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Transcriber's Office

Transportation and Telecommunications Committee
February 11, 2013

[LB10 LB118 LB189]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, February 11, 2013, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB10, LB189, and LB118. Senators present: Annette Dubas, Chairperson; Jim Smith, Vice Chairperson; Lydia Brasch; Charlie Janssen; Scott Price; and Dan Watermeier. Senators absent: Galen Hadley and Beau McCoy.

SENATOR DUBAS: (Recorder malfunction)...afternoon, and welcome to the Transportation and Telecommunications Committee. This afternoon we'll be hearing LB10, LB189, and LB118. Because LB10 and LB189 are very, very similar in nature, we will conduct the hearing together on both of those bills. So Senator Krist and Senator Harms will each introduce their bills, and then we will invite the proponents on both of those bills to come forward, then the opponents on both of those bills to come forward, and then the neutral. So hopefully it'll help those of you who may be here to testify in whatever capacity on both of those bills not to have to get up multiple times to present your testimony. Now, if you are going to be presenting testimony on both bills, I will ask that you fill out two of the green sheets with your name and then reference the bill number on the sheet that you're testifying about. So if you're testifying both for LB10 and LB189, I'd ask that you fill out both sheets. I think that will hopefully help our clerk keep track of what's going on. If you're only testifying on one, that's fine; you only need one sheet. But if you are testifying on both bills at the same time, please fill out two sheets. I'll begin with committee introductions. To my far right we have Senator Dan Watermeier from Syracuse; Senator Scott Price from Bellevue; Senator Jim Smith who is the Vice Chair of the Transportation and Telecommunications Committee, he is from Papillion. To my immediate right is Jocelyn Luedtke. She is the legal counsel for the committee. I am Senator Annette Dubas. To my immediate left is Anne Hajek. She's the committee clerk, so it's very important again that you fill out those green sheets there for her benefit, as well as another little point of order. The microphone that's on the table in front of you, it's very sensitive so you really don't need to do a lot of adjusting. But if you do a lot of finger tapping or paper rustling or those kinds of things, it does make it more difficult for the transcriber to hear. So if you can try to...I know our inclination is to grab hold of that mike, but it really doesn't need to be adjusted. And then to my very far left is Senator Lydia Brasch from Bancroft. We will have senators kind of coming and going throughout the afternoon, myself included. We're busy introducing bills in other committees, so please don't be offended or be upset if senators are getting up in the middle of your testimony. It's just that we have a lot of other business going on today, so that's what will be happening. We have two pages. We do have two pages; one is not with us at the moment. But our pages really do help us keep things running smoothly and orderly. They're here to help you as well. We have Kaitlyn Evanko-Douglas from Montrose, Colorado; she's a senior at UNL majoring in political science and global studies. And then David Postier from York, Nebraska, sophomore at UNL studying

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secondary education. As you come up to the table, if you'll hand your green sheet or any handouts that you may have to the pages, they will distribute them to the committee. If you don't have enough handouts, we ask that you have about 15 copies. If you can let the page know, they will go and make additional copies for you. So anything that you need...they're here to help you with any questions that you may have, so we thank them for that. I mentioned the green sheet. There is also a pink sheet, like this, on the back table. If you're here, and you would like to register your feelings--pro, con, or otherwise--on any of the bills but don't want to get up and testify or speak publicly about it, you can just sign your name and information on that sheet, and then it will be picked up after the hearing to be a part of the record. I do ask that you silence your cell phones or any other electronic gadgets you may have with you. I understand, you know, there's...people like to use them maybe throughout the hearing, but if you could at least silence them, again, it won't interfere with our transcribing or be disruptive to any of the testifiers. So...we're out of green sheets. Okay. Apparently we have more green sheets back there, so there should be enough. I think that's taken care of our housekeeping. I can't think of anything else. So with that, without further ado, Senator Krist, welcome.

SENATOR KRIST: (Exhibits 1 and 2) Thank you, Senator Dubas, members of the Transportation Committee. My name is Bob Krist, that's B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha along the north-central portion of Douglas County, which includes the city of Bennington--and if I forget to mention Bennington, I hear about it constantly these days, so...I am here to introduce to you LB10. It requires all vehicle passengers--all vehicle passengers--to wear a seat belt and treat seat belt violations as a primary offense. Nebraska law now imposes no seat belt requirements for backseat passengers who are older than 18 years of age. I'm going to keep my introduction extremely short because my bill does two things: everyone in the vehicle needs to wear a restraining device, and it goes from a secondary to a primary offense. I've given you two handouts, one from the NCSL. NCSL tells you what states around us are doing what, and it's an excellent handout. Page 2 will give you the fines and violations. I don't know if you've seen those before, but I won't be...I won't insult your intelligence; just take a look at them yourself. The second one I think is very important to my case. I was told, when I introduced the bill in front of this committee two years ago that would have not required folks who ride a motorcycle in the state of Nebraska, that I was off base, interestingly enough, because it's not a Fourteenth Amendment right not to wear you seat belt in a car, yet the ACLU and many others have made it...a case this year of telling me I shouldn't tell people to wear a seat belt; it's their right not to wear a seat belt in a car. I'll point out to you that this Volvo handout would say just the opposite. There are air bags in our cars, and if you are not properly positioned and secured in the vehicle, an air bag will do more damage to you than the accident, potentially, because you're not put in place so that the air bag can assist you...survive the accident. And you'll notice here that they talk about pillars, so it's not just the front seat anymore. There's a backseat air bag system in most of our vehicles. My Volkswagen CC has an air bag system that, if it goes off, and if you happen to be

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lodged about in the backseat, would do you more damage. So I enter that for your consideration. Besides that, I would be happy to entertain any questions, but before I do that I'll just tell you, as an air transport pilot and a person who flies passengers all over this country in the air, everybody in my airplane wears a seat belt. It doesn't make any difference whether we're taking off or landing, and you've all heard the announcements on board; "if you're not moving about the cabin, sit down, put your seat belt on; it's for your protection." You never know where the next flying object is going to come from. In our present law in Nebraska, if you're not wearing a seat belt in the backseat, and you're 19 years old, you are going to enter the front seat in an accident. That would do damage to the person who is already in the front seat. I think that's unconscionable. If we're serious about safety, we should have everyone wearing a seat belt in the car. With that, again thank you for the opportunity. I will waive closing. I'm going to go to my own committee. Senator Harms, I'm sure, will do a great job. [LB10]

SENATOR DUBAS: All right. Thank you, Senator Krist. Do we have questions? Senator Price. [LB10]

SENATOR PRICE: Thank you, Chairperson Dubas. Senator Krist, I applaud it; I support it strongly. I do want to clarify, if you would for me: is a lap belt still going to be fine? Because some people don't want to wear a shoulder restraint, so if they had a lap belt they would be...? Because, you know, when we were in the military, and you had your ribbon rack on, you put that shoulder...it would pull that ribbon rack right off, so...But as long as you say belt, that belt...you're not prescribing what type of belt. [LB10]

SENATOR KRIST: No. And, in fact, most of our vehicles, later model, do have shoulder harnesses in the center of the backseat. Some of them do not. It's a restraining device that holds you in place. [LB10]

SENATOR PRICE: Okay. I just want to make sure we clarify. Thank you very much. [LB10]

SENATOR KRIST: Thank you, Senator Price. [LB10]

SENATOR DUBAS: Other questions? Senator Smith. [LB10]

SENATOR SMITH: Thank you, Madam Chair. Senator Krist, thanks for your testimony. Let me follow up on what Senator Price just asked. If this is...if it's a lap belt, how would law enforcement be able to determine whether it's being used or not? [LB10]

SENATOR KRIST: They would not be able to. [LB10]

SENATOR SMITH: Okay. All right. Are you removing the secondary action from the bill, and you're going to make it a primary offense? [LB10]

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SENATOR KRIST: Yes, sir. In my introduction, I stated that is my intention to make it a primary offense. [LB10]

SENATOR SMITH: Okay. [LB10]

SENATOR KRIST: And I think Senator Harms will touch upon studies that have been done that would potentially lead you down a path to say that that is not a consideration in terms of primary versus secondary. I'll leave that to him. But I'll tell you this: I don't believe that any person, of color or of no color, life is any less precious. So if a law enforcement officer sees an opportunity where the belt may not be there, I think he needs to pull them over. [LB10]

SENATOR SMITH: Yeah. I'm not going down that path necessarily, but going...again, once again, if it's a primary offense, so a police officer can pull someone over if they feel they are not wearing a seat belt. So if they're not wearing a shoulder harness, it would look as if they're not wearing a seat belt. [LB10]

SENATOR KRIST: Absolutely. And if there were five people in the backseat, knowing the style of the vehicle, you would know that at least two of them are not wearing a seat belt. [LB10]

SENATOR SMITH: So would this result in more cases of law enforcement pulling someone over whenever they actually are not at fault for doing anything, if they're wearing their lap belts? [LB10]

SENATOR KRIST: If we're saving lives, and we're doing the right thing for safety, I think we take the consequence that there might be a few more pullovers. [LB10]

SENATOR SMITH: All right. And then...and I didn't quite follow you. You mentioned something about motorcycles and maybe the previous committee, and I'm not familiar with what you're referring to. Can you...I didn't quite follow that...what you were saying there. [LB10]

SENATOR KRIST: The case I made last year is that it is everyone's right to either wear a helmet or not wear a helmet. And I was told that that wasn't part of the Fourteenth Amendment because you were basically spending money, our money, on Medicaid or Medicare or insurance because they would be injured. So should we have the right to tell everyone whether they need to wear a helmet or not wear a helmet, wear a seat belt or not wear a seat belt? Last year, the ACLU came in, in a favor of my helmet law; and this year they're not in favor of the seat belt law because it's an infringement of rights. So I bring that to your attention. [LB10]

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SENATOR SMITH: All right. I wasn't following. Thanks for clarifying. That's all I have.
[LB10]

SENATOR KRIST: Yes. Thanks. [LB10]

SENATOR DUBAS: Additional questions? Seeing none, thank you, Senator Krist.
[LB10]

SENATOR KRIST: Thank you, Senator Dubas. And thank you for handling the committee this way. [LB10]

SENATOR DUBAS: Senator Harms. Welcome back. I think you like our committee.
[LB189]

SENATOR HARMS: It's kind of my home away from home, but today is the last day you'll see me. [LB189]

SENATOR DUBAS: Okay. [LB189]

SENATOR HARMS: (Exhibit 3) Okay. Senator Dubas and colleagues, my name is John N. Harms, H-a-r-m-s. I represent the 48th Legislative District, and I'm here to introduce LB189, a bill that makes it a primary offense when not wearing a seat belt while operating a motor vehicle in Nebraska. What Senator Krist testified, everything in that bill, his bill, is in my bill except the...difference is that he requires a \$25 fine, and this bill requires a \$100 fine. Okay? That's the only two differences in regard to this particular issue. What I'd like to do today is walk you through some things that I know that you're going to be confronted with as you go into this dialogue in regard to seat belts. And some of the...we've gone back, and we have read all the testimony, historically, so I know what questions will be...might be forthcoming. We've researched out those questions. And what I'd like to do is give you a little bit of a background, if I can, in regard to some of the information. First, let me tell you that in Nebraska one crash occurs every 17 minutes. Thirty-nine persons are injured each day. One person is killed every 48 hours. One seat belt worn is one life saved in Nebraska. A seat belt is the most highly preventable measure you can take while operating a motor vehicle. Without it, you are susceptible to permanent injury or death. Primary seat belt laws, we know, save drivers. Let me talk to you a little bit about personal freedom because this is an issue that I know you're going to hear, and I've heard on many times; I've introduced this legislation previously. Let's talk about personal freedom. We frequently hear arguments that pertain to the freedom of choice. Some individuals prefer to reserve the right to either wear or not wear a seat belt while operating a motor vehicle in Nebraska. My contention is this, colleagues: it's currently and already against the law. However, a secondary offense makes it less enforceable. Any argument that encroaches upon the idea that it's still a choice, is null. It's really not a choice because it's already in law; it's

already been passed. It's against the law at the present time, which means, to me, it's not right. Let's talk a little bit about the cost and the data. On the discussion of personal responsibility and choice, which you're going to hear, I opposed that argument by referring to a 1972 Massachusetts case, affirmed by the U.S. Supreme Court, and it's Simon v. Sargent, where, and I quote, "From the moment of the injury, society picks the person up off the highway; delivers him to a municipal hospital and a municipal doctor; provides him with unemployment compensation if, after recovery, he cannot replace his lost job, and, if the injury causes disability, may assume the responsibility for his and his family's subsistence. We do not understand a state of mind that permits a plaintiff to think that only he himself is concerned." That's the end of quotes. The costs associated with a lack of seat belt usage can be staggering in Nebraska with regards to costs cited in October 2012 from the Department of Health and Human Services. Unrestrained occupants had double the average emergency room costs compared to restrained occupants. In circumstances where a restraint was not used, between 2006 and 2007, the average hospital cost for emergency room patients was a little over \$5,000 as opposed to \$2,000 for the emergency room where the patient was wearing a seat belt. So there isn't any question in my mind that the cost is high for people who do not wear seat belts. The National Highway Traffic Safety Administration reports, in January 2012, that traffic crashes cost Nebraska \$1.6 billion each year, which is \$952 for each resident in Nebraska each year. Comprehensive costs for nonbelted occupants can encompass about \$126,000, \$127,000 on an average, and \$21,000 for those belted occupants. Comprehensive costs--when we use the term "comprehensive costs," this includes rehabilitation, property damages, medical costs, travel delay, legal and court costs, emergency services, insurance, and that list just goes on. But that's what they're referring to there. And from 2006 to 2010, nonbelted occupants accrued a total of over a half-billion dollars per year in total compensation costs. This kind of gives you just a quick snapshot of what happens. And one of the biggest arguments that you get with seat belts, unfortunately, comes from rural Nebraska, and so, coming from rural Nebraska, I kind of understand where those comments come from. Let me share just some information with you so that you can maybe better understand the seriousness of this for the farm community. It's important to note that the rural areas have a percentage of, which is 84 percent in fatalities, and urban areas have a percentage of only 16 percent in fatalities. Motor vehicles crashes are five times more likely to occur in rural areas as compared to urban areas. Factors include high speed limits, road design. You know, when the road design, as we both know, are narrow, gravel; visibility is poor; EMS has a long ways to travel sometimes. Reported seat belt usage in 2010 sat at 80 percent in urban areas and 61 percent in rural areas which, as you can see, is a lower comparison to the urban areas. In addition, the percentage for disabling injuries in rural areas is 58 percent as opposed to 42 percent. This gives you some idea as to why crashes in rural areas may be more of a concern than for those in the urban areas. One thing I want to point out to you here is that farm trucks, of course, which would not be included in the legislation under the definition of 60-123; however, light pickup trucks are considered a motor vehicles, and, of course, would be applicable under this law. Let

