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Transportation and Telecommunications Committee
February 09, 2010

[LB697 LB926 LB945 LB982]

The Committee on Transportation and Telecommunications met at 1:30 p.m., Tuesday, February 9, 2010, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB926, LB697, LB945, and LB982. 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: Good afternoon. I'd like to welcome all of you to the Transportation and Telecommunications Committee hearing. My name is Deb Fischer, I am the Chair of the committee, I'm the senator from District 43 which is Valentine, Nebraska. At this time I'd like to introduce the committee members and the staff members to you. On my far right is Senator Kathy Campbell; she is from Lincoln. Next we have Senator Tim Gay from Papillion. Next is our Vice Chair of the committee, Senator Arnie Stuthman, and he is from Platte Center. On my immediate right is our committee counsel, Mr. Dustin Vaughan. On my immediate left is our committee clerk, Miss Laurie Vollertsen. Next we have Senator Scott Lautenbaugh from Omaha and Senator Galen Hadley from Kearney. Two of our members aren't here yet; they are Senator Charlie Janssen from Fremont and Senator LeRoy Louden, who is from Ellsworth. During this time of year, when we have committee hearings, some of us may be coming and going. Please don't take offense at that, the members are introducing bills in other committees and so they have those obligations. We have two pages, Lisa Cook from Omaha and Tony Pastrana, who is from Fort Collins, Colorado, and they will be happy to assist you in any handouts you may have for the committee. 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 sign a yellow sign-in sheet at the on-deck tables and have that ready to hand in to our committee clerk before you testify. We use a computerized transcription program, so it's very important that you follow the directions on that sign-in sheet and hand it in to the clerk. 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 different ways. And I would ask that you keep your testimony concise and try not to repeat what someone else has covered. We are going to be using the light system today. You have three minutes to testify; after two it will be a green light; and then after two minutes, you'll see a yellow light and then when your three minutes is up, the red light will come on and I would ask that you conclude your testimony at that time. If you don't want to testify, but you want to voice your support or opposition to a bill, you can indicate so at the on-deck table. There is a sheet provided there for that and this will be part of the official record of the hearing. However, if you want to be listed on the committee statement as a testifier, you must complete that sign-in sheet, you must come forward and actually testify, if it's only to state your name and to state your position on the bill. If you don't want to testify

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

Transportation and Telecommunications Committee
February 09, 2010

personally, you can still submit written testimony and the committee is always happy to get as much information as we can on a bill. And so please turn in any written testimony you may have and that will be included in the official record. At this time, I would ask that you turn off your cell phones. We don't allow cell phones to be used in this committee and that means no texting as well. I would like to note that we have been joined by Senator Charlie Janssen from Fremont and Senator LeRoy Loudon from Ellsworth. And with that, I will open the hearing on LB926 and Senator Rogert, if we could check and see if he is on his way to do his opening. (Lengthy pause) At this time, since Senator Rogert can't be found, this hasn't happened to us before, by the way, we will pass over his bill and I will open the hearing on LB697. Senator Pahls and Senator Pahls's LA, Stacy, is here to open for him. Welcome, Stacy, and thank you for being here. []

STACY ANDERSON: Chairman Fischer, members of the Transportation and Telecommunications Committee, for the record my name is Stacy Anderson, S-t-a-c-y A-n-d-e-r-s-o-n. I'm assistant to Senator Rich Pahls who represents the 31st District and I'm here to introduce LB697 on the Senator's behalf since he is ill. This bill would make it a Class V misdemeanor which is a fine up to \$100 and loss of job due to breach of contract for a school bus driver that is transporting students to use his or her cell phone, talk, text or streaming while the vehicle is in motion. This idea was brought to us by Tim Bayne, a Lincoln East Social Studies teacher. Senator Pahls serves with Mr. Bayne on the Civics Nebraska Partnership Advisory Council. Bayne's students did a civic project on an issue that affected them directly. They did research on the issue and brought a reasonable proposal that would effectively deal with the issue. This is truly a story of civic participation and action for these students. I will let them tell you about their experiences and what prompted them to do this project. Here are just a few facts for you to note. The statistics make it clear that distracted driving is a real safety concern. Bus drivers have many distractions and challenges while driving that the average driver does not face. We do not need them adding cell phones to that list. There are at least 18 other states with such bans. Some examples are Arizona, California, Delaware, Tennessee, Texas, New Jersey, and North Carolina. Many schools have such policies in effect, but do a poor job of enforcing them. You may have noticed that the federal government has banned commercial bus and truck drivers from texting while driving. We would like to move ahead with this bill, however, because we want to ban the use of cells phones in all forms by school bus drivers. And finally, we have heard some concern from school districts that the language in the bill is not quite clear enough and we want to make it clear that our intent is to allow bus drivers to use their phones in case of emergencies or for dispatch services when the school district does not use any other form of technology for their dispatch services. We would certainly support any amendment to make that intent clear if the committee feels one is necessary. Thank you and I will try and answer any questions you have. [LB697]

SENATOR FISCHER: Thank you, Stacy. Are there any questions? I see none. Thank

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

Transportation and Telecommunications Committee
February 09, 2010

you for a very good opening. [LB697]

STACY ANDERSON: Thank you. [LB697]

SENATOR FISCHER: Would the first proponent for the bill please step forward. And I see we have a number of students in the hearing room today and I would like to welcome all of you and thank you for coming to observe and participate in your legislative process. So thank you for being here and welcome. [LB697]

BRITTANY GONDRINGER: Good afternoon, Chairman Fischer and members of the committee. My name is Brittany Gondringer, B-r-i-t-t-a-n-y G-o-n-d-r-i-n-g-e-r. Me and my fellow students are here today from Lincoln East High School, we designed the public policy that is being picked up by Senator Pahls. And please note that our testimony is divided into three parts that will begin with myself, then move to Miss Melissa Allen and then to Neeka Choobineh. We believe that LB697 should be passed in response to evidence that exposes the dangers of driving while using an interactive wireless communication device. More specifically, driving while using these devices will likely prevent a bus driver from fulfilling his or her civic duties. Research conducted by the Carnegie Mellon University revealed that listening to a cell phone conversation while driving reduces attention on the road by almost 40 percent. In addition, a study conducted at the University of Utah found that people are as impaired when simultaneously driving and talking on their cell phones as they are driving intoxicated at the legal blood alcohol limit of .08 percent. Therefore, interactive wireless communication devices impaired school employed bus drivers ability to safely transport students. Thank you. [LB697]

SENATOR FISCHER: Thank you very much. If you could just wait a minute, we get to ask you questions. Come on back. (Laughter) And we usually really ask a lot of questions to the first person, so are there questions? Oh come on now. Here we go, Senator Stuthman. [LB697]

SENATOR STUTHMAN: Thank you, Senator Fischer. Brittany? Brittany, I know you're concerned about, you know, driving the school bus and a cell phone; is there a difference between driving a school bus with a cell phone and driving a vehicle with a cell phone? [LB697]

BRITTANY GONDRINGER: Yes, I believe there is. School buses, particularly in LPS, weigh up to 10,000 pounds or more and they are much more difficult to maneuver and to handle. And I think that it takes a lot more of a person's attention to operate a bus than it does to any regular vehicle that we would drive at any point in our lives. [LB697]

SENATOR STUTHMAN: Do you feel that individual...is not as responsible one driving a bus or driving a vehicle as far as, you know, paying attention to the road? And what I'm

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

Transportation and Telecommunications Committee
February 09, 2010

trying to get at is the fact that, you know, I feel that a cell phone distracts a person's ability to drive in certain situations. And I don't see that there's a lot of difference between a person driving a bus or driving a vehicle. [LB697]

BRITTANY GONDRINGER: Well, the reason we chose to focus on the bus drivers is because there are innocent students that are in the hands of a bus driver. And parents pay taxes to...for schools to employ these bus drivers. And when a bus driver is negligent enough to use their cell phone while transporting students, it's not at all fair to students or parents who are supposed to be in the safe hands of the bus driver. And so it's their responsibility to care for the lives that they are handling. [LB697]

SENATOR STUTHMAN: And thank you for that comment, that was what I was trying to bring out from you is the fact that, you know, a bus driver has to be more responsible because of the amount of lives that he is protecting. [LB697]

BRITTANY GONDRINGER: Uh-huh. [LB697]

SENATOR STUTHMAN: So thank you. [LB697]

BRITTANY GONDRINGER: Thank you. [LB697]

SENATOR FISCHER: Thank you, Senator Stuthman. Senator Gay. [LB697]

SENATOR GAY: Thank you, Senator Fischer. Do you know, do any of the bus companies, and I know you're talking school buses here, but other...plenty of buses on the road that need to protect their passengers, do you know, is there any companies now that already have this in place as a policy? Or why couldn't a school district just put this in place; why shouldn't a local school district decide this on their own and let them decide that it's best policy to not allow this? [LB697]

BRITTANY GONDRINGER: Right. There are companies that do have policies for that. But since there is no law in place, it still leaves the window open. And if it should happen that there was a fatal crash because of this, then it would not go unpunished and we don't believe that's right. So that's basically what we want. [LB697]

SENATOR FISCHER: Thank you, Senator Gay. Senator Hadley. [LB697]

SENATOR HADLEY: Senator Fischer, thank you. Brittany, thank you. And who did you say you were representing? Are you representing a group? [LB697]

BRITTANY GONDRINGER: Yes, I am a student at Lincoln East High School and I'm representing a group of students that did a class civics project last year as freshmen. [LB697]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR HADLEY: Okay, thank you. Do you happen to have any data or know of any data on accidents that have happened in school buses where the driver was using a cell phone? [LB697]

BRITTANY GONDRINGER: Not in Nebraska. But in other states there have been fatalities due to this and we want to take proactive measures. We don't want to wait until this happens in our state, so we want to bring attention to it before it becomes a problem. [LB697]

SENATOR HADLEY: Thank you. [LB697]

BRITTANY GONDRINGER: Thanks. [LB697]

SENATOR HADLEY: Thank you. [LB697]

SENATOR FISCHER: Thank you, Senator Hadley. Senator Louden. [LB697]

SENATOR LOUDEN: Thank you, Senator Fischer. Have you read the bill, Brittany? [LB697]

BRITTANY GONDRINGER: Yes I have. [LB697]

SENATOR LOUDEN: Okay. And it says in here, you know, they can't use a cell phone, but they can use dispatch communication devices. Now, where I come from, we don't have shortwave radio in a lot of those school buses out there and that's how they do communicate with...with...if they have to get stuck or if they blow a tire or something like that, they have to go on cell phone. Or if they're going down the road and they're supposed to change and pick up somebody some place else, should that, perhaps, be read that they can't use cell phones for personal use because when you say they can't use a cell phone, that means that some of these school buses in these rural areas probably won't be able to use a...they have to stop and do the phoning. What's your opinion on that? [LB697]

BRITTANY GONDRINGER: Well I think that in a case where there would not be a two-way radio available, then that could be acceptable. But I would hope that a bus driver would pull over and stop the bus from being in motion before using their cell phone. [LB697]

SENATOR LOUDEN: Then should something be in there that they can't use their personal cell phones or cell phones for personal use or something like that? Should that be written in the language of the law? [LB697]

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

Transportation and Telecommunications Committee
February 09, 2010

BRITTANY GONDRINGER: I believe that would be a good addition, probably. [LB697]

SENATOR LOUDEN: Okay, now how do you enforce that? When somebody's on the phone and he says, well no, I'm talking to the superintendent when a patrolman or somebody comes by, so if...have you got any idea how we're going to enforce this? [LB697]

BRITTANY GONDRINGER: Well, I think the best way to enforce it would be to...if an officer happens to see it happening, actually in the process, then the bus could be pulled over. But I don't think it needs to be like something that a police officer needs to specifically go out and look for, so. [LB697]

SENATOR LOUDEN: Should this actually be something that the school itself, that hires these people, have as part of their policy rather than being in statute? [LB697]

BRITTANY GONDRINGER: It already is a policy of LPS, I know that. But not a law yet. And so I think that it would be more beneficial to make it a law so that it doesn't go unpunished. [LB697]

SENATOR LOUDEN: Okay. Thank you. [LB697]

BRITTANY GONDRINGER: Thank you. [LB697]

SENATOR LOUDEN: Thank you for being here today. [LB697]

BRITTANY GONDRINGER: Thank you. [LB697]

SENATOR FISCHER: Thank you, Senator Louden. Senator Lautenbaugh. [LB697]

SENATOR LAUTENBAUGH: Thank you Madame Chairman. Thank you for coming today and testifying. As I understand this as written, it does say whenever the vehicle is in motion, these devices shall not be used, is that correct? [LB697]

BRITTANY GONDRINGER: That is correct. [LB697]

SENATOR LAUTENBAUGH: If this were simply a school policy, do you have a concern with the administrators wouldn't be there to see it if the bus is in motion? [LB697]

BRITTANY GONDRINGER: I believe that is a concern of mine because there...like you said, nobody would be able to see it happening and it could go without being even noticed. And I think it needs to be acknowledged and not just let to be happen. [LB697]

SENATOR LAUTENBAUGH: And by actually making it a statute, the law enforcement

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

Transportation and Telecommunications Committee
February 09, 2010

would have the ability to observe it, is that your belief? [LB697]

BRITTANY GONDRINGER: Yes. [LB697]

SENATOR LAUTENBAUGH: Okay. Thank you. [LB697]

SENATOR FISCHER: Thank you, Senator Lautenbaugh. Other questions? Senator Gay. [LB697]

SENATOR GAY: Don't school buses, many of them, have cameras on them right now, that you could monitor...do they monitor the driver or just the passengers? [LB697]

BRITTANY GONDRINGER: Some yes, some monitor both the driver and the passenger, but not all buses have that in place. [LB697]

SENATOR GAY: Is that a requirement they have that or not? [LB697]

BRITTANY GONDRINGER: No, it's not a requirement. [LB697]

SENATOR GAY: Thank you. [LB697]

SENATOR FISCHER: Other questions? I see none. Thank you very much for being here today. [LB697]

BRITTANY GONDRINGER: Thank you. [LB697]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB697]

NEEKA CHOOBINEH: Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. I'm Neeka Choobineh, N-e-e-k-a C-h-o-o-b-i-n-e-h. And I am a partner of...a colleague of Brittany Gondringer. A bus driver's duty is to ensure the safety of those students being transported. If the parents of those students are entrusting their children's lives to that bus driver, and in essence, have a social contract with the bus driver. We, as citizens are paying taxes to public schools that, in turn, employ private bus companies to safely transport students. When the driver of the bus knowingly impairs his or her ability to focus on operating a motor vehicle by using a cell phone, the underlying social contract between parents and the bus driver is broken. Although it is possible to ask bus drivers to refrain from cell phone use while driving, implementing a law would legitimize the voice of innocent passengers and concerned parents. As students, we have experienced the unnerving emotions involved with traveling on a bus operated by a driver who is talking on his cell phone. It is extremely alarming to know that some of our drivers have been impaired to the extent of intoxication. After informing our parents of our experience, they've shown a distinct

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

Transportation and Telecommunications Committee
February 09, 2010

expression of worry and concern. No parent would feel comfortable allowing their child to be chauffeured by a school bus driver who is not paying 100 percent attention to his or her job of driving. In the 2007-2008 school year, 64,737 students in Nebraska used a school bus for daily transportation. It is not comforting to know that each of those lives could be put at a great risk any time a bus driver is talking on his cell phone. Therefore, as responsible proactive citizens of the state of Nebraska, we believe that it is imperative for LB697 to be passed. Buses are massive vehicles that must be operated with an individual's full attention. When bus drivers neglect their responsibilities, they are not only placing the lives of the children they transport at risk, but are also threatening the safety of innocent civilian drivers around the bus. So, as common citizens, we support this bill and fully believe in its cause. [LB697]

SENATOR FISCHER: Thank you, Neeka. [LB697]

NEEKA CHOOBINEH: Thank you. [LB697]

SENATOR FISCHER: Are there questions? Senator Stuthman. [LB697]

SENATOR STUTHMAN: Thank you, Senator Fischer. Thank you for your testimony. And the distractions of a school bus driver is your concern. [LB697]

NEEKA CHOOBINEH: Yes. [LB697]

SENATOR STUTHMAN: What is the policy of the students on the school bus? Do you have to be quiet? Can you be rowdy? Can you distract the bus driver so he would have a problem driving? [LB697]

NEEKA CHOOBINEH: Well, generally, school districts have a policy that the students should not be rowdy and they should not be distracting the bus driver. [LB697]

SENATOR STUTHMAN: So that is what the policy is; and the reason I ask that is because I have no idea, it's been many years since I've ridden in the bus, so. [LB697]

NEEKA CHOOBINEH: Yes, generally, they shouldn't be rowdy or anything. [LB697]

SENATOR STUTHMAN: Okay, thank you. [LB697]

NEEKA CHOOBINEH: Thank you. [LB697]

SENATOR FISCHER: Thank you, Senator Stuthman. Senator Campbell. [LB697]

SENATOR CAMPBELL: Thank you, Chairman Fischer. To your knowledge, how many school districts in the state already have a policy in place on cell phone use by a bus

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

Transportation and Telecommunications Committee
February 09, 2010

driver? Does LPS? I thought LPS didn't. [LB697]

NEEKA CHOOBINEH: LPS does have a policy, but unfortunately, many of these policies are not being enforced and they don't really have any...they're not being enforced properly. So it still leaves the risk of bus drivers being able to talk on their cell phone while driving. But, in addition, these policies only address yellow school buses. And we're trying to address buses that are employed from private companies, as well, such as Arrowhead, that the schools employ in order to transport students to different events. [LB697]

SENATOR CAMPBELL: Thank you. [LB697]

NEEKA CHOOBINEH: Thank you. [LB697]

SENATOR FISCHER: Other questions? Senator Hadley. [LB697]

SENATOR HADLEY: Senator Fischer, thank you. The lines 23 and 24 in section (4) says: this subsection does not apply to any dispatch communication device. So does that mean that if the school district gives the bus driver a two-way radio or a cell phone, that they're allowed to use it then, because it would be considered a dispatch communication device? [LB697]

NEEKA CHOOBINEH: I think we are referring to a dispatch communication device as a two-way radio, something that is...within the school....within the bus itself. [LB697]

SENATOR HADLEY: Okay, I think that would need to be cleared up. I guess a follow-up to that, my thought was, should we go one step farther and require school districts to furnish a cell phone for...only for authorized use to every bus driver so that they can communicate with the school district. Because I can see a...you know, in the rural areas that Johnny is sick and it's a five mile drive in to pick him up, and if they get a call back that says, you don't have to make the drive, it could save some time. [LB697]

NEEKA CHOOBINEH: That's true, but it will be costly as well. So we have to look at the benefits and also the disadvantages of that. But that may be a good idea. [LB697]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I had a couple for you, Neeka. [LB697]

NEEKA CHOOBINEH: Okay. [LB697]

SENATOR FISCHER: LPS uses private drivers, correct? [LB697]

NEEKA CHOOBINEH: I believe so. [LB697]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR FISCHER: A private company, I mean, do they contract with a private company to use...to drive buses that are owned by the school district? [LB697]

NEEKA CHOOBINEH: I'm not sure if they contract with a private company that...of bus drivers who drive the yellow school buses; but I know in some schools within the LPS district they do contracts like local bus companies such StarTran to transport the students to and from their homes to school. [LB697]

SENATOR FISCHER: And in your bill, do you think it covers drivers of these private buses, you said, like the Arrow Bus Company when they're used by different districts to contract and deploy students to various events that are out of town? Does your bill cover that too or do you think it just covers the yellow school bus within the district? [LB697]

NEEKA CHOOBINEH: I believe it covers that as well. And that's why... [LB697]

SENATOR FISCHER: Okay. Do you ride the bus? [LB697]

NEEKA CHOOBINEH: I don't ride the bus now since I'm in high school, but I used to in middle school. [LB697]

SENATOR FISCHER: And do...at that time, did you ever see a driver use his cell phone when you were on the bus? [LB697]

NEEKA CHOOBINEH: I did once. But it wasn't very common. And recently though, when my...when one of my clubs that I'm participating in, when they employed an Arrowhead school bus, the driver was talking on their cell phone, so. [LB697]

SENATOR FISCHER: You made the comment that the policy is not being enforced now. How do you know that? [LB697]

NEEKA CHOOBINEH: There are written rules, but there...the driver has a choice of whether or not they want to follow these rules because the ramifications for their actions are not very strong and generally people...it's harder to enforce right now the way it is. [LB697]

SENATOR FISCHER: Do you know what the policy is that LPS has right now? I believe that they don't allow drivers to use their cell phones. What I'm trying to get at is, if it's...if it is being abused now, all of you kids have cell phones that take pictures, couldn't you just take a picture of the driver on the bus and show it to the administration at LPS and then the policy would be enforced? Would that be a possibility? [LB697]

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

Transportation and Telecommunications Committee
February 09, 2010

NEEKA CHOOBINEH: That could be a possibility, but we don't feel very comfortable to, I mean, enforce the policies of LPS. We believe it's the driver's job and the driver should have that in mind to protect the safety of these children. We don't believe the students should enforce that. [LB697]

SENATOR FISCHER: If we would forward this bill and if it would be passed by the full body, how...I guess...what makes you think that if this becomes a statute, it would be enforced any more than a policy would right now? We had a couple other senators earlier raise that question. If a school district can't enforce their policy, what makes you think that having it as a state law will make it any more enforceable? [LB697]

NEEKA CHOOBINEH: Well, having it as a state law, it brings a sense of importance to the bus driver's mind to avoid talking on their cell phone. And I think that's kind of what we're aiming for. We're not trying to look for specifically, like, policemen driving around looking for school bus drivers talking on their cell phone. We're just...we just want the driver to have that in mind. And if, for instance, a policeman does happen to see a driver who is transporting students talking on their cell phone, then they could pull that driver over. [LB697]

SENATOR FISCHER: Okay. Thank you. [LB697]

NEEKA CHOOBINEH: Thank you. [LB697]

SENATOR FISCHER: Other questions? Senator Gay. [LB697]

SENATOR GAY: Thank you, Senator Fischer. What is the penalty if you get pulled over, in the bill? [LB697]

NEEKA CHOOBINEH: I believe it was Class V misdemeanor, so. [LB697]

SENATOR GAY: Is that...because I don't see it in here. As I was looking through the bill, I just kind of wondered what the penalty is; what's Class V...what is that, do you know? [LB697]

NEEKA CHOOBINEH: I think you lose... [LB697]

SENATOR GAY: Points or something... [LB697]

NEEKA CHOOBINEH: ...your job. [LB697]

SENATOR GAY: Oh, your job. Anyway, when I was looking at the bill, I kind of wondered on that if, you know, on the policy, but then if you do get caught doing it, I can see the enforcement where, you know, any law enforcement can see somebody talking

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

Transportation and Telecommunications Committee
February 09, 2010

on a phone or probably even texting for that matter, which we're going to be discussing in a few more bills, but at that point, I guess, I wondered what the penalty actually was for the, you know, for the infraction. So if we could find that out, I think that would be helpful. Thank you. [LB697]

NEEKA CHOOBINEH: Thank you. [LB697]

