHITE: Thank you. [LB106]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB106]

LYNNE ANDERSON: (Exhibit 4) Good afternoon. Thank you, Chairman Fischer and for the committee. My name is Lynne Anderson, L-y-n-n-e, last name A-n-d-e-r-s-o-n. I'm here as a proponent of LB106. I'm a long-time safety council board member as well as a registered nurse. As a long-time nurse, I've had the privilege of working with patients and their families who are struggling with the fear and sadness of life-threatening illness. As sad as illness such as cancer, congenital heart disease, severe infection, and other similar illness, none is more heart rending than accidental injury that could have been lessened or avoided. The consistent use of seat belts is one simple method that is

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available for anyone who uses most vehicles for transportation, and I'm sure you're all aware of the school bus law that is being proposed. Our neighboring state, Iowa, has a primary seat belt law and has a 93 percent seat belt use versus 83 percent for Nebraska which you've just heard. That, however, leaves 17 percent of our citizens not buckling up. Studies have shown that the group least likely to buckle up is male, between the age of 18 to 34. They tend to be unmarried and have no insurance. U.S. statistics show that death from motor vehicle accidents for ages 15 to 24 are 26.7 per hundred thousand, and for age 25 to 34, a rate of 17.2 per hundred thousand. Those motor vehicle death rates are not seen that high again until the ages of 75 plus, and, luckily, I'm glad I'm still not in that age range, so I'm somewhat safe. The tragedy of deaths in the young age group is shown in the national vital statistics dated March, 2005, when the cause of death in the 15- to 19-year age group shows motor vehicle accidents with 51.67 percent of total deaths. Just of interest, the second most common cause of death in this age group is homicide at 13.7 percent. So many of our very young people are the ones who are dying from these motor vehicle deaths. I will not go through some of the other statistics that other people have gone through, but just that enactment of LB106 will save money for Nebraska citizens. The National Highway Transportation and Safety shows that unbelted injuries cause 25 percent more for medical costs and unbelted occupants are more likely to be on Medicaid or uninsured. The cost of long-term disabilities that are incurred are most often borne by the taxpayers. In conclusion, LB106 is an excellent chance for the Nebraska Legislature to decrease the risk of death or serious injury for vehicle occupants and save money by decreasing injury and disability, and there is the additional benefit by making it possible to receive additional federal money, our Nebraska money that has gone to Washington. I... [LB106]

SENATOR FISCHER: Thank you, Ms. Anderson. Are there questions? Senator Stuthman. [LB106]

SENATOR STUTHMAN: Thank you, Senator Fischer. Ms. Anderson, in your statement you had here that in March, 2005, statistics, when the cause of death from the 15- to 19-year-old age group, motor vehicle accidents was 51 or 52 percent of the total deaths. [LB106]

LYNNE ANDERSON: That is correct. [LB106]

SENATOR STUTHMAN: Is that attributed because they weren't wearing their seat belt or lack of experience? [LB106]

LYNNE ANDERSON: That was not attributed to any cause. That was just from the vital statistics for the U.S. [LB106]

SENATOR STUTHMAN: But it really has...it has nothing to do with wearing the seat belt

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or not. In my opinion, at that age, a person...it's a lack of experience of driving, would you say that would be true? [LB106]

LYNNE ANDERSON: There are many factors that contribute to that, and seat belt use is not the single factor, I'm sure. [LB106]

SENATOR STUTHMAN: Okay, thank you. [LB106]

SENATOR FISCHER: Other questions? Senator Gay. [LB106]

SENATOR GAY: To follow up Senator Stuthman's...I was looking at the same stat, the young people who are...you know, they're invincible. The same people don't buy health insurance and other issues. But what has been done, and I know the training is...AAA has done a great job. I mean, have you looked at our laws that they're saying, if we're after a targeted group, that is the high offenders, what's been done to kind of target them and say, hey, they're...I see them as swinging by me pretty quick and doing some things that I hope it's not my son doing that. But what's been done in the Legislature prior, and if you don't know, maybe someone else does, to target that group? Because seat belt enforcement, it sounds like we're doing an excellent job, and to target that population. Should other things be done, I guess? [LB106]

LYNNE ANDERSON: Well, I'm sure that there are other things that could be done. In all honesty, I do not know what the Legislature has done in the past. I do know a lot of the schools in Omaha do have motor vehicle training that is part of the curriculum but... [LB106]

SENATOR GAY: Oh, like drivers' ed, you're talking about, just like drivers' education things or what? But you don't know...I mean, you say you've been on the safety council for a long time. I was just wondering if you had seen other things along the years that have targeted teen drivers to slow down and, you know, use common sense? That's a hard chore, but you're not familiar with anything...I'll check on that. [LB106]

LYNNE ANDERSON: Actually, we have...and as part of the nurses association as well, we have had seat belt checks in schools as the kids are pulling into the parking lot just to see how many have seat belts on. It's a very low percentage unless there's been a recent fatal accident which tends to kind of jar their memory; it might be a good idea. So there have been some things we at the safety council as well as through the nurses association. We've had the roll-over car in school parking lots so the kids could see what happens, so. [LB106]

SENATOR GAY: So it's been mainly education and not enforcement. [LB106]

LYNNE ANDERSON: That is correct. [LB106]

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SENATOR GAY: Thank you. [LB106]

SENATOR FISCHER: Other questions? Senator Louden. [LB106]

SENATOR LOUDEN: Yes. Here Ms. Anderson, you mentioned that Nebraska would be eligible for \$7 million to \$9 million of federal funding. What would that money be used for? [LB106]

LYNNE ANDERSON: Well, if it were me sitting down coming up with what to use it for, I could have some good answers for you. I, in all honesty, do not know whether that would go to the transportation department, General Fund, I don't know where it goes in Nebraska. [LB106]

SENATOR LOUDEN: Well, it probably...yeah, it would go to the transportation department, but it's also, more or less, earmarked what it can be, and it's mostly to correct or improve some highway safety problems and that sort of thing. And did you know we already get money to do that? There's about \$8 million of a safety fund that's used to correct crooked roads, I guess you might say, but also just because you would get that money doesn't mean it would go to improving roads or anything like that. It may be just used to promote highway safety or something along that line. I just wondered if you knew where that money would actually go when you say we would get federal money. [LB106]

LYNNE ANDERSON: I do not, but I guess my thought is, we in Nebraska send a lot of money to Washington. Any we can get back for any purpose that serves a good purpose is a good thing. [LB106]

SENATOR LOUDEN: Whether it's of any value or not, just so we get it back. [LB106]

LYNNE ANDERSON: I think probably with our legislators as smart as they are, we could figure out a way to get good value out of that money (laughter). [LB106]

SENATOR LOUDEN: The only trouble when it comes from Washington, they sometimes say where it has to go, and we don't have that much to say about it. That's what I was wondering if you realized that when you made that statement. [LB106]

LYNNE ANDERSON: Well, I did not know. I do not know where that money would go. I just assumed we would find a very good use for it here in Nebraska. [LB106]

SENATOR LOUDEN: Okay, thank you. [LB106]

SENATOR FISCHER: Other questions? Ms. Anderson, you mentioned you were a

member of the safety council. Is that the Nebraska Safety Council, the national one?
[LB106]

LYNNE ANDERSON: The National Safety Council-Omaha chapter. [LB106]

SENATOR FISCHER: Oh, okay, thank you for clarifying that, and thank you for being here today. Next proponent, please. Good afternoon. [LB106]

SIMERA REYNOLDS: (Exhibit 5) Hello. Senator Fischer and members of the committee, my name is Simera Reynolds, S-i-m-e-r-a Reynolds, R-e-y-n-o-l-d-s, and I'm the executive director for Mothers Against Drunk Driving. Often Mothers Against Drunk Driving, we say that your seat belt is your best defense against a drunk driver, and MADD is here to throw our support strongly for LB106. In Nebraska, there were a total of 82 persons killed as passenger vehicle occupants in alcohol-related crashes in 2008. Of those 82, only 10 people--12 percent--were buckled in. That left 72 people or 88 percent that were unbuckled. As policymakers and highway safety advocates, we believe that it's essential to strive to curtail the deaths and injuries caused because seat belts were not in use. This legislation cost little to nothing to implement and has the potential to save lives...lives of friends, families, our community members. I know this firsthand because my mother was involved in an alcohol-related crash in Colorado, and she was hit by a drunk driver that was three times the legal limit. All four people were transported. Both cars were totalled, and the only person that remained in the hospital and died twice in transport was my mother. My mother stayed in the ICU for 17 days. She broke every bone in her face, and she still, 26 months later, is missing 23 teeth. If she would have buckled up, she would have left that night like everybody else with some strawberry abrasions and some seat belt abrasions, but she would have not had to face the inordinate amount of surgeries and teeth repair, face lacerations, nose reconstruction, tracheotomy, speech therapy. So it was...actually, it was...that was the year that I called from Colorado to Senator Harms to introduce the GDL bill. So that...I just wanted to bring that up that there is really a human element to this. I'm not going to reiterate the numbers or the dollars that we would receive. Rather, I'd rather focus on the fact that lives would be saved; injuries would be prevented; and dollars would be saved whether they're Medicaid dollars or unemployment or Workers' Compensation. What happened to my family is not unique nor is it isolated. While I've worked with MADD, I've worked with several families that firmly believe if their loved ones had been buckled, they would have survived. It is a lot easier to survive a car crash when you are contained in the car versus being ejected out of the car. By passing this legislation, it's estimated that there will be 8 to 10 percent increase in seat belt usage. Again, the translation is lives saved. We have to focus on our community and the prevention of injuries. The mix of sanctions is crucial to reaching a greater compliance rate and ensuring those traveling on Nebraska roadways arrive safely and meet the family or the work or the job that they were intended to do. So on behalf of MADD and our 3,000 members across the state, we ask that you put this bill to the full floor of the Legislature

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for a debate. Thank you. [LB106]

SENATOR FISCHER: Thank you, Ms. Reynolds. Are there questions? Senator Louden. [LB106]

SENATOR LOUDEN: Yes. Thank you for your testimony, and I'm sorry to hear about your mother. Were these cars equipped with airbags that...? [LB106]

SIMERA REYNOLDS: Yes, sir. [LB106]

SENATOR LOUDEN: And did the airbags just protect people in the front compartment or was your mother...? [LB106]

SIMERA REYNOLDS: The airbags actually did not deploy. They were traveling at 25 miles an hour in a residential neighborhood, and the drunk driver was in a ditch. He came up out of the ditch and hit them oncoming. But it totalled both cars, but it didn't cause the airbags to deploy. [LB106]

SENATOR LOUDEN: I see. She was a front passenger? [LB106]

SIMERA REYNOLDS: She was a backseat passenger. [LB106]

SENATOR LOUDEN: Backseat passenger, I see. [LB106]

SIMERA REYNOLDS: And she didn't buckle up, and...but when she's a law-abiding citizen, and if it had been a law, she would have followed it, but. [LB106]

SENATOR LOUDEN: Well, and you don't have to have a law to buckle up. I mean, you got to learn to take care of yourself. [LB106]

SIMERA REYNOLDS: I know. And don't think that she doesn't feel bad about it because as a person, she has survivor's guilt because if she would have buckled up, and she would have not sustained the injuries. But I think she didn't...at the time, she didn't want to hold the drunk driver responsible for what had occurred, because she felt, you know, I didn't buckle up. And at times, the criminal justice system, at first, was only going to file a careless driving charge against a drunk driver versus serious bodily injury because they said to me, "well, she wasn't buckled up, was she?" [LB106]

SENATOR LOUDEN: I see. It's an insurance issue then, huh? [LB106]

SIMERA REYNOLDS: The insurance issue has been handled. My uncle had an umbrella policy. [LB106]

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SENATOR LOUDEN: Okay, thank you. [LB106]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB106]

SENATOR STUTHMAN: Thank you, Senator Fischer. Ms. Reynolds, thank you for bringing up the issue of your family members. I have been a very close friend of a couple that lost their lives and their friends' lives in another state, and they were buckled up, and they were hit by a state employee that was driving under the influence. [LB106]

SIMERA REYNOLDS: I know who you're talking about. [LB106]

SENATOR STUTHMAN: But I think, in my opinion, and this is where I'm coming...I think...and you will probably agree with me, is the fact that I think we should be paying more attention to, you know, the driving under the influence rather than the seat belt portion of it. We're trying to address the seat belt portion. These individuals were buckled up, and because of an individual that was driving under the influence, they all gave their life. [LB106]

SIMERA REYNOLDS: Well, I think that there's apples and oranges here, and I'm trying not to mix up the fruit basket, but, of course, I'm going to think that we need strong DUI legislation. I wouldn't be doing my job if I didn't think that. But I also believe that your seat belt is your best defense against a drunk driver, that all of us can be very good drivers. We cannot be drinking; we can have our family in our car; we can be minding our own business the way that we should, and if a drunk driver comes upon us and hits us,... [LB106]

SENATOR STUTHMAN: But in my opinion, would you say the responsibility of the driver that caused the accident that was under the influence, or not paying attention to, and not being responsible at driving that caused an accident, is more the issue than the wearing of the seat belts? [LB106]

SIMERA REYNOLDS: If you care about your family, you'll wear a seat belt. If you care about your family, you won't put other people through what I had to go through, sitting in the hospital for 17 days through my father's 51st wedding anniversary, through his birthday, missing for the first time ever in 20 years Christmas with my family, and the first time ever in 20 years, my husband's birthday. You just won't do it. If you care about your family, you'll wear your seat belt. [LB106]

SENATOR STUTHMAN: Okay, thank you. [LB106]

SENATOR FISCHER: Other questions? [LB106]

SIMERA REYNOLDS: And can I add one thing? [LB106]

SENATOR FISCHER: Yes, Ms. Reynolds. [LB106]

SIMERA REYNOLDS: Only because you brought this up. Don't forget either the...what I have learned with MADD and the car crashes is the physics that's involved. I mean, we are fortunate that my mother didn't fly forward and kill somebody else, because when you're loose in a car, then you become a projectile. You know, she went face forward into the backseat, but she could have very well, you know, flew up and hit somebody in the head. And you really have to think about...everyone needs to be buckled up. When you're riding in a car, you need to be buckled up because of the physics involved in a motor vehicle crash at 25 miles an hour. This was all at 25 miles an hour. The one you're talking about took place on an interstate at over 75 miles an hour. [LB106]

SENATOR STUTHMAN: Thank you. [LB106]

SENATOR FISCHER: Senator Janssen. [LB106]

SENATOR JANSSEN: Thank you, Senator Fischer. Ms. Reynolds, I had a couple of comments I wanted to make, and it just kind of came up to me here, and being probably one of the few members that has actually been in a head-on collision versus a drunk driver, that did have my seat belt on, the two people in the back...this was several years ago...two people in the back were not restrained. You're right. My injuries would have been minimal had this person not flown up and hit me. So to this day, when somebody gets in my vehicle, I always buckle up even when I put campaign signs in, go yard from yard, I would jump in, I would do that. I would also require my passengers to do it, and I always make the comment that I don't want your carcass flying around hitting me, and I do make that comment to my passengers when I get in. [LB106]

SIMERA REYNOLDS: It is so accurate. [LB106]

SENATOR JANSSEN: But the one thing I wanted to point out is, you said your...and I'm deeply saddened by your mother's story, that your mother as a law-abiding citizen, under the way I understand this bill, would have still been a law-abiding citizen not buckled up in the backseat. [LB106]

SIMERA REYNOLDS: No, you're right. But I think when, you know, we create a dialogue, and right here we're creating dialogue, and I think, you know, just by having this dialogue it makes people think, oh yeah, I'm in the backseat, I better buckle up, or you know, by telling your story and me telling my story, it makes...we're creating a dialogue that creates an awareness that enhances usage of seat belt bill. [LB106]

SENATOR JANSSEN: Thank you. [LB106]

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SENATOR FISCHER: Other questions? I see none. Thank you, Ms. Reynolds. [LB106]

SIMERA REYNOLDS: Thank you. [LB106]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB106]

JOHN LINDSAY: Good afternoon, Senator Fischer, members of the committee. My name is John Lindsay, L-i-n-d-s-a-y. [LB106]

SENATOR FISCHER: Do you have a form, Mr. Lindsay, that you filled out? Rhianna, okay, thank you. [LB106]

JOHN LINDSAY: I'm sorry, thank you. I'm appearing as a registered lobbyist on behalf of the Alliance of Automobile Manufacturers. Senator Harms actually had most of the statistics in his presentation so I'm going to skip over those. Just go to a couple of...hit a couple of highlights. Number one, cars are safer now than they ever have been in history. The safety features built into cars just make them much safer. The problem, of course, is if you're not in the car, those safety features don't help you. If an individual is ejected, because the restraint system is not used, all of those features simply don't do you any good. The safety features are designed to be used in conjunction with one another including the occupant restraint system. I wanted to put a little bit different turn on this as well; 77 percent of fatalities in Nebraska are in rural areas. This is a significant issue in rural areas. I would also suggest that a quarter of those fatalities...a quarter of fatalities in this state are in pickup trucks. In pickup trucks, unrestrained passengers...excuse me, unrestrained occupants have a higher chance of being ejected from the vehicle or of dying in the vehicle than in cars. Fifty-six percent of car fatalities are unrestrained while 74 percent of pickup truck fatalities are unrestrained. Again, so it puts an...you know, granted, you're going to see higher speeds in rural areas, because you're going to have slower driving within the urban...on streets than you are on the highways so, granted, speed is obviously going to be a factor in there. But that makes the use of seat belts all the more important, especially when we're traveling at high speeds. I'd simply ask for advancement of the bill, and be happy to answer any questions, Senator. [LB106]

SENATOR FISCHER: Thank you, Mr. Lindsay. Are there questions? Senator Campbell. [LB106]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Lindsay, and a lot of the statistics, and I might have...should have asked this earlier, but are there any statistics that we know of from the states that have the primary in terms of the difference between...and I think we asked for the percentage of deaths, but I'm particularly interested in teenage fatalities. You know, from those states that we're looking at on the map, have those declined in the primary states? [LB106]

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JOHN LINDSAY: Senator, I don't know that, but I'd be happy to try to find out for you and get that... [LB106]

SENATOR CAMPBELL: And I know that question has been asked, but I particularly want to know the...of the driver probably 21 and under or whatever, because I think that's a high risk population that a number of senators have alluded to here, and I think if we could find some statistics, it might clarify that picture. [LB106]

JOHN LINDSAY: I'd be happy to look for those, Senator. [LB106]

SENATOR FISCHER: Other questions? Senator Hadley. [LB106]

SENATOR HADLEY: Senator Fischer, thank you. Mr. Lindsay, you might have been around when this was made a secondary offense. I don't know whether you were or not, but what do you think the reasoning behind making it a secondary offense versus a primary offense at the time we instituted the seat belt law? [LB106]

JOHN LINDSAY: I was around when it occurred, when it was made a secondary offense. And it was...Senator Chambers had an issue with a concern about racial profiling, objected to primary enforcement for that reason, and the secondary enforcement was a political means of addressing Senator Chambers' concern. He did not want seat belt...primary seat belt usage to be used as Senator Harms addressed up-front, to be used as an excuse for racial profiling. [LB106]

SENATOR FISCHER: Other questions? I had a couple for you, Mr. Lindsay. You mentioned that 77 percent of the fatalities occur in rural areas. Wouldn't you say that is so high because of the highways are in rural areas? That's the definition of a highway I wouldn't...even the interstate in Omaha...is that classified as an urban accident or a rural accident if you're on the interstate around Omaha? [LB106]

JOHN LINDSAY: As far as within...I would expect, although I don't know for sure, that within the city it would be an urban accident. Outside it would not, but you're absolutely right. Speed is a huge factor in fatalities, and so I don't dispute that suggestion at all. [LB106]

SENATOR FISCHER: Okay. On the primary enforcement, don't you think there's concern there besides the racial profiling? Don't you think there's a concern there that perhaps law enforcement could stop anyone using the seat belt as their reason for stopping just as they might use not coming to a complete stop at a stop sign. You know, I've heard complaints there that law enforcement can make stops on people using that one, and wouldn't this just be another excuse that they could use? How would you answer that? [LB106]

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JOHN LINDSAY: I would answer it by suggesting that if we do not have primary seat belt enforcement, they'll simply wait for a stop sign if they're looking for an excuse and say that somebody rolled through a stop sign. If an officer is intent on stopping somebody, I think they can track it until there is a violation of a law. [LB106]

SENATOR FISCHER: Do you know how many states...we have a map...I don't know if you've seen that map of the states that was handed out by Ms. White, our first testifier. Yellow are the states that have secondary enforcement which are most of those around us with the secondary seat belt law. Do you know when the last...can you tell me what year maybe was the most recent year that one of the pink states went to a primary enforcement, and which state that would be? [LB106]

JOHN LINDSAY: I don't know that, but again, we can get you every...each year. [LB106]

SENATOR FISCHER: Well, I'm just curious. Is there a big movement on nationally, currently that we can point to that we see that we need to change our law to match a movement to go in on nationally with getting it to a primary? [LB106]

JOHN LINDSAY: There is the expiration of the federal incentive dollars that I believe is this year. [LB106]

