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Transportation and Telecommunications Committee
January 30, 2017

[LB55 LB78 LB339 LB584]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, January 30, 2017, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB55, LB584, LB78, and LB339. Senators present: Curt Friesen, Chairperson; Jim Smith, Vice Chairperson; Bruce Bostelman; Tom Briese; Suzanne Geist; Mike Hilgers; Dan Hughes; and John Murante. Senators absent: None.

SENATOR FRIESEN: (Recorder malfunction) and Telecommunications Committee. I'd like to welcome everybody here. I'm Curt Friesen, the chairman of the committee, and I represent District 34. And I'll just mention a few procedures of the meeting. I ask that you turn off all your cell phones, and I also ask that no one display any form of support or opposition to a bill. Let's keep the audience quiet and let everybody present their testimony in peace. We'll be hearing the bills listed in the order on the agenda, and those wishing to testify on a bill should move to the front of the room and be ready to testify. We have a reserved chair there up front so that the next person can get lined up and ready to go. And if you'll be testifying, we ask that you complete one of the green testifier sheets located on the table inside the entrance. Hand the completed testifier sheet to the page when you sit down to testify. Handouts are not required but, if you do have a handout, we need ten copies; and one of the pages will assist you if you need help. When you begin your testimony, it's important that you clearly state and spell your name. And if you happen to forget to do this, I will stop you and ask you to do so. And please keep your testimony concise and try not to repeat what has already been covered. We will use the light system and we will give you five minutes: four minutes with the green light; one minute with the yellow light; and when the red light comes on, I'd ask that you wrap up. Those not wishing to testify...but they may sign a pink sheet by the door to indicate their support or opposition to a bill. I will now introduce the other members of the committee. And to my far right I have Senator Tom Briese from Albion, representing District 41. Next to him is Senator Bruce Bostelman from Brainard, representing District 23, and next to him is Senator John Murante of Gretna, representing District 49. We have Senator Jim Smith, the vice chair of the committee, from Papillion, representing District 14. And we have committee legal counsel, Mike Hybl. Continuing on my left, we have committee clerk, Elice Hubbert. Next is Senator Dan Hughes from Venango, representing District 44. And we have Senator Mike Hilgers from Lincoln, representing District 21, and Suzanne Geist from Lincoln, representing District 25. And we have two pages assisting us this afternoon: Heather Bentley from Miller, Nebraska, is a freshman at UNL, majoring in ag economics; and Jade Krivanek from Omaha, a junior at UNL, majoring in economics. And with that, we'll open the hearing on LB55; Senator Schumacher.

SENATOR SCHUMACHER: (Exhibit 1) Thank you, Senator Friesen, members of the Transportation and Telecommunications Committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, and I represent District 22 in the Legislature. LB55 has its genesis in a request that the

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Platte County Attorney's office made to me, asking for some help in a situation they were encountering in Platte County. Platte County is basically farmland, very little pastureland. Farmland is at a premium; it's very expensive. So there's a tendency to want to use all of it that you possibly can. And since I filed this bill, I've learned that perhaps some of the western counties, which are basically ranch land, may not have quite an acute situation as they have in Platte County. The roads are mile-by-mile section roads, most of them gravel, and most of them have ditches, at least on the roads that haven't been declared minimum-maintenance roads. On the minimum-maintenance roads, life is life and people seem to forget that there are...ditches are the county property; and they're planting corn and beans right up to the thing that you drive on and the roadbed. So there's just a lot of vegetation in those areas. Now over the last few years, things have changed in our area of the state as well as, probably, most areas with that type of cropland. It used to be just about every farmer had 160, 320 acres. And the most ditch they had was a half mile by a half mile per 160 acres. And just not so long ago...that everybody had some cows and some pigs and some chickens that they fed, and some of the ways that they fed those animals was by having hay. And the hay could have been in the hay meadow; could have been alfalfa; could have been red clover. And those kinds of crops start growing in the spring. And not too late in the spring, they're ready for their first cutting. And they come out and they...she didn't make enough copies; well, I don't really need them right now. The...in the...and they cut it; and to cut it they'd use a thing called a sickle mower. And I did get a picture; I was hoping to get a picture for all of you, but that's what the thing looks like. It's a blade that's pulled behind a tractor and, oftentimes, when it's in transportation--it's cocked up. And then they lay it down and it goes back and forth and it saws off the grass or whatever. So when they were driving to the clover fields or the alfalfa fields, it was not a big hassle to lay down the sickle blade and go clip off the weeds alongside of the road. And most of them took quite a bit of pride in doing that; it was their own land, their own farm, and it was not much work because they were headed toward the other field anyway and they just mowed it off. And it was somewhat less of a problem. Now life has changed--very little alfalfa or red clover or those kind of things for the farmers to need that haying type of equipment in our part of the country, because they plant mostly corn and beans. And the road ditches are neglected because it's just not as convenient. They're supposed to mow them twice a year, and what happens is, those weeds get pretty high before what the statute requires the first mowing to be. And that's fine; I suppose it does make a little cover for the first four or five feet off the road there where these blades would normally hit for maybe a pheasant or two or a rabbit or two to hide in, but there's plenty of other room if there's still a ditch there and it hasn't been taken over by corn or beans planted right up to the roadbed. We...when that happens, and you have corn high so you don't have a good view of the intersecting road, and you come up to those intersections, get past the corn and then see, basically, weeds in the road ditch, your vision is obstructed and it's apt to cause an accident. And this particular cause gained some of my attention because, on more than one occasion, I rolled a body into a body bag at one of those kinds of accidents at an intersection on a county road when I was Platte County Attorney and I was coroner. And that's not a pleasant thing to do...to load that body into a hearse after one

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of those intersection accidents. So basically, they've got a problem. And the solution was that, perhaps, we should have a mowing ahead of time of one of the two that are already required or, at least, a mechanism so if it wasn't mowed by the farmer, it could be clipped off by the county. And as a result of that, this bill was introduced. Now I understand now that--and I didn't understand at the time--that Senator Friesen also has a bill that deals with weeds and mowing, and that the circumstances may be a bit different in the western part of the state, where we have...we don't have this row crop growing close to the road and then these high weeds at an intersection every mile by mile. Things...it's more spread out and fewer intersections per mile of road in some of those areas. So I understand there's going to be some discussion trying to integrate the needs in this particular...represented by this particular bill, with maybe what Senator Friesen has in the hopper. I would ask the committee to take that into consideration and these issues, and perhaps even some of this language in the discussion it has. And they did make a copy now, I see, of the little bit of history here. This is what the mowers used to look like, and still do look like, even though the folks that do not have much hay probably will take out what they call a bush hog, which is kind of a rotary mower, and lay it over in the road ditch and buzz off the top of the weeds. But I think this is a legitimate issue. You have to have some setback from those intersections so people don't have to pull their nose of their car out into the intersection in order to see what's coming and where there's been visibility impaired because you're looking over seven-foot corn. And you just can't see what's happening. And those are just on gravel where you don't have quick stopping ability and where there probably aren't many stop signs because of the expense of putting up and maintaining stop signs. We have a public safety issue that probably should be addressed by the committee. I would take any questions. [LB55]

SENATOR FRIESEN: Thank you, Senator Schumacher. Now I think you described the situation very accurately. In my area, too, I remember we used to mow the roadsides and now we don't have a mower like that anymore and we don't. So, any questions from the committee? Senator Hughes. [LB55]

SENATOR HUGHES: Thank you, Mr. Chairman. Thank you, Senator Schumacher. Your comment about farmers planting too close to the edge of the road...do you know at what point does the farmer's responsibility for property taxes, where it is that they have to pay property taxes and where they don't? [LB55]

SENATOR SCHUMACHER: I think those are...most of them are, I think, what they call 33-foot roads. And I really think that taxes may be taxed to the middle of the road. [LB55]

SENATOR HUGHES: You're correct; the taxes...we have to pay taxes to the middle of the road... [LB55]

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SENATOR SCHUMACHER: Right. [LB55]

SENATOR HUGHES: ...and that's not farm ground for us. The 33 feet that you mentioned is 66 feet of right of way down the road, so our power poles or phone line or whatever can dig within that. [LB55]

SENATOR SCHUMACHER: Um-hum. [LB55]

SENATOR HUGHES: But yes, farmers do have to pay taxes to the middle of the road. Thank you. [LB55]

SENATOR FRIESEN: Thank you, Senator Hughes. Any other questions from the committee? Senator Briese. [LB55]

SENATOR BRIESE: Thank you, Senator, and thank you for being here, Senator. You talked about the safety concerns at intersections. Is the real culprit they're planting too close to the road, or the failure to mow weeds at those intersections? Or a combination? [LB55]

SENATOR SCHUMACHER: I think there are things that you probably all know of or, if you're new to this committee, will soon learn of, called minimum-maintenance roads, in which, basically, the county or the township says there's so little traffic on this road, we're not going to put any gravel on it and we're not going to do very much at all to maintain it. And if they wash out, they may stay washed out for a while until they can get a blade through there or something. On those what we're seeing is the corn, planted right up to the edge of road, right over what used to be the road ditch. And the right is...and sometimes that road gets a little narrower and narrower each year. On the other ones where you have still the road ditches and it's not a minimum-maintenance road, you have a situation where often there is corn right up to what used to be the fence line. Then you have a ditch and then you have the road. And so you have corn there so, if you're driving down the road coming up on the intersection, you can't see through the corn to what's coming on the cross traffic. And then, when you get out to the edge of the corn, to the ditch of the intersecting road, if you've got weeds there that have grown up like they will do by the middle of July, you can't see beyond those either. And that's where it gets to be a real acute problem. [LB55]

SENATOR BRIESE: Thank you. [LB55]

SENATOR FRIESEN: Thank you, Senator Briese. Senator Bostelman. [LB55]

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SENATOR BOSTELMAN: Thank you, Mr. Chairman. Senator Schumacher, a question on the row crops that are planted. [LB55]

SENATOR SCHUMACHER: Um-hum. [LB55]

SENATOR BOSTELMAN: Is there currently a limitation as to how close to the road you can and cannot plant through that ditch? Do you know? [LB55]