SENATOR FISCHER: Other questions. Senator Louden. [LB697]

SENATOR LOUDEN: Yeah, thank you. To follow-up on Senator Gay's questioning, as I look at that, I don't see a penalty in here and my question would be is...if it's a policy of the school district, would loss of a job be more of a penalty than something written in statutes. Because, I mean, that would be part of the penalty if you...if they would...weren't following their school policy, would be loss of a job. So, what your opinion on that? [LB697]

NEEKA CHOOBINEH: We're not trying to penalize bus drivers, per se. We're just trying to make them recognize the importance of their job transporting students. Because a lot of bus drivers that are employed by private companies, they tend to forget the..their duties, I mean, the true importance of transporting these students, so. [LB697]

SENATOR LOUDEN: Well I agree; this is serious business hauling other people's kids and I would think that they would, you know, would have a problem with that policy of using a cell phone, but evidently there's some problem or else we wouldn't be here today with this discussion and that's what I was wondering if loss of a job would be more of a penalty than what is written into this bill, was my question, I guess. And I guess time will tell, we'll see then. But, thank you for your answers. [LB697]

NEEKA CHOOBINEH: Thank you. [LB697]

SENATOR FISCHER: Other questions. I see none. Thank you so much for being here today. [LB697]

NEEKA CHOOBINEH: Thank you very much. [LB697]

SENATOR FISCHER: Next proponent please. Are there other proponents for the bill? Good afternoon. [LB697]

TIM BAYNE: Good afternoon, Senator Fischer. My name is Tim Bayne, I am the teacher of the students that you just talked to. Spell my name T-i-m B-a-y-n-e. And here is my school ID. [LB697]

SENATOR FISCHER: Welcome. [LB697]

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

Transportation and Telecommunications Committee
February 09, 2010

TIM BAYNE: Welcome. I did not intend to come up and talk. Because I believe that the students really need to be doing this. And I feel like they did a really good job. But I just feel like I just want to make one clarification that I think has been lost. And that one clarification is that the students were on a bus which was hired by the district to transport the students. It was not a yellow school bus, it was actually a commercial school bus. And the intent of the event was that the students would go a long distance and compete against other schools which is happening in many different facets. Their's ended up being for speech, but there's football, there's basketball, and other activities that are happening like this a lot. What ended up creating curiosity in my head is when they came back and they were talking about how the driver of the bus, which was hired by our district, which is paid by money from the district, as taxpayers' money, spent an hour and a half talking on the phone as he was going up and down the interstate with one hand on the wheel. That bothered me. And so what has happened is these students then have put together the research and then they ended up bringing it to Senator Pahls. And Senator Pahls decided that this was something that was worth looking at. And what I am seeing is that there are young teenagers that are choosing to do the research and to really look at issues that are affecting them. And this is real life to them. Because if, in that event, the bus driver who was hired by our district, not under the same rules as the yellow school bus drivers, ended up having an accident because of choosing to talk on his cell phone for an hour and a half, then I think that became then the part that was...was the real issue. The issue is really not about losing a job; the issue is about what do we do as adults in dealing with bus drivers that choose to end up having a behavior that may not always be mindful, because they may not be trained to be mindful of who they're carrying. And the bill is really about teenagers, or children, that are on the buses. That's the issue. And when a person is driving the bus, who is their cargo, what's the passengers and what is their responsibility then to the rest of society? And this deals with a social contract. And again, I think the issue is, is that it's taxpayers' money that's paying for that person to be carrying the children. So some districts have to end up hiring, like LPS, has to hire commercial buses to do transportation for long distances. Thank you. [LB697]

SENATOR FISCHER: Thank you, Tim, for being here. Your students were well prepared and answered the questions well from us. [LB697]

TIM BAYNE: Yes, and I'm sure they are more eloquent than me. [LB697]

SENATOR FISCHER: Well, we'll have some for you though too now. [LB697]

TIM BAYNE: Uh-oh. I might need some help, girls. [LB697]

SENATOR FISCHER: You can bring up some support. You said that the drivers were not under the same rules as the district drivers, so you have different...there are

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

Transportation and Telecommunications Committee
February 09, 2010

different school policies, different board policies, district policies with the LPS with regard to their bus drivers? [LB697]

TIM BAYNE: Yes, what has happened is, LPS has the yellow buses and what happens is each one of those bus drivers are actually hired to do that. It's not a company, it's individuals. So if you wanted to go do that, you'll get your drivers license for the bus and you can go do that if you pass whatever it may be. So there's a different requirement set there and so when...when...when the young ladies were doing the research, they began to realize that there's a discrepancy between this. So how do we make it that every teenager, or every kid, when they're riding in a bus, regardless of who the bus driver is, how can we guarantee that there's some type of safety that is there. And I think... [LB697]

SENATOR FISCHER: The company that LPS then would contract with in order to transport students, I assume on more the coach line buses,... [LB697]

TIM BAYNE: Yes, ma'am. [LB697]

SENATOR FISCHER: ...when they're going to an events, those drivers, do you know for a fact, that they are not covered under...or required not to be using cell phones under a company policy, do you know that? [LB697]

TIM BAYNE: From the research that the committee, the group brought together, they could not find anywhere that there's a policy that said that you couldn't do that. But I think, again, the issue is the passengers, the cargo. [LB697]

SENATOR FISCHER: Do you think that the local board of education of Lincoln Public Schools could pass a policy that would cover also contracted drivers with private companies? [LB697]

TIM BAYNE: No. [LB697]

SENATOR FISCHER: Why? [LB697]

TIM BAYNE: Because they have governance restrictions over their part. And if somebody needs to do the transportation and the, let's say the local companies would end up saying, well, we're not going to follow that policy; what do you do then? Do we end up cutting out every intercity, cross the state, basketball game? I'm not sure if we will do that. So I think it's an issue of the jurisdiction of the governance. I'm not sure if the school board has that. In my understanding. [LB697]

SENATOR FISCHER: Couldn't that be a requirement of the contract with the private company? [LB697]

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

Transportation and Telecommunications Committee
February 09, 2010

TIM BAYNE: Sure. It could be, there's no doubt it could be. But I believe in what I'm seeing in the development, if there are other states that have gone this direction, there might be something that might be within that that we're not sure about. Another part is...I think...I think if there is a statement that is made that goes across the board that deals with who your passengers are, I think that is a strong statement. [LB697]

SENATOR FISCHER: Thank you. Other questions? [LB697]

TIM BAYNE: Thank you, Senator. [LB697]

SENATOR FISCHER: Senator Stuthman. [LB697]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Bayne, thank you for your testimony and I really appreciate the fact that the youth are coming up here and testifying. I know it's a very nervous experience for those individuals. [LB697]

TIM BAYNE: Oh, tell me about it. The rest of you guys be ready. Yeah, this was... [LB697]

SENATOR STUTHMAN: The thing that impressed me, and this is more of a comment, is the fact that they're trying to start the ball rolling, trying to get something done before something drastic happens that we lose a few students, you know, hopefully, we never lose any, but there is a chance of somebody not paying attention and I really appreciate that, so. You know, anything that we can do to try to help that, but as I've experienced, it takes several years before you can get some of this stuff enacted. But I really appreciate the fact that the youth are involved because those out there will be up here someday. [LB697]

TIM BAYNE: Yes, and when I teach, that's exactly what I'm doing. When I started this, I told you, I did not intend to come up, but I felt that something got a little clouded. And I wanted to clarify that because that's really what it was about. And watching the process of what these young ladies did was phenomenal, because they started out with the bill that you guys will be talking about next. And they narrowed it down to this. Because they saw that this was the issue. And I'm sorry if I'm going to hurt the next one up, I don't mean to. But they came to something that they thought could be looked at and seriously thought through and possibly make. [LB697]

SENATOR STUTHMAN: Okay. Thank you very much. [LB697]

TIM BAYNE: Thank you, Mr. Stuthman, Senator. [LB697]

SENATOR FISCHER: Thank you, Senator Stuthman. Senator Gay. [LB697]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR GAY: Thank you, Senator Fischer. Mr. Bayne, on the process, did the...and by the way, they did an excellent job so far from what I've seen testifying and we see many and you're doing fine too. [LB697]

TIM BAYNE: I'm going to take lessons from them. [LB697]

SENATOR GAY: Yeah, they did a great job in preparation and some of these questions, you don't know until you get here. Did they help draft this bill as far as the actual language in the bill or is it just the idea that was brought to the Senator? [LB697]

TIM BAYNE: Here's what happened...as within that, is they did all the research and they put it together and then...there's actually a state competition and this group won the state competition in this process. And then I took the stuff to the Senator and then the Senator's, Senator Pahls's legislative group worked on that. Because we looked at the bills, I mean, they looked at the bills and they knew it was there. We, and the process is, we just come up with the idea. That actual drafting of that, no. Because what was happening, from what my understanding with Senator Pahls's office is that they looked at everything that was out there and then they blend that together. I think Stacy could answer that better than I can. [LB697]

SENATOR GAY: Well, I guess another follow-up question then was because of some of these things, when we look at it, we're trying to implement it, you know, statewide and what's going to happen, so not to be misrepresented of being...but those are legitimate questions we're asking of the students and I just wondered...they handled it very well, again. But those are legitimate questions we're asking... [LB697]

TIM BAYNE: Oh, oh, yes. [LB697]

SENATOR GAY: ...because we're taking this pretty serious. But maybe it could be, you know, this...on the next bill, I kind of glanced ahead, and there were penalties involved in that and maybe this...we can learn something from that and incorporate into this or...but I just kind of wondered how we got to this process today. [LB697]

TIM BAYNE: Yeah, and Senator Gay, you brought up a good point there. And I think the reason I came up was because I wanted to make sure the focus wasn't just on school buses for the districts. It had to do with school bus...it had to do with bus drivers dealing with the cargo of who they're carrying. That's the specific issue. And so if they're carrying teenagers or school students, children, there's got to be a guarantee of some safety to them. Because we as parents, and I have a child, I am entrusting that, whatever the school decides, whoever they choose to hire to put my child on that there is an agreement that is there and, as of right now, it doesn't appear that there is an agreement that deals with commercial buses. [LB697]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR GAY: And the point being...granted, I have one, I have a child, Friday, going to be on the same situation and many times, so I know what you're saying. The details are in the bill though that we probably have to clarify. [LB697]

TIM BAYNE: Okay. Thank you, Senator Gay. [LB697]

SENATOR FISCHER: Thank you, Senator Gay. Other questions? Senator Hadley. [LB697]

SENATOR HADLEY: Senator Fischer and Mr. Bayne, thank you, and again, I echo what everybody said. Obviously, the students have a great teacher because they performed very well today, so thank you. [LB697]

TIM BAYNE: Well thank you. Can you help my pay? (laughter) [LB697]

SENATOR HADLEY: I guess the question I have is that at times when we're dealing with potential laws and statutes is that we have a term "unintended consequences." And I guess one of the concerns that I have is that whether we need something that says in an emergency situation the driver could use it. And I...for an example, if a driver is going down the interstate they see an obviously drunk driver passing them, we would hope now that they might call 911 and report that; or if they see an accident or, you know, something that they could do it. So I think that if we go further in this, we might want to look at some means that we don't prohibit the legitimate use of a telecommunications device by the bus driver. [LB697]

TIM BAYNE: Right. And I'm in agreement with that, and I think almost everybody would be in agreement with that because that's just common sense. I think what...that the young ladies are asking from their thing, is some guarantee that somebody doesn't use the freedom to be misused and irresponsible. And it appears that that does happen because they were eye witnesses to that. [LB697]

SENATOR HADLEY: Okay. Thank you, Mr. Bayne [LB697]

TIM BAYNE: Thank you, mister...Senator Hadley. [LB697]

SENATOR FISCHER: Thank you, Senator Hadley. Senator Louden [LB697]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well as a parent that's had to haul kids around to speech contests there in my earlier days, they did quite well in informative presentation and also in extemporaneous type presentation. So I'm sure you can give them superior rankings on that, if you would please. [LB697]

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

Transportation and Telecommunications Committee
February 09, 2010

TIM BAYNE: Okay, I'll change their grades. [LB697]

SENATOR LOUDEN: All right. As I've...one thing, whether legislation is passed or not, you have brought an issue forward that does happen because we all know what can happen when a driver is distracted, I mean, this has been happening in California and various places. And I...and this is true. And we want to thank those people for bringing that forward. Now, whether it's an issue that the school district can handle through the Golden Rule when they hire somebody or whether this is something that needs more legislation remains to be seen. But something has to be worked out, no doubt about it. And I think I want to thank you for bringing this forward to us. [LB697]

TIM BAYNE: Thank you. Thank you. Appreciate that. [LB697]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? Appreciate you coming today. How many students did you bring with you, just the two? Or do you have more out here? [LB697]

TIM BAYNE: No, we have three, and can I just have her stand up? Melissa, stand up. Wave at them. (Laughter) Okay. There you go. All right. And in the committee... [LB697]

SENATOR FISCHER: Were these three students who participated in the contest then? [LB697]

TIM BAYNE: Yes, and actually there were nine. And what happens is you get kind of stage fright. And so some of them chose that they didn't want to do this. Which is an option, which I think should be there. So thank you. [LB697]

SENATOR FISCHER: Well thank you. And thank you for being here today, appreciate it. [LB697]

TIM BAYNE: Thank you. Bye-bye. [LB697]

SENATOR FISCHER: (Exhibit 1) Other proponents for the bill? Are there other proponents? Are there any opponents to the bill? Anyone wishing to testify in the neutral capacity? I see none. I do have a letter here from Gerald Stilmock with Brandt, Horan, Hallstrom & Stilmock in support of LB697. With that I will close the hearing on LB697. We will open the hearing on LB926. Welcome, welcome Senator Rogert. We're so happy you could join us today. [LB697]

SENATOR ROGERT: Glad to be here. I apologize for the first time. [LB926]

SENATOR FISCHER: No, no problem. Thank you for being here. [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR ROBERT: Had a little scheduling conflict and we had trouble getting a quorum in the other committee to get started so I was sticking around... [LB926]

SENATOR FISCHER: Ah. [LB926]

SENATOR ROBERT: ...trying to get us going. [LB926]

SENATOR FISCHER: Okay. No. Thank you very much. [LB926]

SENATOR ROBERT: If I could have the page come grab this from me I would appreciate it. Good afternoon Chairman Fischer and members of the Transportation and Telecommunications Committee, my name is Kent Rogert I represent the 16th Legislative District here today, finally, to introduce LB926. I don't have an opening statement today because this bill is pretty straight forward and I have more of a story to tell. In the effort of trying to increase tourism and economic development in the state of Nebraska, this bill simply changes some of the regulations and requirements for which you can get a road sign for an attraction in the state. It does two things and one of the things is a promotion called the Fifth Logo Program. As you drive down the interstates, on the blue signs on...across the interstate you can...you'll see logos all the time for four things: gas, lodging, camping, and food. Many states have adopted what's called the fifth logo to allow for attractions. Specifically, in our case we're looking for wineries, but what we're...open to allow for other things. Missouri and Iowa both have logos that they put up for wineries on the interstates and it's a definite eye-catcher as you go down the highway and you see these signs that say winery off to side, you know, that are advertisement but it's also on a state advertised sign it really catches everybody's eye. First thing I want to point out is this actually costs the state nothing. Folks who get their logo on the sign or their attraction on the sign, they pay for those signs, they pay the additional money. Second thing the bill does is it relaxes some of the requirements for what you can get a road sign off the interstates. And we have one just north of Tekamah; there's a blue sign on the highway that says Pheasants Bonanza and an arrow going this way. It's a hunting lodge. Requirements today say you have to be open a certain number of hours, a certain number of days, including weekends and it allows for seasonal, which means if it's not that season, you don't have to be open; but it allows for seasonal. But it doesn't allow for a group, that say, is only open probably 20 hours a week, such as would be most local wineries are only open maybe Saturday and Sunday and probably Friday night, but most times, the rest of the time may be open by appointment only. So that's what we're doing is we're relaxing those requirements in an effort to try and get more people off the main highways to spend their money in our small towns at our attractions that we do have. Now I think the bill, as written, does specifically mention winery. We have no problem backing that off to attraction and defining attractions somewhere in the statutes as we go there. I have over here, I'm not going to pass out, but there are several pages of regulations that the Department of Roads has developed for the TODS Program which is the Tourist Oriented Directional

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

Transportation and Telecommunications Committee
February 09, 2010

Sign and that's what those blue things are in that picture that you see over there. So along with the change in the statute, there would be a small...a few small changes that would need to be made in their rules and regs and we would also be willing to work with them to get those things cleaned up as well. I do have some folks coming today to talk to you about what they think it would do for their businesses and what it would do for rural Nebraska. But I will answer any questions that I can at this point. [LB926]

SENATOR FISCHER: Thank you, Senator Rogert. Are there questions? Senator Campbell. [LB926]

SENATOR CAMPBELL: Thank you, Chairman Fischer. Senator Rogert, if I'm understanding you correctly, there are none at this point? [LB926]

SENATOR ROGERT: There are only a couple of wineries in the state that are open enough hours to qualify. [LB926]

SENATOR CAMPBELL: Oh, I'm sorry, no, I mean, attraction signs. There are some, aren't there? [LB926]

SENATOR ROGERT: Yes, there are some on the roadsides. We don't allow for it today on the interstates. [LB926]

SENATOR CAMPBELL: Oh, okay. [LB926]

SENATOR ROGERT: We only have the four logos on the interstate. They're in statute listed as food, lodging, fuel and camping. And so we would be looking at developing the fifth possible promotion logo for that. [LB926]

SENATOR CAMPBELL: Thank you. [LB926]

SENATOR FISCHER: Thank you, Senator Campbell. Senator Stuthman. [LB926]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Rogert, I have noticed in the last several years that there are a couple of those signs out there; one is the Rising City stock car race track. [LB926]

SENATOR ROGERT: Sure. [LB926]

SENATOR STUTHMAN: That one is there, but I was under the impression that there was a law that prohibited any of those signs. And the reason I'm saying that is, is, you know, the church, the community church that we belong to, we used to have a sign there, and since they changed Highway 81, they're not allowing it; they only will have it put way into the field where you never see it. [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR ROBERT: Yeah. [LB926]

SENATOR STUTHMAN: Will this bill help the fact that that church sign could be reenacted on that road? [LB926]

SENATOR ROBERT: Not necessarily. The only way...this would just change the qualifications for those blue signs and that...those are the only ones that are currently allowed in the right-of-ways are those and they're...literally, they're maybe about double the size of this and I think on the...in the regulations it mentions there can only be three or four pieces of the sign on a post and only so many within a certain distance from a right-of-way. So most likely...unless the church was some sort of museum or some sort of tourist oriented portion, which some of them are, sometimes you have those, historic churches or maybe they have functions that go on all the time that people would want to come to; they still probably wouldn't be eligible for it in this case, according to what I've written here. [LB926]

SENATOR STUTHMAN: So in other words, the church...we would invite tourists to come to the church. [LB926]

SENATOR ROBERT: And I think that...I think there would be some possibilities to do that. I have no problem allowing those things to happen. We're not looking to clutter up the roadways, but we're looking to have people come off the highway, as they drive by a couple times and go, hey, there's an attraction over there, maybe we should stop in and see it the next time we come by. [LB926]

SENATOR STUTHMAN: Okay, thank you. [LB926]

SENATOR ROBERT: Yeah. [LB926]

SENATOR FISCHER: Thank you, Senator Stuthman. Senator Gay. [LB926]

SENATOR GAY: Thank you, Senator Fischer. Senator Robert you had mentioned in your opening that there may be others, I mean this deals specifically with wineries, correct? [LB926]

SENATOR ROBERT: Correct. [LB926]

SENATOR GAY: But you mentioned there may be others who may have this interest, I mean, do you have some specifics or is that just... [LB926]

SENATOR ROBERT: I don't, but I didn't want to limit this things...to saying, I don't like putting, necessarily, things in statutes, you know, necessary that...directly, because we

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

Transportation and Telecommunications Committee
February 09, 2010

don't say that you can have signs for Burger King, U-Stops and Wineries; we have fuel, food, lodging and attractions. That's why I try, maybe broaden it enough to where it's not a special legislative creation, but it allows for other things and I think a stock car...stock track...race track, like that, I think there could be...I think there could be a number of attractions out there that maybe just aren't opened quite long enough that would now maybe go, oh, wait, we would fit these qualifications now and we can get folks to come off the highway. [LB926]

SENATOR GAY: Okay. Thank you. [LB926]

SENATOR FISCHER: Thank you, Senator Gay. Senator Hadley. [LB926]

SENATOR HADLEY: Senator Fischer. Senator Rogert, thank you for being here. Does this have anything to do with the signs I see on the interstate that say gas, food, lodging and they say Amoco half a mile this way. [LB926]

SENATOR ROBERT: Yes. [LB926]

SENATOR HADLEY: So the winery could be on that. [LB926]

SENATOR ROBERT: One section of the bill does deal with the interstate signs. The other deals with the highway signs. And so they would be eligible for that under here. But I think my...what I would like to see happen is for the industry, that each industry that would have an attraction, let's say wineries, develop a logo and say, "boom" winery this way, rather than have...because it doesn't say...some of the restaurant ones will say Jenny's Bar or whatever it is, with their element...you know the hamburger shop or something like that. But I think it could be done either way to where you could say wineries with their logo; I've noticed other states on the interstates do have that. Missouri and Iowa have a specific logo for their winery industry and "bang" that goes on there. And then once you get off the highway, they have their own signs for each one that says what the name is and where it's at. So it could be done either way. [LB926]

SENATOR HADLEY: The second question then, Senator Rogert, if I read the bill correctly, there's really two parts: one to allow wineries to do it; and the second is to change the number of hours that they have to be open in a week, is that correct? [LB926]

SENATOR ROBERT: Yeah, because the second half of the bill that deals with the road signs, ones off the interstate, ones like on Highway 30, in these rules and regs for the TODS Program, the Tourist Oriented Directional Signs, there is a requirement that they have to be open, I think it's 40 hours a week. And a lot of them just...it's pretty hard for them to do that. [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR HADLEY: Okay, thank you, Senator Rogert. Thank you. [LB926]

SENATOR FISCHER: Thank you, Senator Hadley. Senator Louden. [LB926]

SENATOR LOUDEN: Thank you, Senator Fischer. Senator Rogert, should this also, I mean, if we're going to do wineries, then should we do microbreweries? Should that be... [LB926]

SENATOR ROBERT: We certainly could. [LB926]

SENATOR LOUDEN: ...I mean, is there a cutoff point that...what we should do and shouldn't do. [LB926]

SENATOR ROBERT: I don't know. And that's why I thought maybe...I'd left it this specific because that's our purpose...that's who's bringing it, but I think it could be broadened to say attraction and you could enumerate whatever attraction would be. Senator Louden's ranch wouldn't be a bad idea if you want to have some people come off and see you. [LB926]

SENATOR LOUDEN: Think anybody would want to see that? [LB926]

SENATOR ROBERT: Well... [LB926]

SENATOR LOUDEN: But at one time they were going to try and put a microbrewery in the city of Alliance up there in one of those stores...or buildings, I should say. It used to be a store. And I was wondering if...if we do wineries, then would those people then perhaps want the same consideration out there on the road to point...rather than have their own sign that they had to build themselves, have some type of a state sponsored sign. [LB926]