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me talk now just a little bit, and we'll move on, and then I'll bring a summary to this fairly quickly. Let me talk to you about some of the issues that I know will come forward. I've heard those, and it deals with racial support. It deals with that particular...cultural issues. Let me talk to you a little bit about that today so I can get this as a matter of record. In terms of racial disparity and discrimination arguments, the National Black Caucus of State Legislators and the National Urban League and the Children's Defense Funds have supported safety belts and uniform enforcement. A National Highway Transportation Safety Association (sic--Administration) cited that 74 percent of Hispanics, 67 percent of African Americans favor primary enforcement. A 2005 DOJ special report showed that 84 percent of white individuals believed traffic stops were legitimate; 82 percent of Hispanic individuals and 87 percent of Afro-Americans believed traffic stops were legitimate. To me that's staggering. In addition, the National Black Caucus of State Legislators and the Air Bag and Seat Belt Safety Campaign cited that Afro-Americans favor standard enforcement more than a 3:1 margin. Less than half of one percent of Afro-Americans report race harassment problems. So the perception on primary enforcement in the African American community, and some of the other racial groups, seems to be a good one. Let me talk now to you just a little bit about racial impact. The National Black Caucus of State Legislators and the Air Bag and Seat Belt Safety Campaign study, and I quote, "survey reveals Afro-Americans overwhelmingly support primary seat belt laws." Safety Bulletin 2002 cited that the number one killer--I'm going to repeat this now--the number one killer for Afro-American males between the ages of 15 and 24, apart now from homicides--apart from homicides--is a lack of seat belt usage in crashes. The National Safety Council has cited that Hispanic children between the ages of 5 and 12 are two times that of white children to have a fatality risk. According to a study conducted by the Johns Hopkins University and IIHS found that per mile traveled, Afro-Americans and Hispanic male teens are twice as likely to die in a motor vehicle crash as white male teens. So you can see that in terms of perception and actual statistics, that directly impact lives of Afro-Americans and Hispanic children, primary seat belts is preferred, and it's actually warranted. In the Air Bags and Seat Belt Safety Campaign study, a survey reveals that the African Americans overwhelmingly support the primary seat belt laws. Safety Bulletin 2002 cited that primary seat belt...you may see 83 percent of Afro-Americans wear the seat belts; 67 percent of the Afro-Americans wear seat belts in secondary states in the nation. According to the Centers for Disease Control and the National Highway Traffic Safety Association, Afro-American belt use is 10 percent lower than the rest of the population. The National Safety Council in 2002, the American Journal of Public Health conducted an eight-year study and states that the increase in Afro-American belts used is greater than the increase in white seat belt use, and of the Afro-Americans, 18-29 age group, 58 percent practiced belt usage in primary states and 46 percent practice belt usage in secondary. So wherever we've gone from secondary to primary, it's pretty clear that they've joined and are part of that. Now, in order to refute the idea that seat belts ticketing increase substantially as a result of the primary seat belt law, and especially regarding Afro-Americans, a study was done in California and Louisiana which was an

evaluation of primary seat belt laws in California, Louisiana, and Georgia by Cosgrove, Preusser, and Ulmer in 1998, to measure the results from the enactment of primary legislation in African Americans and minorities. This can be found in the Air Bag and Seat Belt Safety Campaign study survey, revealed that African Americans overwhelmingly support the primary seat belt law. That's under Safety Bulletin 2002. The results of the study proved that African Americans and Hispanics fear and expected seat belt citations after the passage of primary law. However, neither groups, Hispanics in California, nor Afro-Americans in Louisiana, reported more citations as a result of the seat belt law. Ticketing for Afro-Americans in Louisiana actually went down. I'd also add that studies make the prediction that Afro-Americans are anticipating more stops because of nonconformity in laws, which creates a series of expectations of racial harassment. This creates racial disparity nationwide with regard to enforcement. The National Black Caucus of State Legislators, the National Urban League, and the Children's Defense Fund supports strong safety belt laws that increase belt use and include safeguards for uniform enforcement as cited by the National Safety Council. We had discussion in my office with Irwin Goldzweig. He is from Meharry Medical College for Dentistry and Science and Public Affairs. Colleagues, this is the nation's largest 135-year-old historically black medical college. And, unfortunately, Dr. Goldzweig wasn't able to be here today. He would have liked to have come to testify, but he did tell us this. And I quote, however, he asked us to reiterate that their support for primary seat belt legislation and to be cognizant and sensitive to the Afro-Americans' concerns on racial profiling. He wants us to be sensitive to that particular issue, is what I'm trying to say. However, in short, he simply believes that this kind of legislation saves lives and that it's paramount for the Afro-American community. This man is recognized nationally and internationally and all over the world, and he is supportive of this particular issue. Nebraska is 1 out of 18 states without a primary buckle-up law in the nation. Thirty-two states have primary seat belt legislation, including Puerto Rico and Washington, D.C. This legislation only applies to the driver, so that no matter how many passengers are not belted, only the driver will be fined, which is why we chose a higher fine. We also chose that 1 point be placed in the driver's record as reasonable recourse. These attributes to the legislation can be discussed; however, primary enforcement with appropriate stringent penalty is the key. Regardless of...about the number of states that we need to kind of catch up with in regard to the primary...moving from primary to...from secondary to primary, I guess I have to ask: What about the discussion of just saving lives? Why do we have to get so mixed up with all these political issues? What about just talking honestly about saving people's lives? Our secondary law was implemented in 1993. And AAA Foundation for Traffic Safety did a really thorough review of accidents from 1993 to 2012, and found that 3,360 nonbelted vehicle occupants lost their lives on Nebraska roadways. That to me is just staggering. If we passed a primary law in 1993, how many lives could have we saved? One seat belt worn is one life saved in Nebraska, and we can expect to see a 10 percent increase in the usage rate with the passage of a primary law. With a usage rate of 90 percent or more, I'm confident that a dozen of lives will definitely be saved and reduced. A review of fatalities by county

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shows that in 11 Nebraska counties, all of the highway fatalities that have occurred since 1993 were nonbelted motorists, and passengers at a 95-death total. Another six counties have poor nonusage rates, of 90-99 percent. Let me give you a couple of those. In Valley County, only 1 of 25 fatalities were wearing a seat belt; in Sheridan County, kind of out in my country, only 3 out of 43; in Red Willow County, 3 out of 33; Garden, Chase, Pawnee County, only 1 in each county weren't wearing a seat belt. This is a total of 131 nonbelted motorists or passengers in six counties alone. As you can see, rural fatalities are truly on a rise, and it's going to continue just by the mere nature of rural America. So in closing, Senator Dubas, thank you for giving me the opportunity to come and have this discussion with you. I believe that by moving from secondary to primary, along with Senator Krist, we believe that we will save people's lives. We believe that we have an opportunity to make a difference in teenagers' lives. And so I would urge you to support this legislation, either this bill or Senator Krist's bill. It makes no difference to me at all. I appreciate the opportunity. And I wanted to try to, for you, I kind of wanted to set the stages for you of some of the things that I know you'll hear of the arguments, of what other people have said about this. And I think that, hopefully, it might be helpful for you as you ponder what you want to do with this particular legislation. I'd be happy to answer any questions. I know there are other people that would like to...they might want to testify. So I'd be glad to answer any questions I can, so... [LB189]

SENATOR DUBAS: Very good. Thank you, Senator Harms. Questions? Senator Brasch. [LB189]

SENATOR BRASCH: Thank you, Madam Chairman. And thank you for your testimony today, Senator. I wear seat belts. Anyone who knows me, knows I always have a seat belt on. [LB189]

SENATOR HARMS: Um-hum. [LB189]

SENATOR BRASCH: I...long before federal funding, it seemed like the right thing to do in my mind. However, when you mentioned rural communities and others who do not, when we bring this bill to them, they see it as another government mandate: more government interference telling me what I must do. And safety is a choice in everything we do, everyday, from stop lights to pedestrian laws. What I would love to see is more people being compelled, wanting to wear a seat belt, voluntarily, you know, whether it's an incentive of some sort. [LB189]

SENATOR HARMS: Um-hum. [LB189]

SENATOR BRASCH: One of the...when they came to my office to talk to me about this, they talked about a county fair that awarded a silver dollar to everybody that came through the gate buckled up. Just pleasant things, you know, along that line seem more

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favorable to get people to want to wear them... [LB189]

SENATOR HARMS: Um-hum. [LB189]

SENATOR BRASCH: ...because the majority do in rural areas. I mean, you do see some people who absolutely do not want to. The same with the helmets, you know, that they feel that they are adults; they want to make a choice along this line. And so my argument, I guess, here, even though I'm a strong proponent of seat belts, is how do we get people to want to wear them? Would it be a specialty license plate where you could get some money off if you signed something saying that there will be seat belts worn, you know, say, by money? Or an officer pulls you over, and you get a warning ticket if you have a seat belt on. But rather than making it one more law, I'm just wondering if there's, you know, any options that have been discussed. [LB189]

SENATOR HARMS: I don't know what the answer to that is, Senator. But I just wanted to let you...reiterate for you that it's already a law. [LB189]

SENATOR BRASCH: Well, one more... [LB189]

SENATOR HARMS: Yeah, but it's already a law. [LB189]

SENATOR BRASCH: Yeah, it is a law. [LB189]

SENATOR HARMS: So they're already breaking the law. And so in order to make it better for enforcement to save other people...to save their lives or other people's lives, a seat belt going from secondary to primary is important. I think the national media have done a really great job of trying to educate people about buckle up, and I think maybe those sort of things you can continue. I do know that in the public schools, where I got the first impact of this, was with my own grandchildren. The schools must pay some attention about buckling up and being a part of this. I remember the first time I started to drive back out of driveway, and my granddaughter Elizabeth said, "Grandpa, you didn't buckle up your seat belt." I said, "Oops. I forgot; you're correct." That was when I got my first real impact of a role model that I had to be for my own grandchildren. So I don't know what the answer to that is, Senator. As I said, it's law already. And all this does is gives people a choice. It gives law enforcement the opportunity to enforce it. The way it is now, it's really more...it's difficult. But that's a great question. Thanks for asking it, but I wish I could give you an answer. I don't know what it is. [LB189]

SENATOR BRASCH: Thank you. [LB189]

SENATOR DUBAS: Senator Price. [LB189]

SENATOR PRICE: Thank you, Madam Chair. I appreciate you reiterating that it's

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already a law. We're just talking about how we're going to go about enforcing it. It's not about whether we're going to have this as a law. It is the law. It's done; get over it. But I was reading in Section 6 where we talk about the court costs. [LB189]

SENATOR HARMS: Um-hum. [LB189]

SENATOR PRICE: Is that part pulled out because it's a primary offense, or why did we remove...? Before it was a secondary and no points. Now it's \$100, 1 point, and I guess you have to pay court costs now? [LB189]

SENATOR HARMS: I'm sorry. Did we miss the court costs? [LB189]

SENATOR PRICE: Oh, you...it got lined-out with it. [LB189]

SENATOR HARMS: Yeah. I think... [LB189]

SENATOR PRICE: So before it used to be that you wouldn't be assessed court costs. [LB189]

SENATOR HARMS: No, and I think that's what we were concerned about is the cost was higher, so we're going from \$25 to \$100. So your choice would be if you decide to bring it out, if you think \$100 is too high, then you can put it back to wherever you want and put the court costs back in. I think we're trying to make it as reasonable as possible. [LB189]

SENATOR PRICE: Actually before, you wouldn't be assessed any court costs. It used to say that, you know. [LB189]

SENATOR HARMS: Um-hum. [LB189]

SENATOR PRICE: So before, they didn't...by your lining it out, you've increased the fine, the liability for paying court costs, and the points. [LB189]

SENATOR HARMS: Sure. [LB189]

SENATOR PRICE: So I was just wondering: was it because it's carried out somewhere else in legislation, the primary offense? [LB189]

SENATOR HARMS: That's a great observation. Thank you. [LB189]

SENATOR PRICE: Pardon me? [LB189]

SENATOR HARMS: That was a good observation. Thank you, thank you. [LB189]

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SENATOR PRICE: Okay, great. Just again, I appreciate what you're doing here. They've saved my life; they've saved the lives of...every single one of my family members have been in a car accident that...they wouldn't be here anymore if we didn't have seat belts. So thank you. [LB189]

SENATOR HARMS: You're welcome. [LB189]

SENATOR DUBAS: Other questions? Senator Smith. [LB189]

SENATOR SMITH: Thank you, Madam Chair. And Senator Harms, thanks for your testimony today. [LB189]

SENATOR HARMS: Senator Smith. [LB189]

SENATOR SMITH: And as always, I think you always come forward with legislation that you feel very strongly about, and I know you care deeply about these issues of safety, as do we and the folks that are here to testify today. So thank you for that. [LB189]

SENATOR HARMS: You're welcome. [LB189]

SENATOR SMITH: A quick clarification. I know there is going back and forth here that it's the law. Indeed it is the law. The difference is that this is...you're wanting to move this to a primary offense as opposed to a secondary offense. [LB189]

SENATOR HARMS: That's correct. [LB189]

SENATOR SMITH: And then there will be an assessment of points, which has an impact on insurability and other things as well. So...just wanted to make certain we're clear on that and... [LB189]

SENATOR HARMS: Yeah, we're clear on that. And, you know, you have a choice. You want to drop that from 3 down to 2 and get past that insurance. There's a lot of options here that you can do to actually make that easier for people. So I appreciate that. That's another good observation. [LB189]

SENATOR SMITH: All right. Thank you, sir. [LB189]

SENATOR HARMS: Thank you. [LB189]

SENATOR DUBAS: Other questions? I would have...more for a point of clarification, and I don't know if you touched on this in your introduction or if Senator Krist did. I think there's a public perception that there are federal dollars tied to laws requiring the use of

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seat belts. [LB189]

SENATOR HARMS: There was, and I don't know, to be honest with you, whether we still are able to use that. For a while I think we were losing \$10 million a year, and I don't think that's in existence anymore. But we could look that up. I don't know, but I don't think it's existence anymore, Senator Dubas. [LB189]