SENATOR SCHUMACHER: I don't think you're supposed to plant on any of the right of way. That...I don't think you're allowed to plant up to the very, very edge of the road. However, there's no enforcement or very little enforcement and, probably, no need to enforce. [LB55]

SENATOR BOSTELMAN: Well, as you imagine, my followup to that would be is...have you...does the Platte County Attorney...have they had a situation where they've had problems enforcing something like that? Is that, you know, part of the...do they enforce that? [LB55]

SENATOR SCHUMACHER: I...well, on the minimum-maintenance road where they plant them right up to the edge of the road, I don't think they brought any actions to them to move them back off of the...what used to be the road ditch. A lot of the reason is because, as Senator Hughes points out, the...you know, they kind of feel well, we're paying taxes on that; we should get a couple ears of corn off of it. [LB55]

SENATOR BOSTELMAN: Well, I understand that completely. I was more on the township or the county roads because sometimes you'll see, you know, the crops will be planted right up to the road, to the gravel and that. I guess my question was, was if the Platte County Attorney had had problems, he'd taken corrective actions on those areas, if there is a statute there that says you can't be planting that close. And so it sounds like...they may have had a problem in trying to enforce that? [LB55]

SENATOR SCHUMACHER: They may have and I can't speak to that; they didn't get into what enforcement. But I do know that they've had problems when they've made requests to mow the weeds... [LB55]

SENATOR BOSTELMAN: Sure. [LB55]

SENATOR SCHUMACHER: ...that there's no enforcement mechanism and they're kind of whistling Dixie. [LB55]

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SENATOR BOSTELMAN: Thank you. [LB55]

SENATOR FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? Thank you, Senator Schumacher. Are you going to stick around for closing? [LB55]

SENATOR SCHUMACHER: I might. I should be over at Banking, but I'll stick around just a little bit to see what is said. Thank you. [LB55]

SENATOR FRIESEN: Thank you. Any proponents for LB55 who wish to come forward and testify at this time? Any proponents? Are there any opponents? All right, come forward and testify. Welcome. [LB55]

STEVEN KRUGER: Good morning, Senator...or good afternoon, Senator Friesen. My name...and Senators, my name is Steve Kruger, K-r-u-g-e-r, 14744 County Road 7, Arlington, Nebraska. I'm a supervisor for Washington County. Today I'm coming here in, I guess, opposition of LB55, based on mainly the dates we have here--we have three dates. You know, does...if June 1 or June 5 comes around and some landowner has not paid their...or mowed it, does the county then incur liability at that date because, all of a sudden, there's a car accident because they weren't mowed? When does the liability issue come back to the county? The other thing we have here is absentee landowners. In your...further down in the bill, which has always been in the bill, it says that we need to contact the landowner that we may know to be able to bill him. Finding absentee landowners or getting that done is sometimes problematic for the county clerk and that. The other...I talked today on the way down here; I had some friends out in Kimball County, Nebraska, and asked them about how this bill would affect them if they were told they hadn't mowed the road ditches. They said: well, obviously we don't mow our road ditches; we'll just graze them, because several of those have cattle guards on them, so people just graze their ditches out there. So this is a blanket for the whole state. I understand the safety issues that Senator Schumacher is talking about. I think all landowners and farmers are aware of the safety issues. There are a few that do plant up to the road ditches. Senator Hughes, I don't know exactly about taxes for sure. I know we do pay taxes, but there also is a credit back from the assessor for those taxes on our statements, I believe. So I'm not sure about that, but that's what I have been told when I talked to the county assessor, because I argued the same thing: why am I paying taxes on something I can't farm? The other thing is the ending date. If we're going to be really honest about the ending date, let's have it at the end of the growing season so that we know that all the weeds are done and we can really...the real issue here is the snow that blows on the road because the weeds are alongside the road...so we can keep the roads clear. With this ending date, August 15, there's still a lot of, you know, buttonweeds, cocklebur, sunflowers. You'll notice, if you've been a farmer like I have, that you may think you have a clean field of beans on August 15, but by September 1 you've got that field full of beans and corn because

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those weeds propagate, knowing that their life is short, so they grow quicker and grow faster at the end of the season. So those are my real concerns with this. There are some issues, liability issues, like I said. When does the liability issue come on the county because they didn't enforce it? You know, we've tried to enforce this; we've tried to do a best job. We have maintainers out there and I tell the maintainer if someone is...we have the right for the maintainer to go and clean up the ditch. But the maintainer that usually lives out there with a farmer or friend, what kind of controversy do you want on the end then? I fully support Senator Schumacher in that we do need to provide safe roads; that's a real issue of all counties--to provide safe roads in visibility and sight. So I rise in opposition mainly for the dates and also for...when does the liability issue really fall on the county if they haven't done their due diligence in making sure that a farmer has mowed their road ditches? So that's all I have, sir. And thank you. [LB55]

SENATOR FRIESEN: Thank you, Mr. Kruger. Are there any questions from the committee? Seeing none, thank you for your testimony. Any others wishing to testify in opposition? Welcome. [LB55]

ILSA GILBERT: Good day, Senators. My name is Ilsa Gilbert; that's I-l-s-a G-i-l-b-e-r-t. I live in Lincoln. Thank you for the opportunity to speak today on an issue I care about greatly. The proposed legislation, LB55, will be detrimental for native invertebrate species in the state, including pollinators, many of whom are a part of...a vital part of the functioning of the food web which we are all a part of. Pollinators are responsible for one in three bites or drinks we take and 80 percent of all plants. Actions to be required, should this legislation be approved, will undermine the state's pollinator protection plan, which recommends that regulated roadside mowing be confined to those times in the year which they are least harmful to these species. Such consideration would require mowing before May 1 and after October 15, as recommended by a wide variety of experts in the fields of biology, botany, and entomology, as well as the U.S. Fish and Wildlife Service, the Nebraska Game and Parks Commission, the U.S. Department of Agriculture, Pheasants Forever, the University of Nebraska, the Center of (sic: for) Biological Diversity, the Nebraska Wildlife Federation, Save Our Monarchs, Friends of the Niobrara, as well as many others. Nebraska, thus far, has been making great strides: an effort to conserve the iconic monarch butterfly that is currently petitioned for endangered species, listed before the U.S. Fish and Wildlife Service. Nebraska is part of the international effort to support the policy that helps monarchs and other pollinators by conserving vital habitat and creating more. Loss of breeding habitats is one of the largest causes for the decline of pollinator populations. The Nebraska Department of Roads is currently studying the potential of creating new habitat along the same areas that are proposed to being mowed. I would like to refer the senators of the state...or to the state's proposed pollinator protection plan for further details as the committee considers this bill. Nebraska landowners are already required to control the weeds by separate legislation unrelated to this proposal and will be negatively impacted by the proposed additional, unnecessary, and harmful burden. I urge you to oppose this bill; thank you. [LB55]

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SENATOR FRIESEN: Thank you, Ms. Gilbert. Any questions from the committee? Just one question, I guess. What were those dates that you were recommending (inaudible)? [LB55]

ILSA GILBERT: It was before May 1 and after October 15. [LB55]

SENATOR FRIESEN: Okay. I think that's all I have; thank you for your testimony. Welcome. [LB55]

DUANE HOVORKA: Good afternoon, Mr. Chairman and members of the committee. I'm Duane Hovorka, that's D-u-a-n-e H-o-v-o-r-k-a. I'm executive director of the Nebraska Wildlife Federation and here to testify against the bill. The state of Nebraska was once covered with grass from end to end. And to date, about close to half of the grassland--the historic grassland that covered our state--has now been converted to cropland, primarily in the east but also across the state. And so if you look at the habitat in places in eastern Nebraska in those counties, we have...especially the tall grass prairie, which covered about the eastern quarter of the state, about 97-98 percent of that is gone. The tall grass prairie is no longer around. And so, as a result, we have a whole lot of habitat that's not out there on the landscape. I live in Cass County, which is east of Lincoln, and we're seeing much more of the grass that is on the landscape disappearing. So grass waterways, buffer strips, a lot of that grass has fallen in the last few years as crop prices rose. And now that they've fallen again, you don't see people out planting grass again; so it's still cropland. So, from a habitat perspective, in a lot of Nebraska counties, especially in the east and the south-central part of the state, a lot of the habitat in those counties is in those county roads...is in those roadsides there. I'll be the first to tell you it's not great habitat but, if you talk about grassland birds--pheasants, but a lot of other birds that aren't game birds, there's a lot of habitat that's provided for in those county road ditches. And so requiring that they be mowed three times a year instead of two would further degrade the habitat because you just...you're not going to have the cover there for nesting, you're not going to have the cover there for the birds. So that's, from a wildlife perspective, why we oppose the bill. I do understand the safety concerns. I live out in Cass County. I live two miles from town, so I'm on a county road. And I certainly see the challenges of being a landowner and taking care of those rights of way, as well as those intersections that you talked about. And I think, what I say is...one thing to think about is that if you're talking about two things, two benefits from the mowing, one is to keep the brush down. You don't want trees and shrubs and things growing in the rights of way there because then, if you get off, you know, you can cause accidents that way, if you get off the...get off into the ditch and hit a tree, you know, in that situation. But the other and the state highways have taken care of that, you know, in their mowing, but they don't mow every right of way every year. And generally, if you mow every other year, even every third year, that's enough to keep the brush down. So that's one thing to think about. The other thing to think about is certainly the safety at intersections. I do understand that; it is important. And have seen...you know, you drive by the seven- or eight-foot-tall corn in some areas. If you got a good year and you get to the

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intersection, there's not a lot of visibility so, hopefully, you're already slowed down anyway. But my question is: does it make sense to require a landowner to mow a mile of, you know, a mile of right of way in order to protect a single intersection? And maybe we need to change the policy to talk about the need to mow for visibility at those intersections, and leave the rest of the habitat, leave the rest of the grass there. So really, isn't a lot of benefit from mowing that whole mile...the benefit is from mowing, you know, the 50 feet right around the intersection where you have the visibility concerns. So that's something to think about. We'll be testifying again on Senator Friesen's bill, and we think that's probably a better way to go. We're sure willing to talk about the need and to make sure that we provide for that habitat for wildlife out there; at the same time, we're also providing for public safety. So thank you. I'd be glad to answer any questions. [LB55]