SENATOR ROBERT: Now the other thing is, these signs aren't allowed in town. They're only allowed within a certain...I'm certain in the rules and regs it says it has to be so far out of town and so far away from an intersection. So, and they're only, you know, they're only this big, you know, smaller than this table. So, like, as you look at that picture there, only double about the size of here. So I think in terms of somebody in town, they'd still benefit more from the...or in addition to the sign that they've built. But I also have no problem saying you're going down the interstate, such-and-such microbrewery. But it would have to be...it would have to qualify in some terms that I would say as a tourist attraction. So it would have to be something fresh and new, rather than just your regular establishment. [LB926]

SENATOR LOUDEN: Well a brewery in Alliance would be fresh. [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR ROBERT: I think that would be a new attraction. Absolutely. [LB926]

SENATOR LOUDEN: Yeah, that would be an attraction. It wouldn't be...I mean, if you're going to...going to put them...the way I understand the bill, on the interstate you would have them in those logo areas where they tell you what you have, so. [LB926]

SENATOR ROBERT: Right. [LB926]

SENATOR LOUDEN: Right now, the way the bill is, you'd include winery in there? [LB926]

SENATOR ROBERT: I would; and that part of the bill, originally, is just a one word change: you strike a comma and add "and wineries" and that's all it would be. Now, I do know that also those signs on the interstates, they require the business to be a certain distance maximum away from the interstate. So if you...I don't know how far off the highway such and such brewery would be, but if it would be 26 miles up into town, they wouldn't be eligible for that sign on the highway...on the interstate. [LB926]

SENATOR LOUDEN: Okay. Thank you. [LB926]

SENATOR ROBERT: Um-hum. [LB926]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? Senator Robert, I know that you're aware that Nebraska has to comply with the Federal Highway Beautification Act. [LB926]

SENATOR ROBERT: Yes. [LB926]

SENATOR FISCHER: And if we don't, we risk loss of federal funding. [LB926]

SENATOR ROBERT: Yes. [LB926]

SENATOR FISCHER: So that's a reason that we have all those rules and regulations dealing with signage... [LB926]

SENATOR ROBERT: I do. [LB926]

SENATOR FISCHER: ...so I appreciate you bringing the bill, but that will be first and foremost in my mind when we look at this. [LB926]

SENATOR ROBERT: Absolutely. And I don't intend to lose any money. I just wondered if we could...and I think... [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR FISHER: Right. [LB926]

SENATOR ROBERT: ...we over-created regulations to keep ourself covered and I wouldn't want to jeopardize any of that money. [LB926]

SENATOR FISCHER: Okay. Thank you very much; appreciate you being here. [LB926]

SENATOR ROBERT: Yep, I'm going to stick around. [LB926]

SENATOR FISCHER: Are you going to stay? [LB926]

SENATOR ROBERT: Yep. [LB926]

SENATOR FISCHER: Okay, great. First proponent, please. Good afternoon. [LB926]

JIM BALLARD: Hello. Senator Fischer, members of the committee, my name is Jim Ballard, J-i-m B-a-l-l-a-r-d with James Arthur Vineyards in Raymond, Nebraska and I'm here on behalf of the Nebraska Winery and Grape Growers Association as well. Over the years I've testified on numerous occasions, in issues relating to the Nebraska grape and wine industry and on many of those occasions it was sometimes us against the world type of mentality and I'd usually ended a lot of those testimonies by saying this legislation will only help our fledgling industry. But today I'm very excited to be in front of you here and report that I believe we have passed that fledgling state and that the Nebraska wine and grape industry has kind of spread its wings and started to soar, so. All metaphors aside, we now have 25 wineries in the state, as well as a number of tasting rooms serving primarily Nebraska wine. The second phase is of an economic impact study was just completed by the University of Nebraska-Lincoln, Bureau of Business Research, the estimated 2008 economic impact of the industry is now \$12.8 million. To break it down, that comes to about \$7.3 million in wine-making and grape growing sales; \$2.3 million in winery and vineyard investments and \$2.3 million in tourism. The report then states that these substantial impacts will only grow in future years. The Nebraska wine and grape industry is on a long-run path of rapid growth. Sales of Nebraska wine grew six-fold from 2000 to 2008. And like I said earlier, I'm excited to share those numbers with you; however, I think we can do better. As the report states, our industry is on a path of growth. LB926 is a tool that can help us stay on that path. The Nebraska grape and wine industry created employment earning opportunities, but also contributed to the Nebraska economy by promoting tourism and contributes to the quality of life of existing residents. In 2008, it was estimated that there were 155,000 people...over 155,000 visitors to Nebraska wineries and tasting rooms and my assumption is that most of those visitors sought out those wineries and actually found them, which in some cases is a pretty good task considering many of our wineries are located in rural areas and if you're not familiar with Nebraska, sometimes they're a little off the beaten path. So better access to signage is a key in helping those folks

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

Transportation and Telecommunications Committee
February 09, 2010

promote their businesses. More importantly, I think about all the visitors that are trekking across Nebraska that we don't get off the interstate going from point-A to point-B that we're missing out on and diverting them with better signage. That's why LB926 is such an important piece of the puzzle when it comes to marketing and promoting the Nebraska wine and grape industry. Also, the great thing about this bill, to my understanding, I think Senator Rogert brought it out, is that it costs the state no money. The signage is being paid for by the wineries themselves. So basically, what it comes down to is inclusion and access; the ability to market and promote ourselves in a much easier way. In addition to producing and selling grapes and wines, many Nebraska wineries are a tourism destination and providing entertainment and recreation opportunities, Nebraska wineries attract and retain such spending within the state, but we've got to let people know where we are and how to get to us and I think LB926 helps fulfill that role. It was a pleasure being here and I would answer any question that you might have. [LB926]

SENATOR FISCHER: Thank you, Mr. Ballard. Are there any questions? Senator Stuthman. [LB926]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Ballard on your...on the James Arthur Winery, are there any signs like on 14th Street or Highway 79 that you have? [LB926]

JIM BALLARD: We have purchased a billboard on Highway 79; we did have the TODS Program, but for about the same amount each month, we could put up a large billboard for people actually going north on 79. So we did have a TODS sign at one time. Other than that, we don't have any other signage. There's a lot of rules and regulations, as was mentioned earlier and we completely understand the Beautification Act and why that's there. So, right now we...the way the statute is written, we can't put anything up on the interstate to let people know that we're there. And we're only, you know, four or five miles off the interstate where we're at right now. [LB926]

SENATOR STUTHMAN: But the only message, really, is if the person happens to be driving by and yet you see, oh, there's the winery. [LB926]

JIM BALLARD: Yep. [LB926]

SENATOR STUTHMAN: That's about what it comes down to. [LB926]

JIM BALLARD: In terms of signage right now. I mean, we do a lot of other marketing Web site and, you know, advertising, but that's just one piece of the puzzle that we use. [LB926]

SENATOR STUTHMAN: Okay. Thank you. [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

JIM BALLARD: You're welcome. []

SENATOR FISCHER: Other questions? Senator Hadley. [LB926]

SENATOR HADLEY: Senator Fischer. Thank you for being here, appreciate it. I guess when looking at these types of bills, I always...interested in what the, kind of the policy, underlying policy was when we put things into statute. Do you think there's a difference between signs that advertise or point to gas, food, lodging, and camping, that we have now and kind of a policy of why we would add wineries to that? [LB926]

JIM BALLARD: I think the reason we would add wineries to that, I think those others are service; it's a service to travelers going across the state; plus it's economically, you know, something that economically is good too, because we're going to have somebody pull off to buy gas or food and the same thing is said with wineries or other attractions that help promote the state, help economically. So in that regard, they're probably the same, but yet, they're different in terms of...an attraction is probably different than a gas station in that regard. [LB926]

SENATOR HADLEY: I guess that was my...service is, I think, is a good...I couldn't think of the term, but I think you did a good job of helping me because I was trying to think of what the four had in common and they are services. You have to get gas; you might need lodging; you might need food and this helps. And I guess the concern I had is though the expansion that if we go to wineries, can the convenience store, I mean, or whatever might be... [LB926]

JIM BALLARD: And I agree, I think when we first brought this bill forth to Senator Rogert, or the idea, that was one of the discussions that we had; what constitutes an attraction. Of course we would love it to say: wineries; you know, that would help us out immensely, but, you know, if you did attractions and you had a logo with a grape of clusters or something along those lines on it, that would be good. But one of our discussions was, where do you draw the line? And, you know, I think attraction would have to be defined then on what constitutes that. I mean, is it an antique shop, is that an attraction? Is it, you know, whereas, things that help promote the state's economy and then are tourism related, you know, maybe you define it by that. So that, that would be kind of up to you guys to figure out what those attractions are. [LB926]

SENATOR HADLEY: And one last quick question, the way I read the bill, you mentioned tasting rooms. If it was a tasting room, stand alone, not connected with actually growing grapes and such as that, I think it would be excluded, because they talked about... [LB926]

JIM BALLARD: I don't think that, yeah, I don't think it's written into the bill... [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR HADLEY: ...a farm winery license? [LB926]

JIM BALLARD: Yes. [LB926]

SENATOR HADLEY: So I think it would... [LB926]

JIM BALLARD: And I mentioned tasting rooms in the opening remarks here and also said tasting rooms in conjunction with the wineries. All the wineries that are out there producing wines have a tasting room connection to the production facility and I think that's what this would entail are those that actually produce the wine on site. [LB926]

SENATOR HADLEY: Okay. Thank you, Senator Fischer. [LB926]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thank you, Mr. Ballard. [LB926]

JIM BALLARD: Thank you, Senator Fischer. [LB926]

SENATOR FISCHER: Other proponents for the bill? Are there other proponents? Welcome. [LB926]

JENNIFER REEDER: Thank you. Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. My name is Jennifer Reeder, R-e-e-d-e-r and I am currently serving as the president of the Nebraska Winery and Grape Growers Association and I'm also an owner of a Nebraska winery, Deer Springs Winery, just located northeast of Lincoln. Just to emphasize a lot of the comments that Jim Ballard just made. He did a very eloquent job of expressing, I think, the needs of our industry, as far as better advertising and drawing people to our wineries and letting them know where they're located. Advertising and promotion of the Nebraska wine industry is a major part of what our association does for its members and we're constantly working to expand grape production and wine sales because of the tremendous benefit, economically, that our industry is having to the state. We did recently conduct an economic impact study and Jim just gave you the figures on it, but I think that we should be considered a very serious in terms of having a very beneficial impact with the tourism and other things going on in our state. So, in partnering with the Nebraska Grape and Wine Board and the Nebraska Division of Tourism, the NWGGA has expended our efforts over the past two years and one of the most successful programs we've had is the wine tour passports program and that has really been...this is our second year and we've just had tremendous success in it and it's been very helpful in getting customers to come visit all the wineries throughout the state. One of the problems though that we hear, a complaint even from some of the visitors to the wineries is that they're not always easy to find. And so without some sort of direction or

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

Transportation and Telecommunications Committee
February 09, 2010

a sign, it's kind of easy to overlook the fact that we even exist. And so I think if we can get this bill passed, it would be such a benefit to the wineries. Most of us are located off the beaten path in rural locations. Our winery is just actually two miles east of Highway 34; so to have a sign on that highway would just be a huge benefit to our business in terms of directing people to our location. And that's all I have to offer right now. Thank you very much and I'd be happy to answer any questions. [LB926]

SENATOR FISCHER: Thank you, Miss Reeder. Are there questions? Senator Louden. [LB926]

SENATOR LOUDEN: Yes, thank you. Your association or your winery, do you put out flyers like tourism industry does, you know, in these areas and that sort of thing, antique shops, or something like that? [LB926]

JENNIFER REEDER: Well we do have our passport brochure which is a map of the entire state and it lists all the locations of the participating wineries on it. So that does serve as a promotional piece. [LB926]

SENATOR LOUDEN: Because I've never drove around and looked for wineries, but I have looked around at antique shops and if you go from one to the other, you always get a brochure of all the shops in a particular area and I was wondering if you do anything like that as your association and have those brochures available out in gas stations or motel, hotels or something like the tourism industry does? [LB926]

JENNIFER REEDER: We do have them in some locations. We've had them...we've done the brochure swaps where we've had them, you know, through the Department of Tourism displayed in different tourism areas. [LB926]

SENATOR LOUDEN: How much money does your association spend on something like that? [LB926]

JENNIFER REEDER: Oh gosh. Well, we've received some grants and I would say we probably spend a good \$26,000 a year in promotion. [LB926]

SENATOR LOUDEN: Okay. Thank you. [LB926]

JENNIFER REEDER: Um-hum. [LB926]

SENATOR FISCHER: Other questions? I believe I heard there were 25 wineries in the state, is that correct? [LB926]

JENNIFER REEDER: That's correct. [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR FISCHER: How many have signs on highways, specifically on state highways right now, so you know? [LB926]

JENNIFER REEDER: I'm not aware of any that do. [LB926]

SENATOR FISCHER: You said that you're a few miles off of, was it Highway 34? [LB926]

JENNIFER REEDER: Um-hum, 34 east. [LB926]

SENATOR FISCHER: Have you looked into putting a sign up on Highway 34 on your own and going through the rules and regs at the Department of Roads? [LB926]

JENNIFER REEDER: We did explore the TODS sign program, but because of the requirements that you be open 40 hours a week, we just weren't able to meet those requirements. Right now, we're open three days a week. [LB926]

SENATOR FISCHER: Have you looked at just putting up a sign for your winery on private property along Highway 34 some place? Leasing private property and then being able to be in compliance with the Department of Roads on their signage requirements. [LB926]

JENNIFER REEDER: We have looked at it, but we haven't been able to come up with a plan that would allow us to do that. [LB926]

SENATOR FISCHER: Okay. Any other questions? I see none, thank you very much. [LB926]

JENNIFER REEDER: Thank you very much. [LB926]

SENATOR FISCHER: Any other proponents for the bill? Could I ask, how many other testifiers are here on...for this bill, either proponents or opponents? I see one hand. Thank you. Just to let our next bill know when they're up. Good afternoon. [LB926]

SHARON SCHILLING: Good afternoon, Chairman Fischer and the committee. I'm Sharon Schilling, S-h-a-r-o-n S-c-h-i-l-l-i-n-g. I am the president of Schilling Bridge Winery and Microbrewery. We are the nation's only, so far, winery and microbrewery under one corporate roof so thank you, Senator, for including us in the discussion as a microbrewery. I also am the winery cochairman for the...winery cochairman counsel for the wine industry, as well as a member of the marketing committee. I have information here that I was going to say, but then I thought maybe I might benefit LB926 with telling you a little bit about the problems that we've had getting a sign. I think that might be a little bit more beneficial. For one thing, first I want you to remember too that the wine

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

Transportation and Telecommunications Committee
February 09, 2010

enthusiast, the people that seek out the wineries are travelers and particularly in our region, we're getting really well known because many of us, if not most of us, are not only nationally award winning wines, but internationally award winning wine winners. So that is creating some hoopla within the whole nation. So they're trying to find us. A lot of in California; in Missouri; in Iowa; they have directional signs to get to these places. Our problem is, is we have a TODS. We also...we have...where we are sitting in Pawnee City, Nebraska, Highway 50 goes right through our town and then Highway 8 goes on the south end of our facility. We're a mile off of Highway 8; we're about two miles off of Highway 50. We purchased land in town, in Highway 50, on Highway...right on Highway 50, put a sign up. State...and we've been working with Gary Prey of the Department of Roads since we started...before we started. And we purchased the land; we put a sign up; they made us take it down. We got all the zoning, everything. But unfortunately, we zoned through what was correct through the city. Well, because the state highway goes right through us, they superseded; fine and dandy. The problem is, is that we were just...not even very much over on their right-of-way, so we moved our sign, but they have a whole bunch of trees in their right-of-way. They won't cut them down; people can't see our sign. So we have that problem. On Highway 8 coming through, we have a highway TODS sign that is coming from the east to the west, so from Beatrice to Pawnee City, which is super, we get that traffic, but the main problem is, we have a large group of people that are coming in from the Kansas City, Kansas area; St. Joe. They can't find us. It's not...we promote, we spend a lot of money on advertising; we have our e-mail list; we have a Web site; all of us tell people how to get to us, but the traveler in any other industry, they're used to once they get close to their destination they want a sign to show them exactly where it is. And we don't have that. We can't have that. You said, you know, is there any way you could do a lease program? Gary...you know, we have a farmer at the end of the block right...or at the end of our road, right on Highway 8; Gary Prey won't let us put a sign up because it's an agricultural...it's zoned ag and he said you can't spot-zone. You know, we...they won't let us buy an acre on this farmer's because he said it won't, you know, you can't spot-zone. We know you're just spot-zoning. So we have had such a tremendous, you know, amount of...and I've got my e-mails back and forth on...what I don't understand is I can go from Pawnee City to my bank in Humbolt and I see a sign for an insurance agency, for Eggers Brothers who has...they have farm equipment and they're in a farm; and they're not farm related; they're not ag, you know, and I don't understand how a commercial facility can be, you know, and I always hear, they're grandfathered in. Okay, could anybody give me the name of that grandfather, because I want him to be my grandfather because we have worked really, really hard at trying to get signs and I think this...this issue and passing this bill will be very beneficial to help us. [LB926]

SENATOR FISCHER: Thank you. I appreciate you sharing those personal experiences with us. [LB926]

SHARON SCHILLING: Uh-huh. [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR FISCHER: That will be helpful. [LB926]

SHARON SCHILLING: You bet. You bet. [LB926]

SENATOR FISCHER: Any questions? Senator Louden. [LB926]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well, my understanding is that the Department of Roads won't let you put up a sign out...even on the outside of the right-of-way, is that correct? [LB926]

SHARON SCHILLING: Correct. [LB926]

SENATOR LOUDEN: Okay, because I run across the same thing in...where I live there, in fact, they had to put it on railroad property in order to get the sign up close to the highway. [LB926]

SHARON SCHILLING: Um-hum. [LB926]

SENATOR LOUDEN: And I'm wondering...and this was a...people that were relying on tourism and if we're going to promote tourism, I understand we got to have some signage to direct these people there. And I don't know if this bill is the issue to direct that or not, but I think your bill I don't...or your...my understanding is your problem isn't necessarily...just a winery, it's a fact that you can't put up any signage to tell people where your place of business is, is that? [LB926]

SHARON SCHILLING: Exactly. But I think in...if I read it correctly, I think it said we could put them within their right-of-way and if the state would allow us to put just a small directional sign with a cluster, you know, within the right-of-way, then we wouldn't have to go worry about spot zoning and whether it's zoned agriculture or commercial or anything like that. [LB926]

SENATOR LOUDEN: But this could be a sign that would say: winery. It could say: tourist attraction or it could say antique mall; it could say something like that to direct tourists, or you say, people that are driving through, into your place of business, whether you were doing wine or microbrewery or whether you're selling antiques or selling local paintings or something like that, is that... [LB926]

SHARON SCHILLING: Well that was...that's, you know, that's...our hope as an industry that we could even just get like, you know, not even a big sign, just a grape cluster with an arrow, you know, not necessarily promote and if, you know, the microbreweries want to get a...I, you know, I don't know, a beer stein or something, but our main goal is just...because we are a valued tourism industry that is creating a lot of economic impact,

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

Transportation and Telecommunications Committee
February 09, 2010

not only to our state, but for all of us that are in small communities, huge impact. I just need to get people, once they're in, they can get to Pawnee City, it's just trying to get them, you know, to go one mile on the county road to get them to my place then. [LB926]

SENATOR LOUDEN: Yeah, and I've been involved in...where the sign was grandfathered in, but that somebody come along couldn't get it done, so. But thank you for your information. [LB926]

SHARON SCHILLING: Oh, you bet. [LB926]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? Senator Stuthman. [LB926]

SENATOR STUTHMAN: Thank you, Senator Fischer. Sharon, thank you for testifying. [LB926]

SHARON SCHILLING: Oh, you bet. [LB926]

SENATOR STUTHMAN: The thing that really concerns me in what you're trying to do is trying to grow Nebraska; trying to promote Nebraska, Nebraska products and some of these small businesses, but we have the stumbling block of not letting the people know where they're at. [LB926]

SHARON SCHILLING: Correct. [LB926]

SENATOR STUTHMAN: And, you know, there's so many regulations as to size and footage and where they can be and I respect that part of it, but, you know, I would hope that we could try to overcome some of those hurdles and allow some signage so that people could stop. I think that would bring the people in into the state of Nebraska, you know, and stay a couple days longer, you know, when they're traveling through the state, where, otherwise now, you just enter one end and exit the other end. [LB926]

SHARON SCHILLING: Um-hum [LB926]

SENATOR STUTHMAN: No signs, no nothing, just keep on moving, so. [LB926]

SHARON SCHILLING: Thank you. Thank you for that opinion and I agree with you and I want to make just one other quick point is when we're going from the west to the east and I've got it in here, on documentation, there isn't enough room for a TODS sign. It's not like I want...I wanted to buy one, there just isn't enough room. Well, if we have, you know, we have a fabulous new Amish community starting in Pawnee City and all of a sudden we have, you know, Amish signs, watch out for them and that's fine, that's all I

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

Transportation and Telecommunications Committee
February 09, 2010

want. I want a little grape cluster that has an arrow and there was room for that Amish sign which is needed, but I'd sure like to have a little grape cluster or a bottle of wine with an arrow as well. I could find room. [LB926]

SENATOR STUTHMAN: I think we need to get...be serious about this, you know. If we want to promote Nebraska, we got to consider the things to help with the promotion. [LB926]

SHARON SCHILLING: Oh, indeed. We have a new campaign starting at Schilling Bridge called "Believe in Nebraska, Buy in Nebraska" and to create sales tax revenue, but you have to get to the facilities to buy their products to create sales tax at the state and the city levels, so. [LB926]

SENATOR STUTHMAN: Okay. Thank you. [LB926]

SHARON SCHILLING: Um-hum. [LB926]

SENATOR FISCHER: Thank you, Senator Stuthman. Senator Gay. [LB926]

SENATOR GAY: Thank you, Senator Fischer. Sharon, on Highway 50, and maybe you're familiar with this, Soaring Wings has a sign... [LB926]

SHARON SCHILLING: Yep. [LB926]

SENATOR GAY: ...when you're going south and I see that sign, is that one of these tourist oriented... [LB926]

SHARON SCHILLING: TODS, uh-huh. [LB926]

SENATOR GAY: ...that is one? [LB926]

SHARON SCHILLING: Yeah. [LB926]

SENATOR GAY: I'm just trying to get a feel in my head. [LB926]

SHARON SCHILLING: Yeah. [LB926]

SENATOR GAY: And you pay for that? [LB926]

SHARON SCHILLING: Uh-huh. Yes. You're permitted for it; and we pay for it; and like I said, we have one coming from the east... [LB926]

SENATOR GAY: You have one. [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

SHARON SCHILLING: ...from the west to go east, but evidently there isn't enough room because of the regulations to go from the west to the...or east to west. [LB926]

