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Transportation and Telecommunications Committee  
February 01, 2016

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[LB900 LB927 LB938 LB977]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, February 1, 2016, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB977, LB927, LB938 and LB900. Senators present: Jim Smith, Chairperson; Lydia Brasch, Vice Chairperson; Al Davis; Curt Friesen; Tommy Garrett; John Murante; and Les Seiler. Senators absent: Beau McCoy.

SENATOR SMITH: Good afternoon and welcome to the Transportation and Telecommunications hearing. Senator Seiler, who's on our committee, walked in the door and I think he was confused; he thought this was a Wednesday in Judiciary because of the crowd that we have with us. But I assure you this is the Transportation and Telecommunications Committee hearing today. I'd like to introduce my colleagues to you. First, we have to my far left, your right, is Senator Tommy Garrett from Bellevue. Next to Senator Garrett is Senator Les Seiler from Hastings. Excused today is Senator McCoy; he will not be joining us today. Senator McCoy represents Omaha. To my far right, to your left, is Senator Curt Friesen from Henderson, Nebraska. Next to Senator Friesen will be Senator Al Davis from Hyannis, and Senator Davis I think will be joining us here a little bit later. Next is Senator Murante from Gretna, and then we have Senator Lydia Brasch from Bancroft, and Senator Brasch is the Vice Chair of the committee. And there's a couple of the hearings or bills I'm going to introduce today; I'm going to sit in the audience, and Senator Brasch will be taking the reigns on the committee during those two bills. Committee staff with us to my right is Mike Hybl; Mike is legal counsel to the committee. And to my left is Paul Henderson, committee clerk. We have two pages with us today, and the pages will be taking your paperwork and processing that for you. We have Toni Caudillo from North Platte, Nebraska. She is a freshman at UNL. And we have Alex Brechbill from Aurora, Nebraska. Alex is a junior at Nebraska Wesleyan. We will be hearing the bills in the order posted on the agenda. If you are testifying, please complete the sign-in sheet so that it's ready to hand in, and one of our pages will take that for you and get it processed. If you do not wish to testify but do want to voice your support or opposition to a bill, you can indicate so on that sheet that's provided. And it will be part of the official record if you do that. With the number of people here today...and let me just have a show of hands with people that plan to testify in one way or the other on one of the bills today. All right, we have quite a few that plan to testify, so we will be using the light system today. When you come to the table and you're choosing to testify in support or opposition or in a neutral capacity, we're going to ask that you limit your remarks to five minutes. There will be a green light that will be on in front of you when you're at the table for four minutes; after four minutes the amber light will come on for that last minute. We ask you during that period of time to try to wrap up your testimony. And then at five minutes the red light will come on, and we'll ask you to close out on your testimony then. We do appreciate you being here today, we have a diverse group of bills that we will be hearing and we greatly appreciate your participation in the process that we have in the Legislature. We

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Transcriber's Office

Transportation and Telecommunications Committee  
February 01, 2016

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ask that you all silence your cellphones for the hearing. As you look at this table, we do have some of the senators that reference their electronic devices, either their laptop or their iPad for references on the bill. We are an electronics-equipped committee, so please don't take offense that as we're using our electronics. That's just the age that we live in, that many of us choose to use electronics rather than paper copies. I think that covers all the housekeeping items and at that point I'm going to turn it over to Senator Brasch.

SENATOR BRASCH: We are now proceeding to the first bill, LB977, and Chairman Smith will introduce this bill. Welcome, Senator Chairman Smith. [LB977]

SENATOR SMITH: Thank you, Senator Brasch and members of the Transportation and Telecommunications Committee. For the record, my name is Jim Smith, J-i-m S-m-i-t-h, and I represent the 14th Legislative District in Sarpy County. I am here this afternoon to introduce LB977. LB977 would exempt certain implements of husbandry from weight and load limitations, when operated on any highway of this state, except for the interstate system. For purposes of this bill, implements of husbandry includes farm tractors, self-propelled equipment used to apply fertilizers and chemicals, agriculture floater spreaders, fertilizer spreaders, nurse tanks, trucks permanently mounted with spreaders, and mixer feed trucks used in livestock operations. As a little background, the issue of implements of husbandry and weight restrictions was the subject of LR317, which was considered this past interim. As you know, this committee conducted interim study hearings on LR317 in Grand Island, Scottsbluff, Crete, and Lincoln. LB977 is the product of testimony received at those hearings, along with discussions that occurred between interested parties in the administration. So why is this bill necessary? Simply put, today's farm equipment is bigger and heavier. The occasional use of our roadways with this equipment is incidental to the agriculture industry; our farmers and ranchers should not be vulnerable to hefty fines for just doing their job. At the request of the Department of Roads, I have offered an amendment to the bill that would maintain the current axle weight formula and limits, with respect to bridges. Without this amendment, there could be a substantial fiscal note...I believe there is a substantial fiscal note...due to the need for signage on every bridge. This amendment takes the fiscal note away. The committee's legal counsel has worked closely with the Farm Bureau, the Cattlemen, and the Department of Roads in drafting this bill, and with the amendment I hope that it will be in good shape. I encourage you to please advance LB977 to the floor of the Legislature. [LB977]

SENATOR BRASCH: Thank you, Chairman Smith. Are there any questions from the committee? Seeing there are none, I would like the first proponent to come forward, please...testifier. Welcome. Please state and spell your name. [LB977]

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

Transportation and Telecommunications Committee  
February 01, 2016

---

KYLE SCHNEWEIS: (Exhibit 1) Sure. Thank you, Vice Chairman Brasch, members of the committee. I'm Kyle Schneweis, director of the Department of Roads, K-y-l-e S-c-h-n-e-w-e-i-s. And I am in here in support of LB977, especially with the proposed amendment. As you are aware, the Department of Roads' primary statutory responsibility is to preserve and maintain the state's highways and bridges. And I think we have a balance of understanding that need with understanding that we need to support our economy. And here in Nebraska, that means support our agricultural economy. We recognize that the definition of implements of husbandry has not kept pace with the modern vehicle and we think that LB977, as amended, will provide the necessary expanded definition, while still continuing to protect our state highway bridges. We think it does strike that balance that's so important. I think I'd like to make an important distinction that Senator Smith referenced, and that is that our fiscal note was drafted as the bill was proposed. We do believe that once the amendment...if the amendment can be attached, the fiscal note will go away. I want to thank you for the opportunity to come before you and support the bill. And I'd be happy to take any questions. [LB977]

SENATOR BRASCH: Thank you, Director Schneweis. Any questions from the committee? Very well done, there are no questions. Thank you. [LB977]

KYLE SCHNEWEIS: Thank you. [LB977]

SENATOR BRASCH: Will the next proponent please come forward? Welcome. Please say and spell your name. [LB977]

LAURA FIELD: Sure. Thank you, Senator Brasch and members of the committee. I'm Laura Field, L-a-u-r-a F-i-e-l-d. I'm the legislative affairs director for Nebraska Cattlemen and I'm here today to testify in support of LB977. I also want to be on record offering support on behalf of the Nebraska Pork Producers Association and the Iowa-Nebraska Equipment Dealers Association. We thought we might save you a little time today and all testify together. I also want to mention we had two members, both feedlot owners, planning to be here today. And both are out getting prepared for the snowstorm so they called me at 7:30 this morning and said they wouldn't be here. So you're stuck with me and I apologize for that. LB977 is the result of a great deal of time and collaboration that started for Nebraska Cattlemen back in 2014. After hearing from a number of our members regarding concerns of overweight vehicles and confusion in state statute outlining the various requirements of certain vehicles, particularly those classified as implements of husbandry, Nebraska Cattlemen convened a task force made up of members from across the state that have had significant experience in trucking and equipment. You all heard from our members, as Senator Smith said, at the LR317 hearings during the interim, and we spent a great deal of time meeting with ag organizations, implement dealers, and state and local agencies to try to find a solution. Nebraska Cattlemen support a clearer more well-defined definition of

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

Transportation and Telecommunications Committee  
February 01, 2016

---

implement of husbandry, which is included in LB977. By defining these implements more clearly as tractors, self-propelled implements, feed trucks, others, rather than the broad definition that exists today, both producers and law enforcement will have guidance as to which vehicles better meet these definitions. LB977 further exempts these defined implements from provisions of the law related to vehicle weights and load limitations. With the adoption of AM1895, the bill also clarifies these vehicles would not be exempt from weight limitations on any bridge or culvert, and we certainly support that change. Highway infrastructure is essential to economic viability for businesses, whether it's moving product to market, hauling manure to fertilize crops, harvesting feed and fiber, or feeding livestock. Many times a day, 365 days a year, Nebraska's agriculture producers are on the road. Our members want to follow the law, and this change would help them do so. These ag producers pay taxes to use the roads, and they need the roads in good conditions to do their jobs daily to feed America and the world. So it is in ag producers best interest to use the roads responsibly. We certainly appreciate Senator Smith and his leadership on this issue, we appreciate you all for taking the time to hear this and study the issue, and we appreciate the various agencies who have worked with us, and look forward to seeing the bill advance. Thank you, and I'll be happy to answer any questions. [LB977]

SENATOR BRASCH: Thank you. Are there any questions from the committee? Seeing there are none, thank you again. [LB977]

LAURA FIELD: Thank you. [LB977]

SENATOR BRASCH: Will the next proponent please come forward? [LB977]

LAVON HEIDEMANN: Vice Chairman Brasch, Senator Smith, rest of the Transportation Committee. My name is Lavon Heidemann, representing Nebraska Farm Bureau, Heidemann, H-e-i-d-e-m-a-n-n. First, I need to thank everybody that was involved in this process, it was extensive. We realize that there was a problem in the state of Nebraska when it comes to implements of husbandry. We went through a process of public hearings across the state; we come to a conclusion and a solution I believe that hopefully will be satisfactory to everybody. Senator Smith has been very helpful in this, I will say also the legal counsel, Mike Hybl, I got to give a thank you to him. He's been very helpful with this process also. I started working with Farm Bureau about a year ago and one of the first things I became aware of was this issue. There was a farmer out in Phelps County that was actually just with his tractor and his manure spreader was spreading manure and had to go across the road and down the road a little bit, and got a very hefty fine. And we realized that there was a problem with this that we needed to address in the state of Nebraska. As a farmer, I will say that there is probably a tractor sitting on my place right now that probably couldn't legally go down the road, so I get it. I will say also when I became aware of this I called my implement dealer, where we get our machinery, and I was quizzing him

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

Transportation and Telecommunications Committee  
February 01, 2016

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about it. And he said: Lavon, we're building tractors now when they roll off the line at the factory they are out of compliance. And I believe more than anything else that this is going to bring Nebraska law up to where we are with farming and ranching today in this state. As we looked into it, we realized that other states have addressed this. We looked into what Wisconsin and Iowa do and we looked very deeply into what Kansas does. And if you look into it, a lot of what we're trying to accomplish now just actually mirrors what Kansas has already accomplished. In the end, I think that farmers are doing what they have to do now with the machinery that they have. In the end, I don't think anything is going to end; all we're doing is just catching up Nebraska law with the way farming is today. I will say that through the process we have met with Roads, we met with the State Patrol, we met with DMV, and the Governor's Office has been very helpful. There was concerns way at last after the bill was dropped; an amendment was put in, and I think that took away the majority of the concerns from the Department of Roads. And I believe the fiscal note will go away. One of the things that we tried to do is get a very clear definition of implements of husbandry. I think we were able to accomplish that as to not create any more confusion and actually clear things up both with state agencies and the people that are affected by these laws. In the end, I don't think that we're asking for the world here, I believe we're just asking for a reality as we see it today in modern agriculture. So with that, if there are any questions, I would try to answer them. [LB977]

SENATOR BRASCH: Thank you, Senator Heidemann. Are there any questions from the committee? Yes, Senator Friesen. [LB977]

SENATOR FRIESEN: Thank you. Do you feel that this addresses combines, grain carts, things like that too? [LB977]

LAVON HEIDEMANN: The way we see it, yes. This should take care of it. The majority of what we see today, the problem is...I'm not saying that down the road something could come up on either side, and as that would come up, I would be more than...our organization would be more than willing to try to change or tweak what we see today on both sides. [LB977]

SENATOR FRIESEN: Okay, thank you. [LB977]

SENATOR BRASCH: Are there any other questions from the committee? Seeing there are none, thank you very much. [LB977]

LAVON HEIDEMANN: Thank you. [LB977]

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

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR BRASCH: Next proponent, please come forward. No other proponents? Is there anyone in opposition to this? If you're in opposition, please come forward. Welcome. Please say and spell your name. [LB977]

STEVE RIEHLE: Thank you, Chair, members of the committee. My name is Steve Riehle, S-t-e-v-e, Riehle, R-i-e-h-l-e. I'm the Hall County engineer and president of the Nebraska Association of County Engineers, Highway Superintendents, and Surveyors. My family was born in the center of the state in the Loup City area, my mom's family. And so I grown up there and worked on the farm as a kid, so I understand and appreciate the value of ag to our economy and also the value of ag to Hall County, or specifically the Hall County Highway Department. We see the impacts everyday. We work with farmers frequently, whether it's discussions on pivots, they've got cattle out and we're trying to warn them or let them know, work out drainage issues with farmers, talk about field entrances and even build field entrances for farmers, and even with hauling vehicles if they're hauling to or from a field or from one operation to another. We'll call them and even suggest to them that they consider alternate routes because one of the roads they're using might be unduly harmed by that operation. We'll ask them to move and a lot of times they can. We understand the exemptions. We've had discussions with the captain in Grand Island about sending carrier enforcement out when we did have trouble with a road and we were not able to talk to the farmer about using a different route. And we talked to carrier enforcement, and it is confusing. The laws are not clear on what is or isn't covered. The first response that we got from the State Patrol was that they're exempt, and then 10 minutes later he called back and said: well, wait a minute, they're not exempt. And so there is some confusion, and so we can appreciate making a list and defining implements of husbandry. We think it's important. I think we all know the first one that's on the list makes good sense to every one of us, and that's a tractor. I think that makes really good sense to us, but in Hall County, we had trouble with one that's listed in paragraph E, and then it starts out with a truck. And it says "a truck mounted with a fertilizer spreader used or manufactured to spread or inject animal manure." That's the one where we have our largest concern. We consider that a truck, not an implement of husbandry. We had a three-mile asphalt road that was paved to get to a cemetery, so that people when they want to go to the cemetery could get there. The road was older and, in just one afternoon of hauling, the road was significantly destroyed. We were able to get a ticket issued to the manure truck, it was 17,000 pounds overweight, and it's my understanding that that truck legally could have hauled 34,000, so they were at 51,000. And we were able to settle with them for a portion of the damages to the road. The rest of the legislation, I think it makes sense to clarify what is an implement of husbandry. The one that's a truck used to haul manure makes us nervous, we don't consider that to be an implement, and that caused a lot of damage to us in Hall County on a three-mile stretch of road, just four years ago. Thank you for your efforts, Senators. We appreciate what you've done for us to help us maintain our county roads and especially our county bridges. [LB977]

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

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR BRASCH: Thank you. Are there any questions? Yes, Senator Davis? [LB977]

SENATOR DAVIS: I remember your testimony this summer, and it certainly gave me cause for concern. With the exception of removing that, do you have any other suggested alternatives? [LB977]

STEVE RIEHLE: That's the only one that comes to me. When I looked at the list...and I didn't grow up on a farm, but I spent a bunch of time on a farm...and tried to anticipate what I see changing for vehicles in defining the definitions, I do have to agree with some of the proponents' testimony when they said they clarified what it includes. And I think it's going to help us as we've talked to a farmer, I think it's going to help the Nebraska State Patrol Carrier Enforcement. We're nervous about the impact on our county roads, we'll continue to call farmers as we've always have if we've got concerns for what they're doing. The big one for us, that makes us concerned in Hall County, is a manure truck, because it's a truck. And we think there's a reason why it's a truck. When I was in the construction industry, one of the things we did on the side was run manure trucks. I think you got to be careful to make sure you don't overload those because there's a significant weight distributed on a smaller axle many times. [LB977]

SENATOR DAVIS: Thank you. [LB977]

SENATOR BRASCH: Any other questions from the committee? Seeing there are none, thank you. Is there anyone else in opposition? Please come forward. Welcome. Please say and spell your name. [LB977]

STEVE SCHUPPAN: My name is Steve Schuppan, S-c-h-u-p-p-a-n. I'm a member of the Hall County Board of Supervisors. Mostly, I'm opposed to the part of the bill that refers to manure trucks for the same reason that Steve Riehle just stated, because it has cost us, you know, hundreds of thousands of dollars to repair these. A lot of times you have a road that appears to be pretty good yet, and then it will be a little bit spider-cracked. It doesn't take...you know, we try to keep our roads overlaid and sealed up, there's only so much money every year to do that. And you take one of these manure trucks that's overloaded like the one that Steve referred to and it can take a road out in one afternoon. I totally agree with 95 percent of this bill, I think this stuff needs to be taken care of, and it looks like you got a good bill there. But I do object to the manure hauler part of it. [LB977]

SENATOR BRASCH: Very good. Thank you for your testimony. Any questions from the committee? Seeing there are none, thank you. [LB977]

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

Transportation and Telecommunications Committee  
February 01, 2016

---

STEVE SCHUPPAN: Thank you very much. [LB977]

SENATOR BRASCH: Next opponent. Welcome. Please state and spell your name. [LB977]

LARRY DIX: Good afternoon, Senator Brasch. My name is Larry Dix, L-a-r-r-y D-i-x, I'm the executive director of the Nebraska Association of County Officials, appearing today in opposition to LB977. When we had our board meeting and had our discussion about this, one of the things that became pretty evident pretty fast is certainly not all roads are created equal across the state of Nebraska. There's a lot of differences as you go across the state, when you start to look at some of our sandy soils and some of those areas and the ability to get a firm bed in here. And quite honestly the discussion that came up is when you...on Page 2, Line 7, is when you state "shall be exempt." Once that "shall be exempt" is worded pretty strongly, that means there is no weight limitation. None whatsoever, regardless of what type of road that you're going on, be it asphalt, be it gravel. So we take that pretty seriously. If you look, there are other sections of statute that, over the years, have been amended and have allowed for certain types of hauling to be done. But there are certain statutes that identify those areas and say certain areas you can be 15 percent over; and we understand that, you know, it's different if you're hauling grain, it's different than you're hauling manure. When we had a group of county board members together...and I think...I do not disagree that we need to identify implements of husbandry, and I think this bill goes quite a ways. It seems to be pretty common that the problem becomes when we start to go down the path of the manure spreaders. And I appreciate working with Farm Bureau and Cattlemen, and I know they work very hard with Department of Roads on this. But one thing I would point out is the counties have about 80,000 miles of road, and we never had any input into this bill before it was put in. And, as owners of a majority of the roads in the counties and, typically, the items that we're talking about here, they're going to go on county roads. Let's be honest, that's where a majority of...we're not going to see these going down the interstate and not a whole lot down the highways. I mean, we're more than happy to work with the organizations here that are in support of it, because we think there are a number of things here that are going to be helpful. But it really does come down to some of the weight that they could put on those trucks that are hauling manure that we really believe are going to problematic to our roads. So with that, I'd be happy to try to answer any questions. And I'd be happy to work with the committee and Senator Smith on whatever we can move forward with. [LB977]

SENATOR BRASCH: Very good. Senator Davis. [LB977]

SENATOR DAVIS: Thank you, Senator Brasch. So, Mr. Dix, with the exception of the manure spreaders, you're fine with the bill as is? [LB977]



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

Transportation and Telecommunications Committee  
February 01, 2016

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LARRY DIX: Yeah, I think when we look down through here we understand that the definitions in those first parts, you know, (a) through (c)...the questions always came up in (d) through (f), when we really started to talk about fertilizer and manure spreaders in that. Otherwise, yeah, if it was only that other section you wouldn't see us here. [LB977]

SENATOR DAVIS: Do you have suggested alternatives or other ideas? [LB977]

LARRY DIX: You know, that's a tough one. We do know that there are some universities in the United States that are starting to do studies on particular pieces of farm equipment. I think...just like a previous testifier said about there are some equipment that are rolling off the assembly lines that already are larger than what we need to do. We realize the importance of agriculture in our economy, but we also know that some groups are actually doing studies to try to figure out is there a way through the manufacturing process to spread that weight out and so that it really doesn't do as much damage. I noted one of the testifiers that said, you know: we're not going down very many miles of road with this type of equipment. And it isn't so much the number of miles of road, but it is the same course that you go over day after day after day that starts to develop the problem that we see on the county roads. [LB977]

SENATOR DAVIS: So are we more focused on paved roads or does this apply to everything? [LB977]

LARRY DIX: I think the...from what I had heard from a number of our board members, when you get to the west in some of your areas, Senator Davis, some of those roadbeds become pretty sandy and they dip out pretty fast. The gravel roads, I think most of the counties are aware that people are traveling over it. Although, in Cuming County I think we had one where they said they literally did have to grade that road almost on a daily basis because of that. The ones where we realize that not all roads are created equal is if I were driving down the road in a car, and it's an asphalt road, I may think this is a great road surface. But on some of those county roads, the thickness of that asphalt is not that great. And so those are the ones that tend to get tore up a little bit faster. When they do, of course there's much more expense to repair those, so for the most part it is the asphalt roads. The gravel roads...really you can regrade and drag the gravel up. The only thing you have to be careful on is on the gravel roads are weather conditions, when it just is wet, soft, and you haven't been able to maintain those for a few days, then you can cause some damage. [LB977]