SENATOR DUBAS: That's our understanding as well, so. [LB189]

SENATOR HARMS: Yeah. When I first introduced this, I think it was in my freshman year or maybe a year later, that was still in existence. And I always thought maybe that would encourage people to maybe want to get involved in this particular...because it would provide some money for roads. But that's not true...I don't think. [LB189]

SENATOR DUBAS: Thank you, Senator. [LB189]

SENATOR HARMS: We'll check that to make sure. [LB189]

SENATOR DUBAS: Well, that's our understanding that there are no longer those funds tied to this. [LB189]

SENATOR HARMS: Yeah, I think you're right. [LB189]

SENATOR DUBAS: But we will make sure that the committee clearly understands that. [LB189]

SENATOR HARMS: Thank you. [LB189]

SENATOR DUBAS: Any other questions for Senator Harms? [LB189]

SENATOR HARMS: Well, as usual you've been very good. You've asked good questions, so I appreciate it. Thank you very much. [LB189]

SENATOR DUBAS: All right. [LB189]

SENATOR HARMS: You're welcome. [LB189]

SENATOR DUBAS: I don't see any other questions. Thank you, Senator Harms. [LB189]

SENATOR HARMS: I will probably close for both of us afterwards. It will be very quick, and then we'll go to the next one, okay? [LB189]

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SENATOR DUBAS: Very good. All right. Well, before we begin, I want to make note that Senator Charlie Janssen from Fremont has joined us. So welcome. And again we will be testifying on both LB10 and LB189, so when you come forward, if you'll clearly state and spell your name and then let us know what bill or bills you're testifying on. And then if you are testifying on both bills, if you will please fill out two sign-in sheets, that will be helpful for us. So we'll now open the hearing for proponents. Oh, we will be using the lights, so you'll be given five minutes. So you'll get the green light at the start. And after you've used four minutes, then the yellow light will come on, and then the red light will come on. You don't need to stop mid-sentence. Go ahead and finish where you're at. And again, the committee will likely ask questions to give you opportunities to finish with your information. So thank you. [LB189]

JOSEPH STOTHERT: (Exhibit 4) Good afternoon. My name is Dr. Joseph C. Stothert, S-t-o-t-h-e-r-t. I'd like to...and I live at 5909 South 118th Plaza, in Omaha. And I am testifying support of LB10 and LB189. I appreciate Senator Dubas and the esteemed members of this group for all the good work you do for the state of Nebraska. I'm also the medical director of the state of Nebraska for trauma, so I do have some answers to some of your questions, Senator Smith, if you care to ask me them. However, none of the comments that I make are an endorsement by the Department of Health and Human Services or the University of Nebraska for which I work. I have included in your group, your packet there, my testimony, and it is signed by myself and a number of my colleagues from the University of Nebraska, as private citizens. We're a group of physicians and surgeons that run the only Level 1 trauma center in the state of Nebraska, us at the University of Nebraska and Creighton University. The data that I'll be presenting today is from the University of Nebraska; however, Creighton's data is exactly the same. And unfortunately, because of an illness, they could not get me the same data. However, I saw last year's data; it's exactly the same as mine from the University of Nebraska. The most effective way to prevent the misery caused by trauma is to prevent trauma. There is ample evidence that seat belt utilization prevents death and suffering by preventing severe injuries and long-term disability. This data is national. And if you look at the current mortality figures for people dead at the scene, the overwhelming majority--in some series, up to and over 75 percent--are not wearing seat belts. We would like to address the problem from another standpoint, that of the patients who actually arrive at the regional center with signs of life. In other words, live people. As a trauma system, we keep accurate statistics on all sorts of things related to trauma. One of the most important is the utilization of protective equipment in transportation accidents. When one is dealing with automobiles, the utilization of seat belts is one of the most important functions that the driver and passengers in a vehicle can use to prevent long-term injury and even death. I have e-mailed a copy of this talk to Senator Dubas and also presented copies to yourself. This includes a cohort of patients who are selected based on whether or not they wore seat belts. As can be seen by the enclosed chart, the wearing of seat belts reduces injury as evidenced by a lower injury severity score. They less often needed to be admitted to an intensive care

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unit. Their average stay in the intensive care unit, if admitted, is less if they wear a seat belt. And their overall length of stay in the hospital is less if they wear a seat belt. Of note, traumatic brain injury is markedly reduced by wearing of a seat belt, and the need for rehabilitation and being sent to a nursing facility is also reduced. In the year 2012, this reduced from 9 percent by wearing seat belts to over 23 percent had a traumatic brain injury if they did not wear a seat belt. The in-hospital mortality is similarly less when patients wear seat belts as opposed to not wearing seat belts. The data regarding seat belt utilization both in saving lives and preventing injury and disability is overwhelming. We support the legislation as outlined in LB10 and LB189 requiring all occupants in the state of Nebraska, with a few exceptions, to be belted while operating a motor vehicle. And likewise, we support this becoming a primary offense. The intent of this legislation is to prevent injury and to encourage all people to act responsibly. I would be happy to answer any questions this group may have of me. Thank you. [LB10 LB189]

SENATOR DUBAS: Thank you very much, Doctor. And could I ask you to state...I know you've put it on your sheet, but are you testifying on one or both bills? [LB10 LB189]

JOSEPH STOTHERT: Both bills. [LB10 LB189]

SENATOR DUBAS: Both bills in support. All right, thank you very much. Senator Price. [LB10 LB189]

SENATOR PRICE: Thank you, Madam Chairman. Doctor, could you state or do you have...do you have the experience that, you know, where occupants sitting in a car injured other occupants when they were unbelted? [LB10 LB189]

JOSEPH STOTHERT: Oh, absolutely. And that's very common with children. In fact, we have some horrible stories of two children sitting in the backseat and their heads colliding and both having...one died and the other had a very severe traumatic brain injury, and this was in the last few years. [LB10 LB189]

SENATOR PRICE: And then it would be your position in that gravity and the laws of physics apply in a vehicle no matter where it's at? [LB10 LB189]

JOSEPH STOTHERT: Absolutely. [LB10 LB189]

SENATOR PRICE: Thank you. [LB10 LB189]

SENATOR DUBAS: Additional questions for the doctor? Senator Smith. [LB10 LB189]

SENATOR SMITH: Thank you, Madam Chair. Dr. Stothert, good to see you. Thanks for your testimony today. You probably heard Senator Krist opening on his bill, and he

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seemed to correlate some injuries as well with the presence of air bags without the use of seat belts. And I don't know if...have you seen any industry information to correlate any of that, or...? [LB10 LB189]

JOSEPH STOTHERT: Absolutely. In fact, industry has addressed that in the last decade, because originally the speed with which the air bags deployed, which was over 300 miles an hour, would come into collision with an unbelted person and, frequently, break their neck. And there were a number of nationwide quadriplegics caused by that. We had one in Omaha. The...Recently, they've slowed down the bags a little bit, but they still recommend that people wear seat belts. If you have something exploding in front of you, coming at you at a very rapid rate, you're going to get damage if you're not restrained. [LB10 LB189]

SENATOR SMITH: So I'm going to read into that answer and comment if I'm wrong. But a lap belt alone would not prevent those type of injuries because you have the forward motion so that lack of a shoulder harness would be problematic as well. [LB10 LB189]

JOSEPH STOTHERT: Yes, it's nice to have a...here's an example. We had a carload of kids a few years back that were bouncing over the road, a road bump, at a high rate of speed. The driver was not belted, and the passengers all felt that he was being somewhat unsafe going 90 miles an hour, hitting bumps. So they clicked on their seat belts. The back seat had lap belts. The front seat had the full three-point restraint. Three-point restraint system patient was not damaged. The driver was ejected and killed. The people in the back suffered injuries, including paraplegia from a spinal fracture because, when you only have a two-point restraint, you tend to bend, and you can get damage to the belly, the bowels, the aorta, and the spine. So even though lap belts save lives, they create some injuries that most people would prefer not to have. Three-point restraints are better. Four-point restraints are great. Four-point restraints with a helmet is the best possible thing. That's why you can be going 200 miles an hour and hit a wall in Indianapolis and break your arm, and that's your extent of injuries. These things save lives. The more restrained you are, the more protected you are, the longer you live. [LB10 LB189]

SENATOR SMITH: Okay. Thank you. Senator Brasch. [LB10 LB189]

SENATOR BRASCH: Thank you, Vice Chairman. And thank you for your testimony. As I said before, I'm a proponent of seat belts. I wear them. And, in fact, my vehicle does not start until everybody is buckled up; it doesn't matter what age you are. However, it is law, okay; and there is a consequence. We have fatalities. But we still have fatalities with the law. Are you aware of...and now I'm wondering, you know, as advanced as we are, where some vehicles do not...you can't drive and text. Would you say that we now need vehicles perhaps that don't start unless a seat belt is engaged, that the ignition does not work? I don't know if that's out there or not, or if you've heard, you know?

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[LB10 LB189]

JOSEPH STOTHERT: Oh yeah, those exist, and there is a simple fix to that. You just click them behind you, and the car starts. [LB10 LB189]

SENATOR BRASCH: Okay. [LB10 LB189]

JOSEPH STOTHERT: So people don't put on the belt, and they click it behind them, and they're not anchored in there. So there are ways to go against all good things. [LB10 LB189]

SENATOR BRASCH: Alright. Everything. [LB10 LB189]

JOSEPH STOTHERT: And I agree with you. I think what we have to do is set great examples to our children. [LB10 LB189]

SENATOR BRASCH: Um-hum. [LB10 LB189]

JOSEPH STOTHERT: I personally am a proponent of seat belts in buses. Buses are poorly designed. I think we're teaching our kids: when you're in a bus, well, you don't need a seat belt; so why do I need one in my car? That's just idiotic. And what we have to do as a society is teach people. That's what I do. I teach; we all teach. And unfortunately, people don't get the lesson sometimes, and that's why I think enforcement becomes important for that other 10-20 percent of people that it becomes important to do that to. [LB10 LB189]

SENATOR BRASCH: Very good. Thank you. I did not know that the seat belt ignition tie existed yet, because I thought maybe if people don't want to, that would just be a... [LB10 LB189]

JOSEPH STOTHERT: Yeah, I believe that was in the '70s. Nissan actually came out with that. [LB10 LB189]

SENATOR BRASCH: Well, I know it'll make a little chiming noise, but...all right, thank you so much. Thank you. [LB10 LB189]

JOSEPH STOTHERT: Yeah. You're welcome. [LB10 LB189]

SENATOR SMITH: Do we have other questions for Dr. Stothert? Seeing none, thank you again for your testimony. [LB10 LB189]

JOSEPH STOTHERT: Thank you very much, Senators. [LB10 LB189]

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SENATOR SMITH: We'll continue on with proponents for LB10 and LB189. Welcome.
[LB10 LB189]

LAURIE KLOSTERBOER: (Exhibit 5) Thank you. Good afternoon, Senator Smith and members of the Transportation and Telecommunications Committee. My name is Laurie Klosterboer. Laurie is L-a-u-r-i-e; Klosterboer is K-l-o-s-t-e-r-b-o-e-r. And I'm with the Nebraska Safety Council. We're a private nonprofit organization. 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. My comments today are really directed on three items. One is Nebraska data specific to the medical costs of nonrestraint use versus restraint use. And I know that Senator Harms had talked about that in his testimony. The first chart that you will see...I wanted to point out specifically, in my years of testifying before this committee about primary seat belt usage, one of the questions that has come back to proponents of a primary seat belt law has been about dollars and our public dollars being used. And so that is a question that we are able to answer now. If you will see, on the pie chart you can see that--this is from the years 2006 through 2010--the Nebraska Health and Human Services Injury Prevention Program had run statistics, and you can see that "Average Hospital Charges Per Year from Motor Vehicle Crash Injuries by Payer Type," there is \$19 million or 23 percent that is paid by public insurance, which is you and I. And so I think that leads to the discussion of...that this is a public health issue that we are dealing with, and we are using public dollars in motor vehicle crashes. And because the research shows us that seat belts do save lives, that you also will see that if you're not restrained you have higher inpatient costs, ER costs, that there is a reason that we should have a primary seat belt law. So I did want to point that out to you. As well, I think that there is this additional benefit of primary...a primary law for children, and that is research has been conducted by NHTSA, the National Highway Traffic Safety Administration, on occupant use from 1997 to 2006, that showed in vehicles where adult drivers wore seat belts, children were more likely to be restrained as well. So I think that is an additional benefit, if we have a primary law. And also that in Nebraska there is public support for a primary seat belt law. In a 2012 Nebraska traffic safety poll which was conducted by our organization in conjunction with the Nebraska Office of Highway Safety, 68 percent of Nebraskans ages 18 and older do support primary enforcement. So we know that seat belts save lives. They decrease the severity of injuries. There have been numerous studies and research conducting, proving...conducted that prove the effectiveness of seat belts. I believe that the arguments for individual rights and racial profiling have been refuted, and we believe that now is the time, Senators, that the Nebraska Safety Council respectfully asks that you vote to move this bill out of committee and to the floor for a full discussion among all of our senators. And with that, I would answer any questions that you might have. [LB10 LB189]

SENATOR SMITH: Any questions for Ms. Klosterboer? Seeing none, thank you very

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much for your testimony. [LB10 LB189]

LAURIE KLOSTERBOER: All right. Thank you. [LB10 LB189]

SENATOR SMITH: And we continue on with proponents. Welcome. [LB10 LB189]

BEVERLY REICKS: (Exhibit 6) Thank you, Vice Chairman Smith, members of the Transportation and Telecommunications Committee. I am Beverly Reicks, B-e-v-e-r-l-y R-e-i-c-k-s, CEO of the National Safety Council, Nebraska. Much like the Nebraska Safety Council, the National Safety Council has long been a proponent of the primary belt law. You have my handout. It has quite a bit of data in it. What I want to speak to today is the research that shows that the two most effective strategies of increasing seat belt use are primary enforcement law and high visibility enforcement campaigns. Seat belt usage in Nebraska has not steadily increased in recent years, as it has in other states. The seat belt usage in Nebraska in 2012 was 79 percent, the same as it was in 2004. The National Safety Council estimates that seat belt usage in Nebraska saves 52 lives a year. We know that the lowest rates of safety belt usage are with teens, young adult males, pickup truck occupants, rural drivers and occupants, and nighttime drivers, and alcohol-impaired drivers. We believe the primary enforcement law has proven effective in increasing seat belt usage among these groups in particular. In states with a primary belt law, in 2012, the...and primary enforcement saw a 90 percent seat belt usage. If Nebraska were to adopt a primary belt law we could increase our usage to 90 percent; 59 lives would be saved. That's an increase of seven lives a year. Those are seven Nebraskans who would be with us today. In 2010, 108 Nebraskans were killed on our highways, and nearly 1,400...and just over 1,400 injuries in crashes were a result of not wearing the seat belt. The total cost is estimated to be \$392 million in public and private losses. I urge you to send this bill to the floor for a full and fair discussion of this important policy, a public policy that can save lives for Nebraskans. I want to thank Senator Krist and Senator Harms for introducing these two bills, and I am speaking on both LB189 and LB10. [LB10 LB189]