SENATOR GAY: Yeah, and I understand your local zoning...your local zoning problem, I can understand that as well. [LB926]

SHARON SCHILLING: Uh-huh. [LB926]

SENATOR GAY: But, I guess in that, the hours then, you have to be a full-time, because that is...he's there all the time. You're there all the time? Your business... [LB926]

SHARON SCHILLING: Yeah. [LB926]

SENATOR GAY: ...it's a full time job. [LB926]

SHARON SCHILLING: Yes. [LB926]

SENATOR GAY: So the hours alone...are most of the wineries full-time or they're just three days a week or...wouldn't it be considered full-time, I mean, this has to be... [LB926]

SHARON SCHILLING: Well the problem is, is, I think, a lot of us are full-time and if we have full-time jobs at the other, you know, that have full-time jobs are actually, you know, they're working their winery as well, but it is in the off hours. I think what we have to be careful, in my opinion, I'm speaking on behalf of me, not the NWGGA, I think we have to be careful of and I think that's why they asked for the different changes in the hours is because if you have that sign up, you know, and you have to have that requirement of being open, then you get tourists flowing through all the time and that may or may not, you know, we need to make sure they're coming when it's closed then. So we need to make sure that this, like I said, is just another...it's not to control the traffic, it's just a vehicle, once...as my opinion, to get them in the area, then direct them. And we're really looking forward to the possibilities. We've already brought in over 100,000 people in Pawnee City in the four years; that's huge for us. And we're really looking forward to the economic benefit of just capturing those people, came to Pawnee City for us, because that's what we ask them and most generally they laugh, you know, would you have come to Pawnee City if we weren't here. Heck no! But now what I'd really like to do is make sure that to get the economic impact of just getting those people going on Highway 8 and (inaudible) they don't even know we're there, you know. That will be super for us as well. [LB926]

SENATOR GAY: Thank you. [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

SHARON SCHILLING: Um-hum. [LB926]

SENATOR FISCHER: Other questions? Senator Hadley. [LB926]

SENATOR HADLEY: Senator Fisher, thank you. To follow-up on the time issue, I guess I have a concern because I mentioned earlier gas, food, lodging and camping probably is a service where if I see a sign that says gas, when I pull off and try and find it, I would like some reasonable assurance that it's going to be open. And if we change...we're going to change gas, food, winery, lodging, or camping, we're going to change the hours on all of them if it...the winery, is that correct? [LB926]

SHARON SCHILLING: Change all of them... [LB926]

SENATOR HADLEY: We will change the hours required for gas, food, lodging or camping also at the same time, because we don't just say wineries have to be open. So I'm wondering if this could be a disservice to potential tourists that suddenly the gas, lodging... [LB926]

SHARON SCHILLING: Oh, I see your point. I think that could be...that may need to be reevaluated on this, because, yeah, I could see where you may or may not...maybe you wouldn't want to do that. [LB926]

SENATOR HADLEY: Yeah, I...it just be interesting to know what they're... [LB926]

SHARON SCHILLING: I think in our industry though, on behalf of our industry, it is not uncommon for people seeking out wineries understand that we're not open 24-hours or 12-hours, that most generally we are open on the weekend. I think the problem is when it's a 7-days a week or a 5-days a week, most wineries are open on the weekends and that's when a lot of people are traveling. [LB926]

SENATOR HADLEY: Thank you. [LB926]

SHARON SCHILLING: Um-hum. [LB926]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thank you, Miss Schilling for being here. [LB926]

SHARON SCHILLING: Thank you. Thank you very much. [LB926]

SENATOR FISCHER: Other proponents please. Good afternoon. [LB926]

PAT GAMET: Good afternoon, Senator Fischer and members of the committee. My

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

Transportation and Telecommunications Committee
February 09, 2010

name is Pat, P-a-t Gamet G-a-m-e-t, I'm here on behalf of 5 Trails Winery in Paxton, Nebraska. We are a fledgling winery and are now a soaring industry, I guess, as Mr. Ballard, put it. We've been open a year and we are very fortunate to be in downtown Paxton, Nebraska, which has, if most of you, I'm assuming are familiar with Ole's Big Game Lounge which is the closest thing to a state institution as you can have other than this wonderful Capitol building and that is by design. We have made the choice to be a winery in a town setting; whereas, a lot of the wineries, in fact, the majority here in the room and the majority across the state, are wineries in the rural setting. And a lot of them are very difficult to get to, in fact, some that I have a problem finding and I've been there before. In our case, I'm going to speak for ourselves, I can't speak for anybody else, but in our case, we find a lot of tourists coming through, year round, coming literally through the state of Nebraska. A lot of tourists are coming from Chicago going to Vail or going to Denver or going to an attraction west or traveling the other way, really look at Nebraska as a place to go through. It's kind of that long journey between here and there. But we, like I said, we've been fortunate enough to be right across the street from Ole's and that is truly an established attraction. And it's amazing the number of people that come in and say: what, a winery in Nebraska? I thought all you had was beer and cowboys. And it's very common attitude towards Nebraska. And I think that there was...there, in fact, I know there would be many, many more people get off of the I-80 corridor going both directions if they knew or if they could be made aware that there is a winery and a wine industry within the state of Nebraska. Billboards, yes, definitely an option; currently on the I-80 corridor, but we're all very small business people. We do not have the budget of a chain restaurant or the budget of a chain hotel or motel to afford, you know, \$700 to \$1,000 a month rent on a billboard, plus the \$5,000 to have a new stretch made. So the signage issue on the interstate corridor is of utmost importance to us; to have that ability to make the tourists or the people traveling through Nebraska aware of our industry. With that, any questions? [LB926]

SENATOR FISCHER: Thank you very much. Are there questions? Senator Louden. [LB926]

SENATOR LOUDEN: Yeah, thank you, Senator Fisher. I've been through Paxton a few times, in fact, there's a nice little grocery store just on up the street from where you live. [LB926]

PAT GAMET: Yes. And actually I think Hehnke's would qualify as an attraction itself. [LB926]

SENATOR LOUDEN: And so will Ole's, so I've never stopped in your winery, but I noticed it on the other side there and I guess the next time I go through there, I'll have to have a look at it. [LB926]

PAT GAMET: Well I'll enjoy serving you. [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR LOUDEN: But I agree if you had something out somewhere, there would probably be more people stop. Now is there any way that you can work with Ole's to put a sign up with Ole's, because he has a lot of signage along there? [LB926]

PAT GAMET: Ole's, of course, is owned by Tim Holzfaster and Tim does have a lot of signs up and he owns quite a bit of signage. One thing that we, being in Paxton and being able to take advantage of the Ole's brand in Paxton, we also have to be very careful to be autonomous and to...because a lot of people, and in my former job I used to travel all over the United States and it's amazing where you go. And I would get the comments, once in a while, oh, you're from Paxton, Nebraska. Where's that from Ole's? And so it's...all of a sudden, it's Ole's that happens to be in the town of Paxton. And, like you said, there's enough other things, Hehnke's; you got the Windy Gap; you've got Swede's; you've got Ole's; we got three churches and one cemetery. And it's really important to us in our own business model to remain autonomous because there's already been a presumption that we are actually a part of Ole's. But yes, that is definitely an option. [LB926]

SENATOR LOUDEN: Okay. Thank you. [LB926]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? Senator Hadley. [LB926]

SENATOR HADLEY: Just a quick one. [LB926]

SENATOR FISCHER: Just a quick one. [LB926]

SENATOR HADLEY: What businesses do you have on either side of your winery? [LB926]

PAT GAMET: To the south of the winery, across the street, there is a lumber yard. North of the winery there is a beauty shop and then further north up the street we have a...well, the village office and the library, an athletic club and then another bar. [LB926]

SENATOR HADLEY: You know, I guess I'm still wrestling with, you know, what would keep those businesses from saying, we want a sign, you know, like the winery has? [LB926]

PAT GAMET: Yeah. [LB926]

SENATOR HADLEY: And that's...you don't have to answer that. But I knew that's something where... [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

PAT GAMET: Absolutely, and I think that's where you broaden that classification. I have no problems in that classification broaden to attractions with some limitations on what a true attraction is; whether it's a big ball of twine or what it is. [LB926]

SENATOR HADLEY: Thank you. [LB926]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thank you very much. [LB926]

PAT GAMET: Thank you very much. [LB926]

SENATOR FISCHER: Other proponents for the bill? Any opponents to the bill? Anyone wishing to testify in the neutral capacity? I see none. Senator Rogert, would you like to close please? [LB926]

SENATOR ROBERT: Yes, please. Thanks for all the questions and for your patience. I took some notes here. Senator Hadley, you asked earlier if we'd be changing the hourly open requirements for those guys having signs on the interstate, no. The only hourly open requirements that would be changing for me, would be the guys at roadside signs. Specifically, it mentions right here in the rules and regs the activity must be open during the normal season of activity at least eight hours per day, five days a week. That's where most the folks get hung up right there. They're either...a lot of them are maybe open eight hours a day or twelve hours a day, Saturday and Sunday and maybe half a day on Friday, but five days a week to be open for eight hours a day, a lot of these folks would be, honestly, open for no business. And I think in terms of, you mentioned the other four things are service, I contend that tourist attractions are a service to the state and to the individual pulling off the interstates. So the fifth logo has some value in that area. Senator Loudon, you asked if they had brochures. They do have a Nebraska wine map; they pass those around and it has them all listed. It doesn't give directions to each one of them. It just has a star next to the town where they all are and they're all kind of on nice sheets so you can follow around and see where they're at. But I think another way around, you could...I think the definition is in here on what a tourist attraction is, but somewhere you could further define that a majority of your income needs to come from maybe not the local residents and I think that's the case with almost all these guys that they do have a fairly well attended local interest, but in the same token, I think a lot of their business comes from folks that would be coming from the outside and that would be a way to limit the local hamburger joint or some other local only attraction that means nothing to anybody outside the area except for those that are close. So I appreciate it. I think that's all I took down that I thought was necessary and I'd answer any further questions, but I...but thanks for the time this afternoon. [LB926]

SENATOR FISCHER: Thank you, Senator Rogert. Any questions? Senator Campbell. [LB926]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR CAMPBELL: Thank you, Senator Fischer. Senator Rogert, did...have you talked about this with the Nebraska Tourism Office? [LB926]

SENATOR ROBERT: We have and...a little bit. Their funds are dwindling as well. I think the problem that we still run into is the rules and regs that are developed to allow the signs. Now I think the tourism office, when folks come in to do that, they refer them to the TODS Program that which we currently have, but it still gets folks hung up on the same area. So it's not the lack of not people trying, we're just kind of running into some roadblocks like Senator Stuthman said. [LB926]

SENATOR FISCHER: Thank you, Senator Campbell. Other questions? I see none. Thank you very much, Senator Rogert. [LB926]

SENATOR ROBERT: Thanks. [LB926]

SENATOR FISHER: With that I will close the hearing on LB926 and open the hearing on LB945. Senator Harms. I see you are here to open on your bill. [LB926]

SENATOR HARMS: Yes I am. Thank you. [LB945]

SENATOR FISCHER: Welcome. [LB945]

SENATOR HARMS: Thank you. My name is John J-o-h-n middle initial M. Harms H-a-r-m-s representing the 48th Legislative District. Senator, while I was out in the hallway, the Nebraska Sheriffs Association said, the representative had to leave and she would ask me if I would give this to your aide, if they would... [LB945]

SENATOR FISCHER: Lisa. [LB945]

SENATOR HARMS: Go ahead...so I'm submitting that for them. [LB945]

SENATOR FISCHER: Thank you. [LB945]

SENATOR HARMS: Not for me. Okay, thank you. Senator Fischer and colleagues, thank you for giving me the opportunity to come and visit with you today a little bit about LB945. Distracted driving, especially driving while talking on a cell phone or text messaging has become a widespread problem with the potential to become even worse as more exotic electronic devices become available for people to use and take their eyes off the road. And we're seeing that happen on, almost on a monthly basis. Over the past few years, distracted driving has gone from what I call a dangerous practice to a deadly epidemic. The National Highway Traffic Administration research shows that nearly 6,000 people lost their lives last year across this great nation and over 500,000

were injured and they were crashes that involved distracted driving of some form. This problem is not being caused just by a few negligent drivers, the AAA Foundation for Traffic Safety, which is a nonprofit educational and research organization, reported in July that two-thirds of the drivers that they surveyed, admitted that they had talked on the cell phone while driving during the last 30 days and 21 percent of them said they had texted or read text or e-mailed from the car while it was moving. John Lee who is the director of the Center for Human Performance and Risk Analysis at the University of Wisconsin, Madison, said: "Texting is an especially serious problem presenting a perfect storm of driver distraction. Drivers that take their eyes off the road, their hands off the wheel, and their minds off of the critical task of controlling a car." I would tell you that that is an accident waiting to happen. It's a tragedy waiting to happen, not only in this nation, but in this great state. Let me share with you just a little bit of research that shows that text messaging driving is increasing the risk for crashing. According to a study involving 40 motorists and a driving simulator, those who were texting were six times more likely to crash than those who weren't. A study published in the journal of Human Factors led by the University of Utah psychologist, Frank Drews, found that drivers who text while driving were involved in more crashes; responded more slowly to brake lights and showed more impairment in forward and lateral control than those who were talking on a cell phone while driving. One of the studies that caught my attention was a study that was done by the Federal Motor Carrier Safety Administration. And this study shows that who...it deals with text messaging and the administration showed that drivers who send and receive text messages take their eyes off the road at an average of 4.6 seconds out of 6 seconds while texting. And what the study found is that if you're going 55 miles an hour and that 4.6 seconds you're going to travel the length of a football field plus the end zone. That caught my attention. I began to really, truly understand the seriousness of this. You take those eyes off, 4.6 seconds is not very long, but it's quick enough to kill you. Since 2002, the Department of Roads has tracked the traffic accidents resulting from mobile device distractions; in 2008 there were 141 crashes, 68 injuries and one fatality. In 2007, there were 121 related crashes, 59 injuries and, thankfully, there were no deaths. But you can see that it's going up and it will continue to go up if something is not done to address the issue. The AAA Motor Club and the Nebraska Safety Council are urging all states to outlaw any cell phone use and texting while driving. As we know, texting requires at least one hand to be off the steering wheel; it diverts the driver's attention from the road and longer periods of time, as I pointed out with the study of 4.6 seconds you can be in trouble very quickly. Today, 20 states, including the District of Columbia, have already gone ahead and banned texting while driving for all drivers; this comes from the Insurance Institute of Highway Safety. And those bans come at a time that there's a growing concern, nationwide, about the dangers of mixing cell phones and car usage. President Barack Obama signed an executive order directing all federal employees not to engage in text messaging while driving government operated cars or using government equipment. The federal employees were required to comply with this December 30, 2009. I think the President's action alone shows that it's dangerous, it's distracting to text message while

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

Transportation and Telecommunications Committee
February 09, 2010

driving. And on January 26, 2010, the Federal Department of Transportation banned drivers of trucks and buses from using handheld devices to send text messaging. The U.S. Transportation Secretary, Ray LaHood stated: the federal government will do everything it can that's in its power to send a very clear message that texting and talking while driving are potentially lethal activities that have very serious consequences. And I think they're right. I don't disagree with that. This is obviously a huge problem nationally. And by passing this bill for this great state, Nebraska can be one of the leaders in solving it. Right now, U.S. Senator, Charles Schumer, who has sponsored a bill that would make it so that a state which...states that...which don't banned text messaging while driving will lose 25 percent of their federal highway funds. That's the other thing that caught my attention. I believe that as this continues, I think we'll see a lot stronger efforts on the part of the federal government. I've heard, on more than one occasion, since I have talked about this legislation, there are people who believe and think it's going to be hard to enforce. I spoke with law enforcement and they're very clear when I talk with them that it will be a judgement call for them to distinguish whether someone is actually texting or using a phone for another purpose, but they also qualify that by saying they indicate that you can usually tell when someone is dialing a few numbers versus someone who is sending a text message and their focus is entirely on the phone. We need to remember that at first people were worried about enforcing the DUI laws, as well as seat belts. But even just having these kinds of laws on the books makes people aware of the decision they're making. Many people will obey the law even if they don't necessarily agree with it; especially if they're facing a fairly decent fine. I believe this law would change people's behavior in this state. This legislation is important and I believe it will make our roads safer. I don't believe that any driver has any business text messaging while driving, period. Simply put, I think lives are at stake every day and it's critical that we begin combating distracted driving in the state. And Madam Chair, I would be very happy to answer any questions. I don't know how many people have come to testify. I've not recruited anyone, so I don't know. So I'd be happy to answer any questions if I can. [LB945]

SENATOR FISCHER: Thank you, Senator Harms. Are there questions? Senator Gay. [LB945]

SENATOR GAY: Thank you, Senator Fischer. Senator Harms, you alluded to just to the question I was going to ask you anyway. A lot of times I have a Blackberry, have a Bluetooth device and I'm dialing, not texting, but I need to look to dial the number or pull it up from my contacts list, hit my dialer, so you're saying law enforcement has told you that they can tell, you know, obviously... [LB945]

SENATOR HARMS: Yep, that's what they've said. [LB945]

SENATOR GAY: ...it still...that's a concern. [LB945]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR HARMS: It would be a judgement call. The other thing, Senator, is, let me help you a little bit with this, they can ask to see that cell phone. Now you can refuse to give it to them, as I understand it, but if you were in an accident or they felt strongly enough, they could subpoena the records. So there is a way to get to this issue if we want to get to it. And so it's really in the hands of law enforcement. I think if you want to challenge it, that's where it would be, they would probably subpoena your records to see. [LB945]

SENATOR GAY: But judgment... [LB945]

SENATOR HARMS: It's a judgment call. [LB945]

SENATOR GAY: Do they use that a lot? [LB945]

SENATOR HARMS: Yeah. Right. [LB945]

SENATOR GAY: Obviously. [LB945]

SENATOR HARMS: You know, I've read on other states that have done this, I've done a lot reading on this before I ever decided to step into this arena. And what law enforcement have said in other states that have done this, is that what they've been able to observe is that someone who is text messaging is...their driving becomes irregular, they slow up, they speed up. I mean they speed up, they slow up, you can almost tell something is going on and the longer they go they move between the lanes a little bit from...so they're feeling that what they have experienced in other states has not caused them a serious problem. They also talked about the thought that I just gave you about asking for the phone, but you can surely deny it. But they also said, you know, we can resolve the issue by just simply subpoenaing the records if there's a question. [LB945]

SENATOR FISCHER: Other questions? Senator Hadley. [LB945]

SENATOR HADLEY: Senator Fischer. Senator Harms, I guess the question I have, right now if a person is texting and is in an accident, can they be charged with texting or does that play into the particular... [LB945]

SENATOR HARMS: This law, if it was passed, or this bill became law, yes. If you were texting, whether you were in an accident, had nothing to do with it. They're trying to prevent that very thing from happening, is not having the accident. That is the intent of all this. [LB945]

SENATOR HADLEY: Okay, thank you. [LB945]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR HARMS: Yes, you're welcome. [LB945]

SENATOR FISCHER: Thank you, Senator Hadley. Senator Louden. [LB945]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. When I look at this, Senator Harms, now is this just texting? [LB945]

SENATOR HARMS: Yes. [LB945]

SENATOR LOUDEN: Or is this using a cell phone? Because you have in there using a handheld wireless communication device in violation of Section 3 and that. [LB945]

SENATOR HARMS: That's a cell...that would be a cell phone, that's how you text with a cell phone. [LB945]

SENATOR LOUDEN: But it isn't doing away with calling on a cell phone? [LB945]

SENATOR HARMS: No. It only deals with text messaging, sending messages, receiving messages. [LB945]

SENATOR LOUDEN: Okay. And I'm wondering... [LB945]

SENATOR HARMS: Nothing to do with the talking on the telephone. [LB945]

SENATOR LOUDEN: ...if that's...if that's quite clear in here that it is just texting. Which I have no problem with it, I mean, any time someone is not paying attention to what they're doing is a danger to everybody within a long distance around them. So I agree something needs to be done. [LB945]

SENATOR HARMS: Well thank you. I definitely am not multitasked, I can tell you that. I'd be in trouble. [LB945]

SENATOR FISCHER: Other questions? I see none. Thank you, Senator Harms. [LB945]

SENATOR HARMS: Yes, Senator. I would like the pleasure of closing, if I may. [LB945]

SENATOR FISCHER: That would be great. [LB945]

SENATOR HARMS: All right. Thank you. [LB945]

SENATOR FISCHER: (Exhibit 4) I would like to note that Senator Harms did give us for the record a letter from the Nebraska Sheriffs Association in support of LB945. At this

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

Transportation and Telecommunications Committee
February 09, 2010

time I would ask how many people are here to testify in support of the bill? If you could raise your hands. We have two, four, five. Okay. How many in opposition? None. Anybody in neutral? Okay. With that, would the first proponent please step forward. [LB945]

JILLIAN HUMPHRIES: Now it's my turn. [LB945]

SENATOR FISCHER: Now it's your turn. [LB945]

JILLIAN HUMPHRIES: Sorry about that. [LB945]

SENATOR FISCHER: So. Good afternoon. [LB945]

JILLIAN HUMPHRIES: We're just so passionate about this. Thank you. Good afternoon, my name is Jillian Humphries, J-i-l-l-i-a-n H-u-m-p-h-r-i-e-s. I am from Benson High School in Omaha. I'm here, along with our Text&Drive Team, Avery Langford, Ariel Bussing, Kelsey Leonard, Brianna Nelson,(phonetic) Kimari Turner, Bobby Washington and our advisor, Mr. Todd LeMense.