SENATOR FISCHER: Two years ago at this hearing, we were told...I don't mean to pick on you, but yet I do. [LB106]

JOHN LINDSAY: That's okay. I'm paid to be picked on (laughter). [LB106]

SENATOR FISCHER: (Laugh) I can only stay quiet so long. Two years ago in this committee when the bill came up, we were told that there was \$7 million out there for roads, and that that money was going to expire if we didn't pass this law. Last year we were told there was \$7 million out there for roads, because everybody knows we want road money, so there's \$7 million out there for roads, and it would expire if we didn't pass this law. This year we're told there's \$7 million to \$9 million out there implied for roads, and this is the last year. I will tell you, this is the last year because it's under the safety legislation nationally. That will also be reauthorized in the coming year or there will be an extension made. So saying it will expire this year, and we'll never see it again, I question that. [LB106]

JOHN LINDSAY: And Senator, I...whether it gets reauthorized or not is up to our friends in Washington, but the...I don't think I would push this on roads dollars as being the reason to do it. I think it would be on the fact that statistics...I don't think the numbers do anything but say, we ought to have this legislation. And simply because when seat belt usage goes up, lives get saved. And when there's a primary enforcement law, seat belt

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usage goes up. We can quibble about what that percentage is, but I think the numbers are what the numbers are, and so I'd do it on a safety issue. [LB106]

SENATOR FISCHER: And I agree with you. That's what the argument should be on, in my opinion. If you could get that information on what other states have done and what the most recent ones that have gone to a primary enforcement, I'd appreciate that. Thank you very much. Other questions? Senator Hadley. [LB106]

SENATOR HADLEY: Mr. Lindsay, sitting here thinking. I know that later this committee will hear a health bill for motorcycles, and I'm trying to logically...what I want to do is to be logical in what I think about this bill versus a helmet bill. And I guess I'm using you more of a sounding board than...but right now the helmet bill, it's a primary offense if you don't wear a helmet. And we have helmets for safety purposes, so it seems to me that we're inconsistent if we have a seat belt law that is a secondary offense, but it's for safety purposes, so it seems to me we're inconsistent in how we treat motorcycle laws versus how we treat automobile laws for safety purposes. Is that a fair statement or not? [LB106]

JOHN LINDSAY: I tend to agree with that. [LB106]

SENATOR FISCHER: I would imagine you would tend to agree with that. One other point... [LB106]

JOHN LINDSAY: I don't represent the motorcycle manufacturers so (laugh). [LB106]

SENATOR FISCHER: Yes, I remember it was the Alliance of Automobile Manufacturers... [LB106]

JOHN LINDSAY: Yes, yes, that... [LB106]

SENATOR FISCHER: Do you see coming forward...if this would advance and pass in the full body, do you see coming forward in the future and with a bill that would require every occupant of the vehicle to wear a seat belt? [LB106]

JOHN LINDSAY: I suppose there's always that chance. I would tell you from...I mean, from my client's perspective, it's primarily driven at the front seat occupants, because that's typically who's involved in a...who's in a car. But yeah, I think Senator Janssen mentioned there's very legitimate reasons why everybody in that car should be wearing a seat belt. I just don't...at least from my client's perspective, I don't anticipate that. [LB106]

SENATOR FISCHER: Other questions? Thank you very much. Next proponent, please. Good afternoon. [LB106]

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KAY FARRELL: (Exhibit 6) Good afternoon, Senators. My name is Kay, K-a-y Farrell, F-a-r-r-e-l-l, and I'm president/CEO of the National Safety Council, Greater Omaha Chapter. My focus will be on our teen population and the need for LB106. In our Click It Don't Risk It campaign, the Greater Omaha Chapter has been working with Nebraska schools. A miniprogram of the campaign called Come Home Safe was held last fall during homecoming season to tie together the importance of buckling your seat belt and come home safe. Schools participating in the program agreed to hold two safety belt checks 30 days apart with education provided in the interim. Forty high schools all across Nebraska agreed and participated. Among these schools, usage varied all the way from a low of 25 percent to 97 percent. The highest usage rates were found in schools where there had been a traffic crash and unbelted classmates had lost their lives. All of us here believe in good health practices and healthy lives. Our state and nation even pay millions of dollars, billions of dollars for such needs. Good health practices include injury prevention, and that's what we are talking about today...injury prevention in case of a crash. We know the motor vehicle crashes are the number one cause of injury death in this country and in Nebraska. That includes our young people, ages 15 to 24, who have the greatest loss of life of any age group due to motor vehicle crashes. We also know that a seat belt is the best protection in a crash, reducing the risk of death by 45 percent for front seat occupants, and the risk of serious nonfatal injuries by 50 percent for front seat occupants of passenger cars; 65 percent decreased risk of injury while in light trucks. In 2007, in Nebraska in fatal and serious injury crashes involving teens, only 61 percent were belted. Teens are overrepresented as nonusers of safety belts. They will benefit from standard enforcement. One other point--it has been proven through NHTSA research that the cost of unbelted injuries are 25 percent higher than belted injuries and, generally speaking, most unbelted occupants are more likely to become Medicaid patients. In addition, findings reported by other states through NHTSA indicate that unemployment is much higher among disabled people. Family members frequently need to defer employment to become caretakers. These costs not only reduce the tax base for the state, but may also add to the number of people on other state dependent funds, for example, welfare. We only have to look next door to our neighbor to the east, Iowa, to see the success we might have. Iowa with a primary law has a 93 percent usage rate. We urge you to move this legislation forward, support it, sign onto it, and encourage your fellow senators to do the same. Thank you. [LB106]

SENATOR FISCHER: Thank you, Ms. Farrell. Are there questions? Senator Hadley. [LB106]

SENATOR HADLEY: Senator Fischer, thank you. Ms. Farrell, if teens are...from your statistics here, the teens are the ones that are primarily or have a much higher percentage of not using seat belts. Should we have a sliding type of penalty, the penalty for underage...you know, under a certain age, the penalty is more than for older people to try and really to encourage...? [LB106]

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KAY FARRELL: I wouldn't think so. I think our push really is to make this just simply a standard thing across all of our population, and I think that a secondary...a secondary law truly gives the impression of not being a law. It just gives that impression, and so if it is a standard law, I think far more people...in fact, it's been proven. Seven to ten percent more in other states where they've gone to primary have buckled up, so it's...I think it's important to just be standard across all of. But one other thing I would mention, and I mention teens, but the...really the very most at risk in this state which includes teens are young males, ages 18 to 34, and they will truly benefit by this. They're a hard-to-reach group, and a law can make a difference for them. [LB106]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB106]

SENATOR STUTHMAN: Thank you, Senator Fischer. Ms. Farrell, in your statement you have stated that Iowa has a primary...with a primary law, now has a 73 percent usage rate. How many lives have they saved because their usage rate is greater? That's what I meant... [LB106]

KAY FARRELL: I knew you were going to ask me that after I heard your last comments. Ninety-three percent, and I wish I could answer that. And I'm going to go look and see how many teens also that that affected, because I think that is very, very positive for us, and it had to affect a large percentage of teens also. [LB106]

SENATOR STUTHMAN: Nebraska, I think, and I do not have the figures on top of my head. The death rate in Nebraska this past year was the lowest for many, many years? [LB106]

KAY FARRELL: We've been having a great success in reducing our crashes and our injury crashes...injuries from those crashes. [LB106]

SENATOR STUTHMAN: But, I think, in my opinion, it's not attributed to not wearing a seat belt or not; it's attributed to people slowing down and gas prices were higher. [LB106]

KAY FARRELL: Well, it's attributed to a lot of things, Senator. I mean, we have...always remember engineering and enforcement and education are important in all aspects. And so those things affect the kinds of things that you're talking about too. [LB106]

SENATOR STUTHMAN: I think one of the most important things, and I hope you would agree is speed. [LB106]

KAY FARRELL: Speeding is certainly an issue, yes. [LB106]

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SENATOR STUTHMAN: And people have slowed down. People have slowed. Thank you. [LB106]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB106]

KAY FARRELL: Thank you. [LB106]

SENATOR FISCHER: Next proponent, please. Welcome. [LB106]

JERRY STILMOCK: Thank you. Senators, my name is Jerry Stilmock, J-e-r-r-y Stilmock, S-t-i-l-m-o-c-k, registered lobbyist on behalf of the Nebraska State Volunteer Firefighters Association. As our title of the association sets forth firefighters, but we also have a strong contingent of volunteer members that are emergency rescue responders. And because of that contingent and our belief that not only on the fire side do we support legislation to prevent fires in this regard, and that's why my client has taken the position to support LB106 because of the intent to further prevent injuries by those driving throughout Nebraska. And for that very reason, my client is here to lend its support for LB106. Thank you. [LB106]

SENATOR FISCHER: Thank you, Mr. Stilmock. Any questions? I see none. Thank you very much. Next proponent, please? Good afternoon. [LB106]

LAURIE KLOSTERBOER: Senator Fischer and members of the Transportation Telecommunications Committee, my name is Laurie Klosterboer, and that's spelled L-a-u-r-i-e, last name is spelled K-l-o-s-t-e-r-b-o-e-r. I'm the executive director for the Nebraska Safety Council. Our organization is a nonprofit organization, and we do training all over the state--traffic safety training. We train teens, adults; we also do workplace safety. And I'm here today in support of the seat belt, LB106. As I've listened to the other testimony, I've noticed, and I've been with the council for 30 years, so I've been there a long time, and I've kind of seen this issue come up on a regular basis and also nationally as well. And there's been a lot of arguments made why we should have such a law, and what I've noticed is, some of the arguments being okay, is it really costing our state money? And so, the NHTSA--National Highway Traffic Safety Administration, would go back and the states would pass laws; they would do studies to see, okay, is there a cost to the state? And that has been shown, and that's all of this information is on NHTSA's Web site that, yes, it has been a cost to the state as far as Medicaid for the folks that don't have health insurance. Another issue being the harassment and the racial profiling, so states that went from a secondary to a primary, doing research to see, okay, has this been an issue? And those studies have shown that it hasn't been an issue, that those arguments were. I think they've all been good arguments, but I think that what I have seen is that as an argument has come up, there would be a study. They've tried to do studies to show, okay, do we have an issue or not? And it has shown that we haven't had these issues. Obviously, the Nebraska

Safety Council and the courses that we teach, we promote wearing belts and wearing them in all positions of the car, making sure that the children and the adults are buckled. So that's the reason that we promote this law because in our research and looking at the studies that have been done shows that it does make a difference if you wear your belts. It makes a difference from the medical standpoint as far as your costs, and so I would like to see that we vote it out of committee and take it to debate on the floor and let us talk about that and see if we can get this law passed in Nebraska. Senator Stuthman, one of the things you had asked about was, did the vehicle driver death rates drop? And there has been a study on that through NHTSA. It's the Farmer and William Study that states that did move from a secondary to a primary have seen their passenger vehicle driver death rates drop. Senator Loudon, you had a question about the monies that could come to Nebraska this year. And I did look that up, and \$1 million of that \$7 million that they're talking about would actually go to the Nebraska Office of Highway Safety for their behavioral safety, so that's not a roads issue. But then the balance of those monies would go to roads. It is based on infrastructure as far as dealing with safety, so that if we would have an intersection that is not a safe intersection, they could make amends to those. So it is money that does go to roads, but you're right, there is a stipulation that it deals with safety and trying to improve the safety through an engineering aspect which we still feel is important that you need to have all three when it comes to safety laws. You need to make sure that if you can engineer out a safety issue, that you do that. We also continue the need to educate which is what our organization does, but then another strong important component of that is an enforcement. So we're here today because we believe that it's time for Nebraska to join the other 26 states and the District of Columbia to pass the seat belt law and have a primary offense, so with that, I would answer any questions you might have. [LB106]

SENATOR FISCHER: Thank you very much. Are there questions? Senator Hadley. [LB106]

SENATOR HADLEY: Senator Fischer, thank you. Thank you, I appreciate it. I was just looking at this map. You look at the states that have it as a secondary offense. They literally are grouped together. [LB106]

LAURIE KLOSTERBOER: They do seem to be that way, don't they? (Laugh) [LB106]

SENATOR HADLEY: Do you have any thoughts on why it's basically...it looks pretty much like it's midwestern? I counted. There's 15 states that border the ocean, and every one of those, it's a primary offense. And in the middle of the country, it's a secondary offense. [LB106]

LAURIE KLOSTERBOER: You know, I can only give you my opinion. I know that we in the midwest are pretty independent folks, and we don't like to be told what we're going to do (laughter). But, again, when we look at our motor vehicle laws and the fact that it's

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not our right to drive a vehicle, but it's a privilege, I think that it's a certain expectation that there would be some safety rules to go along with that. And, you know, again, because our traffic laws...virtually all of our traffic laws are primary enforcement with the exception of a safety belt law that it's time to move it to primary. Most other laws are. [LB106]

SENATOR FISCHER: Other questions? Senator Campbell. [LB106]

SENATOR CAMPBELL: Thank you, Senator Fischer. Ms. Klosterboer, my question really is follow-up again on, I think you've answered the death rates drop, but I'm specifically looking for that high risk teen population. So if you can come up with any statistics there, I'd really like to see that. [LB106]

LAURIE KLOSTERBOER: I will do that, and I know that when we pass the graduated drivers licensing law, we did make it different. That has been an effective law for our teens, and so I will check and see if that death rate has gone down for them. That was probably one of the best things that we did as far as our teens was to pass that GDL and strengthening in just a couple of years ago, thanks to Senator Harms so. [LB106]

SENATOR FISCHER: Other questions? I see none. Thank you, Ms. Klosterboer. [LB106]

LAURIE KLOSTERBOER: Thank you. [LB106]

SENATOR FISCHER: Next proponent, please. Are there other proponents after this? One more, okay. Just so the people listening know that the other bill may be coming up. Good afternoon. [LB106]

DIANE RIIBE: (Exhibit 7) Hi. Good afternoon, Senator Fischer, members of the committee. My name is Diane Riibe, and I'm the director of Project Extra Mile. I'm intrigued first, Senator Campbell, by your question so those of us... [LB106]

SENATOR FISCHER: Can you spell your name, please? [LB106]

DIANE RIIBE: Thank you. R-i-i-b-e. [LB106]

SENATOR FISCHER: Thank you. [LB106]

DIANE RIIBE: Thank you. I have some prepared comments, but I won't go over those. You've had enough numbers and statistics and percentages. You certainly have opportunity to look over mine as well as others, and there's plenty of data in there to keep you going for awhile. I would say, thanks to our friends at AAA, that we know that virtually every state that has a secondary law right now is looking to have legislation to

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move on to a primary law. Senator Campbell, I think those of us who work with young people because our organization is committed to preventing underage drinking specifically, and we work with young people across the state; that's our work. I would say that without having the numbers in front of me we will probably see a mix, because we can't parcel out specifically only, just the seat belt issue. There are lots of things, as we know, we talked about graduated drivers licensing, other kinds of efforts. We know from the Nebraska Office of Highway Safety, there's some education efforts going on through their office. Senator Stuthman, you talked about the speeding issue. Project Night Life which is an effort through the Omaha Police Department out of the highway safety office, addresses that issue specifically. You can tell by those of us who have been here. We deal with the alcohol issue; we're looking at the speed issue; we're looking at the number of passengers, so we try to get the full complement. But when it's all said and done, it is a large complement, and it's a public health approach that needs to be taken to this public health and safety issue which means that we have to have good solid policies in place. We have to make sure we enforce the heck out of those policies, and we have to educate people, so we're doing a couple of those already. We know that high visibility enforcement really does work, but we have to have the policy in place. I, like Sim Reynolds and probably a number of other people in the room, have the life opportunity to have been a survivor of a head-on crash. My family was hit head-on a number of years ago by a young 17-year-old driver. It ripped off the side of the car, so we wouldn't have had to go through the windshield; we could have just gone right through the opening. Fortunately, we had our seat belts on, and our ten-, seven-, and three-year-old children as well as their dad and I survived. But we would have been looking for them in the cornfields. We learned our lesson a very difficult way, but we did. But what we know, we can talk about that. I can tell you more personal experiences, but we can look at that all we want, but in the end, it's a very basic, simple argument, and that is this. The numbers are there; lives are saved; money is brought into the state. It seems like a pretty simple discussion, and so you have all the numbers. You can sift through those. It will prove out to be effective, because it just simply is. So we would encourage you as others before us have, to support the bill. Thank you so much to Senator Harms for caring enough to bring it forward. It's not an easy policy discussion, but it has to happen because it bottom line affects our children and our families, and we need you to be there and lead on it, so thank you. [LB106]

SENATOR FISCHER: Thank you, Ms. Riibe. Other questions? Senator Hadley. [LB106]

SENATOR HADLEY: Thank you. Ms. Riibe, I know you didn't go through your testimony, but something just struck me. It said, in 2007, according to data by the National Highway Safety Administration, 29,000 people die as occupants in auto crashes; 54 percent of them were unrestrained, and that would include front seat, back seat people who were in accidents. So does that say that basically it's pretty even whether it...you could be killed in an accident, it doesn't make any difference whether you're restrained or nonrestrained? [LB106]

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DIANE RIIBE: No. You're substantially more likely to not suffer injury and death, and particularly on the young person's perspective. We know that kids are disproportionately involved and disproportionately injured and killed. So...and, again, Senator, I think what might be overwhelming sitting in your chair, you're going to see a lot of numbers, and you should parse through all of them. I would never pretend to be the expert, but bottom line is, it works, and it's not just a whole lot of folks coming up saying, we think it works. It's solid. So we can get all that for you. We can prove it as we say in Nebraska, till the cows come home. It just simply works. [LB106]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB106]

DIANE RIIBE: Thank you. [LB106]

SENATOR FISCHER: Next proponent, please. And I believe this is our last proponent? Good afternoon. [LB106]

COLEEN NIELSEN: Good afternoon, Chairman Fischer and members of the Transportation Committee. My name is Coleen Nielsen spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I am the registered lobbyist for State Farm Insurance Companies and the Nebraska Insurance Information Service. I don't intend to repeat any of the testimony, but for all the reasons given from the testifiers before me, we do support LB106, and we ask that you move the bill to General File. And I'd be happy to answer any questions. [LB106]

SENATOR FISCHER: Thank you, Ms. Nielsen. Are there questions? Senator Louden. [LB106]

SENATOR LOUDEN: Yeah, Coleen, you'd be the one, I guess, to ask, should the penalty be changed any? I mean, would this work just as well if there wasn't any penalty? I mean, a \$25 penalty doesn't amount to much. What's your opinion on that? Or if this is passed, then will that penalty be raised here in a couple of years? [LB106]

COLEEN NIELSEN: You know, Senator, I really don't have an opinion about that, in particular. I don't know what effect that might have, and I guess, prior to your question, I hadn't really thought of it. [LB106]

SENATOR LOUDEN: Well, I...you're a lawyer, and I know your husband is a lawyer, so (laugh) I figure, will they, you know, what's the chances of with a fine like that if someone gets picked up, and they want to say, well, I'm going to...you know, we'll go to court. Will it go to court? Will an attorney...a county attorney, take it to court for this \$25 fine? [LB106]

COLEEN NIELSEN: Well, Senator, I think it'd probably be a citation similar to a traffic

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ticket where you could just... [LB106]

SENATOR LOUDEN: But you don't have to,... [LB106]

COLEEN NIELSEN: ...mail it in. [LB106]

SENATOR LOUDEN: ...you don't have to plead guilty to that citation. [LB106]

COLEEN NIELSEN: Well, when you sign that citation and you check the box, you are essentially pleading guilty. [LB106]

SENATOR LOUDEN: If you sign it at all. What I'm getting at, we have some counties that are poor enough that they won't prosecute speeding tickets. Why would they prosecute this if it's only 25 bucks? [LB106]

COLEEN NIELSEN: I understand. [LB106]

SENATOR LOUDEN: I mean, is this something that we just as well go ahead and pass the thing and not put any penalty at all on it, and maybe it will work better. [LB106]

COLEEN NIELSEN: I'm not sure about that, Senator (laugh). [LB106]

SENATOR LOUDEN: Okay, thank you. [LB106]

COLEEN NIELSEN: Okay, thank you. [LB106]

SENATOR FISCHER: Other questions? [LB106]

SENATOR HADLEY: One question for Senator Louden. What counties are they that don't go after you for speeding? [LB106]

SENATOR LOUDEN: You want me to name them? [LB106]

SENATOR HADLEY: Yeah. Or no, I'm (laughter)... [LB106]

SENATOR FISCHER: I'll let you two carry on that conversation later. Other questions? I see none. Thank you very much. Any other proponents, please? Any other proponents for the bill? Anyone wishing to come forward in opposition to the bill? I do have a letter from Amy Miller, the legal director of the ACLU in opposition to LB106. All the committee members, I believe, have a copy of that. Anyone wishing to testify in the neutral capacity? I see none. Senator Harms, would you like to close? (See also Exhibit 1.) [LB106]