SENATOR DAVIS: Thank you. [LB977]

SENATOR BRASCH: Senator Friesen. [LB977]

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

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR FRIESEN: Thank you, Senator Brasch. Mr. Dix, you know, when we were talking, I think in some of the hearings around the state, we talked a lot about tires and equipment that was, you know, had spread out the load more on a tire. So when you're talking the pounds per square inch that they applied to the road, some of these vehicles...wouldn't you say that they don't have any more pounds per square inch than a regular 80,000 pound semi? It depends on their tire equipment that they put on, and it's not really the number of axles, so to speak. [LB977]

LARRY DIX: I would agree. It depends on the design. There's a lot of things I think the ag sector is doing right now to help us out, and part of that is to distribute that in different tires. When that does happen, we still get into the repetitious, you know, going down the...over and over and over the same portion of the road. But I would agree with your statement. [LB977]

SENATOR FRIESEN: Okay, thank you. [LB977]

SENATOR BRASCH: Any other questions from the committee? Seeing none, thank you, Larry. [LB977]

LARRY DIX: Thank you. [LB977]

SENATOR BRASCH: (Exhibit 2, 3, 4) Any other opponents? Anyone testifying in the neutral? Seeing there are none, I have a letter of support from Greg Ibach, on behalf of the Nebraska Department of Agriculture; a letter of opposition from Kevin Cooksley, on behalf of Nebraska State Grange; and also Robert Andersen, on behalf of the Nebraska Cooperative Council. And Senator Smith will be closing. [LB977]

SENATOR SMITH: (Exhibit 5) Thank you, Senator Brasch. And my apologies, I failed to distribute the amendment that I referenced in my opening to LB977. So the page is distributing that to you now. And again, I appreciate your engagement on this particular bill. And I want to thank the folks that came and testified, particularly representing the Farm Bureau and the Cattlemen, and I know they had many members that have a great interest in this legislation. But as they mentioned, they are having to take care of their property and their livestock today, with the snow coming in. So sorry they could not make it, but I think that they were well represented by their lobby here today. You know, it's always difficult to strike the right balance between protecting our highways and easing the burden on our agricultural industry. And I think you heard that referenced a little bit in the testimony in opposition. However, in working with the Department of Roads, we believe we have found the right carve-out of this exemption, and that this exemption is reasonable relative to the potential wear on our highways. We believe Mr. Riehle's comments...or I believe Mr. Riehle's comments were reasonable, and I think he presented those in the spirit of cooperation and wanting to strike the right balance. We will take

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

Transportation and Telecommunications Committee  
February 01, 2016

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that back and we'll have further discussion on that. But LR317 provided considerable opportunity to engage on this legislation, so while I appreciate Mr. Dix's comments, I will say that Mr. Dix and the counties were provided considerable opportunity to make those comments during our interim hearings. Regardless, we do want to work with them and to see if we can resolve some their concerns. But the highways that we're discussing, that are being used by incidentally this equipment are the highways that were built by agriculture. Those highways would not be necessary or needed if it were not for the agriculture industry that uses those same highways to move their commerce, to move their products. So we have to find some way of easing the burden on agriculture as they move their products and go about their business. We are an agricultural state. We have to do what we can within reason to protect the agricultural industry and to allow it to grow, because as goes agriculture in the state, so goes the state in other nonagriculture business. So we're not asking for a lot here, I do believe we struck a pretty good balance. But we do want to continue to have discussions with those that came in, in opposition to the bill today. And we hope to have something in front of the committee that we can move to the floor of the Legislature for a full vote. Thank you very much. [LB977]

SENATOR BRASCH: Thank you, Senator Smith. I did want to have a correction for the record. There is a letter from the Nebraska Cooperative Council that says it supports this bill as amended and they're not in opposition...that Senator Davis said duly noted. Any other questions from the committee? Yes, Senator Seiler. [LB977]

SENATOR SEILER: Senator Smith, I just have a kind of a follow-up question of Senator Friesen. I looked over this language and you might be able to squeeze a combine into one area there, but as long as we're at this stage, you might want to consider naming it, because I don't think it's covered by any of the other programs. [LB977]

SENATOR SMITH: I would agree with you, Senator Seiler. I think that was the intent to include it, but we need to make certain that it's explicitly noted. [LB977]

SENATOR BRASCH: Any other questions from the committee? Seeing there are none, thank you. And that concludes the hearing on LB977. [LB977]

SENATOR SMITH: All right. There's a small transition taking place there as some folks leave the room. But thank you, Senator Brasch, for taking care of LB977. I'm going to give just a moment as we transition. We're now moving to the hearing on LB927, which will be introduced by Senator Hilkemann. It relates to changing provisions relating to surcharges for 911 services. Welcome, Senator Hilkemann. [LB927]

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

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR HILKEMANN: Thank you, Senator Smith and members of the Transportation and Telecommunications Committee. I'm Senator Robert Hilkemann, R-o-b-e-r-t H-i-l-k-e-m-a-n-n, I represent District 4 in west Omaha, and I'm here to introduce LB927. This bill boils down to two words: fairness and public safety. 911 services are funded by surcharges added to landlines, as well as wireless services. In every county but one, which is Douglas, that charge may be 50 cents, with the possibility of adding an additional 50 cents per month, not to exceed \$1. Douglas County was carved out of this statute in 1994, and has remained so. Wireless users may be charged up to 70 cents per line, except in Douglas County, where the charge remains 50 cents, due to LB1222 in 2006. Douglas County would like to enter into a regional 911 call center. The surrounding counties may all increase the surcharge if they follow certain steps, such as notice and public hearings. However, assessing a uniform charge becomes impossible if the counties are able to charge \$1 max and Douglas County has to remain at 50 cents. Our population is growing, particularly in Douglas County, and with it the need for emergency services. This bill has been heard before with personal stories of the need to contact 911 operators and not being able to find one in that service area. You know, no one needs 911 until you need 911. No one wants to hear of fires or health emergencies or accidents where rapid response was not available due to 911 lack of services. With the new technologies that are available for 911, Douglas County has to sort of work behind its back because of this limitation that's here. Testimony which will follow me is going to point out even the need for this even more. And I would be happy to answer any questions that you may have. [LB927]

SENATOR SMITH: Thank you, Senator Hilkemann. Do we have questions? Senator Davis. [LB927]

SENATOR DAVIS: Thank you, Senator Smith. Senator Hilkemann, you said that the bill was introduced before and didn't go anywhere. Do you know what the reasoning was behind that? [LB927]

SENATOR HILKEMANN: This bill has always been opposed by one particular senator in this body. [LB927]

SENATOR DAVIS: Thank you. [LB927]

SENATOR SMITH: Additional questions? I see none, thank you, Senator Hilkemann. Are you going to remain for closing? [LB927]

SENATOR HILKEMANN: I will waive closing, thank you. [LB927]

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

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR SMITH: Thank you. We now move to proponents, those wishing to testify in support of LB927. Proponents? Welcome. [LB927]

MARK CONREY: Good morning...or afternoon, Senator Smith, members of the committee. My name is Mark Conrey, M-a-r-k C-o-n-r-e-y. I was formally the 911 director for Douglas County; I just retired. In 1996, I came down here to testify to try to change the surcharge the way this bill is written. And so really I guess for the last 20 years this has become a tradition of me coming down, trying to see if we could possibly achieve equality before the law, which is the Nebraska state motto. Because of the fact that it is very difficult for the number of calls, the number of people, the amount of time that it adds. In the last five years, we have placed...we have used \$4,341,000 in fiscal year 2011 of General Fund money to the budget. And this year, we're using \$5,577,147 of General Funds to fund the 911. We have \$1 million of surcharge that we can apply to the budget, but it still leaves us with that deficit. So this is nothing that we're trying to do to have 911 pay for...911 surcharge to pay for the budget, but it is getting more and more difficult as that call volume goes up and the time goes up. It's extremely difficult for the people to continue to operate in this manner. We have not added a person to our staff in the last 10 years in there. We've tried to stay within, but we're busting at the seams and I think that this is my last time. Like I said, it's a tradition. I feel failure is not fun, but it's 20 years of tradition unencumbered by progress. Thank you very much. [LB927]

SENATOR SMITH: Thank you, Mr. Conrey, for your testimony. Senator Friesen. [LB927]

SENATOR FRIESEN: Thank you, Chairman Smith. I just...I guess kind of a history lesson maybe. When these charges were first introduced, and I don't know when that happened, but weren't they intended basically just to buy equipment for enhanced 911 or 911 centers? [LB927]

MARK CONREY: They were used for the installation, operation, and maintenance of 911 services, okay? We're not buying radios, we're not buying cars, we're not buying anything like that. We have about a \$400,000 phone bill a year, we have the maintenance for our 911 phones is considerable on an annual basis, and then we have dedicated operators to answer the 911 calls. That's all they do; they're not dispatchers or anything else. So there's about 17 people; we're in the \$600,000 or \$700,000 range. So we're way, way over what the surcharge would be applied to, but the way it read: installation, operation, and maintenance of 911 services. [LB927]

SENATOR FRIESEN: Okay. So down the road here, when you're going to look at a combined center with someone else, what kind of opportunities do you think we could see in the whole state when we look at 911 centers? How much combining can we do with current technology that's available? [LB927]

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

Transportation and Telecommunications Committee  
February 01, 2016

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MARK CONREY: I think a lot of those questions are going to be answered when we migrate into Next Generation, because of the fact of how the calls are going to be delivered, how they're going to be processed, do we have the capability to merge. You know, right now we share our equipment with Pottawattamie County, across Council Bluffs, okay? So that we...and Washington County is sharing. Regionally, I think it makes a tremendous amount of sense. Now politically what's going to make sense, I can't answer that one and I don't even want to get close, but there's going to have to be a will to how do we want to deliver public safety. And when that will reacts to finances... [LB927]

SENATOR FRIESEN: I wasn't concerned so much about the will, I was just looking to get the technical aspects. [LB927]

MARK CONREY: The technical aspects, yes. It would be capable to have regional call centers, okay? You're going to have to split 911 into two: the ability to handle 911 calls and the ability to dispatch...they're two different things, okay? So you could have four or five regional call centers that could handle the calls and get it out, but you still haven't solved the dispatch part of it. Because there is one, the intake of the service, and the delivery of the service. [LB927]

SENATOR FRIESEN: Okay, thank you. [LB927]

SENATOR SMITH: Do we have further questions from the committee? I see none, thank you, Mr. Conrey, for your testimony today. [LB927]

MARK CONREY: Thank you. [LB927]

SENATOR SMITH: We continue with proponents, those wishing to testify in support of LB927. [LB927]

LARRY DIX: Good afternoon, Senator Smith, members of the Transportation and Telecommunications Committee. My name is Larry Dix, L-a-r-r-y D-i-x, executive director of Nebraska Association of County Officials, appearing today in support of LB927. As we have done in the past, I think it's important that NACO be on the committee record as supporting this. We think from a public policy point of view it's good when we can have a fee like this be consistent across the whole state. We just think that is probably paramount as far as good public policy. And you know, the testifier before me, Mr. Conrey, really described it. I think everybody knows what the situation is here; we just wanted to lend our support to Senator Hilke's bill. [LB927]

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

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR SMITH: Thank you, Mr. Dix. Do we have questions? I see none, thank you. Next proponent. Welcome. [LB927]

JACK CHELOHA: Good afternoon, Chairman Smith and members of the committee. My name is Jack Cheloha, first name spelled J-a-c-k, last name is spelled C-h-e-l-o-h-a. I'm the lobbyist for the city of Omaha, I want to testify in support of LB927 this afternoon. And I want to thank Senator Hilkemann and his staff for introducing the bill this year. The city of Omaha merged our 911 center with Douglas County in the mid 1990s; it's been a good merger. That's one of the things that I think the committee is interested in, in terms of reutilization and delivery of services. So in our city and county we have done that. However, as previous witnesses have testified, we'd like to be treated in this sense the same as every other county, and have the ability to charge the same amounts. Roughly, out of our General Fund budget, Omaha contributes about \$5.4 million annually to the 911 center in our county. Right now, the land line 50 cent surcharge raises roughly...or for 2015 it was roughly \$900,000, so as Mr. Conrey pointed out, there's a pretty big gap there between. In the interest of, like I said, fairness and equity, we would be in support of the bill and ask for your support. Thank you. [LB927]

SENATOR SMITH: (Exhibit 1) Thank you, Mr. Cheloha. Do we have questions from the committee? I see none, thank you. Next proponent of LB927. We do have a letter to read into the record in support of LB927. It is the Douglas County Board of Commissioners. We now move to opponents of LB927. Anyone wishing to testify in opposition to LB927? Seeing none. Anyone wishing to testify in a neutral capacity to LB927? I see none. And Senator Hilkemann has waived closing, so that concludes our hearing on LB927. We're now going to move to LB938, and again I'm going to turn it over to Senator Brasch. [LB927]

SENATOR BRASCH: Thank you, Chairman Smith. And we will proceed to LB938. Senator Smith will introduce it, welcome, Senator Smith. [LB938]

SENATOR SMITH: Thank you again, Senator Brasch and members of the Transportation and Telecommunications Committee. For the record, I am Jim Smith, J-i-m S-m-i-t-h, and I represent the 14th Legislative District in Sarpy County, and I am here today to introduce LB938. LB938 would allow for the adoption of the 911 Service System Act and would designate the Nebraska Public Service Commission as the statewide coordinator for 911 service in the state. This legislation is the next step in the consideration by the Legislature of the subject of Next Generation 911 service capability. So what is Next Generation 911? It is defined as the ability of a 911 emergency call center that is a public safety answering point or PSAP to receive 911 calls for emergency assistance by voice, text, or video utilizing in whole or in part internet protocol. The provision of 911 is a traditionally locally-based service. It is not the intent of this legislation to supplant local governments as the provider of public safety answering point services or as the

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

Transportation and Telecommunications Committee  
February 01, 2016

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provider of emergency services dispatch services, but instead to provide coordination, management, and maintenance assistance, along with state funding assistance for a statewide 911 service system. This would include the implementation of statewide Next Generation 911 service capability. And I want to be up front, and for the record to know, that it is my intent that the cost incurred for the implementation and development of this act shall at the state level be funded solely from the existing surcharges that the Legislature has approved for 911 service. This act will not be funded from general funding. And while 911 service is a local function, there is a long history of state action and involvement. In 1990, the initial wire line 911 surcharge was adopted. Cities and counties were given the authority to impose a surcharge up to \$1 per line per month, and this was limited to 50 cents in Douglas County. In 2001, the Legislature passed LB585, which established the wireless E911 surcharge. The wireless E911 surcharge is administered by the PSC and its purpose is to assist local government and carriers in defraying the cost of implementing advanced wireless location determination service. The PSC is authorized to assess up to 70 cents per line per month, again limited to 50 cents per line in Douglas County. LB595 was then enacted in 2013, and that legislation authorized the PSC to use money from the enhanced wireless 911 fund to undertake a study of the implications and costs of Next Generation 911 service. That study was completed and presented to the Legislature in 2014. And basically it provided a 50,000 foot view of what needed to be done with Next Generation 911. That study resulted in the introduction LB652 last session, by the members of this committee. The bill was drafted by the PSC's Wireless E911 Advisory Board, and attempted to take the findings of the study and provide to the Legislature a complete and full proposal for the implementation of Next Generation 911 service in the state. As you may recall when the public hearing was held last year, no one, including the E911 service or 911 Advisory Board, testified in support of the legislation. This committee held that bill and it remains in committee today. At the conclusion of last session, Larry Dix, with NACO, offered the assistance of the Nebraska Association County Officials to continue discussion of Next Generation 911 service and LB652. NACO hosted a number of meetings over the course of last fall, in order to find the path to continue the discussion of Next Generation 911. LB938, the bill before you today, is the product of those meetings and discussion, and they included members of the administration, the Public Service Commission, the telecom industry, and the counties. This bill takes a step back from the more aggressive approach proposed in LB652 last year. Specifically, LB938 would do the following. First, it gives the Public Service Commission statewide implementation and coordinating authority to plan, implement, coordinate, manage, maintain, and provide state funding assistance for a statewide 911 service system, including the implementation of Next Generation 911 service capability. Second, it directs the PSC to appoint a state 911 director to oversee a department within the PSC that will manage the state 911 system. The director will retain appropriate and necessary staff and shall additionally establish advisory committees to aid in the development of the state 911 plan. Third, under the bill the PSC is to develop a plan for the implementation of a state 911 system. The plan may not be implemented until on or after July 1 of 2018. The plan is to be delivered to the Appropriations and Transportation and



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

Transportation and Telecommunications Committee  
February 01, 2016

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Telecommunication Committees of the Legislature no later than December 1 of 2017. An interim report on the development of the implementation plan is to be provided to both committees by February 1 of 2017. The PSC is to hold at least one public hearing on the proposal, 30 days prior to final adoption. And fourth, the final plan adopted is to include the following: start-up an ongoing cost of a statewide 911 system; two, recommendations to the Legislature for cost recovery; three, a discussion of how the state 911 coordination role will be implemented; four, a recommendation of the number of public safety answering points that should be maintained in the state, that are Next Generation 911 capable and would be supported by state-provided funding; and fifth, a recommendation for any additional legislation that will be required to implement and administer the statewide 911 service. Additionally, the bill creates the 911 service system fund. The fund is to be used to pay the expenses of administering the act, the fund will consist of transfers from the enhanced wireless 911 fund, any federal funding received, and any other funding credited to that fund. Again, I would like to emphasize that it is my intent that this legislation will never be funded from general funds. The state role in 911 has always been funded by the surcharge authority we have delegated to local governments and the wireless surcharge authority we have delegated to the Nebraska Public Service Commission. This new system and the plan to be developed pursuant to this legislation needs to be funded and operated from this established revenue stream. That concludes my opening, I know it was lengthy. There's a lot of information here that's fairly complex. I would like to thank Larry Dix from NACO, for their role in keeping the conversation going over the interim. And I would also like to recognize the work of Loel Brooks in working with the committee staff to develop this proposal. I welcome any questions from the committee, and there will be a few people following me in testimony. Thank you. [LB938]

SENATOR BRASCH: Thank you, Chairman Smith. Are there any questions from the committee? Seeing there are none, would the first proponent please come forward, state and spell your name. Welcome. [LB938]

JERRY VAP: (Exhibit 1) Good afternoon, Senator Brasch, Madam Vice Chair, and members of the committee. My name is Jerry Vap, and I'm the commissioner representing the fifth district of the Public Service Commission. Today, I am representing the entire commission. I am here to provide testimony in support of LB938. LB938 would grant the Public Service Commission the authority to establish and implement a statewide 911 service system, including statewide Next Generation service capabilities. Such a system would expand the methods with which a person could contact 911 for help. The implementation of Next Generation 911 services in Nebraska has been an ongoing effort for some time. In 2013, LB595 directed the commission to hire a third party contractor to conduct a study regarding the implementation of Next Generation 911 services. The report provided several recommendations regarding governance, risk management, funding, and technological requirements. LB938 is a collaborative effort of multiple stakeholders that addresses previous concerns and ultimately moves us toward the goal of a statewide Next

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

Transportation and Telecommunications Committee  
February 01, 2016

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Generation 911 system. In order to accomplish the directives of LB938, the commission anticipates a need for additional staff and outside resources experienced in current and emerging 911 technologies. LB938 specifically directs the commission to appoint a state 911 director. As currently written, the bill creates a director position that would operate independently of the commission. We believe this is not the intent of the bill, and contrary to current organization of departments within the commission. To that end, the commission offers an amendment to Section 29 of LB938, to clarify that the commission has the ultimate authority to oversee, manage, and coordinate the establishment and implementation of the statewide 911 system, and the 911 director would operate similarly to other directors within the agency. As with other departments, the commission would then delegate administrative authority to the 911 director, via commission rules and regulations, enabling the director to administer the department. Without the clarifying amendment, the commission has serious concerns that potential conflicts may arise which will impede the progress of establishing the statewide 911 system. Thank you for your attention this afternoon. I urge your support of LB938 with the proposed amendment. I'm available to answer any questions. [LB938]

SENATOR BRASCH: Thank you for your testimony. Are there any questions? I may have one...all right, thank you, Commissioner Vap. I'm just curious...so this will be an agency within you agency. Is that... [LB938]

JERRY VAP: It would be very similar to our current Nebraska Universal Service Fund Department, which does have an executive director, but they answer directly to the commissioners themselves. And this amendment would have the director of the 911 Department in the same position as all the other directors who answer to the commissioners. The commissioners is where the buck stops. These are all cash-funded departments, and we believe that a cash-funded department should be overseen by the elected officials of the state, being the public service commissioners. [LB938]

SENATOR BRASCH: Very good. Because cash ultimately comes from... [LB938]