SENATOR SMITH: Thank you, Ms. Reicks. Any questions? Seeing none,... [LB10 LB189]

BEVERLY REICKS: Thank you. Thank you. [LB10 LB189]

SENATOR SMITH: ...thank you for your testimony. Other proponents of LB10 or LB189? Hello. Welcome. [LB10 LB189]

ANDREA FRAZIER: (Exhibit 7) Senator Smith, members of the Transportation and Telecommunications Committee, my name is Andrea Frazier--that's A-n-d-r-e-a; Frazier is F-r-a-z-i-e-r, and I'm the state project specialist with Mothers Against Drunk Driving. Mother Against Drunk Driving fully, strongly supports both LB189, introduced by

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Senator Harms, as well as LB10, introduced by Senator Krist. MADD advocates for increased use of occupant protection for all motor vehicles drivers and passengers, and recognizes the need for publicized enforcement, safety belts, and child laws as a major defense against alcohol- and drug-impaired driving. Drunk drivers are the least likely people to buckle up; therefore, pulling over those that aren't using their seat belts will help enforce drunk driving laws. I'm saddened to say that alcohol has contributed to 90 fatalities in 2012. That is up from 51 in 2011. Of the 74 passenger vehicle occupant fatalities, both drivers and passengers, only nine, which is 12 percent, were wearing their seat belts at the time of the crash. MADD firmly believes that seat belts do save lives. Making Nebraska's law primary instead of secondary is an important change. Belt usage is significantly higher in states that have primary seat belt laws, increasing belt usage from 9 to 14 percent simply by passing a primary seat belt law. Seat belts are your best defense against a drunk driver. So on behalf of Mothers Against Drunk Driving and our victim survivors, I strongly request that you support this legislation. I'd be happy to answer any questions for you. [LB10 LB189]

SENATOR SMITH: All right. Any questions? I see none, Ms. Frazier. Thank you. Good to see you again and thank you for your good work with MADD. [LB10 LB189]

ANDREA FRAZIER: Thanks, thank you. [LB10 LB189]

SENATOR SMITH: We continue on with proponents. [LB10 LB189]

NANCE HARRIS: (Exhibit 8) Good afternoon, Senator Smith and members of the Transportation and Telecommunications Committee. My name is Nance Harris. Nance is spelled N-a-n-c-e, Harris, H-a-r-r-i-s. And I represent the Nebraska Trucking Association. I'm testifying in support of LB10 and LB189. Every national association connected with the commercial truck and bus industry supports safety belt use, and that includes everyone from the American Trucking Associations to the National Tank Truck Carriers to the American Bus Association to the independent owner-operators. Every state trucking association supports safety belt use. All responsible trucking companies, including the member companies of the Nebraska Trucking Association, support safety belt use. So it saddens to me to confess that not all commercial drivers are using their safety belts regularly. They give a variety of reasons, and none of them are valid. The Federal Motor Carrier Safety Administration conducts an annual survey regarding safety belt use among commercial drivers. In the 2010 survey, the agency found that seat belt use is higher in states with primary laws rather than secondary. Eighty percent of commercial drivers will use their safety belts in a state with primary enforcement; only 72 percent wear them in a state with secondary enforcement. The Nebraska Trucking Association members would welcome a Nebraska statute making failure to use a safety belt a primary offense. If the research is correct, compliance among commercial drivers would go up, which is exactly what we would like to see. The U.S. Department of Transportation has required commercial drivers to use seat belts since 1970. But

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making it a requirement, just as we've seen in this state, did not make it so. Because of a low rate of compliance--the rate of compliance was about 50 percent--the U.S. Department of Transportation launched a major initiative in 1993, and compliance among drivers is now between 72 and 80 percent, as I mentioned. Three years ago, the DOT revamped the system it uses to track commercial motor vehicle safety performance. The department tracks the performance of carriers authorized to operate in interstate commerce using a sophisticated scoring system. The system assigns point values to various infractions discovered by law enforcement during truck inspections or traffic stops. The points, or severity weights, are based on how likely the violation is to result in a crash. If a carrier's score is too high in comparison to its peer group, the federal government intervenes. In this safety scoring system, the points, or severity weights, are from one to ten, with one being least likely to cause a crash and ten being most likely to cause a crash. Not using warning flashers, for example, is a one. Reckless driving is assigned a ten. In this system, failure to use a safety belt is assigned a seven out of ten so, clearly, they've placed a high priority on its use. The system tracks individual driver performance as well as motor carrier performance. Truck and bus companies can review the driver's performance record as part of the preemployment screening process. Too many violations for a commercial driver, and that driver is not going to find another job. Insurance companies also use the data to determine rates, and shippers use the data to decide on the reliability and safety of carriers that they might want to do business with. So the system has built-in consequences for people who engage in poor safety management. To make the comparison to the bills we're talking about today, increasing the fine for failure to use a safety belt from \$25 to \$100 is increasing the severity weight of the violation. Adding a point is a consequence of making a bad safety decision. It's a reasonable approach to get the attention of violators and to promote highway safety in Nebraska, and we'd appreciate you supporting this bill going to the full Legislature for debate. Thank you very much, and I'll answer any questions. [LB10 LB189]

SENATOR SMITH: All right. Senator Price. [LB10 LB189]

NANCE HARRIS: Or I'll try. [LB10 LB189]

SENATOR PRICE: Thank you very much, Senator Smith. I have a, I hope, not too tortuous or convoluted a question. [LB10 LB189]

NANCE HARRIS: Okay. [LB10 LB189]

SENATOR PRICE: And I was writing it down as you began to make your testimony. [LB10 LB189]

NANCE HARRIS: Okay. [LB10 LB189]

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SENATOR PRICE: And it talks to in a commercial setting and the insurance. Is the insurance rate ascribed and/or assigned to a company for their carriers? In the process of setting that rate, do they have to make a declaratory statement about the use of restraints? Like, they...yes, we use restraints, yes, we have a training program that says we require all drivers to use safety restraints. [LB10 LB189]

NANCE HARRIS: I don't know the answer to that, but I'll be glad to find out. [LB10 LB189]

SENATOR PRICE: That'd be great because it would be interesting to find out if their rates were made based on that declaratory statement. [LB10 LB189]

NANCE HARRIS: Okay. [LB10 LB189]

SENATOR PRICE: And if we have people that aren't doing it, therefore, everybody's rates are going up in the pool, so there's another indirect and/or direct cost to society for failure to use those restraints. [LB10 LB189]

NANCE HARRIS: I will find out. [LB10 LB189]

SENATOR PRICE: Thank you. [LB10 LB189]

SENATOR SMITH: Senator Janssen. [LB10 LB189]

SENATOR JANSSEN: Thank you, Vice Chair Smith. Thank you for being here today. As I always do annually, my full disclosure is I was saved by a seat belt in 1989 in a Ford Festiva which hit a Cadillac. Now if you're familiar with the Ford Festiva, I'm very embarrassed that I was riding in one. But I was in the military and getting paid very low wages at the time, so. (Laughter) And I was in the front seat. [LB10 LB189]

NANCE HARRIS: I had a Fiesta once. (Laugh) [LB10 LB189]

SENATOR JANSSEN: And thanks to good doctors, much like Dr. Stothert, I was fully recovered, at least to this capability, which some might suggest is not fully recovered. My dad is a retired truck driver, and he hated seat belts, never...in fact, I think it was '86, '87, whenever the law came out. And Senator Harms talked a little bit to the example of people had shirts that had a seat belt across them. And, you know, I'd almost...you know, I always wear my seat belt, for obvious reasons. It wasn't a law in '89, and when I got in my wreck...But is it...now, if I owned a trucking company, which I can't do because I don't have enough money to do, but if I did, would I...wouldn't they require or do they require them to at all times, as a condition of employment, to wear their seat belts? And if so, why aren't they doing it? Because if it's your job to do so, I think the fear of, you know, getting terminated would be prevailing even more so than, you know, getting

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picked up. I'm not certain, but it's just a question that arose. [LB10 LB189]

NANCE HARRIS: I can tell you that all responsible truck and bus companies require their drivers, as a condition of employment, to wear their safety belts. So should a driver, even in a secondary state, get stopped and written up for this, quite likely, they would lose their jobs, yes. [LB10 LB189]

SENATOR JANSSEN: Is it... [LB10 LB189]

NANCE HARRIS: It becomes a condition of employment. [LB10 LB189]

SENATOR JANSSEN: And maybe somebody will come after you. It's very...probably difficult for a police officer/enforcement officer to see into a, you know, a trucking vehicle or a tractor-trailer with it being that high up? Or is it more visible? I don't... [LB10 LB189]

NANCE HARRIS: My sense is that it's actually more visible or at least as visible. [LB10 LB189]

SENATOR JANSSEN: Okay. And I also wonder, with the carrier enforcement, if they're just a little bit more susceptible to that secondary fine than, say, I would be going home with carrier enforcement because they have to stop throughout the state. Do they check it there, seat belt violation? [LB10 LB189]

NANCE HARRIS: Oh, yeah, absolutely. [LB10 LB189]

SENATOR JANSSEN: They can check, okay, and that was for my information. That was not a "gotcha" question; I just didn't know. Thank you. [LB10 LB189]

NANCE HARRIS: Um-hum. [LB10 LB189]

SENATOR SMITH: All right. I do have a question. [LB10 LB189]

NANCE HARRIS: Yes. [LB10 LB189]

SENATOR SMITH: With Senator Janssen, now I understand that Ford Festiva that's in the parking lot out there (inaudible) (laughter). But I do have a question. [LB189]

SENATOR JANSSEN: Twelve thousand a year. [LB10 LB189]

SENATOR SMITH: The sleeping compartment in the trucks, how is that going to be handled, because wouldn't they require some type of a restraint? [LB10 LB189]

NANCE HARRIS: Under current federal law, if someone is sleeping in a sleeper berth,

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they're supposed to be belted in as well. There's a special harness that they wear. And that one though, for enforcement purposes, is a little more difficult because that one is almost you have to be in a crash event or some dramatic event that would cause the person to tumble out of the bunk, and then you would know they hadn't been harnessed in. [LB10 LB189]

SENATOR SMITH: Um-hum. [LB10 LB189]

NANCE HARRIS: So that one really is almost a post-accident discovery. [LB10 LB189]

SENATOR SMITH: Yeah. Now I understand there's different levels of assessment of the points and there...you know, some of the situations related to safety are more severe than the others for good reason. And with difficulties in finding drivers out there...All the time I see constant advertising for truckers. So I'm going to go back to this, and I'm not going to say for certain, but I would assume that maybe some trucking lines--and it's particularly the smaller lines that have difficulty in finding operators--whether they would actually terminate if they found that their employee was not wearing their belt but, as part of the safety culture, they would try to reinforce it. So with that in mind, possibly,... [LB10 LB189]

NANCE HARRIS: Um-hum. [LB10 LB189]

SENATOR SMITH: ...what do some of your operators think about this assessment of points? Because it is going to, potentially, affect their property casualty insurance and insuring their operators. [LB10 LB189]

NANCE HARRIS: Um-hum, um-hum. I would say that the members of the Nebraska Trucking Association, and there are about 500 of those that are trucking companies in the balance, may operate trucks but offer services to trucking companies. So I'm basically representing 500 trucking companies, both for hire and private, and their safety culture dictates that safety belts are worn. They may attempt to rehabilitate a driver. But surely, at the...the most they would ever tolerate is two strikes on that. And at least, of the companies that we know and work with, it just wouldn't be tolerated. [LB10 LB189]

SENATOR SMITH: Um-hum. Thank you. Thank you for your testimony. Appreciate it. [LB10 LB189]

NANCE HARRIS: Thank you very much. [LB10 LB189]

SENATOR DUBAS: Next testifier, please. [LB10 LB189]

JERRY STILMOCK: Thank you. Madam Chair, members of the committee, my name is

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Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association. Though the name and the title signifies fire, our membership of about 7,600 people throughout the state are representing of about 12,500, we believe, total fire and rescue personnel. We also have a strong and vast contingent of emergency medical responders that respond to every call. So, Senators, if you're on Highway 385 or 77 or 2 or Highway 30 and any other locations outside of metropolitan Omaha and some of the larger communities in Nebraska, you're going to be rescued by a volunteer emergency responder. We've always been at the table, supporting Senator Harms's efforts and other senators' making use of seat belts a primary offense, and we certainly do so with both LB10 and LB189 offered by both introducing senators. It occurred to me, Senator, that, as you raised your question, I had participated in reviewing and rewriting two different, large employers' employee handbooks. And it occurred to me that each chapter, each article, each section that dealt with, when you are driving a vehicle, you shall be belted. And obviously, it takes a little bit different perspective, perhaps, in some people's eyes, whether it's the employer telling you to or the Nebraska state government to. The point of it, in bringing the point...the topic up is, I believe, a great deal of employers, if not all of them, require their employees, when they're traveling in a motor vehicle, to be belted. I wasn't going to say anything on this topic because it's not really where the volunteers are at on this legislation, but I'll toss it out as food for thought. In the other part of my work, representing criminal defendants, in that issue of profiling that you all will have to deal with if one of these measures advances, if an officer is going to stop somebody, there are a host of reasons why that officer might...the law enforcement might stop someone. In looking at that, there's so many points right now that a person could be stopped. The rolling stop sign: Well, I wanted to stop you, you know; you didn't come to a full stop at that stop sign; it's there right now. Late at night: You touched the white line, the fog line, if you will, or the yellow line, and you touch it once, and that's probable cause in order to...reasonable cause in order to stop a motorist. It's my belief that this isn't adding anything to those items that are already out there. And for what it may be worth, I offer that to you as you journey on in deciding on this legislation and, perhaps, then on the floor. But on behalf of my clients, we'd urge you to advance one of these measures to the full floor for consideration. Thank you. [LB10 LB189]

SENATOR DUBAS: Thank you, Mr. Stilmock. Questions? Senator Price. [LB10 LB189]

SENATOR PRICE: Thank you, Madam Chair. [LB10 LB189]

JERRY STILMOCK: Sir. [LB10 LB189]

SENATOR PRICE: Mr. Stilmock, could you hazard or proffer an opinion on the purpose for assigning, or would you concur with me--then you don't have to answer an opinion--the purpose of assigning points is to identify risk as risk relates to cost drivers?