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SENATOR HARMS: Senator Fischer and colleagues, thank you very much for your patience in hearing this bill. A couple of things I'd like to answer for, if I could. Senator Hadley, when you look at the chart, I'm guessing that I might be wrong here. Rural America is pretty independent in their thinking, so I'm assuming that most likely, that's about the most they could probably get with secondary when you look at the states that are there. And on the coastline, they think a little bit differently, but we're pretty independent. We are pretty independent. Senator Loudon, in regard to your concern about \$25. Why don't we just amend this bill and let's make it \$200 or \$300 along with our seat belt, and you'll get rid of that issue (laughter). Senator Campbell, one of the questions you asked about teenagers. I would tell you that I've introduced legislation that's going to be a major change in the public policy if it's approved and brought to the floor on underage drinking. And I think what I ran across and what I found is that, in fact, there's an increase in underage drinking. There's an increase in these kids not wearing their seat belts, and there's an increase in death. And I think in order for us to correct that issue, it's an underlying issue of a different public policy and, hopefully, that bill will come out soon, and we'll have a chance to debate it, because it is a tough bill. But I will guarantee you, it'll clear up the issue or start clearing up the issue of teenagers. Two years ago or two-and-a-half years ago, when I ran for this office, Nebraska was number one in the nation underage drinking, and it's dropped some, but I think that's another issue. I would encourage you to support this bill. I think it's a move in the right direction, and I think that it will save people's lives; it's a good discussion. It was a lively discussion, and thank you very much, so thank you, Senator Fischer. [LB106]

SENATOR FISCHER: Thank you, Senator Harms. With that, I will close the hearing on LB106. I will open the hearing on LB255. And Senator Harms, when you're ready you are welcome to open. Good afternoon. [LB106]

SENATOR HARMS: (Exhibit 8) Thank you. My name is John, J-o-h-n N. Harms, H-a-r-m-s. I represent the 48th Legislative District. Senator Fischer, this is a bill that I have a great deal of a passion for as Senator Stuthman knows. I'm going to...with this bill, Senator Stuthman, or excuse me, Senator Fischer, since we've been through this on several occasions... [LB255]

SENATOR FISCHER: We don't look alike, Senator Harms, now please (laughter). [LB255]

SENATOR HARMS: No, I agree. (Laughter) What a way to get started, huh? [LB255]

SENATOR FISCHER: I'm sorry, please continue (laugh). [LB255]

SENATOR HARMS: I'm going to break this down into two arguments; one for, and then I want to get into the issue of one against. I'm not going to give you a lot of data, but if the bill comes out, I will give you a lot of data and information that supports the positions

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that I've taken. For me, this is about safety; this is about the safety of our children. When a parent puts their child on the bus, they expect the child to be safe. When the child gets on the bus, they expect it to be safe, and I think for most parts, the school systems with their school buses would like for the children to be in a safe environment. But I'm here to tell you, they're not. We put those kids at risk every time we put a kid on that bus, because we don't have seat belts. Let me give you some just quick data, and this comes from the Department of Roads, and I know there's some questions on the previous bill. If you want a lot of information, you can get it from the Department of Roads. They are a resource of data on all kinds of issues of traffic accidents. But starting in the year, January through December, 2006, we had 113 individual bus accidents in this great state. Did you read any at all about those in this state? Probably not because there weren't any deaths. the year before that, during the same period of time, there were 139 individual bus accidents that occurred in this state. Did you read about them? No. But do you realize that we had many disabling injuries? We had injuries with children that will never live a normal life. They will never be able to walk or children who have had brain injuries that will never have the opportunity to be married or graduate from college or graduate from high school or participate in athletics. But yet we continue to say, this is okay, and it's not okay. It's time to correct the issue. It's amazing to me that states like Texas, California, Florida, Louisiana, New York, New Jersey have already passed laws that says, you're going to have seat belts on your buses. States like Hawaii, Montana, Wyoming, and Colorado are doing the same thing we're doing today in this discussion about putting seat belts on buses. I can tell you that the volume of seat belts being used has increased tremendously. Sales volume increased in 2008 as more districts across the U.S. and Canada have made decisions not to wait on state or federal mandates to begin to order their new buses equipped with lap and shoulder belts. Places like Loudoun County, Virginia; Dallas County, Texas; and Valley View, Illinois, plus smaller school districts are stepping to the plate and saying, you know what, we need to address this issue. We can no longer wait for seat belts to be mandated to us. And you know why? Because they read the same information I have. I've studied this for 2.5 years, and I'm here to tell you, our public schools are at risk...our public schools have created a liability for themselves, and if we don't correct this for them, they will be sued and they will lose those lawsuits, because they have not taken the precautionary measures to correct the issue of making sure their children are safe. So they're seeing it nationally the very same thing I'm seeing. Secondly, when kids wear seat belts they feel safe. Often the first time a child doesn't have a seat belt on is when they go to school and crawl on the school bus. From the time that child is little, comes out of the hospital, they're in a chair, they're strapped in, and from the time the kid can crawl into the car, the back seat or the front seat, the parents actually click them in for safety purposes. We don't even reinforce in this state what teachers teach. Schools teach safety. Schools teach the issue about seat belts and how important it is to have them and safety. We don't reinforce what parents teach. Parents tell their kids they have to buckle up to be safe. In fact, we don't even enforce in this great state, "Click it up or Ticket" on the 4th of July. Our government does that. Our highway patrol

does that. I've talked to bus drivers over the last three years, and what they have told me that they like to have kids buckled in, because it's less distraction for them. Kids aren't moving around. Kids aren't jumping around in the bus. It's less activity for them. It's easier for them to watch through their mirror, and it's easier for them to have an understanding what's occurring in this bus. Injuries in school buses are critical. They're more than just deaths in accidents; they're serious injuries. And the academic and pediatrician study brings that out very clearly. What they say is that they're brain injuries; there's skull injuries; there's neck injuries; there's back injuries; there's spinal injuries, and there's injuries that will prevent this child from living a normal life. These are people who are studying this. These are people who are actively involved and taking care of the children after the accident has occurred, and in many cases, there's no reason for this. You know, what really is interesting to me? That we require our bus drivers to wear seat belts. Rightfully so, but that's Section 79-609 in the law, but we require them to wear seat belts. But yet we take our children, and we put in 50, 60, 70, 80, or 90 kids. We herd them in like a herd of cattle, and we say, you're going to be safe. You're not safe. When you look at some of the buses that have cameras that they record while they're on the move, you take a look at the accidents, and that data is available for you, and watch how these kids are flipped around. You tell me after you see that whether a child is safe when they get on that bus, because they're not. And I would tell you that compartmentalization which is the argument in many cases that's been used by the National Highway Traffic Safety Administration has said historically, you know, with compartmentalization, it's safe. It isn't. Let me read something to you that just come out. Let me see here. Oh, yeah, the most significant event in 2008 was when the National Highway Traffic Safety Administration, an October 21st publication of the final ruling regarding lap, shoulder belts in school buses and I quote, "The ruling did conclude that lap and shoulder belts combined with compartmentalization offer the best protection to students on school buses." The best protection of children on school buses. The National Highway Traffic Safety Administration went on so far as to mandate lap and shoulder belts on all new buses built after October 21, 2011, weighing 10,000 pounds or less. Although acknowledging improved safety benefits for larger buses, they have said is up to the state to make that determination and for the school districts. The ruling also established design standards and performance standards for school buses equipped with lap and shoulder belts. For now, we now have the standards. And, Senator Fischer, everything that I testified last year, everything I said on the floor is a reality today. The National Highway Traffic Safety Administration has done that. You can go back and read it, because I did, and by the way, I didn't do a very good job in this room. But it's there, and not only that, they changed the seat heights. They went from 20 inches to 24 inches, and the purpose of that is to stop the child from catapulting out of their seat, so they don't injure the other child. And that's where the pediatricians will tell you. It doesn't make any difference how high that seat is. That child will receive brain injuries. That child will receive neck injuries. That child will receive back injuries. That child is not safe. And if the child sits on the outside seat, he catapults...he or she catapults like a bowling ball. That child becomes a lethal weapon, not only hurting

themselves, killing themselves, but they also killed other children. When I gave you the data earlier about statistics of the accidents that happened in Nebraska on a yearly basis over two years, not one of those was a head-on collision, and the argument for compartmentalization is, hey, it's great if you have a head-on collision. That's not true, because what we have found is in Virginia, they had a head-on collision with a garbage truck and kids were killed and kids were seriously injured. They will never live a normal life. So raising the seats is not going to help us that much. The only thing that is going to prevent this will be seat belts in buses. Texas had a terrible accident, and they began to...they studied it, they mandated it, and said, we don't want to go through this again in our great state. And there was a parent who wrote a perspective on this issue of seat belts, and I'm going to pull one quote out, because it caught my heart when I read it, and it's pretty much how I feel. And I quote, "Obviously, even a face planted into a padded dashboard is unacceptable. Is it any wonder then that parents consider their child's face planted in the back of the seat in the front of them as the hallmark safety feature of the school bus compartmentalization standard as unacceptable." And I agree with that. It is unacceptable. We can no longer tolerate this. We can no longer put our kids in these buses and say, hey, you're okay, you're safe, because you're not. The American School Bus Council benchmark...I've done surveys, a messaging poll. And what they found is that 80 percent of the people that they contacted said they feel strongly that school buses should be equipped with lap and shoulder belts all across the nation. Okay? Given a list of numerous other items they listed out, 58 percent picked...immediately parents said hey, seat belts is our number one choice. Sixty percent of the parents said, "We do not believe riding on a school bus is as safe as riding in our car." Now, I've had conversation with superintendents that said, hey, if you put seat belts in our bus, you're going to cut down on capacity. Well, I'm going to talk about that. I'm going to talk about, you're going to cut down the capacity; these kids will all walk or they'll take their cars. And I applaud the fact they're taking their cars because they got seat belts on; they're safe. It's not an argument. It's not a good argument. So based on these kind of findings, it's reasonable to conclude that parents expect action to be taken on this issue, and the parents consider it untenable, unrealistic. Mostly the argument is in the opposition. The seat belts won't help; they are too expensive, and the riding in a car is not as safe as riding on a school bus. It doesn't make any difference what you and I think as the senators. It's the perspective of what a parent thinks, and parents are a lot wiser than they were five years ago about this issue, and I will guarantee you, the very thing that Senator Lautenbaugh and Senator Lathrop testified on the floor when we were having the debate on this issue, and they said, what is going to happen in Nebraska is they're going to be sued because they've not taken the precaution to put seat belts on or taken the precaution to put the children in a safe environment, and that's where parents are headed. The National PTA is getting involved in this, and in time, the very thing I testified last year is now a reality. In time, in the next couple of years, feds will force this upon us, and I've had superintendents tell me, well, John, why don't you just wait till they do it? Well, you know what? What if you have an accident? What if other children become crippled? It's not the point. The point is safety

here. Let me talk to you a little bit about them...the arguments against this. I've heard them, debated them on the floor, and I've heard them from the superintendents. Well, it reduces seat capacity. Well, not anymore. In that documentation I've given you, there is some information from SafeGuard Seats, and I testified last year about SafeGuard Seats. Well, now, it's reality. They're now using those in buses, and let me just...and I want you to understand that I'm not supporting any bus company, any seat company. It's really immaterial to me. But let me read to you, and I quote, "Flexible seating technology pioneered by SafeGuard has been made available in 2008. The very thing last year when we were debating this...it was in the process. SafeGuard Flexible Seats allows school buses to maintain current capacity rating. Districts no longer lose capacity when specifying school buses with lap and shoulder belts. By mid-year, opposition to restraint was decreased, and districts are making decisions to move into the school buses with seat belts, and they're using the FlexSeat. And the orders have just increased phenomenally by small schools. So that's really not an issue. It depends on what kind of seat belt and what kind of seat you want to use. The cost is too high? Let's talk about that just for a moment. Not at all. If you do the two-point which is just the belt, a lap belt, it'll run you about \$68. Now, when you look at the fiscal note, there will be a little bit difference in this; it just depends on what data you look at; about \$68,000 per bus. You do the 3-2 which I'm talking about, configuration, is between 8 to 10, and if you do the flex tech technology, it's 10 to 12, maybe a little higher than that. I don't think \$12,000 added on to \$100,000 bus is too much to ask. I don't think it's going to cost the schools anything in that manner. Driver liability. That was the other issue that we've heard so much about. Well, I've talked to...we fixed that in the legislation. Senator Lautenbaugh, last year, I think Senator Fischer was kind enough to ask him to help me out which he did. He drafted the legislation or drafted that portion of the bill that relieved the drivers from liability. The only thing they have to do is when the kids get on, make sure they're buckled in, and that liability goes away. Now, again, I understand that if that bus driver is driving fast or if the bus driver has been under the influence of alcohol, or the bus driver does...breaks the law, it's not. But the fact is, when that child is buckled in, his or her liability will go away. Kids will use the belts for weapons. That's the biggest argument I've heard from superintendents. Oh, they'll use them for weapons. You know what? They got bags in there; they've got books in there. And what the bus drivers tell me, you know what? It's hard for them to do that, buckle them in, and they're not moving around. They're not swinging their things around. It's a local issue. Well, it's more than a local issue now. And the federal government has come down, the National Highway Traffic Safety Administration, and started to zero in on us. It's truly a state issue here, and I think we have the responsibility to make sure that these children are safe. It's an unfunded mandate. You know, we can fix that, Senator Stuthman, by just adding a surcharge on moving violations, and I'll tell you what, that will go away. Secondly, \$12,000 or \$10,000 or \$15,000 addition is not an unfunded mandate. You have to understand that we are not retrofitting these buses. That's the confusion that people have. We not retrofitting the bus. We're not asking them to go back and fix the old buses. We're saying, of a certain date, the new buses that come on, we want you to put

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these new seats in. We've also dealt with that liability question about well, what if a bus has...a new bus has seat belts, and the other does not have seat belts? Senator Lautenbaugh put that together for us, and he did say, and the way it's drafted, it does take that liability away. It doesn't mean you won't be sued, but, according to the attorneys, you got a much better chance with this the way that it is. And I will tell you also that from the data and the research that I've done, I don't know if really retrofitting these older buses is really safe. I don't think I would guarantee...I don't think I would recommend that. Now, in California, which is surprising to me, went back and retrofitted some of those for \$1,800 a bus, which I don't know how they did that, but I'm not recommending that. I don't think it should be done. I think you just do the new buses and ride it out, because I think that's the only way you can be sure it's safe; the frames are built differently. Using the FlexSeat which is a great seat; it's a movable seat, you could put three children, smaller children in, two larger children, and the seats are padded in the front. It will prevent...these kids will not be catapulted out. What you have to realize is the majority of the accidents are from the side or at an angle, and what it does, it takes those children and just moves them out of that seat up against the bus, the bus wall. What I've had people tell me, with some articles that I recently read that said, well, let's just make the glass stronger so they're not ejected out of the bus. You got to be kidding me here. I don't think so. What you want, you want to hold those children in place. Now there is an argument that people will say, well, the bus seat belts will not keep you protected. That's correct if it's the wrong seat belt. If it's a lap belt, that's true. It'll whip you around and what the pediatricians will tell you in their study, they get some back injuries and neck injuries, but when you use this three-point seat, you're held in place, and your chances of serious injury is much less. I would urge you, Senator Fischer, to move this bill out and let's begin the debate. [LB255]

SENATOR FISCHER: Thank you, Senator Harms. (See also Exhibits 9, 10, 11, 12.) [LB255]

SENATOR HARMS: Thank you. [LB255]

SENATOR FISCHER: Are there questions? Senator Janssen. [LB255]

SENATOR JANSSEN: Thank you, Senator Fischer. Thank you, Senator Harms, for your testimony. I had a couple questions come up, and I'm going through a lot of information at one time here. If the children were to get on a bus, and I have a five-year-old right now. He does meet the standards to not use a booster seat. I can't put him in a vehicle right now without some additional protection. Would that be something that these school buses would now have to be equipped with for, say, the kindergarteners or preschoolers that are on that school bus? [LB255]

SENATOR HARMS: Yeah, they are. In fact, Senator Janssen, the schools must go through a training program twice a year, and in this bill you'll see that we added in that

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underlying factor in this bill, where they have to also review how to get in a seat belt, how to get out a seat belt, what you do in cases of emergency. They're also equipped to do that. There are a lot of children who are bused in now that are handicapped, that are mentally handicapped, physically handicapped, disabled, and they have them in these seat belts, because they have to. [LB255]

SENATOR JANSSEN: The second part of that question, I'm sorry, is a lot of school districts will use vans and there are special needs children that are on these vans. And I'm told by some of my constituents that they're not properly restrained in there with the proper booster seats. And I know this...does this bill not cover that? And I'd also like to touch on the private schools as well, being exempted and why they're (inaudible)... [LB255]

SENATOR HARMS: Actually, I think that the federal government has outlawed the 15-passenger vans for that very reason. They're not safe. They roll over easy, and the tops are not secure, so I think I've got that in this literature. I can show you later if you like. I just remember reading that before I came in, so. [LB255]

SENATOR JANSSEN: My concern is just, we're covering some and maybe not others, and I just wanted to... [LB255]

SENATOR HARMS: Yeah. They'll be covered. Now, if you're talking about private... [LB255]

SENATOR JANSSEN: Private schools. I saw something that said... [LB255]

SENATOR HARMS: ...versus public school. That was discussed in our last debate on the floor about this. And I told the body then, and I'll tell you the same. That's a public policy the body has to make. It's not something I'd put in this bill, and there's a reason for that, because it would be highly controversial. But if the body chooses to do that, I will...and I voted for that. I didn't back away. Because a child is a child and a safety is a safety. But it's then dealing with directly with a religious school versus not, private versus public. I chose not to do that. Now, there are some schools that actually go by and pick up private children...I mean children that they'll drop off at the private schools as they go by. It's the same issue, and so that's a public policy, and I have chosen not to go into that. I think it clouds this issue, but if a memo was made which I believe there will be when it goes to the floor, if it goes to the floor, and you're gracious enough to let it out, that will be a discussion we'll have as a body. But I will not take a position on that; I think it's up to the public policy change for us to decide that. Thank you very much. Uh-huh. [LB255]

SENATOR JANSSEN: Thank you, Senator Harms. [LB255]

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SENATOR FISCHER: Senator Campbell. [LB255]

SENATOR CAMPBELL: Thank you, Senator Fischer. Senator Harms, and it may be in this literature, and I'm sort of like Senator Janssen, I was trying to look real quickly. How many schools in the state of Nebraska, public schools now do provide seat belts? And I apologize if it's in here. [LB255]

SENATOR HARMS: You know, I don't know for sure, but I can tell you how many school buses we have. We could get that information. I think in the fiscal note, there is some information on the number of seat belts. I mean, there were buses that have...we have in this great state...my figures don't quite match up with hers, but they're close. Well, I'm not going to wade through this, the material. But I do have that material and information. I don't know how many have them. I do know that because of this legislation,...well, here we go. Because of the legislation and discussion last year, schools are already doing that. Schools have started to experiment with it. Some of them have ordered just half of their bus with seat belts to experiment what kind of problems they're having with the seat belts. Other schools have gone ahead and ordered them, because they realize the same thing I've realized, that it's coming, and it's on its way. Let me give you the exact number. Well, at least the number that I had as of last year, and I think if you look at the fiscal note, it's a little bit different. Public school-owned buses, there's 1,841. Privately owned schools, there's 108. Public contract buses and this is what really surprised me, Senator Campbell, I didn't realize we leased a lot of those buses. I always just assumed that we just bought them so, now if we...there's 572 that are contract. There are 33 that are leased. Private contract buses which would be a private school would be two. And there are no private leased buses. That's 2,556, and I think if you look at what Sandy's fiscal note in here, it's just a little bit higher which means there are more people using buses now. [LB255]

SENATOR CAMPBELL: Thank you, Senator Harms. [LB255]

SENATOR HARMS: You're welcome. [LB255]

SENATOR FISCHER: Senator Stuthman. [LB255]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Harms, you stated that seat belts are being placed on buses of 10,000 pounds GVW or less. [LB255]

SENATOR HARMS: They're mandating that, that starting in...I think it's 2010 or 2011, whatever the number is that I gave you, is...it's going to be required now, 10,000 pounds or less. [LB255]

SENATOR STUTHMAN: Or less. So that would actually be like a minivan of less... [LB255]

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SENATOR HARMS: I don't know what 10,000 pounds, you know, I don't know, Senator. [LB255]

SENATOR STUTHMAN: Well, like a pickup is 6,000 pounds so... [LB255]

SENATOR HARMS: (inaudible) these small minibuses that children ride, so. [LB255]

SENATOR STUTHMAN: Senator Harms, have you got any information? You stated that, you know, school buses do have accidents, but they're not reported because there hasn't been a death; you haven't heard anything. But the fact that, you know, cars that, you know, are driven to school. Is there any statistics on how many children, school-age children have we lost in car accidents driving to school? [LB255]