We're here to speak in favor of LB945. But first, I, along with our group, would like to give you a little background on our Text&Drive team. Our group was formed this past September when a reporter from WOWT, Channel 6 came to interview Benson students about texting and driving. When Mr. LeMense selected us, he asked us, do you drive and do you text? If we answered yes, we were on the team. We all joked about our ability to text and drive and talked about how often we did it. For most of us, texting and driving was a daily event. The reporter asked us a few questions about our texting and driving history; then showed us a five minute public service announcement from Great Britain. This is a very realistic and very graphic video that showed a multi-car accident resulting in many gruesome deaths due to texting and driving. All of us were stunned and many of us were brought to tears. After we sat in silence, we all vowed to make sure that other students at Benson High School would also see this video. But we wanted to do more. After showing the video to hundreds of students during our homeroom classes and parents at parent-teacher conferences, we were invited to a 30-minute interview on the Omaha Public Schools cable access show, Education Today. We also had the opportunity to meet with Mr. Rob Reynolds. Mr. Reynolds is the organizer of the Car Alliance for Safer Teen Driving. Mr. Reynolds will be making a presentation to hundreds of students at Benson High School next week and he will be making a presentation to you today on the same bill. We've since been interviewed by KMTV, Channel 3 and featured in an article for the Omaha World Herald to spread the message. Our group will be taking the message about texting and driving to a student council conference next month. We will share the message with students from 25 other high schools from around the state and hope that they will also begin sharing the message to their student body. We all know that texting and driving is a dangerous

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

Transportation and Telecommunications Committee
February 09, 2010

activity. Although many teenagers sometimes feel that we are invincible, we know that accidents can and do occur. Being distracted while driving is an every day occurrence in our lives. By enacting LB945, losing points on our licenses and having a hefty \$200, \$300 and \$500 fine should help to reduce texting and driving. We know that it won't completely eliminate the dangerous practice, but with continuing education, I'm sure that we can reduce the number of people that currently engage in texting and driving. We want our classmates, friends and teens around the state to be safe while driving. Making texting and driving illegal will be a good first step in eliminating distracted driving in Nebraska. We urge you all to continue to make driving safer for all of us. Thank you. Any questions? [LB945]

SENATOR FISCHER: Thank you very much. Any questions? Senator Stuthman. [LB945]

SENATOR STUTHMAN: Thank you. Jillian, do you still text while you're driving? [LB945]

JILLIAN HUMPHRIES: I do not. [LB945]

SENATOR STUTHMAN: You do not, so. I personally, you know, followed a vehicle where the young individual was texting and, you know, the light would turn green and he would about get half way through the green before he finally decided it was green and he took off... [LB945]

JILLIAN HUMPHRIES: Yeah. [LB945]

SENATOR STUTHMAN: ...and continually looking down, looking down and driving very slow and lane to lane, and, you know, that really, really bothers me that, you know, there's technology out there with the youth of today, I feel, is utilizing that, but I'm so proud of you that you're responsible and, you know, there is a time to text and there's a time not to text. [LB945]

JILLIAN HUMPHRIES: Exactly. That's our main message. All of us in the group, after that day of meeting for the first time ever, like I said, in September, we've all come together and know...decided that this is not something that's worth losing our lives or losing other's lives too. And, you know, every day we get in that car, you know, it's a test of our wills to not do so, but we fight against it and we've overcome that urge and we understand that we need to get others to do the same. [LB945]

SENATOR STUTHMAN: Thank you. [LB945]

JILLIAN HUMPHRIES: Thank you. [LB945]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR FISCHER: Thank you, Senator Stuthman. Other questions? Senator Hadley. [LB945]

SENATOR HADLEY: Senator Fischer. Jillian, thank you so much. A couple of questions, you know, I have such an old phone, how do you text? What is it? (Laughter) I'm sorry, I have a phone that I just make phone calls and receive phone calls so any way. Question, we heard some testimony about texting and such as that, I believe, and its relationship to driving under the influence that they're very similar in reaction time and such as that. Do you think the penalties then are stiff enough for a person who is...violates, if we pass this statute, it's a \$200 fine for the first offense; \$300 fine for the second; \$500 fine for each subsequent offence and deduct three points. Do you think that is a stiff enough penalty to stop people from texting? [LB945]

JILLIAN HUMPHRIES: We have discussed the penalties as a group and we have felt that they are tough enough because when you think about it, most people...a lot of the people on the road who are texting, as you mentioned, you're...you know, you might not be texting, but a lot of teens are. And the fact that, you know, we don't have that \$200, \$300, \$500 to fork out right off the bat. And we can't afford to have those 3 points off our licenses. And I know I've spoken...we've spoken to parents, as well, as I said, we talked to parents at parent-teacher conferences that, you know, if teens are going to be forking out that money, it's probably going to be coming from their parents and, you know, that's going to be hung over their heads for while. Because the rest of my team has agreed that, you know, our parents are not going to be willing to spend that money and in turn we might get that phone taken away, that car taken away, any other privileges and other things like that. So I do believe that it is enough. [LB945]

SENATOR HADLEY: Thank you. [LB945]

SENATOR FISCHER: Thank you, Senator Hadley. Senator Louden. [LB945]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well I agree that anything that is distracting is...should be considered. And I'll ask you this question, you don't have to answer, but what would be more distracting, someone texting or perhaps someone smoking and lose the fire off the end of their cigarette when they're driving down the road. I mean, how would you classify that? Do you think they could handle either one just as well, or should either one be banned? [LB945]

JILLIAN HUMPHRIES: Hum...that's a good question. [LB945]

SENATOR LOUDEN: You don't have to answer it, if you don't want to. [LB945]

JILLIAN HUMPHRIES: Well I think that my group and I would probably agree that, obviously, that would involve having your hand, obviously, not on the wheel, but I think

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

Transportation and Telecommunications Committee
February 09, 2010

that, believe that flicking your cigarette and texting are slightly different just because, you know, it doesn't take...it's not like you're, obviously, it's going to take some attention, but it's not going to be taking you visually from where you should be looking while you're driving. Because, I know from experience, the rest of us do as well, before you know, deciding not to...you're looking down, you're looking over here, you're all up here, whereas that would just be out the window. Though, I don't appreciate that either. [LB945]

SENATOR LOUDEN: Very good answer. Thank you. [LB945]

JILLIAN HUMPHRIES: Thank you. [LB945]

SENATOR FISCHER: Other questions? Miss Humphries, I appreciate that you don't text when you drive. [LB945]

JILLIAN HUMPHRIES: Thank you. [LB945]

SENATOR FISCHER: It's very dangerous and as Senator Harms said, statistics show us how dangerous it is. Do you use your cell phone when you drive? Do you talk on your cell phone? [LB945]

JILLIAN HUMPHRIES: No. [LB945]

SENATOR FISCHER: Do you think that would be a problem that we need to look at? [LB945]

JILLIAN HUMPHRIES: Yeah. [LB945]

SENATOR FISCHER: Should we ban all cell phone use right now, students with the provisional operators permits cannot use cell phones when they drive? What about anybody? Should we let people use their cell phones? [LB945]

JILLIAN HUMPHRIES: Well like I said before, this is a first step. We really do believe that this is a first step in, you know, going forward and banning all cell phones. And in the end, really, our group has really discussed it and it seems like the only time that it could even be considered to use your cell phone or the really need to, we understand, you know, firefighters or, you know, other emergency workers or if someone were to, let's say, if you're having a heart attack in the car, you know, obviously, we understand in some, like, great emergency. But, you know, we definitely should work towards, you know, banning cell phones all together because you are splitting your attention and it goes for everyone. Everybody still has that conscience that's being split, so. [LB945]

SENATOR FISCHER: Okay. If we do ban all cell phone use then, for everyone, if we

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

Transportation and Telecommunications Committee
February 09, 2010

pass a law like that, should we make that a primary offense just like in this bill, texting while driving would be a primary offense. That means a police officer can stop the vehicle and ticket you if he sees you texting. So if he...if we ban cell phones, make it a primary offense of a law enforcement officer can stop you if he sees you with a...either your phone up or you have the ear piece and you're speaking into that, do you think that's appropriate that it be a primary offense? I'm going to continue to give you a little background here. [LB945]

JILLIAN HUMPHRIES: Yeah. [LB945]

SENATOR FISCHER: In the past, that's always been viewed by many people as a dangerous step, because it would allow law enforcement, possibly, the opportunities to stop anybody's vehicle and say, okay, I saw you using the phone. That's one reason why, here in Nebraska, seat belts are a secondary offense, if you don't have your seat belt on and not a primary offense, because there was some concern that, possibly, law enforcement would overstep their authority in detaining people in their vehicles. So would you want...would you want this to be a primary offense for this bill, specifically as it's written, or if we take this first step and move on to banning all cell phone use, would you want it a primary offense? [LB945]

JILLIAN HUMPHRIES: I believe, just from what our group has worked on, that the bill at hand, the texting while driving, because...just because it is so obvious when someone is, you know, holding that phone. I know every day... [LB945]

SENATOR FISCHER: It's like this... [LB945]

JILLIAN HUMPHRIES: Yes, it's awful, especially as young drivers, ourselves, now we recognize it, because you don't like to be in that car behind the person or next to the person that you can, obviously see, going on parade with their phone. But I believe banning...having it as a first offense for, you know, completely banning cell phones, I think that would be something that I'd have to discuss more with my group. I wouldn't want to speak for all of us. [LB945]

SENATOR FISCHER: Okay. Thank you. [LB945]

JILLIAN HUMPHRIES: Incorrectly. [LB945]

SENATOR FISCHER: Other questions? I see none. Thank you so much... [LB945]

JILLIAN HUMPHRIES: Thank you. [LB945]

SENATOR FISCHER: ...for being here today. You did a great job. Next proponent please. Good afternoon. [LB945]

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Transcriber's Office

Transportation and Telecommunications Committee
February 09, 2010

ROBERT REYNOLDS: Good afternoon. My name is Rob Reynolds... [LB945]

SENATOR FISCHER: Oh, if I could just interrupt you here. I assume that all these students are from Omaha Benson High School, is that correct? [LB945]

TODD LeMENSE: Yes. [LB945]

SENATOR FISCHER: And if I could ask which class this is? [LB945]

TODD LeMENSE: We have five...two different groups here. We've got mister... [LB945]

SENATOR FISCHER: Oh, could I...could I have you come to the microphone so we get it on the record. (Laughter) [LB945]

TODD LeMENSE: Sorry about that. [LB945]

ROB REYNOLDS: (Inaudible) that's all right. [LB945]

SENATOR FISCHER: Sorry. I didn't know they were going to all of a sudden leave us. [LB945]

TODD LeMENSE: I'm sorry, we're on a tight schedule. [LB945]

SENATOR FISCHER: I know. [LB945]

TODD LeMENSE: I'm Todd LeMense, multimedia instructor from Benson High School. We have Mr. DiCostanzo's AP Government class and then our Text&Drive team that have been working since September on this. [LB945]

SENATOR FISCHER: Great. Thank you so much for being here today. [LB945]

TODD LeMENSE: Thank you very much. [LB945]

SENATOR FISCHER: We appreciate your patience. You get to see the glamor we go through every day sitting here. [LB945]

TODD LeMENSE: It will be good discussion in AP Gov tomorrow. [LB945]

SENATOR FISCHER: Great. Great. If you have any questions for us, send me an e-mail and we'll see what we can do for you. [LB945]

TODD LeMENSE: Okay. [LB945]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR FISCHER: But thank you for being here today. Appreciate it. [LB945]

TODD LeMENSE: Thank you very much. [LB945]

SENATOR FISCHER: Thank you. Good afternoon and thank you for letting me interrupt you to recognize those students. I appreciate that. [LB945]

ROB REYNOLDS: Not at all, not at all. [LB945]

SENATOR FISHER: If you could begin again, please. [LB945]

ROB REYNOLDS: (Exhibit 6) Okay. Well thank you, thank you all for hearing my testimony. My name is Rob Reynolds; first name should be obvious; the last name is just like the wrap, R-e-y-n-o-l-d-s. First I wanted to recognize Senator Harms and Howard for presenting the bill, I think it's a good bill. I praise them for their leadership of bringing it forward. And there was a lot of statistics that he quoted, some of which are also in my presentation, so I'm going to skip around a little bit. I am...in full disclosure, I should say I am the director of a small nonprofit in Omaha, Nebraska called the C.A.R. Alliance for Safer Teen Driving. I started that organization when my daughter, Cady Anne Reynolds, was killed by a distracted 16-year-old when she was coming through a red light. My daughter had the right-of-way and the other girl did not look up to see the red light and hit her car and she died as a result of that. I'm also one of the founding members of Focus Driven which are cell-free driving advocates. And in just listening to the last testimony and some of the questions that were raised, and Senator Gay, I'm going to respond to one of the questions that you asked, if you don't mind, you talked about dialing your phone. Besides texting and talking, dialing is the most dangerous thing you can do. And I recognize the fact that people are glued to their phones for many reasons. I also recognize that there are reasons why you may think you may need to make a call. However, if you were the person who had run the red light accidentally, hit my daughter's car and she died as a result, I'm sure you wouldn't want to tell me that I'm sorry I was just making a very important call, I was dialing at that moment. So recognizing that that's a part of...the act of dialing a phone, I understand where the question comes from and I also understand too that there's a difference between doing that and texting. Also, Senator Loudon, I believe you were talking about smoking and there are a lot of types of things that people talk about that are distractions in a car, in fact, people approach me all the time and say what about this, what about that, there are lots of distractions in a car. Although there are 276 million people that have a cell phone in the United States right now and I don't think there's anything as prevalent or as accepted inside of a car than the use of a cell phone right now. There aren't that many smokers in a car. I would say there's probably not that many drinkers in a car right now. NHTSA said at any given time there's 11 percent of the driving population holding electronic device at any given moment. Again, there is nothing that is this prevalent or

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

Transportation and Telecommunications Committee
February 09, 2010

as distracting as that particular device. So I respectfully submit that testimony. I think this bill is good for Nebraskans; it's good for experienced drivers; I think it's good for new drivers. But I do not believe that it goes far enough. Senator Fischer, you mentioned provisional operator permit restrictions, I think this bill should include language that further defines a primary offense for teenagers for their use of cell phones. When I speak to teens right now, there is only a glimmer of recognition that they're even banned for new drivers. And the people that are aware of it, are quick to tell me that it's a secondary offense which means they can pull up next to a police officer in traffic, take out their cell phone, with multiple passengers in the car and start texting and as they drive away smile because they know they can't be pulled over. So I do believe that there needs to be expanded language to include provisional operator permits because these are the people who are most at risk. Teens are more than four times as likely to be in a crash and to die in a crash than any other age group and that's by doing nothing else but being a 16-year-old. On top of that I also believe that enforcement should be given extra authority to check a person's cell phone if there's a severe accident or especially if there is a vehicular homicide, just like we investigate people who we suspect might be drinking. We take their blood and we ask them to blow into Breathalyzers, we do this for the greater good and to protect public safety and I believe this is a similar issue. And with that, I'll take any questions. By the way, I did submit my testimony if anybody wants to read it. [LB945]

SENATOR FISCHER: Thank you, Mr. Reynolds, and I am sorry about your daughter, I offer you the condolences of the committee. [LB945]

ROB REYNOLDS: Thank you. [LB945]

SENATOR FISCHER: Are there questions? Senator Gay. [LB945]

SENATOR GAY: Thank you, Senator Fischer. Mr. Reynolds, other states that have done this, have their insurance rates dropped for...when you do this, do the insurance rates drop for drivers overall? [LB945]

ROB REYNOLDS: I'm sorry, I don't know the answer to that question. I probably should know the answer to that question. There are people in the room that do know the answer to that question. But I don't have knowledge of that myself. I will say that the cost estimates for these are in millions, if you just take even a segment of the population that has been in crashes, that are suspected to be using cell phones when they do. I think cell phone crashes are under-reported. In fact, I know they're under-reported and I believe that it would save money for the state. [LB945]

SENATOR GAY: Got a follow-up question. Then, I'm kind of looking through the bill and I had questions of my own, but I'm waiting to listen on how the penalties and fines came about, but I'm sure that will be covered, but in many sections of the...we talk about

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

Transportation and Telecommunications Committee
February 09, 2010

careless driving, negligent driving, reckless driving, all those other things, I've seen things and probably everyone in this room has seen things you just cannot believe, not a phone or anything, but, you know, I cannot believe they're driving a car while doing this and no police officer is ever around to enforce it. But that's just me. I guess on those things, why would we not enhance those, maybe you'd like to, but I guess on this, why wouldn't this texting and some of these fall under reckless driving or negligent or some of those things if we're weaving in and out of traffic and doing some of those things, because I've seen that too. And I'm in support of the bill, don't get me wrong, but I guess, why wouldn't we weave it and do you know any of the penalties involved in those things, are those some of the same that were in this texting bill? [LB945]

ROB REYNOLDS: If you're asking my opinion, I would say that in years to come, I think, that's where most of this goes. It goes into distracted driving or negligent driving or on par again with the same distraction that the drinking and driving would pose. So I think the language would end up being the same eventually. I think you have to start somewhere and in reading this bill I didn't see anything that was glaringly, you know, out of line, I guess I would say, but, you're right, you're correct, I believe that's where it all goes. It all goes to the same issue, which is distracted driving and what causes that impairment. [LB945]

SENATOR FISCHER: Thank you, Senator Gay. Other questions? Senator Louden. [LB945]

SENATOR LOUDEN: Yes, thank you. As I understand your testimony then, really you think that texting should be considered as serious as DUI, is that correct? [LB945]

ROB REYNOLDS: That's my belief. Impairment is the same. [LB945]

SENATOR LOUDEN: In the statutes now, driving under the influence can all be anywhere from 6 points to 12 points, in other words, with this point system, then they should be fined 6 points if they're convicted of it and this would be, I guess, more of a primary offense rather than a secondary offense? [LB945]

ROB REYNOLDS: Well I believe it is primary offense since it's not...it doesn't specifically state otherwise, I believe that makes it a primary offense. As far as the point system goes and being equal to what the statute is for drunk driving, again, I believe you have to start somewhere. I believe where this is, it is a good start. However, if senators believe they want to increase that, I would have no problem with it. [LB945]

SENATOR LOUDEN: But I think the way, my understanding, the way the bill is now, it's a secondary offense if you're texting. [LB945]

ROB REYNOLDS: For new drivers, the current statutes states that, but I don't believe

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

Transportation and Telecommunications Committee
February 09, 2010

this bill, as it's introduced, and that's my understanding, since it doesn't state specifically that it is a secondary offense that it would be regarded as a primary offense. That's my understanding. [LB945]

SENATOR LOUDEN: And then the point system would be increased to be something similar to what is done with DUI then, that would be your testimony? I mean, you'd be in favor of something like that then? [LB945]

ROB REYNOLDS: I certainly would be in favor of that. [LB945]

SENATOR LOUDEN: Okay. Thank you. [LB945]

ROB REYNOLDS: You're welcome. [LB945]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? I see none. Thank you very much, Mr. Reynolds. [LB945]

ROB REYNOLDS: You're welcome. Thank you very much. [LB945]

SENATOR FISHER: Next proponent please. Good afternoon. [LB945]

KRISTEN GOTTSCHALK: Good afternoon, Senator Fischer, and members of the Transportation and Telecommunications Committee. My name is Kristen Gottschalk K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the government relations director and registered lobbyist for the Nebraska Rural Electric Association. And this might not be a typical bill that we would testify on, but our members did feel very strongly about this. Now I should caveat this as I begin, cell phones have become a powerful tool for electric utility personnel. As Senator Louden pointed out in one of the earlier bills, sometimes two-way communication devices get lost in some of the rural areas and a backup communication tool can be a cell phone. However, in a lot of our utility areas, cell phone, two-way communication all go and we're still looking for that third redundancy to get us through. But beyond that, it's a very powerful tool for us. It's a powerful tool for other individuals who do business and travel on the road. However, the issue of distracted drivers and texting is quite another story. We do have utility personnel that operate in the right-of-ways and we have seen and we've experienced many close calls with some people that have been texting or otherwise distracted using a cell phone in their vehicle. So we do feel very strongly that this bill that Senator Harms has introduced is practical and appropriate. I would make a comment that the exception or the exemption language in the bill maybe shouldn't be there. I speak from my...our utility personnel, we typically have policies texting while driving is not allowed. It would be a policy of an individual utility. However, in an emergency situation, when you're already fired-up, you're moving in, you've got power lines down, you're already a distracted driver. And to further allow texting while driving, even in an emergency situation, would compound the issues. So

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

Transportation and Telecommunications Committee
February 09, 2010

I'm not sure, you may want to look at the language dealing with those exemptions. I think that the use of cell phones is somewhat different in those situations, communicating by voice versus looking down when you're trying to get to a location in an emergency situation are definitely different. The other thing that I might point out is...that was brought up before, is it was unclear, as we go in, and we look at the definition for written communication, it includes, but it's not limited to a text message, instant messaging, electronic mail, and Internet websites, it may be appropriate to at least clarify that simple dialing or using speed dial on a cell phone would not be included in that definition. With that, I conclude my testimony and be happy to answer any questions. [LB945]

SENATOR FISCHER: Thank you. Are there any questions? Senator Louden. [LB945]

SENATOR LOUDEN: Now you're testifying for... [LB945]

KRISTEN GOTTSCHALK: On behalf of the Nebraska Rural Electric Association. [LB945]

SENATOR LOUDEN: Okay. Because I was hoping you weren't testifying on your own behalf because I...we still haven't gotten over trapping in the county roads yet. [LB945]

KRISTEN GOTTSCHALK: No this is on behalf of the association. [LB945]

SENATOR LOUDEN: Okay. I can rest assured then, thank you. [LB945]

KRISTEN GOTTSCHALK: You're rest assured, yes. Thank you very much. [LB945]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? I see none. Thank you very much. [LB945]

KRISTEN GOTTSCHALK: Thank you. [LB945]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB945]

LAURIE KLOSTERBOER: (Exhibit 12) Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. My name is Laurie Klosterboer, Laurie is spelled L-a-u-r-i-e, the last name is spelled K-l-o-s-t-e-r-b-o-e-r and I'm the director for the Nebraska Safety Council. We are a private, nonprofit organization and also a chapter of the National Safety Council. Our mission is to provide leadership and resources to promote safety on our roads, at our workplaces and in our homes and communities. Driving safety has been one of our primary focuses since we began in 1961. We're here today testifying in support of LB945. Some of the reasons that we feel this is important legislation and why we are supporting it is because, really,

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

Transportation and Telecommunications Committee
February 09, 2010

the primary responsibility of a driver behind the wheel is to operate their vehicle safely. Texting is a distraction that impairs a driver's ability to concentrate on that primary responsibility. The frequency and duration of cell phone use, text messaging, make these activities more likely to lead to a crash or near crash than other activities that people do in their vehicles. In a Virginia Tech Institute study, which was released just last year, on cell phone use and driver distraction that included light vehicle drivers and truck drivers text messaging on a cell phone was associated with the highest risk of all cell phone related tasks. I've also included in your material, information; one of my responsibilities, I feel, at the Nebraska Safety Council, is to provide education to you all as legislators about these safety issues. So I've included the information from the National Safety Council. They have a whole section on their website that's devoted to the issue of distracted driving. And so they have all kinds of material on the different laws; what the issue is; the research that's been going on; so that you have this information available to you, as well, I'm always willing to look up information for the senators to try and assist you with dealing with these issues of safety. The other issue is really an article that came out of the New York Times that was about the Virginia Tech study and how, I believe it was 6 million miles that they had recorded video cameras in these trucks and was able to come up with the information about the problems with...that the truck drivers were experiencing with the texting, the so many seconds of taking their eyes off the road to do the texting. So I provide that too...provide that as information to the committee as well. And with that, that concludes my testimony. I would be happy to answer any questions that you might have. [LB945]

SENATOR FISCHER: Thank you, Miss Klosterboer. Are there any questions? Senator Hadley. [LB945]

SENATOR HADLEY: Senator Fischer, Miss Klosterboer, driving under the influence, is there any statistic that shows it's at 8 times, 10 times more likely to be in an accident with a person not driving under the influence? [LB945]

LAURIE KLOSTERBOER: You know, I don't know, Senator. I mean I know that there have been comparisons where they've said that, you know, the texting is just as bad as folks that are impaired driving. But I don't have the details on the statistics like that. [LB945]

SENATOR HADLEY: Okay, thank you. [LB945]

LAURIE KLOSTERBOER: Uh-huh. [LB945]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? Senator Gay. [LB945]

SENATOR GAY: Thank you, Senator Fischer. I'm going to ask you on the distracted

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

Transportation and Telecommunications Committee
February 09, 2010

driving thing and the penalties because you're an expert, hopefully you'd know this. The penalties on this, do you think those are strict enough? I mean, or too strict, or, I mean, to me, I was glad to see penalties in there, progressive as well, if you continue to... [LB945]