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[LB10 LB189]

JERRY STILMOCK: I agree. I think it makes sense. If one goes down the list of point violations, I think it's attributable to the risk. And if you're going to take the risk, then you're going to be tapped. And we know that 12 points in a two-year period, and you're going to be tapped out. [LB10 LB189]

SENATOR PRICE: Okay, and risk to society in general is equally borne by both commercial and private operators? [LB10 LB189]

JERRY STILMOCK: No doubt. [LB10 LB189]

SENATOR PRICE: Thank you. [LB10 LB189]

JERRY STILMOCK: Yes, sir. [LB10 LB189]

SENATOR DUBAS: Additional questions? Seeing none, thank you very much. [LB10 LB189]

JERRY STILMOCK: Thank you, Senators. [LB10 LB189]

SENATOR DUBAS: Welcome. [LB10 LB189]

MACKENZIE BOUGHER: (Exhibit 9) My name is Mackenzie Bougher. Mackenzie is M-a-c-k-e-n-z-i-e, Bougher, B-o-u-g-h-e-r, and I will be testifying on LB10 and LB189. I am from Papillion, and this is my story. Being 17 and being around people my age every day, I understand how the average teenage mind works. We understand bad things happen. We understand accidents occur. But we never think it will happen to us. So many teenagers don't wear their seat belts because they believe it's unnecessary. I grew up in a home where the vehicle didn't move unless everyone had their seat belts on. So when I got my first vehicle, my seat belt was always on me. It just became a natural instinct, and anyone in my car did the same. Even still, I never thought in a million years I'd get in a car accident. But on December 5, 2012, that mind-set changed. As I was driving home, I saw the headlights my mind will never forget, coming straight towards my passenger side. As the truck smashed into me, I knocked down the power pole on 114th and Capehart. Zachary Austin's truck flipped and, as it did, he was ejected from the driver's window. Waking up to that mess, that feeling of not knowing where I was and what had happened, and screaming out for my mom and dad was the scariest thing I have ever experienced. Seeing Zachary Austin's body lying next to my vehicle is an image I will never be able to shake. All it would have taken was three seconds of his time to buckle up, and he would be alive and well today. It's that easy. If I wouldn't have buckled up, there is no doubt in my mind I wouldn't be here, speaking to you today. My family and my friends would have been devastated. People say it is their

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choice to buckle up, that it's their life and their decision, but how selfish of them. The fact that Zachary Austin didn't buckle up will have an impact on my life forever. The fact that he didn't buckle up will greatly affect his entire family forever. His daughter will grow up without her father, and his family will mourn for him every day. My family and my friends will never forget to wear their seat belts after December 5, but it shouldn't take a terrible accident or a death to make people realize how quickly their lives can end. To enforce seat belt safety would not only save individuals but whole families from suffering. Thank you. [LB10 LB189]

SENATOR DUBAS: Thank you very much, Mackenzie. Are there questions? Senator Smith. [LB10 LB189]

SENATOR SMITH: Thank you, Madam Chair. Ms. Bougher, you did a very nice job on your testimony. So you're from Papillion. Where do you go to school in Papillion? [LB10 LB189]

MACKENZIE BOUGHER: Platteview High School. [LB10 LB189]

SENATOR SMITH: Platteview, okay. That's a fantastic community. Thank you. [LB10 LB189]

MACKENZIE BOUGHER: Thank you. [LB10 LB189]

SENATOR DUBAS: Were you hurt seriously or at all in the accident? [LB10 LB189]

MACKENZIE BOUGHER: Just a fractured thumb and a concussion, so nothing to complain about. [LB10 LB189]

SENATOR DUBAS: You bring a different perspective into this discussion that I had never thought about in the fact that you were wearing your seat belt, you were saved from serious injury, but how the fact that another person didn't have their seat belt on has impacted you. And it's obvious that this is a very emotional issue for you. And, you know, how are you dealing? Are you using this as your ability to educate your friends and others about the importance of wearing a seat belt and talking about it from that perspective, knowing that someone else didn't? [LB10 LB189]

MACKENZIE BOUGHER: It's tough. Just his side of the family, like, speaking to them and knowing that I was in an accident where the other driver died is really tough. But to think that, because I went through that, my friends' lives and people I know can be saved because of my story, it's...I'm not...it's not like it's worth it, but it just...it makes it a little bit better to think about. [LB10 LB189]

SENATOR DUBAS: You want to take something bad and...take lemons and make

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lemonade out of it, so to speak. [LB10 LB189]

MACKENZIE BOUGHER: Exactly. [LB10 LB189]

SENATOR DUBAS: Well, again, I do appreciate you taking the time. It's obvious this is a very important issue to you and, as I said, you've brought a different perspective into it that maybe some of us hadn't thought. Are there any other questions for Ms. Bougher? Thank you again for coming. [LB10 LB189]

MACKENZIE BOUGHER: Thank you. [LB10 LB189]

KRAIG BOUGHER: Hi. [LB10 LB189]

SENATOR DUBAS: Welcome. [LB10 LB189]

KRAIG BOUGHER: Thank you. Kraig Bougher, B-o-u-g-h-e-r, proponent as well of LB10 and...is it LB189? [LB10 LB189]

SENATOR DUBAS: Yes. [LB10 LB189]

KRAIG BOUGHER: Make sure I've got that right. I'm the father of Mackenzie Bougher. You guys have a lot on your plate but, at the same time, we felt, an important, important issue here. I remember getting that call on that December 5. And as we're sitting down as a family, Mackenzie was actually out at a Fellowship of Christian Athletes event, should have been on her way home, when we got the call. And, you know, obviously I don't want to get into all the different details of it too much. But at the same time, it is a situation to where the seat belts absolutely, positively made a difference, and I've got my little girl. It's...when I got the phone call from the officer, first of all, I thought it was a telemarketing thing, a fund-raiser for the sheriff's office and those type of things. (Laughter) So it was...but I did distinctly remember him using her name, Mackenzie, and it...obviously, that's what caught my ear. After hearing that, I finally...I asked him to repeat what he had said, and he said...you know, he was going through what happened but said that she was going to be okay. Well, then instantly you start to think, well, you know, what the heck happened, I want names. You know, what happened? And he went on to say, you know, it appears that someone had ran through a...that he ran through a stop sign and hit her broadside, and it hit her on the passenger's side but that she was...and he kind of paused and said, you know what, I believe she's going to be okay; she's going to this hospital. And I said, "Well, if she's going to be okay, I mean, is...you know, how bad is this?" And he told me where the accident was and, of course, told me, don't go to the scene, go directly to the hospital. Of course, as a parent, you don't...you go right to the scene because you want to be with your daughter. And it was only a couple miles from the house but, in going there, I'm still talking to him on my cell phone. And as we're going to the scene, he kind of heard my voice. You know, I wanted

some answers for what had happened. And I could hear him step out of the vehicle. And he said, sir, the person that hit her probably won't make it. And then you kind of go into a whole different level of...as a parent. And you get to the scene, and, as you get to the scene, the emergency unit is actually pulling away. I walked about 50 yards, close to where her Hummer sat, and I thought, he's made a mistake, because the Hummer was absolutely...it was devastated. It was just...it was mangled on both sides. Sir, I'm glad she wasn't driving your Fiesta (sic--Festiva). (Laugh) But it was, you know, from there, going to the hospital, you know, there's so many thoughts that go through your mind. And again, it's...it was something in our family that you just did as my kids. You raise your kids, and you're going to wear your seat belt, or you're not going to drive, period. You do it because it is the law, but you also do it because you know that it does save lives. And, you know, maybe for young kids, maybe us, as parents, aren't doing a good enough job, and we need to come to you people to say, you know, let's do whatever we can to make the laws a little stricter, maybe, the fines a little tougher. One of my...the job that I do is I actually put together safety award programs for trucking companies, for all kinds of different companies, a lot of different recognition-types of companies and/or...and safety is one of the big issues. They're always asking us, you know, once we have the program in place, "Hey, what do we need to do, what's going to take it to the level?" The thing that always takes it to the next level, as far as success of a program, is the awareness. And I think in this situation here, I think even just the tougher...making the laws tougher, making the fines tougher, I think what it's going to do is raise that awareness. Being a small business owner, the last thing I want are more laws, more people telling, you know, how to do different things. But in this situation here, I know that it saves lives; I've seen it firsthand, and I feel that it's our job; it's our opportunity to make a difference and do whatever we can to enforce that. Thank you. [LB10 LB189]

SENATOR DUBAS: Thank you, Mr. Bougher. Are there questions? Thank you again for sharing your story. [LB10 LB189]

KRISTIN TOBIAS: Good afternoon, Senator Dubas and committee members. My name is Kristin Tobias. That's K-r-i-s-t-i-n T-o-b-i-a-s. And I am testifying in support of LB10 and LB189. I'm a member or a student at UNL in the advertising and public relations field. And as part of our curriculum, advertising students spend a semester conducting a real campaign. In August, Tom Safranek of the Department of Health and Human Services gave us a little presentation on what a primary seat belt law would do for the state, and we decided that we would love to run a campaign about that, promoting that in the state of Nebraska. And we were thrilled at the idea of doing something that would be beneficial to the state. And as we dug deeper and did research, it became more than just a project. It became something we sincerely and passionately cared about. Through our research, we learned that it would save lives. Like people have been saying, it saves taxpayer dollars. And wearing a seat belt increases the chance of saving...of survival in an accident by 50 percent. And since Nebraskans are generally law-abiding

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citizens, a law requiring seat belt usage could make a real difference. These are just a few of the facts we unearthed. A lot of the things we discovered, other people have already touched on. And we realize that there are understandable reasons for opposing this law. Through in-person interviews and other research, we determined that the primary reason for opposition was the...that it's too invasive of citizens' personal rights. But, however, by not wearing a seat belt, drivers also infringe on the rights of and endangers others on the road. And as we heard from Mackenzie, it affects other people besides the person making the choice. During our campaign, we actually hosted an event on UNL's campus and found that students were extremely supportive of the initiative. And also, through our interviews, we found that a wide variety of people were in support of the primary seat belt law. Through our research, we also saw that many states across the nation have seen significant improvements in traffic safety when going from a secondary law to a primary. And we're pleased to see that our state has the opportunity to do this as well. A primary seat belt law is nearly guaranteed to save Nebraskan lives every year. And on behalf of the team of advertising students who worked on this project, we fully support the bill and hope that it receives the consideration it deserves. Thank you. [LB10 LB189]

SENATOR DUBAS: Thank you very much, Ms. Tobias. Questions? Seeing none, thank you. [LB10 LB189]

KRISTIN TOBIAS: Thank you. [LB10 LB189]

ROCHELLE MALLET: Good afternoon, Chairman Dubas and members of the committee. [LB10 LB189]

SENATOR DUBAS: Welcome. [LB10 LB189]

ROCHELLE MALLET: My name is Rochelle Mallett. That's R-o-c-h-e-l-l-e; last name is Mallett, M-a-l-l-e-t-t. And today I'm testifying on behalf of the Alliance of Automobile Manufacturers, in support of LB10 and LB189. The Auto Alliance believes the safety belt is still among the most fundamental safety devices in automobiles and, for that reason, the auto industry has invested significant resources to increase safety belt usage, which includes supporting policies such as these two bills. And I'm going to keep it pretty brief because you've had a lot of information today, but happy to answer any questions. [LB10 LB189]

SENATOR DUBAS: Thank you, Ms. Mallett. Questions? Thank you so much. [LB10 LB189]

ROCHELLE MALLET: Thank you. [LB10 LB189]

SENATOR DUBAS: Next testifier in support of either one or both of the bills. Welcome.

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[LB10 LB189]

ANNA BRINKMAN: (Exhibit 10) Hi. My name is Anna Brinkman, originally of Shickley, Nebraska. A-n-n-a, and Brinkman is B-r-i-n-k-m-a-n. I'm here for LB10 and LB189. Imagine waking up, covered in mud and dirt, in a ditch, seeing ambulance lights, and not knowing what happened. It's pretty hard to envision, but for me, this is a memory I'll never forget. July 17, 2009, is the day I was thrown from a vehicle that rolled three times, and I was fortunate enough to walk away. Since then I've had numerous medical checkups, post-traumatic stress disorder, and scars on my body that will always remind me how fortunate I am to be alive. I'm here today to stress the importance of always wearing your seat belt in a vehicle to save lives and prevent life-altering accidents. Unfortunately for me, in 2009, I was going through a rebel phase. I thought I was the queen of the world, back at home for the summer after my first year of college. I was back to hang out with my high school friends and have a summer to remember. This turned out to be a summer that I'll never forget. July 17 was my friend, Paige's, 19th birthday. After working at the pool all day, we called up two of our guy friends, Aaron and Cody, to go booze cruising around the area. As the night progressed, we became more impaired and, losing judgement, no one bothered to wear seat belts. Around 1:00 a.m., I remember turning a corner on a gravel road, and the truck driver started to fishtail. Not being concerned, I lazily said to the driver, "Aaron, road." The next thing I remember is waking up in a ditch. I saw multiple cars, ambulance lights, and didn't know what was going on. An EMT grabbed me out of the ditch and helped me walk, barefoot, over to the ambulance. I was in denial. They asked me if I had been unconscious, if I was thrown, and if I was hurt at all. I told them no. All I wanted to do was to get home to escape the disappointment of my family and town. When the ambulance reached the hospital, they filed the four of us out, separating us. When I was in my own room, still overcome with denial, the nurses began to scrub my right arm with a steel brush to get all of the gravel out of my new road rash. I didn't feel anything. They finally told me to tell them what hurt, starting with my head and work my way down. There's two spots on my head, my whole right arm, there is a scratch on my right calf, there's a cut on my foot, and then I began to scream. The pain in my left elbow had sunk in. They brought in an x-ray machine, and immediately it was evident there were no broken bones, but I was put in an air cast. I was then told that Aaron, the driver, had been Life Flighted to Lincoln; Paige was getting stitches in her legs; and Cody was okay and in the waiting room. The pain and suffering that came next was the worst. I couldn't be alone or turn off any lights. Any time by myself would cause my mind to go back to the horrible things I had seen and felt and would instantly become overwhelmed. The boys in the accident immediately became distant, and I have lost their friendship. The disappointment and embarrassment I felt all around me was overwhelming. I was lost. Upon returning to college a little over a month later, I was able to seek comfort with my sorority sisters but still wasn't 100 percent. I went to counseling every week for six months. I went to a chiropractor for three years. The scars on my arms aren't as noticeable, but I still get stares. Looking back now, this accident has redirected my moral compass and made