JERRY VAP: Comes from consumers. [LB938]

SENATOR BRASCH: ...consumers, taxpayers. And I did look through your itemized items, and it needs its own public information officer and not a I, but a II, budgeted for \$44,000. And I'm curious, is there a need to have a public information officer dedicated to this? [LB938]

JERRY VAP: We think that's very...it's a good question. This is what we're listing under PSAP support. We'd have a PSAP field coordinator helping the PSAPs with training and other standard maintenance, testing of coverage and location accuracy. All of this technology has to be tested to

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

Transportation and Telecommunications Committee  
February 01, 2016

---

make sure it's working, and there are cases that we've had in the past where it doesn't work as advertised. A good example in today's technology is anyone who watches any of these so called crime shows on television shows the good guys following somebody through a building or all over a city with a cell phone. That doesn't work in 911; that is totally erroneous. Right now, 911 depends on either triangulation or on latitude and longitude, GIS database, to come close to finding where a call is being made from. If you made a 911 call from this room, probably what the PSAP answering point is going to get is the street centerline data out in front of the building. It won't tell them what room you're in; it won't tell them what floor you're on. So... [LB938]

SENATOR BRASCH: And that's what a public information officer... [LB938]

JERRY VAP: They will help maintain those standards, do the testing to make sure it's as good as it can be right now. Not the public information officer...that's the PSAP field coordinator. Public information officer would be in charge of public relations, media relations, research and outreach, education, just to like I was just referring to, and contingency planning for disaster recovery. If we were to have a tornado hit Grand Island again and their entire PSAP was wiped out, we need to have somebody on hand that can manage and help put everything back together. [LB938]

SENATOR BRASCH: I happen to be a former public information officer III, not a II, but...and I just was trying to figure out the role one would have with 911, and if there is any overlap with NEMA, the Nebraska Emergency Management...that we're trying to save \$44,000 here. [LB938]

JERRY VAP: We would collaborate with them, but right now we don't necessarily. Some PSAPs work with NEMA, but they enter in mainly when there is a disaster, rather than on a daily basis. [LB938]

SENATOR BRASCH: And 911 is... [LB938]

JERRY VAP: Is 24-7. [LB938]

SENATOR BRASCH: For emergencies. [LB938]

JERRY VAP: For everything that comes in from... [LB938]

SENATOR BRASCH: How does that affect our local fire departments and police departments in our 93 counties? [LB938]

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

Transportation and Telecommunications Committee  
February 01, 2016

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JERRY VAP: Well, of course the 911 system takes the call. And then with the Next Generation, they may even have a video which shows what the problem is or if it's a fire or it's a car wreck, or whatever it happens to be. And they would in turn, in very quick succession, contact the proper first responding department and get them to go to where that assistance is needed. [LB938]

SENATOR BRASCH: But does it change current procedures or protocol or services at all, or is it transparent? [LB938]

JERRY VAP: It would be pretty much the same services, but the way in which they're dispatched would change. The information that they would have available to them as a result of the Next Generation would be immense, compared to what it is today. Right now, if...and there's some problems with texting to 911. That's implemented in some counties, but it goes backwards from the automatic location standpoint. Right now, the automatic location is fairly good with a Verizon phone or AT&T or any of them. That's called Phase 2 wireless 911, which almost pinpoints where they are. A text only bounces off of a tower and it tells them what tower they're connected to, so even a text is not that great. But it's good in certain instances, for the deaf or hard of hearing, and for someone who is in a domestic situation or in a situation... [LB938]

SENATOR BRASCH: So this would improve local. [LB938]

JERRY VAP: Yeah, but they need to be able to tell where they are through that text and what their problem is. They're not going to have very accurate automatic location. [LB938]

SENATOR BRASCH: Very good. Very thorough, I appreciate that. Any other questions from the committee? Seeing...oh, yes, Senator Seiler. [LB938]

SENATOR SEILER: You mentioned dispatching. A few years ago, when the fires were out in western Nebraska, it was discovered that the sheriffs couldn't talk to the State Patrol and the State Patrol couldn't talk to the fire department because they had different frequencies in their radios. Has that been cleaned up, do you know? [LB938]

JERRY VAP: I don't really know much about that. I understand that we have an expensive state radio system that has problems yet. But that... [LB938]

SENATOR SEILER: That doesn't come under your jurisdiction. [LB938]

JERRY VAP: That does not come under our jurisdiction. [LB938]

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

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR SEILER: That's fine, thank you. [LB938]

SENATOR BRASCH: Thank you, Commissioner. Any other question? Seeing there are none, next proponent please. Thank you. [LB938]

JERRY VAP: Thank you. [LB938]

LARRY DIX: (Exhibit 2) Good afternoon, Senator Brasch, members of the Transportation and Telecommunications Committee. My name is Larry Dix, L-a-r-r-y D-i-x, appearing today in support of LB938. In addition to that, I turned in two sheets there, one certainly for the Nebraska Association of County Officials, but due to the weather, I've also been asked to testify on behalf of the Nebraska Sheriffs' Association, in support of LB938. So there were two sheets that they would...it would reflect that they are in support also. First of all, I'd like to thank Senator Smith for sticking with us through this and his kind words in the introduction. After last year's hearing, Senator Smith and I had numerous conversations about where do we go from here because, at the end of the day, we've got to get Next Gen 911 moving forward, from a public safety. Our citizens deserve that, so out in the Rotunda, I made a pledge to Senator Smith that we would work on this over the summer months. And we did work on it over the summer months, and it was not easy. And we did invite everybody that we possibly could think that had a vested interest in: the cities and the wireless carriers, the landline, the Public Service Commission. And we had good meetings. And with that, I would like to thank Mike Hybl, because this didn't get to this point without numerous, numerous, numerous revisions. I think at one point in time, Mike had to throw up his hands and say enough, enough, enough, we've got to get this bill out so it's ready to go to the committee. And even with that, I think we noticed that there was an amendment from the Public Service Commission; we may have others that have small amendments. We certainly agree with the amendment the Public Service Commission brought forward. But I would tell you, when you look at a bill like this and all the entities that it impacts, at the end of the day I think we did come together and we do have a major agreement on all the major issues that are in this bill. I think there are some minor things that you're going to find. We believe it's a good plan, it's a good plan to move forward. Even after this bill advances through, I would pledge NACO will stay involved in this process and work with the Public Service Commission. We will have and form whatever committees we need locally, so that we have the expertise and the right people at those committees. I think it is something that is really just in the best interest of the citizens in the state of Nebraska. So in closing, I would like to state I handed out a letter from the Buffalo County Sheriff's Office that does represent the views of the Sheriffs' Association. There are going to be some folks that follow me that could certainly answer the more technical portions of this, but NACO is squarely behind this and is dedicated to seeing this through to the end. So with that, I would be happy to answer any questions that you may have. [LB938]

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

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR BRASCH: Thank you, Mr. Dix. Are there any other questions from the committee? Seeing there are none, thank you. Next proponent, please come forward. Welcome. State and spell your name. [LB938]

ERIC CARSTENSON: Thank you. Senator Brasch, my name is Eric Carstenson, Eric is E-r-i-c, Carstenson is C-a-r-s-t-e-n-s-o-n. I'm the president of the Nebraska Telecommunications Association. The NTA is a trade association that represents the majority of the local exchange carriers throughout Nebraska. I'm a registered lobbyist for that association. The NTA, and in fact, several of the member companies, participated in the process that developed this legislation over the summer. We appreciate the leadership that Senator Smith exerted to bring this bill to you today, and we are thankful for the work of all the other parties that also brought it to you today. We support LB938 and that concludes my testimony. [LB938]

SENATOR BRASCH: Very good, thank you. Are there any questions from the committee? Seeing none, well said. Thank you. Any other proponents? Welcome. Please state and spell your name. [LB938]

JULIE RIGHTER DOVE: Julie Righter Dove, it's J-u-l-i-e R-i-g-h-t-e-r D-o-v-e. I'm the manager of one of the largest PSAPs in the state, and I am testifying in support of LB938 on behalf of the Nebraska chapter of APCO, which is the Association of Public Safety Communications Officials; Nebraska chapter of NENA, National Emergency Number Association; and NESCA, the Nebraska Emergency Service Communications Association. Our organizations participated in the work sessions with NACO and we fully support LB938 and the progress towards providing Next Gen 911 services in this state. It is imperative that the Public Service Commission have the authority granted in this bill, as well as the creation of the advisory committee that's detailed in Section 29, for the implementation of Next Gen 911 to be successful in the state of Nebraska. [LB938]

SENATOR BRASCH: Very good. Are there any questions from the committee? Seeing there are none, thank you. Any other proponents? Welcome. [LB938]

MARK CONREY: Good afternoon, Senator. Mark Conrey, M-a-r-k C-o-n-r-e-y, formerly the director of Douglas County. Douglas County is in support of this bill because we know we need to move forward for Next Generation 911. I think that I'd like to...I wish he was there, so I could thank him as he moved this bill forward. There's an important piece of this bill that's in there, and that was what the previous speaker talked about, was the advisory board, okay? And I think it's....Next Generation, in simple terms, is putting in an IP infrastructure and the ability to handle the information that's going to be delivered that way. So the advisory board, which is made up of the people who must handle those calls...because it's going to be a whole different way; it's going

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

Transportation and Telecommunications Committee  
February 01, 2016

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to be a whole different technology. It's going to require changes; it's going to require a lot of things. It's more than just putting in a system; it's the type of calls that are going to be delivered and how we handle it. And so when they made the change and included the advisory council, then it made it a very viable piece because of the fact that the 911 centers would at least have a say-so of what the impact of this is going to be. And I really support the bill. The amendment causes me a little bit of concern, only because of the fact that it's designed that it was supposed to report to the 911 director. But if the 911 director's role is going to change and the Public Service Commission is in there, does that change who the advisory council reports to? That's the only thing, you know, about that amendment that was unclear. So I would have to say Douglas County supports the bill. We're very, very happy, we're excited with the changes that happened, and we think this is a good step in the implementation of Next Generation 911. [LB938]

SENATOR BRASCH: Very good, thank you. Are there any questions from the committee here? I think you're good. Thank you. Any other proponents? If so, please come forward. Are there any opponents? Is there anyone testifying in the neutral? Welcome. Please state and spell your name. [LB938]

LOEL BROOKS: (Exhibit 3, 4) My name is Loel Brooks, L-o-e-l B-r-o-o-k-s. Senator Brasch, Senator Smith, and members of the Transportation and Telecommunications Committee, I'm Loel Brooks. I am a telecommunications lawyer with the Brooks, Pansing Brooks Law Firm here in Lincoln. And I am testifying today on behalf of a group of telecommunications carriers actively providing service in the state of Nebraska. And we're testifying in a neutral position regarding LB938. The carriers I have been asked to represent today, in alphabetical order, are: AT&T, Sprint Corporation, US Cellular, Verizon, and Viera Wireless. I've had the privilege of working with this group of carriers over nearly a year, perhaps longer, in an effort to support the development of legislation to advance the implementation of a new 911 system in Nebraska. As you've heard today, this committee is well aware that there are many other critical stakeholders who have also been working hard and together over the past year to design legislation that all stakeholders could eventually support in order to move this critically important, but extremely complicated, objective forward. The most fundamental fact that all stakeholders agree with is that our state's existing 911 system is out of date and needs to be updated and eventually replaced. The overall results of last year's collaborative efforts by this wide array of stakeholders are largely memorialized in LB938. Three overarching objectives are achieved in this bill, which have been alluded to, but I'd like to repeat them briefly. Establishing the Nebraska Public Service Commission as the statewide governing authority for all 911 service, including the current Legacy System and the new 911 Next Generation 911 system that we hope to implement. Two, directing the PSC through a state 911 director to develop and prepare a plan for the statewide 911 system for submission to the Legislature. And finally, third, provided limited funding for the development of the plan and the initial staffing of the PSC. Certainly, to the best of my knowledge, all stakeholders believe and anticipate that another round of legislation in the future

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Transportation and Telecommunications Committee  
February 01, 2016

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will be necessary to actually implement the plan as it's developed by the commission and approved by the Legislature. The carrier group I am representing today supports the overarching objectives established in this bill. Establishing a new 911 system in this state is very worthy, and it is important to the public safety of every Nebraskan and every visitor to Nebraska. The carrier group has been carefully evaluating the details of the bill and has reached consensus on a series of additional revisions that it feels will improve the bill, make it more consistent with emerging industry practices and technical terminology, which will in turn provide additional clarity and uniformity to the bill. Those consolidated revisions have been presented to the committee council for its consideration, and we believe that these revisions do not alter or undermine the overarching objectives of the legislation. One important issue that has also been identified and addressed in the collective revisions presented by the carrier group is a provision that specifically states that nothing in the bill supersedes or affects or modifies existing law that currently prohibits the PSC from regulating wireless telecommunication services, nor confers or creates any jurisdiction not otherwise already conferred by another statute over IP services or IP service providers. I think in the development of this legislation that was a topic that everyone basically agreed with, but we feel that it's best to codify that understanding going forward. The carrier group anticipates that it may well suggest some additional refinements in certain definitions to avoid confusion about the scope of the commission's jurisdiction going forward and, to that extent, the goal of trying to maintain the current jurisdictional authority as it exists today. I believe that the consensus achieved by the carrier group in this testimony today is unprecedented in any prior legislative process that I am aware of. And I am enormously grateful for the diligent and insightful efforts of all the carriers put forth in this process and the honor to be asked to present their suggestions and thoughts to the committee today. I'd also like to echo my thanks as well to Larry Dix of NACO, who was instrumental in providing a forum to convene all the various stakeholders that you've heard from today. Without Larry and NACO's persistence and vision and their convening power this would really never have come to fruition. I also appreciate Mike Hybl, the committee council's efforts, and certainly Chairman Smith for his long enduring patience in trying to get this bill to a point where we have the consensus that we do today. I've also submitted written testimony today on behalf of Ms. Kara Thielen, who is the 911 director for Viaero Wireless, one of the carrier group members, also the former 911 director for the Nebraska Public Service Commission. She had planned to be here to address you, to thank you for this effort of getting this to this point, but she had recent surgery and has not yet been cleared to fly and travel, so I am submitting her testimony in written form for your presentation and consideration. With that, I would be happy to answer any questions or address any further issues that you may have. [LB938]

SENATOR BRASCH: Are there any questions from the committee? Seeing there are none, thank you, Mr. Brooks. [LB938]

LOEL BROOKS: Thank you for your consideration. [LB938]



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Transcriber's Office

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR BRASCH: (Exhibit 5, 6) Thank you. I do have a letter in support from Lynn Rex, on behalf of the League of Nebraska Municipalities, and Douglas County Board of Commissioners. Oh, another neutral here. Very good. Thank you and welcome. [LB938]

CURT BROMM: (Exhibit 7) Vice Chair Brasch and members of the committee, thank you for your time today. My name is Curt Bromm, C-u-r-t B-r-o-m-m, and I am here as a lobbyist on behalf of Verizon, in a neutral position with respect to the bill. Let me emphasize, and I won't repeat what Loel Brooks said, because he was very accurate in all of his representations, but I would say that Verizon definitely supports the effort and feels it is extremely vital to the entire state to have a modernized 911 system. And we will work hard to continue to make sure that happens. There have been a lot of parties involved in bringing this legislation to this point, and we are basically neutral because we feel there are a few minor definitional refinements that we would like to offer in conjunction with other wireless carriers...and we would ask for a little bit further indulgence and patience from Senator Smith. And legal counsel has a short opportunity to do that. We would like to do that very soon, so that it could be incorporated into the bill that comes out. And it isn't going to be anything that will change the objectives of the bill in any way, in our opinion. The thing is, is that historically wireless has not been regulated by state public service commissions anywhere, and we just want to be sure that that is a very clear part of the bill. So we're not going to delay this; we're not going to be obstructive in any way. We would like to be a positive influence to bring this, put some finishing touches on it, and have it go through as smoothly as possible. So with that, I would try to answer questions if there are any. [LB938]

SENATOR BRASCH: Thank you, Senator Bromm. Are there any questions from the committee? Seeing there are none, thank you again. [LB938]

CURT BROMM: Thank you for your time. [LB938]

SENATOR BRASCH: More neutral testimony? Welcome. Please state and spell your name. [LB938]

KIM ROBAK: Senator Brasch, my name is Kim Robak, R-o-b-a-k. I'm here today on behalf of AT&T, in a neutral capacity. You've probably never seen so much neutral testimony in your life on a bill. We're here today to echo what both Loel Brooks and what Curt Bromm stated. I wanted to make it clear to the committee that the concept of modernizing 911 services is appropriate and that AT&T is supportive. But what they are concerned about is, and what happens whenever you get a group of lawyers from across a large company, they read the language and then read it very carefully. And they should, because what happens is a couple of years down the road. Someone will look at this language, and someone will say: oh well, I see this in that language, which was not intended. And so there is a fear that perhaps some of the language in the bill, as it's drafted,

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Transcriber's Office

Transportation and Telecommunications Committee  
February 01, 2016

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would allow the Public Service Commission to regulate VoIP, or Voice over Internet Protocol services. And our understanding is that that's not the intention by anyone, the Public Service Commission or the bill. We just want to make sure that that language is clear in that regard, and so that's what everybody's working on. And hopefully...and I know people worked all weekend on it, were unable to reach an agreement...so hopefully we'll get that done quickly, and the bill can move forward. So I simply wanted to state that for the record on behalf of AT&T. [LB938]

SENATOR BRASCH: Very good, thank you. Any questions from the committee? Seeing there are none, thank you again. Any other neutral? Seeing there are none, that concludes...oh, and Chairman Smith waives closing. That does conclude this hearing on LB938. Thank you. And we'll transition here. [LB938]

SENATOR SMITH: Okay, we're going to continue our hearing. So if there's any transition, anyone that's leaving the room, I'd ask for, maybe you'd take those conversations out to the hallway so we can move on to LB900. And I wanted to thank Senator Brasch again for covering for me on LB938. But we now transition to LB900, which will be introduced by Senator Dave Bloomfield. It relates to changing motorcycle and moped helmet provisions, motorcycle registration fees, renaming the Health Advisory Board, and creating the brain injury services program and a fund. So welcome, Senator Bloomfield. [LB900]

SENATOR BLOOMFIELD: (Exhibit 1) Thank you, Senator Smith, and good afternoon, members of the Transportation and Telecommunications Committee. For the record, my name is Senator Dave Bloomfield, D-a-v-e B-l-o-o-m-f-i-e-l-d, and I represent the 17th Legislative District, as well as the state of Nebraska. I am proud to be here today to present LB900 to the committee for your consideration. As you all know, this is not the first time that I've brought this idea before this committee. But LB900 is very different from all the other bills. While I, like the opponents of this bill, see this issue as being clear as night and day, unlike them, I am willing to work and compromise. Briefly, LB900 returns to individuals 21 and older the right to choose if they wear a helmet or not. If they decided not to wear a helmet, they must have eye protection. In the spirit of compromise, and to protect the youngsters in our state, LB900 would prevent children eight and younger from being a passenger on a motorcycle. LB900 would also increase the potential fine for operating a motorcycle without a Class M license. Now to address the big changes of LB900. LB900 creates and funds the Motorcycle Safety and Brain Injury Trust Fund and creates the Health Advisory, Safety, and Brain Injury Trust Board. This will be a self-funded board, allowing up to 10 percent of the funds to be spent on administrating the board's responsibilities, 2.5 percent to be spent on motorcycle safety and education programs, and the remainder would be available to help individuals with brain injuries. In order to fund the trust fund and the board, LB900 does something that I do not like, that I've always been opposed to, but I feel it necessary. And it was very hard for me. It increases the fee in registering a motorcycle from \$6 to \$25. The \$19 increase goes directly to the trust fund. I know that the

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Transcriber's Office

Transportation and Telecommunications Committee  
February 01, 2016

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doom-and-gloom opponents of this bill will tell you that the over \$1 million that would be generated for this trust fund is nowhere near the amount needed to cover all the potential brain injuries. But I will point out that it is more than has ever been done to help those with a traumatic brain injury. The money that will be in this trust fund will be available to help anyone in our state that has a TBI, not just victims of motorcycle accidents. We have been working with the Department of Motor Vehicles on this, and they did have some technical concerns with the green copy of LB900. So we're working on a technical amendment for the committee. And their legal person that is helping with that is out sick, so we will have that technical amendment to you as soon as he gets back. It seems to clear up all their issues. We just don't have it in writing today. LB900 makes the changes to the Health Advisory Board. This is the board that the DMV had brought legislation to do away with. The technical amendment will incorporate the changes that they wanted to make regarding the original Health Advisory Board, and then create the Health Advisory, Safety, and Brain Injury Trust Board that will administer the Motorcycle Safety and Brain Injury Trust Fund. The technical amendment also spells out the expectations of the DMV in developing and implementing the new board and the trust fund. We all know this is going to be a long hearing, and we potentially have bad weather moving in. So I am going to wrap up my opening, and we have pared back our testifying list. I'd be more than happy to meet with any of the committee members to explain the technical amendment, if you have questions. As we move through testimony, I would ask you to keep an open mind and remember that this is a compromise, a compromise being offered, backed, and funded by the motorcycle riders of the state of Nebraska. Thank you, Mr. Chairman, and I'd take any questions. [LB900]