SENATOR FRIESEN: Thank you, Mr. Hovorka. Any questions from the committee? Seeing none, thank you for your testimony. [LB55]

DUANE HOVORKA: Thank you. [LB55]

ANNE DeVRIES: Hello. [LB55]

SENATOR FRIESEN: Welcome. [LB55]

ANNE DeVRIES: My name is Anne DeVries, A-n-n-e D-e-V-r-i-e-s, and thanks for listening to me. There are many reasons to oppose this bill. We should not be directing people to mow if it is their property. Noxious weeds are already addressed in the law and, if this needs to be changed to address some type of noxious plants that are not native and they're too tall for the ditches, it should be addressed in a different type of bill. We need to protect the pollinators and encourage nature to be in the areas and not...that are not in crops. We should be...not be mowing as it disrupts the birds' nesting and reduces the pheasants and other game birds. We should not be requiring mowing, which uses fossil fuels which we need to reduce very fast. Climate change is a very serious issue to address and every small step, from recycling to reducing the use of fossil fuels, are needed. So the problems at the intersections can be many: to a driver's mistakes, to sun in your eyes, or the grass is in the way. But if a driver can get closer to the road and see, it should not be a hazard and then, so the plants...should be able to look around them. We need to respect people's rights, we need to respect the hunting and the native pollinators, and we need to address climate change, which is the number one issue in our society right now at present. So please oppose this bill; thank you. [LB55]

SENATOR FRIESEN: Thank you, Ms. DeVries. Any questions from the committee? Seeing none, thank you for your testimony. Welcome. [LB55]

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TIMOTHY McCOY: Well, good afternoon, Chairman Friesen, members of the committee. My name is Timothy McCoy, T-i-m-o-t-h-y M-c-C-o-y. I am the deputy director of the Nebraska Game and Parks Commission here in Lincoln. I'm here in front of you to oppose the additional frequency of mowing and provide, probably, a little more detail on that. From our standpoint, since 1974, there was research done in Nebraska, looking at pheasant habitat and roadsides and, in terms of nesting and providing production for pheasants, was even at that time identified as something very important. And actually the recommendations at that time were to see if we could, you know, work with the Legislature and counties to see if there was a way to, maybe, defer that mowing until later in the season. In the standpoint of pheasants and quail, typically what we have happen is direct mortality of those nests from mowing activities in the middle of that breeding season. There's...obviously those same impacts can happen to other nesting birds. And I think Duane, one of the previous testifiers, talked about the other grassland birds that use those. I do think the safety issue is an important one and I think that, you know, there were several suggestions and, obviously, I think there's opportunity in whatever bill comes out of this committee to, hopefully, find a way to address those direct safety issues and, maybe, provide some opportunity for a little more wildlife habitat on some of these ditches. [LB55]

SENATOR FRIESEN: Thank you, Mr. McCoy. Any questions from the committee? Senator Bostelman. [LB55]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. Deputy Director, a question on the...was there a time frame recommendation come out on mowing of ditches that... [LB55]

TIMOTHY McCOY: The time frame, at that point that we were looking at, typically runs into about mid-July. But from a standpoint if you're really...depends what species you're looking at. If you're looking at pheasants and quail, the bulk of our population from hatching typically comes before that time period. You're usually getting second nests or later, and that's at that point in time. [LB55]

SENATOR BOSTELMAN: Thank you. [LB55]

SENATOR FRIESEN: Thank you, Senator Bostelman. Senator Briese. [LB55]

SENATOR BRIESE: Same question, I'm sorry. [LB55]

SENATOR FRIESEN: (Exhibits 2-4) Any other questions from the committee? Thank you. Any others wish to testify in opposition? I have a couple letters that we're going to read into the opposition here. Jennifer Hopwood of the Xerces Society, Marjorie Kennedy from Malcolm, and

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the Nebraska Corn Growers. Is there anyone who wishes to testify in a neutral capacity?
Welcome. [LB55]

LARRY DIX: Good afternoon, Senator Friesen, members of the Transportation and Telecommunications Committee. My name is Larry Dix, L-a-r-r-y D-i-x. I'm executive director of the Nebraska Association of County Officials. LB55, as we looked at it...and I certainly want to thank Senator Schumacher for sort of bringing forth the history. And over the course of years, we've had a number of bills in front of this committee on this particular issue and, typically, it's a matter of what is the right date, here or there. And certainly, from a county perspective, we always want to think of that from a safety perspective; we know we've got to maintain those roads. We know that there are things in the right of way, buried things in the right of way, so we're always sort of cautious, and we know we want to be able to maintain those right of ways and strike the proper balance. And I think that's always the difficult situation. But we know there is a balance. We know that we want to work with Wildlife and those folks, but yet we also want to keep the balance on safety. The one issue I did want to introduce, and I see that Senator Hughes is out of the room and I will be happy to visit with him, typically when you look at your tax statement if you have 160 acres of ground and you start to break down the soil on that tax statement, somewhere in there you're going to see three or four acres that will have a abbreviation of RD for road. Those acres are valued at \$0.00, so taxpayers are not paying taxes to the middle of the road. That's at least how I think every county is doing that. So typically, if you own 160 acres of ground, you're probably paying taxes on 156 acres of those 160. But I'll be happy to visit with Senator Hughes about that. There's been mention, certainly, on Senator Friesen's bill, and we'll have some comments on that bill. Over the history that we've had a bill like this and, when we start to add those additional dates in, Senator Schumacher is exactly right, previous testifiers are right. Nebraska, due to its diverse growing, it does make a difference when we look at the eastern part of the state. When I look at Richardson County and then I look at Sioux County and I talk to those county board members, there's a dynamically different discussion on the amount of mowing that needs to be done. We believe that, previously, the way the law has been on the books, a couple of times a year seems to strike that balance. And we'll talk more about that when we get to Senator Friesen's bill. So with that, I'd be happy to answer any questions you may have on this bill. [LB55]

SENATOR FRIESEN: Thank you, Mr. Dix. Any questions from the committee? Seeing none, thank you for your testimony. [LB55]

LARRY DIX: Thank you. [LB55]

SENATOR FRIESEN: Any others wish to testify in a neutral capacity? Senator Schumacher, do you wish to close? [LB55]

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SENATOR SCHUMACHER: Thank you, Senator Friesen, members of the committee. Just briefly, what liability and absentee ownership issues there are, under this bill, exist already because all this bill does is add a date. So if there's absentee notice provisions that need to be addressed or the liability issues, they already exist in the law. I think one of the good parts of the discussion was the suggestion, and maybe as talks go on with Senator Friesen's bill or this one, is you don't necessarily have to mow in the middle of the section. That reasonable setback from the intersection would be good. I would suggest that that be at least the length of a football field so that there is some visibility. And I think, maybe, one of the misconceptions there is because the law talks the ordinary farm mower, and that is basically what you have a picture of...that blade, if you've got a decent ditch, hangs over as the farmer goes over that; it will clip off the first two or three feet. But as the ditch drops off, it doesn't even touch those weeds and that habitat. And it's a rare situation where you'll find a pheasant or a rabbit or something in that first couple feet off the road, to have its nest there. So basically, I think that if you realize that blade is kind of giving a straight haircut over it and, as the ditch drops away, the pollen and everything is untouched by that blade. But what's important is the high stuff that rises above the line of sight is what's getting clipped off. That's the stuff within, usually, two or three feet of the edge. I'm happy to take any other questions. Appreciate your consideration of the bill. [LB55]

SENATOR FRIESEN: Thank you, Senator Schumacher. Any questions from the committee? Seeing none, thank you for your testimony. [LB55]

SENATOR SCHUMACHER: Thank you very much. [LB55]

SENATOR FRIESEN: I will now turn the meeting over to the vice chair and I will introduce my bill. [LB55]

SENATOR SMITH: Welcome, Senator Friesen, to open on LB584, which is to change provisions relating to mowing of weeds along roads. [LB584]

SENATOR FRIESEN: (Exhibit 1) Vice Chairman Smith and members of the Transportation and Telecommunications Committee, my name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n. I represent the 34th Legislative District, and I'm here today to introduce LB584. LB584 would prohibit counties and townships from mowing roadside ditches prior to July 1 in a calendar year. It provides for an exception for sight distance at intersections and entrances to lanes and driveways and mowing for snow control. LB584 does not limit the ability of a landowner to mow whenever they want during the year. This bill was introduced to help increase the habitat for upland birds, pollinators, and songbirds and has the potential to help reduce soil erosion by creating bioswales, buffers that would reduce silt and pollution runoff in the streams and rivers. LB584 also has the potential to benefit counties and townships by reducing fuel costs and man-hours associated with mowing

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ditches before July 1, as well as saving hours in repair on equipment. I have an amendment to offer that will clean up the language in LB584, which was handed out to you at the beginning of my testimony. I have worked with the Nebraska Sportsmen's Foundation and the Nebraska Association of County Officials, and both are in agreement with the language in LB584 and the amendment that I offered today. And I know we've...you know, Senator Schumacher addressed quite a few things that are pertinent to my district, too, but it does vary a lot across the state. In my area we have more and more people with the Flex mowers that are mowing the whole road ditch, clear down to the bottom. I know out west, you have people who want to mow the road ditches for hay, and I think there's, you know, some merit to that. When the Governor declares a hay emergency, there is mowing of road ditches in the state. So this bill, it clarifies...I think it helps change some of the dates. It helps to kind of clarify, I guess, when they should mow and yet doesn't impact any ability of the counties or anyone else as far as line of sight and intersections, that type of thing. So I'm open to any questions; thank you. [LB584]

SENATOR SMITH: Thank you, Senator Friesen. Do we have questions for Senator Friesen? Senator Bostelman. [LB584]