SENATOR HARMS: I would guess, yeah, I think we could probably find that information. We could ask the Department of Roads. They've got about everything you ever wanted. They're a great resource and very helpful. I mean, the data I gave you, you can be there for ten years if you really want to look at it. But I'm sure they would have that, and this even has, for example,...well, you know, I do have that information. And they break it down into what other...the child was killed or whether a child was restrained or not restrained, whether they were in a child's seat. They have...and if you just go and ask them the standard summary of Nebraska motor vehicle traffic accidents, you'll get all the very same thing I have here, but it is in here. And it's just...you have to...it's kind of small print. You got to wade through it, but it's there. And now the new data coming out is not out until I think March or April. I think they'll have the up-to-date data, so, hopefully, if this bill would come out and we'd happen to be able to debate it, we'll have the up-to-date data that they have shown. What I gave you now is all they have, but you can get that. Just ask them; they're wonderful to work with. [LB255]

SENATOR STUTHMAN: Thank you, Senator Harms. [LB255]

SENATOR HARMS: You're welcome. [LB255]

SENATOR FISCHER: Other questions? Senator Hadley. [LB255]

SENATOR HADLEY: Senator Fischer. Senator Harms, thank you. First of all, being new here, I have to say that you're probably the most passionate presenter so far in the bills that we've had in this committee. [LB255]

SENATOR HARMS: Well, about this bill. When it comes to kids, I get pretty fired up. There's no question. [LB255]

SENATOR HADLEY: I do have a couple of questions. [LB255]

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SENATOR HARMS: Apologize for that. [LB255]

SENATOR HADLEY: In Section 3, part 4, it talks about, you know, each passenger is equipped...shall be transferred or any designated seating position shall wear and such as that. You know, I always worry about where we say, you know, it shall do this and we must do that. And then there's no penalty. I mean, we make it a requirement, but there's nothing to enforce that this happens. [LB255]

SENATOR HARMS: Well, that's a good question, you know, and that was a question that came up last year. And I debated whether I wanted to do anything with that on the (inaudible), but you can do that. And we can, if you'd like to amend it. You can surely amend it and put a penalty in it and move it on. I don't have a problem with that, but that's an absolutely good question. [LB255]

SENATOR HADLEY: The second thing, in part 5, I'm not a lawyer, but I couldn't figure out in 5 to 6, you know, whether...if nothing increases or decreases, liability and that seemed...and I just happened to look if this does make it out of committee, I'm probably going to try and put it an amendment on it, because I did happen to look at the Wyoming law. And the Wyoming law is very...very straight forward. It says that no evidence...basically, that you...evidence of a person not having their seat belt on or the driver not requiring a seat belt cannot be used in any civil case. It just says that you cannot, you know, plain straight forward, that it basically protects the school district and the driver against a lawsuit. [LB255]

SENATOR HARMS: Senator Hadley, I don't have a problem with that. I didn't write that part of it. That was done by our attorneys. [LB255]

SENATOR HADLEY: And okay. But I just...it just...and I'm not a lawyer, and it kind of confused me... [LB255]

SENATOR HARMS: So, yeah, we had that discussion also, and I don't disagree with that. So probably...if you feel we can do it better, let's just do it better. So I don't have any problem. [LB255]

SENATOR FISCHER: Other questions? I see none. Thank you, Senator Harms. [LB255]

SENATOR HARMS: Thank you very much. I'd like to close too, please. Thank you. [LB255]

SENATOR FISCHER: Okay, that will be fine. Thank you. Could I ask how many are here in support of the bill, if you would raise your hands, please? We have one, two,

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three. Those in opposition to the bill? One, two, three, four. Anyone neutral? Okay. Once again, I would ask, if you be concise in your testimony, please, and with that, with the first proponent for the bill, please step forward. Good afternoon. [LB255]

SUSAN FERRIS: Good afternoon. My name is Susan Ferris, S-u-s-a-n F-e-r-r-i-s, 6411 Concord Circle, Lincoln, Nebraska. I'm here today as the face and the voice of Nebraska's medical community. I'm the past president of the Lancaster County Medical Alliance which is the volunteer arm of the local medical society. I'm also on the board of the Nebraska Medical Association Alliance which I have served for the past ten years in a variety of offices. We serve alongside the Nebraska Medical Association as its volunteer arm. The medical families of Nebraska want you to know that we work to advocate for the health and safety of our patients and our families, and we would like to see this very basic safety equipment on the buses that transport our children to our schools and all their related activities. The abbreviated version is I have nine national medical association societies that have endorsed this since the 1980s. On a personal note, I have raised four teenage drivers. I believe that if we provide a seat belt for the kindergartener, the first time he climbs the steps of the school bus, he will use it. And maybe, just maybe, when children have been transported to school with seat belts in their family cars and seat belts in their school buses, they'll be more likely to automatically buckle up when they get behind the wheel to drive that car, reducing the teenage and young adult fatalities in our state. I also believe that the testimony you will hear from my friend who has lost a child in a tragic school bus accident is so important. We should not wait until we are threatened with more loss or more expenses for treating injuries or more expenses from the potential of lawsuits to do the right thing. We demand seat belts in our cars. We don't take our babies home from the hospital without making sure they have car seats. We know seat belts save lives, and we need them in our school buses. The only holdup that shows up consistently is how do we pay for this? No one wants to take dollars out of classroom budgets, but people are okay spending money for kids' safety. Thank you. [LB255]

SENATOR FISCHER: Thank you, Ms. Ferris. Are there questions? Senator Stuthman. [LB255]

SENATOR STUTHMAN: Thank you, Senator Fischer. Ms. Ferris, according to this bill, any new school bus purchased after January 1, 2010, must be...have seat belts on. [LB255]

SUSAN FERRIS: Yes, sir. [LB255]

SENATOR STUTHMAN: The National Traffic Safety Council, have they got a way or a method to put these seat belts already in buses by that time? [LB255]

SUSAN FERRIS: You mean to pay for it? [LB255]

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SENATOR STUTHMAN: No. I mean... [LB255]

SUSAN FERRIS: Just to do it. [LB255]

SENATOR STUTHMAN: Do...have they got a method to put these? [LB255]

SUSAN FERRIS: I would defer that question to Senator Harms. [LB255]

SENATOR STUTHMAN: Okay. Yeah. [LB255]

SUSAN FERRIS: I mean, I... [LB255]

SENATOR STUTHMAN: I mean, that's a concern that I have, you know, this bill...by next January which is only, you know, ten months away,... [LB255]

SUSAN FERRIS: Well, this is the third year that I've sat before you, so we were ready to go (laugh). We've been ready to go for a long time. [LB255]

SENATOR STUTHMAN: Um-hum, um-hum. And I was just wondering, you know, can you purchase a school bus with seat belts on after January 1, 2010? [LB255]

SUSAN ELLIS: I think you can purchase school buses with seat belts today. [LB255]

SENATOR STUTHMAN: Okay, thank you. [LB255]

SUSAN ELLIS: Yeah. [LB255]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB255]

SUSAN ELLIS: Thank you. [LB255]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB255]

DAWN PRESCOTT: My name is Dawn Prescott, D-a-w-n P-r-e-s-c-o-t-t from Fremont, Nebraska. Those of you who are returning senators have listened to my firsthand testimony before today's hearing. I ask you today, however, to graciously give me the opportunity to share my story with those who are newly elected legislators. I teach junior high students in the public school system in Schuyler. I care about kids. I'm also a mother. I'm also a school bus crash survivor. So I speak from firsthand experience. My husband and I lost our 14-year-old son, Benjamin, in that same school bus accident in October, 2001. As a parent who takes the responsibility of keeping children safe very seriously, I am compelled to speak on my son's behalf today, and on behalf of all

children in our state who trust us as adults to keep them safe. On that sunny fall Saturday in 2001, I had climbed aboard a school bus with my 14-year-old son, Benjamin. I was a parent chaperone for his high school band, traveling to a marching competition in Omaha. Little did I know, I would never again look into his smiling eyes, hear his voice, or be able to hold him close. That afternoon as we headed home, the school bus we were riding in careened off a bridge and plunged 60 feet into a creek bed. It's difficult for me to put it into words, but one thing is sure. I survived because I subconsciously reached up and grabbed onto the overhead luggage rack as the bus plummeted off the bridge. I remained conscious throughout the accident, because I clung to that luggage rack. After the impact, all I could think about was getting to my son at the front of the bus. My seatmate and friend, another band mom, lay dead in the aisle. Students were lying everywhere, having been tossed violently inside the bus when it landed. Bodies impacted bodies and lay in tangled heaps in the aisles and on the side of the bus which was now the floor. I climbed over other students who were crying for help, other people's children who were struggling to breathe and screaming to get free. When I got to Benjamin, he lay motionless. His body was on top of his friend. As I climbed out of the bus behind rescuers carrying my son, their attempts at CPR failed. My son was gone. The bus driver that day was the only person on the bus with the option to buckle up. While the unbelted passengers continued moving after the crash, only stopping upon their impact with a seat, the bus's interior, the ceiling, or another body, the bus driver remained secure. While others were flying like human pinballs, the driver stayed belted. He is alive today. A recent study by the University of Tokyo reported that in a collision, unbelted passengers in a vehicle become deadly human projectiles. Now picture that with a bus full of students in an accident. The Tokyo study estimates that 80 percent of these deaths could have been prevented with proper seat belt use. With 25 million children riding school buses every day, I continue to wonder why we as parents put them on school buses that lack lap and shoulder belts. My husband and I made that costly mistake, and our son paid for it with his life. Our children need and desire consistency as they grow up, especially when forming healthy habits. We send an inconsistent message to our children when law requires us to make sure they wear seat belts in the car, but we put them on a school bus with no safety belts. Is it no wonder that a kindergartener hops on a school bus for the first time only to turn to ask with a puzzled look, "Mommy, where are the seat belts?" As parents, we have a responsibility to ensure that our children are placed in the safest environments possible. Those who will balk at the importance of this issue and hope to squelch it, had best be on their guard. Lap and shoulder belt technology is state-of-the-art, affordable, and readily available. It is not a matter of if another school bus accident happens, but when. And when that next tragic accident occurs, who will answer to the parents? When they learn that this technology is easily attainable, who will be willing to answer to those distraught and justifiably angry parents, demanding to know why there weren't seat belts on their child's bus. We owe it to our children to make their transportation as safe as possible. My husband and I cannot in good conscience allow our other two children to board a school bus again until they have lap and shoulder belts to secure them safely in

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their seats. We made that mistake once, and our vibrant and precious son's life was snuffed out forever. Would lap and shoulder belts have made a difference? Ask me. Please advance LB255 to the General File. We must act to make school buses safer, and the time is now. [LB255]

SENATOR FISCHER: Thank you, Ms. Prescott, and on behalf of the committee, I do extend to you our deepest sympathy in your loss, and I do appreciate that you've come today again to speak to us. Thank you. Any questions? I see none. Thank you very much. Next proponent, please. Good afternoon. [LB255]

JERRY STILMOCK: (Exhibit 13) Thank you, Senator. My name is Jerry Stilmock, J-e-r-r-y Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my client, the Nebraska State Volunteer Firefighters Association, thanking Senator Harms once again for renewing his interest in this important vehicle out there. We were reminded when this bill was heard the last time of Senator Dwite Pedersen's involvement when the horrific accident occurred in his district, and he rushed out, citing his skills as a volunteer emergency medical provider in his area from years gone by. It's simply because we believe that the information now available in providing belts in school buses and their prevention to help protect children, and it's for these reasons that the Nebraska State Volunteer Firefighters Association is in support of LB255. Thank you. [LB255]

SENATOR FISCHER: Thank you, Mr. Stilmock. Are there questions? I see none. Thank you very much. [LB255]

JERRY STILMOCK: Thank you, Senators. [LB255]

SENATOR FISCHER: Other proponents for the bill? Anyone else wishing to speak in support of the bill? I do have a letter from the Nebraska State Board of Health signed by Dr. Edward Discoe in support of the bill. With that, we will start with opposition testimony. Would the first opponent please come forward? Good afternoon. (See also Exhibit 9.) [LB255]

JOHN BONAIUTO: Good afternoon. Senator Fischer, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, executive director of Nebraska Association of School Boards. First of all, I want to say that my testimony in opposition in no way should...or is intended to take away from the views of the proponents of this bill and their beliefs. And I've also had the opportunity to visit with Senator Harms a number of times and understand how committed he is about this issue, and his passion for it. He almost was able to change my mind, not quite. And the opposition I have is maybe not as much of if we should have seat belts on school buses; it's maybe when. And from a perspective of school board members who like to have local control and make decisions for themselves about their school district and destiny, I'm here to say that we have over the years followed the federal government in their standards and upgrading of safety issues

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for school buses. And I think that history and that route is the way that I would like to see this progress. It is to wait for the federal government to move in this direction as they have moved with the smaller buses, and I think then the manufacturers and all of the technology, all of the things that we're talking about whether it is the new buses, the seats and all of this, it will move in the right direction a lot quicker and be a better transition for school districts. As I was reading the research, and I have the article where this bus collided with a garbage truck, and amazing that only two students were killed in that crash, not that, you know, any death is...should be minimized. But I was struck by the fact that transportation is really running a close race with education on the alphabet soup groups that you work with. And I was going through the research, and it was NHTSA and NTBS and NAPT, but it was all the different...there are so many groups with so many different opinions, and that is, I think, part of the problem here. If this was just a safety issue versus money, I think it would have to be a clear-cut safety issue, and that would be the end of it. But it's not a clear-cut safety issue, and it's...so this is...my testimony is not about the money. But it is about the fact that there's no really good path here, and whether it is the National Transportation Safety Board or the National Association of Pupil Transportation, the various groups...one of the things that you read is that they can agree on the fact that would people feel safer, and this is part of the testimony, because we have kids buckle up in cars. Just the fact of buckling up may be all that we gain if we put seat belts and shoulder straps on buses. It's a perception of safety, but there's nothing that clearly states that the buses will be safer. And so I don't know if that perception is worth our state making that decision and going down that path before the federal government moves us in that direction. As far as money, I don't think that this is an issue that should be dealt with through state aid, because state aid is such an uncertain commodity right now. We're going to probably have a budget this year that will reduce state aid by...or the increase in state aid by \$120 million, but I have to say that I like the idea of your former U.S. Secretary of Transportation, Mary Peters, and just last year she said, I think if states decide to go down this path, they should use highway funds to equip the buses with seat belts and upgrade the buses. I'm not sure about Secretary LaHood, if...where he is on this, but I think that recommendation would probably be met as welcome as the Revenue Committee meets the day after day testimony of exemptions to the lid bill. And so it...you know, there is an expense, but it's not an expense that's overwhelming. Again, I think that the perception of safety is not a clear-cut reason to install these belts. Many of the articles and the research talks about more children are killed outside the bus than inside the bus--at the bus stop, they're run over, they're backed over, and that is a real issue. So I think we've heard a couple of times the reference made to the driver, and the driver is the only one that is required to buckle up. The driver does not have a padded seat in front of him or her. They've got a steering wheel, a dash, and a window, and so I really think that my sincere request to you boils down to, if you just...we should hold the bill. I would like to see what's going to happen at the federal level. Wyoming is talking about this. Senator Harms had talked about other states having this debate, taking a look at maybe some experience that other states have with buses equipped with belts. I

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haven't seen a lot of data that says this really is going to make the difference. Another aspect to this is in some states they also have replacement formulas for how districts need to deal with buses and the age of buses, and how many miles the buses have. And I...knowing my members and knowing Nebraska, we may find that if seat belts are required after a certain date, bus sales are going to drop. People will keep their buses; they'll repair their buses. We will have older buses on the road, and I saw this happen with over-the-road activity buses. A number of years ago, there was a law that said districts could not buy these buses after a certain year, and that law has been repealed. We worked to get that law repealed, because districts had these old buses, and they would spend thousands of dollars fixing them just to keep them on the road, because that was the bus that they were able to own, and they couldn't upgrade it. So, you know, I do think that people will look at this as a challenge and, again, I don't think it's a matter of if; it's a matter of when. With that, I will conclude my testimony. [LB255]

SENATOR FISCHER: Thank you, Dr. Bonaiuto. Are there questions? Senator Hadley. [LB255]

SENATOR HADLEY: Thank you, Senator Fischer. Dr. Bonaiuto, just in a couple of sentences, could you tell us, is there a law that a school district has to have school buses or is this an accommodation the school districts make for their students? [LB255]

JOHN BONAIUTO: Absolutely. I think the law deals with transportation, and beyond a certain distance from the schoolhouse, and the districts have the option to either pay the parents to transport the students or they will transport the students themselves. And there may be some school administrators that could give a more in-depth answer, but transporting is part of the overall process. [LB255]

SENATOR FISCHER: Other questions? Senator Campbell. [LB255]

SENATOR CAMPBELL: Thank you, Senator Fischer. Dr. Bonaiuto, how many school districts in the state put seat belts in the buses now? Do you know that? [LB255]

JOHN BONAIUTO: Senator, I do not, and I know that the districts have to comply on the smaller vehicles, and there are special ed buses. I will try to do some research, because I was unaware that any full-size buses were equipped with seat belts or shoulder belts. And so, I'm sorry to say I don't know the answer to that, and...but I'll find out. [LB255]

SENATOR FISCHER: Senator Janssen. [LB255]

SENATOR JANSSEN: Thank you, Senator Fischer. Dr. Bonaiuto, in your testimony you mentioned that it's not a cash versus saving lives issue, and when you said that. And then you seemed to have a concern about the keeping the old buses on the road longer with this 2010 phase-in date or whatnot. Would it help you at all if this committee did

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some work to make that take effect immediately? [LB255]

JOHN BONAIUTO: Well, it...again, it's a matter of how you deal with replacement. And Senator Harms, I think has been very fair about this, and he's talking about new buses, and I think that's the issue is the difficulty that districts will have with some buses having belts, and other buses not having belts, and parents calling and saying, my child is going to ride the bus. I want him riding that bus with the belts, and if they're going on a field trip, I want him to ride that bus with the belts. And so that transition period is really a challenge, and we all agree on the fact that retrofitting is probably a bad idea, that we're not sure the old buses really will accommodate any retrofitted belts very well, and that may even cause more problems so. [LB255]

SENATOR JANSSEN: So I guess my question still hasn't been answered. Are you supportive of then let's just get rid of all this, and let's get brand new buses in the next five years? If it's not about cost versus lives. [LB255]

JOHN BONAIUTO: Well, and there would...that would be a cost. I mean, we're talking about... [LB255]

SENATOR JANSSEN: So then it becomes a cost versus lives issue? [LB255]

JOHN BONAIUTO: Yeah, you know, when we isolate it to a new bus and saying that the issue is \$10,000 or \$12,000 more for the new bus, when we start talking about replacing fleets of buses, then we're talking about a serious amount of money that would have to go toward this. And that's why I say it's...in isolation for a single bus that \$10,000 or \$12,000 is as much the issue as having to eventually go through and replace the whole fleet, and how long will that take, and the issues that will have to be dealt with in that process. [LB255]

SENATOR JANSSEN: Thank you, Dr. Bonaiuto. I was just trying to get at the root of what your opposition was here. [LB255]

JOHN BONAIUTO: Sure. Oh yeah, and I appreciate you asking that question. [LB255]

SENATOR JANSSEN: Thank you, Senator Fischer. [LB255]

SENATOR FISCHER: Senator Gay. [LB255]

SENATOR GAY: Thank you, Senator Fischer. Did you...I might have missed it, but October 21, 2011, buses that are 10,000 pounds or less have to have these. [LB255]

JOHN BONAIUTO: Yes. [LB255]

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SENATOR GAY: Okay. You were talking about waiting for some federal mandate. Is there... [LB255]

JOHN BONAIUTO: Well, I think that, Senator, this is probably going to eventually happen. I mean, it looks... [LB255]

SENATOR GAY: Well, but there's no specific day. [LB255]

JOHN BONAIUTO: No, there isn't. [LB255]

SENATOR GAY: My question was, is there a specific date or it's just you speculating that this is probably going to happen. [LB255]

JOHN BONAIUTO: No, there...I'm speculating that, and I'm speculating, and I don't know where the new transportation secretary or what the discussion will be. But it seems like this issue has been on the table for a long time, and will eventually be dealt with by the federal government. And I think in having them deal with it, it does create a different environment for the manufacturers, and will change design of buses and seats, you know, more rapidly in a uniform way. We don't know if we go forward with this, when the feds do make some type of a change in the standards and requirements for school bus safety, if we'll have moved in the right direction, or if the equipment that is available now will be as good as the equipment that will be available when it is a uniform requirement. [LB255]

SENATOR GAY: And a follow-up question. Well, you say when... [LB255]

JOHN BONAIUTO: Yes. [LB255]

SENATOR GAY: ...but there isn't a when. You're just speculating that there may be... [LB255]

JOHN BONAIUTO: I'm just speculating. And I did not... [LB255]

SENATOR GAY: So, I guess on that, when we're trying to make a decision, you're saying like it's a done deal, and could be 20 years before... [LB255]

JOHN BONAIUTO: No, it is not. And I'm sorry if I... [LB255]

SENATOR GAY: ...so, and I understand your transition period. If everyone has to do it, it makes it certainly much easier, still an unfunded mandate, and needs to be complied with but bus companies would then produce a bus. [LB255]

JOHN BONAIUTO: Exactly, Senator. [LB255]