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me who I am. I am so thankful to have lived through something that's so traumatic but wouldn't wish this upon anyone to change their lives. If we had been wearing our seat belts, Aaron wouldn't have been thrown from the vehicle, suffered punctured lungs, a severed liver, broken ribs, and bleeding on his brain. I wouldn't have been thrown from the vehicle, suffered whiplash and road rash, PTSD, and an almost entirely severed tendon on my left elbow. Paige wouldn't have slid all the way across the back seat of the truck, having her leg crash through the side panel, causing her to tear tendons in her leg. And Cody wouldn't have had to have to been the one to call 911, seen two of his friends unconscious in a ditch, and the other unconscious with her leg stuck in a door. It's hard to stop teenagers from drinking and driving. But maybe if they know the importance and value of wearing a seat belt, it can save lives and prevent deaths. If this legislation is passed, this would be another ticket available to adolescents but the most preventable one. Seat belts can save lives and prevent pain. I hope sharing my story will help making wearing seat belts a primary law an easier decision. [LB10 LB189]

SENATOR DUBAS: Thank you very much, Ms. Brinkman. Are there questions? Senator Price. [LB10 LB189]

SENATOR PRICE: Thank you, Madam Chair. I'd just like to say thank you for having the courage to come forward. It's so hard when you make a mistake, but thank you for having that courage and sharing that with everybody today. [LB10 LB189]

ANNA BRINKMAN: Thanks. [LB10 LB189]

SENATOR DUBAS: Other questions? I, too, thank you for sharing your story. Thank you for coming forward today. Next proponent for either one of the bills. [LB10 LB189]

ELLI FUGATE: Good afternoon, Senators. My name is Elli Fugate, and that's spelled E-I-I F-u-g-a-t-e. And I am an advertising and PR student at the University of Nebraska-Lincoln. As my fellow classmate, Kristin Tobias, had addressed earlier that last fall we worked together, along with seven other girls, to construct a campaign supporting the primary seat belt law. After extensively researching the primary seat belt law, we concluded that this bill has the potential to save 29 Nebraskan lives per year. It also saves taxpayers \$952 per year if this bill is enacted. Sixty-eight percent of constituents are in support of this bill, with the biggest opponents in the 3rd District of Nebraska. I am from the 3rd District of Nebraska, and I firmly understand the anti-nanny state mentality that many of them do portray. And with someone whose family members do not wear their seat belt as much as they should or obey the law and the fact that they do need to wear them, lives can be saved. And we have seen several stories today, how Mackenzie's friend could have been saved with the...with this bill being enacted. Stories like these don't have to happen to 29 Nebraskan lives every year, and 29 Nebraskan lives can be saved. We worked with Tom Osborne this year to help develop commercials to address the constituents in the 3rd District that he has...as

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congressman in the 3rd District, he has helped them with bills throughout his run as a congressman and, also, he does portray quite a status as the head coach of Nebraska football, and he does have a swing with their district Nebraskans as he is from there as well. So it is our hope that today you do consider this bill being passed. Thank you. [LB10 LB189]

SENATOR DUBAS: Thank you, Ms. Fugate. Are there questions? Seeing none, thank you again for coming forward. [LB10 LB189]

ELLI FUGATE: Thank you. [LB10 LB189]

SENATOR DUBAS: (Exhibits 11-26) Additional testifiers. I have quite a list, if there are no more that are coming forward to talk, who submitted letters in support of LB10, from: David Lindley, president of the Public Health Association of Nebraska; Curtis Smith, the executive director of the Nebraska Chapter of Associated General Contractors; Dan Noble, president of the Nebraska Medical Association; Amy Prenda, executive director of the Nebraska Sheriffs' Association; and Garry Gernandt, vice president of the Omaha City Council. I have four letters in support of LB189, again from: Curtis Smith, executive director of the chapter of Associated General Contractors; Amy Prenda; David Lindley; and Stephanie Davis of the National Transportation Safety Board. And then I have six letters in support of both LB10 and LB189: Judith Halstead, health director for the Lincoln-Lancaster County Health Department; Nicole Carritt, executive director of Project Extra Mile; Coleen Nielsen, on behalf of State Farm Insurance Companies; Kate Kulesher Jarecke, executive director of the Brain Injury Association of Nebraska; Dr. Joseph Stothert, professor of surgery at the University of Nebraska Medical Center--that letter was also signed by several other professors and assistant professors--and fire chief Rex Schroeder, of the Palmyra Volunteer Fire Department, in support of LB10 and LB189. So if there is no further testimony in support of LB10 or LB189 or both, I would invite opposition testimony to come forward. No one in opposition. I do have two letters in opposition to LB10 and LB189 from: Stefan Schreier, founder of the Safety Choice Coalition; and Amy Miller, legal director of the American Civil Liberties of Nebraska. Do we have anyone in the neutral capacity on either one of these bills? Seeing none, Senator Harms, would you like to close? [LB10 LB189]

SENATOR HARMS: Well, thank you, Senator Dubas. I would be in hopes that, as you evaluate what you'd like to do with this bill, it doesn't make any difference which bill comes out, whether it be Senator Krist's or my bill. We just would like to have it out. I think it's time to have the policy discussion again to see if this is really what we want to do. Also, you have a lot of flexibility. Whatever modifications you would like to make I would have no problems with any of that. So I'm pretty open to...I think it's just an important enough topic anymore that we need to have this discussion, but...so I thank you. This has been a good committee to come to. And I've seen you more than I have some of the other committees, and so thank you very much for your kindness. And

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thank you for listening, and thanks...thank you very much for your good questions.
[LB10 LB189]

SENATOR DUBAS: Do we have any questions for Senator Harms? Seeing none, thank you, Senator Harms. [LB10 LB189]

SENATOR HARMS: You're welcome. [LB10 LB189]

SENATOR DUBAS: So now we will invite you back to the table to open on LB118. Welcome. [LB118]

SENATOR HARMS: Thank you, Senator Dubas and committee members. My name is John N. Harms, H-a-r-m-s. I represent the 48th Legislative District, and I'm here today to introduce LB118 to you, a bill that makes written communications while driving on the road a primary offense in Nebraska. Distracted driving, especially driving while talking on a cell phone or text messaging, has become a widespread problem with potential to become even worse as more exotic electronic devices are constantly appearing to beckon drivers' attention away from the road. Over the past few years, distracted driving has gone from a dangerous practice to, actually, a deadly epidemic. The National Highway Traffic Safety Administration research shows that in 2011 we had 3,331 people who were killed in crashes involving distracted driving, compared to 3,267 in 2010. An additional 387 people were injured in motor vehicle crashes involving distracted driving, compared to 416,000 injured in 2010. This problem is not being caused by just a few negligent drivers. According to a survey conducted by AAA Foundation for Traffic Safety, a nonprofit educational and research organization, more than two-thirds of the drivers, which is 69 percent, admitted to talking on a cell phone while driving during the past 30 days; and nine in ten respondents, which would be 89 percent, believe that other drivers using cell phones are a threat to their own personal safety. It's important to note that behavior relating to texting while driving also is associated with speeding, driving with being drowsy, sending a text or e-mail, or driving without a seat belt. So the habit of texting on the road may influence and contribute to other distracted driving practices and contribute to additional risk behaviors. For example, according to AAA Foundation for Traffic Safety, research shows that, for these persons who reported using their cell phone over the last month: 65 percent also reported speeding; 44 percent also reported driving while drowsy; 53 percent also reported sending a text or e-mail; and 29 percent also drove without a seat belt. Of those drivers who had not reported the cell phone use, only 31 percent reported speeding; 14 percent reported driving drowsy; and 3 percent reported sending a text or e-mail; and 16 percent drove without seat belts. So as you can see, distracted driving is related and is already associated and connected with a lot of other high-risk behaviors on the road. According to AAA Foundation for Traffic Safety, there is a 95 percent disapproval rate on texting and e-mailing in Nebraska. The fact that it still occurs on our roads leads me to believe that we need a little more stringent or maybe a change in our law to make this a little

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easier to address. Even though a person may agree that it's a problem, it certainly doesn't prevent them from a behavior. If it is still an option, they're probably going to continue to use it. I'd like to emphasize that it is already against the law, so my contention is that to permit those persons to text on the road disregards our current law in Nebraska. Due to passage of LB945 in 2010, there are fines for the first, the second, the third and subsequent offense to performing written communications on the road in Nebraska. The first is \$200; the second is \$300; and the third is \$500. LB945 established that three points be accumulated on the driving record for the offense; however, this can only be accomplished if the driver violates another law while on the road in Nebraska. If a separate violation permits the law enforcement officer to stop or pull over a driver, and the driver is utilizing their phone in a form of written communication as indicated by personal observations or by admissions in the stop, the law enforcement officer may then issue a citation. As a follow-up, an order by the county attorney to acquire phone records may be pursued for evidence in the event that the county attorney chooses to file with the court. I believe there is a problem in our law that was created by an amendment filed during the debate of 2010, and that was AM2121 to LB945, that being the secondary language. Law enforcement officers may see someone violating the law by texting or sending an e-mail on their phone, yet, they're powerless to stop it unless the driver is pulled over for another violation, which may or may not even happen. My contention is this: If it's against the law, then why don't we empower our law enforcement officers with the right tools to enforce it? Under this legislation, we would permit a law enforcement officer to pull over a driver who is performing written communication while operating a motor vehicle and to cite them accordingly if they do, indeed, see that the driver is performing written communications on a device and are able to pursue it in a stop. It certainly does not prove guilty but allows law enforcement to pursue it if they suspect that is the case. We did some research and found that there's 381 persons had been charged with texting in the first offense while driving since the enactment of LB945. And we have that broken down now by county. And this was the result of the JUSTICE data research, where cases were filed from July 1, 2010, to January 14, 2013, when the query was run. The charges do show that it is prevalent for the first offense over the first four years. We have information as of 2011 with a total of 89 convictions in Nebraska. These do not include those that took a STOP Class or citations that may have been dismissed by the prosecutor. This is information I just wanted to make sure you knew, and I wanted to share this with you today. The charges do show that it is prevalent, and we have another inquiry being run that is more up-to-date, being broken down by year and county and offenses for charges and the convictions in 2011. The director of Center for Human Performance and Risk Analysis at the University of Wisconsin at Madison says, and I quote, "Texting is especially a serious problem presenting a perfect storm of driver distraction; drivers take their eyes off the road, their hands off the wheel, and their minds off the critical task of controlling their car." End of quotes. This is truly a tragedy waiting to happen. Let me share with you just some research which shows why texting while driving increases the risk of crashing. According to a study involving 40 motorists in a driving simulator, those who

were texting were six times more likely to crash than those who weren't. A 2009 study published in The Journal of Human Factor, 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 talked on cell phones while driving. Since 2011, the Nebraska Office of Highway Safety has tracked the number of traffic accidents resulting from mobile device distractions. In 2010, there was a total of 3,465 distracted driving crashes, with 2,243 in property damages, 1,212 injuries, and 10 deaths. In 2011, there was a total of 3,515 distracted driving crashes, with 2,296 in property damages, 1,213 injuries, and 6 deaths. As you can see, distracted driving is no longer a small matter in Nebraska. The AAA motor club and the National Safety Council are urging all states to outlaw any cell phone use and texting while driving. Texting requires at least one hand to be off the steering wheel and diverts the driver's attention from the road for even longer periods of time than talking on a cell phone. Texting requires a manual skill, cognitive ability, and vision. These skills are necessary to quickly problem solve in an unforeseen accident or react accordingly, as well as having the ability to notice oncoming traffic and signs. All three skills are required for appropriate attention on roads and safety. Inattentional blindness can occur when a driver is talking or texting, which means a driver will fail to notice unexpected stimulus from another source, even when looking straight at it. For this reason, I believe that texting is especially dangerous on the road. Inattentional blindness is you see everything that's happening, but it just doesn't register. You're just not in focus mentally with it. As of February 2013, 39 states, including the District of Columbia, Guam, and Alaska, have banned texting while driving for all drivers, according to the instruction...according to the Insurance Institute of Higher (sic) Safety--Highway Safety, excuse me. Of these states, 29 have a straight primary ban with no exception; 7 states have variation, in terms of learning permits, between cell phone usage and texting, as well as bus drivers and teenagers. Nebraska is one of the only four states with a secondary ban. Those four, including Maryland, Virginia, and West Virginia, when looking at these statistics, it is clear that Nebraska is in the minority in its relationship to widespread and uniform transportation policies of the nation. West Virginia's handheld ban will go into effect as primary on July 1, 2013. I would...I will add that Maryland has a primary ban based solely on texting, and Virginia a primary ban as only applies to bus drivers. President Barack Obama signed an executive order directing federal employees not to engage in texting...text messaging while driving in a government-owned vehicle or with government-owned equipment. Federal employees were required to comply with this ban December 30, 2009, so even the President is...saw in 2009 that this was dangerous. On January 26, 2010, the Federal Department of Transportation banned drivers of trucks and busses with using handheld devices to send messages while driving. During this time, the U.S. Transportation Secretary, Ray LaHood, stated that the federal government would do everything that it could, and in its power, to send a clear message that texting and talking while driving are potentially lethal activities with very serious consequences and that truck and bus drivers are expected and required to share the road responsibilities with other travelers. This is

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obviously a huge issue nationally and, by passing this bill as primary in 2010, Nebraska would have been one of the leaders in solving it. We can resolve this now by advancing this legislation and including Nebraska with the rest of the nation in transportation policy, and that's being the 39th state. I've heard often from people that this is hard to enforce. I've talked to a number of law enforcement officers. Some of them are friends and said that it's a matter of learning how to enforce it. It's a matter of what to look for. We also heard the same thing as we're...at first, when people were worried about enforcement of DUI laws. We heard the same thing about seat belts. But even just having these laws on the books makes people aware of the decision they are making. Many people will obey the law, even if they don't necessarily agree with it, especially if they're facing a large fine for breaking it. This law will change people's behavior. I think we've seen that already it has. In conclusion, Senator Dubas, I would simply say that this legislation would simply make the roads safer. No driver has any business text messaging while they are driving. Simply put, lives are at stake every day. It's critical that we begin to combat distracted driving. And I'd be very happy to try to answer any questions in regard to this particular topic. [LB118]