LAURIE KLOSTERBOER: I was, as well, I mean, especially with the fines. I think, historically, Nebraska has been pretty low on the fine for traffic infractions. So I was pleased to see that there was some punch in the fees. I don't know how those amounts were arrived at. [LB945]

SENATOR GAY: Do you know, I guess the question is, do you...are those...you don't know if those are comparable to reckless driving, negligent driving and careless driving and those definitions of what they are? [LB945]

LAURIE KLOSTERBOER: I don't, Senator. [LB945]

SENATOR GAY: I can find out, I guess. Thank you. [LB945]

LAURIE KLOSTERBOER: Okay. Um-hum [LB945]

SENATOR FISCHER: Thank you, Senator Gay. Other questions? I see none. Thank you very much for being here. [LB945]

LAURIE KLOSTERBOER: Okay. Thank you. [LB945]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB945]

BILL MULHERIN: (Exhibit 13) Good afternoon, Senator Fischer and members of the committee. My name is Bill Mulherin, that's M-u-l-h-e-r-i-n and I'm with the National Safety Council, Greater Omaha Chapter, we're a sister chapter of the Nebraska Safety Council here in Lincoln and we're here today testifying in support of this bill. It was with a little bit of irony, this afternoon, earlier I noticed that the committee itself has recognized the distractions that cell phones and texting have by banning their use in the hearing room. And I saw that as one of the rules and thought that was kind of interesting. Quite honestly, I was not too familiar with the texting issue up until relatively recently when my 9-year-old taught me how to text. And now that I've learned how to do that, I've actually gotten quite proficient at it and seeing, first hand, the problems we have with it. I should mention that as part of our education, we do see a number of people coming through with traffic tickets in Omaha and so we, anecdotally, informally, poll them and we're seeing more and more texting among, not just teens, but the older population as well, people in their 20's and 30's. You heard testimony about what the research indicates. The research indicates that it's dangerous; flat out, doesn't matter where you go. In fact, in the packet I've given you, there's a NSC cell phone fact sheet

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

Transportation and Telecommunications Committee
February 09, 2010

that really has some great links to some of the studies that have been done and some of the research that has been done in the past. You've heard about the Virginia Tech study, that study was so sobering that the DOT acted on it recently, on January 26th. The enforcement issue has come up and I found a couple of things on Goggle News about enforcement and I've included them for you with my testimony. One is an article out of the Denver Daily News showing that they've only issued six citations for text messaging in violation of their ban since January. And yet, I found one today that showed last week in Queens, New York, they issued 86 citations in 24 hours for the same thing. So depending upon the jurisdiction and how much focus law enforcement wants to place on it, they can, certainly, find that. We know that DOT has recognized the dangers of cell phones and text messaging and they have created their ban. We have 19, now I hear 20 states have enacted the regulation. Pennsylvania and Connecticut are considering it, that I know of, even as we speak. The federal government has banned it. My own company has banned the use of text messaging or cell phones while driving because we walk the walk too. I have to say, incidentally, since we've put our own cell phone and text message ban in, it has not been a burden, it has actually been freedom from, it's really nice to not have to answer that phone. The only reason you might hold this up is the freedom of...the freedom argument, or the freedom of choice argument which this committee has heard before. But I want to focus on a quote that came out of Sunday's Lincoln Journal Star and I'm going to read the part that is relevant dealing with that other bill: the bill poses the classic question of where to draw the line between personal freedom and government control. Presumably, those who support... don't want the nanny state telling them what to do, but once they're injured it's the nanny state they turn to for treatment. This bill poses the same question and I argue it poses the same results if we don't pass it. This is an emerging issue, we'll see nothing but more carnage and road carnage out of this if we don't nip this in the bud now. So I'm urging you to please move this off...out of committee and on to the floor for debate. Thank you. [LB945]

SENATOR FISCHER: Thank you very much. Are there questions? I just wanted to clarify one thing. I believe in your testimony, in your comments, you said that the federal government has banned this; they have not banned texting, they have only banned it for federal workers and the commercial motor vehicle drivers. [LB945]

BILL MULHERIN: That would be correct. All the federal workers, and that's an executive order that President Obama signed, went into effect December 30th. [LB945]

SENATOR FISCHER: Right. I know there's been talk though at the federal level with the DOT on banning any kind of texting with driving and having it come from the federal level, do you know where that is right now? What have you heard on that? [LB945]

BILL MULHERIN: The last I saw on that was the...it had passed the House, it was stuck in the Senate. It may or may not go anywhere this session; it is likely to come back. At

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

Transportation and Telecommunications Committee
February 09, 2010

issue was a study that came up, that we should mention, that was recently released that showed that in states that had enacted cell phone bans, they didn't find any decrease in accidents. They're studying that as to why. I believe we can probably take a guess as to why and that is because when they...there's plenty of existing studies that show hands-free, handheld doesn't change the risk. So all the states that have cell phones bans, have only banned handheld, they haven't banned hands-free. So, if we haven't changed the risk, we wouldn't expect to see any difference in the accident rates in those states. And that may be one of the things, one of the pressure points that's holding that bill up in the Senate right now. [LB945]

SENATOR FISCHER: Would you be supportive of banning cell phone use in a vehicle by the driver? [LB945]

BILL MULHERIN: You know, I think that's eventually where we're going to need to go. [LB945]

SENATOR FISCHER: How would that work then, with the hands-free though? If you have a speaker phone in your car, where you are able to do it...use that, are you saying then that you can't use that in the car also? Would you ban that? [LB945]

BILL MULHERIN: Yeah, the research is showing that it's not handheld or hands-free that's the issue; the research is actually showing that it's the act of being in that conversation. Now I can...I've done a lot of driving across the country and I can certainly empathize with you, you know, you're from Valentine, and there's a whole lot of empty road between here and there and I also, in the past, I admit to have taken advantage of some of that empty road to catch up on some things. But I also had a interesting close call driving back from Branson one day, where, in an area where I never would have expected it, a deer popped out and I was on the phone and wasn't paying attention and literally came within a hair's-breadth. So even in the middle of nowhere on whatever that highway is, you know, going down, across to Springfield, Missouri, there are dangers there. They're not as frequent, they're not as often, but I think we need to eventually look seriously at going in that direction. [LB945]

SENATOR FISCHER: So if we take that one step further, would you ban all cell phone use by anyone in a vehicle, passenger included? [LB945]

BILL MULHERIN: I don't think we need to go there. The passenger using the cell phone is not posing the same level of distraction to the driver that the driver using the cell phone is. [LB945]

SENATOR FISCHER: But there would be some distraction. [LB945]

BILL MULHERIN: Yeah, there's lots of distractions, so we have to find...it's...we have to

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

Transportation and Telecommunications Committee
February 09, 2010

find that point at which point, you know, where do we draw the line? At what point do we allow certain distractions? I mean, clearly nobody would say let's ban the radio; nobody would say let's ban...given the number of cup holders we had, nobody would ban drinking, you know, in the car. Yet, in some portions in Europe, it's my understanding, they've done that; they've gone that far. Here, you know, we have the cultural immersion. I think we really need to stick to the things that we know are causing the injuries and are going to cause more injuries and this one, there's just no doubt in my mind. I pray and I listened to one of the previous testifiers, I pray I'm never in the position where I get that phone call that somebody ran a red light or somebody blew a stop sign and now my family's life is turned upside down and I've lost one of my kids, you know. So, yeah, I'm really in support of let's take a look at reasonable steps to solve a problem that is reasonably and unreasonably growing. And this really is not that much of a distraction. Again, my own personal experience since our company has put that cell phone ban in has actually been a relief. It's freedom from, I don't have to deal with the phone on a regular basis. [LB945]

SENATOR FISCHER: Thank you very much. Senator Hadley. [LB945]

BILL MULHERIN: You're welcome. [LB945]

SENATOR HADLEY: Senator Fischer. You said that...which is in...you've got a comment that...you would like to see part amended which is in motion, the car, I believe is that in your... [LB945]

BILL MULHERIN: Yes, in the bill on...it talks about, and I have it written down as to where it was... [LB945]

SENATOR HADLEY: Section 3, line 12. yeah. [LB945]

BILL MULHERIN: Section 3, line 12 talks about that the ban would only be in effect if the vehicle was in motion. You know, Senator Stuthman made a comment earlier that he got stuck behind somebody at a green light who just didn't go because they were texting or talking or whatever; I believe that leaving that while in motion loophole there opens the door for people who are, perhaps, sitting at red lights to start to become involved and, you know, traffic starts moving, they're on a 3-lane road or a 4-lane road, high speed traffic and they don't start moving with the traffic, that does open up a danger and a distraction. [LB945]

SENATOR HADLEY: Thank you. [LB945]

SENATOR FISCHER: Other questions? Senator Campbell. [LB945]

SENATOR CAMPBELL: Thank you, Senator Fischer. To your knowledge, has the

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Transcriber's Office

Transportation and Telecommunications Committee
February 09, 2010

federal government started talking to any of the automakers about do we really want to put all this equipment in cars that makes it far easier for us to text or to watch TV or...do you know if they have done any of that? [LB945]

BILL MULHERIN: I don't know. I know that there is existing legislation in all states that prohibits drivers from having access to a television and so they're limited as to what they can put into those dashboard consoles. But then we start to see technology like the Ford SYNC is the one that comes to mind where now you can make phone calls. The automakers are clearly responding to the state's direction in banning handheld devices in favor of hands-free devices and going that way. Now what the future brings, I don't know, but if the...as the statistics become clearer, in terms of the toll that we're paying, both in terms of lives and injuries and dollars around the nation, we could probably see some movement by the federal government in that direction, probably sooner than later. [LB945]

SENATOR FISCHER: Other questions? Short question, short answer, hopefully. What about GPS systems in cars, what would be your stand on that? Would this bill affect that since I think they're interactive, do you? [LB945]

BILL MULHERIN: The way I see interactive wireless device, it has to be a two-way communication and I don't know that those technically meet the definition of two-way communication. Now... [LB945]

SENATOR FISCHER: I've got that lady talking to me. [LB945]

BILL MULHERIN: Well fortunately most of them you can change the voice to something more pleasant. But... [LB945]

SENATOR FISCHER: Okay, I agree, I agree. [LB945]

BILL MULHERIN: You know, my GPS that I have, the first thing that pops up when it comes on is a warning, do not use while driving, and that warning is there because these companies don't want to be sued for product liability. Would that fall under this? I don't know, but if I was a police officer and I saw somebody trying to program a GPS at 70 miles an hour, I'd be inclined to pull them over and do that. And while I'm here, I'll speak to something else, the question came up... [LB945]

SENATOR FISCHER: No, this was short answer remember. [LB945]

BILL MULHERIN: Yeah, I went to law school. [LB945]

SENATOR FISCHER: We'll cut it off. You can write a letter. Any other questions? I see none. Thank you very much. [LB945]

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

Transportation and Telecommunications Committee
February 09, 2010

BILL MULHERIN: Thank you for your time. [LB945]

SENATOR FISCHER: Next proponent please. Any other proponents? Any opponents to the bill? Anyone in the neutral capacity? I see none. Senator Harms, would you like to close please. [LB945]

SENATOR HARMS: Thank you, Senator Fischer and colleagues. You know, that's why we have hearings, there's some good information that was shared today and I think, hopefully, you'll...and I know this committee will go through and if you decide to bring it out, I know you'll amend it and it will be better than what we submitted and so I'd just be happy to work with you in any way that I can. I think it's an important issue and I would like for us to be able to move in this direction if there's any chance we can save people's lives. So thank you very much. [LB945]

SENATOR FISCHER: Thank you, Senator Harms. With that I will close the hearing on LB945 and open the hearing on LB982. Senator Campbell, would you open please. (Also for LB945 Exhibit 5, Gerald M. Stilmock; Exhibit 7, Eric Foster; Exhibit 8, State Farm Insurance Companies'; Exhibit 9, AAA, Rose White; Exhibit 10, Nebraska Insurance Information Service, James Dobler; Exhibit 11, Project Extra Mile, Diane Riibe) If we could take the conversations outside please. Good afternoon, Senator Campbell. [LB945]

SENATOR CAMPBELL: Thank you, Senator Fischer and members of the Transportation Committee. I'm Senator Kathy Campbell representing the 25th Legislative District, C-a-m-p-b-e-l-l. It is my pleasure to introduce this afternoon LB982, the Build Nebraska Act and I'd like to start out by first thanking Senator Gay who has been my partner in this endeavor this summer and also to thank Senator Fischer for listening and giving us very good critical feedback. Senator Gay and I introduced LB982 as one tool to address the new construction needs of the state highway system; as well as construction and repair of bridges utilizing a financial bonding mechanism. The state infrastructure bank can be used solely by the state or to strengthen our partnership with and assist counties and cities in financing transportation projects where our priorities converge by providing matching state funds. Building roads for Nebraska's future requires not only long-term planning, but we believe long-term financing. Currently Nebraska has a list of construction projects no longer even listed in the one and five road program with an estimated price tag of \$1.15 billion for a selected group on that list. Currently Nebraska has 174 miles of unfinished expressways with no major additional funding since 1993 with a price tag of \$800 million to \$1.3 billion to finish. In the past few years the Department of Roads has only been able to maintain the roads we have in place and it is projected that in two years we will not be able to even meet this objective. This leaves no dollars for new construction. This bill establishes the State Infrastructure Bond Bank Fund. Initial funding comes from federal funds that are

received pursuant to 23 U.S.C. Chapter 6. The federal government established the State Infrastructure Bank pilot project in 1995 with ten states participating. A few years later, Nebraska joined in a four-state bond bank project for multi-state projects. Nothing was majorly accomplished with this and so the four states decided to split and take their share of the federal funds. Currently Nebraska receives about \$2.83 million in federal funds with regard to the State Infrastructure Bank and to our knowledge this \$2.83 million is just a part of our federal dollar usage. We have never capitalized on those funds; other states have by creating bonds banks that leverage those funds. And I want to be very clear; this is only a very small portion of the federal funds that we receive. We recognize that these dollars are far from adequate to jump start the fund and that other funding streams, as determined by the Legislature or use of potential bond proceeds, will be needed to build the bank. It is our commitment to work with Chairman Fischer in her goal to develop a comprehensive funding package for roads with the SIB as one important tool. Accessing the bank can be the state, counties, municipalities, or as they come together in a joint public agency, access can be accomplished through interested parties applying to the state highway commission. The commission shall recommend that the board of roads either approve or deny an application. Priority will be given to projects on the Department of Roads' priority list and I would hasten to add there's not been such a list put together since the fiscal year 2007. And I'm assuming that the department would help by updating that list. Where priorities converge, local governments must provide matching funds as follows and they are listed in the bill and I'm not going to repeat those for you. Bonding stipulations include LB982 will authorize the state to issue bonds not to exceed \$250 million to carry out the purposes of the Build Nebraska Act and provide the state's portion of a project's matching funds. We could take \$50 million as an example and bond \$250 in 20-year bonds. As per the constitution, Article XIII, Section 1, these bonds will have to be repaid from revenue closely related to the use of highway, fuel taxes, license fees, tolls, so forth. The bill does not include language that allows for this repayment and that is what we hope to work with with Senator Fischer. Note the bonds authorized to be distributed into the Highway Restoration and Improvement Bond Fund are not the same as what is authorized under LB982. The previously mentioned bonds which have been in statute and have allowed the highway commission, actually the bond up to \$50 million, all automatically trigger a gas tax increase. So we're not seeing this bond in the same fashion. Bonding makes sense to Senator Gay and to me because of the following reasons: it allows the state to leverage money for additional dollars; it allows funding for major projects at today's interest rates; it allows infrastructure to continue to move the state forward; and it insures continuous safety of those traveling on state roads. I want to talk just about a couple of examples: one of them which all of you have heard me talk about an important priority for the city of Lincoln and Lancaster County is, of course, the south beltway. In this situation it's been determined that it would cost, I think the last figure was \$170 million. The city of Lincoln and the county of Lancaster could use a myriad source of funds to come up with their half, but because it's over a \$50 million project then the state would put in both the state and the city of Lincoln and Lancaster

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

Transportation and Telecommunications Committee
February 09, 2010

have it as a major priority for both of them. Another example that I want to put out is that we've talked a lot about the expressways and so a number of cities and counties could desire to finish portions of that expressway in rural Nebraska. Obviously, none of the entities to date, as we well know, can achieve that goal alone; but they could come together in a joint public agency and form a partnership with the state to address that project. Thirty-two states have State Infrastructure Banks; they function differently among the 32 and we know that we have a great amount of research to do in terms of exactly how the details would come together that ours would work. And with that, Senator Fischer, we'll, hopefully, let the people who are behind me make comments. I can either take the questions now or in the closing; whichever you'd prefer. [LB982]

SENATOR FISCHER: Thank you, Senator Campbell. Are there any questions right now? Senator Hadley. [LB982]

SENATOR HADLEY: Thank you, Senator Fischer. Senator Campbell, I think this is an interesting process and great to discuss. I had a concern on the fiscal note, the paragraph that said...it ended up saying: in fact, it appears unlikely that any bonds could be issued due to the lack of a steady revenue stream. Are we tilting windmills then if, basically, if we can't issue any bonds because there isn't a revenue stream? [LB982]

SENATOR CAMPBELL: That's a great question, Senator Hadley. I think our purpose in the bill that we're presenting, in LB982, is to look at the framework and to say, are we committed to putting a framework together for bonding? If we are, then how will we fund the State Infrastructure Bank in relation to how we're going to fund roads in the future. I think that's what Senator Fischer certainly has communicated to us that she is looking for that broad picture. What we're saying, what Senator Gay and I worked on, is one component. And we would prefer not...I mean, at one point we had a whole list of ways that we were going to fund this; to \$15 million to \$20 million a year and let the bank build up. But, we have to say as we worked through it, we looked at the economy, we realized that we were probably better off to look at the total picture and come in as one component. So we're really putting this framework together, Senator Hadley, just to give us an idea on bonding. [LB982]

SENATOR HADLEY: So this is basically the over-arching concept and not the details of working through it. [LB982]

SENATOR CAMPBELL: Exactly. [LB982]

SENATOR HADLEY: Okay. Thank you, Senator Fischer. [LB982]

SENATOR CAMPBELL: And we're willing to sit down with anybody and put the details together. [LB982]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR FISCHER: Thank you, Senator Hadley. Senator Stuthman. [LB982]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Campbell, I truly support a project like this and looking at something, but in my opinion, in my business at home, you know, there's a lot of things that I dream about, but if you don't have a source of revenue, that's as far as it will ever go. [LB982]

SENATOR CAMPBELL: Yeah. And Senator Stuthman, I think we recognize that and Senator Gay may wish to comment about it. But we also don't want to put into place a lot of the revenue to support it and then that's really not going to fit the overall picture that Senator Fischer may be looking at. [LB982]

SENATOR STUTHMAN: Thank you. [LB982]

SENATOR CAMPBELL: Senator Gay. [LB982]

SENATOR FISCHER: Senator Gay. [LB982]

SENATOR GAY: Thank you, Senator Fischer. Senator Campbell, you did a fine job, by the way, explaining this over the commotion going on behind me. I do find it interesting though that you talking about a large complex funding structure for the highways and all of a sudden the room is empty and the news media is gone. I think that's a indication of the complexity of the issue. It's not a simple issue, the idea of bringing this bill involves that. As far as the revenue stream goes, I was reading the fiscal note as well; \$250 million in today's dollars when we...back in the fifties or sixties, \$50 million translated into today's dollars is probably somewhere around there. But when it comes to, if you did get a revenue stream to fund this and capitalize a fund, and you talked about other sources, who would be then interested in buying these bonds when they are...when they're issued? [LB982]

SENATOR CAMPBELL: These would be classified as municipal bonds and we have had every indication, as we're talking to people, that there would be a number of people in the state of Nebraska who would be interested in municipal bonds. They're very favorable at this point. People are looking at treasuries, but they're also looking at municipal bonds and some of the national folks; mutual funds and so forth sort of diversify. When I served on the county board and watched also the city of Lincoln, we never had a problem in selling municipal bonds or tax exempt bonds for county projects. Nebraska people always wanted to buy them. [LB982]

SENATOR GAY: (Exhibit 14) Another question. This is...we got a letter from the Farm Bureau and I just glanced at it saying, we don't...we don't agree with the bonding or funding and others would say the same; but on...well, we don't want to pay it back, but part of the bill, the way I read it and the way it was written, on the cost sharing and

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

Transportation and Telecommunications Committee
February 09, 2010

self-prioritization of the cost share, can you explain how the cost share goes: a city or county would come with money in hand and the state wouldn't be liable for all these bonds. [LB982]

SENATOR CAMPBELL: That's correct. [LB982]

SENATOR GAY: Could you explain that a little. [LB982]

SENATOR CAMPBELL: (Exhibit 15) And a number of states that we looked at; for instance, if the priorities are converging, the State Infrastructure Bank may not charge any interest to the local folks to borrow over that period of time because it's in both their interest or at a very nominal interest rate. But there's a number...some of them are set up on a revolving fund where the money goes back in; some of them are set up with just a cash infusion by the Legislature. So I think there's a lot of ways that you can put the bank together; but the details of the bank have to work, and I'm sorry I keep repeating this, but they have to work with all the other tools that we're going to have. Otherwise, you're just going to have this piece and then this one and I don't think that's what any of us want. Before we go to the comments, I'd just would like the pages to pass out or distribute to you all an article that was in the Lincoln Star on Sunday and really talking much about what we've said here; I know I'm preaching to the choir, but we are changing in this country. We know the gas tax can't be the major effort; I think all of us are called to be creative and try to come up with ideas to look for the future. [LB982]

SENATOR FISCHER: Thank you, Senator Campbell. I have a question for you too, but I did want to comment. Senator Gay is exactly right, the previous three bills we had here today, while they're important, I was, I guess not necessarily surprised, but I was disappointed that the media would leave when I think we have one of our most important bills of the session up here before us and thank you for bringing it. I do have a question on page 16 of the bill; lines...beginning on line 6: The proceeds of such issues shall be used exclusively for purposes of the Build Nebraska Act; what specifically are those purposes? [LB982]

SENATOR CAMPBELL: They would be to...for new construction. [LB982]

SENATOR FISCHER: New construction? [LB982]

SENATOR CAMPBELL: New construction or they could be repair or new construction of bridges. But we saw this...the committee may want to enlarge those purposes, but we were trying to keep the bank for new construction and to see it as a very long term tool. I mean, hopefully over the course of the years when all of us are sitting on the porch watching the cars go by instead of driving the cars, we would have institute something that would last for a very long time to deal with our new construction. [LB982]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR FISCHER: So you...you see this bonding process continuing for many, many years? [LB982]

SENATOR CAMPBELL: Potentially, yes I do, Senator Fischer. [LB982]

SENATOR FISCHER: Okay. Thank you. Other questions? Thank you very much. First proponent for the bill please. Mr. Mayor, welcome. [LB982]

CHRIS BEUTLER: Madame Chair. They're offering me up first. (laughter) [LB982]