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SENATOR FISCHER: Other questions? Senator Hadley. [LB255]

SENATOR HADLEY: Thank you, Senator Fischer. Dr. Bonaiuto, one comment you made dovetailed a little with some of the reading I did. But some of the reading I did said that the safest way for a child to get to school is in a school bus right now datawise, and the worst way is in a car. [LB255]

JOHN BONAIUTO: Yes. [LB255]

SENATOR HADLEY: And they have more accidents of people...students being hit by school buses and dying than in the school bus, so should we be looking at maybe forcing more school busing, you know, to get away from the other modes that people are using to get children to school? [LB255]

JOHN BONAIUTO: That's a fair question, Dr. Hadley, and I read some of the same articles you did. One article said the safest way to get to school is a school bus. The next safest way is in a car with seat belts with a parent driving. The least safe way is in a car with seat belts with an older brother or sister driving. And one of the articles talked about a school bus that's...talked about school bus car accidents where the people in the cars are virtually usually...the ones killed and not in the school bus. So, yes, I...it's not an issue that is...that has a lot of clear-cut direction. [LB255]

SENATOR FISCHER: Further questions? Have you had your legal counsel with the association look over the bill in regards to the liability issues, and do you have any thoughts on that? Do you think we cleared that up? I personally have concerns for school districts on those liability issues, because what happens if my child is in a bus without seat belts, and there is an accident, and yet the district is providing buses with seat belts to other children. So do you have any thoughts on that liability issue because that is a major concern for everyone? [LB255]

JOHN BONAIUTO: Thank you, Senator, for asking that question, and like Senator Hadley, the last year when that was worked on, we had to read that several times to try to figure out what it was saying, and in the end, we felt that it did not give us any comfort or protection at all. And I don't know, I don't know what the right answer would be, because it's not helping, but it's not preventing. It's there to make a statement, but that's about it. [LB255]

SENATOR FISCHER: Other questions? I see none. Thank you very much. Next opponent to the bill, please. Good afternoon. [LB255]

LARRY RAMAEKERS: Good afternoon. Senator Fischer and members of the Transportation Telecommunications Committee, my name is Dr. Larry Ramaekers. That

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is L-a-r-r-y Ramaekers, R-a-m-a-e-k-e-r-s. I am superintendent of schools at the Aurora Public Schools, and I am here today to speak against LB255. I certainly do appreciate the efforts of Senator Harms in addressing the safety and welfare of the students and adults who are transported in school buses. That same concern lies with each individual associated with school districts, and those who are directly responsible for student transportation. As you are aware, student transportation via school buses is one of the safest means of transportation available. In fact, in a study of some statistics that I had recently read, that it is .2 deaths per one million miles in a school bus versus 1.5 deaths in a car per one million miles driven. So it's about eight times safer in a school bus than it is in a car. My concern lies in the fact that the addition of lap-shoulder belts may compromise the very issue the bill wishes to address. The Aurora Public Schools currently we have 16 regular bus routes. We have three routes with special education, and we own 22 buses. The most recent bus was purchased this year, and we make an effort to purchase a new bus every year, and then we work them back into our fleet. But that has been the practice that we've had for several, several years, again purchasing one bus per year. We do have a number of minibuses as well or as sometimes referred to as mid-size buses. These buses do come equipped with lap-shoulder belts as well as a lap belt cutter. And what that is to be used is in case of an emergency. It sits up there very close proximity to the driver, and it looks very much like a letter opener that you would slide with the razor blade inside of it. Now what these are used for is in case of emergency that would require the driver to cut the belt in order for the rider in the bus to be extricated from the bus. I fear there is a great risk of injury if that rider is cut free of the seat belt and falls from the seat. If the bus is involved in an accident, that would involve submersion of any sort into a lake or to a river, or if it were to be engulfed in flames, the rider may be trapped due to the seat belt preventing their escape. I also am very concerned about the seat belt being used as a weapon, and I understand Senator Harms mentioned this in his presentation, but that's a very real fact. It is very difficult for that driver to observe what is going on in that entire school bus. With the high seats and the compartmentalization that's been spoken of before, it is difficult to monitor what's going on behind each and every one of those seats. And if the student is not in that seat belt or it is in a situation that it could be used to cause bodily harm to other riders in the bus. Another concern, and this has been touched upon, and it's one that is very difficult to sit here and talk about, but I must tell you as a superintendent of schools who is responsible to make a budget, that you have to realize the expense that is associated with this. And I understand, when you start talking about safety that we would be looking...I'm opening myself up as a target, and I understand that completely. But I think you need to be aware of the fact of what we are confronted with as school district personnel in developing a budget and then having, in a sense, this unfunded mandate. Not only will the addition of the lap-shoulder belts be an expense in the purchase of a new bus, and the statistics that I have seen range much higher than the \$10,000 to \$12,000. I have heard more to the \$15,000 to \$20,000 range for the new buses. I understand that there are the flex belts that would allow three individuals to sit in one seat. I've not seen that to be added to the new buses. I have seen that more as a retrofit

for buses that you have. And as Dr. Bonaiuto just spoke here prior to me stating that I think everybody understands, you try to retrofit an old bus that we could run into a lot of problems, because they are not designed to have seat belts in them. Not only would we then take a look at the increased costs that would come from purchasing the bus, but also, if indeed, they did not have three per seat, and we do have buses that we have to get three students per seat in there, or we're running into problems that we're going to have to purchase more buses. That's a fact. That's not something I like to do, but it's a fact, and it's something we would have to work into our budget. The other then that would happen, as I mentioned, it's very difficult for that driver to observe what is going on in each and every one of those seats, so probably what this is going to prompt is to have a paraprofessional of some sort, or a monitor on that bus to ensure that, first of all, the students are belted in, and they're belted in properly, and that they keep that seat belt on. I worry about the liability, because it states in the bill as is written right now, that the student will have that belt in use at all times. What's to ensure that? We can't ask that monitor to walk up and down that bus to see whether or not those students are belted in, because you're supposed to be in your seat when the bus is moving, and that includes everyone in the bus, not just the students. So how do we ensure that? And so that if it is proven in an accident that that student is not belted in, we then have a liability that we're going to have to face, and something we can ill afford to do. Those are costs that are associated with that, and, again, that liability is something I'm not so certain...I've tried to read through that bill a number of times, Senator Fischer, with the question that you asked Dr. Bonaiuto, and I'm not sure what it says. I'm not sure how schools would be situated if confronted with that situation. We're a very litigious society, as you well know, so what's going to happen for that? Again, budgets are extremely tight and are going to get worse as we go along. With that, I would strongly encourage this committee to consider the testimony as an opposition to this bill. I know it is a very emotional bill, and, like I said, I know very well that we as superintendents of schools or school personnel are opening ourselves up to be targets with this. And, believe me, we want and cherish the safety of the students that are there, but we also understand that in our case, when we have 22 buses, and we're purchasing one bus per year, and we are a Class B size school district, that it's going to take us an awful lot of years to get all those buses set with seat belts in them. In response to some questions that you were asking before, what about changing all the buses? When we look at the costs of buses being anywhere from \$70,000 to \$100,000, depending on the bus that we purchase, the size, all of those types of things, and with those 22 buses that we have in our fleet, it's going to be a very expensive endeavor for us to accomplish that. I can full well expect our board of education to strongly consider and to answer your question, Senator Hadley, that what happens is that we as school districts are required to provide transportation within a four-mile limit of the school, or we have, by the formula that is provided in statute, pay the parents so much per mile for transporting their own student. We've talked about doing that. We've talked about setting that up and saying, okay, is this a way we should go, and it's something we may have to entertain. But I quickly remind myself of the statistics that I quoted a little bit earlier. When it's eight times safer

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to ride in a school bus than it is in a vehicle, are we doing justice to our students within our school district? So with that, I will conclude my testimony, and I would be happy to answer any questions. [LB255]

SENATOR FISCHER: Thank you, Dr. Ramaekers. I have a few questions for you. You talked about that you buy one new bus a year, is that correct? [LB255]

LARRY RAMAEKERS: Yes. [LB255]

SENATOR FISCHER: When you buy this new bus, are you buying it and does it have seat belts in it? [LB255]

LARRY RAMAEKERS: Not to this date, no. The only buses that we have purchased have been the mid-size buses, and they do come with belts in them. [LB255]

SENATOR FISCHER: I happen to believe from my readings and conversations that the federal government will be requiring seat belts in school buses, and I see that happening sooner rather than later. So why aren't you buying buses with seat belts in it? [LB255]

LARRY RAMAEKERS: Because of the concerns that I've listed here. I am not fully convinced that you must weigh the situation to see whether or not that safety is compromised. I'm not fully convinced of that. [LB255]

SENATOR FISCHER: I've also read a lot with the seats, and there is...I believe there are a number of studies out there that show these seats, now the compartmentalized seats are safer than seat belts. Have you read anything like that? [LB255]

LARRY RAMAEKERS: Yes, I have, and some of the things that I have read also talks about the injuries that are sustained by the student on snapping forward, hitting the seat in front of them, causing head, brain injury due to having the belts in the...wearing the belts themselves, and the pressure points as to where that belt is across. And I understand very well that in a vehicle, the difference that a seat belt does make, but with the high seats, the extra padding they have. In talking to our transportation supervisor about this bill, he said, come and take a look at the way this bus is designed. And if you do look at it, a bus is designed in such a way that it is a rounded top, that it is for the purpose of not landing on its top that it would roll to a point that, again, that is a safety issue that is put into that. But I've also seen, and heaven forbid that this would ever happen, is how long it takes a bus to be totally engulfed in flames. And if we're looking at small children to get them unbuckled, get them out of there, I fear for that safety. [LB255]

SENATOR FISCHER: Have you been approached by any patrons in your district,

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asking for seat belts on school buses? [LB255]

LARRY RAMAEKERS: No, I have not. [LB255]

SENATOR FISCHER: Has your board discussed the issue? [LB255]

LARRY RAMAEKERS: With the seat belts? [LB255]

SENATOR FISCHER: With the seat belts in the buses. [LB255]

LARRY RAMAEKERS: No, they have not other than knowing full well the things that I'm talking about now. Our transportation committee of our board, we have discussed this. The chairman of that committee actually is a substitute bus driver for us, and he is not in favor of having them either. And he is a board member. [LB255]

SENATOR FISCHER: Okay, thank you. Other questions? Senator Stuthman. [LB255]

SENATOR STUTHMAN: Thank you, Senator Fischer. Dr. Ramaekers, in purchasing a new bus, is there an option available to purchase it with seat belts, these larger...say, 48 or 54 passenger? [LB255]

LARRY RAMAEKERS: Senator, I cannot say with 100 percent certainty. I would say yes, it is, but I cannot tell you that for absolute certainty. I would think that it would be available that you could get that fitted in such a way with the seat belts in them. [LB255]

SENATOR STUTHMAN: That there could be an option for that. [LB255]

LARRY RAMAEKERS: Yes. [LB255]

SENATOR STUTHMAN: And I may visit with you or someone, maybe at the safety council, I would like to know if that is possible that they can be, you know, that is an option that they can get the seat belts on, I would like to know how many buses are sold with the belts on in comparison to ones without the belts on. [LB255]

LARRY RAMAEKERS: Yes, and I do not have that available, I'm sorry. [LB255]

SENATOR STUTHMAN: Yeah, and I realize that, but I appreciate your testimony, so thank you. [LB255]

SENATOR FISCHER: Other questions? Senator Hadley. [LB255]

SENATOR HADLEY: Thank you, Senator Fischer. Dr. Ramaekers, when I was driving in this morning I happened to run across a Greyhound bus, and I knew this was coming

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up today, so I just thought to myself, I wondered what we'd require, you know, on cross country buses and I got to thinking. I know at least Lincoln and Omaha have city buses, and how they compare, you know, do you think city buses are safer or less safe than school buses or? Maybe that's an unfair question to ask. [LB255]

LARRY RAMAEKERS: Well, it would be pure conjecture on my part here, but one of the things, and, again, as many of you have read the articles, various articles that are there is that by virtue of sitting up higher in a bus, that if you have a collision, you're in a much better position there than you are with a car, two vehicles of the same size, same height, profile, and everything else hitting each other. So by virtue of that, I guess you could almost extrapolate out that yes, you would be safer in a vehicle like that. [LB255]

SENATOR HADLEY: I guess my thought is, if we're going to require school buses, we have a lot of buses in Lincoln and Omaha and such as that that are transporting people without safety belts also. [LB255]

SENATOR FISCHER: Other questions? I believe there's six states that require school buses to have seat belts. Is that correct as far as you know? [LB255]

LARRY RAMAEKERS: That is the figure I've heard as well. [LB255]

SENATOR FISCHER: Have you talked to your colleagues in other states and any movement there, any push to get seat belts in school buses, and what are the feelings there? [LB255]

LARRY RAMAEKERS: I will be leaving tomorrow afternoon to San Francisco to the American Association of School Administrators annual conference. And you can be assured, I'm going to ask that question, that very question, because knowing full well that this is before the Legislature, that it would be good information, and, fortunately, do have some colleagues in other states that I know I can readily go to and find that out. [LB255]

SENATOR FISCHER: If you could get that information back to me, I'd appreciate it. [LB255]

LARRY RAMAEKERS: I'd be happy to do that. [LB255]

SENATOR FISCHER: Also, I know they always have trade shows at these conventions. If you could get information from bus companies on what they provide, and if they are encouraging seat belt use or if they believe that their designs with the seats now is better for children that are on these buses, if you could bring me information on that, I'd appreciate that. [LB255]

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LARRY RAMAEKERS: Yes, I will. [LB255]

SENATOR FISCHER: Thank you. Any other questions? I see none. Thank you very much for being here. Next opponent, please. Good afternoon. [LB255]

TIMOTHY SHAFER: Hello, Senator Fischer, members of the committee. My name is Timothy Shafer, Dr. Timothy Shafer, T-i-m-o-t-h-y S-h-a-f-e-r, superintendent at Broken Bow schools. I appear before you today representing the legislative committee of the Nebraska Council of School Administrators. The Council of School Administrators opposes this legislation due in large part because we are not convinced that a child wearing a lap and shoulder belt is necessarily safer in a large school bus in the event of an accident. On October 21, 2008, you've heard that date in this document referred to a number of times today, the National Highway Transportation Safety Administration published a final rule in the federal register upgrading the school bus passenger crash protection requirements of the Federal Motor Vehicle Safety Standards. The final rule required new buses of 10,000 pounds or less, which are called small school buses to have lap and shoulder belts in lieu of the lap belts currently required. The final rule also sets performance standards for seat belts voluntarily installed on school buses with a weight greater than 10,000 pounds, large school buses. But this final rule did not require states or local jurisdictions to install these lap/shoulder belts on these large school buses. The organization that I represent today is not going to oppose this legislation based upon the purchase price of a bus equipped with seat belts. We're not here to quibble about the price since no price can be placed on the life of a child. However, if the National Highway Transportation Safety Administration through its research...I emphasize research, and its additional capacity to adopt rules to govern school bus safety, it could have and perhaps should have, but it did not, directive states and local jurisdictions to purchase buses with these seat belts installed. The federal agency that...this is a federal agency that has that authority. I ask that you carefully consider that the federal government has not mandated seat belts in large school buses for a reason. The reason is this: There is no clear evidence that such a requirement would necessarily save a child's life in the event of an accident. I urge you to indefinitely postpone LB255. [LB255]

SENATOR FISCHER: Thank you, Dr. Shafer, for being here. I know you personally, and I know this is difficult for you to be here today, I would imagine, because of our relationship, and how I do know you. [LB255]

TIMOTHY SHAFER: Yes, Senator. [LB255]

SENATOR FISCHER: You are always a strong, strong proponent for students above anything else in your district, and not to put you on the spot, but that includes the budget, and you're known for being a champion for the students in your district, for their education and their safety. You were emphatic in your presentation that we need to look

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at the facts on this... [LB255]

TIMOTHY SHAFER: Yes. [LB255]

SENATOR FISCHER: ...and not the emotion... [LB255]

TIMOTHY SHAFER: Yes. [LB255]

SENATOR FISCHER: From what you read and the information you've gathered, you believe we should not advance this bill. [LB255]

TIMOTHY SHAFER: I have a nine-year-old son and a five-year-old daughter. I visited with my wife about this. We both strongly feel that strapping them in a school bus increases the potential harm to them than it does not strapped in due to the safety construction of the bus. I would further add, I'm a former school bus driver. It was a great job when I was in college. I was rear-ended in a bus. I was stopped, waiting for the lane to clear so I could make a turn, and the young driver didn't see me, and hit me at 45 miles an hour. There were no students on the bus. I have no doubt they would not have been injured because of the high seats. I got severe whiplash. The bus had about that much of a smudge of red paint on the bumper. The engine block was pushed into the firewall of the car. The buses, even in the seventies, were constructed very safely. At Broken Bow, in the 14 years I've been there, we've had three bus accidents. We had a roll-over...not a roll-over...it rolled over on the sides, got caught on the crown of a muddy road, slid down into the ditch, rolled onto the side. One child passenger and the driver both walked away. They weren't doing highway speeds. We had a bus that was...a car crossed center line and hit on an icy road, hit a bus head-on. Again, great speeds weren't involved; no injuries. We had a bus T-boned at an intersection by a driver who didn't clear her windshield and she was looking through that little hole, didn't see that big school bus, T-boned it. Didn't even put a smudge of paint on the undercarriage of the bus. Buses are safe. I would not sit here and tell you that I would be...that I'm uncomfortable about putting my children on a bus that I felt was unsafe. [LB255]

SENATOR FISCHER: Thank you very much. Other questions? Senator Stuthman. [LB255]

SENATOR STUTHMAN: Thank you, Senator Fischer. Thank you, Dr. Shafer, for your testimony. What size of a bus is a 10,000-pound GVW or less, how many passengers? [LB255]

TIMOTHY SHAFER: I'm going to say that it's like in the mid-thirties and up. When they talk about 10,000 pounds, it's generally those 16-passenger buses. But that's a distinction that we could find out if we had the Internet available here. I don't know what

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the exact distinction is in terms of passengers. [LB255]

SENATOR STUTHMAN: But it is one of the smaller ones, like a... [LB255]

TIMOTHY SHAFER: Yes. [LB255]

SENATOR STUTHMAN: ...like a...it's not a van, but it is a bus, a little bus in other words. Okay. [LB255]

TIMOTHY SHAFER: Right. And a bus is a federal designation. Earlier the question came up about 15-passenger vans. The feds did not outlaw 15-passenger vans. The state of Nebraska did. [LB255]

SENATOR STUTHMAN: So those...that say school bus on a van is really not legal. [LB255]

TIMOTHY SHAFER: In Nebraska in two more years. [LB255]

SENATOR STUTHMAN: In two more years. Oh, okay. Thank you. [LB255]

TIMOTHY SHAFER: In Nebraska. [LB255]

SENATOR STUTHMAN: Thank you. [LB255]

SENATOR FISCHER: Do vans have to have seat belts? [LB255]

TIMOTHY SHAFER: Yes. [LB255]

SENATOR FISCHER: Maybe we need to look at that law again. Other questions? [LB255]

TIMOTHY SHAFER: Which law, the van law? [LB255]

SENATOR FISCHER: Yes. [LB255]

TIMOTHY SHAFER: That was the NDE rule. [LB255]

SENATOR FISCHER: Maybe we need to look at that rule. [LB255]

TIMOTHY SHAFER: I would ask you to do so. [LB255]

SENATOR FISCHER: Thank you. Other questions? I see none. Appreciate you being here. Thank you. [LB255]

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TIMOTHY SHAFER: Thank you. [LB255]

SENATOR FISCHER: Other opponents, please. Are there other opponents? Good afternoon. [LB255]