SENATOR DUBAS: Thank you, Senator Harms. Questions? Senator Smith. [LB118]

SENATOR SMITH: Thank you, Madam Chair. Senator Harms, help me process through this, kind of, practically how this would happen. I use a handheld, hands-free device whenever I drive, whenever I talk. But let's say I had my smart phone out, and you know how a smart phone has...you have to move your little cursor across to receive a...I think, to receive a call or, well, or to dial a call or whatever. So if I'm doing that--I'm not texting; I'm using the phone--and a law enforcement officer were to see that, he would interpret that as possibly texting, right? [LB118]

SENATOR HARMS: He could. But, you know, once they stop, and you have the right to give him your phone; it's very clear... [LB118]

SENATOR SMITH: And tell me about how that would work. [LB118]

SENATOR HARMS: Yeah, pardon me? [LB118]

SENATOR SMITH: So he pulls me over. [LB118]

SENATOR HARMS: Yeah. [LB118]

SENATOR SMITH: I'm not texting. I'm trying to answer a phone or make a phone call. [LB118]

SENATOR HARMS: Right. [LB118]

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SENATOR SMITH: So he pulls me over for a primary offense. Then, how...take it from there. Describe how that would work. [LB118]

SENATOR HARMS: Well, I think that there...the law enforcement officer would have the opportunity to ask to look at your cell phone to see that. And, to be honest with you, you don't have to give it to him. You could deny that, but they can also, then, ask...subpoena your records to determine whether or not that's been done or not. Let me talk a little bit about this is handheld device, and it has to be in motion. So a handheld device could be a... [LB118]

SENATOR SMITH: The vehicle has to be in motion? [LB118]

SENATOR HARMS: Yeah, it has to be in motion. So you could pull over and stop and do your text messaging, whatever you want to do, but it has to be...it's handheld; it's got to be in motion; it's a mobile cellular telephone; it's a text-messaging device; it's a personal digital assistant; it's a pager; or it could be a laptop computer. And the point here is that you cannot read, you cannot write--and write means...would be manually type--or you can't send. A written communication would be defined as text messaging, instant messaging, electronic mail, or an Internet Web site. That's the parameters that you would find involved in that aspect of it. [LB118]

SENATOR SMITH: I would challenge you that dialing a number on a smart phone can be just as complicated as texting. But... [LB118]

SENATOR HARMS: Oh, I get it. I don't disagree with that. [LB118]

SENATOR SMITH: But...so. [LB118]

SENATOR HARMS: You don't...to be honest with you, Senator Smith, I've given a lot of thought to cell phones, but I don't think Nebraska is ready for this. I think it's something you can sure take on, but it was tough enough just to get LB945 out of this committee and to get it on the floor. [LB118]

SENATOR SMITH: Okay. [LB118]

SENATOR HARMS: It's just a battle, and I don't know if we're really ready for it. [LB118]

SENATOR SMITH: And then one... [LB118]

SENATOR HARMS: I would surely support it if somebody brought it out. [LB118]

SENATOR SMITH: And then one other question for you. We exempt law enforcement emergency personnel. But if this is about safety...Safety is safety. And I understand

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when some law enforcement or emergency personnel may be en route to an emergency, and they need to do that. [LB118]

SENATOR HARMS: Um-hum. [LB118]

SENATOR SMITH: But that's not always going to be the case. [LB118]

SENATOR HARMS: Yeah, here's the exemption, so I can make sure you...we were talking about the same: law enforcement officers, firefighters, ambulance drivers, emergency medical technicians, and persons operating a vehicle in an emergency. Those are the exemptions but, usually, in that aspect, they have more than one individual in the ambulance or in the fire truck. It's somebody else doing the texting. They need to have the freedom to be able to do that. [LB118]

SENATOR SMITH: All right, thank you. [LB118]

SENATOR HARMS: So it's not the driver that's probably doing it. If you look at what happens, it's...they have a lot of help in those particular instances. [LB118]

SENATOR SMITH: Thank you. [LB118]

SENATOR HARMS: Thank you for your questions. They were very good. I appreciate that. [LB118]

SENATOR DUBAS: Other questions? I would have... [LB118]

SENATOR HARMS: I wore you out, didn't I? I'm sorry about that. [LB118]

SENATOR DUBAS: Oh, no, I've got one for you. [LB118]

SENATOR HARMS: Oh, okay. [LB118]

SENATOR DUBAS: When we debated this bill on the floor, and it became a secondary offense, one of the reasons was: it's hard for law enforcement to know, for sure, if you're texting or not. Now you did give us some data as far as the number of citations that have been issued and convictions, and I think you said you were going to follow up with even some more detail. But does it appear to you in your preliminary research that that has been a problem and that they have been able to successfully convict on these tickets? [LB118]

SENATOR HARMS: I think they've been pretty good at this point, you know, with...I was really surprised at 300-and-some, you know, citations that have been given. In talking with law enforcement, when we first put this bill out, Senator Dubas, what they told me

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is that it would take them a while to figure out how to do this and that we should be patient with them. And I think they have begun to discover how it's easy to determine whether they've been texting or not. Here's the other thing that's interesting when you're texting: the average text is 4.6 seconds. If you look at your...you know, you look at your text, you bring your head down, text, and you bring it up, it's 4.6 seconds. And now, in that 4.6 seconds, if you're going 50 miles an hour or 55 miles an hour--I can't remember--you will go the distance of a football field and both end zones, blind. That's how deadly this thing is. And I think it's a real issue, and I think it has to be, you know, hopefully, addressed. And I don't think any law is probably perfect. But I think this would at least give them the tools to be able to use to start to prevent it. And I think if it was my children that got picked up for texting, dad wouldn't pay the bill. That \$200 is going to come from you, no matter how you do it. And I think that's a big factor. And I think we'll try to find out, you know, those of the 300, how many are repeat. I doubt if very few are repeat because 2, 3, and 5 and 3 points is tough. It's serious, so thank you. [LB118]

SENATOR DUBAS: Very good. Any other questions? Thank you, Senator Harms. [LB118]

SENATOR HARMS: Thank you. Appreciate that. This is the last time I'll see you, so thank you. I'm sure you're all happy too. [LB118]

SENATOR DUBAS: Okay. You're always welcome. We have our first proponent on LB118. [LB118]

JERRY STILMOCK: Thank you. Madam Chair, Senators, members of the committee, my name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying in support of LB118 on behalf of my clients, the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association. We believe our membership, with supplying a tremendous amount of the volunteer EMS services throughout the state, is very much in support of making this a primary offense. We support the reasons that Senator Harms gave in support of LB118 and urge the committee to advance the legislation to the full floor. Thank you. [LB118]

SENATOR DUBAS: Thank you very much, Mr. Stilmock. Questions? The committee is kind of dwindling here. [LB118]

JERRY STILMOCK: Scared them away. Thank you, Senators. [LB118]

SENATOR DUBAS: Thank you very much. [LB118]

JERRY STILMOCK: Yes, ma'am. [LB118]

JASON BROMM: Good afternoon, Madame Chair, members of the Transportation and

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Telecommunications Committee. [LB118]

SENATOR DUBAS: Welcome. [LB118]

JASON BROMM: My name is Jason Bromm, J-a-s-o-n; Bromm is B-r-o-m-m. I am testifying today on behalf of Verizon Communications Incorporated, and we are in favor of LB118. Verizon Wireless is the nation's largest wireless service provider and has supported past legislation that required people who talked while driving to use hands-free devices. As texting has become more prevalent, more mainstream, we support bans on texting while driving and prohibit Verizon employees from texting while operating a motor vehicle as well. In addition, to show our commitment to saving lives, in 2009 we launched a campaign nationwide, called "Don't Text and Drive." We appreciate Senator Harms in bringing this bill forward today and would answer any questions that you have. [LB118]

SENATOR DUBAS: Thank you, Mr. Bromm. Questions? I would have one, maybe not directly related to this. But I have heard that there either is or will soon be coming some kind of an app that you could have on your phone that will actually disable your phone once you're in the car. [LB118]

JASON BROMM: Um-hum. [LB118]

SENATOR DUBAS: Are you aware or...where we're at with that? [LB118]

JASON BROMM: I think there are apps, actually, that already exist, that you can install on your phone that not allow you to text while the phone is in motion. I could look some up for you and get them to you. [LB118]

SENATOR DUBAS: That would be good to know. I mean, I can see the advantage, but I could also see, if you're needing...you know, if you would need your phone in an emergency, would you be able to...? You're saying this is while the vehicle is in motion. That's when that app would work. [LB118]

JASON BROMM: I believe so. I think it's a GPS-enabled app. [LB118]

SENATOR DUBAS: Okay, yeah, if you could. [LB118]

JASON BROMM: I don't personally one. I use Dragon and some other apps to verbally text and so forth. I know those are available as well. But I could look some up for you and get them to the committee. [LB118]

SENATOR DUBAS: Very good. I'd appreciate that. [LB118]

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JASON BROMM: Um-hum. [LB118]

SENATOR DUBAS: Thank you. Any other questions? Seeing none, thank you. Next testifier in support. [LB118]

ERIN SMITH: (Exhibit 27) Thank you, Senators. My name is Erin Smith, E-r-i-n S-m-i-t-h. I am...my permanent address is currently in Cedar Rapids, Nebraska. However, I am a college student at CCC in Hastings right now. On August 25, 2010, just 11 days after my 17th birthday, it started out pretty normal. But I wasn't aware of how different it would end. I was just beginning my senior year of high school. I was just getting into a routine. I woke up and rode to school, 13 miles away, with my dad. After school, instead of waiting 30 minutes that my dad, my science teacher, had to wait to go home, I decided to ride with my best friend who also lived in the town that I lived. After getting home, I had a small, pointless argument with my mom and decided that if I went for a small drive, I'd be able to calm down. As I drove north on Lake Avenue in Gothenburg, Nebraska, my boyfriend saw the 2004 Husker-red Grand Am that I was driving drive by. It didn't take long for him to text me to find out where I was. It also didn't take...it took about the same amount of time for me to text back. The first text, I was fine; the second text, I was fine. But after the second text, everything went blank. I remember waking up in Good Samaritan Hospital in Kearney. My family was all around me. I looked at my dad and apologized frantically about destroying his car after finding out. After he reassured me that he would rather replace a car than to bury a daughter, I asked him what damage I had done to my body. He had told me that I had broken my C2, which is the second vertebrae down, along with six other vertebrae, my collarbone, and I suffered a brain hemorrhage. The next thing I asked my dad was, "Dad, why am I not dead?" to which he replied, "no one is quite sure." It was about a week until I had fully comprehended what exactly had happened. After the second text, I was driving on a gravel road. I had gotten a third text but, after replying, I was headed for a ditch. I slammed on the brakes and overcorrected. The Grand Am that I was driving rolled three times. The first time, I was ejected through the front driver's-side window. The second roll, the car hit an electric pole and rolled on top of me. In the third roll, the car rolled back onto the gravel road. Just on top of the hill I had just finished driving down, a farmer's wife is in the kitchen, doing dishes. She called her husband, who took out his binoculars and saw the accident. He called 911 and rushed down to the scene of the accident. It was no more than 15 minutes from the time I left my house that my parents were notified of my accident. No more than two weeks of being in the hospital, the day I was supposed to be discharged, my nurses found me on the floor of my hospital room. I'd crawled out of the recliner that I had chosen to sleep in, grabbed all of my pillows and blankets off of the floor or off the bed and laid them out on the floor. When my doctor came to check on me, he was in a huge rush to get me into the ICU. The blood from the brain hemorrhage had clogged the ventricles in my brain, and I was required to have a brain surgery to put a permanent shunt in so that the cerebral spinal fluid would circulate from my brain to my intestines. After a total of 36 days in the hospital and three

surgeries, I was released from the hospital and sent home. This was the end of the first step in the huge journey I had...that awaited me. I was to go back to school, part time, and ease my way into the classroom. From the end of August to the beginning of December, I was in a brace from my hips to my head. Getting around in this brace was the hardest part of this journey. Three days a week, I had physical therapy and occupational therapy to help with the bones that still needed healing, one being my collarbone since I was told it would heal itself. I was still a whole quarter behind in all of my classes, and we were still unsure if I was going to be able to graduate with my class. The whole first semester was extremely challenging, but with the help of my wonderful teachers, I was able to get the required credits I needed to graduate on time. About a year from the accident, my collarbone still hadn't been healed properly, so I went to see a specialist. The specialist took x-rays and told me that he wasn't sure if there was anything that he was going to be able to do for me because the lack of blood supply had caused the rotator cuff to disintegrate, but he would go through and scope my shoulder, just in case. After the scope, he told me that the supraspinatus, which is the muscle that raises your arm above your head, had ruptured and he was going to refer me on to another doctor. This other doctor had to go through my shoulder, rebreak the bone that had grown in the wrong spot, and stitch every muscle and tendon back to where it was supposed to be. He was unable to fix the supraspinatus so, to this day, the muscles in my arm are still unable to lift my arm above shoulder height. Today I still suffer consequences from this accident. I am now a 19-year-old sophomore in college who has been denied every job position I have ever applied for because my arm will go no higher than my shoulder. It wasn't until November of 2012, more than two years after the original incident, that was I able to get my driver's license. Everything I must do...everything I do, I must ask myself if it will affect the shunt in any way, and every day I'm reminded of things I cannot do. Every day I ask myself, was that one text really worth everything I have had to go through? And every day the answer stays the same: just a simple no. [LB118]

SENATOR DUBAS: Thank you very much, Ms. Smith. Are there questions? We do appreciate you sharing your story. [LB118]

ERIN SMITH: Thank you. [LB118]

SENATOR DUBAS: I'm sure it can't be easy, but I do appreciate you coming forward. [LB118]

ERIN SMITH: Thank you. [LB118]

SENATOR DUBAS: Next testifier in support of LB118. [LB118]

LORI SMITH: (Exhibit 28) Hello, Senators. My name is Lori, L-o-r-i, Smith, S-m-i-t-h. I live at P.O. Box 296, 203 South Fifth, in Cedar Rapids, Nebraska. August 25, 2010,