SENATOR FISCHER: You must be the sacrificial lamb. No, I think you'll have an easy job today. Welcome. [LB982]

CHRIS BEUTLER: Well thank you for the opportunity to speak to you today. We certainly wanted to be over here in support of LB982. We have always appreciated the committee's efforts and the committee's focus on road infrastructure. I would simply repeat to you again as I have, it seems so often in the last two or three years, road infrastructure is the number one big problem for the city of Lincoln and I think for a great many other communities in the state. I'd like to thank Senator Campbell and Senator Gay. I understand he's worked on this bill also, for all the work that they have done on this. Please consider this testimony in support of the bill and support of the concepts in the bill and an expression of our hope that the committee will take on the framework of this bill and fill in the details and come out eventually with a component of some future package that is helpful to the people of the state and to the cities and the counties that work for the people of the state at the local level. I had some testimony here that basically is really designed more for the public and the media than it is for you, Madame Chair. I don't have to say how important road building is to the quality of life in the community. I don't have to say anything about the fact that the federal system is completely broke down and you'll await as we await the reconstruction of the federal system. So to a certain extent we know how we fit in with the overall picture in road infrastructure. So we're hoping that those things will move ahead more quickly at the federal level now that one principle debate seems to be subsiding and possibly over and perhaps they can turn their attention to something that everybody can agree upon hopefully. And I think I probably don't need to remind you that at the same time that this ambivalence and uncertainty and confusion exists at all levels of government with regard to the ongoing mechanisms for revenue. The problems continue to multiply and to get bigger and the city of Lincoln has evermore projects that remain unfunded as the city tends to grow slowly but surely. I had the specific examples of the south and east expressways to talk to you about. Senator Campbell has already hit upon them a little bit; but just to emphasize again the scale of the problem that we're dealing with; the east and south beltways will become...they are becoming more and more essential all the time to the development of the city. The south beltway itself is now at \$180 million projected cost. The east beltway will be another tremendous cost as it's built. So

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

Transportation and Telecommunications Committee
February 09, 2010

consider that figure in the context of this particular mechanism and a total fund of \$250 million and you can see again, as Senator Campbell has indicated, that this mechanism can only be a part of the solution here as between the federal, state and local level. The revenue sources, as you've noted already, both from the state and with respect to local political subdivisions are not set out in the bill, remain matters to be discussed and determined by you all; but hopefully there will be a robust discussion with regard to revenue sources that are allowed to be used by the local political subdivisions and perhaps some discussion of alternatives and different kinds of innovative and creative mechanisms. So I think with that, Madame Chair, I'll probably stop as I indicated to you much of this is designed to...much of my testimony was designed to encourage the public and a public discussion. There's no point in repeating these things to you; but I do hope that, if not this year, next year you will give us money or you will give us the authority to raise money because we need to have really both, but if we can do one or the other and get us started this next year, that would be a very, very good thing. So if there's anything that the city of Lincoln could do in...can do in terms of lending resources or doing a piece of the research or whatever, we certainly are in the mode and the mood to cooperate totally with expediting your efforts to resolve this problem somehow. [LB982]

SENATOR FISCHER: Thank you, Mayor Beutler. I appreciate your support and look forward to working with you, not only on the funding problem that this bill is addressing and that I hope this committee will attack next session, but also on a constitutional amendment that may be coming up this fall. [LB982]

CHRIS BEUTLER: The...which one is that now, ma'am? [LB982]

SENATOR FISCHER: That would be to put the Highway Trust Fund into the constitution. You missed that hearing. [LB982]

CHRIS BEUTLER: Ahh, okay. [LB982]

SENATOR FISCHER: Thank you. Senator Hadley. [LB982]

SENATOR HADLEY: Senator Fischer, Mayor Beutler, thank you. Just so I fully understand this and probably showing my ignorance, but it talks about matching funds at a local entities for construction and you mentioned beltways which I assume would be that type of thing, would that be a state highway on the beltways or would that be a...just a Lincoln? [LB982]

CHRIS BEUTLER: No, that would be a state highway. [LB982]

SENATOR HADLEY: Okay, so basically, we would be talking about funding a state highway. [LB982]

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

Transportation and Telecommunications Committee
February 09, 2010

CHRIS BEUTLER: Right. You know, I think, if I'm remembering right, the way the bill is drafted right now, they are required to be state projects. That's in the definition section of what the projects can be; whether you keep it that way or not, I suppose remains to be seen; but there appears to be a definite preference for highways that are close enough to communities that they're really kind of joint projects. That's the way I'm reading it, anyway. [LB982]

SENATOR HADLEY: One last question. Has this bill been "Beutlerized" or not? I'm kidding. [LB982]

CHRIS BEUTLER: There's a comma missing on line 7 of page 4. (laughter) [LB982]

SENATOR HADLEY: Thank you, Mayor. [LB982]

SENATOR FISCHER: Thank you, Senator Hadley. Senator Gay. [LB982]

SENATOR GAY: Thank you, Senator Fischer. Mayor Beutler, on this county, municipality or joint public agency can band together and work together on this, would that be useful, do you think? I'm not that familiar with Lincoln and Lancaster County, but do you do joint projects or could you...do you usually sit down...because we used to quite a bit. Quite honestly, we'd have interlocal agreements and prior to coming to here, but would that be a workable solution here? [LB982]

CHRIS BEUTLER: I have not given that a lot of thought. It's a distinct possibility because we do have roads on our perimeter that are not yet in the city, but really benefit the city so we could do that. These last couple of years we've been doing joint public agencies a lot more. We joined together with the county on a jail, for example, that's a joint public agency, actually not either the county or the city. And then on the arena project that we're working on now, we'll have a joint public agency with the university. So I'm favorably inclined towards keeping that mechanism in the bill in case it...I'm sure it will be useful in a lot of places; especially, I would think, smaller communities that may want to join together to come up with the matching funds; but we might be able to use it too. [LB982]

SENATOR FISCHER: Other questions? Senator Louden. [LB982]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Thank you for being here, Mayor Beutler. As you noticed, I always enjoy your testimony because I just got here, you know. [LB982]

CHRIS BEUTLER: Yes. Somehow I feel apprehensive, Senator, whenever you get to the microphone. [LB982]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR LOUDEN: Oh, I would hope not. What I'm wondering as I looked this over some, but you...you know, you mentioned that...to the funding would give preference to the Department of Roads program book for 2012 or something like that, is the way it says something in there, but anyway, that, as I understand some that, roads under 10,000 vehicles, and stuff like that, weren't going to get much attention or any new road building so where does that leave us out in western Nebraska? That's my concern is if we did something like this, we wouldn't be any better off then as we are now other than the fact that we would be a party to a big bond issue. How would you set that up so that there will be certain amount of money put out into the rural areas to increase transportation and cross some of our rural areas? [LB982]

CHRIS BEUTLER: Senator, I can't say to you at this moment that I'm familiar enough with the details of how certain things get prioritized within the bowels of the department. [LB982]

SENATOR LOUDEN: That's your description, not mine. [LB982]

CHRIS BEUTLER: And we wonder that, sometimes too, as obviously you apparently do also. But, I'm assuming that the commission, which I think is fairly structured towards the rural areas, has great input on this and that they are positioned to and ought to look at the interests of the rural areas as well as the urban areas and you're well aware that there are six different districts and pretty good division of power within that commission, I would think. [LB982]

SENATOR LOUDEN: Well, yeah, and I'm well aware that we've been sitting out there with 20-some million dollars of federal money and it...for years, and the state department wouldn't come up with the match funds. We came up with the match funds and they still won't use it for any of that Heartland Expressway across western Nebraska which is part of that Ports-to-Plains transportation corridor. And this is probably something that's going to have a big impact on the economy of western Nebraska; but yet, we can't seem to get any traction to get anything done and I guess when you talk about this bond funding or something, I don't know we'll get any more or not. When I first came down here, the first thing was to finish it up or building it was \$144 million expressway coming out of Omaha for two miles. For \$144 million, we could have built a four-lane expressway clear across western Nebraska, but you got two miles of it down in Omaha; not saying they didn't need it, because the first thing they do is some of them people had to come out of Omaha at 100 mile an hour so they must have wanted out of there pretty bad. But this is what worries me when we talk about what...going into debt with a highway bonds; will we be any better off with that than we are now or will it all be spent on six-lane interstate from Lincoln to Omaha and then from perhaps Lincoln to York or the next stage. I mean, if that's their plan, count me out, I mean, this isn't going to do us in western Nebraska an ounce of good. [LB982]

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

Transportation and Telecommunications Committee
February 09, 2010

CHRIS BEUTLER: Well Senator, my experience has been that when we don't work together, nothing happens; and when we work together, we all fuss about whether we're getting the proper piece of the action, but generally speaking, everybody gets something out of it; that's my experience with the legislative process. [LB982]

SENATOR LOUDEN: Okay. I've been down here eight years and what we finally got out of it was the bypass around Kimball which should have been built when they built the thing and the only reason that got in was because of the political pressure that was exerted. And I mean, the rest of it, you know, we didn't get that much out of it, I guess. What we get to, if you're going to try and bring the economy of an area up, you have to have transportation and let me tell you, western Nebraska's economy is suffering drastically and this is what I'm wondering, but yet we're in the process of doing a lot of construction in the eastern part of the state. I mean, you guys got concrete down here that is unbelievable. I mean, you ought to be landing airplanes on it instead of using it for roadways, but there's plenty of it. [LB982]

CHRIS BEUTLER: But the number of potholes in our streets, Senator, we're not going to land any airplanes on them. (laughter) [LB982]

SENATOR LOUDEN: But that's your problem. You...goes clear back to Mayor Seng when my assistant walked across the street and broke her knee cap, you know, she blamed that on the state also. But anyway, do you think, another question, do you think then that perhaps the fuel tax should be raised in order to assess this, because you're going to have to find a way to pay for this bond and would we...during the process then, do we need to raise the fuel tax in order to service these bonds? [LB982]

CHRIS BEUTLER: Well, I think that's a question that I probably need to leave to you. I mean, there are a broad varieties of vehicle related taxes that you have at the state level and increasing one or more of those are part of the option, raising the fuel tax is another part of available alternatives and you all are going to have to make a judgement about what you feel comfortable with in terms of the revenue sources on your side. On the municipal and county side, you know, there are not all that many options out there right now. Those of us who have a sales tax, most of us are levied to the entire one and a half cents and sales taxes are flat everywhere now so that's...we're not going to be very good partners with money from the sales tax and property taxes, of course, are...we, most of us have leeway there, but folks don't like property taxes, I don't have to tell you that. [LB982]

SENATOR LOUDEN: You use your sales tax to off set part of your property tax, is that correct? [LB982]

CHRIS BEUTLER: Pardon me. [LB982]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR LOUDEN: You use your sales tax to offset part of your property tax? [LB982]

CHRIS BEUTLER: Oh, absolutely. Our sales tax revenues are more than our property tax revenues. [LB982]

SENATOR LOUDEN: Okay. And what about your wheel tax on your vehicles? Is that...does that go into your road fund or your maintenance fund? [LB982]

CHRIS BEUTLER: Yes. [LB982]

SENATOR LOUDEN: Entirely? [LB982]

CHRIS BEUTLER: Yes. [LB982]

SENATOR LOUDEN: Okay. And some of your sales tax funding goes into your road fund? [LB982]

CHRIS BEUTLER: Yes. [LB982]

SENATOR LOUDEN: Okay. Thank you, Senator Beutler; glad you've been here. [LB982]

CHRIS BEUTLER: By the way, I wanted to tell you that at lunch today the...our biggest Rotary Club honored as Nebraskan of the Year, Hod Kosman. [LB982]

SENATOR LOUDEN: Oh yes, he's from Scottsbluff. [LB982]

CHRIS BEUTLER: I figured you probably knew him well. [LB982]

SENATOR LOUDEN: Yeah, I do. [LB982]

SENATOR BEUTLER: He was showing us his big 30,000 acre conservancy thing around the Wildcat Hills. [LB982]

SENATOR LOUDEN: Oh yeah. He's pushing that hot and heavy. [LB982]

SENATOR BEUTLER: Yeah. [LB982]

SENATOR LOUDEN: Don't...let's not get into that. [LB982]

CHRIS BEUTLER: Taking care of wildlife out there, Senator. [LB982]

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Transcriber's Office

Transportation and Telecommunications Committee
February 09, 2010

SENATOR LOUDEN: Yeah. Well,... [LB982]

CHRIS BEUTLER: Although he has no love for prairie dogs. So don't get heated up. [LB982]

SENATOR LOUDEN: But if we don't have transportation out there, the whole outfit will be wildlife out there. [LB982]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? I see none. Thank you, Mayor, for being here today. [LB982]

CHRIS BEUTLER: Thank you. You bet. [LB982]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB982]

KYLE ANDERSON: Good afternoon, Senators. My name is Kyle Anderson, K-y-l-e A-n-d-e-r-s-o-n and I'm the president of the American Council of Engineering Companies of Nebraska. ACEC represents 44 engineering firms located throughout the state of Nebraska with over 2,500 engineering professionals, citizens and their families. And as partners in delivering a safe and efficient transportation system in Nebraska, we see first hand the impacts associated with the lack of investment in our streets and highways. I'm here to testify in support of the critical need for additional funding mechanisms for our transportation system. As I'm sure you're all aware, we've been faced with decreasing revenues in Highway Trust Fund for several years, coupled with increased construction costs; the dollars we do have aren't even coming close to satisfying our needs to improve the safety and increase the capacity of our transportation system. The buying power of our current funding system is losing ground very rapidly, not only due to inflation, but also by the fact that our national energy policy and our environmental policies are in direct conflict with the way we fund our highway transportation system. We support this Build Nebraska Act authorized the issuance of highway bonds in the increase and level of bonding authority associated with it. Bonding has been shown to be an effective tool to accelerate much needed transportation improvements and take advantage of the difference between the bond rates and the inflation of construction costs. Bonding at low interest rates provides a safeguard against the impacts of inflation on transportation budgets in the future allowing critically important projects to accelerate to completion and advance the economic competitiveness of Nebraska. This tool is currently used in many states and has proven to be very successful when used properly. However, as has been stated earlier, we also strongly support the establishment of a separate revenue stream to retire the bond debt. Without a separate dedicated revenue source to retire the debt, bonding is a temporary measure to accelerate specific projects at the expense of the long-term highway program. We recognize that it is difficult to establish a new funding source in today's economic environment, however, the need for additional funding for our transportation

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

Transportation and Telecommunications Committee
February 09, 2010

system has been ignored for much too long. We applaud Senators Campbell and Gay for introducing this much needed legislation to help fund our transportation system in Nebraska. We also urge the Legislature to take the next step and establish this separate funding source to accompany the Build Nebraska Act. Our transportation funding shortfall will not be solved by only one measure, but will require a comprehensive approach with innovative ideas to create a long term and sustainable program for transportation funding. Thank you again for your time. I'd be happy to answer any questions you may have. [LB982]

SENATOR FISCHER: Thank you, Mr. Anderson. Are there questions? I see none. Thank you very much. [LB982]

KYLE ANDERSON: Thank you. [LB982]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB982]

KARL FREDRICKSON: (Exhibit 16) Good afternoon. Chairwoman Fischer and members of the committee, my name is Karl Fredrickson, K-a-r-l F-r-e-d-r-i-c-k-s-o-n. I'm here today representing the Lincoln Chamber of Commerce in support of LB982. I'll be brief and just read into a letter, but the Lincoln Chamber believes LB982 outlines responsible...reasonable first steps for developing a more aggressive, yet rationale, and measured bonding program for major projects across the state. The framework, which includes creation of the State Infrastructure Bank Fund, adopts an additional tool already used to build major projects in several other states. LB982 makes use of these funds and anticipates other funds as determined by the Legislature to be credited to the fund. Collaboration and partnering are also key features of the process outlined under LB982. Cities and counties can combine funds and apply for SIB funds as joint entities or joint public agencies. And finally, the Lincoln Chamber appreciates and supports the utilization of current highway commission structures and the Department of Roads' program priorities. The chamber supports LB982; it is an important bonding component of what will need to be a comprehensive package of solutions for addressing our roads' financing and building needs. With that, I'll answer any questions. [LB982]

SENATOR FISCHER: Thank you, Mr. Fredrickson. Are there questions? I appreciate the chamber's support of the current highway commission structure and also the Department of Roads program priorities. On the current highway commission structure, does that also include their statutory authority to bond? Does Lincoln Chamber support that as well? [LB982]

KARL FREDRICKSON: Yes. [LB982]

SENATOR FISCHER: And does the Lincoln Chamber support the means of revenue to authorize those bonds which would be an increase in the gas tax? [LB982]

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Transcriber's Office

Transportation and Telecommunications Committee
February 09, 2010

KARL FREDRICKSON: I believe so. I believe the chamber has stepped up in past sessions to say just that. [LB982]

SENATOR FISCHER: Thank you. And I appreciate the support of the chamber; the Lincoln Chamber has been constant in their support for additional highway funding. Thank you. [LB982]

KARL FREDRICKSON: Yep. Thank you. [LB982]

SENATOR FISCHER: Any other proponents? Good afternoon. [LB982]

DOUG WILLIAMS: Good afternoon, Senator Fischer and the members of the Transportation, Telecommunications Committee. My name is Doug Williams, I'm a...oh, D-o-u-g W-i-l-l-i-a-m-s. I'm a contractor and I'm a member of the Associated General Contractors and this afternoon I'm here representing the Nebraska Chapter of the Associated General Contractors. We're an association of heavy highway construction contractors. Traditionally our membership has been very conservative; we had a pay-as-you-go type attitude and that's the way we looked at things. We were really in opposition to any kind of bonding because it just was not pay-as-you-go, but, I know this is beating a dead horse, with the recent developments that we've seen with construction costs rising so much. The user fees that we get from the gas tax decreasing so much; there...and federal support is definitely tenuous, not really sure where that's going to go. We are very aware that there is a need for some kind of additional funding for our roads projects. Right now the Nebraska Department of Roads is saying that the money available is simply going to be for asset preservation and maintenance and that's it. So no new roads in western Nebraska; they're going to mainly just have to devote their dollars to fixing what is there now and you could make a good case that within a few years there's not even going to be the money available for fixing what is there now. So we see that Nebraska needs some kind of viable option to help keep us on top of our roads' problems and we applaud the foresight that has been shown in trying to set up the framework for this bonding to address the road funding issues. So the Associated General Contractors applaud and would support any sort of means that could come up, could be developed to help support the roads programs. Now one caveat that we are not in favor of using current trust fund dollars to support this. So we would like to see some sort of different vehicle setup for supporting this bond issue rather than trying to devote trust fund dollars to that. One other thing I might add that kind of flies under the radar, we all are very aware of the importance to the economic development, well-being of Nebraska having good roads, but something that flies under the radar is simply the multiplier effect that you get to the state's economy through construction projects. At one time I had eight crews here in Nebraska; now I'm down to five crews. At the present time, two of those crews are laid off, two are working in Kansas; one is working in Iowa. So you have a lot of income tax revenue that's going to other states; you have food,

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

Transportation and Telecommunications Committee
February 09, 2010

motel rooms, gas, all sorts of living expenses are going to other states so there's a huge benefit that flies under the radar over and above just having good roads for our economic development. I'd be willing to answer any questions if you have any. Thank you. [LB982]

SENATOR FISCHER: Thank you, Mr. Williams. Are there questions? I appreciate you pointing out the economic impact of our construction industry for the state of Nebraska, because I agree with you that it's overlooked and it should not be overlooked and it's part of this discussion and it's part of this conversation and I've always appreciated your support too. Thank you very much. [LB982]

DOUG WILLIAMS: Thank you. [LB982]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB982]

LARRY DIX: Good afternoon, Senator Fischer, members of the committee, for the record my name is Larry Dix, I'm executive director of the Nebraska Association of County Officials, appearing today in support of LB982. We certainly appreciate Senator Campbell and Senator Gay bringing this forward and I know I've enjoyed working with them and trying to look for possible funding solutions. One of the things I wanted to just touch on, a little bit on the bill because when we look at it, we take sort of a large comprehensive look and we know that we understand that this is one part of it and in working through this we want to make sure from the counties' perspective that if we move forward with this that certainly there's some ability for counties to utilize this and we understand the counties have to have the state highways that run through the counties and we understand the expansion for that in the western part of the state and all across the state. As we look at the bill and as you look on, I guess it's page 2, and we talk about the surface transportation...I'm about at line 5 and 6: to assist counties and municipalities to finance surface transportation projects; and if we really want to assist the cities and counties in those, when we get down on that same page and we talk about these roads being a part of the state highway system, I would ask the committee to consider also the language of any federal aid routes because, as you know, once we start talking about county bridges and some of those types of things, the county bridges are, for the most part, never going to be on the state highway system, but they are going to be on federal aid routes which are the ones that are designated to cut across a county, the ones that are designated for...that our school buses go on and those types. And so that would be greatly appreciated because we have some situations where counties, we believe in this bonding bill, could package together the number of bridges that they have in the county and go out to bond for all of them. An example being, I just talked to a county board member from Otoe County right now that has 23 bridges that need repair. So you can see the amount of money that would be accumulated into those to generate what we're trying to do and what we would look at for bonding. I would also call your attention on page 4 and when we look at that, there is

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Transcriber's Office

Transportation and Telecommunications Committee
February 09, 2010

certainly some benefit to having a project over \$2 million and we would ask to have everyone look at that table because we can see and if you look at the table, the state funding, if you have a project... [LB982]

SENATOR FISCHER: Excuse me, let me interrupt you there. [LB982]

LARRY DIX: Yes. [LB982]

SENATOR FISCHER: Where are you on page 4? [LB982]

LARRY DIX: Oh, I'm sorry. On page 4 where you're looking at the table on line 6, 7, 8, 9, and 10. There's certainly some benefit if you have a project that's a \$2.1 million project as opposed to a \$1.9 million project. You can see that in the way the table is designed. So we would ask the committee to take a look at that because you can see the difference between those...just those two funding levels. So with that I'll conclude. I would certainly tell you we are in support of this as a tool. We also, as have been in the past, we would be in support of an increase in the gas tax as a way to finance the funding of these bonds. [LB982]

SENATOR FISCHER: Thank you, Mr. Dix. [LB982]

LARRY DIX: Thank you. [LB982]

SENATOR FISHER: Are there questions? Senator Louden. [LB982]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. As a county representative, Larry, on page 3 there: a county, municipality, or joint entity can...and it goes on to say that they can go ahead and apply for matching funds. How many counties out in western Nebraska are going to be able to come up with 30 percent of a \$2 million to \$25 million matching funds? [LB982]

LARRY DIX: Well, and that's I think... [LB982]

SENATOR LOUDEN: I mean, we've got counties that are maxed out now, so how is that...I can understand where Lancaster County or Douglas County could come up with those matching funds, so they could actually syphon off most those funds where the counties that don't have any money now just be standing on the outside looking in. Is that right? [LB982]

LARRY DIX: And, Senator Louden, that's why I made reference to line 7 on page 4 is where those...a number of those projects would be under the \$2 million which, if some work could be done on that, we might have the ability for some of those smaller counties to meet the smaller thresholds. [LB982]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR LOUDEN: They...and the way this is written, they'd have to be funded by local funding a 100 percent anyway. [LB982]