SENATOR SMITH: Thank you, Senator Bloomfield, for your introduction of LB900. Do we have questions from the committee? Senator Friesen. [LB900]

SENATOR FRIESEN: Thank you, Chairman Smith. Senator Bloomfield, I supported your bill in the past. You have made some pretty good changes, I think. So one question is, when you created this board, why is it under the Department of Motor Vehicles instead of Health and Human Services or somewhere? Because when I look at the data, most of the brain injuries occur because of falls. It's not tied to vehicles at all. So I'm just curious as to why it's in DMV's control versus Health and Human Services or... [LB900]

SENATOR BLOOMFIELD: Thank you, Senator Friesen. The reason for that is we first wanted to go to HHS. It seemed like the logical place. But that is Medicaid money, and we cannot...it's a federally-funded program over there, and we couldn't get into it. So DMV had this place here, and this new board will be made up of members of both HHS and DMV. So in order to keep it in one clean bill, we went to the DMV route. It...there is the Brain Injury Waiver Program. And to qualify for that on the HHS side, first off, you have to be Medicaid eligible and, secondly, you have to be in a facility. By going the route we went, it eliminates all that. [LB900]

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

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR FRIESEN: So if there was a possibility, a fix to this, of putting it somewhere else, you'd be open to that, as long as we could create that same entity. [LB900]

SENATOR BLOOMFIELD: Yeah, but we've already done some work on trying to get it over there, and it just doesn't fit in HHS, as much as it seems like that would be the logical place for it. [LB900]

SENATOR FRIESEN: Okay. [LB900]

SENATOR BLOOMFIELD: But bear in mind that this does help all falls, And HHS people will be involved in this committee. So if they have a person that comes in and they can't get help through any other means, they can shift them over here to this and they'll be able to take care of it. [LB900]

SENATOR FRIESEN: Thank you, Senator Bloomfield. [LB900]

SENATOR SMITH: Additional questions from the committee? Senator Seiler. [LB900]

SENATOR SEILER: Yeah. Senator Bloomfield, you may not know the answer, but your lawyer will. Do you have a subrogation program involved in this where, if somebody is run over and it's not their fault, it's the other party's fault, that any collection of monies repays any money paid out of your program? [LB900]

SENATOR BLOOMFIELD: You're right, Senator Seiler. I do not have an answer to that. [LB900]

SENATOR SEILER: Okay, just curious. [LB900]

SENATOR BLOOMFIELD: But we will get it for you. [LB900]

SENATOR SEILER: Thank you. [LB900]

SENATOR SMITH: I see no further questions. Thank you, Senator Bloomfield. [LB900]

SENATOR BLOOMFIELD: Thank you. [LB900]

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

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR SMITH: We're going to move to proponents, those wishing to testify in support of LB900. And again, we're going to use the light system today. So we're going to keep it to about five minutes. And when you see the amber light come on, if you would please conclude your testimony so that by the time the red light comes on, your testimony is concluded. Thank you, and welcome. [LB900]

ROD KROGH: (Exhibit 2) Good afternoon, Senator Smith, members of the Transportation and Telecommunications Committee. For the record, my name is Rod Krogh, that's R-o-d K-r-o-g-h. And I serve as the senior legislative aide for Senator Krist. Although he supports LB900 and is a cosponsor of it, I am not here at his request or representing him today at this hearing. I am speaking only for myself. But, a couple of weeks ago, Senator Bloomfield kindly asked me if I would consider testifying. Additionally, my personal time card for today will be duly noted that I am using vacation time during the time in this room. Although I do not personally own a motorcycle, nor do I drive them, the reason I want to provide support for LB900 is primarily because of something that would greatly benefit citizens of our state. As you heard, if enacted, this bill would create the Motorcycle Safety and Brain Injury Trust Fund. Others can provide the specifics of how the money in that fund would be distributed to those experiencing a brain injury, not just motorcyclists. But the people who would receive money, receive support from this fund for their brain injury would appreciate it beyond words. Some of you here today know about the near-fatal car accident I had in October of 2011...Dr. Reginald Burton, the Bryan Hospital Trauma Center director, saying that I had a 21 percent chance of living...and the 26 surgeries I had thereafter. The hospital informed my wife that virtually every lobe of my brain was damaged in the crash, and that I had a severe traumatic brain injury, or TBI. Thankfully, God answered prayers that many people made for me, and I will repeatedly thank those who prayed for me. My insurance allowed me the benefit of Madonna Rehabilitation Hospital's services, which were crucial to my recovery. Many insurance policies do not provide for the necessary therapies needed for a TBI recovery. Please know that those in our state who don't have insurance or are ineligible to receive federal support after experiencing a brain injury would be so very thankful to receive any financial support from the state's Brain Injury Trust Fund. In closing, and to underscore the importance of our state establishing a brain injury trust fund, I want to share some great information that I found and had the pages distributed. The National Association of State Head Injury Administrators show that, to date, 24 states in our country, or almost half, have enacted legislation generally referred to as traumatic brain injury, TBI, or acquired brain injury, ABI, trust fund programs to help pay for an array of programs and services benefiting individuals with brain injuries or their families. I would love to see Nebraska added to that list of states. Thank you, Senator Smith, members of the committee, for your thoughtful consideration for advancing LB900. [LB900]

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Transcriber's Office

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR SMITH: Thank you, Mr. Krogh, for your testimony today and for sharing your story. And we are very pleased of your recovery, and good to have you around. Do we have any questions from the committee? I see none. Thank you very much. [LB900]

ROD KROGH: Thank you. [LB900]

SENATOR SMITH: Next proponent, supporter for LB900. Welcome. [LB900]

ROGER ITES: Good afternoon, Senator Smith, members of the committee. My name is Roger Ites, I-t-e-s. I am simply a constituent of Nebraska and a voter. And the reason I am here today is, well, it's kind of interesting. Why am I here today? There's some history about this bill. I am a very black-and-white individual, so let's get down to the black and white of it. In the '80s there was a federal mandate that came down and said, you states need to protect motorcycle riders and if you don't do that, if you don't make a law, we're going to take away the federal funding for your highways. I'll be darned, the nanny state begins. So we all had a helmet law. Consequently, in 1995 that mandate was removed. And here we are today, still mandating helmet use. Okay? Last year, the great senator from the state of Wisconsin took away all federal funding for motorcycle-only checkpoints. So, so much for that, right? The National Highway Traffic Safety Administration also repealed their long-time stance on motorcycle helmet use. They said it's not their number-one goal anymore. Their goal is motorcycle rider education and motorist awareness. That's the way to handle it. But here we are today and we're still talking about this deal 30 years later, about whether or not I should have the right to decide, as someone that's over 21 years of age in this state, on whether or not I choose to wear a helmet or not to. And here I am today, as a motorcycle rider and an enthusiast, and I happen to choose to wear a helmet. But that's my choice, and that's really the black-and-white issue of this bill. I think it's great that we're going to have a brain trust. I think that's great that we want to protect young children from being on motorcycles. But in the black-and-white issue of it is, as a consenting adult in this state, should I have the choice to wear, or not wear, a helmet? Thank you. [LB900]

SENATOR SMITH: Thank you for your testimony. Do we have questions from the committee? I see none. Thank you. [LB900]

ROGER ITES: Thanks. [LB900]

SENATOR SMITH: Next proponent of LB900. Welcome, Chief. [LB900]

RONALD MURTAUGH: (Exhibit 3) Good afternoon, Mr. Chairman, members of the committee. My name is Ronald D. Murtaugh, and I am here as a citizen and a motorcycle rider. Mr.

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Transcriber's Office

Transportation and Telecommunications Committee  
February 01, 2016

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Chairman, members of the committee, I want to again thank you for letting me speak in support of LB900. As a motorcycle rider and a law enforcement professional for over 29 years, I have a complete and unique understanding of both sides of this issue. When it comes to motor vehicle laws, I know that there are no laws that are protected or considered rights. All of the laws currently in existence pertain to liberties or privileges that are granted to us through the legislative processes. If you look at Chapter 60, it becomes clear that current laws that...broadly breaks down into three areas: definitions, taxes and fees, operation and/or use. If you look at the transportation laws, you'll see that there are over 140 motor vehicle laws on the books today that address the operation and/or use. These laws span from handicap stalls, which protects the privileges of handicapped to ensure that they have adequate accommodations, to having a driver's license, passing tests to measure the ability for one to operate a motor vehicle safely, as well as protecting others on the road, to texting while driving, and enforce an effort to restrict significant distracted actions that not only cause accidents, but accidents that occur at a higher rate of speed. Of those laws, the vast majority of the laws are written to protect the safety of others, which should be the primary goal of laws, protecting the safety of others. The other few are an example of government paternalism. Over the years, federal government has imposed many regulations and laws upon the states and local entities. While I'm sure that these laws were drafted and implemented with good intentions, nonetheless, state and local governments are finding themselves being told from the federal government what to do, how to do it. No matter how well intentioned these laws are, the laws and regulations influence the liberty of the state to act in ways that the states feel are better for their state. Today there's a consideration to repeal the helmet law. But today's bill, LB900, is more than just a repeal. LB900 contains critical components that are absent from past bills. I share with you preserving liberty in individual decisions have historically been evident in Nebraska. In 1974, the federal government enacted the National Maximum Speed Limit (sic) Law of 55 miles an hour. Nebraska was forced to comply with this law, dropping their speed limit from 75 miles an hour to 55 miles per hour. In 1987, the Maximum Speed Limit (sic) Law was modified to 65 miles an hour. Nebraska immediately followed suit, raising their speed limits, despite proof that 55 mile an hour speeds reduced accidents and fatalities. In 1995, the federal government lifted all federal speed limit controls, and Nebraska immediately followed suit by raising their speed limit to 75 miles an hour, despite proof that the increase would result in more crashes and fatalities. Even the federal government abandoned a universal helmet law in 1976. These are not limits, not mandated speeds which someone must travel, but merely limits. We educate people that regardless of the speed limit, drive within your abilities. Even today, there are discussions regarding cell phones while driving, an action that has a huge risk to other motorists. There is no question that cell phone use is a distraction, and the use increases the likelihood of an accident. Even though distracted driving costs as much as \$175 billion a year, we continue to be hesitant at imposing parental laws upon this action. Instead, monies and efforts have been focused on education and encouragement to use cell phones in a safe manner. I share with you that we can discuss other similar items, including obesity which costs the state over \$700 million, or we can discuss the

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

Transportation and Telecommunications Committee  
February 01, 2016

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fact that 22 states have a mandatory motorcycle helmet...correction, bicycle helmet law, because Nebraska believes that bicycle riders should have a choice. What I'd like to do is move forward to the two exhibits that I have provided you. There's Exhibit 1 and Exhibit 2. First is a map taken by [motorcycleroads.com](http://motorcycleroads.com), which shows routes throughout the United States. These routes are recommended routes for motorcycle riders, routes that take them by landmarks and scenic attractions. When riders travel, they look at the Web site. Nebraska and Kansas share similar terrain, yet Kansas has more scenic routes identified than Nebraska. Why? I don't believe that Kansas has more to see than Nebraska. Rather, I submit that riders have discovered more, and many riders will go to Kansas or Iowa to ride without helmets. If members of the Legislature repeal this helmet law, the discovery of Nebraska will increase. Again...my time is up. The second exhibit just shows the map and the different areas of interest throughout the state that could impact with economic...the economic impact of motorcycles. [LB900]

SENATOR SMITH: Thank you, Mr. Murtaugh, for your testimony today. Do we have questions from the committee? I see none. Thank you. [LB900]

RONALD MURTAUGH: Thank you for your time. [LB900]

SENATOR SMITH: Next proponent of LB900. Welcome. [LB900]

SCOTT VON MINDEN: Thank you. Senator Smith and members of the committee, my name is Scott Von Minden, S-c-o-t-t V-o-n M-i-n-d-e-n. I started riding motorcycles as a child on the farm with my father, who rode to the age of 75. And some of you may remember him; he served in this legislative body in the 1980s. Today I am appearing as a private citizen in support of LB900. The last four years I've served as president of a local motorcycle riding club called the Roughriders. I know the name sounds more ominous than it really is. We're really not that rough. I am a financial advisor, and I wear these clothes a lot more than I wear my leathers riding down the highway. I believe...I do ride with a group of bikers often, and I believe there's a lot of popular misconceptions the public has about motorcyclists. And I am here to help refocus the image of motorcyclists in Nebraska. Who are the bikers of Nebraska? They're a multitude of individuals and groups working to make Nebraska a better place. Allow me to share some information about just a few motorcycle groups I am familiar with. ABATE, I believe you're all aware of who ABATE is. ABATE sponsors a Share the Road program; the program promotes driver awareness about the behavior of motorcycles in traffic. They're constantly promoting motorcycle safety. There's the Iron Nobles. They're only one of the Sesostri Shrine motorcycle groups. The Iron Nobles donated \$20,000 last year alone to the transportation fund to transport children to the Shriner's Hospitals. I'm also a member of the Iron Nobles. There are also two other Shrine motorcycle groups in Lincoln with Sesostri. The Combat Vets, they provide clothing, appliances, and furniture to the less fortunate veterans. They also partner with the



Roughriders to help wounded veterans I'll talk about in a moment. There's BACA, Bikers Against Child Abuse. BACA helps create a safer environment for abused children; they have chapters in Omaha and Lincoln. Then there's HOG, Harley Owners Group, and Frontier Harley-Davidson, who sponsor many poker runs each year, the largest being the MDA ride. These poker runs raise tremendous amounts of money for various charities like breast cancer, muscular dystrophy, cystic fibrosis, Down syndrome, to name a few. The Tribesmen, another local motorcycle club, gave \$27,000 to the Shrine transportation fund last year. The Tribesmen also host the annual Salvation Army Toy Run, donating hundreds of toys to children through the Salvation Army. And the Roughriders have donated nearly \$300,000 to local charities over the last 11 years. At our last fund-raiser, I was personally moved by the number of groups that joined our cause to help wounded veterans. We partnered with the Combat Vets and Frontier Harley-Davidson, and we were able to secure two Trackchairs. These are all-terrain wheelchairs. As a result of our efforts, we put two wounded vets in Trackchairs last summer. We also helped three additional veterans attain Trackchairs from a national organization. These Trackchairs allow these local heroes the opportunity to hunt, fish, or just spend time in the outdoors with their family and friends. These efforts are replicated countless times every weekend across Nebraska during riding season. Every weekend, Nebraska bikers participate in poker runs for charity. Although we all tend to look alike while riding...you know, the black leathers, sunglasses, chaps, mostly for safety reasons...please don't paint all bikers with a broad brush. It seems the public sees the accidents...you know, the crazy kid riding too fast, the outlaw biker groups...and oftentimes don't see the other 99 percent of bikers that are focused on safe riding and helping those less fortunate. Nebraska bikers are the most generous group of people I've ever known. I hope this gives you a better understanding of who Nebraska bikers really are, and I hope this helps you see us as the caring, law-abiding adults that 99 percent of us are. And, on behalf of Nebraska bikers and myself, I ask that you give us back a little bit of our freedom and allow us to decide. And I ask that you advance this bill. Thank you. Thanks for your time. [LB900]

SENATOR SMITH: Thank you, Mr. Von Minden, for your testimony. Any questions from the committee? I see none. And thank you for all those services and contributions you make to our communities. [LB900]

SCOTT VON MINDEN: Yep, thank you. [LB900]

SENATOR SMITH: We now move on to our next proponent. Welcome. [LB900]

MICHAEL McHALE: Well, thank you, and afternoon. My name is Mike McHale. I live in Bellevue, Nebraska. I have been an avid motorcycle rider. Pardon me, sir? [LB900]

SENATOR SMITH: And spell that name for us, for the record. [LB900]

MICHAEL McHALE: M-c-H-a-l-e, like McHale's Navy, if you're that old. In any case, I have been in avid motorcycle rider for over 55 years, a member of ABATE in 5 different states. I attend poker runs on a regular basis, whenever I can. And that becomes more and more frequent now that I am retired after 38 years with Union Pacific Railroad, both in the field as well as management. This opportunity, for me, is very important because, you see, there is no free lunch in this world. Having just been gone through chemotherapy, a few rounds of that, and battling a particular dastardly disease, thrombocytopenia, in which the content of my blood constantly varies, and having four strokes, being hospitalized to have parts of my body removed, you know, it brings about...there are no free lunches when it comes to medical care. And there's no free lunches with adding or subtracting things on the road. And I have to admit that there are times when a helmet is absolutely essential. I have a background in motor sports of all kinds, whether it be drag racing, whatever. And a helmet could be very, very advantageous, if it's used in the proper fashion. And one very big thing that I think is so important is the head and neck device, or HANS device, in an acronym, used very often in automobile racing. This eliminates the weight of the helmet itself. And here comes the bad side of wearing a helmet. In a high-speed twisting fall, there is such a thing as a basal skull fracture. I'm also a certified EMT of over five years' experience. And the basal skull fracture can manifest itself in many different ways. Some of the ways that it happens is it fills the brain cavity with blood, causing pressure on the brain and can, indeed, cause paralysis, as well as death. This is exacerbated by any kind of excess weight on one's head. And in a high-speed twisting fall with a heavy helmet, it can and will make it much, much worse. So I am being forced to wear a piece of equipment that can hurt me. However, if I fall directly onto my head and bounce my head off the ground, it quite possibly could help me. So there's no free lunch when it comes to a helmet. I think that I have the right to decide. I think that it's absolutely essential for all of us to understand that we're not a bunch of crazies out there running around in the world on our motorcycles. Yes, I ride probably more than a lot of people, maybe less than some. But it is absolutely essential that we have the choice because, quite frankly, they increase the probability of injury in some instances. They increase the possibility of heat frustration (sic--prostration), especially in our weather in the summertime, the fatigue factor on long rides, the limited vision that can be encumbered. And if you're on an 800 pound machine and a 4,000 pound machine is coming at you, you definitely want to be able to see them, because they are not going to yield by force. So it's more and more important of all times to keep awareness, situational awareness, on the motorcycle. There's just an awful lot of things that go into this helmet thing. I think some of the very good things on this particular issue are the debilitating brain...or the brain trust itself, I think, is an important thing. As far as coming only and solely out of the motorcyclist's pocket, I don't mind, the reason being is I am willing to give that extra money in order to have the choice. There are some times when I will ride with a helmet quite emphatically. But without a helmet, I think that I have a better chance of falling. How do I know this? I was T-boned in 1980 by a 1972 Chrysler at 60 miles an hour on a 1980 Harley-Davidson. Quite frankly, I was very fortunate, but that also comes with a lot of years of falling off. Gravity has its way and, sooner or later, you must learn how to come off of a

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Transportation and Telecommunications Committee  
February 01, 2016

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motorcycle. It's not always graceful, and it's not always without its problems. But, you know, you can survive and just simply tuck your head and roll. I thank you very much for your time, and I know that I probably rambled; I had some notes and then I forgot them. Like I say, again, let the rider decide; it's only right. I think that that's about it. Thank you for your time. [LB900]

SENATOR SMITH: Thank you, Mr. McHale, for your testimony. Any questions from the committee? I see none. Thank you very much. [LB900]

MICHAEL McHALE: You bet. [LB900]

SENATOR SMITH: Next proponent of LB900. Welcome. [LB900]

C. LLOYD HERMANSON: Ladies and gentlemen, my name is Lloyd Hermanson, that's L-l-o-y-d H-e-r-m-a-n-s-o-n. I'm here in Lincoln. Thank you for letting me address this committee. Later on you will probably hear how helmets save lives and how, if you pass this proposed bill, the riders will be going without helmets. I'm here to bring before you the other side of the argument. My wife and I were returning from the West Coast when, by the rest area by South Locust Street at Grand Island, a car came out of the rest area, crossed both lanes, and attacked my wife and I. I was blown into the median from the side, and my wife hit the car with her motorcycle. The rest is based on Sir Isaac Newton's law that an object that is in motion tends to stay in motion. What I mean is that the helmet that the state made my wife put on snapped her neck. The state may not have pulled the lever, but the state sure put the rope around her neck. The state, for some reason, believes that we that ride are not smart enough to decide for ourselves as to how best protect ourselves. I'm sorry, but the state gave my wife a master's degree in education and gave her a license to teach your children. She was a teacher at Belmont Elementary here in Lincoln. She never had a ticket in her life and tried to teach her students that laws were there to protect the people of Nebraska. I wonder what she would say now. The state saw fit to allow me to be checked out by the State Patrol so that I could conceal carry, allowing me to protect myself. But I am not intelligent enough to decide for myself how best to protect myself in regards to a helmet. It wasn't enough that the state put the rope around my wife's neck, but, to add insult to injury, the state decided not to charge the other driver for hitting me first or for having neither a driver's license or insurance. And for helping the state to murder my wife, the other driver got two years' probation. This has gotten to be a mindset of the people in the state of Nebraska, which call us highway fleas. And when one of us is murdered, it's a misdemeanor and natural selection. This situation is, unfortunately, not an isolated case. All I am asking you is, please, allow us to decide how best to protect ourselves. We are intelligent people. Some will decide to wear; some will decide not to wear. Please let us decide. Thank you again for letting me address this committee. I hope I didn't step on too many toes. But I have to the