SENATOR BOSTELMAN: Thank you, Mr. Vice Chair. Senator Friesen, I'll ask you the same question I asked Senator Schumacher on row crops being planted up to the ditches. Do you know, is there any current statute? I think what we're (inaudible) in current statutes with that being allowed or not being allowed. Is that true? Do you know? [LB584]

SENATOR FRIESEN: I have not run into any situation where there is a statute that's involved, but I have seen it where the county needs to come in and do road work on the ditch or something, and somebody has planted into that right of way. And they shred it down and do their work, and I've not seen any problems, so to speak, as far as that happening. I know there's areas where some guys...it depends on they type of road ditch that's there. They do plant closer to the road than, probably, what the right of way is allowed. But I've not seen any legal problem between the county and the landowner. [LB584]

SENATOR BOSTELMAN: Thank you. [LB584]

SENATOR SMITH: Senator Hilgers. [LB584]

SENATOR HILGERS: Senator Friesen, I'm looking at the amendment that circulated, and it reads, "after;" the new language would be "after July 1 for the first time and sometime in September for the second time." If I read that, in order to satisfy the first condition, in other words to meet the "after July 1 for the first time," that could be anytime. That could be July, but

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it also could be August, September, October, November, December. Is that...am I reading that right? Or... [LB584]

SENATOR FRIESEN: You probably are. And to most it doesn't matter when it gets done, as long as it's not obstructing line of sight or a safety issue. This kind of leaves it open to mowing whenever it works for the county. And again, whenever you have...get near an intersection or something that's...those can be mowed at any time; there is no restriction on that. [LB584]

SENATOR HILGERS: I've got one more question. [LB584]

SENATOR SMITH: Yes, continue. [LB584]

SENATOR HILGERS: Just from a historical perspective...you may not know the answer to this, but the statute, the original statute that uses this same scheme, this calendar date scheme, do you know if there's ever been...have we ever a scheme by which, instead of having a calendar date, it just required...really it required landowners and the counties to focus on the end goal, which is to just not obstruct, whenever that might be? Maybe for some it might be once a year; it might be twice a year. [LB584]

SENATOR FRIESEN: We have...I think there's some counties that don't enforce it at all. I know early in my farming career, we regularly mowed all the road ditches whenever it was convenient. We didn't like the weeds there any more than anybody else. As time went on, counties starting offering mowing as a service, so to speak. And now, when budgets get a little tighter, some counties are restricting their mowing just to blacktop roads. And so they're putting it back on the farmers again, but I have not run into a situation, in my area at least, where they've cared about enforcement; there hasn't been an issue there yet. [LB584]

SENATOR HILGERS: Thank you. [LB584]

SENATOR SMITH: Additional questions for Senator Friesen? I see none, Senator Friesen. We now move to proponents of LB584, those wishing to testify in support of LB584. Welcome. [LB584]

SCOTT SMATHERS: (Exhibit 2) Thank you, Vice Chairman Smith, members of the committee. My name is Scott Smathers, S-c-o-t-t S-m-a-t-h-e-r-s. I am the executive director of the Nebraska Sportsmen's Foundation. The handout that's coming around is a synopsis of Minnesota, Iowa, and some Sportsmen's information in regard to spending that represents for the upper plains management units broken out by state. The Nebraska Sportsmen's Foundation has been working

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on an opportunity of this nature for the last four years, for the simple fact is that some of the groups that we represent, as a whole, on education on legislative issues which will testify behind me, we are all avid outdoorsmen. With the conditions in the county roadways, with the mowing schedule, we would like to see...we've compromised to July 1; Senator Friesen will testify or admit to the fact that I wanted August 1. But the breeding cycles of your upland birds, waterfowl, and you also have on your list 40 species that benefit from the lack of mowing in those ditches to a certain time frame in the year. And those breeding seasons are really, if you...farther north you go, the later in the season it goes. We're okay with July 1 in Nebraska. But it allows for those species to have a fair brood and rood (phonetic) and growing time frame, if you will, to avoid. So we're looking for that, at least that July 1 deadline. We understand the counties' concerns in regards to intersections. There is a provision in this bill that allows for intersection safety to be addressed. We also understand the need for the counties to look at snow removal issues or snow drifting issues and allowing that mowing in the second part of September. If you'll notice on one of the handouts, in the back in regards to sportsmen, this is put out by Southwick and Associates (sic: Southwick Associates), which is a national organization that tracks spending, across the board, on outdoor recreational industries. If you go to...it's...I believe it's page 8, it starts there and it shows the average age in Nebraska; it shows the household income by state. It also shows the educational level, which are all mute points, quite frankly, the second part of the page is. If you look at the species sought by hunters in the state in 2015, if you go over to the Nebraska column and you go almost all the way to the bottom, you'll see waterfowl, small game, dove, and upland bird games...bird game, excuse me. And you see 48 percent, 16 percent, 41 percent, 59 percent. Those are large percentages of the game that is chased by our outdoorsmen in our state. With that said, with those additional times for those nesting habitats to foster positive growth, especially on our county highways which do surround a good portion of our state WMAs, which is actively used by our hunters. You'll notice the revenue that is generated by sportsmen. And the following report that you see is also by Southwick and Associates (sic). They generate this report every five years, based on spending within the states by outdoor recreation individuals. This report is broken down simply to hunters and anglers. The report you have in front of you is from the 2011 report that came out in 2012. In less than 30 days we'll have the next, the last five years report. But if you saw, there's 289,000 sportsmen and hunters and anglers in Nebraska that spent \$780 million annually. Those are significant numbers. For us to simply move a mowing date in order to achieve a better crop of songbirds, pollinators...you've heard that conversation also...we feel it's worth the effort. We appreciate the work with NACO, with Larry Dix, on the dates and the issues, and with Senator Friesen's staff coming to a compromise. In regards to...I didn't testify on behalf of Senator Schumacher's, or against it, simply for the fact I think that LB584 addresses his concerns at the county level with allowing intersection sight relief for mowing. In addition the state is unique...if you go down to Richardson County, along the Missouri-Nebraska-Iowa border, with an average rainfall of 34 inches, that growth rate from June to August is substantial. You go west of 81, that growth rate is considerably different in that same time frame. So we understand one shoe doesn't

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fit all issues, but we'd like to at least start with July 1 and work from that avenue to be able to promote sportsmen, the habitat, pollinators...also provide relief for the landowner and for the counties. With that, I'll conclude my testimony and take any questions. [LB584]

SENATOR SMITH: Questions for Mr. Smathers? I see none; thank you. [LB584]

SCOTT SMATHERS: Thank you. [LB584]

SENATOR SMITH: Next proponent of LB584. Welcome. [LB584]

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 the Nebraska Association of County Officials, appearing today in support of LB584 with the amendment. I just want to make sure that we're clear on that. Certainly I want to thank Senator Friesen for working through these issues and the Nebraska Sportsmen (sic: Sportsmen's) Foundation for our discussion this morning. As I was reading this and I heard Senator Hilgers' question in looking at it literally, on or after July 1 for the first time and then we say sometime in September. You know, one of the things we always look at when you start to put dates and time lines in there, you know...it may be, and based on the conversation this morning, but certainly it's up to the committee, I think, if they might say sometime in July, which would be in that first component of it. And I don't know, Senator Hilgers, if you were going down that but, after reading it, somebody would say on or after July 1, so that means I mow August 30 and then the next time sometime in September. And so I think that's probably the point that you were getting after. I do believe Section 2, on the amendment, does address what Platte County was talking about. It does allow for the management of the roadside vegetation which...Senator Bostelman may address your question when we talk about roadside vegetation. That would be if someone would plant crops in that right of way which, I believe, this section of statute really is about what you will find in how to manage that. I think, typically, when someone does plant row crops right up to the roadway, we typically point to this section of statute, giving us authority to maintain the right of ways and maintain drainage and, if we would have to, to go in and take out something in that right of way. So I think this is the section that that typically referred to. So with that, I do believe it addresses some of the items that Senator Schumacher was trying to get to and the Platte County issues. So I'd be happy to answer any questions that anybody would have. [LB584]

SENATOR SMITH: Thank you, Mr. Dix. Do we have questions? Senator Hilgers. [LB584]

SENATOR HILGERS: Thank you, Mr. Vice Chairman. Mr. Dix, I would just, with your, you know, your background on these issues and experience, I'd be curious; do you know the history behind the state setting this type of calendar-based mowing scheme into place? [LB584]

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LARRY DIX: You know what? We've had different bills over the years, and I think that, you know, these dates, you know, as currently in statute, namely: before July 15 for the first time and sometime in August is how the current law reads. And I think those dates have been changed historically. And I think one of the things that we want to come together and, again, strike that right balance. We recognize that we don't want to try to get out there mowing too soon and destroy some of the habitat, but then we realize we can't allow the vegetation to get too high and then we have, conversely, the problem. So I think that's why we try to make the good working relationship with us and the sportsmen, to try to find that balance and strike that balance. So we think, with what Senator Friesen is doing here, we think it does. And there might be just a little tweak in there that what you would describe before--on or after July 1. [LB584]

SENATOR HILGERS: Thank you. [LB584]

SENATOR SMITH: Senator Briese. [LB584]

SENATOR BRIESE: Thank you, Senator. And thank you for being here. From a county perspective and going back to what one of the testifiers had suggested earlier, do you feel it's necessary to mow a road ditch other than for safety issues around intersections and entrances and for snow purposes later in the season? [LB584]

LARRY DIX: Well, sure. Thanks, Senator Briese. Certainly we believe that we should mow that roadside ditch and, in the situation where it is not mowed frequently, then we do get the shrubs and all kinds of items growing up in there. And then we also get the issue of filling the roadside ditches and we get the heavy rains. Then we don't have the adequate flow of water through those ditches to carry the rain away. And then we get the calls from the ag folks that are saying: my ditch is full of who knows what and now the water is backing up into my field and causing some erosion there. So there is that balance; and that's why we think we have to have the ability and why we should have those roadside ditches mowed. [LB584]

SENATOR BRIESE: Makes sense; thank you. [LB584]

LARRY DIX: Yep. [LB584]

SENATOR SMITH: Seeing no further questions, thank you, Mr. Dix. [LB584]