RICHARD CASEY: (Exhibit 14) Good afternoon, Senators. My name is Richard Casey, C-a-s-e-y, and I'm representing Bellevue Public Schools where I'm the transportation supervisor, and I'm also presenting on behalf of the Nebraska School Transportation Association. NSTA is an association of members, primarily professional school bus drivers, supervisors, directors, managers, vendors who are involved in student transportation in the state of Nebraska. Last year that association developed a position paper on student occupant protection systems as they relate to school buses and I have passed that to you. This afternoon I'd like to highlight a few key points and conclude with a statement or a concern that I have as a transportation supervisor operating approximately 90 student transportation vehicles in the state. The Nebraska School Transportation Association's position on changing the current system of student occupant protection from compartmentalization to that of lap and shoulder belts is consistent with the same position that is held by the National Association of Pupil Transportation, and that position is simply that compartmentalization provides the safest means of transportation for students on school buses, and that position should only change only after adequate testing has been done. To date, National Highway Traffic Safety Administration has not conducted a full range of dynamic testing and complete situational analysis with a goal of establishing a safety system that will definitely enhance the current passenger protection system for all children, and, again, that system is called compartmentalization. Now, as a transportation supervisor, I have many concerns with putting lap and shoulder belts on school buses. With the interest of time, and because some of those issues have already been raised, I would just like to share three of those. But first, I would like to assure all the senators and everybody in this room that certainly as a transportation supervisor, I have the same concern as everybody here that we always find the safest way to transport students to and from school. However, I don't think lap and shoulder belts are that answer. My foremost concern is evacuation of school buses in the event of a catastrophic accident or an incident such as a fire. Although this type of accident or incident may seem far-fetched, I assure you that it isn't. Well over a hundred accidents and incidents that required student evacuation from buses happen every year in the nation. My concern is that in a catastrophic accident involving a school bus carrying 60 or so elementary-age kids which in Bellevue, we have many buses that do that every school day, those students would not be able to evacuate the bus in a timely manner. This situation would certainly be magnified in the event that the only adult on the bus, in our case at least, the driver...if that driver was incapacitated or if the bus was in a position where the students were leaning against the seat belt, i.e. putting pressure on the belt. And I typically hear naysayers of this scenario say, well, kids buckle up every day in their cars; they know

how to buckle up, and they know how to unbuckle. Well, I agree with that. But what kids don't do every day is practice how to get out of a safety belt in the event of a catastrophic accident. My second concern is that, I believe it is unreasonable to think that one driver can ensure every student is buckled in and wearing a shoulder/lap belt properly. And as with any safety device, improper wear can lead to more injuries than not using the safety device at all. Many kids will unknowingly wear the seat belt improperly while others will knowingly wear the seat belt improperly. Now, keep in mind, school buses have high seat backs, and with those high seat backs which were just mandated to even be higher, the driver will not be able to see any students' lap with the exception of those students who are sitting directly to his or her right. My final concern which has been mentioned here already this afternoon is with requiring lap and shoulder belts on school buses over 10,000 pounds is the cost, and that is reality. Seat and bus manufacturers estimate, as again was mentioned earlier, anywhere from 10 to 15...\$12,000 to outfit an 84-passenger bus with lap and shoulder belts. In addition to this initial outlay of cost, there would be additional costs for maintenance and repair and replacement of these seat belts once they are damaged, and kids tend to damage things. This unfunded requirement would, in effect, result in districts prolonging the purchase of newer and, oh, by the way, safer buses in order to meet this new price tag. With an average of 800 children killed every day driving or riding in private vehicles during those key times that students are being transported to and from school, and when 30 kids, as an average, are killed every year by passing motorists as those kids are getting on and off the school bus, I believe this additional cost could be much better spent in those areas. So, in summary, I think we all have the same goal in mind, providing the safest means of transportation for our school students. School buses with their current occupant protection methods called compartmentalization are already 44 times safer than the typical car, according to the Transportation Research Board and the National Academy of Science. Let's not change our current system until all the facts are in, and we have an honest and thorough dialogue on how to resolve the additional issues which occur when you add safety belts on school buses. Thank you. [LB255]

SENATOR STUTHMAN: Thank you, Mr. Casey. Are there any questions from the committee? Senator Hadley. [LB255]

SENATOR HADLEY: Senator Stuthman, thank you. Mr. Casey, my wife spent many years in education, and she told me the other day that when California and Texas do something on textbooks, it brings the textbook costs down for everybody else in the country, because, you know, the number is so great. Well, it's interesting that California and Texas are two places that require seat belts on school buses. Do you envision that the costs might come down on seat belts in school buses with Texas and California requiring those? [LB255]

RICHARD CASEY: It would strictly be conjecture on my part. I would suspect over time with any new product, the price does come down over time. I suspect the price will

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always be up because it's additional materials. I'd also like to add, and I've heard it said here a couple of times, and I believe there are only four states that require something other than compartmentalization on large school buses, a large school bus being something over 10,000 pounds. Only one state, and that's California, requires lap and shoulder belts. One state...another state of the three that required just lap belts is Louisiana, and as I understand it, they passed it through the legislature, but it was an unfunded mandate, and they're not requiring that the school districts comply. [LB255]

SENATOR STUTHMAN: Thank you, Senator Hadley. Senator Louden. [LB255]

SENATOR LOUDEN: Yes, well, thank you, Mr. Casey. I was wondering as you talk about this compartmentalization. How wide is a school bus? Are they what, 7 feet wide or so on the inside, something like that? [LB255]

RICHARD CASEY: Well, you think I would know the answer to that, but I don't. [LB255]

SENATOR LOUDEN: I guess what I'm wondering, this compartmentalization, that's mostly for a head-end crash or a rear-end crash, isn't it? And some T-boning, I suppose, because the buses are built with stout frames, but on the roll-overs, those kids that are on the top side, they've got to fall that 7 feet or so. Now, what's worse, to hang up there 7 feet in the air or tumble down there on top of other kids down there at 7 feet or so? I mean, what...hasn't anybody figured that out yet? [LB255]

RICHARD CASEY: Well, I suspect that it depends on the type of crash that's involved, whether it's a roll-over or a side crash, a rear crash. Yeah. You know, I can echo the comments that were made earlier. We've had buses in very serious accidents where we didn't even send the bus to a body shop whether it be a side collision or a rear collision, and the cars were totalled, and there were injuries in the car. Just had one the beginning of the school year where a bus was rear-ended. The driver wasn't even sure he was hit. Somebody pulled up beside him and said, hey, there's a car stuck up underneath your bus, and it was full of kids. The kids didn't even know it was hit, but back to your question. I guess I'm not qualified to answer that other than to say that in a situation where you have maybe again 60 or 70 elementary kids strapped in a seat, and they're hanging upside down, how does one driver get that student out of those seats especially if there's injuries involved? [LB255]

SENATOR LOUDEN: Well, that's what I'm wondering. How do we weigh this whether it's better to leave them hanging up there or have them rolling around? I was only in one wreck in my life, all the years I've driven... [LB255]

RICHARD CASEY: Congratulations (laugh). [LB255]

SENATOR LOUDEN: ...and I rolled a truckload of bulls over, and that was our biggest

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problem was I was on the upside and my brother-in-law was on the downside, and all of us and the hydraulic jack and everything else landed on him, you know. And we were probably going 3 miles an hour, but, nonetheless, this is what's my concern with school buses is that fact that those kids are tumbling around inside that if it rolls over on its side. As they mentioned, the way they're designed, they're not supposed to stop on their top. Well, if that's the case, then they'll go clear on over for a three-quarter roll, you might say. So, that's going to be a real turning motion for those, so I'm wondering, how do we weigh which is best, to have them strapped in or have them flopping around in there? [LB255]

RICHARD CASEY: Sir, I would say I believe and NHTSA just confirmed that compartmentalization they believe...the experts believe is still the safest method of occupant protection, and they confirmed that by not making it a federal requirement that school buses do have lap and shoulder belts. They made it an option for buses over 10,000 pounds, but they did not require it. [LB255]

SENATOR LOUDEN: In other words, they don't think those big buses ever roll over. [LB255]

RICHARD CASEY: Well, I think they know they roll over, but I think when they look at...when they look at the whole effect of all the various types of crashes, that they believe compartmentalization is still the safest way to go. [LB255]

SENATOR LOUDEN: Okay, thank you. [LB255]

RICHARD CASEY: Yes. [LB255]

SENATOR STUTHMAN: Thank you, Senator Louden. Senator Hadley, another question? [LB255]

SENATOR HADLEY: Just one more question for Mr. Casey. Is the...are there a number of manufacturers of school buses and is it a very competitive market, or is it a small number that is pretty dominated by Bluebird or whoever... [LB255]

RICHARD CASEY: When you talk large school buses, i.e. anything over 10,000 pounds, you're primarily talking three manufacturers. There's Thomasville buses, Bluebird, and International. In the smaller realm which is the small school buses, you have 22 to maybe 30 passengers, and the 10,000-pound range, there's quite a few other manufacturers, because essentially a lot of those buses labeled as school buses are GM chassis with a school bus body set on it. [LB255]

SENATOR STUTHMAN: Thank you, Senator Hadley. Senator Campbell. [LB255]

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SENATOR CAMPBELL: Thank you, Senator Stuthman. It'll be a repeat question, Mr. Casey, but I thought you might know it. How many school districts in the state have buses, I mean, beyond what's required with seat belts? [LB255]

RICHARD CASEY: Well, unfortunately, I don't know that either. I would suspect and just dealing with my counterparts, it's very few. What I have heard, though, is districts who are buying school buses that they consider their charter buses, the ones they use for field trips and things that have high back seats and luggage racks, that some are getting those with seat belts now. I really...I'm just speculating here. There's not very many that are buying buses with seat belts on them because of the expense, I'm sure, and the doubts that are out there. [LB255]

SENATOR CAMPBELL: Thank you. [LB255]

SENATOR STUTHMAN: Mr. Casey, in your testimony, you stated that there was 800 children killed every year in the personal vehicles driving there as compared to 30 in buses. [LB255]

RICHARD CASEY: Well, sir, six in buses last year. Thirty as they're boarding, getting on and off the bus, being hit by a car. [LB255]

SENATOR STUTHMAN: Oh, okay, okay. But how many were killed in the buses? [LB255]

RICHARD CASEY: Six, sir, last year, I believe is the right number. [LB255]

SENATOR STUTHMAN: Oh, there was six then killed in buses as compared to 800 in private... [LB255]

RICHARD CASEY: Eight hundred kids killed during the time...I'm not saying they were on their way to school or coming home, but...and I've got the article here that shows that. But 800 kids were killed during the times that kids are being normally transported to and from school, killed in private vehicles. That other number was the number of students who are killed while they're getting on a bus or off a bus because the driver has the stop arm out, and somebody runs that stop arm and hits that child and kills them. Only six killed inside a school bus as a result of an accident. [LB255]

SENATOR STUTHMAN: Okay, thank you. [LB255]

RICHARD CASEY: Yes, sir. Yes, sir. [LB255]

SENATOR STUTHMAN: Any other questions from the committee? Seeing none, thank you for your testimony. [LB255]

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RICHARD CASEY: Thank you, Senators. [LB255]

SENATOR STUTHMAN: Any other ones want to testify in opposition? Anyone want to testify in the neutral capacity? We have one. Good afternoon. [LB255]

TROY ROWE: Good afternoon. My name is Troy, T-r-o-y R-o-w-e. I am the transportation director for the York Public Schools, and I'm also a bus driver. My biggest concern as a father who has lost a child myself, I can...Mrs. Prescott, I know what you're going through. My child was not in an accident. It was a medical issue. My concern as a district is with where our state aid is right now. And the figures that we last received last week was around \$920,000 that we're getting hit as a district in York. The last new bus that we were able to purchase as a district was in 2004. We have purchased two other buses since then, but they were used buses, and they were around 30,000 miles. There was a huge cost savings for us as a district. We run about 15 buses. We have several transits which are over the 26,000-pound weight which we run for our activity buses. My concern is as a transportation director, how do I decide...for instance, we had three buses going to Lincoln today to the Lied Center. How do I decide as a director that your child should be in seat belts, and your child shouldn't. What I'm asking for is for the committee and the Legislature to consider funding if we have to replace buses. You know, if we need to put children in seat belts, then let's do it, but as a Class B school along with Aurora, you know, the funding issue is huge for us. Thank you. [LB255]

SENATOR STUTHMAN: Okay. Thank you for your testimony, Troy. Any questions from the committee? Seeing none, thank you very much. Any other testifiers in the neutral capacity? Seeing none, Senator Harms, would you like to close? [LB255]

SENATOR HARMS: Thank you very much, Mr. Chairman and committee members. You're going to have your hands full in deciding what's the best way to go. I will tell you I still do not back away from anything that I've said here. I can show you data that counters what they have said. I think to me it's all about safety, and the thing that I would like for you to keep in mind as you just think about this, is how are other states doing this? Why is it all right for other states to move in this direction? Why is it all right for other larger school districts starting to address this issue? And that's what I guess we have to decide. And as Senator Fischer had mentioned, and I don't want to put words in her mouth, we know that it's coming. It's not too far away where the federal government is going to require us to do this. So I guess for the superintendents, I appreciate their comments, but the only thing I'll say to them, when they have a serious accident, and the parent lines up for lawsuits without this bill, I wish them luck, because that's exactly what's going to happen. And so it's...parents are smarter. I would ask the superintendents, they ought to survey the parents to determine what the parents' thoughts might very well be in regard to the safety here. I would be surprised if it isn't overwhelmingly in favor of seat belts for buses. So, Mr. Chairperson, thank you very

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much, appreciate it, and if there's anything I can do to help you or anything you can do to clarify the bill, please feel free to do so. And we just want to make it a better bill, and get it out on the floor and have the debate. Thank you very much. [LB255]

SENATOR STUTHMAN: Thank you, Senator Harms. Are there any questions from the committee? [LB255]

SENATOR HARMS: You're welcome. [LB255]

SENATOR STUTHMAN: Seeing none, I do have letters in opposition from Charles Lieske from Seward, Nebraska; one from Matthew Fisher, Superintendent of the Chase County Schools, and another one from Sue McNeil from the Anselmo--she is the Anselmo-Merna Superintendent, and those will be entered into the testimony of opposition. And at this time, I will close the hearing and close the hearings for the day. Thank you. Oh, just wait, wait whoa. I'm getting ahead of myself. We will go to the next...Senator Fulton. Good afternoon, Senator Fulton. I apologize. (See also Exhibits 10, 11, 12.) [LB255]

SENATOR FULTON: It's all right. We'll go quickly. Good afternoon, Mr. Chair,... []

SENATOR STUTHMAN: Senator Fulton, good afternoon. []

SENATOR FULTON: All right, we'll go quickly. Good afternoon, Mr. Chair. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I bring to you LB497. Last year, this body supported a positive policy shift with regard to the crime of driving under the influence by passing LB736, that was last year. To ensure that the ignition interlock mechanism that we established with LB736 is as effectual as possible in mitigating the devastating effects of drunk driving and to best comply with new federal guidelines I'm introducing LB497. Two primary aspects of this bill, number one, the proper role of probation and the funding of interlocks for indigents; and number two, we want to clarify use and effectiveness of emission interlock permits and devices. With regard to the former, LB736 created an Ignition Interlock Device Fund managed by the Treasurer to be used to cover the installation and maintenance costs of an ignition interlock device when the defendant is declared to be indigent. Sections 1 and 2 of LB497 allow the Office of Probation to expend funds for the installation, maintenance, and removal of ignition interlock devices for indigent defendants more efficiently by placing the funds that would have gone to the Interlock Device Fund into the Probation Cash Fund. This change has been agreed to by the Treasurer and Probation. Section 6 of the bill also ensures that a court-ordered interlock device on a straight conviction is not interpreted to mandate probationary oversight, even if the defendant is unable to pay for the costs of the interlock device. This provision allows the Office of Probation to cover indigent costs as required without actually placing the offender under a probationary order that had not existed. Section 6 of the bill also clarifies that the alcohol concentration

calibration for interlock devices is set to be at .03, as statute could previously have been construed to allow for an alcohol concentration of up to .08. If the interlock device registers a violation then Section 6 also provides that the defendant be given an opportunity to show cause before a court as to the reason that device was triggered and whether the defendant was indeed actually the guilty party. Point two was clarifying the use and effectiveness of ignition interlock permits and devices. LB736 created an ignition interlock permit that is required to operate a vehicle equipped with an ignition interlock device. This permit restricts the driver to operating a vehicle from his or her home to work, school, alcohol treatment program, or an interlock service facility. LB497 defines a Class II misdemeanor as the penalty for violation of these permit restrictions. One who violates the bounds of the permit will have the permit revoked and will not be eligible to receive a permit for the remainder of the revocation period. Clarifications are also made with regard to the use of ignition interlocks for second offenses. Sections 3 and 4 of the bill amend Sections 60-6,197.03 and 60-6,197.01 to allow for the issuance of an ignition interlock permit and installation of an ignition interlock device for a second DUI. This measure would allow for a court to order an ignition interlock permit and device for the remainder of a one-year license revocation after 60 days of no driving. We were not able to adequately address interlock use for second offenses previously, as a change in the federal SAFETEA-LU statute was needed. This change on the federal level occurred last June. So LB497 simply allows for Nebraska statute to comport with this federal change. Concluding, the use of ignition interlock device technology promises to provide the citizens of our state with safer roads while simultaneously improving DUI offender rehabilitation. LB497 ensures that the legal mechanism for this change comports with federal law and improves implementation within our judicial system. If there are any questions I could try to answer them. [LB497]

SENATOR STUTHMAN: Thank you, Senator Fulton. [LB497]

SENATOR FULTON: I would like to say thank you to the committee counsel also for his work on this technically arduous bill. [LB497]

SENATOR STUTHMAN: Okay, thank you. Any questions from the committee? Senator Louden. [LB497]

SENATOR LOUDEN: Yes, Senator Fulton, I've not been around these, but I know I have some old cowboys in my country that rely on these in order to go down to the local restaurant in order to eat because they don't want to cook. What I'm wondering is, how come you're doing away or changing the fund to Probationary Fund? I mean, is that so you can pay for these someone that don't have the money? [LB497]

SENATOR FULTON: Well, we're...the...we're not doing away with the probationary fund, we're changing. We had an Ignition Interlock Device Fund... [LB497]

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SENATOR LOUDEN: Right. [LB497]

SENATOR FULTON: ...last go around. [LB497]

SENATOR LOUDEN: And you're moving it over to the Probationary Fund and why? [LB497]

SENATOR FULTON: Right. There's... [LB497]

SENATOR LOUDEN: What's wrong with where it is? [LB497]

SENATOR FULTON: There is, you know, that's a good question. And this is part of the tracking mechanism that we have to have in place to be able to track where the money is going. But also because it's Probation that's dealing, oftentimes, with the ignition interlock, with those who have offended who are using ignition interlock. [LB497]

SENATOR LOUDEN: What is that, that Interlock Fund used for now? [LB497]

SENATOR FULTON: It hasn't...it hadn't been implemented yet. It... [LB497]

SENATOR LOUDEN: Okay. You haven't gotten enough money in there to make any difference or what? [LB497]

SENATOR FULTON: Right. Well, the bill...this law didn't become effectual until this...January of this year. [LB497]

SENATOR LOUDEN: Yeah. [LB497]

SENATOR FULTON: And thus far we have not...there's no money in the fund right now. [LB497]

SENATOR LOUDEN: Okay. But the reason you had that fund in there, what was the fund for if you ever did get any money? [LB497]

SENATOR FULTON: Indigent use, those who can't afford their own ignition interlock device. So if one who has offended, one who is busted for drunk driving, be at .08, .15, anything over .08 who is declared to be indigent, that is unable to afford his or her own ignition interlock device, we set this fund up such that those that can afford pay for those who can't. [LB497]

SENATOR LOUDEN: And now it will be over in the Probationary Fund and they'll do it over there? [LB497]

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SENATOR FULTON: Right. [LB497]

SENATOR LOUDEN: Now why should you pay for one of those devices for them? I mean, the state don't pay for bail bond for anybody, why should they pay for an interlock device? [LB497]

SENATOR FULTON: Yeah, a fair question. When I brought this bill last year I did not want to have...I did not...I wanted to be...wanted it to be self-funding, and that is no taxpayer dollars going to pay for ignition interlock devices. And so what we did was we looked at what other states are doing and we also just entertained the idea of well, why don't we have anyone who gets busted for drunk driving pay into this fund such that those who can't pay are able to afford. So a philosophic way of looking at this, I don't want to have law-abiding citizens subsidizing those who weren't law-abiding. That was at least what went through my mind. And we looked at other states and this what one other state did. [LB497]

SENATOR LOUDEN: Then who contributes to this fund? [LB497]

SENATOR FULTON: Those who get busted. [LB497]

SENATOR LOUDEN: Then if they're indignant (sic), how do they contribute to the fund? [LB497]

SENATOR FULTON: If they're indigent you mean? [LB497]

SENATOR LOUDEN: Yeah. [LB497]

SENATOR FULTON: They would not. Those who are found to be indigent would not, they wouldn't be able to and so they're not having to pay. [LB497]

SENATOR LOUDEN: Because they're already paying their lawyer fees to defend them. Now we're going to give them the interlock when we do find them guilty if our high-dollar defense lawyer didn't get them... [LB497]

SENATOR FULTON: Well, I don't know so much. The bill that I brought forward and what we passed into law last year isn't so much contemplating what defense might be used by an offender. It was simply the ignition interlock and I just...I wanted to try to put it forward as something that those... [LB497]

SENATOR LOUDEN: Now this is new language in here that they can only go from home to work, school, and alcohol treatment program. Is that...and that's going to be set in stone, that's all they can use those... [LB497]

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SENATOR FULTON: Where are you looking at in the bill? [LB497]

SENATOR LOUDEN: Oh, it would be Section 3, I guess, amends 60... [LB497]

SENATOR FULTON: Okay, because I don't believe that's new language. [LB497]

SENATOR LOUDEN: Okay, because I was looking at the bill summary. I haven't looked at the bill. But anyway, my question is on that, is somewhere in there you're going to have to allow people to go get groceries. I was wondering if that was part of it. [LB497]

SENATOR FULTON: That's not part of what I'm proposing. Let me... [LB497]

SENATOR LOUDEN: Either that or they're going to have to go get groceries or get beer so they can drink it at home. (Laughter) [LB497]

SENATOR FULTON: Fair question. I will allow that to go "uncommented" too. (Laugh) [LB497]