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Transcriber's Office

Transportation and Telecommunications Committee  
February 01, 2016

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right to be disturbed, because I have to live with what happened every day of the rest of my life. Thank you. [LB900]

SENATOR SMITH: Thank you, Mr. Hermanson, for sharing your story. On behalf of the committee, we're very sorry for your loss. Do we have any questions from the committee members? I see none. Thank you for being here today. Next proponent of LB900. Welcome. [LB900]

GARY BOLDRA: (Exhibit 4) Welcome. My name is Gary Boldra, B-o-l-d-r-a. Thank you for allowing me to be here today. June 30 of '06, I was in Sioux City, Iowa, on my motorcycle, and I got T-boned by a pickup. It separated both elbows, broke the bone below my right elbow, fractured right ribs, collapsed my right lung, separated my pelvis in two places. And according to that printout, it shows that I even had some vertebrae injured and 90 percent severed the lower portion of my right leg. And the reason why I brought that in and I went to the hospital to get that is for the verification of the fact that there was no head injuries. And the reason I mention that is because I was not wearing a helmet that day. I, myself, prefer to not wear a helmet. What I also find interesting is that 90 percent, or more, of motorcycle accidents are caused because we are not seen. One of the things that I believe...well, that I am aware of that this bill will do will be to help raise motorcycle awareness. With that, we will lower the accidents of what happened. When I left the hospital up in Sioux City, there was nine other motorcycle accidents in the hospital. From what I was told, none of them was our fault. It took me four months to get back into my own house, because I lived alone and because of the injuries that I sustained. It also left me on disability. I, myself, would love to find some way to raise motorcycle awareness. I also prefer to be able to choose whether I wear a helmet or whether I don't. Yes, helmets, like seat belts, will save some lives. They will take others. That's a roll of the dice that we really don't know. It's just depends on the situation. You know, they can cause neck injuries. My understanding is if the paramedic is not careful, or whoever removes the full face helmet, they can literally paralyze us from the neck down. You know, so are we saving money or are we costing money? There's a lot of pro and con to it. And I know there's other things that I wanted to say that I seem to have forgot. I will think of them later, but I thank you for your time. [LB900]

SENATOR SMITH: Thank you, Mr. Boldra, for your testimony today. Questions from the committee? I see none. Well done, thank you. Next proponent of LB900, next person wishing to testify in support of LB900. Welcome. [LB900]

GARY NEEMAN: Good afternoon. Gary Neeman, N-e-e-m-a-n, assistant state coordinator with the ABATE, also here for myself. As in the bill, as it's stated...oh, pardon me. Thank you for your time today, and calm before the storm here, so we can get out of here before it gets nasty, so. Here today to...in support, and hope you can find support to get the bill out on LB900. As it

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

Transportation and Telecommunications Committee  
February 01, 2016

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says in the bill there, we have made compromise, and we're dead serious about this...starting to implement this brain trust. There hasn't been one, never has been one; it's got to start somewhere. And we feel we're going to take it on our backs to start it. Something is better than nothing. And I hope we all can agree on that someday, somehow. This year was the 75th anniversary in Sturgis, South Dakota. The state of South Dakota made a billion dollars in their economy off that rally alone. If we could have had 10 percent of the riders going through here, or more, to the rally, coming through Nebraska, we could have had of possibly making \$7 million...be a lot of money to put in the economy. So we are...we're missing. I know there has been a lot of argument about this, but we are missing out on this. The week before Sturgis, I went up and broke a rule. I went through Nebraska to check out things, because we hear so many things in the debate, talked to a lot of businesses, didn't get a lot of chance to talk to a lot of the main businesspeople, but a lot of them. Traffic the week before is usually, eh, here and here and (inaudible). But this year was kind of heavy going up. Coming home, I come back down through Nebraska, our home state here, and talk to a lot of people that was coming up. Yes, there is a lot of people that tow. And I ask them why. And he says, well, number one, a lot of them are from further south...Texas, Oklahoma, they are on such a tight schedule and expenses of motel rooms and that up there, they purchase their little campers and away they go; a lot of them, again, tight schedules. A lot of them said they was rode through. They weren't on the tight schedule. If we didn't have the helmet law, they could...you know, they would come...be more than glad to come through. Otherwise, if they weren't on the tight schedule, they'd be going...you know, they'd be going around. So again, you know, we've had this talk many, many times before. I can't stress enough to, again, to really think about this. But we got to start somewhere, and we're willing to start the traumatic brain trust. So, any questions? [LB900]

SENATOR SMITH: Thank you, Mr. Neeman. Questions from the committee? I see none. [LB900]

GARY NEEMAN: Thank you as much for your time. [LB900]

SENATOR SMITH: Thank you. Next proponent. Welcome. [LB900]

JESSE WRAGGE: My name is Jesse Wragge, J-e-s-s-e W-r-a-g-g-e. Me and my wife are small business owners in northeast Nebraska. We own the Clanceyz Bar and Grill. And I'm also a motorcyclist. My wife will probably always wear a helmet; I will not. Riding around, we're close to Iowa border and South Dakota border, 45 miles south of Yankton, 70 miles from Sioux City. Whenever we go riding, we hit the borders so I can pull my lid off and ride. I've talked to several people that would like to ride northeast Nebraska. They refuse to buy helmets. As a kid growing up in northeast Nebraska, in the summer I always used to watch the motorcycles at night, haying. No helmet, Highway 81 was packed every day, every night, for the 21 days of Sturgis. And now

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

Transportation and Telecommunications Committee  
February 01, 2016

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we don't get that. If you think about it, we're losing. There was over a million people in Sturgis this year. And me and my wife, we'll usually spend between \$100 and \$200 per day on food, for motels. That's an average for me and my wife personally. Now South Dakota is obviously above us. Most of the states around us...they're going to go through Nebraska if we don't have the helmet. A lot of them are not going through there. That's about all I got. I would like you guys to pass it. Thank you for your time. [LB900]

SENATOR SMITH: All right. Thank you for your time today. Thank you for being with us. Any questions from the committee. I see none. [LB900]

JESSE WRAGGE: Thank you. [LB900]

SENATOR SMITH: Thank you. Next proponent. And if there are additional proponents, there's some seats near the front, if you want to move forward. Welcome. [LB900]

LARRY DICKES: Hello everyone. I'm not going to be able to talk like the rest of these people have. I'm going to get nervous here. But my name is Larry Dickes, D-i-c-k-e-s. I live in northeast Nebraska, as well. In fact, Jesse, who was just up here, him and I rode out to Pikes Peak this last year together. The most logical way would be to go by Nebraska going out there, correct? No, not us. We went by way of Kansas. We spent as much time in Kansas as we could so we didn't have to wear helmets, just our choice. Anyhow, I am in support for LB900. And I may be skipping around here, and I apologize. I am a truck driver by day, and I have logged 3 million miles, accident free, thank God. And I have logged about 300,000 miles on a motorcycle throughout a period of 40 years, I guess. I have had two bad bike wrecks. Neither one of them was my fault. In '08, I was at 81 and 20 junction in Nebraska, northeast Nebraska. It's clearly marked. The junction is a four-way at the bottom of the hill...rumble bars, lights, everything. I was coming to a stop at the stoplight...at the stop sign, and I got rear-ended by a kid who was texting and driving. He admitted he was texting and didn't see me. That was a really bad one for me. I suffered brain injury there. I was out of work for 14 weeks. I had the best helmet money could buy. At that point, there was a lot of tickets being written for the novelty helmets, the fake helmets. They look like they're real, but they're not. I spent the money and got the best helmet I could get. And even though with that helmet, when I got hit like that, I still suffered brain injury. And then, in 2012, my wife and I was at a motorcycle rally in Algona, Iowa. I was in...it's a four-lane road. I was in the left-hand lane of the left lane to make a left-hand turn. And my wife and I...I was stopped waiting for traffic to come back in, and my wife and I got rear-ended by a drunk driver on another motorcycle doing 100-plus miles per hour. My wife got the brunt of that accident. I just got throwed off. I didn't get, really, any injuries, some skin injuries and stuff, because it was so hot that day. Normally I would ride with a leather jacket. But that particular day, I thought I was going into town just to grab something to eat and, you know, that was it.

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

Transportation and Telecommunications Committee  
February 01, 2016

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Anyhow, my wife got the brunt of the accident. She got some...she got very, very messed up from it, brain damage, you know, all kinds of things. My thing is, it messed up her way of thinking, her thought process. She said...we was married 20 years. She says, you can't handle my disability, I've got to go, which is not true. I married her for better or for worse. I want her back. I could deal with that disability, not a problem. Throughout all of this, I never received one single dime from the state, both accidents. We never got so much as food stamps. Everything throughout both accidents came from our own pockets. The state is always talking about how...does that mean I got to quit? [LB900]

SENATOR SMITH: No, you have another minute. Just go ahead and... [LB900]

LARRY DICKES: Okay. Basically, the state always talks about what kind of a burden we are when we have these accidents. That's not true. I had good insurance and my own money. It all come out of my own pocket. I didn't have no "give me's" in two different accidents. And I am another one who...I guess I had already said that. You know, I live in northeast Nebraska. On a weekend, when I want to go for a ride, I am 50 miles from the Iowa border or 30 miles from the South Dakota border. I will go up there to ride, because I prefer to ride with no helmet. And once again, I will spend \$100 a day when I am out on the road. You know, years ago, Jesse was talking about, you know, Highway 81 being busy. Highway 20 in Nebraska used to be very, very busy. I remember driving through there years ago in a truck, and that was a hopping little town during Sturgis. I know there was a lot of money being spent out there. It's like a ghost town now. I don't know why...I know why, because everybody is avoiding our state. They will go around our state. But anyway, thank you for your time. And, hopefully, I got my point across. [LB900]

SENATOR SMITH: Thank you, Mr. Dickes, for testifying here today. And thank you for your job as a trucker. You play a very important role in our economy. So thank you for that. [LB900]

LARRY DICKES: Thank you. [LB900]

SENATOR SMITH: Do we have any questions from the committee? I see none. Thank you. [LB900]

LARRY DICKES: Thank you, folks. [LB900]

SENATOR SMITH: Next proponent, next person wishing to testify in support of LB900. I see no further proponents. We now move to opponents, those wishing to testify in opposition to LB900. Welcome. [LB900]

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Transcriber's Office

Transportation and Telecommunications Committee  
February 01, 2016

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ROBERT LAKE: (Exhibit 5) Thank you. Senator Smith and committee, I appreciate you allowing us to testify here. As you can tell by the stories and the testimonies so far, motorcycling is a dangerous sport. There's no question about it. The more we can prepare for that, the better off. I am testifying for myself as a private citizen. By way of reference, I am also a Motorcycle Safety Foundation instructor, a rider coach. I'm also... [LB900]

SENATOR SMITH: I'm going to ask you to give us your name and spell it for us, so we can have it in the record. [LB900]

ROBERT LAKE: Okay. My name is Robert Lake, R-o-b-e-r-t L-a-k-e. [LB900]

SENATOR SMITH: Thank you. [LB900]

ROBERT LAKE: Okay. I am also a master instructor/trainer for the Gold Wing Road Riders Association. Both MSF and GWRRA pretty much work hand in hand as far as safety, training, etcetera. There are a number of different things that I would like to address on this bill, and I have a statement that I would like to do...to read. I'd like to address the following issues which I find objectionable, or question the objectivity of, in this bill. First is the registration fee increase. LB900 proposes a registration fee increase for all motorcycle registrations of \$19.00, which is to be remitted to the Motorcycle Safety and Brain Injury Trust Fund. This is a significant increase from the current registration fee. This represents bias against motorcyclists. No increase in the registration fee is proposed for any other class of motor vehicles. And as we've heard testimony here already, there are many other sources of brain injuries that occur on our highways and otherwise, yet the operators of these vehicles may very well experience brain injury also. If the focus of this bill is solely aimed at the motorcycle operator and passenger, then why does the bill rehash testing and licensing requirements for all motor vehicle operators? This appears to deflect attention away from the true purpose of the bill, which is the repeal of the Universal Helmet Law, which we've heard time and time again. Commercial driver's license application, why does this bill delve so deeply into the CDL? To my knowledge, there are very, very few commercial operations that use motorcycles. There may be, and I may not be aware of it. But it seems excessive. License suspension, revocation, and testing requirements, again, this seems to be incidental to everything the DMV does, and not necessarily associated with brain injuries or the trust fund or anything else. Verbiage concerning medical incapacitations, etcetera, blackouts, you never hear about the motorcycle operator or rider having a blackout. But every day we hear about car operators, truck operators having a blackout or a medical episode or any number of different things and loss of consciousness. This is not true, pretty much, for motorcycles, although it could be. But what we need to do is, you know, spread this emphasis out over all the different vehicle types. The high cost of medical care today could virtually wipe out this trust fund with a single instance. Many of the studies accomplished by research groups with and for the Insurance



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

Transportation and Telecommunications Committee  
February 01, 2016

---

Institute of Highway Safety, National Highway Traffic Safety Administration, Governors Highway Traffic (sic) Safety Association, and others have evaluated the costs associated with fatal motorcycle crashes and injury crashes. The approximately 90,000 licensed motorcyclists we have in our state who register approximately 52,000 motorcycles multiplied by that \$19 only yields less than a million dollars. This is going to be used up in one or maybe several crashes, which doesn't support or help the whole body of the motorcycling population. Motorcycling safety training only 2.5 percent? Only? We've already heard that safety is enhanced with training. Being a trainer myself, I support this wholeheartedly, okay? I always wear neon green, for example, as a riding outfit so I can be seen. Knowing the right way to do it, the right way to ride a motorcycle, is more important and only 2.5 percent and yet the committee is allocating 10 percent of the fund for its own operations. Seems to be a mismatch there. Shouldn't we be worrying more about whether our riders are trained, our operators are trained? And I would like to pass the remainder of my time over to my compatriot here who will finish. [LB900]

SENATOR SMITH: Okay. Mr. Lake,... [LB900]

ROBERT LAKE: Yes. [LB900]

SENATOR SMITH: ...thank you for your testimony and appreciate your printed testimony as well. Would you like to comment on the picture that you provided in your testimony? [LB900]

ROBERT LAKE: I would be more than happy to comment on that even in lieu of the red light. [LB900]

SENATOR SMITH: No, it's okay to answer questions from us. [LB900]

ROBERT LAKE: Okay. [LB900]

SENATOR SMITH: No, you can speak. [LB900]

ROBERT LAKE: I supplied two pictures at the end of the written testimony. The first picture came off the Internet. Of course, everybody knows that everything on the Internet is true. But in this case it was true. It was a motorcycle accident where the rider was ejected from the bike and slid along the pavement. Now if you're colliding with something at 60 miles an hour, I don't care what you're wearing, that's going to be a fatal accident. Most accidents you slide along. Okay, in this case, you can see the result of the wear on that helmet on the back of the helmet from that road rash, essentially. Now if that rider had not been wearing a helmet, what would have happened to his head? We would see gray and red stuff all over the roadway, okay, not to be

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

Transportation and Telecommunications Committee  
February 01, 2016

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gross, but, you know, DOA, dead on the scene. The other is a newspaper article that came from the Omaha World-Herald about the seat belt trainer. You know, we often equate seat belts, safety. You know, crashes, seat belts prevent and save...or prevent crashes, save lives, etcetera. The same is true for helmets. The seat belt trainer, which was demonstrated at the car show, shows what happens when an operator doesn't wear their seat belt. In the trainer there was an infant buckled up, survived the crash. Bob, the dummy, okay, and no relation on me, of course, but the one that's hanging out the window in the seat belt trainer was ejected. And oftentimes we hear all about car crashes and truck crashes where the operator was ejected from the vehicle was the vehicle rolled over them or some other thing and they were killed at the scene. Okay? [LB900]

SENATOR SMITH: All right. [LB900]

ROBERT LAKE: Seat belts is this...you know, this has been mandatory for a long time and it has been proven that they do save lives. That's what those two exhibits were for. [LB900]

SENATOR SMITH: Okay, thank you. Any further questions from the committee? I see none. Thank you. Next opponent. [LB900]

DAVID HALEN: Good afternoon, Senators. [LB900]

SENATOR SMITH: Welcome. [LB900]

DAVID HALEN: Here we are again. My name is David Halen, first name, David, D-a-v-i-d; last name, Halen, H-a-l-e-n. I'm a mechanical engineer in Omaha. Senator Murante, we've talked on my doorstep about this issue. I am a motorcycle safety instructor as well. I work with the DMV and a number of people in the audience behind me here. Bob and I took a look at this and he wrote a bunch of stuff down. I wanted to talk about the 21-year-old part of this. We observe lots of people learning how to ride. Age does not appear to be proportional to judgment or skill. Typically the younger people actually are more skilled than the people my age. We have problems with reflexes, eyesight, etcetera, etcetera. And honestly, I think if you look at the Office of Highway Safety or the DMV statistics, there's 1 percent of Nebraska's motorcycle riders are under 21. So the age thing is pretty much not an issue here. We know the crux of the bill is to repeal the helmet law. We understand it's a rights issue with the group we've been debating with for years. I'm going to tell you again what happens when you repeal the helmet law is that fatalities and brain injuries go up. I'm not going to argue against establishing a fund to take care of people who incur brain injuries. But it strikes those of us who do ride with protective gear on all the time, regardless of how hot it is, regardless of where we are, to make all of us pay for those who want to decide to exercise their rights. I'll let you guys talk about that in committee. Commerce, I've heard that argument as well, can't debate that one. There would

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

Transportation and Telecommunications Committee  
February 01, 2016

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probably be more people going through Nebraska on the way to Sturgis. I ride through Nebraska with a helmet and I ride through nonhelmet-law states with helmet. It doesn't really affect the way I go. Why is the bill being proposed? I think you're going to hear from some people after me that a million dollars is not going to possibly take care of traumatic brain injuries. It's a start, hard to argue about it. I guess if I were to suggest an amendment is that if people don't want to ride without a helmet, truly make them pay for the privilege. And it brings up another issue, that of people riding through our state. Are we going to stop them at the border, maybe have a port of entry? There are a number of states that do that and the interstate commerce that I think you're somewhat familiar with, Senator Smith, where truckers pay fees for things. Maybe helmetless riders from other states can pay that fee as well to help fund what seems like a very good thing. A couple of things I heard about helmets I would categorize as misinformation. They don't cause head injuries. They prevent head injuries. I won't say there hasn't been a fatal accident that might have been exacerbated by a helmet and its weight. Dale Earnhardt is probably the most known example of that. The HANS Device does in fact keep your head from moving around; doesn't keep the helmet...it's attached to the helmet...but it keeps your head from moving and twisting. Most modern car racers wear such devices. They're a good idea. They're even testing them for motorcyclists. I'm wondering if that fellow might consider wearing one of those. Accidents with other vehicles, 90 percent, that's plainly not true. It's more about 50/50. There's plenty of single-vehicle crashes where motorcyclists just run off the road. Going around corners is a problem for motorcyclists. It's one of the challenges we face in training. Let's see. I also want to make sure you understand not all motorcyclists are represented by ABATE and the people you've heard from today. There's a whole bunch of us when surveyed...AAA and I believe both...and the Office of Highway Safety...when they survey the general public, usually ends up about 20 percent of people are in favor of repeal and about 80 percent are in favor of keeping our law. Do you have any questions for me? [LB900]

SENATOR SMITH: Thank you, Mr. Halen. Do we have questions from the committee? I see none. [LB900]

DAVID HALEN: Okay, thanks. [LB900]

SENATOR SMITH: Next opponent of LB900. Welcome. [LB900]

DUANE SCHROEDER: (Exhibit 6) Thank you. Thank you, Senator Smith, committee members. My name is Duane, D-u-a-n-e, Schroeder, S-c-h-r-o-e-d-e-r. And just kind of an aside, this is really for legal counsel, but it run through my mind that...it just occurred to me a bill is supposed to have, I think, just one subject. Do we have two subjects here? We got motorcycles and this brand-new traumatic Brain Injury Trust Fund. I don't know the answer; I just raise a question. I'm pretty much a lifelong motorcycle rider. I've been at it for 54 years. The last 47