LARRY DIX: Thank you. [LB584]

SENATOR SMITH: Next proponent of LB584. [LB584]

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JERRY McDONALD: Good afternoon. My name is Jerry McDonald, J-e-r-r-y M-c-D-o-n-a-l-d. I am the eastern Nebraska representative with Pheasants Forever. So thank you, Senator Smith--I appreciate it--and all the other senators here today for allowing me to testify today in favor of LB584. I represent Nebraska Pheasants Forever, our 64 pheasant and quail chapters in the state and our more than 10,000 Nebraska Pheasants Forever and Quail Forever members. The South Dakota Department of Game, Fish and Parks reminded individuals, in a press release dated June 22, 2015, that there are laws and rules governing when mowing their highway right of way. The administrative rule was adopted in part to protect hen pheasants seeking suitable nesting locations. Tony Leif, South Dakota Game and Parks (sic: Game, Fish and Parks) Division of Wildlife (sic: Wildlife Division) director, stated, "Roadside ditches provide valuable nesting cover for hen pheasants, especially in portions of the state with limited lands enrolled in the Conservation Reserve Programs or other upland nesting habitat." The information from South Dakota goes on to say that pheasant production is diminished when ditches are mowed prior to completion of nesting activity. Incubating hens nearing their hatch dates can be struck and killed by hay mowing equipment. Hens and newly-hatched broods remain susceptible to mowing equipment for another two weeks after hatching, due to the restricted mobility of chicks and the tendency of the hen and the young to hide from approaching danger rather than flushing to escape. This is an important economic issue for South Dakota. As the article also states, in 2012 South Dakota hunters spent \$172.5 million in South Dakota just on pheasant hunting. Minnesota's Department of Natural Resources has recommendations about road ditch mowing in their brochure Roadside Wildlife (sic: Roadsides for Wildlife): "Roadsides that have not been mowed for three years have up to three times as many nests per acre as those mowed annually. Mowing every three years is sufficient to control brush. Mow grass high to leave cover over winter." Does Pheasants Forever and Quail Forever have a selfish interest in LB584? Yes, we do. LB584 will go a long way to improving nesting habitat for pheasants but will also go a long way, too, for other mammals and birds, benefit pollinators, reduce soil erosion and pollution, and have a beneficial economic impact for the state. Nebraska roadsides receive almost continuous nesting from April through August. Disturbances of roadside ditches by early mowing during the peak nesting months of May, June, and July will significantly lower production for all species that use roadside nesting. Mammals, as Scott noticed...or said, he was over 40 different kinds of mammals: fox, raccoon, skunks. But there's songbirds, too: the yellowthroat, the dickcissel, the red-winged blackbird, the bobolink, American goldfinch, killdeer, sandpiper, sparrow, and the Nebraska state bird, the western meadowlark, to name a few, build their nests in roadside ditches. Game birds, such as pheasant, grouse, mourning dove, partridge, ducks, grouse, prairie chicken, to name a few, often build their nests in roadside ditches. Roadsides provide the right combination for abundant food and cover for birds and mammals. Pollinators, as you heard the testimony from the young lady today, such as honeybees and monarch butterflies, use our road ditches extensively to survive and to pollinate the food we eat. Pollinators are extremely valuable to us because three out of every four bites of food we eat require pollinators in order for that food to go to market. There's water quality and soil erosion advantages for not mowing roadside

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ditches. The Center for Urban Water Resource Management, Department of Civil and Environmental Engineering from the University of Washington in Seattle, published a study in July, 2000. They found that roadside ditches that are vegetated also have the potential to provide the same water quality benefits as biofiltration swales, by removing pollutants. Conversely, ditches that are devoid of vegetation are subject to erosion that could be significant sources of sediments and other pollutants. There's an economic impact to reduced annual mowing with less expense for equipment and labor for county and state municipalities. Also, I am confident that more pheasants mean more dollars for Nebraska, as previously stated about South Dakota: \$172.5 million, pheasant hunters in 2012. In conclusion, my organization and I urge you to vote for LB584. Doing so would do these four things: improve nesting for mammals, songbirds, and game birds; benefit pollinators; reduce soil erosion and filter chemical runoff; economic impact to state and county budgets and the state as a whole. Thank you for your time. Are there any questions? [LB584]

SENATOR SMITH: Thank you, Mr. McDonald. Do we have questions for Mr. McDonald? I see none; thank you. [LB584]

JERRY McDONALD: Thank you. [LB584]

SENATOR SMITH: Next proponent of LB584. Welcome. [LB584]

WES SHEETS: (Exhibit 3) Thank you. Vice Chairman Smith, members of the Transportation and Communications (sic: Telecommunications) Committee. My name is Wes Sheets, spelled W-e-s S-h-e-e-t-s. I'm appearing before you in behalf of the Nebraska Division of the Izaak Walton League. As you all know, we are one of the oldest conservation, environmental wacko groups in the world...in the country anyway. But we do have a strong feeling for our environments, including our wildlife habitats and other issues. So I'd just like to echo; many of the things I had in mind to say have already been talked about. But I would want to thank Senator Friesen for bringing this new approach to the policy of road mowing in our state. I think it's a step up and a step forward in creating a life that we'd all appreciate. A couple things that I think are really important is that this tends to increase our commonsense policy about how we live and, particularly, in relationship to our county and township roads. We all appreciate the need to be safe around those intersections, and however...whatever we can do to improve the safety record of our drivers and citizens, I really support. Unmowed vegetation, without a doubt, provides a world of wildlife habitat, and that's one of our common mantras for the Izaak Walton League. Proper management of our fish and wildlife resource is very important. We're also very interested in other elements of our environment. It has been mentioned that the road ditches in Nebraska provide a bit of a bioswale, which is a big, modern word for taking care of the water that runs off and into the rivers and streams down the way. So bioswales that extract nutrients--

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extra nutrients--and other contaminants out of our runoff waters are really important facets. In many places county road ditches provide that biological filter for that water source. So there is some benefits there, and I want to reiterate what Mr. McDonald had mentioned: the word bioswales is very important. One thing that hasn't been discussed a lot and I, as a property owner and a taxpayer, always considered about my taxes and my budgets, and if we can find a balance between appropriate mowing and the need to spend gasoline or diesel fuel and equipment to do those mowing, I think we're all in...agree and it would be a great benefit. The only suggestion that I have for this piece of legislation was that that date of July 1 would...could be kicked back to July 15, and I think we would certainly see some increase in benefits to our wildlife resources by when there is a late nesting occasion to one of those animals. And I guess I'd just conclude, at that point, and suggest that we would urge the committee to advance this bill to the Unicameral and help pass it. And with that, I'd answer any questions if you had some...or try to. [LB584]

SENATOR SMITH: Thank you, Mr. Sheets. Do we have questions for Mr. Sheets? I see none; thank you. [LB584]

WES SHEETS: Thank you very much for the opportunity to be here. [LB584]

SENATOR SMITH: Welcome. [LB584]

TIMOTHY McCOY: Good afternoon, Senator Smith, members of the committee. My name is Timothy McCoy, T-i-m-o-t-h-y M-c-C-o-y. I'm the deputy director of the Nebraska Game and Parks Commission, pleased to be here to be able to support this bill. I'm not going to reiterate everything that everybody else has said. I think you've heard those benefits. The one thing that I will bring up that's not been brought up has been an issue of concern for agriculture, and that is herbicide resistance that's happening in a lot of weeds in our crop fields. One of the things that I will bring up is I think roadsides do provide, if they're not mowed, some opportunity to maybe help slow that by having those weeds that aren't being sprayed continue to be part of that system and pollinate with those other weeds and be sort of that reserve from the herbicide use that might help slow that. I think there's some potential opportunity for roadsides to provide that. It might not be the best one but, in addition to all those other benefits, I think there are some other potential things here that could benefit us all. [LB584]

SENATOR SMITH: Thank you, Mr. McCoy. Questions for Mr. McCoy? I see none; thank you. Next proponent of LB584. Welcome. [LB584]

DUANE HOVORKA: Thank you. Vice Chairman Smith and members of the committee, thanks for the opportunity. My name is Duane, D-u-a-n-e, Hovorka, H-o-v-o-r-k-a, executive director of the Nebraska Wildlife Federation. And we're an organization of people who hunt, fish, hike,

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bike, canoe, kayak...generally love wildlife and wild places in Nebraska. So I'm pleased to be here to testify in favor of the bill. I won't repeat the earlier testimony about the loss of grasslands and prairie in the state, but I will emphasize that some of the implications of that for wildlife, which is we do have multiple species, especially of grassland birds, that are in decline, and some of them in very sharp decline. So we have species there that are headed, potentially, to the endangered species list and, once that happens, then it becomes a bigger problem. And so one of the things we're trying to do is work with other organizations to try to retain some of the habitat we can for those prairie birds so we keep them off the endangered species list, so we keep them kind of out of the hair of the people who have to deal with those kinds of issues. We've seen monarch butterflies decline--populations decline--we...about 90 percent over the last 20 years. And that's partly...it's a number of reasons, but one of them is the declining habitat for pollinators like monarch butterflies. And so they are in danger of landing on the endangered species list and, again, causing regulatory problems for farmers and for others. So those are the kinds of issues that we're dealing with. Certainly roadside mowing isn't going to solve all our problems, but it will help us if we can do it in a little more, more reasonable way and in a more wildlife-friendly way. I think this original law was crafted in the 1950s; it wouldn't me that the dates have changed over the years, but I think it's certainly a good time to take a look back and think about, you know, how much has changed since then, and how much it may be time for a re-look at the policies. With respect to the amendment that I understand is there, I just took a brief look at it and certainly have no objection to changing the language with respect to that visibility at the intersections and things like that. I think whatever language the counties are comfortable with, I think we're fine with that. We do have some concerns about adding back in the second mowing, and the reason for that is that the opportunity to provide winter cover for pheasants and grassland birds...many of those...some of those migrate south for the winter; many of them stay here on the landscape. And when the combine rolls through my neighborhood out in Cass County, it's a pretty flat landscape. If you...all you've got left is corn and bean stubble; there's not a lot of winter cover there for, you know, the snow and the cold. So providing some of that cover in those roadside ditches that will help those...that wildlife get through the winter is an important thing to consider. And so, if we're talking about mowing in September or later, it doesn't leave much there, much time for regrowth to provide that winter cover. So that's, I think, about all I've...the issues that we've got with the bill, we appreciate the conversation. We appreciate the opportunity to take another look at our mowing policies and try to improve them and try to find that balance between benefits for wildlife, benefits in reducing costs on landowners out across the state, and also reducing the costs for our counties that have to implement and deal with these. So thank you for your time, and I'd be glad to answer any questions. [LB584]