SENATOR LOUDEN: Anyway, I was wondering about that. One other thing that I was wondering at something about in here that since they have an alcohol concentration of .03 or greater. Well, how much can they drink and still make the interlock work? That was my understanding, if you had that alcohol...very much alcohol you can't make it work anyway if you've been drinking. [LB497]

SENATOR FULTON: Yeah. There has to be some set point. In my understanding, and there could be those that testify after me that can explain the technology a little bit more thoroughly. But as I understand it anything under .03 runs the risk of setting off an ignition interlock. That risk may exist for one who hasn't actually been drinking. So where it can or can't be set that's something that could be decided. But as the bill went forward last year it could be construed that it could be set as high as .08, which I think would be a mistake. So we're saying that someone can drink up to .08 and still be able to blow in their ignition interlock and get their car to start. Well, these are people who have already been busted, who may have a drinking problem. And so we want to be able to say that if they've been drinking at all they should not be starting their car. [LB497]

SENATOR LOUDEN: Okay, because that's what I was wondering, because as I say, some of the instances of some of these old cowboys have had to use them to go eat supper. And I know of one instance when he got ready to go home they couldn't find anybody around there (laugh) that could blow in that thing to get his car started. (Laughter) [LB497]

SENATOR FULTON: Well, we think that the technology is such that right now with

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these ignition interlocks most of them if not all of the manufacturers utilize a small camera. So if one is trying to fool the ignition interlock by having someone who hasn't been drinking blow, they're going to get their picture taken and that is, incidentally, where probation would come in. But you might know some pretty wily cowboys who might still try to get around it but I don't think they'll be able to with the new technology. [LB497]

SENATOR LOUDEN: Okay, thank you. [LB497]

SENATOR STUTHMAN: Thank you, Senator Louden. Senator Hadley. [LB497]

SENATOR HADLEY: Thank you, Senator Stuthman. Thank you, Senator Fulton. Since this is...I thought it says it makes clarifying changes to statutes such as that. So basically, if we don't pass this, what have we screwed up by not passing this bill in laymens terms. [LB497]

SENATOR FULTON: Well, I'll tell you this is pretty involved. You'll get the opportunity to talk about it, I'm sure. Part of this is clarifying what was done last go-around, part of this also has to do with what has occurred at the federal level. And I made reference to this... [LB497]

SENATOR HADLEY: The second DWI or DUI? [LB497]

SENATOR FULTON: Yeah, well, no, it's the SAFETEA-LU statute. It's a big long acronym that someone very creative, more creative than me came up with. But there were some changes at the federal level that we believe we have to adjust to at the state level in order to be in compliance with the law, but also it has to do with federal funding. I don't know that I could do justice to the technical... [LB497]

SENATOR HADLEY: But it's basically...it would be fair to say, you know, we dealt with cleanup bills earlier. Is this kind of a cleanup bill that... [LB497]

SENATOR FULTON: That's...that would be a fair assessment, yeah. [LB497]

SENATOR HADLEY: ...kind of cleans up the initial statute from last year. [LB497]

SENATOR FULTON: Yeah, I think so. [LB497]

SENATOR HADLEY: Okay. [LB497]

SENATOR STUTHMAN: Thank you, Senator Hadley. Senator Gay. [LB497]

SENATOR GAY: Thank you, Senator Stuthman. I'm looking at the fiscal note and

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there's...and I know it hasn't been established yet. And I've seen this device work and it's impressive. But looking at the fiscal note, so we're going to get estimated \$240,000 in revenue from those that can afford to pay. Correct? [LB497]

SENATOR FULTON: I believe that is correct. I'm... [LB497]

SENATOR GAY: And then it looks to me like we're going to spent \$756,000, for those who can't afford to pay, to subsidize those people that can't afford to pay this, those indigents, which would be 40 percent of the...those required to have the device. So if they're going to work, why are they not paying for this? I think it would be a privilege instead of a right to do this. And I understand the cost of, well you know what, if they're not working they're going to be jail and whatever. But you want it to be cost-neutral. That doesn't look cost-neutral to me. [LB497]

SENATOR FULTON: Right. Yeah, I...the only thing I can respond with is there has to be a finding that the individual's indigent. And I believe, I'm not positive about this but I believe this occurs in the judicial branch as to whether one is actually indigent. I'm...if we could construe this such that anyone who gets busted should pay for his own or her own ignition interlock permit or device, I would rather have it occur that way. But we ran into some problems with that last year. [LB497]

SENATOR GAY: So legally you cannot deny them the fact then. [LB497]

SENATOR FULTON: I'm not... [LB497]

SENATOR GAY: I mean, I know you're not a lawyer, neither am I. [LB497]

SENATOR FULTON: I don't know if it's quite so...yeah, I'm not a lawyer. But I know that this is something that is not defined. We, the Legislature, don't get to define who the indigent is, at least specifically with regard to someone who gets busted for driving drunk. [LB497]

SENATOR GAY: So did you look at other alternatives to fund this instead of those people subsidizing the others? [LB497]

SENATOR FULTON: Yeah, there... [LB497]

SENATOR GAY: I mean, is there other safety funds or...and I understand you want to keep people off the road and all this. But...and then also, are we going to a point so second offense DUI can get this as well? [LB497]

SENATOR FULTON: Say again? [LB497]

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SENATOR GAY: Can a second offense DUI get this ignition interlock then? [LB497]

SENATOR FULTON: They could, yes. [LB497]

SENATOR GAY: They can. So... [LB497]

SENATOR FULTON: The intention, I'll tell you, the original intention with the bill was first offense. [LB497]

SENATOR GAY: Right. [LB497]

SENATOR FULTON: But there's some... [LB497]

SENATOR GAY: Right, you make one mistake and we can do this. [LB497]

SENATOR FULTON: Right. [LB497]

SENATOR GAY: But a second offense can go do this too? [LB497]

SENATOR FULTON: If they hadn't previously had an ignition interlock, then yes. [LB497]

SENATOR GAY: Well, the funding I just question when it's \$240,000 and we're going to spend \$700,000, we're still \$500,000 in the hole. I wish there were another way that we could fund this. [LB497]

SENATOR FULTON: Yeah. And I am open, I'm open to that. Frankly, I have not, just being honest here, I have not consumed numerically what the fiscal note actually is saying. I mean, I understand what in principle what's... [LB497]

SENATOR GAY: Yeah, you get up late, I understand that. But... [LB497]

SENATOR FULTON: Yeah. [LB497]

SENATOR GAY: To me that's the way I read this thing. [LB497]

SENATOR FULTON: Yeah, there are some assumptions that are made which I, you know, I can't speak to with specificity. But yeah, if there are other funding mechanisms that we can utilize to pay for those who can't pay for their own, that's fine. But we looked at this last year and we, you know, we ran into some problems. The indigency finding is something, I think, that's outside our scope and purview. I could be wrong but that's my understanding. [LB497]

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SENATOR GAY: Okay. [LB497]

SENATOR STUTHMAN: Thank you, Senator Gay. Senator Campbell. [LB497]

KATHY CAMPBELL: I'll waive, that was my question. [LB497]

SENATOR STUTHMAN: Okay, okay. Any other questions for Senator Fulton? If not, thank you. And I will turn it back over to Senator Fischer. [LB497]

SENATOR FISCHER: Thank you, Senator Stuthman. If I could ask how many are here to speak in support of the bill? One, two, three, four, five. And how many in opposition? Okay, five in support, no one in opposition. And I would remind everyone, try to limit your testimony to five minutes and don't repeat what others have said before you. With that, good afternoon. [LB497]

MARTY CONBOY: Thank you, Chairman Fischer, senators. My name is Marty Conboy, C-o-n-b-o-y. I'm a city prosecutor in Omaha and have worked on DUI legislation for almost 30 years and have drafted most of it. We have an excellent DUI law. This is a corrective bill, I think, as Senator Hadley kind of guessed, this is one of those things where it was last year a ten-page-longer bill than this bill, very complex, had many changes. This bill has approximately ten significant changes, most of them are very necessary. I'll say from the outset I was not tremendously excited. And in answer to Senator Gay's question, actually, a person with ten prior DUIs could still get an interlock in Nebraska. I think our current law, you know, philosophically I was not in favor of it. But I am in favor of good legislation. This is the law. And I will tell you right now the courts are in chaos because of some of the conditions that this bill has in it. For instance, there's a section that says that after 60 days of a suspension that a person with a second or more DUI can get an interlock and get an IID permit. But then another sections says, "notwithstanding any other provisions of law" you have to wait at least a year. And that occurs in a couple other places. So this inconsistency has left the courts scratching their heads as to what exactly they can or should do. They're continuing cases, there are conflicting orders being issued, the Department of Motor Vehicles is very perplexed. As you heard earlier, I think Senator Fulton has done an excellent job of bringing this forward and trying to use this tool. I think, as MADD and many of the other organizations have recognized the technology is out there to make this a good tool for rehabilitation. And to that extent Nebraska has continued to be a leader in DUI legislation to try and take advantage of that. I will tell you that this removes some...that inconsistency. It creates a penalty. We actually have this provision that says you can only drive from work and school and so forth. But there was no penalty for violating that order. And some of these people are not on probation. In fact, this would expand to second offense, those people who aren't even on probation who are given this interlock order. So there really is no accountability to anyone should they get arrested or violate the order when it's initially given. They just walk out the door and the judge hopes that

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they follow it. This creates now a criminal penalty, a Class II misdemeanor. It also adds for the first time the revocation of that permit. So if you get this privilege, and it is a privilege, and you abuse it by driving somebody else's car or bypassing the instrument, then we take away your privilege and say, for the rest of this period of revocation you can't drive at all, which is what the law has been in Nebraska from before. So it really does hold the driver accountable to recognize that this is a privilege, that it is a tool that should be used for rehabilitation. It does lower that limit that they can drive at to .03, which at least, you know, it would get people into the frame of mind of not drinking before they drive, which is what this is designed to do. So it does many good things. As I say, there's about ten of them that are in here. And all of them, I think, are beneficial, will make this legislation work, the bill that this committee worked so hard on this last year to get passed and Senator Fulton's Office, and I think it will give us a chance to see how well this will work in Nebraska. I'd be glad to answer any questions you have about the particulars. [LB497]

SENATOR FISCHER: Thank you, Mr. Conboy. Are there questions? Senator Louden. [LB497]

SENATOR LOUDEN: Yes. I guess, I'll ask since you worked on it, you say, for 30 years or whatever. How come in Section 3 then when they...and that's new wording that you just have it they can go to their residence, and to the place of employment, and to school, and alcohol treatment. How come there's nothing there about going to grocery stores or anything like that? [LB497]

MARTY CONBOY: Well, I guess, you look at it as an incremental thing. And that actually was put in the bill last year for the very first time in Nebraska. And it used to be a crime, in some cases a felony for those people to drive at all. And so what we're saying is we're going to meet you halfway and say... [LB497]

SENATOR LOUDEN: Well, yeah, but this interlock device has been around for several years. And you could drive within probably...it could be confined to counties or something like that. But you could at least drive to get...if someone could drive to get parts for their ranch, they can drive someplace to go get groceries or something like that. When you have this narrow, you just as well be like you did before, you can't drive anyplace. [LB497]

MARTY CONBOY: Well, I will say this, prior to this bill only about maybe 10 percent of the drunk drivers in Nebraska could get interlock. So this bill opens up to almost 14,000 people who couldn't drive before the... [LB497]

SENATOR LOUDEN: Yeah, but it still restricts them to where they can go. And this is what, in a rural area this isn't going to work is what I'm telling you. [LB497]

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MARTY CONBOY: I understand what you're saying. It really...and that's been true, you know, when we drafted the DUI laws before, I'm very sensitive to the idea that like in Omaha and Lincoln you got buses and cabs and neighbors and all sorts of alternative ways to get around. I've had relatives who have lived in rural parts of the country around here. You lose your license for six months, which some of my relatives have done, and you're hard-pressed. I mean, you don't have a next door neighbor who is next door. And so I understand what you're getting at and there is no way around that, except to say that now at least those people have the opportunity and... [LB497]

SENATOR LOUDEN: Well, can't you add in there groceries or something like that, lengthen this out a little bit so that instead of just restricting it to employment, school, and alcohol treatment. [LB497]

MARTY CONBOY: Well, that was, I guess, added to the bill with the idea that this is not an absolute privilege. Right now in Nebraska if you don't get an interlock you can't drive, it's a crime to drive. And so we're, I guess, at least going to the extent of saying... [LB497]

SENATOR LOUDEN: Yeah, but if you do have an interlock you can drive to all these places, right? [LB497]

MARTY CONBOY: Only to those places that are enumerated. If you get the...so as you point out, you're exactly right. It's just those very few things--employment, school, or treatment or to the facility to get your interlock and that's it. And, I guess, the idea there is...what you've suggested is possible. You could say you get an interlock, you can drive, you know, go crazy driving wherever you like. And there are some states that have done that and there's no federal mandate that says otherwise. But that is, I guess, the idea is... [LB497]

SENATOR LOUDEN: Well, is there a federal mandate that describes where you can drive with an interlock device? [LB497]

MARTY CONBOY: Not that narrow, no. [LB497]

SENATOR LOUDEN: Yeah, okay. Then I think on one other part here, I guess, getting back to that part where you're .03. If you've got the interlock device, why should you be able to drive with any alcohol at all? I mean, when you allow that they can be up to .03 and still drive, it's... [LB497]

MARTY CONBOY: Well, and I agree with you 100 percent. One of my big objections to the existing language and one of the reasons we need to change it, you can drive all the way up to .08 right now legally in Nebraska with an interlock. And that's crazy. I mean you can have a... [LB497]

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SENATOR LOUDEN: Well, the interlock device won't let you start your car, will it, at that... [LB497]

MARTY CONBOY: Yeah it will. And under our current law you can go drink a six-pack and go get in your car with an interlock and start it and it would start. And that's crazy. And I would really urge that whatever you do, change that section. At least .03 is saying, well maybe it's just one or two beers. [LB497]

SENATOR LOUDEN: How much alcohol is .03? [LB497]

MARTY CONBOY: For you or I probably a couple beers. [LB497]

SENATOR LOUDEN: Well, I don't know about you, a couple of beers I probably wouldn't be able to drive the damn car. (Laughter) [LB497]

MARTY CONBOY: And you'd still...but you'd be able to start it [LB497]

SENATOR LOUDEN: Okay. Then I see they're taking out some of the old language of, I guess, more or less where the state, on page 14 of that thing, in Section 4, where they're taking out and describing the interlock where the court would (inaudible) if you got caught violating that, why, you couldn't drive for a year. And now I see where you've changed that, that you can actually drive in 60 days. Is that something that's good for everybody? [LB497]

MARTY CONBOY: Well, you're asking the wrong guy because I am not in support of being that liberal with giving interlock out to people. So I would agree with your concerns. But we're at the point where that is already the law. And we need to make a call as to make sure that this is consistent. And right now that one year restriction is inconsistent both with the federal guidelines that were mentioned earlier and the other parts of our legislation. So there has to be some decision. And we've already, I think, reached the conclusion that we're going to go along with the federal guidelines. But this section makes our statute unworkable, so we need to get rid of it or get rid of the concept altogether. And at this point, since we've already kind of crossed that bridge, the next step is to at least make sure what we have works. [LB497]

SENATOR LOUDEN: Yes, because I think in the next section here they put where...new language where you get caught, then you can, in 60 days the court may offer it again. Well, good Lord, I'm a firm believer that if you get caught drunk driving once, you turn around and get drunk driving again, as far as I'm concerned you don't need to drive for a long time. [LB497]

MARTY CONBOY: Well, and that applies even to the fourth and fifth offenders. But I

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would also add it's...this bill does make discretionary to the court, takes out the word "shall" and makes it "may." So the judges can look at it and say, look, you've had too many chances, I'm not going to give you interlock. So it's optional, it's not required for those multiple offenders. [LB497]

SENATOR LOUDEN: You don't think that you should get one chance to use an interlock and that's it. [LB497]

MARTY CONBOY: Again, you're asking the wrong guy. I think...I have always thought that. But I think that the Legislature passed this, it is the law now. And it is still discretionary. So as long as the judge would agree that somebody isn't worthy of it, they can say no at any level. So... [LB497]

SENATOR LOUDEN: I just...my concern and my last question then, do you think this makes that interlock law more liberal than what we have now? [LB497]

MARTY CONBOY: No, not at all. I think all this does is make the law that we passed last year functional. I can tell you I've talked to judges all over the state and... [LB497]

SENATOR LOUDEN: The one we have now wasn't functional? [LB497]

MARTY CONBOY: It is not. It's, at least in some of these multiple offenses it isn't. [LB497]

SENATOR LOUDEN: How come...what did we have here ten years ago, because that's the ones that I'm more familiar with when these guys were getting these interlocks eight and ten years ago. [LB497]

MARTY CONBOY: The only people that could get interlock, up until last year, were first offenders after 60 days or 30 days, were on probation, and who lost their ALR. So you had to kind of this, you know, perfect alignment of your case in order to qualify for an interlock. And as a practical matter, that was a very small number in terms of... [LB497]

SENATOR LOUDEN: Well, was that bad? [LB497]

MARTY CONBOY: It was working for those people. And I think that's one of the reasons MADD and other organizations said let's expand that to see if we can get the same success that we did with those first offenders to some other offenders. And that's an experiment. I don't know, you know, the hope is it will work. I think if we look at that other evidence and say it worked for them, it might work for others. But, you know, it may be two or three years from now people will say that multiple offense drunk drivers are just flaunting this and aren't following the rules. We'll find out but... [LB497]

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SENATOR LOUDEN: Okay, thank you. [LB497]

SENATOR FISCHER: Other questions? Senator Gay. [LB497]

SENATOR GAY: Thank you. So, I guess, it's up to the judges discretion to grant this to anybody. Is that where we're at? [LB497]

MARTY CONBOY: Correct. [LB497]

SENATOR GAY: Okay. He grants it, though, so he can pay his fine. They're probably pretty appreciative of that. All these other people, though, who...and you could have a two, three time offender could still be granted this interlock system. [LB497]

MARTY CONBOY: Correct. [LB497]

SENATOR GAY: And someone else would pay for it. [LB497]

MARTY CONBOY: Correct, it could last as much as 15 years. [LB497]

SENATOR GAY: I mean, shouldn't we at some point...I guess that philosophy is kind of odd to me. To me it's a privilege that, you know, any alternative is kind of okay, I'm not going to do this again. But when they go two and three, how do you know that a judge...I would hope they wouldn't do that. But how do you know they wouldn't do that to the second or third time offender and let them go use this interlock device. [LB497]

MARTY CONBOY: I think you'll see a... [LB497]

SENATOR GAY: I mean, at what point do you not get it? [LB497]

MARTY CONBOY: Well, there is no restriction in the statute as to who can't get it. Anybody can get it. If you've got a DUI of any level, of any test level, you can get an interlock if the judge says so, as many times as the judge says so. [LB497]

SENATOR GAY: Yeah, and that's...but you don't think we should change that. [LB497]

MARTY CONBOY: Well, that's new, that actually was the change from last year. And, I guess, that's the first time we've tried that. I know other jurisdictions have had a similar attempt. It's still too early to say whether that's going to pan out to be a good thing or not. It takes what was a felony and now makes it this privilege. But what this bill would do, and I think this bill, which is an improvement, it says if that person who gets it for 15 years goes out the door and abuses the privilege, they lose that now for the rest of the 15 years. And it now becomes a felony for them to drive. So this bill actually goes a step closer to what your concerns are. [LB497]

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SENATOR GAY: So what you're saying the teeth in this thing are going to be more...a better deal. Nothing is perfect, I guess, is what you're saying, but the teeth in this thing would be more conducive to making it work is what... [LB497]

MARTY CONBOY: It adds some accountability, which I think the current law lacks. [LB497]

SENATOR GAY: But do you have any alternatives of other ways to fund this than someone else paying for the indigent population? [LB497]

MARTY CONBOY: That's always been a concern, because when you tell somebody you've got any kind of penalty, whether it's jail or license suspension, it should apply to everybody equally. And if some people who have money can avoid part of the penalty by buying themselves out of it somehow with an interlock or some other way, I believe that people pay to avoid jail, for instance. You would say, well, that doesn't seem right. And that's always been a concern of mine about interlock. This does at least take the step of saying we're going to try and spread the cost out to make sure it's available to everybody, which it should be. And I can tell you that a lot of thought went into how to do that and how to most fairly do it without the taxpayers having to pay it. So this is about as good of an alternative that anybody could come up with. [LB497]

SENATOR GAY: All right. Thank you. [LB497]

SENATOR FISCHER: Other questions? I see none. Oh, excuse me. Senator Campbell. [LB497]

SENATOR CAMPBELL: Thank you, Senator Fischer. Just a quick one. Of the people that you've looked at over the course of last year, do you have any numbers of how many would be indigent? [LB497]