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6:47 p.m.--and, yes, I remember the exact time--we got a phone call that I'll never forget: Lori, this is the Gothenburg Fire and Rescue Squad; Erin had a car accident; we need you to meet us at the hospital; she is okay, but we need you to meet us at the hospital. On that day, Erin had gone for a drive, just as any typical 17-year-old who was mad at her mother would have done. She was texting three words, abbreviated and misspelled, "IK"--that is the letters--"rite," r-i-t-e, which means, "I know, right." This text was typed at 6:34 p.m., but was never sent. We found this out after the accident, when we broke into her locked phone. Apparently, as we understand it, she was driving on a gravel road north of Gothenburg, Nebraska, and she veered too far to the shoulder. When she realized it, she overcorrected, rolled her car three times. She was ejected, and it is speculated that the car flipped over her two times before coming to rest on its top in the middle of the country road. She received several injuries, including multiple fractured vertebrae, a brain bleed, and a severely fractured clavicle. Erin should have been dead and, at the very least, she should have been a quadriplegic or a paraplegic. When the assessment was completed, she was transferred from Gothenburg to Good Samaritan Hospital, where she was a patient for 36 days, including two weeks in intensive care, two visits to rehab, three surgeries, one of which lasted ten hours in length, and nearly 100 days in a brace, with two additional surgeries for her shoulder a year after the accident. Some would say she got what she deserved. We all realize that she's very fortunate. Reality is: Teenagers think they are invincible, and many people, including adults, believe, "it won't happen to me." If our experiences and testimony helps LB118 become law and prevents one family from experiencing the emotions we experienced, including fear, anger, frustration, and joy, not to mention the approximately \$250,000 worth of medical expenses that were paid by ourselves and our insurance companies, the law would be worth it. I invite you to visit the care pages that I composed after Erin's texting and driving accident. You can do so by going to www.carepages.com and joining with an account and then visiting Erin's site at E-r-i-n-S-m-i-t-h, no space between the name. There is approximately 23 pages composed that shows the emotions and progress of Erin's accident and rehab as I wrote it, as we were experiencing it. The statistics that others present speak for themselves as for the devastating effects of texting and driving. However, sometimes putting a face to a bill helps personalize the situation. Had texting and driving been a primary offense in 2010, maybe Erin would have been ticketed prior to the accident. Undoubtedly, a fine of that magnitude would have resulted in her being grounded not only from driving but probably from the cell phone. She would have been mad, just as any 17-year-old, but her life would have taken a completely different turn. College visits would have happened as they were supposed to. She would have taken the ACT, possibly resulting in better scholarship offers. Regardless, everything happens for a reason, and we are not angry. Although we will...she will have to struggle to prove herself in a challenging job market, I have faith she'll be able to accomplish this. I ask, if this bill progresses, that you feel free to share this information with your fellow senators, as well as providing them the Web pages, pictures. I ask: Do you want your child or grandchild to have these memories of their senior year of high school? I know I didn't.

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Please help protect others from the same experiences and pass LB118 to the floor and, eventually, as Nebraska law. Thank you. [LB118]

SENATOR DUBAS: Thank you, Mrs. Smith. Questions? Seeing none, thank you for sharing your story. We appreciate you coming forward. [LB118]

KATIE ZULKOSKI: Good afternoon, Chairman Dubas, members of the Transportation Committee. Katie Zulkoski, Z-u-l-k-o-s-k-i, testifying on behalf of AT&T. It's testimony like the two that came before that reminds us why we support a bill like LB118. And AT&T believes that driving safely should always be a priority, even as consumers take advantage of the convenience of their wireless communications. As a part of AT&T's ongoing commitment to driver safety, they have launched an "It Can Wait" campaign, which is public awareness dedicated to drivers, and especially teens, and showing them the risks of texting while driving. In Nebraska, AT&T works closely with AAA and the law enforcement community and schools to bring the message to young drivers through a driving simulator that demonstrates the hazards of texting while driving. The driving simulator will actually be available around the Capitol at the beginning of March, so you can see how it looks and how your driving looks when you are texting. Senator Harms mentioned this quote, and he must be texting faster than the average American, because my facts show that the typical text message takes 5 seconds, rather than 4.5. And in five seconds, a car going 55 miles per hour does drive the length of a football field, as he said, and that, as we all know, is a long way for a car to go without a driver. It's for the reasons that you've heard and the rest of the testimony in support of LB118 which is why AT&T supports this bill. I'd be happy to answer any questions. [LB118]

SENATOR DUBAS: Any questions? I would have one for you. Yeah, I know Verizon has done a campaign, AT&T. I know other...there are a lot of campaigns out there. Aren't we better served by that kind of approach to try to educate the public, rather than try to have government intervene in their private lives and decisions? Or do you think they need to be in conjunction with each other? [LB118]

KATIE ZULKOSKI: I think it's an excellent question, and I know one that you as policymakers wrestle with almost every day. But I do think that, certainly, the two-pronged approach is we can educate kids in schools, and we can educate people about the risks. Sometimes it does take a fine to remind someone. I know I remember a speeding ticket I got going down 13th Street that will forever cause me to drive the speed limit in a school zone that I saw that sign every day, I drove...with the flashing lights, and I still didn't think I needed to slow down. But now that I got my fine, I am a very law-abiding citizen on 13th Street. And, Senator Dubas, I did want to answer your question. AT&T, as Mr. Bromm pointed out earlier about the app that you are asking about, they have an app available just for Android and Blackberry, unfortunately. But what it does is you enable the driving mode so, when you are driving, you can enable that app, and it will hold your text messages and e-mails so that you aren't getting the

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notifications that those are coming in. You can still use your phone as needed; it just holds those notifications. [LB118]

SENATOR DUBAS: Very good. Thank you. Other questions? Thank you so much. Welcome. [LB118]

BEVERLY REICKS: Good afternoon, Chairwoman Dubas, members of the Transportation and Telecommunications Committee. My name is Beverly Reicks, B-e-v-e-r-l-y, Reicks, R-e-i-c-k-s, CEO of the National Safety Council of Nebraska, here in support of LB10. Also want to thank Senator Harms for introducing this bill. There's not a lot to be said, other than the fact that we support this. We have a number of distracted driving educational initiatives within the National Safety Council and think this is an important issue to be discussed. Senator Dubas, I just wanted to address the question you had just posed to the last testifier about personal freedoms and whether or not there should be more government intervention in that. I think about another area of law that...in which dangerous behavior while driving is engaged in by the driver. That's drunk driving. As a defense attorney and in my former life as the DMV director, I don't think it's been a year since, maybe, 1984 that we haven't had a law before this body to regulate and continue to stiffen the penalties and enforce drunk driving laws. Senator Harms talked about this being an activity that is akin to drowsy driving. Studies will show you that drowsy driving is akin to drunk driving. I think you can make the inferences and make your own determinations about how dangerous texting while driving is. It is a dangerous activity that you're engaged in while you're engaged in one of the most dangerous activities you're going to engage in, which is driving. So I ask you to send LB10 (sic--LB118) to the floor for full consideration. Thank you. [LB118]

SENATOR DUBAS: Thank you. Questions? I would have one for you. Do you have any statistics on the difference between the actual texting and the talk to text? [LB118]

BEVERLY REICKS: Well, Senator Dubas, the policy conversations and the fact about cell phones is: The mere fact of talking is probably as dangerous as texting is. The studies that are being conducted today show that while you're talking on the phone, you actually incur something called tunnel vision. Your vision narrows. Your brain is engaged in the activity of the discussion with...on the cell phone and not so much in the activity of everything around you. It's different when you have a passenger in the vehicle than it is when you're talking on the phone. With a passenger in the vehicle, they're also observing the same things you should be observing, and they're more likely to alert you to something that you might not see. The person on the phone is not there in the vehicle with you, and they can't see those things. And so a cell phone ban would be something the National Safety Council would support. As Senator Harm says, I don't think we're ready for that yet in Nebraska. We can take steps. We can talk about texting ban and, as a primary enforcement, I think it makes a tremendous amount of sense. But you're right: They're both dangerous, and they're probably both equally as dangerous. And I

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would tell you that, probably, more people are talking on their cell phone than there are people texting. However, that doesn't diminish the seriousness of the texting. [LB118]

SENATOR DUBAS: Very good. Thank you. Any other questions? Seeing none, thank you so much. [LB118]

BEVERLY REICKS: Thank you. [LB118]

LAURIE KLOSTERBOER: Senator Dubas and members of the Transportation and Telecommunications, my name is Laurie Klosterboer. Laurie is L-a-u-r-i-e; Klosterboer is K-l-o-s-t-e-r-b-o-e-r. I'm the executive director for the Nebraska Safety Council. We're a private, nonprofit organization. We, too, are here in support of LB118. We believe that the primary responsibility of a driver behind the wheel is to operate their vehicle and to operate it safely. Texting is a distraction that impairs the driver's ability to concentrate on their primary responsibility. Their frequency and the duration of cell phone use/text messaging make these activities more likely to lead to a crash or a near crash than other activities people do in the vehicles. We will tell you that, in 2012, the Nebraska traffic safety poll that was conducted by our organization, in conjunction with the Nebraska Office of Highway Safety, 89 percent of Nebraskans ages 18 and older support primary enforcement for texting while driving. And so with that, I would answer any questions that you might have. [LB118]

SENATOR DUBAS: Thank you. Questions? Seeing none, thank you very much. [LB118]

LAURIE KLOSTERBOER: Thank you. [LB118]

NANCE HARRIS: (Exhibit 29) Good afternoon, Senator Dubas and members of the Transportation and Telecommunications Committee. My name is Nance Harris. Nance is N-a-n-c-e; Harris, H-a-r-r-i-s. I represent the Nebraska Trucking Association, and I'm submitting testimony in support of LB118. As Senator Harms mentioned earlier, in 2010 the U.S. Department of Transportation prohibited interstate truck and bus drivers from using a handheld mobile phone while operating commercial vehicles, and this applied to both talking and texting. The civil penalty for the driver can be up to \$2,750, and the driver can be disqualified from commercial driving for multiple offenses. In addition, the driver's employer, under certain circumstances, can be fined \$11,000. The USDOT tracks the performance of carriers authorized to operate in interstate commerce--I mentioned this in earlier testimony--and they assign severity weights to various violations. The violation they assigned to texting is ten, the equal to reckless driving, which, indeed, our association members believe it is. Research suggests that a texting commercial driver is 23 times more likely to be involved in a safety-critical event, such as an unexpected lane departure. If an experienced commercial driver is 23 times more likely to experience a crash or near crash as a result of texting, what can we infer about

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the risk to nonprofessional drivers? Making texting a primary infraction won't immediately change any driver's behavior, but it does give law enforcement the chance to stop a texting driver before a safety-critical event. And for that reason we really support this bill and hope that it advances to floor debate. Thank you, and I'd be happy to answer any questions you have. [LB118]

SENATOR DUBAS: Thank you, Ms. Harris. Questions? Seeing none, thank you very much for coming forward. [LB118]

NANCE HARRIS: Thank you. [LB118]

SENATOR DUBAS: Next testifier in support of LB118. [LB118]

JOSEPH W. ELLIOTT: You say support? [LB118]

SENATOR DUBAS: Support, support, yes. [LB118]

JOE ELLIOT: I didn't fill out a form here yet. [LB118]

SENATOR DUBAS: Well, if we could have you do that after you're finished, we'd really appreciate it. [LB118]

JOSEPH W. ELLIOTT: Okay, we can do it afterwards. Thank you, Senator Dubas and members of the Transportation Committee. I work as a lobbyist for the Professional Insurance Agents Association. But I never got a sure, strong... [LB118]

SENATOR DUBAS: Excuse me. Can I have you state and spell your name? [LB118]

JOSEPH W. ELLIOTT: Oh, excuse me. Joseph, J-o-s-e-p-h W. E-l-l-i-o-t-t. But I never got a confirmation from enough people to make it a Professional Insurance Agents, so I'll do it on my own personal observations. I've lived in Omaha almost 60 years, and I've seen more of a change in driving habits in the last 3 to 5 years. And that's in Omaha, and I drive outstate as well. But what's happening in Omaha is we've got Dodge Street. We've got...going all the way out to Fremont. And all of a sudden, we've got people driving, not 55, not 65, a lot of them 70-75, which has brought a whole change, because I see those same people driving on Center--and I live on Pacific--and also on Dodge Street. So we do have a lot. And you get some of those exit ramps. You come in on Pacific Street, and you go south; you have about a quarter of a mile that you've got to get ready to merge in. And if you're an older driver, you've got to really hustle to get in and get up to 65. What's happening there? So I don't see how anybody in Omaha can drive and use a cell phone at the same time. I've been a great safety believer for all my life. I built my own chair seat for my kids in 1956 when they didn't even have car seats for kids. But I didn't want them to ride in that, and I figured out a way to fasten them with

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a belt. But I see these things going on, and I thought, boy, if we could have everybody toot their horn, because the minute you toot your horn when you go by a person, and they react, boy, they just take their hands and put it down immediately. So I know we couldn't have everybody doing that, but there's a lot of people that realize that this is wrong. You know, it's in their mind, and I just think that anything we can do. And if it's primary, if that's what it takes, there's many, many states that have had that bill brought in. I don't...can't give you exact numbers, but I think there's going to be a lot more because as we see traffic conditions speed up and...it's certainly going to be more of a factor than ever before. Thank you, Senator. [LB118]

SENATOR DUBAS: Thank you so much. Questions? Seeing none, if you could fill out a sheet for us, then we'd really appreciate it. [LB118]

JOSEPH W. ELLIOTT: Pardon? [LB118]

SENATOR DUBAS: If you could fill out a sheet. I think the page will get one for you. [LB118]

JOSEPH W. ELLIOTT: Yes, I will do. Where do I get the sheet? [LB118]

SENATOR DUBAS: Thank you so much. [LB118]

JOSEPH W. ELLIOTT: Okay. [LB118]

SENATOR DUBAS: (Exhibits 30-35) Next testifier in support of LB118. Any other support? I do have some letters to read into the record of support for LB118: David Lindley with the Nebraska Public Health Association; Curtis Smith, the executive director of the Nebraska Chapter of Associated General Contractors; Dan Noble, president of the Nebraska Medical Association; Amy Prenda, executive director of the Nebraska Sheriffs' Association; Nicole Carritt, executive director of Project Extra Mile; and Ann Nickerson, the legislative coordinator for the Nebraska PTA. With that, we will move to opposition to LB118. Is there any opposition? Anyone in the neutral? Seeing none, Senator Harms...Senator Harms waives his closing, so that closes the hearing for LB118 and the hearings for today. Thank you very much for attending. (See also Exhibits 36 and 37.) [LB118]