SENATOR SMITH: Questions for Mr. Hovorka? Seeing none, thank you for your testimony. [LB584]

DUANE HOVORKA: Thank you. [LB584]

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SENATOR SMITH: (Exhibits 4-6) Any additional proponents of LB584? We do have some letters that have been introduced for the record in support of LB584. We have a letter from Ducks Unlimited, from Marjorie Kennedy of Malcolm, Nebraska, and from the Nebraska Corn Growers Association. All those are in support of LB584. We now move to opponents of LB584, those wishing to testify in opposition to LB584. Seeing none, anyone wishing to testify in a neutral capacity on LB584, neutral. Welcome. [LB584]

STEVEN KRUGER: Senator Smith, Senators. Again, I came back to...I just didn't...I'm not really opposed to this or for this, but I guess I just had a couple comments or questions about... [LB584]

SENATOR SMITH: And give us your name and spell it for us. [LB584]

STEVEN KRUGER: Oh, excuse me; I'm sorry, yes. Steven Kruger, 1474 4 County Road 7, Arlington, Nebraska, supervisor for Washington County District 6; I'm also the road chairman. [LB584]

SENATOR SMITH: And spell that last name. [LB584]

STEVEN KRUGER: K-r-u-g-e-r. [LB584]

SENATOR SMITH: Okay, thank you. [LB584]

STEVEN KRUGER: Sorry. I guess the question I had here on the LB584 is when we refer to sight distance. If somewhere that you guys could...somebody who could recommend an actual distance that we could use in the county to know exactly how far we are. And the other part of this is that it says, you know, that no county shall work before July 1, I understand that; I agree with that. But if we have to do emergency road construction repair, for some reason we have to go in and mow the roads or...in that area to mow, we may need to mow for that reason. So if there's something that could be added about emergency road construction repair offsets. So otherwise I have no other comments. [LB584]

SENATOR SMITH: Thank you, Mr. Kruger. Questions for Mr. Kruger? I see none. Thank you for your testimony today. Any other folks wishing to testify in a neutral capacity on LB584? Seeing none, we invite Senator Friesen to close on LB584. [LB584]

SENATOR FRIESEN: Thank you, Chairman Smith. I'll make it real short. One of the reasons for mowing later in the season, that second mowing, is if you let the weeds get too tall, then you

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basically have a snow fence. And out in the country, if you have a snow fence, and we have a blizzard, you will have that road blow shut and all that snow accumulates on the road. So as far as road maintenance, at least in our area, we like to have those roadsides mowed fairly short. And so it just...it saves the county a lot of money; it save us a lot of effort in cleaning the roads. So with that, I urge you to support the bill and send it on through. [LB584]

SENATOR SMITH: Any remaining questions for Senator Friesen? I see none. Thank you, Senator Friesen; that closes the hearing on LB584. [LB584]

SENATOR FRIESEN: Okay. They'll move and we will open the hearing for LB78. Senator Crawford. [LB78]

SENATOR CRAWFORD: (Exhibit 1) I left the binder up at the other room. [LB78]

SENATOR FRIESEN: Welcome, Senator Crawford. [LB78]

SENATOR CRAWFORD: So, thank you; thank you, committee members. And I apologize for the delay. My binder is up in the other room, and so I'll go ahead and begin and pick up where we were left off when I get that... [LB78]

SENATOR FRIESEN: Okay. [LB78]

SENATOR CRAWFORD: ...when I get... when the binder arrives. So good morning...good afternoon, members of the Transportation Committee. And thank you, Chair Friesen. It's...thank you. Yes, absolutely. It's an honor to be here today. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. And I am honored to be here today to introduce LB78 for your consideration. The idea for LB78 came from a conversation I had at the door with a former Bellevue City Council member. During our conversation, I learned of some of the challenges the City of Bellevue faced when trying to redevelop a relinquished section of old Highway 75, which is now Fort Crook Road. Since then, I've had conversations in seeing how this issue continues to be an issue that the city faces and that I'm sure many of our other municipalities face in the state. Our current statute, which was last updated in 1955, requires the Department of Roads to first offer to relinquish a fragment section or route on a state highway to the political or government subdivision where the highway is located before it can be abandoned. In making an offer to relinquish to a petitioning subdivision, the department may include certain terms or conditions. Furthermore, the department may reject any petitions by a political or governmental subdivision seeking to maintain such highway that does not accept all of these terms or conditions and proceed to

abandonment. LB78 would give political and government subdivisions the ability to formally negotiate these terms or conditions with the department before taking over a relinquished section of a highway. This ability to negotiate is critical to the subdivision as they are taking over all the maintenance and costs associated with the relinquished section. After an agreement is made, a written memorandum of understanding between the Department of Roads and the subdivision would be filed as a public record. Once the agreed-on terms or conditions are filed, political or governmental subdivisions would also have the ability to renegotiate with the Department of Roads if there is a change in financial or other circumstances or for economic development purposes. The ability to renegotiate set terms or conditions can be critical for redevelopment processes and redevelopment purposes. This can be seen by going back to the situation that occurred on Fort Crook Road in Bellevue. As I mentioned previously, a section of old Highway 75 was relinquished to the city of Bellevue in the 1990s and became what is now Fort Crook Road. This area of Bellevue has been the center of many redevelopment conversations among city planners, as I tried to determine the best way to unify the city's several parts. When a new chiropractic practice was being developed on Fort Crook Road in 2012, it was determined that additional square footage was needed to maintain the size of the parking lot, while still having enough land for their planned landscaping project. Before moving forward with the landscaping project, city planners reached out to the Department of Roads. Since decades had passed since the relinquishment and there were no clear records on the agreement, it was unclear whether the city or the state had ownership of the land adjacent to the parking lot. According to the state, the city was not authorized to sell the land to private buyers such as the chiropractic office, even though they were deeded the land in question. Instead, the city was advised to deed the land back to the state, who had the right of way of the land, under the assumption that they would sell the portion of the land necessary for the landscaping project. After the land was deeded back to the state, they had a market analysis performed and offered to sell the approximately 15 feet of land that was needed for the project for \$15,000. Although this was a market assessment that both the city and the business owner believed to be too high, it was unclear what ability they had to negotiate with the department at any point in this process. If LB78 had been in place, the city could have petitioned the state to renegotiate in a way that addressed this issue. After 15 months of discussion, a waiver for the amount of land needed for the landscaping project was eventually granted by the state, but they retained ownership of the remainder of the land, which had previously been deeded to the city. LB78 would have required the city of Bellevue and the Department of Roads to discuss and agree upon terms of conditions before that initial relinquishment. These terms or conditions also would have been filed on public record and could have been referenced, during a situation like the one you just heard, to avoid confusion and frustration. Finally, many of the issues that occurred may have been more easily resolved if the city and the Department of Roads had a clear process in place to renegotiate the terms in a more formal manner. We received a letter from the department, indicating their concern that there are two conditions that are nonnegotiable and that the language of the bill should recognize these two conditions that are nonnegotiable situations in which there are conditions that are applied at

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the time of a right-of-way acquisition and those that are stipulated as part of federal funding. And so we have drafted an amendment for the committee to consider to address those two issues. And I'm happy to have conversations about those two issues. In closing, LB78 would allow for a more fair and transparent and efficient process for all parties involved. It clearly still leaves the Department of Roads in the stronger position, but it creates a process and tools for municipalities to use in dealing...in working with the Department of Roads in these kinds of situations. Following my testimony, representatives from the city of Bellevue, as well as the League of Municipalities, will provide more information about some of the challenges that cities and villages can face when they lack the ability to negotiate and later renegotiate terms or conditions of relinquishment. I appreciate your time and attention to this issue, and I will try to answer any questions that you may have. [LB78]

SENATOR FRIESEN: Thank you, Senator Crawford. Are there any questions from the committee? Senator Hilgers. [LB78]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator Crawford. Can you...I just wanted to get a little insight into how this process currently works. So if it's relinquished, it's deeded and there's a public filing with deed given to the city from the state currently? [LB78]

SENATOR CRAWFORD: So the...what you'll see, if you look at the bill, you know, the language around what we're changing, you'll see that what we're really focusing on is the relinquishment and abandonment process. And this is the first bill that I've done on this topic. So...and I haven't been on the Transportation Committee, so many of those that your colleagues on the committee may be more familiar with this process. As I understand it, this is a situation where the Department of Roads is choosing to relinquish some part, some stretch, of road. I mean it was a state road, a state responsibility, and now the decision is that we're going to relinquish it and let someone else take responsibility of the maintenance of the road. And so the offer is made in terms of relinquishing the section of the road under the agreement and again, at this point, the way it's written, the Department of Roads, you know, is identifying what those conditions would be. And then the...if the city--municipality--agrees, it's my understanding that it is relinquished and this really becomes the municipality's responsibility under the conditions that were agreed upon. I think that is one of the issues that really caused...brought this to light is: What were those conditions? And if the municipality is maintaining the road and taking responsibility for the road, should they be able to have more leeway in terms of what the restrictions are and what the conditions are, in terms of their responsibility for that section of the road? [LB78]

SENATOR HILGERS: And in the example you had, was it that there...the conditions weren't known and they weren't filed with the deeds? [LB78]

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SENATOR CRAWFORD: So there are people behind me that can confirm that. And my understanding of the story is, you know, kind of got to the situation years later and it wasn't clear what those conditions were, in terms of the...what would need to be done to address the need to try to accommodate that owner who was coming to put their business on that section of the road. [LB78]