MARTY CONBOY: Well, we could probably construct that from the number of people who are assigned public defenders by the judge. And that's going to be a...in Douglas County probably anywhere from 1,000 to 1,500; and in terms of the state we do about a third of the DUIs in the state, so you'd probably be able to say 3,000 to 4,000 might be a reasonable number. But again, that's a separate determination because this cost is probably going to be a lot less than an attorney. And so it may be that the judge would feel that, even though you can't afford several thousand for an attorney, you can afford a few hundred for an interlock. So that would be a separate determination. So it's really hard to estimate. [LB497]

SENATOR CAMPBELL: Thank you. [LB497]

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SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Conboy. [LB497]

MARTY CONBOY: Thank you. [LB497]

SENATOR FISCHER: Next proponent for the bill please. [LB497]

SIMERA REYNOLDS: (Exhibit 17) Committee members, Senator Fischer. [LB497]

SENATOR FISCHER: Good evening. [LB497]

SIMERA REYNOLDS: We're still here. Simera Reynolds with Mothers Against Drunk Driving, S-i-m-e-r-a Reynolds, R-e-y-n-o-l-d-s, and I'm here on behalf of MADD and our members in support of LB497. This legislation introduced by Senator Fulton aims to address several administrative issues between agencies that occurred. It also aims to address President Bush signing the federal legislation June 6. So it harmonizes the federal legislation that hadn't yet passed when the bill passed out of the state Legislature. So also I wanted to talk a little bit about currently approximately 28 percent of motor vehicle fatalities involve a drunk driver, which is really...we're making tremendous strides. You know, when I first started with MADD it was at 38 percent, 40 percent and we were stagnant there for many years. So the good news is last year only 61 people died in the state from alcohol-related crashes, which that is a significant drop from the year before, 90. And on average, since I've been with MADD, on average 100 people died every year. And so last year when we dropped down to 60, that's 40 extra lives saved. And I think a lot of it was the talk about interlock ignition along with high visibility enforcement, continued enforcement. State Patrol has really made big strides. So with that part I wanted to just bring you some good news. The bill will serve to ensure that all the administrative concerns are brought...that were brought about by LB736 are appropriately addressed and allow state agencies to effectively administer the IID program and the permit program. I'd like to...one thing I'd like to draw your attention to is page 16, lines 8 through 12. Currently, that particular area we don't have that language with LB736. We do have, over on page 17, lines 13 through 19, we have that part of it. And not to sound like President Obama, but we have two legs of a stool but we only have one right now. We need the other leg. And if we get the other leg, which is page 16, lines 8 through 12 which mandate an assessment, then I'm told by DOT that MADD would meet funding requirements for 402 incentive funds that amount to \$1.4 million. And that money would be used to address the impaired driving again, high visibility enforcement, law enforcement, PBP's, data masters, different equipment like that, that law enforcement all across the counties could apply for. So I think it's important. I did want to bring that that piece would provide additional funding monies to the Office of Highway Safety. It has the emergency clause. And we do have a little bit of a problem in that currently with it set up to .08 you can drive, you know, to .0799 without breaking the law and use your interlock ignition. Now probation, if you're on probation they will know if you've been drinking. When you're on probation you're not allowed to

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drink. So they can already catch the error by downloading the information. If there's any questions, I'd be glad to take them. It's just...it is kind of a cleanup bill. [LB497]

SENATOR FISCHER: Thank you, Ms. Reynolds. Are there questions? Senator Hadley. [LB497]

SENATOR HADLEY: I appreciate that. Quick question. Substance abuse cost assessment, such as that, who pays for that? [LB497]

SIMERA REYNOLDS: Well, that's...you know we have a standardized assessment, that passed maybe three years ago, where...because the assessments...they used to shop around for assessments. And they would try to get, you know, what...and so we went through the standardized assessment. And a lot of times either the offender pays for it or if they're indigent, I'm not quite sure who pays for that. [LB497]

SENATOR HADLEY: I just wondered, because we spent time just talking about the interlock... [LB497]

SIMERA REYNOLDS: Um-hum. [LB497]

SENATOR HADLEY: ...being...and I would guess the assessment may not be real expensive but... [LB497]

SIMERA REYNOLDS: Well, and one of the things, if I could just bring up, and I hope I'm not being out of line. But we will take Senator Louden's wild cowboy friends, and they probably drive on suspension sometimes anyway. And some of the problems are, you know, the interlock ignition allows a person to drive legally without violating the law, be a part of society, continue to work, and not...keep their insurance and...because what I've seen since I've been with MADD is when I first started with MADD we had a lot of DUIs and not very much DUS, driving under suspension. And now we've kind of gone this way, we have not as many DUIs but a whole bunch of people drive under suspension. And really, I'd like to address, you know, that driving under suspension, allowing someone to have the ignition interlock permit is really, you know, like a halfway point for MADD. When you're a victim and you've been impacted by that crime, none of our victims were against the interlock ignition. Now they probably aren't going to look very favorably on the fact that you think they should be able to go buy their groceries, because, you know, some people have been laid up in the hospital for nine months and they didn't go get to buy their groceries either. But ur concerns. I think, you know, this was a nice meeting halfway. (Laugh) [LB497]

SENATOR HADLEY: Could I just ask you, you know, if either you or somebody could give information to the committee as to how the mandatory assessment is funded. [LB497]

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SIMERA REYNOLDS: I can do that. [LB497]

SENATOR HADLEY: And if it's an indigent person, who pays for that now. Because...well, because this is a new section. So are we setting up something again that we're not funding and somebody is going to have to figure out how it's going to be funded. [LB497]

SIMERA REYNOLDS: You know, one of the things that has been brought up is the indigent fund in New Mexico...New Mexico is the first state to pass the ignition interlock. And they currently don't have anybody accessing the indigent fund. But that doesn't mean Nebraska won't. [LB497]

SENATOR FISCHER: Other questions? Senator Louden. [LB497]

SENATOR LOUDEN: When you talk about these, I mean, the part of the country where I come from we have some people that do a lot of drinking and there is a lot of DUIs. I can show you my county paper. And most of those are people that don't have any money. So I can see where this is going. Everyone of them will have an interlock device, and as soon as they get through the court system and somewhere and somebody will have to pay for it. And it worries me that you'll be down to the county because the county has to pay for the public defender. So I suppose the county will end up having to pay for that device, unless they can find some other mandate to do it. When we talk about this here, as I've mentioned, about where you have it you can only go to work, and school, and your alcohol treatment... [LB497]

SIMERA REYNOLDS: To and from, um-huh, to and from. [LB497]

SENATOR LOUDEN: Why bother to even have it if it isn't going to work in rural areas? Because I mean in rural areas that don't mean anything to drive to that. I've known people that were on probation before you had interlocks and they usually got a permit from their probation officer to drive to meet...to the probationary meeting. So that was the only way they were going to get there. So they had a choice, either they didn't come at all or else they gave them a...waivered that permit to drive up to the meetings in the evenings. So I mean this happens. And it looks like to me if you're going to put this in statute, you ought to at least set it up so everybody in Nebraska can... [LB497]

SIMERA REYNOLDS: Well, we already did put it in statute. [LB497]

SENATOR LOUDEN: Yeah, right now they can drive anyplace, but you're narrowing it down now. [LB497]

SIMERA REYNOLDS: No, right now they can drive to and from work. We passed this in

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LB736, that is not new language. [LB497]

SENATOR LOUDEN: And they can't drive other places when they have an interlock permit, an interlock device? [LB497]

SIMERA REYNOLDS: Not under LB736. [LB497]

SENATOR LOUDEN: Okay. Then you're telling me you're expanding it by going from the residence to school, to alcohol treatment? [LB497]

SIMERA REYNOLDS: I think that that language is "to and from," it's the "from" word that was omitted in LB736 and was added in LB497. [LB497]

SENATOR LOUDEN: Then if it was in this... [LB497]

SIMERA REYNOLDS: But you might want to check with your legal counsel. [LB497]

SENATOR LOUDEN: ...in this section then why isn't it crossed out in this section of the bill? [LB497]

SIMERA REYNOLDS: Well you want to check with your legal counsel. [LB497]

SENATOR LOUDEN: Okay. [LB497]

SIMERA REYNOLDS: (Laugh) I'm not an attorney. [LB497]

SENATOR FISCHER: We do have questions on that. I should have... [LB497]

SIMERA REYNOLDS: It is very complex. [LB497]

SENATOR FISCHER: I should have asked Mr. Conboy too. And I think the legal counsel will be speaking with him, if he would respond to that later because, as Senator Louden keeps bringing up, when you look at page 10 and that new language there, on lines 13 to 17, what I'm hearing and maybe what Senator Louden is hearing too is some of you folks are saying that language is already in statute. I don't know where it's in statute. Legal counsel hasn't found it in statute. [LB497]

SIMERA REYNOLDS: In LB736? [LB497]

SENATOR FISCHER: This seems to be new language. So, hopefully, you can, Ms. Reynolds and Mr. Conboy, if you would work with legal counsel and we'll try and clarify that, that would be very helpful. [LB497]

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SIMERA REYNOLDS: You know, because the whole concept of that ignition interlock was, I mean, and you know MADD is not insensitive to offenders plight. They know if you're a person and Johnny falls down the stairs and cracks his head open and it's bleeding, we want the dad to be able to take his son to the hospital with his IID permit. You know, and I'm sure that if he was on his way to the hospital with a son who had cracked his head open and law enforcement stopped him and he showed his IID permit that law enforcement would use their discretion and not charge him. And...but, you know, we're just trying to make sure that everybody has an opportunity to be a productive part of society. And really, I mean, it's all about three Rs, restrict driving privileges, repay the community, and then recover. [LB497]

SENATOR FISCHER: Okay. Thank you. Other questions? I see none. Thank you very much. Next proponent, please. Are there other proponents to the bill? [LB497]

COLEEN NIELSEN: Good afternoon again,... [LB497]

SENATOR FISCHER: Good evening. [LB497]

COLEEN NIELSEN: ...Chairman Fischer, members of the Transportation Committee. My name is Coleen Nielsen, C-o-l-e-e-n N-i-e-l-s-e-n, and I am representing the Nebraska Criminal Defense Attorneys Association in support of LB497 with some clarification. The members of my association have two issues with regard to this bill. The first deals with the probationary fund. Information on how that fund is collected is...occurs on page 2. It is my understanding that previously the Ignition Interlock Device Fund was created under the former bill. And in that law the Office of the Probation Administration was required that they could use no more than 5 percent of the fund revenue in each fiscal year. What this bill does is it takes away any cap with regard to the Probationary Fund. By putting the Interlock Device Fund into the Probation Fund it appears to us that Probation has full reign over that, to use it for administrative purposes. If they deign to give the money to an interlock device they may. But it clearly gives them full discretion over that fund to use as they choose for administrative purposes. So that's our first concern. The second concern is on page 16 with regard to the mandatory assessment. Now I was told that under the SAFETEA-LU grant program the only way that we can get those funds or the \$1.4 million that Ms. Reynolds talked about is if we have certain requirements for conviction of a .15 percent or more DUI. And what that requires, the additional penalties have to include a suspension that would permit the individual to drive only to and from the individual's place of employment and school. And that federal law limits that. So I think that might answer your question to a certain extent. If they expand it, I don't know if they'd be eligible for the funds. The second thing is that the automobile must be equipped with a certified alcohol ignition interlock device. But they also include this mandatory assessment by a certified substance abuse official. In order to get the money somewhere, if a person is convicted of a .15 percent DUI, they must have a mandatory assessment in order to get the funds.

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The problems is that when you put this mandatory assessment in this particular part of the statute, essentially, what you're requiring the court to do is order a mandatory assessment of substance abuse and then they're giving the guy a straight sentence. In other words, they're going to jail and there's an assessment completed out there, but the court is done with this person. The person may apply for an interlock device but that assessment is out there. There isn't any reason why this person would come back to the court because it's not tied to whether or not you're applying for the interlock device. And the law doesn't seem to require that even in the federal law. My suggestion would be...is if that mandatory assessment might go into the probation portion of the statute it may meet the federal requirements, because that would make more sense. Then they're accountable. A probation officer would be able to read the assessment and it would make some sense. But where it is now really wouldn't work. It just would hang out there. So with that, again we support the concept of this particular bill, we just have those two concerns. And I'd be happy to answer any questions. [LB497]

SENATOR FISCHER: Thank you, Ms. Nielsen. I appreciate your constructive help on that. [LB497]

COLEEN NIELSEN: Um-hum. [LB497]

SENATOR FISCHER: Senator Campbell. [LB497]

SENATOR CAMPBELL: Thank you, Senator Fischer. As you have read the bill and looked at it, who do you think is paying for the assessment? [LB497]

COLEEN NIELSEN: Well, my understanding is, and I found it at one point, I don't know if I could find it for you again. But when they talk about, on page 2, "Expenditures from the money in the fund collected pursuant to...(4)(a) and (4)(b)," I believe what happens is that there is, and that's, I guess, on page 8, "The fee for the ignition interlock permit shall be \$45." That's (4)(a). And "five dollars" should "be remitted to the State Treasurer for credit to the Department of Motor Vehicles." And "\$40"... "shall be remitted to the" now "Probation Cash Fund." So it's a fee, I suppose that it's paid when they apply for the interlock device. [LB497]

SENATOR CAMPBELL: So I'm making the assumption from your remarks that once it goes into this fund it could be used for the assessment as well as for the interlock itself. [LB497]

COLEEN NIELSEN: Right. And if you look carefully on page 2, it literally says that. Paragraph (3)(a) says that this fee "may be used for administrative costs of the Office of Probation...as needed." And there's...and then it says in the next paragraph (b) that the money "can" be or "may be" used for the cost of an interlock device, but it doesn't have to be. [LB497]

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SENATOR CAMPBELL: Good. Thank you. [LB497]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB497]

COLEEN NIELSEN: Thank you. [LB497]

SENATOR FISCHER: Next proponent, please. Good evening. [LB497]

ROBERT SCHMILL: (Exhibit 15) Good evening. Yeah, it is now, isn't it. Senator Fischer, members of the committee, my name is Bob Schmill, that's B-o-b S-c-h-m-i-l-l, and I'm the father of Matt Schmill who was killed by a hit and run drunk driver on April 24, 2004. The reason that I support this bill, although it starts with Matt, it expands further and also includes the citizens of the state. To keep Matt's memory alive we founded the Matt's Dream Foundation to educate adults on the dangers of alcohol, and impact that drinking and driving has on families and friends of the victims. We speak to six to eight groups each month in a two-state area. Our main focus is 21 and older. During the last two years, we've had several participants ask the question, can't there be something else done to punish those of us that are caught drinking and driving? Well, last year you did that. You passed the interlock...the ignition interlock. And now you are finally closing some of the loopholes that made it difficult for the judges to enforce. With the addition of the following areas allowing a person with a permit to only drive a vehicle equipped with an interlock...ignition interlock and order the person to undergo...and also undergo an alcohol abuse counseling by a certified professional. We feel that those are really sending a strong message to help those that are breaking the law. I'm going to kind of break from that, kind of one of the reasons why, I think one of the reasons why they put it at .08, at .04 if you have a CDL, if you're a truck driver you are now drunk and so...as far as legally drunk and you cannot do any safety sensitive jobs. So I think that might be where they stuck that. I don't know that for sure, but I'm guessing. Although we understand the Probation Fund...Cash Fund and we understand why it's there, we want to be put on record that we do not favor that fund...that having somebody pay for ignition interlock that are not capable. We feel that if they had money to buy the alcohol, they have money to pay for the program. Since the law is already in effect we do want to make sure that you do take effect and pass back to the floor so that it can get approval so that we can get this back into the courts and it can be used. I want to thank you for making a difference in the lives of our present and future Nebraskans and thank you for your time. I'd be happy to answer any questions also. [LB497]

SENATOR FISCHER: Thank you, Mr. Schmill, and thank you for being here today and I offer our condolences on the loss of your son. [LB497]

ROBERT SCHMILL: Well, thank you. [LB497]

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SENATOR FISCHER: Any questions? I see none. Thank you. [LB497]

ROBERT SCHMILL: Thank you. [LB497]

SENATOR FISCHER: Next proponent, please. [LB497]

JERRY STANTON: (Exhibit 16) Thank you, Madam Chair and senators of the committee. My name is Jerry Stanton, S-t-a-n-t-o-n, first Jerry with a J-e-r-r-y. I've had the honor and privilege of testifying in this room many times over the years on ignition interlock and drunk driving related issues. We've provided ignition interlocks in Iowa and Nebraska for nearly 20 years. And, as I say, I've been able to testify on various legislation. Senator Fulton, in my opinion, should be commended. He brought...he made more strides and provided more leadership on this issue last year than in all the previous years. I have a fairly extensive handout and I won't read it especially I wouldn't earlier, but I definitely won't now this late in the hour. But there are some issues that I think I can lend some expertise to. To Senator Louden's issue about the school, work, alcohol treatment. That's actually the language that's taken from the federal statute that authorizes the federal funding that's tied to this particular piece of legislation. One issue with ignition interlocks is that the reality is that drunk drivers continue to drive after their license is suspended. And the National Highway Traffic Safety Administration has collected extensive studies on that. I mean, as an anecdote everybody knows it, everybody reads it in the paper--the fourth, fifth, sixth time convicted person, lost his license, hadn't had a license in years, continues to drive. The purpose of the ignition interlock for the citizens of Nebraska or any other state is really to protect the citizens from someone who has proven to be a very high-risk driver, they've proven to be a bad drinker and a bad driver, also to be really unlucky to be arrested that many times for drunk driving. So they're going to be out there anyway. So the concept that letting them have an ignition interlock is soft on them, it would seem like it may be, but the reality is if we can require them to take that breath alcohol test, as Senator Louden said the cowboys in his district would fail the test at .03, can't drive, have to find another way home, or earlier in the evening make different plans for their evening so they...knowing that they won't be able to drive. Then we've removed that one more drunk driver off the road. Some of the quick points that I'd made in the handout that I'd just like to talk briefly about. One of the main issues for probation with the ignition interlock is we provide the probation officer a report of the day, date and time of every breath test taken in the life of that ignition interlock device since it was last put in or calibrated. We also...the devices require random retest as they're driving so that...to prevent them from having someone else blow into it for them to get it started or to buy a six-pack and head for North Platte and something happened along the way that shouldn't by having the random test. One of the issues with those reports is that at the end of the program, if DMV issues that person a full operators license at the end of the interlock program and the person hasn't returned their interlock to the interlock provider then we're incapable of providing a final report to their probation officer. It's kind of senioritis and high school,

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you know, that last semester things go down hill for a lot of people. And that would be a concern. And as the individual is required to have a certificate from the interlock provider to get the interlock permit, it would be my recommendation, and it's worked in Iowa which is where I'm from, is to require that the interlock provider certify to DMV that the device has been returned and therefore a final report has been able to be issued to probation. And I would include that in one of the sections. One of the other points, and I disagree with Mr. Conboy about that, is the idea that if someone has violated the ignition interlock program is to revoke their permit and in my opinion you just create another opportunity for someone to be an unlicensed bad driver. My advice would be, and it sounds self-serving, would be...is where they're already facing a criminal penalties of that Class II misdemeanor is to extend the period of time they're required to have the ignition interlock. They'll still have to pay the fine, they'll still have the jail time for the Class II misdemeanor, but again to protect the citizens from that driver is require them to have it longer. It's kind of like in my youth getting sent down to the principal's office during the day to sit for a couple of hours versus having to come in on Saturday. It was lot more painful to have to come back to school on a Saturday. The...again, I really don't want to drag this out because I know the hour is late. So I'll let the committee read the comments that I made because there are some procedural things that I think that need to be clarified again. There's a reference to the one year suspension, that two out of three times it's removed, but it's left in the one place, I think that can easily be changed. And some of the other things about the length of the suspension period, the length of the hard suspension period before the person qualifies, I think those...it would make sense to try to standardize them among the various levels of offenses. Then on the mandatory assessment, the way the statute is written it's required for, as Ms. Nielsen said, it's required for a first offender with a .15 or above breath test that is getting a straight sentence and going on probation. But it's not required for a repeat offender .15 or above. It's not required for anyone who refuses the breath test. So it would seem from a consistency standpoint if someone needs it because of their level of alcohol abuse potential it should be standardized all the way through. The school, work, alcohol treatment is actually in the statute from LB736. It's...okay, it's in 60-498.02, just to reiterate it one more time. I'd be happy to answer any questions that anyone might have. [LB497]

SENATOR FISCHER: Okay. Thank you, Mr. Stanton. Are there questions? I see none. Thank you very much. [LB497]

JERRY STANTON: Thank you. [LB497]

SENATOR FISCHER: And thank you for your comments that are on the sheet that you handed out. Those will be helpful when we go over the bill. [LB497]

JERRY STANTON: Great. Thank you, Senator. Thank you, senators. [LB497]

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SENATOR FISCHER: Thank you. Anyone else wishing to testify in support of the bill? Anyone in opposition to the bill? Is there anyone wishing to speak in the neutral capacity? I see none. With that...and Senator Fulton is not here, so I assume he is waiving his closing. With that, I will close the hearing on LB497 and the hearings for today. Thank you. [LB497]

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Disposition of Bills:

LB106 - Held in committee.

LB255 - Held in committee.

LB497 - Placed on General File with amendments.

Chairperson

Committee Clerk