LARRY DIX: Right. [LB982]

SENATOR LOUDEN: And so I guess it gets back, you know, what can be done in our rural areas because the money isn't there to match this. I mean, I've heard this a long time ago around it...matching funds for...to get state money and have matching funds and this helps the richer counties around. You know, we have about 20...what, 25 counties that got over a billion dollars valuation on up, but the other what, 50-some counties or 60-some counties in there don't have those kind of resources, so this is what always...somewhat concerned about when we talk about bonding and then somebody is going to match it; I still want to know what...what will...where does western Nebraska fit into this bonding structure? [LB982]

LARRY DIX: And I think you did, you hit exactly on the point I was making on those ones that were under the \$2 million to see if there was some way that those counties can participate by including them in that table. [LB982]

SENATOR LOUDEN: Okay. Thank you. [LB982]

SENATOR FISCHER: Other questions? Senator Gay. [LB982]

SENATOR GAY: Thank you, Senator Fischer. Larry, what would your recommendation be then? To include...on Senator Louden's prior question, I think, if you want to get joint projects, especially a big project out there, I could see where they could band together and you'd easily go over the \$2 million; with your experiences, what would you put in that table then to make it work? [LB982]

LARRY DIX: Well, you know, I think when you start looking at...when we look at bridge projects or even some surface overlay projects, you know, for the most part, they're starting out at the \$400,000 range. That's about where that threshold starts for a lot of those projects. [LB982]

SENATOR GAY: What kind of match do you think would be? [LB982]

LARRY DIX: Well, you know, as you look at the table the way it is constructed now, you know, every different tier is dropping down a 10 percent match and certainly we're willing to work with the committee if you want to take that \$2 million and help the smallest of counties, you may take that under \$2 million and bracket it into two different tiers. You could bracket into a 90-10 or an 80-20 split. [LB982]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR GAY: So if you did 80-20 or something like that, I think part of that was put in place to make sure the project was big enough to issue a bond. If you are paying some expense to go issue a bond, the project has to be of a certain size to make it relevant so, but...could counties then, to give you an example though, three or four counties have several bridge projects, they get together and they issue bonds and they then fix many of their bridges or some of the roads that they need all wrapped in one bond issue, could that be a...would that be workable? Do counties talk together enough that they could get that done? Or do they just kind of do their own thing? [LB982]

LARRY DIX: Right now there's no real advantage for those counties to jointly do projects, so under the current state, as we exist today, I would tell you there are probably very, very few projects where two counties ever go together, you know, to work through too awful many details; although I would tell you there are some county roads that, you know, leave one county and go to the next and there are some economies of scale when they do the overlays of that. But you would be surprised at how many counties, if they were to take all of their projects that they have on the one-and six-year plan and package them all together then they would start to build up to that threshold. I use the example of Otoe County with the 20 bridges. I could give you the example of Adams County that just when they applied for stimulus funds I think they had five or six projects that they would like to get done and those projects may accumulate up to \$5 million. So those are two pretty good size projects, so therefore, when you get to the Thomas, the Hooker, the Logan Counties, they're not going to have that number of projects, but they will have a few, and so within the county you...if you alter this table, they may be able to meet that threshold. [LB982]

SENATOR GAY: So, you would educate counties, possibly if this were in place, you could educate your counties, by the way here's a new tool you could use; you might want to look into it and...do you...I guess the question is, do you think if this were in place somewhat and the match was reasonable, the counties talk and communicate and it would...could band together, because if they don't band together, part of that, they're self-prioritizing their projects by saying: we think this is important enough we would help participate in that; which we do in many cases. [LB982]

LARRY DIX: Yeah, if it's an...and as we started, it's a tool and we would use the tool to our advantage and if the way the tool was designed that we had to have multiple counties sign an interlocal agreement to gain advantage of the tool, then we would educate our counties on that process. [LB982]

SENATOR GAY: Thank you. [LB982]

SENATOR FISCHER: Thank you, Senator Gay. Other questions? I see none. Thank you, Mr. Dix. Next proponent please. Good afternoon. [LB982]

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

Transportation and Telecommunications Committee
February 09, 2010

GARY KRUMLAND: Senator Fischer, members of the committee, my name is Gary Krumland, last name is K-r-u-m-l-a-n-d representing the League of Nebraska Municipalities appearing in support of LB982. This is a bill that our executive board specifically voted to approve and Mayor Beutler, you've heard, is on our executive board and for those reasons. We view this as just one component of an overall strategy that we need to look at to increase funding for roads and streets. Thanks, Senator Campbell and Gay, for bringing this and thank the committee for all your work. I know this has been a high priority for the committee and we appreciate that. I won't have to get into...cities and counties right now are facing dire straights in terms of funding for infrastructure and anything that we can do, the committee can do, the Legislature can do to help would be greatly appreciated. We do support increases in gas taxes or other things if that's going to help both the state and local governments. So, with that I'd be happy to answer any questions. [LB982]

SENATOR FISCHER: Thank you, Mr. Krumland. Are there any questions? Senator Louden. [LB982]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well Gary, as they talk about here this list on page 4 there: state funding and local funding, should that list be turned around the other way for any counties that got over \$1 billion valuation? In other words, if they were going to have a \$2 million project and they got a billion dollar valuation they should fund it 100 percent themselves and then go from there or the other way around? [LB982]

GARY KRUMLAND: I don't know that I have an opinion on that. I do think that any project probably needs to be...have some sort of state funding just because the magnitude. I don't know that any...and I guess...just by counties, I guess I don't know about the counties, but from the city point of view it is very difficult to fund something on your own, so I think a combination of state and local and possibly getting local government together to do that would be the way to go. This seemed to encourage that; especially a situation where in order...if there is a problem of issuing bonds for something under \$2 million, if cities or cities and counties can get together and fund several different projects out of one, say, bond issue or one thing that it wouldn't have to be all the same highway, but if they could do that, then maybe that would give some efficiency to this and then they could do it with the match. [LB982]

SENATOR LOUDEN: Well I guess for the district I represent and when you start...when you put the jam on a shelf high enough that it's going to take \$2 million to reach it, that takes a whole lot of country out of it in the district I represent. I mean, if Sheridan County could come up with \$2 million to do something, they'd been operating long before now, I mean, when they're maxed out. We have counties all over out there that are maxed out that have probably somewhere around \$600 million valuation and that's some of the bigger counties; \$600 million-\$700 million valuation is what a lot of those

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

Transportation and Telecommunications Committee
February 09, 2010

counties have. Whereas, you get into the eastern part of Nebraska, you have...that's where most of the 24 or 25 counties with the billion dollar valuation are located so there is quite a disadvantage when you start having to come up with matched funding in order to draw any of that bonding out of there and that's my concern and it's a real serious concern for me because I think perhaps Cherry County might be the farthest west county that has a billion dollar valuation that I can think of. [LB982]

GARY KRUMLAND: Well and I...I mean, we have cities all across the state and in western Nebraska that need the funding too, so if we need to make adjustments so that they are as eligible and has as good of access as anybody, we would support that. [LB982]

SENATOR LOUDEN: Okay. Thank you. [LB982]

SENATOR FISCHER: Other questions? Senator Gay. [LB982]

SENATOR GAY: Gary, I think what Senator Louden...I agree with him. I think this needs to be more inclusive than exclusive and that's why we have things like this and we get input from you. Do you think on smaller projects though then you...would smaller communities or counties, I know you can't speak for the counties, I guess, but I guess to get participation, if there were the match...I guess if you look harder at the match would probably encourage counties to do something, because you're not talking that many dollars, quite honestly, so if you lower that match and do a 60-40...I think it's important that cities and counties participate or because of the self...basically, the self-prioritization. If you think it's important enough to build this road or whatever it is, you should participate. But maybe on the smaller amounts, a better match would be more inclusive that way; do you think that...would that help the cities and you don't need to speak for the counties. [LB982]

GARY KRUMLAND: Yeah, it would help. They probably have less ability to raise funds for the match and if they...flexibility for them to work together, I know that they do it on other kinds of issues; always law enforcement, and so if they knew this project was there and there's money available I think they would get together and do that. [LB982]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Krumland. Next proponent please. Good afternoon. [LB982]

DACIA KRUSE: (Exhibit 17) Good afternoon. Good afternoon, Madam Chair and members of the Transportation and Telecommunications Committee. My name is Dacia Kruse spelled D-a-c-i-a K-r-u-s-e and I'm testifying in support of LB982 on behalf of the Great Omaha Chamber. We want to thank Senator Campbell and Senator Gay for introducing this legislation and we appreciate all of the work they did over the summer and fall in preparation for this hearing. It is no surprise to this committee that the Omaha

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

Transportation and Telecommunications Committee
February 09, 2010

Chamber supports bonding as a means to increase funding for roads. We have long believed that the state needs to have a better bonding mechanism in place than what it does now is we're going to be able to provide for our state's capital construction needs in the future. We recognize that LB982 provides for a limited revenue stream to service bonds. We would like to work with the members of this committee to explore where the necessary dollars can be found to support bonding as well as the details involved with implementing such a mechanism. We know ideas such as this one often take time to develop and get the public support. We are invested in finding a way to make this work whether it be this year with this bill or next year with a plan that Senator Fischer is working on or the year after that. There's too much at stake not to figure this out. Again, we appreciate Senators Campbell and Gay for providing an opportunity to continue the discussion on bonding and we look forward to working with them, Chairman Fischer and the rest of the committee as we find a way to increase funding for roads. With that, I'd be happy to answer any questions. [LB982]

SENATOR FISCHER: Thank you, Miss Kruse. Are there questions? Senator Stuthman. [LB982]

SENATOR STUTHMAN: Thank you, Senator Fischer. In the early part of your testimony, did you state in there that bonding would increase revenue for roads? [LB982]

DACIA KRUSE: I didn't say it would increase revenue, it would increase funding for roads. [LB982]

SENATOR STUTHMAN: Increase funding for road; but in order to increase funding for roads, there needs to be a revenue source to increase the funding also, right? [LB982]

DACIA KRUSE: That is correct. [LB982]

SENATOR STUTHMAN: So, I mean, we still...we still only got half of the story here. [LB982]

DACIA KRUSE: That is correct. [LB982]

SENATOR STUTHMAN: Yeah. Thank you. [LB982]

SENATOR FISCHER: Other questions? I see none. Thank you. Next proponent please. Good afternoon. [LB982]

JACK CHELOHA: Good afternoon, Senator Fischer and members of the committee. My name is Jack Cheloha, the last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I wanted to testify in support of LB982. We support LB982 as a

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

Transportation and Telecommunications Committee
February 09, 2010

concept bill and I think Senator Campbell introduced it that way. We think it makes important statutory changes to the existing bonding authority the state of Nebraska has now. As I and my mayor and others have testified before this committee before, Omaha has many needs regarding infrastructure; there's been various studies that estimate the cost anywhere as high as, you know, \$500 million in needs of having ability to transport citizens of our community, but then also visitors and others who pass through. And so the needs are great and so, you know, the question always is, how do you finance them and I have great sympathy for the committee; I know you've worked so hard at trying to tackle this issue and here we are, we're still working on it and we probably will be until, you know, who knows, when I retire and beyond, I'm not sure; but I just wanted to let you know that we think bonding is a valuable tool. This spring the city of Omaha will once again be putting on a ballot in our local community, a general obligation bond to help us pay for road improvements in our community and we just think it's a worthwhile program and so generally, I guess, we want to be at the table and try and assist in way possible. So, I'll try and answer any questions. [LB982]

SENATOR FISCHER: Thank you, Mr. Cheloha. [LB982]

JACK CHELOHA: Thank you. [LB982]

SENATOR FISCHER: Senator Hadley. [LB982]

SENATOR HADLEY: Senator Fischer. Jack, Senator Louden talked about where I could go 100 miles an hour in Omaha, is that any particular area of Omaha? [LB982]

JACK CHELOHA: (Inaudible) I'm sorry, I had a response ready for you. [LB982]

SENATOR HADLEY: Okay, I just wondered. [LB982]

JACK CHELOHA: That was just me trying to get down here every day. [LB982]

SENATOR FISCHER: Senator Louden. [LB982]

SENATOR LOUDEN: Yes, well yes, right after it was built, that guy got picked up for going 100 mile an hour on that expressway and that's what we all said; evidently it needed it to hurry and get out of Omaha. Jack, what is the mill levy for the city of Omaha? Do you know off hand? [LB982]

JACK CHELOHA: I do roughly, I can tell you the general mill levy for Omaha is roughly 26 to 27 cents for our general tax authority. Our total levy including debt service, which would be part of paying back these bonds; liability fund for lawsuits, etcetera, is roughly about 46 cents. [LB982]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR LOUDEN: Okay, then, twenty...you said... [LB982]

JACK CHELOHA: About 26, 27 cents for the general... [LB982]

SENATOR LOUDEN: For the general operation... [LB982]

JACK CHELOHA: ...right, right. [LB982]

SENATOR LOUDEN: and the rest of it is money you've spent on your credit card.
[LB982]

JACK CHELOHA: Debt that we owe, you're right: debt on or liability for lawsuits,
etcetera. [LB982]

SENATOR LOUDEN: And what is the mill levy for Douglas County? Is it... [LB982]

JACK CHELOHA: Gosh, good question. As a resident I should know that. [LB982]

SENATOR LOUDEN: But...I think it's similar, it's in the twenty-some cent bracket.
[LB982]

JACK CHELOHA: I think you're correct. [LB982]

SENATOR LOUDEN: Yeah. And seeing...that's what I'm wondering, you guys have
some leeway to have matching funds. [LB982]

JACK CHELOHA: Right. [LB982]

SENATOR LOUDEN: I'm sitting out here like Sheridan County at 49 or 47...8, or
something like that, they dropped a little bit, but they're around 48 cents which
is...they're maxed out. Some of the other counties are up there in the 40 cent bracket,
all of them, for just operating their counties so we have...and when you have someone
like Box Butte County with \$700 million valuation and they only got another 10 cents to
go, why they, you know, that takes everything they had in order to come up with a
match. Somewhere along the line, if you were going to do bonding, should that be split
up into categories? It would be so much bonding for you big rich people to suck it all off,
because you said you need \$500 million, you'd take the whole bundle up front and have
it set aside for different sized counties or something like that. So that wouldn't all be shot
in one bundle for some of the richer cities and counties. [LB982]

JACK CHELOHA: If I could respond. You make some great points, Senator, and I've
listened to all the testimony today; you know, I think that's something that you're
committee could look at maybe lower the thresholds or, you know, maybe Senator

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Transcriber's Office

Transportation and Telecommunications Committee
February 09, 2010

Campbell will be more appropriate to answer why she did put those, you know, categories in that she did. In the mean time, you know, as we work now with the State Department of Roads, I mean, they require a match on some of these projects that they help relative to the state highways. You mentioned that expressway in Omaha; you know, I don't know what the split is, it seems...for some reason I want to go back to an 80-20 split on those, but I don't know if that's workable under a bonding proposal or not so; but you make good points and I'm sure, you know, as Mayor Beutler said, we need to come up with something that benefits everybody. [LB982]

SENATOR LOUDEN: Okay. Thank you. [LB982]

SENATOR FISCHER: Other questions? So, Mr. Cheloha, you would be willing to work as a representative of the city of Omaha to meet that goal that Senator Beutler put out there for us that we have to look how this bonding is going to help everybody. [LB982]

JACK CHELOHA: Oh, absolutely. [LB982]

SENATOR FISCHER: Because I know my counties...I'm in the same situation as Senator Louden. The majority of my counties just with their general fund expenditures are at their levy already, their lid. So there's not much hope for them to, I don't think ever be able to tap into a bonding situation that we would come up with... [LB982]

JACK CHELOHA: Right. [LB982]

SENATOR FISCHER: ...unless we geared it for different...recognizing that there are differences across the state and geared it that way. [LB982]

JACK CHELOHA: Absolutely. You reminded me of one other point that I forgot to make. You know, maybe this would be guarded or parochial, but one concern that we did have though... [LB982]

SENATOR FISCHER: That's your job, that's your job. [LB982]

JACK CHELOHA: ...I know, right, is that if we, you know, what fund source do we use to pledge to repay these bonds. We had a concern about, you know, generally, it said the Highway Trust Fund, so one component of that is the Highway Allocation Fund which goes directly to cities and counties and it would be our preference not to include that portion as part of the repayment for this. [LB982]

SENATOR FISCHER: I guess I assume whenever someone speaks of the Highway Trust Fund, they include all the funds within it. [LB982]

JACK CHELOHA: Oh, okay. [LB982]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR FISCHER: We talk about the big pot. [LB982]

JACK CHELOHA: Right. [LB982]

SENATOR FISCHER: And before we separate out the cash fund and the allocation fund so it's the beginning, the big pot. [LB982]

JACK CHELOHA: Okay, so I have my work cut out for me then you're saying. [LB982]

SENATOR FISCHER: So I would assume that you are a huge supporter of maintaining the integrity of that big pot, the first pot, Highway Trust Fund. [LB982]

JACK CHELOHA: Right, we want to maintain it, but we prefer to pledge back, you know, the state's portion for the state program and then maybe we could utilize, you know, and these counties that don't have as much, they could utilize part of their Highway Allocation Funds to meet their match. [LB982]

SENATOR FISCHER: Oh, but then they'd get a double whammy don't they? [LB982]

JACK CHELOHA: Um, well, it may be enough though to get some of these projects done though. [LB982]

SENATOR FISCHER: I think we'll have an interesting conversation in the future. [LB982]

JACK CHELOHA: Absolutely. [LB982]

SENATOR FISCHER: Any other questions? Thank you very much for being here today. [LB982]

JACK CHELOHA: Thank you. [LB982]

SENATOR FISCHER: Any other proponents? Good afternoon, Mr. Radcliffe. Did you plan to be the last one, I think, today? [LB982]

WALTER RADCLIFFE: I was just saying I think I may be the witness you've all been waiting to hear. [LB982]

SENATOR FISCHER: That's probably true. [LB982]

WALTER RADCLIFFE: The last one. For the record, Senator Fischer and members of the committee, my name is Walter Radcliffe, R-a-d-c-l-i-f-f-e, appearing before you

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

Transportation and Telecommunications Committee
February 09, 2010

today in support of LB982 on behalf of a coalition of Nebraska cities called the Nebraska Expressways for Economic Development, the acronym is NEED. I just have two points I'd like to make regarding LB982; maybe four quick ones. One is, as far as the schedule goes, I'll leave that up to you. I don't care what the schedule is other than I think it should accommodate across the board interests. I think Senator Louden, Senator Fischer raise a good point. Secondly, my interest is in seeing that bonding is a mechanism that can be used for roads and in particular regard to that, two points: first of all, I think it's necessary to find additional...an additional revenue source and not to use existing Highway Trust Fund monies for this, just doesn't make a lot of sense, quite frankly; and secondly, and this is maybe technical somewhat in nature, but I fail to see the need to create a new issuer or new issuing authority. I mean, you have the highway...the highway commission as empowered as an issuer; NIFA is an issuer and we've got enough bond issuers in the state, I don't see why you create a new issuing authority. Maybe there's a reason I don't understand; but all I know is every time you create a new issuer, you create more costs for the bonds. So those would be my points and I would be happy to end my testimony before the yellow light even comes on. [LB982]

SENATOR FISCHER: Thank you, Mr. Radcliffe. Are there questions? Senator Stuthman. [LB982]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Radcliffe, I was thinking about funding sources and things like that in the testimony today and, you know, in my opinion, you know, I did put in a bill for raising the gas tax. [LB982]

WALTER RADCLIFFE: Um-hum [LB982]

SENATOR STUTHMAN: But, you know, that probably won't happen because of the perception. I think it's a user fee and that's where funds should come from. But in relation to the fact when the fuel, diesel fuel, went up to \$5 a gallon for the truckers and they had to raise their rates per mile of hauling their freight; they only raised their rates so far and then they put another line item, the fuel surcharge is what was on the billings that we got, the fuel surcharge was a certain percent of the fuel depending upon the price. The surcharge was less if the price went down to \$4 than it was at \$5. And maybe this could be a mechanism that could be used also. It still comes out of the same pocket, but it's... [LB982]

WALT RADCLIFFE: Is that a question, Senator? [LB982]

SENATOR STUTHMAN: Well, it's more of a comment. [LB982]

WALTER RADCLIFFE: Oh, okay. [LB982]

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

Transportation and Telecommunications Committee
February 09, 2010

SENATOR STUTHMAN: But would you be...the question is, would you be in favor of some type of a surcharge on fuel? [LB982]

WALT RADCLIFFE: You know, personally I would be. I haven't gone back and polled the people I represent to be able to say whether they would be or not, but I think you're going to have to do something like that and I think it should...you know, the Lincoln Journal had a great series of articles this weekend on the problems that are faced with regard to highway dollars and the declining revenue and basically the situation we have just is not tenable, you've got to look at that; the miles driven is another...is what they were talking a lot about. I think there's a lot of problems with that, but still, it seems...some of the futurists seem to think that that is something to seriously consider. [LB982]

SENATOR STUTHMAN: Thank you. [LB982]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Radcliffe. [LB982]

WALTER RADCLIFFE: Thank you. [LB982]

SENATOR FISCHER: Other proponents for the bill? Any other proponents? Any opponents to the bill? Anyone in a neutral capacity? I see none. Senator Campbell, please close. [LB982]

SENATOR CAMPBELL: I will make this brief. I just want to address a couple of questions and, Senator Loudon, you may not have been here at the...from the opening, but I truly believe that if we're ever going to finish the expressways all across the state, this is one mechanism that we might be able to do it and we might have to put language in to do that. But the State Infrastructure Bank gives us the best chance because you have the matching, but the state didn't have the dollars, this would allow you to use your matching and the state would have the dollars. Second point that Senator Loudon has very accurately brought up, we would certainly look at the threshold. One of the things, we talked to two different bond people and one of the things that they talked about was to be able to bundle together projects so that if you had something in Cherry County and you wanted it, and Senator Stuthman had something in Platte County that we could bundle those projects together, that's sort of what Senator Gay was alluding to on the bridges. We, by no means, I mean, we went down to \$2 million primarily because of the bonding issue; but to bundle projects together from across the state would help small and large counties. Number three is the larger the project, the larger the match has to come up with and we really felt that that might say to the people who have the larger counties or have more funds, you have more funds, you have to come up with a greater match. One aspect that somehow did not get in the final version that we talked about and that was we had a mechanism that would control the amount of dollars that could go to the very large counties and then it was graduated down. And we need to go back

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Transcriber's Office

Transportation and Telecommunications Committee
February 09, 2010

and look at that; somehow in all the versions that Senator Gay and I worked with, we lost it. But it would even the playing field, Senator Loudon, much what you're talking about. But we will look at all the suggestions. That's really why we put the bill in is to get a lot of comments and suggestions and we much appreciate the testimony today.
[LB982]

SENATOR FISCHER: Thank you very much, Senator Campbell. With that I will close the hearing. We have a number of letters and those all are being entered into the record. And I will close the hearing on LB982. Close the hearings for today. I would entertain a motion to go into executive committee. [LB982]