SENATOR HILGERS: Okay; okay, thank you. [LB78]

SENATOR FRIESEN: Thank you, Senator Hilgers. Any other questions from the committee? Seeing none, thank you for your testimony (inaudible). [LB78]

SENATOR CRAWFORD: Oh. Thank you, and I apologize for my delay. [LB78]

SENATOR FRIESEN: Will you stay for closing? [LB78]

SENATOR CRAWFORD: I will, yes. Thank you. [LB78]

SENATOR FRIESEN: Okay. Any proponents who wish to come forward? Welcome. [LB78]

JEFF ROBERTS: (Exhibit 2) Senator Friesen and committee, thanks for this opportunity. My name is Jeff Roberts, J-e-f-f R-o-b-e-r-t-s. I'm the public works director for the city of Bellevue, and I'm here to represent the voice of the city of Bellevue. I'm not going to reiterate a whole lot that Senator Crawford said. I can maybe answer some of your right-of-way questions and the processes that we've had to gone...that we've gone through, you know, the indecisions...decisions that were made. But I also want to bring to light some other issues that have taken place with another relinquishment that just happened in June 2014. The city was relinquished a section of road of Highway 370, from the Kennedy Freeway to the Missouri River Bridge. At this time, the parties that were involved negotiated a money settlement, as opposed to a maintenance settlement before relinquishment. In this money settlement, it included 20 percent of \$2.5 million was to go to a bridge rehab, 80 percent of it was to go to the street maintenance...road maintenance. Well, two years later, after having a bridge inspection done and...by the way, we inherited four bridges on this stretch of road, four major structures. Well, as of today, by bridge inspections and engineering, we're now at 60 percent bridge rehab and 40 percent road reconstruction that we're going to have to work with. Basically, the \$.5 million of bridge rehab is now about \$1.5 million. And that's another one of these issues that could help with an MOU that, in a certain amount of time, that if these things come up that there could be some renegotiation. And maybe there's some things that, you know, a meeting of the minds as far as what needs to be looked at in just a couple of years. And that's what I just want to add to it, that this would help in

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the situations like this, to give the municipalities a little more flexibility to be able to work with some of the issues that arise out of really pushing it. And with that, I'll answer any questions, if anybody has anything. [LB78]

SENATOR FRIESEN: Thank you, Mr. Roberts. Any questions from the committee? So a question from me is that when you went into the process...I mean when the Department of Roads, when they wish to, they can either abandon a section and, I assume, turn it back to the property owners on either side, or they will relinquish it to the city. That's their options. So when they relinquish property to the city, obviously I'm...I remember a situation in York recently, where the...at that time, you enter into negotiations for what kind of conditions you put on it before you take control of that road. Is that not correct? [LB78]

JEFF ROBERTS: That is correct. [LB78]

SENATOR FRIESEN: And so they also put stipulations on with what you can do with the property and those would all be filed with the county clerk, I take it. [LB78]

JEFF ROBERTS: The process that we went through...and I even worked as far back as when Ben Nelson was a senator; I worked with his office to try to get some resolve on this. We got conflicting answers that the Department of Roads owns the right of way, the cities own the actual streets, bridges, whatever is on that. In order to do any kind of right of way...to purchase that or to sell off any right of way for businesses to come in and develop, then it was up to the city, then, to sell it at today's fair market value and then reimburse Federal Highway if federal funds were used on it; that was another scenario. This last scenario was the city, even though they don't own the right of way, has to deed it back to the state, which never made sense to me if we have to deed it back. I would assume that we would've owned it, but then the state would take it and then sell it, once we deed it to them. So they have a little strip of land that's deeded back to the state that is no longer owned by the city of...or has any control by the city of Bellevue. [LB78]

SENATOR FRIESEN: So going forward, would you say, if the cities were more aware of some of the stipulations that they could put in place, would that solve some of these problems, too, or is it in the negotiation, or is it in the process that we have a problem? [LB78]

JEFF ROBERTS: Well, I think the problem is that relinquishments don't happen that often and, when they do, I'm not sure anybody ever goes to another community and asks for advice on things that maybe they found. It used to be, in the past, that the state would actually go in and do whatever repairs needed to be done. So for the bridges, they were going to asphalt the road--mill and asphalt the road--they would do that. In the last few years, it's been...cities have been more receptive to just accepting the money for it, then using it, at their leisure, to when they want to do

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it. I think that's kind of...that might be an issue there, in itself, that maybe the owner should go back on to the Department of Roads to repair that stretch of road before it ever goes to the city. That's my opinion. [LB78]

SENATOR FRIESEN: What...what happens if they offer to relinquish and you start negotiations and you can't reach an agreement, that you just refuse to accept the road then? [LB78]

JEFF ROBERTS: I guess you could refuse to accept. In fact, I think you probably can now, but they would just abandon the road, and you'd just have a stretch of road that would either go into disrepair or that you would take ownership of it. I'm not 100 percent positive on that, but I believe that's the case. [LB78]

SENATOR FRIESEN: Okay. Any questions from the committee? Senator Bostelman. [LB78]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. The question would be: if it's property that came into ownership, if you will, by the state or that, and that...do you find where there's places where that property, in the original purchase or agreement of that, would be returned back to the property owner? In our area, well, they had the situation run into with rail lines, where the...once the rail line...with their rail line, would ever be removed, then the property would revert back to the original owner of that property. Is there anything along those lines that you see that...I don't know in Bellevue that it would be particularly applicable, but other areas? [LB78]

JEFF ROBERTS: Yeah. Kind of what we're looking at is we're more with the right of way that that road is sitting in. As far as the property owner's adjacent to it, they really don't have any dog in the fight, so to say, unless they wanted to purchase some of that in order to do more development. [LB78]

SENATOR BOSTELMAN: Okay. [LB78]

SENATOR FRIESEN: Thank you, Senator Bostelman. Any other questions of the committee? Thank you for your testimony. [LB78]

JEFF ROBERTS: Thank you. [LB78]

SENATOR FRIESEN: Welcome. [LB78]

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CHRISTY ABRAHAM: Thank you, Senator Friesen and members of the Transportation Committee. My name is Christy Abraham, C-h-r-i-s-t-y, Abraham is A-b-r-a-h-a-m, and I'm here representing the League of Nebraska Municipalities. And we first want to start by just thanking Senator Crawford for introducing this legislation. She did a great job of sort of outlining why this is important to cities. It just does give us a little bit more flexibility in the negotiating process. As the law is currently written, the Department of Roads definitely has the upper hand, and this gives us just a little bit more flexibility. As you know, maintaining highways can be expensive; and it's expensive for municipalities. And this bill is good in that it helps in negotiation, both when they are taking over a piece of abandoned property, but also renegotiating if they aren't able to financially keep up that part of the highway. They can renegotiate giving it back to NDOR. And one other thing I just wanted to mention and I, like Senator Crawford, am not well versed in transportation issues, but I will point this out for your legal counsel. 39-1315 sort of talks about all the options the Department of Roads may have. I look at the section of law that Senator Crawford is amending as sort of the section that talks about the political subdivisions sort of have the right of first refusal, that the Department of Roads sort of goes to them first and says, "Would you like to have this?" But 39-1315 talks about that there are other things that the Department of Roads can do. For example, it says the fragment or section can be sold, revert to private ownership or remain in the public. So I just offer that up to your legal counsel for further explanation, in case that answers some of your questions. And I'm happy to answer any of your questions. [LB78]

SENATOR FRIESEN: Thank you, Ms. Abraham. Any questions from the committee? Senator Hilgers. [LB78]

SENATOR HILGERS: Ms. Abraham, in your opinion, what is it...what feature of LB78 is...helps give the municipalities the leg up? Is it just...is it the existence of MOU? Or is it just that that makes it explicit, the right to renegotiate, because if I read the original statute, there is...there are terms and conditions that could be applied to the...to relinquishment? And that it does sort of imply, at least, some right to renegotiate. So I'm just curious. In your opinion, what is it, sort of a (inaudible)? [LB78]

CHRISTY ABRAHAM: Sure. And I apologize if I misspoke. I think, as Senator Crawford stated, I think the Department of Roads is always going to be in charge here and have the upper hand. But there is language that's eliminated that says the department may reject any petition that doesn't accept their terms and conditions. So we're getting rid of that language and, I think, offering just a little bit more flexibility of saying, you know, the department and the political subdivision get to negotiate the terms and conditions. And also in line...on page 2, lines 10 and 11, also that language is eliminated which, again, implies the Department of Roads sort of has their terms and conditions and they offer it to the political subdivisions, saying, "There you go." [LB78]

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SENATOR FRIESEN: Thank you, Senator Hilgers. Any other questions? I guess from my point, when I was looking through it, I was wondering, I mean, when I enter into a contract with someone and we go through the process and if I mess up and don't find something wrong with whatever it is, I find it hard that I can go back and open up a contract and renegotiate in good faith. It's kind of the "buyer beware" or the...so why would you expect the Department of Roads, I guess, to open up negotiations after relinquishment has happened? You have reached terms, obviously, that where everybody was agreeable with...what's in the best interest of the Department of Roads to open that up to negotiation? [LB78]

CHRISTY ABRAHAM: Sure. I think that's an excellent question. And I think this bill lays out that the Department of Roads doesn't have to reopen the negotiations if they don't want to. But it does say if the city does run into some economic issues where, maybe, they're not able to maintain it anymore--maybe snow removal has gotten too expensive--they can at least talk to the Department of Roads and try to renegotiate those terms. [LB78]

SENATOR FRIESEN: Okay, all right. Thank you. [LB78]

CHRISTY ABRAHAM: Thank you. [LB78]

SENATOR FRIESEN: Seeing no more questions, thank you for your testimony. [LB78]

CHRISTY ABRAHAM: Thanks so much. [LB78]

SENATOR FRIESEN: (Exhibit 3) Any others who wish to...proponents who wish to testify? Seeing none, are there any who wish to testify in opposition to LB78? Seeing none, anybody wish to testify in a neutral capacity? The Department of Roads has entered in a technical letter on this bill. Seeing no one wishes to testify in a neutral capacity, we'll close the hearing on LB78. Oh, Senator Crawford may close; sorry. [LB78]