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

Transportation and Telecommunications Committee  
February 01, 2016

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years I've without exception ridden with a helmet. The last ten years I've ridden 145,000 miles. I've been in all the Rocky Mountain states, almost all of them west...almost all the states west of the Mississippi. I've been to two Canadian provinces. I've been down in the Gulf of Mexico, the Texas border. I like to ride. A lot of those miles my wife has been with me. Every mile we ride a helmet is on our head because helmets work. Helmets reduce injury. They prevent needless death. I'm personally aware of five individuals, myself included, that escaped serious injury or death because they wore a helmet. In one case a friend of mine was 19 years old at the time, refused to ride...he wanted to ride...his riding companion refused to ride with him unless he put a helmet on. As it turned out, that 19-year-old had an accident. He slid across the pavement. He hit his head on a steel stake. It split the helmet. He walked away. Results would have been different if he'd been riding with a bandana and sunglasses. Ten years ago, 11 years ago, I had my first and, to date, only motorcycle accident. I was west of Wayne. A young, inexperienced driver turned left into my lane of traffic. I was completely without fault. I T-boned him. My motorcycle was going probably 60 miles an hour, destroyed...his pickup was totaled. My motorcycle was totaled. I flew about 35 feet over the bed of the pickup, landed on the pavement, hit my head. There was a gouge in the back of the helmet. I didn't even lose consciousness. I had significant and permanent injuries but nothing life altering or life threatening, so helmets work. The gentleman previously talked about an accident, intersection collision at the intersection of 20 and 81. I'm from Wayne, Nebraska. I'm well familiar with that. He indicates he had a brain injury even though he was wearing a helmet. Well, but he's here to talk about it because he had a helmet. I doubt that he would be here to talk about it without a helmet, so the helmet works. My written testimony is replete with statistics, and I've appended the source of my statistics. But the statistics without exception...mandatory helmet usage, mandatory helmet law...usage goes up, death and injury goes down. Interestingly enough, Nebraska has run this...right now we're in...we're talking about an experiment. We're going to repeal the helmet law and let's find out what happened. Well, we know what's going to happen. Usage is going to go down; death and injury is going to go up. We ran the opposite experiment here back in 1989. In 1977 we repealed the previous helmet law; in 1989 we reinstated it. When we reinstated our helmet law, the serious head injuries among motorcyclists decreased 22 percent; medical cost increased 38 percent. So we've got proof right here in Nebraska of what happens. We hear about the freedom to ride. There's also a flip side. It's responsibility, and this traumatic brain injury is no way to assume the responsibility of riding without a helmet. In fact, by its own words it will be used to help people access public and private sources of funding. In other words, it will help us get charity and welfare. That's not responsibility. If I'm going to be responsible, I wear a helmet. If I'm not going to wear a helmet, then I should be responsible enough to be able to take care of my own injuries. Who is going to take care of my dependents? Who is going to take care of my children, my...there was a Supreme Court case back in '70 or back in, yeah, '72... [LB900]

SENATOR SMITH: If you want to go ahead and finish that thought, go ahead. [LB900]

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

Transportation and Telecommunications Committee  
February 01, 2016

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DUANE SCHROEDER: Okay, thank you. In 1972 the Massachusetts federal court considered the issue of whether or not helmet laws violated the constitution and that case was ultimately appealed to the Supreme Court. But the trial court, the federal trial court, in determining that there was no federal...no violation of the Constitution stated this. It told the motorcyclists who objected to the mandatory helmet law that, "From the moment of the injury, society picks the person up off the highway...provides him with unemployment compensation if, after recovery, he cannot replace his (lost) job, and, if the injury causes permanent disability, may assume (the) responsibility for his and his family's subsistence. We do not understand a state of mind that permits plaintiff to think that only he himself is concerned." That case was affirmed by the Supreme Court. [LB900]

SENATOR SMITH: Okay, thank you, Mr. Schroeder, for your testimony today. [LB900]

DUANE SCHROEDER: Well, thank you. [LB900]

SENATOR SMITH: Do we have questions from the committee? I see none. Thank you. Next opponent. Welcome. [LB900]

WILLIAM MULHERIN: Thank you. Good afternoon, members of the committee, Senator Smith. My name is Bill Mulherin, M-u-l-h-e-r-i-n. I am here today in opposition to LB900, at least the helmet provision portion of it. I'm not here as a safety professional or as a member of the medical community but as a rider coach, a motorcycle rider, an attorney, a father, and an active citizen of the state of Nebraska. I promise you, I do not bring doom and gloom. My history before this committee on this issue runs deep as I've spent 15 years to the National Safety Council in Nebraska running their motorcycle safety program. I've testified against similar legislation in the past. And while I'm no longer connected with that program, I can assert to you today that what I have learned in my time there, if I could fully communicate to you what that is, would give you pause before you ever really, truly considered moving this bill out of committee. The facts as presented show that in both raw and scaled terms, simply put, when helmets come off, fatalities and injuries go up. While ridership may increase, and it does, the pace of injuries outstrips the increase in ridership. Our sheer geography and the routes of the interstates are going to limit always the so-called Sturgis effect. And for those people that do cross the state, tax revenues are actually de minimis. The risk, however, that those riders bring without helmets is maximized. As a rider and a coach I've been on the scene of many minor mishaps on the range over the years. I can tell you that proper gear, starting with the helmet, is often the difference between us helping pick up a rider off the range, dusting them off, and continuing a lesson, or sending them to a hospital, even when that accident happens below ten miles an hour. As a rider I can tell you that, while riding always brings an extra element of risk compared to driving a car, I again know from firsthand experience that proper gear...and again, starting with a

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

Transportation and Telecommunications Committee  
February 01, 2016

---

helmet...makes the difference between having a scuffed-up bike that you pick up and ride off or making a trip to the hospital after what would normally be a fender bender. We all, as car drivers, know that accidents happen in the blink of an eye with zero time beforehand to think about it. And one more thing, the helmet is actually an item that reduces your fatigue. And I can tell you I've taken several thousand-mile rides just in the state of Nebraska with the helmet on. And I actually do choose to ride in the state whenever possible, especially in northeast Nebraska. Route 12 is beautiful. As an attorney I can tell you that in tort there's something called the "eggshell skull" doctrine, which basically means you take your plaintiff as you find them. So as a car driver, being in an accident with a motorcycle rider with a helmet, they're likely to have some injuries but it's going to be doable. I'm going to be able to handle it within my insurance. Take the helmet off, the cost of the injuries, the scope of the injuries go up and I can tell you on the criminal side, if that rider dies, we all know the motor vehicle homicide laws here. There was a case about a year ago in Sarpy County where a 16-year-old daughter turned...a 16-year-old girl with her 7-year-old sister turned left in front of cross traffic on Highway 75, was T-boned, and the 16-year-old girl faced homicide charges. Granted, it got moved to juvenile court, but still she faced that. Now imagine that was a motorcycle rider, with or without a helmet. If we know the accident with the helmet is not likely to be fatal and without the helmet it's likely to be fatal, we are going to see an increase in motor vehicle homicide prosecutions, something every car driver is going to need to know. On the civilian side, on the civil side, a civil lawsuit bears much less of a burden of proof, preponderance of the evidence. So if a car driver bears any fault at all they're going to pay dearly for that accident just because the motorcycle rider chose not to wear the helmet. As a father I want to share my passion for riding with my teens as they begin to drive. One has a license; one is on a learner's permit. But I need the state to make that helmet law mandatory because I can't be with them all the time and I understand fully the peer pressure that comes along with young riders. If they're under 21, cops can't tell if they're under 21 or over 21 when they're whizzing down the interstate at 75 miles an hour and that peer pressures thing. One more item: The \$19 added to the registration fee is a tax. It's a minor inconvenience in the bigger scheme of things but it's not going to achieve the desired goal. The cost of even a single major claim against that fund is going to drain it and then the state of Nebraska, already facing, what, a \$140 million budget shortfall, is going to be forced to pick up the tab. We all feel the effects in the form of higher taxes, fees, and premiums. I personally would love to feel the wind in my hair. I value freedom. It's a compelling argument. However, in our society we can't always get what we want. We can get what we need if we retain our law. It's the better option. Thank you.  
[LB900]

SENATOR SMITH: Thank you, Mr. Mulherin. Senator Davis has a question for you. [LB900]

SENATOR DAVIS: Thank you, Mr. Mulherin. I appreciate your testimony. Just in light of some of the things you're saying...you may not know the answer to this but maybe somebody does...if helmets save lives and if they save people from injury, theoretically that would be manifested in

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

Transportation and Telecommunications Committee  
February 01, 2016

---

lower insurance rates in a state that has a mandatory helmet law. Is that correct? Would that follow? [LB900]

WILLIAM MULHERIN: It would appear to be an influencing factor, yes. [LB900]

SENATOR DAVIS: Do you know if there's any validity to that point? [LB900]

WILLIAM MULHERIN: You know, while I have not brought the research with me that shows what various insurance premiums are, I'm sure it's out there. However, because there's so many factors that go into a premium, I'm not sure that we could definitively say one way or another that helmets are the sole or just a partial cause of increased or decreased premiums. [LB900]

SENATOR DAVIS: But according to your testimony even a motorist in a car involved with someone in a motorcycle could end up with significantly higher payments because of the brain injury, correct? [LB900]

WILLIAM MULHERIN: Well, they'll end up having a major claim against their policy. [LB900]

SENATOR DAVIS: Right. [LB900]

WILLIAM MULHERIN: And that major claim is going to go against them as an accident. The insurance company actuarials are going to obviously look at claims paid versus premiums collected and they're going to raise rates accordingly in that particular state. I know where I grew up in New Jersey, years and years ago New Jersey was the highest premium state in the country. And again, I know many, many reasons go into that. [LB900]

SENATOR DAVIS: Thank you. [LB900]

SENATOR SMITH: Additional questions from the committee? I see none. Thank you, Mr. Mulherin, for your testimony. Next opponent of LB900. Welcome. [LB900]

KEVIN INGALLS: Thank you. Kevin Ingalls, that's K-e-v-i-n, Ingalls, I-n-g-a-l-l-s. Thank you for allowing me to speak. I'm a motorcycle instructor also, along with the other folks that were up here, since 2007. I don't believe repealing the motorcycle helmet law is in the best interest of the state or the motorcycling community of the state. A quality motorcycle helmet is a first line of protection in a motorcycle crash to reduce or prevent life-long injuries that affect not only the

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

Transportation and Telecommunications Committee  
February 01, 2016

---

motorcyclist but their family and the community as well. I had one accident so far in my life...I've been riding for over 30-some years...and that was only because a deer thought he had the right of way down in Arkansas. A deer jumped out of the side of the road trying to make it over two lanes of traffic. Unfortunately, he made it over a lane and half which brought him right through my windshield at 60 miles an hour. I was wearing a full face helmet, all my gear. The deer hit me in the chest, took out my windshield, bent the handlebars down, slammed me in the chest, rolled off the side. And it did die, because I was really going to be upset if it just ran off and I'm, like, there. But it did knock the motorcycle down. My motorcycle was knocked off course, went down an embankment. I stopped in a lower marsh area because it had just rained that night, put my kickstand down. I don't know why because after I got off the bike the bike sank. But I went to lift up my helmet. It was called a modular helmet. It has a little button on the front. You punch it and the front section lifts up so you can, like, talk to people normally. I tried to lift that section. It wouldn't because my whole jawline of the helmet had been broken by the deer. I don't know if it was a hoof or what it was. I'm not quite sure what the outcome of that accident or wreck would have been had I not had that helmet on when the deer decided to go for a ride with me. So in that particular case a helmet came in very, very handy for me that particular time. Granted, they took me to the hospital to make sure my organs were still in the right place. Other than that I walked away from it just easy as can be. As far as the cost, I don't think I should finance LB900. It would cost my wife and I another \$56 a year, probably another \$19 because she thinks she needs another bike because I have two. And if I was going to give up \$56 a year I'd rather it go to making motorcycle/automobile safety training more affordable and available so motorcyclists could become better at defensive driving and automobile drivers could become better at recognizing motorcycles. It's great that we're going to start the brain fund, but again, why just motorcycles? If we hit everybody up...car, truck, motorcycle...for \$5 registration, how much money would that give us if that's what we're really looking for on this bill? I mean, if we want to generate money, why is it just the motorcyclists? That makes us sound as if we are the ones causing the problems. We're not. It's very universal. I had a brain aneurysm when I was 40 years old, January 2000. My wife said my brain wasn't Y2K compliant so it popped and I went down. They took me very, very nice. Two days later they could do surgery. Two and a half weeks later from a major brain aneurysm I'm back at work four hours a day just for the mental stimulation. So brain injuries do affect anybody at any time. I was just walking in my house, nothing else, fell over and that was it. If you look at LB900, we're financing \$19 a year per motorcycle to remove the helmet requirement and create a trust fund for the inevitable, avoidable brain injuries to follow. My only thought is, up next do we hit cars up, trucks up for \$19 also and remove the seat belt requirement and set up a trust fund for the inevitable, avoidable injuries unbelted drivers might cause? I find this is kind of singling out motorcyclists. A helmet is your first line of defense. (Inaudible) there's a lot of passion in this particular bill, as you can tell. And as a safety instructor, yes, I really have to go with the thought that a motorcycle helmet is a very, very important piece of equipment. And as Bob was...see, Bob or Dave, I'm not sure which one, said about the folks coming into our state. Say a group of six riders are going across our state



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

Transportation and Telecommunications Committee  
February 01, 2016

---

from, say, Oklahoma. They all get in a wreck. They have brain injuries. Somebody from out of state is going to pull that whole fund dry? I really think that's something to give some thought to. Appreciate your time. [LB900]

SENATOR SMITH: Thank you, Mr. Ingalls, for your testimony. Any questions? I see none. Thank you. Next opponent. Welcome. [LB900]

BEVERLY REICKS: (Exhibit 7) Thank you. Thank you, 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, a nonprofit organization whose mission is to prevent injuries and reduce fatalities at the workplace, on the road and at home. I appear today in opposition of LB900. According to the May 2014 Research Associates survey of 950 Nebraskans, 77 percent indicated they support the existing helmet law; 19 percent support repeal; 5 percent have no opinion. The National Safety Council of Nebraska stands with a majority of Nebraskans who believe we should retain the existing universal helmet law. Having spent 13 years as the director of the Department of Motor Vehicles, I am likely the most uniquely qualified individual to speak to the myriad of technical issues and unintended consequences associated with this bill. I'm not speaking for the DMV, rather, from personal, professional knowledge. As drafted, the new board is given the authority and responsibility over every medical issue associated with driver licensing. That list is vast, from vision issues of astigmatism to medical issues of prosthetic devices. The proposed powers conferred on this board have significant unintended consequences that should be carefully reviewed by this committee. The DMV is proposing to repeal the Health Advisory Board in LB989, a repeal supported by a sustained inability to recruit and retain physicians to serve, as well as the anachronistic nature of the statute. For many years now, the DMV has relied exclusively on a medical opinion of the applicant's personal physician to determine that applicant's medical fitness. This is not a process that should be arbitrarily modified. The bill creates a board of 12 people, 6 of whom are medical professionals, 6 that are not. Custom dictates that 50 percent of a board constitutes a quorum. A board meeting with only six lay members present could result in that group making medical decisions. This new board would be reviewing the personal medical information of applicants. While the medical professionals may be bound by HIPAA laws, the six laypeople are not. This bill does not address these serious privacy concerns. The proposed board is also given the authority to collect and distribute funds from a newly created Motorcycle Safety and Brain Injury Trust Fund. As one of the 55,608 people who own a motorcycle that are to be taxed to provide funding for traumatic brain injuries, I'm wondering why we alone are supporting a brain injury services program that addresses all brain injuries, not just those stemming from motorcycle crashes. Brain injuries are a public health issue that should be supported by all Nebraskans, not just the 3 percent of motorcycle and scooter owners. The traumatic brain injury program must be in place 60 days after the effective date of this act. It is an impossible time line. It will take a year to establish a balance in the trust fund and probably several years to

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

Transportation and Telecommunications Committee  
February 01, 2016

---

promulgate the rules and regs governing the program. Until the rules are adopted the board cannot be created; until the board is created it cannot hire a program administrator; and until the administrator is hired he or she cannot create a program. A Traumatic Brain Injury Waiver program already exists within the Department of Health and Human Services. This bill duplicates that program in the DMV except for it removes all existing eligibility requirements, meaning any age, any brain injury, and any income level is eligible to apply for funding for services and support. Traumatic brain injury is an important public health issue that (1) should not be placed in the DMV and (2) should be carefully reviewed before funding is provided in such an expansive manner. I've had the opportunity to listen to and engage in the helmet repeal debate for many years. Most frequently the argument set forth in favor of the repeal is that we should limit government interference in our lives. I find it kind of ironic that we are here today discussing a bill that ostensibly creates more government, imposes a new tax as a means to limit government interference in our lives. Senator, I'd be happy to answer any questions the committee might have for me regarding this matter. [LB900]

SENATOR SMITH: Thank you, Ms. Reicks, for your testimony. And thanks for your past service as director of DMV. [LB900]

BEVERLY REICKS: Sure. [LB900]

SENATOR SMITH: It's good to see you again. [LB900]

BEVERLY REICKS: You too. [LB900]

SENATOR SMITH: Any questions from the committee? Senator Seiler. [LB900]

SENATOR SEILER: Yes. Did you have a chance to look over this bill? [LB900]

BEVERLY REICKS: I did look at the bill, yes. [LB900]

SENATOR SEILER: I'm a little confused at...in both allowing the 21-year-old to not wear a helmet but wear eye patch or eye protection they called riding on a highway and then when an 8-year-old was restricted on a highway. In your experience, does that cover county roads and cities? [LB900]

BEVERLY REICKS: You know, I would have to look at the definitions under that. [LB900]

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

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR SEILER: It isn't in there. [LB900]

BEVERLY REICKS: It's not in this particular bill. [LB900]

SENATOR SEILER: Right. [LB900]

BEVERLY REICKS: It would probably be referenced. Either it's in the motor vehicle registration statute or...I don't think it's in the driver licensing statute what a definition of a highway is. That would probably either be in rules of road or registration statutes. [LB900]

SENATOR SEILER: I'm raising this with you so Senator Bloomfield gets the message. Thank you. [LB900]

BEVERLY REICKS: Yeah, you're welcome. [LB900]

SENATOR SMITH: Additional questions? I see none. [LB900]

BEVERLY REICKS: Thank you. [LB900]

SENATOR SMITH: Thank you. Next opponent. [LB900]

SENATOR SEILER: Thanks, Bev. [LB900]

SENATOR SMITH: Welcome. [LB900]

REGINALD BURTON: Senator Smith. My name is Dr. Reginald Burton, R-e-g-i-n-a-l-d, last name B-u-r-t-o-n. I'm the director of trauma and surgical critical care at Bryan Hospital. We're the oldest verified trauma center in the state of Nebraska and have the highest volume in the state of Nebraska. I was asked again to look at the bill. Obviously we are in opposition to this bill. I find it very incongruous to combine development of a Head (sic--Brain) Injury Trust Board with legislation that exempts motorcycle riders from wearing a helmet. Much has been said about that and I will leave that where it is. But I am afraid that it is the candy that's luring someone into the nefarious van. As far as I also sit on the National Committee on Trauma and throughout the American College of Surgeons this has been studied in depth with the injury prevention programs, the national programs. Unhelmeted motorcyclists are 40 percent more likely to sustain a fatal head injury than helmeted motorcyclists and 15 percent more likely to suffer a nonfatal injury. When the universal helmet laws are enacted, helmets' use increases from 95 to 100

percent and fatalities and serious injuries decrease. When these laws have been repealed...we don't have to do this experiment. It's been done in multiple states, some of which have actually reinstated the helmet law. When the helmet laws are repealed, helmet use decreases and fatality and brain injury rates increase. The Nebraska statewide Trauma Registry data from 2008 to 2014, there were 1,717 motorcycle crash cases. ICU days are twice as long if they're unhelmeted. Total hospital days are two days longer. Eighty percent were wearing the helmets and 47 percent of the unhelmeted were 46 years or older. I repeat: 47 percent in the state data where the unhelmeted riders were 46 or older. In using our Bryan trauma registry for our patients within past five years we've had 400 motorcycle crashes; 95 percent were wearing helmets. The mortality is 2 percent greater with the helmets than the non, and the injury severity score, which is a way that we rate how severely injured a patient is, was two points higher without helmets. Interestingly, under 21 years of age was only 11.5 percent of our motorcycle crashes. There was only one case of an eight-year-old in the five years, under eight years old. Unhelmeted, 75 percent were 20 years or older, so the...you're talking about a major part of the motorcycle riders. I take care of helmeted patients and unhelmeted, insured, uninsured. We take everything that comes through the door as a trauma center. We learn the stories. We learn to love the patients. We learn to love their families. We do everything we can possibly do. We have a huge research program to try and increase the survivability, increase the functionality of those patients when they get out. Rod Krogh, I love him to death. Yes, I think a brain trauma fund would be great, not when it leads to this, because that fund would rapidly be eaten up, as has been stated in multiple other places. One severely injured trauma patient with a head injury that's going to be placed, their Medicaid application is filled out before they even leave the ICU and their hospital bill very easily could be \$100,000. It's going to very quickly be eaten up and would not offset the risks provided by this bill. Interestingly enough, I had the same statement from the Supreme Court that he had that it is not a personal choice. Some things, including speed limits, stop signs, seat belts, as well as helmets, are for the public good. I would be happy to answer any other questions. [LB900]

SENATOR SMITH: Thank you, Mr. Burton. Senator Brasch. [LB900]

SENATOR BRASCH: Thank you, Chairman Smith. And thank you for your testimony. How many head injuries do you see in a year and how many are attributed to a motorcycle accident? [LB900]

REGINALD BURTON: Our total, I'd have to get you those numbers specific, but speaking from in general I would say total brain injuries we see on average of total trauma patients about 1,800 to 2,000 patients a year, I would say, traumatic brain injuries from all causes. Again, nationally the highest cause for all injuries is falls, and not all of them are grandma falling down. Some of them are the drunk teenager falling off the balcony or falling down stairs. There's a lot of falls as a big piece of that. But traumatic brain injury probably is at least 60 percent of those. The

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

Transportation and Telecommunications Committee  
February 01, 2016

---

motorcycle crashes for the last five years, like I say, there was 400 cases. And it's rare that a motorcycle crash gets away without multisystem injuries. I would also reiterate the testimony by the safety instructors. I know of no evidence of anybody where a motorcycle helmet caused increased injuries of the head or the neck. I have no...that is not based in reality any more than if I hadn't worn my seat belt I may not have been able to...I would have been able to get out of my car when I drowned. That one case does not offset the 100,000 other ones that saved you. [LB900]

SENATOR BRASCH: One more question is, how many states did...you said some have reinstated the helmet laws. Do you know how many? [LB900]

REGINALD BURTON: I've read of two different ones. I can get that information to you though... [LB900]

SENATOR BRASCH: All right. I have... [LB900]

REGINALD BURTON: ...as well as these data if you like that. [LB900]

SENATOR BRASCH: I have no other questions. Thank you. [LB900]

SENATOR SMITH: I see no further questions. Thank you, Mr. Burton, for your testimony. Next opponent of LB900. [LB900]

JORDAN WARCHOL: Good afternoon. [LB900]

SENATOR SMITH: Welcome. [LB900]

JORDAN WARCHOL: My name is Dr. Jordan Warchol, W-a-r-c-h-o-l, and I'm here representing the Nebraska Medical Association. Thank you for giving me the opportunity to speak as a young physician against this bill. I have been a physician for just over two and a half years and I'm currently in my residency in emergency medicine at Nebraska Medicine/UNMC. When an ambulance or squad has been called and is on its way into our ER, they call into us by radio to let us know what to prepare for. On one shift last summer we received a call that a squad was bringing a young man who had been injured in a motorcycle accident. You could hear the sirens in the background of the call even before they told us they were traveling Code 99. Everyone's adrenaline starts pumping whenever we heard the words "Code 99" come over the radio because that designates that CPR is in progress. We get all of our supplies ready to make every attempt to save this young man's life, but by the time they wheeled him through the door of our trauma bay

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

Transportation and Telecommunications Committee  
February 01, 2016

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we could all see that it was too late. His body had already started the process of rigor mortis where all the muscles become stiff. CPR was stopped, no pulse was felt, and he was pronounced dead. When someone is rushed to the hospital following a traumatic accident, their family often arrives shortly thereafter. Having typically been called by the police and told only the minimal details of the accident, they arrive frantic and scared. They are escorted to a small room off our main ER to wait for the physicians who will tell them the fate of their loved one. On this day it was left to me and my supervising physician to tell the family of this man of his passing. His mother, sisters, and the mother of his children were seated on the small vinyl couches with the panic in their eyes begging us to tell them that he was okay. We could only tell them what we knew: he had hit a car while street racing on his motorcycle, paramedics had not seen a helmet, and now he was dead. His mother instantly collapsed to the floor, sobbing uncontrollably. She would never be able to hold her son again. Just a few weeks after this tragic event I was working again when another motorcycle accident occurred and the two passengers of the motorcycle, a husband and wife, were brought to our ER. I took care of the wife who told me that they were nearly home to Omaha after a week-long road trip across the Midwest on their bikes. They had stopped just short of the Nebraska border to put on their helmets for the last little bit of the ride. Only a few miles up I-80: a truck that did not see them and began to move into their lane. Her husband had swerved the motorcycle to avoid the truck but in the process lost control and his motorcycle slid onto the shoulder with him still on it. She and her spouse had suffered a few broken bones and other injuries but nothing was life threatening. That day, instead of meeting the family of this couple in a little room off the waiting room of the ER, I got to show them to their parents' room where this mother was able to kiss her children and hold her husband's hand. When the medics had brought this couple to us, they had with them the gear that the couple was wearing. All the paint on the side of her husband's helmet had been scraped off by the road as his head skidded along the pavement. Members of the committee, I ask that when you consider this bill you remember that it is not only the motorcycle rider who is affected by your decision. Do not forget their mothers, sisters, children, husbands, and other loved ones. I ask that you think about what you would say if it was left to you to walk into that little room off the main ER waiting room with the small vinyl couches and how you would explain your vote on this bill today. Thank you. [LB900]

SENATOR SMITH: Thank you, Dr. Warchol, for your testimony. Do we have questions from the committee? I see none. Thank you. Welcome. [LB900]

TAYLOR GRAHAM: I brought my own chair. I hope that's okay. My name is Taylor Graham, T-a-y-l-o-r G-r-a-h-a-m, and I'm one of Dr. Burton's miracles. I was involved in a motorcycle accident on August 29, 2013, here in Lincoln. I crested a hill and, to my surprise, there was a van with no brake lights on and I couldn't see the stop light. I thought that the stop light was green and the traffic would be going, and so I looked down, checked my speed. This time I was riding the speed limit because I was on my own. I will admit I was one of those irresponsible young

teen riders that rode crazy. But like I say, this time I was on my own and that's usually when I rode safe. And I was on a sports bike, so they, of course, go a little faster. When I looked at the back of the van and thought that the light was green, I looked at my speedometer to check my speed and looked back up and there were still no brake lights but there was no movement in the traffic. The right lane was completely full; the left lane was full, of course. And the gap between the van and the car was too narrow for me to ride to safety in between them and there was a curb on my left, which is pretty hard to hop on a motorcycle. So I locked my brakes. I skid for 111 feet. The bike fishtailed three times and I was thrown. I flew through the air for about 50 feet where I collided with the back of the van head first, face down. I was pretty fortunate that day. I had, you know, gotten this brand-new motorcycle. I had ridden for the two, three years before this, so I wasn't completely inexperienced. But I had gotten a new job and this new bike that was larger in size engine-wise and I wanted a new helmet to match. The prior years I had a bottom-of-the-line \$80 HJC helmet and that day my dad had picked up my brand-new \$375 carbon fiber helmet. And I had put it on, went for a ride, and 20 minutes later got in my accident. Dr. Burton, along with other first responders to my accident, have told me numerous times that if I would have had my \$80 helmet on I would have (a) probably had a very traumatic brain injury or (b) been dead on scene, which my mother in the crowd I know would not have liked. There's no money for medical bills that can replace the life of her son or even a son with a traumatic brain injury that can't communicate. And of course there's different levels of brain injuries and functionality that they get back or lose. But I was pretty fortunate to have that \$375 helmet, which not all riders even have, you know. You think...I was riding the speed limit, 45 miles an hour, and if I got thrown from the bike I could have either picked up speed or lost speed, so you think I hit anywhere around, you know, 30 to 50, 55 miles an hour. And hitting head first I didn't even get a concussion from that brand-new helmet. I wish I could have brought it, but I was told I couldn't bring it in. I think that speaks volumes for the helmet law. I don't think...you know, and I was 19 when it happened so I would be under this new bill where I was required to wear one anyway. But if it was roles reversed and I was the parent and that would...or, you know, if this bill was in place and my dad wouldn't have to wear a helmet...he rode, can't bring himself to get on a bike now because of what happened to me. But if that would have been my dad and he wouldn't have had a helmet on and that was his choice, I don't think I would have...you know, I don't know how I would have dealt with that. I don't think that I could have lived with that. I was going to say something else. You know, my religion in my life is instilled in me by my parents. My choice or obligation to wear a helmet when I rode could have been instilled by my parents out of concern for safety. But in the case of Nebraska, that concern for safety was instilled in me by the laws, by the state of Nebraska, and by this bill that you guys are going to look at and what you guys are going to decide on what to pass through. So I hope that you will think long and hard about the choice. I can't make that choice for you, but I hope you really think about, you know, the pros and the cons for not only the young adolescents' lives or the young teens' lives that ride, but even these...the older gentleman that ride that have rode for X-plus years and have never had an accident or have had accidents and gotten lucky or whatnot. But I just urge you to

think real hard about what you guys are voting on or what you guys are going to change. Thank you. [LB900]

SENATOR SMITH: Thank you, Mr. Graham, for your testimony. Are there any questions from the committee? I see none. Thank you. Next opponent. And can I see a number of hands about how many remaining people wanting to testify? All right, thank you. Welcome. [LB900]

LORI TERRYBERRY-SPOHR: (Exhibit 8) Thank you. Ladies and gentlemen of the Transportation and Telecommunications Committee, my name is Dr. Lori Terryberry-Spohr, spelled L-o-r-i T-e-r-r-y-b-e-r-r-y, hyphen, S-p-o-h-r. And I am a clinical neuropsychologist and the director of rehab programs at Madonna Rehabilitation Hospital. I am here today to strongly urge you to vote no on LB900. In the over 20 years I have worked with patients with brain injury I have seen thousands of times the catastrophic impact of brain injury on patients and their families. Although most of the time when we discuss this issue we tend to focus on the acute healthcare costs, so much more is needed to consider the costs of brain injury. A recent study of nearly 3,000 serious head trauma cases found that 52 percent of survivors were moderately to severely disabled at one year. Many patients never recover full social independence even though they may have no physical disabilities and a normal life expectancy. At four years postinjury, most survivors lived with their families and neither worked nor attended school, imposing significant psychological burden on families who care for injured relatives. Close relationships are at risk and many marriages and partnerships break down, increasing the risk of social isolation and subsequent psychological distress to the survivor. Mood disorders are very common during this period and there is a high risk of suicide. There is little evidence of improvement in psychological problems between two and seven years postinjury with survivors remaining largely dependent upon family support, thereby potentially imposing a lifetime burden on relatives. At Madonna Rehabilitation Hospital we served approximately 700 patients last year with brain injury, many from motorcycle accidents. Although...I have yet to have a patient say to me that they were glad they weren't wearing a helmet, although I've had many say to me they wish they would have been. They often say they didn't understand the lifelong ramifications or didn't think it would happen to them. Unfortunately, the brain isn't like a broken bone that just heals in time and goes on. After helping hundreds of families come to terms with the effects of these injuries, I would gladly change careers if I never had to help another one through this ordeal again. Fortunately, there's something we can do. Helmet laws help reduce the number of people that suffer these injuries. Unhelmeted motorcyclists are three times more likely to suffer critical brain injuries than helmeted riders in a crash. Nebraska repealed the helmet law once before and then put it back in place after our statistics showed us that fatalities and catastrophic injuries were increasing disproportionately to the rate that the number of riders were increasing. In Florida where they implemented the proposed change that requires helmet use by riders only under age 21, hospital admissions for head injuries increased by 82 percent and helmet use declined markedly, even amongst riders under 21, while fatalities increased by 81 percent and



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Transportation and Telecommunications Committee  
February 01, 2016

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nearly tripled in the under 21 age group. In Nebraska the number of motorcycle registrations and drivers has been steadily increasing since 1996. Since we reimplemented the universal helmet law we have seen our injury rate go from 19.1 to 5.3 per 1,000 riders. If we return to the rate that we saw the last time we repealed the law, can we afford the additional cost of 1,339 injuries per year? The less than \$2 million generated by the proposed fees won't even touch the cost of acute treatment, much less everything else that I've mentioned. Although a Brain Injury Trust Fund would be a welcome addition for many in our state who could benefit, the price of implementing one in our state should not come with the burden of additional injuries and deaths. Finally, repealing the helmet law could be completely...is completely inconsistent with other laws recently implemented in our state, including the Concussion Awareness Act. Our goal was to try to prevent long-term catastrophic outcome from brain injury. We bolstered that law in 2013 with requirements that the schools put in place additional teams to support these students. Why then would we want to pass a law that we know, without a doubt, will increase the number of brain injuries in our state, resulting in increased economic burden and more pain and suffering? I understand that there are other states around us that have repealed their laws and they're bearing that burden. According to the National Highway Traffic Safety Administration, all states that have weakened or repealed helmet laws have experienced an increase in fatality and injury rates. We in Nebraska have always prided ourselves on being fiscally responsible, ethically and morally upstanding, and willing to stand on our own when we felt it was appropriate. We don't do what others do. We do what we believe to be right, but it should be based on the facts and the facts tell us this will be costly and deadly. So why would we want to ignore that? Thank you, ladies and gentlemen, for your time. Again I urge you to say no to LB900. [LB900]

SENATOR BRASCH: Thank you, Dr. Terryberry-Spohr, for your testimony. [LB900]

LORI TERRYBERRY-SPOHR: Thank you. [LB900]

SENATOR BRASCH: Are there any questions from the committee? Seeing there are none, would the next opponent please come forward. [LB900]

LORI TERRYBERRY-SPOHR: Thank you. [LB900]

SENATOR BRASCH: Thank you. If you're planning on testifying, if you'd move towards the front, that would be very helpful. If you plan on testifying, move closer to the front, please. Thank you and welcome. Please state and spell your name. [LB900]

SCOT ADAMS: (Exhibit 9) Thank you so very much, Senator Brasch and members of the Transportation Committee. My name is Scot Adams, S-c-o-t A-d-a-m-s, and I'm here to testify in opposition to LB900, the annual attempt to repeal the state's motorcycle law. I hope that it is a

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Transcriber's Office

Transportation and Telecommunications Committee  
February 01, 2016

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futile effort again. Before I begin further though, I want to acknowledge the extraordinary honesty, integrity of the testimony today on both sides of this fence. I respect the testimony of proponents and I understand the energy with which they provide that. I have ridden a motorcycle for a dozen years and so I know that feeling. But I am here representing the board of directors of the Brain Injury Association of Nebraska, a nonprofit organization which helps persons with brain injuries and their families and friends understand their condition, seek appropriate help, and have support from one another. I happen to serve as the chair of the legislative committee for the Brain Injury Association. We seek to prevent brain injuries of all kinds happening in the first place. The "When in Doubt, Sit 'Em Out" campaign is one of our efforts to help schools and athletic programs across the state to understand the seriousness of brain injuries, that is to say concussions, to athletes. I've ridden a motorcycle for a dozen years, started off with a Yamaha Virago and then a KZ650, which was at the time the fastest production bike made, and for the last six years a Suzuki Boulevard. I've gone through two helmets due to cracks in the head that would have resulted in serious injury had I not been protected. During my eight years as the director of the Nebraska Division of Behavioral Health, I fielded calls from family members of persons who had received serious brain injuries from a variety of accidents, including motorcycle accidents. Mental illness is not a brain injury, but persons with brain injuries are twice as likely to experience a serious mental illness, including depression, than the rest of the population. Persons without helmets are three times more likely to experience a brain injury from an accident while riding. Let me speak to the issue of the trust fund as well. I have two things to say about this. First of all, someone didn't do all of the math on that, and you've heard that a little bit. The suggested \$19 increase would raise about a million dollars. Statistics from our own State Department of Motor Vehicles estimates that one nonfatal accident will run on average \$80,700 per year for the nonfatal injury. There were 183 of those in 2013, or about \$14,768,100. In order for the trust fund to fund that it needs another \$13 million, or about an additional \$217 per motorcycle registration. I don't know any biker who wants to pay that, just don't. Second thing I want to say about that is, shame on the idea of linking the trust fund as a means of connecting that to repeal of the bill. I will leave that at that point. Could the Brain Injury Association of Nebraska use the money in the trust fund? Absolutely...we would use it wisely and helpfully...but not through this bill, not through the price that this will put on. Helmets save lives; they save money. If you want a trust fund, which is a good idea, look at LB516. The current laws is an example of a little prevention going a long, long way. The Brain Injury Association of Nebraska opposes this bill and we urge you to kill it. Thank you. Happy to answer any questions. [LB900]

SENATOR SMITH: Thank you, Dr. Adams, for your testimony. Questions from the committee? I see none. Thank you. [LB900]

SCOT ADAMS: Thank you, sir. [LB900]

SENATOR SMITH: Welcome. [LB900]

BRAD MEURRENS: (Exhibit 10) Welcome. Good afternoon, Senator Smith and members of the committee. For the record, my name is Brad, B-r-a-d, Meurrens, M-e-u-r-r-e-n-s, and I am the public policy specialist for Disability Rights Nebraska. We are the designated protection advocacy organization for persons with disabilities in Nebraska. Under the federal Protection and Advocacy for (Individuals with) Traumatic Brain Injury act (sic--program) we provide legal and other advocacy services to persons with traumatic brain injuries. I'm here today obviously to testify in opposition to LB900. The National Highway Traffic Safety Administration estimates that in states without universal helmet laws 59 percent of motorcyclists killed in 2013 were not wearing helmets, as compared to 8 percent in states with universal helmet laws. David Zuby, chief research officer of Highway Loss Data Institute and the Insurance Institute for Highway Safety, reports helmets can't protect against all injuries but they do help prevent debilitating, and often fatal, head trauma. Studies done nationally and in Florida, Arkansas, Texas, Kentucky, Louisiana, and Pennsylvania is clear. It consistently shows both motorcyclist fatalities and head injuries increased shortly after those states enacted legislation to weaken or repeal their helmet laws. A continued rise in fatalities and injuries forced Louisiana to reinstate their universal helmet law in 2004 with declines in fatalities and injuries since. The National Highway Traffic Safety Administration also reports that data from Oregon, Washington, California, and Maryland show significant decreases in fatalities and injuries resulting from their respective helmet laws. As was said earlier, Florida hospital discharge data shows that in the 30 months immediately following their helmet law change...repeal...head injury admissions increased by more than 80 percent. Total gross costs charged to hospital-admitted motorcyclists with head, brain, or skull injuries more than doubled. The Governors Highway Safety Association reports in 2013 that a universal helmet law is the only motorcycle safety strategy whose effectiveness is rated as five star...that is, demonstrated to be effective by several high-quality evaluations with consistent results...and the only strategy rated scientifically proven in the Centers for Disease Control and Prevention. GAO also reviewed nine high-quality studies, all of which concluded that universal helmet laws significantly decrease motorcyclist fatalities. GAO concluded that "laws requiring all motorcyclists to wear helmets are the only strategy proven to be effective in reducing fatalities." In states with universal helmet laws the rate of traumatic brain injuries per 1,000 motorcycle accidents was 282 versus 307 in states with less than 18 year helmet legislation and 366 in states with less than 21 years helmet legislation. While we appreciate the attention to providing funding for brain injury services and programs in LB900, we still have serious reservations about the bill overall. We are concerned that this amount of money garnered through the additional \$19 will be woefully inadequate to compensate for the significant cost of traumatic brain injury itself or the increase in head injuries that we know will result from relaxing Nebraska's motorcycle law. We do not know what the final amount of fees raised would be as the number of motorcycle registrations is not constant. This same inconsistency exists with revenues from Sturgis visitors riding through Nebraska, as proponents would argue. We applaud Senator Bloomfield's initiative to create funding for brain injury services. However, we would respectfully suggest that if this Legislature is truly serious about funding services to persons who

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Transportation and Telecommunications Committee  
February 01, 2016

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experience brain injury or head injuries, that they retain the additional registration fee provision in the bill, although there should be a deeper and more transparent examination of what the additional registration fee should be to match the financial impact of head injuries in Nebraska while simultaneously rejecting the relaxation of the existing helmet law. We would be happy to participate in any such subsequent discussion or analysis. Disability Rights Nebraska urges this committee not to advance LB900 as it is currently written. I'd be happy to answer any questions that the committee may have. [LB900]

SENATOR SMITH: Thank you, Mr. Meurrens. Questions from the committee? I see none. [LB900]

BRAD MEURRENS: Thank you. [LB900]

SENATOR SMITH: Thank you. Next opponent. Welcome. [LB900]

ROGER MEYER: Good afternoon. I am Roger Meyer, R-o-g-e-r M-e-y-e-r. I'm a semiretired family physician. In fact, I was the family physician of the day today at the Legislature. I have ridden a motorcycle over 120,000 miles. This bill, which sets up a fund for irresponsible motorcycle riders who do not want to wear a helmet, just does not make sense; it just doesn't equate with me. You know, we used to...there was...we had a big, big fuss a long time ago about wearing seat belts, how everybody accepts wearing seat belts. Well, I would hope that sooner or later that everybody would accept that they should wear a motorcycle...should wear a helmet if they're going to be riding a motorcycle. I had to witness a young man in the community not...I'll say it's been several years ago, who was riding a dirt bike, lost control, slid off and just happened to ram his head right into a pole. He hardly had another scratch on him, but in a few days he died. Had he been wearing a helmet I don't think that...I think he'd still be with us today. The argument that we want people...people evade Nebraska that don't want to wear motorcycle...that don't want to wear a helmet, from a medical standpoint I think this is a real godsend to our hospitals and our medical profession because these people are coming through and, as has been stated by many other people, the statistics show more people have head injuries that don't wear a helmet. If we're going to have these kind of people coming through Nebraska, we're going to have more people ending up in hospitals with closed head injuries. The expense of one of these would far outweigh the few hundred dollars that they might leave in Nebraska by going through here, so that's something that I could never really see why we wanted unhelmeted motorcycle riders coming through Nebraska. Choice, that's another pet peeve of mine, you know, we should have a choice of whether we wear a helmet or not. Well, then you and I and all the rest of the taxpayers, we ought to have a choice as to whether we pay through Medicare, Medicaid, pay for their longevity, pay for their rest of their life, to keep them alive; we should have a choice as to whether we support them in that way. Well, we don't have and we never will have. So it's just

Transcript Prepared By the Clerk of the Legislature  
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Transportation and Telecommunications Committee  
February 01, 2016

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another way as far as I'm concerned that there is no excuse for not wearing a motorcycle helmet or wearing a helmet while you're riding your motorcycle. I didn't come prepared to be here today, so I'm pretty rusty at this but thank you for your attention. Any questions I'd be glad to answer. [LB900]

SENATOR SMITH: Thank you, Dr. Meyer, for your testimony. Do we have questions from the committee? I see none. And thank you for volunteering to be the physician of the day down here. Next opponent. Welcome. [LB900]

ROSEMARY WHITE: (Exhibits 11-13) Thank you, Senator. Good afternoon, Senators. My name is Rose White, spelled R-o-s-e W-h-i-t-e, and I'm the public affairs director at AAA Nebraska. I am basically here today to talk about the travel economic issues associated with this bill. But I do want to let you know that with the insurance company operations I would like to address your insurance question, too, if we have time at the end, so thank you very much. The information I'm passing out though, I prefer to focus always on the facts, not the anecdotal comments made about travel and tourism, but actually look at what is actually happening. And I am very pleased to say that in 2014 the lodging tax collected across the state was up 8.2 percent from the previous year. And in 2015...they just released this information...it indicates that Nebraska's hotels were busier in 2015, equaling a record amount of state lodging tax collected, indicates through October the Tourism Commission has collected \$4.66 million from the state's 1 percent lodging tax that is remitted through the Department of Revenue. And I did specifically pull information on all of the counties and I'm pleased to report this. Looking at the counties that might have been impacted during the month of August by travel and tourism up to the Sturgis areas and, as an example, Cherry County saw an increase from \$30,000 point...let's see, \$30,866 in revenue up to \$39,493; Dakota County from \$18,464 up to \$21,385; and Douglas County from \$606,000 up to \$620,000. I even checked Scotts Bluff which went up: \$30,000 up to \$37,000. So we did see a lot of people coming through that time taking advantage of our hotels. I also passed out information to you on the Sturgis rally impact. Now we do need to keep in mind I've got some stats there that were basically based on last year's attendance; and I did just get the 2015 numbers, and the rally attendance at Sturgis was 510,000 and so...and that's up from 420,000 seen the previous year. And so, by the report that I just passed out, you can estimate that those figures should actually be up about 20 percent, and so...but still it shows you that we still have a lot of riders that wear their helmets. In fact, Michigan was the most recent state to repeal their helmet law and even with the repeal they're still showing usage rate at about 75 percent of those who are wearing helmets there. And many people trailer their bikes, of course, up to Sturgis and a lot of people even ship their bikes up to Sturgis now. And so many of those who travel to Sturgis also have to travel through other states that have helmet laws and so the impact is not that great as you are led to believe. I also want to let you know that there are many organizations that support keeping the helmet law, and I did pass out a list of the coalition members who are opposing both LB31 that was introduced last year as a carryover this year and

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Transcriber's Office

Transportation and Telecommunications Committee  
February 01, 2016

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LB900. And although this bill has some very positive aspects associated with developing a Brain (Injury) Trust Fund, which we would fully support, we think it would be ridiculous to repeal our helmet law and actually escalate those numbers. The report that I've also given to you is the yellow document, a report. And if you turn to page 3, we saw a dramatic rise, unfortunately, in motorcycle helmet fatalities this past year. And I just wanted to bring this to your attention that we actually had 26 fatalities reported this year, and that was up dramatically, but the main reason for that is we had a 12-month riding season. For the first time in decades we actually saw two fatalities in January, which is nearly unheard of. But sadly, out of those 26 crashes, 16 were the result of motorcycle operator error. Sadly, nine of those were alcohol related. Also, two were...involved animals and the others were driver-at-fault crashes, and one of those was a motorist who was under the influence of alcohol as well. That just gives you a rundown of the types of crashes and fatalities that were seen here in Nebraska. And each year we do have a little more than 580 to 600 crashes that are reported. We probably have a much higher number that actually occurs, but those are the numbers that are reported to the police department. I would imagine that there is a lot of single-vehicle crashes that occur that probably don't get reported, but that will give you a perspective of the numbers that happen here in Nebraska. And so if you have any questions on the material that I presented on the economic part of the situation...and, if not, I'd like the opportunity to address the insurance question that came up earlier, Senator. With auto insurance policies and motorcycle policies, a part of that insurance is what they call medical pay coverage and typically that medical pay coverage has a \$5,000 limit. And so if you look at your policies, you know, many of you probably have that. But it basically means if a rider is injured in a crash, the insurance company only pays up to that limit; or if you're involved in a car crash, they'll only play what's up to that limit, and then it's the responsibility of your own healthcare provider to pay the rest. And so we can't really expect to see any major changes in insurance rates because of this. However, in Michigan, where it's a no-fault state, they are seeing a significant increase in insurance. Within the first couple months my counterpart in Michigan reported that they had three \$1 million claims. Unfortunately, in Michigan there's no cap on the limit, so whatever they're paying for needs for that person with a brain injury will go on for the rest of their life. And so you can anticipate we need to watch their state to truly know what's happening with insurance claims. [LB900]

SENATOR SMITH: Thank you, Ms. White. [LB900]

ROSEMARY WHITE: Thank you. [LB900]

SENATOR SMITH: Further questions from the committee? I see none. [LB900]

ROSEMARY WHITE: Thank you very much. [LB900]

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Transcriber's Office

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR SMITH: Thank you. Welcome. [LB900]

LAURIE KLOSTERBOER: (Exhibit 14) 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, K-l-o-s-t-e-r-b-o-e-r, and I'm the executive director for the Nebraska Safety Council. We're a nonprofit organization and we provide safety and education on safety on our roads, in the workplace, in our homes and communities, and we also help employers with work site wellness programming. I think most of everything that I was going to talk about has been covered today. I just wanted to make sure that the information came out on the 21 and below and what we have seen in some of the other states...that's part of my first bullet...that really what is/appears to be something that young people would wear their helmets because it's difficult for law enforcement to tell those ages that, in fact, what has happened in some of these other states has been that they've seen young people that have come in with higher traumatic brain injuries because they're not wearing their helmets. So it's kind of an unintended consequence of passing a partial motorcycle law for helmets. So with that, I will keep my comments just to that. I've given you some information that's specific to Nebraska. And with that, if you have any questions I'd be happy to answer them. [LB900]

SENATOR SMITH: Thank you for your testimony. Questions from the committee? I see none. [LB900]

LAURIE KLOSTERBOER: Thank you. [LB900]

SENATOR SMITH: Thank you. Welcome. [LB900]

ANDY HALE: Thank you. Good afternoon or good evening, Chairman Smith, members of the Transportation and Telecommunications Committee. My name is Andy Hale, A-n-d-y H-a-l-e, and I'm vice president of advocacy for the Nebraska Hospital Association. Nebraska hospitals afford our communities hundreds of millions of dollars of uncompensated care annually and provide a considerable community benefit to the areas of populations they serve. On behalf of our 90 member hospitals and 41,000 individuals they employ, the Nebraska Hospital Association opposes LB900. As we're all aware, this bill is very similar to LB31 that Senator Bloomfield introduced last session which the Hospital Association was opposed. The one notable change, or a significant change, was that he did indicate a fund that could raise about a million dollars a year. While we applaud Senator Bloomfield's attempt to provide a fund, the truth of the matter is that helmets save lives and lower costs. Ms. White referenced Michigan. In 2012 they revised their helmet law. The law, which had been in place since 1969, required all riders to wear a helmet. Michigan has since seen an increase in injuries, fatalities, and medical expenses. Nonhelmeted motorcyclists more frequently died on the scene, spent more time in

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

Transportation and Telecommunications Committee  
February 01, 2016

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intensive care units, required longer ventilation support, and had higher medical costs. The hospital study noted that the medical expenses for injured helmetless riders averaged \$32,700 compared to \$21,300 for those wearing helmets. The Nebraska Department of Health and Human Services reported that 30 percent of the motorcyclists who experience an accident suffer a head injury. Those who survive motorcycle accidents often rely on state and federal programs to cover expensive long-term care costs. The total charges for all Nebraska riders hospitalized as a result of a motorcycle injury in 2013 was over \$11 million. Only 9 percent of that was paid by Medicare or Medicaid. According to the Brain Injury Institute the lifetime cost of a traumatic brain injury can be up to \$3 million depending on the severity of the injury. The costs of those uninsured, underinsured, or ineligible for government programs are often retained by Nebraska hospitals in the form of uncompensated care. Ultimately, those costs, to a certain extent, become a hidden cost or a tax because they are shifted to insurers and private-pay patients. Nebraska hospitals are continuing to focus on education and prevention of injuries. Requiring our motorcycle riders to wear a helmet is a simple preventative law that makes a proven difference in the cost and type of care necessitated by brain injury patients. Acute care in a hospital or other healthcare provider's facility is the only part of the continuum of care required to help those with such injuries recover and eventually return to some form of independent living or self-sustainable when that is a viable option. The Nebraska hospitals urge you to oppose LB900 and we thank you for your consideration. [LB900]

SENATOR SMITH: Thank you, Mr. Hale, for your testimony. Questions from the committee? I see none. Thank you. [LB900]

ANDY HALE: Thank you, sir. [LB900]

COLEEN NIELSEN: (Exhibits 15-17) Good afternoon, Chairman Smith and members of the Transportation and Telecommunications Committee. My name is Coleen Nielsen; that's spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I am the registered lobbyist for State Farm Insurance Companies and the Nebraska Insurance Information Service testifying in opposition to LB900. State Farm has had a long history of working with safety organizations such as the Insurance Institute for Highway Safety, the Advocates for Highway and Auto Safety, and the National Safety Council and the Nebraska Safety Council. I won't repeat any of the testimony. You've heard a lot of data this afternoon. I just wanted, for the record, for you to know that we agree and stand with the opposition testimony that you've heard today. In addition, I've handed out a few letters. I've been asked to do that so that they may also appear on the record. One of them is that of Patrick Lange who has appeared before this committee in the past in opposition. He is from Lexington, Nebraska, and had suffered a traumatic brain injury as a result of a motorcycle accident. He wanted very much to be here today but because of the weather he couldn't make it and so has submitted that letter. In addition, you will see a letter from the Nebraska Physical Therapy



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Transportation and Telecommunications Committee  
February 01, 2016

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Association, the Nebraska Academy of Family Physicians, and CHI Health. And with that, I'd be happy to answer any questions. [LB900]

SENATOR SMITH: Thank you for your testimony. Do we have questions from the committee? I see none. Thank you. Welcome. [LB900]

THEODORE FRAIZER: Good afternoon, Chairman Smith, members of the committee. My name is Tad Fraizer; that's T-a-d F-r-a-i-z-e-r. I'm local counsel and lobbyist for the American Insurance Association, a national trade association of property/casualty insurers. The hour is late, and you've heard much of the prior testimony; and I would just say we echo that. I think anything that can be done to hold down claim costs rebounds to the benefit of insurance consumers and just the citizens, generally, of the state of Nebraska. And I'd be happy to try to answer any questions you might have. [LB900]

SENATOR SMITH: Thank you, Mr. Fraizer. Any questions from the committee? I see none. Thank you. [LB900]

THEODORE FRAIZER: Thank you. [LB900]

SENATOR SMITH: (Exhibits 18-31) Opponents of LB900. No remaining opponents. We do have letters for the record in opposition of LB900. We have: Dr. Wayne Stuber on behalf of the State Board of Health; Kristin Mayleben-Flott on behalf of the Nebraska Planning Council on Developmental Disabilities; John Roberts on behalf of Nebraska Rural Health Association; Dr. Brandon Grimm and Dr. David Corbin on behalf of the Public Health Association of Nebraska; Tiffany Armstrong on behalf of the Nebraska Brain Injury Advisory Council; Shari DeVeny on behalf of the Nebraska Speech-Language-Hearing Association; Jacqueline Gillan and Dan Petterson on behalf of Advocates for Highway and Auto Safety; Vicki Duey on behalf of Friends of Public Health in Nebraska; Debbie Von Seggern on behalf of Nebraska Emergency Medical Services Association; Dr. Bob Rauner and Dr. Joe Miller on behalf of Nebraska Academy of Family Physicians; Julie Peterson on behalf of Nebraska Physical Therapy Association; Nebraska Physical Therapy Association; and Linda Ohri. We now go to those wishing to testify in a neutral capacity on LB900, neutral. I see none. We do have a letter in neutral capacity regarding LB900 from Rhonda Lahm on behalf of Nebraska Department of Motor Vehicles. Senator Bloomfield, would you like to close? [LB900]

SENATOR BLOOMFIELD: Thank you, Senator Smith and colleagues. Senator Seiler, I did pick up your little flag there. "Highway defined," 60-624, "Highway shall mean the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly

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

Transportation and Telecommunications Committee  
February 01, 2016

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maintained when any part thereof is open to the use of the public for purposes of vehicular travel." [LB900]

SENATOR SEILER: Okay, that's what I was looking for. Thank you. [LB900]

SENATOR BLOOMFIELD: Thank you. The first opponent up brought up the CDL licensing issues. That will be corrected with that technical amendment I mentioned before, as will the privacy concerns that were brought up. Those will be taken care of with that technical amendment that we're working on. The question arose as, why only 2.5 percent to education? It was simply so we could put more into the Brain (Injury) Trust (Fund). That's a number that you're welcome to adjust if you want to, but the idea here was to set up the traumatic Brain Injury Trust Fund that our opponents over the last four years have said they wanted so badly. We don't pretend that this start is the whole ball of wax. The longest journey begins with the first step and that's what this is. It creates a fund. It funds it to a small degree. And we're well aware that we're not going to take care of every traumatic brain injury in the state of Nebraska with this fund, but it is a start and that's where we intend it to go. I will revert now to my prepared closing. LB900 reflects my strong belief that as free Americans and free Nebraskans adults should be able to make decisions that affect their lives and do not interfere with the lives of others. We have, by law, denied a particular segment of our population and certain individuals from outside our state that ability. The eight senators on this committee are given a great deal of power. There were over 99,000 licensed motorcycle operators in Nebraska in 2015. With a no vote on this bill you can simply say to all of them that you know better than they do what they should do. With a yes vote you can give them the chance to regain their freedom to choose and let the full Legislature, after full and fair debate, decide the issue. This issue deserves to be debated on the floor where all 49 of us can be involved in a decision that affects so many in our state. Ninety-nine thousand is not a number to be taken lightly in Nebraska. The opponents of this bill talk about the cost to the taxpayer if we repeal the helmet law, alleging that the majority of motorcycle riders do not have insurance. I would like to remind all of you that, under federal law, we are required to have health insurance. Last year during the hearing an individual from Madonna testified that, quote, at Madonna we see over 600 patients with brain injuries each year, many who were injured on motorcycles, end quote. In reviewing the independent 2015 year in review that was published by Madonna, of the 1,292 patients that were seen by the three Madonna facilities, 244 were treated for brain injuries. Maybe 2014 was a bad year for motorcycle accidents, but I find it puzzling that they, Madonna, would have gone from treating 600 with brain injuries in 2014 to 244 in 2015 in a year when motorcycle fatalities were up. Remember, you can use statistics to say just about anything you want. The opponents of this bill take fearmongering to a new level. I would ask that you not fall for the doom and gloom and restore this freedom. We have worked very hard to address the concerns that our opponents have, yet they still say it's not good enough but they don't want to come to the table to discuss it. It has to be their way or the highway and that's not acceptable. LB900 would also I believe increase

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

Transportation and Telecommunications Committee  
February 01, 2016

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tourism in Nebraska. And I heard one of our opponents say that we really don't want those people in Nebraska. Really? There's a group of people we don't want to welcome to Nebraska to spend their money? I have an issue with that. Let me find where I was here. LB900, as I said, would, I believe, increase tourism because riders from other states would no longer ride around Nebraska to avoid our restrictive helmet laws. No state bordering Nebraska, with the exception of Missouri, has law forcing all riders to wear a helmet. It's my understanding that both the House and the Senate in Missouri are working on repeal bills. My own estimates are that we would have had roughly an additional \$7 million spent in Nebraska last year just during the Sturgis motorcycle rally. This is based on 10 percent of the riders crossing Nebraska and each spending about \$100. Now you keep hearing different numbers on how many people attended the rally. Somebody here today said there were 500,000. I've heard reports of 1.2 million. I use the number 700,000. That's what we found. There were over 700,000 at the rally in 2015. In a state where the number-three industry is tourism, this is important. Please remember that this estimated \$7 million increase is just from one event in a neighboring state. We will also see people from other states spending their money in Nebraska throughout the warm-weather months. I have made this my priority bill. I would like to give the full Legislature the opportunity to debate this new bill. I leave you with the words of President Ronald Reagan, "Government exists to protect us from each other. Where government has gone beyond its limits is in deciding to protect us from ourselves." Thank you. [LB900]

SENATOR SMITH: Thank you, Senator Bloomfield. Senator Murante. [LB900]

SENATOR MURANTE: Thank you, Senator Bloomfield. Senator Bloomfield, as you know, I've supported this legislation in years past. And the argument that you had used that has compelled me, what I think is the most compelling, is your argument about basically President Reagan's quote that we shouldn't be regulating people's behavior if it doesn't impact other people. And I generally agree that we shouldn't be regulating behavior just because it may be a financial burden to the state at some point in the future. However, I appreciate what you're trying to do with this bill in that you're trying to address the concerns that have been brought up in years past by the opponents of the legislation. But your bill creates a new unit of government, spends about a million dollars a year, increases fees...which I don't make much distinction between a fee and a tax...prohibits parents from making the judgment that their children can ride on a motorcycle with them, and it permits people to not wear helmets but if they don't they still have to wear protective eye gear. Are we really increasing people's liberties with this bill? I appreciate your trying to make accommodations, but it seems like we may have defeated the purpose and lost the point and perhaps even the moral high ground that you're trying to make. [LB900]

SENATOR BLOOMFIELD: Let me address that a step at a time if I can. The past bills I've introduced have maintained the eye protection and that goes back to the similarity of the seat belt. The seat belt, if you lose control of your car, keeps you in position behind the wheel. You

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

Transportation and Telecommunications Committee  
February 01, 2016

---

may be able to regain it so you may be able to prevent an accident or striking something else. The idea of the eye protection is to keep you from getting that June bug in your eye at 60 miles an hour that could cause an accident. That's why we've left that on there. Refresh me again on the rest of your questions. [LB900]

SENATOR MURANTE: It's really just the rest of your bill. I mean... [LB900]

SENATOR BLOOMFIELD: Okay. [LB900]

SENATOR MURANTE: ...it spends money. It creates a new unit of government which seems to be a government expansion of sorts. It increases fees. Again, I don't make a distinction between taxes. [LB900]

SENATOR BLOOMFIELD: Okay. [LB900]

SENATOR MURANTE: If we're shrinking government, this seems like an awful big government solution in an attempt to shrink the size of government. [LB900]

SENATOR BLOOMFIELD: I understand your pain at that. I suffered the same pain. I do not like increasing fees. The groups supporting motorcycle riders in the state came to me and said, we are willing to bear this burden if you will carry this bill in order to get this Brain (Injury) Trust Fund started. I have acquiesced to their request and that's what this is. They have volunteered. And, no, I have not talked to every single bike rider in the state of Nebraska, but I have talked to a lot of them and I have but one that complained about the increased fee. You know, a lot of these bike riders are veterans and they realize that freedom isn't free and they have told me that they're willing to pay again, more than anybody else, to restore that freedom to decide what they want to do. And that's the idea behind the bill. I'm no more fond of that increased fee, Senator, than you are. But it was an attempt and is an attempt, with support from the motorcycle riders, to get something started to reduce the opposition. The opposition tells us that a million dollars is something that will be laughed at in Nebraska, it won't come anywhere near covering all the expense. No, it won't, but it's a start. It is a million dollars and it is funded by the people that this law affects, so. [LB900]

SENATOR MURANTE: Thank you, Senator Bloomfield. [LB900]

SENATOR SMITH: Additional questions from the committee? I see none. [LB900]

SENATOR BLOOMFIELD: Okay. [LB900]

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

Transportation and Telecommunications Committee  
February 01, 2016

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SENATOR SMITH: Thank you, Senator Bloomfield. [LB900]

SENATOR BLOOMFIELD: I do have...if anybody wants them, I will make copies available. These are inquiries made in the state of Iowa as to why people are riding around Nebraska and not going through it and these are the two-sided e-mails of people in support of this bill. And I'd be willing to make you all copies if you want. [LB900]

SENATOR SMITH: Thank you, Senator Bloomfield. [LB900]

SENATOR BLOOMFIELD: Thank you. [LB900]

SENATOR SMITH: That concludes our hearing on LB900 and our hearings for the day. Thank you all, and drive safely. [LB900]