SENATOR CRAWFORD: That's okay. Thank you, Chairman Friesen, and I appreciate the opportunity to close. And I do appreciate Ms. Abraham's pointing to the other section of statute that is, further, a context for the changes that are made in this statute. And I will note the department is not testifying but, again, you have the neutral letter. And I have run the amendment by the department and they are okay with the amendment; and so the amendment addresses their concerns. There are two conditions they wanted to be very clear were not subject to renegotiation, and the amendment clarifies that in the statute. So relinquishment allows the Department of Roads to make decisions about the most efficient use of our state resources. And so the...LB78 just establishes some clarity in that process, in terms of that negotiation, and also

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ensures--requires--a careful record of that memorandum of understanding so, in future years when come back to that situation, there's a clear understanding of what those discussions were, what those agreements were. And, as one of the testifiers noted, it's not something that happens very often and so having that clear record is important. I want to come back to your question about renegotiation and, again, it does create a process that allows a petition for renegotiation. I would, you know, expect that the situations that we consider in the bill are situations where there will be some economic development situation that was unknown at the time, some change in, you know, economic situation...and again, the department has the ability to accept or refuse that petition, but it does indicate and clarify that there is this process that can be made. And here if it...as a municipality, if you're in the situation where you find that the conditions that govern that relinquishment are an obstacle to economic development, you can put together a petition and petition the department to see if that's something that can be changed. And it will be up to the department to decide whether or not that petition is a valid one and decide how to move forward with that. So I think it's important that it just lays out those conditions and lays out that requirement. One other answer to the question, as I was...we were talking about, in terms of the broader context in which this occurs, the director said that you're often engaged in these conversations about relinquishment when there's discussions about a new road. So, in terms of how that negotiation goes and what the leverage on that negotiation is, there's usually leverage on the Department of Road's side, in terms of this offer of a new road that's going to be put in place. And so that's the...that's the broader context in which that negotiation occurs, as well. Thank you. Chairman Friesen, I'm happy to try to answer any other questions, if I can. [LB78]

SENATOR FRIESEN: Thank you. Thank you, Senator Crawford. Any questions? Seeing... [LB78]

SENATOR CRAWFORD: So you have the amendment with you and... [LB78]

SENATOR FRIESEN: We have the...we have the amendment with... [LB78]

SENATOR CRAWFORD: ...if you have, I'm happy to work with you. If you have any other questions, and I would appreciate your support to advance the bill to the floor. Thank you. [LB78]

SENATOR FRIESEN: Thank you, Senator Crawford. We will now close the hearing on LB78, and I will turn the meeting over to Vice Chairman Smith. [LB78]

SENATOR SMITH: Thank you, Senator Friesen. And we will now open our hearing on LB339, to be introduced by Senator Friesen, which is to merge the Department of Aeronautics into the

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Department of Roads and to rename as the Department of Transportation or, in other words, planes, trains, and automobiles (laughter). Welcome, Senator Friesen. [LB339]

SENATOR FRIESEN: Thank you, Chairman Smith; and that's what it will be. LB 399 (sic: LB339) is a bill that has been requested by the Governor. My name is Curt Friesen, representing District 34, C-u-r-t F-r-i-e-s-e-n. And I'm introducing this on the request of the Governor. I intend to leave the details of the operation of, and the purposes of, the bill to those in the administration that will testify following the introduction of the bill. The purpose of the bill is very simple, if enacted: it will merge the Departments of Aeronautics and Roads and rename the resulting agency Nebraska Department of Transportation. The new Department of Transportation will be led by the current director-state engineer of the Department of Roads, who will be retitled the director-state engineer of the Department of Transportation. The director of the Department of Aeronautics will be director of the Division of Aeronautics within the Department of Transportation. You can see from the fiscal note, there is no fiscal impact with this bill to the General Fund. The only impact identified is that two accounting positions currently funded from Aeronautics-related funds will be, instead, funded from Roads Operations Cash Fund, an increase in the expenditures from the Roads Operations Cash Fund of approximately \$93,000 per year, and like savings to the Aeronautics Cash Fund. I believe we are the last state to not have a specifically-designated state department of transportation. I believe this is an appropriate time to consider and discuss this idea and the opportunities it presents for us to continue to look for efficiency savings, and to discuss the appropriate organization and management of state government administrative functions, and to have a conversation with all the interested groups and individuals about the most appropriate way to structure state administration and accountability for transportation-related activities. The Legislature and this committee invested a lot of time and energy in the past few years on accelerating and achieving long-wanted and long-needed transportation goals for Nebraska. I look forward to the discussion of this bill and the role that it can play in achieving the needs and desires that Nebraskans have expressed to us throughout this time. And that will conclude my introduction. I will answer any questions you may have. Otherwise, as I mentioned earlier, I look forward to the testimony that the administration and others are going to provide on LB339, and I thank you for your consideration. [LB339]

SENATOR SMITH: Thank you, Senator Friesen, for your opening on LB339. Do we have questions for Senator Friesen? I see none. We now open the hearing to proponents of LB339, those wishing to testify in support of LB339. Welcome, Director. [LB339]

KYLE SCHNEWEIS: (Exhibits 1-3) Thank you. This chair is much more comfortable than the one I've been sitting in back there. Good afternoon, Vice Chairman Smith and members of the Transportation Committee. I'm Kyle Schneweis; my last name is spelled S-c-h-n-e-w-e-i-s. I'm the director of the Nebraska Department of Roads, or NDOR. I very much appreciate the

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opportunity to appear before you today with Director Mitchell, to discuss the proposed creation of a Nebraska Department of Transportation through the merger of the Department of Aeronautics and the Department of Roads. In my year and a half here in Nebraska, one of the most popular questions I get asked is about our name, the Department of Roads versus DOT. I want to assure you that the intent of this legislation is rooted much deeper than the idea of just a name change. It is about our state's commitment to a more efficient and effective and customer service focused government. I've sat in this seat more than I, perhaps, anticipated as director-- Senator Smith, you might agree--in the past year and a half. I personally think that's a good thing. It means that real and long-term, enduring change is happening. Under the administration, NDOR has gotten very deliberate in working towards finding creative ways to accomplish our state and agency goals, and I'd like to highlight just a few of those things. We have instituted a new project prioritization process for capital improvement projects; we call that StEEP. It puts an increased value on transparency and the need to engage communities on their transportation needs. It balances engineering and economics while empowering stakeholders to inform NDOR on the priorities that we face. We have looked to the public and our customers for guidance on ways to improve our business practices and become a more responsive agency. For example, last year's passage of LB960 authorized design-build, which accelerates our ability to deliver projects faster, which is something that we hear a lot about. Another exception (sic: example) is we are looking at our own internal processes. Through the Lean Six Sigma process we are able to decrease...we have been able to decrease the time it takes to pay our consultants, for example. We used to average 30 days to make our payments; we are now averaging 8. And these are just a few examples that I think reflect our dedication to being an evolving agency that's committed to continuing to grow and that is responsive to all of our customers. We have approached the merger of Roads and Aeronautics with the same level of diligence and commitment to the essential services of both of our agencies while outlining the framework for a Department of Transportation in Nebraska. We've worked together with the Department of Aeronautics to build a common understanding of our mission and our customer base. And it was important for me to understand that 360 degree view of what a merger could mean. First, I want to focus on structure. In the handouts I provided, we included a proposed organizational chart that helps illustrate the structure of the DOT. The Department of Aeronautics will become a Division of Aeronautics within the Department of Transportation, with the director of the Department of Aeronautics remaining in charge of this division and reporting directly to the Department of Transportation director. This direct communication between the DOT director and the Aeronautics Division is essential to ensure that concerns are known and addressed with an industry-specific touch. Roads has resources and innovative initiatives that the aviation community will now have increased access to. This is an added benefit for the customers of Aeronautics, both urban and rural. Instead of a...just a place at the table, the merger builds a framework for understanding the Aeronautics mission. So aviation issues are now addressed as DOT issues. I'm often asked, "Won't the 19 employees of the Department of Aeronautics be swallowed up by the DOT and the 2,000 employees that work there?" And my answer is it's

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actually the opposite, in my opinion, that the 19 voices that you hear on Aeronautics today will be strengthened to over 2,000. The time line for this merger gives us time to finalize the particulars of the move. Aeronautics would move from...under the Department of Transportation intact with its property, appropriations, budgeting, and accounting on July 1, 2017. All rules and regulations promulgated by the Department of Aeronautics prior to July 1 continue under the Division of Aeronautics. The Aeronautics Commission remains in place. Its duties and responsibilities are unchanged. As the DOT director, I will look to the Aeronautics Commission for guidance, just as I do to the Highway Commission today. I find that having conversations with members of the Highway Commission helps strengthen our understanding of the perspectives within the communities, and it helps us make better decisions. And I expect that to be the case, going forward. Both of our departments are in the business of moving people and goods, and it says so right in our mission. This merger signals to Nebraskans that NDOR is not just about roads; we're about connecting our communities and providing a means by which Nebraska businesses can transport their goods to market. Aeronautics has the same commitment, and I'm excited to go on this journey with them, with the goal of a DOT that serves aviation, rail, transit, bike, pedestrian, and, yes, roads. A united agency will help Nebraska take a more strategic long-term view of our state's transportation needs. I fully expect a smooth transition. Director Mitchell and his team...they run a very efficient ship or, maybe I should say, an efficient plane. Their stand-alone agency maintains a very high level of customer service, and I am committed to maintaining those very high standards. There are, however, I believe, opportunities to streamline services and eliminate overhead. Efficiencies that we have identified in the preliminary meetings include such opportunities as to manage the maintenance of airfields and roads as one, combining the internal resources that manage and administer federal aid, as well as the ability to manage both agencies under the same roof. Over the last few months, our teams have worked together to manage attrition, to create opportunities to build a lean, administrative staff that supports the mission of a DOT. The administration of Director Mitchell and I have worked closely to build a proposal that allows both entities to leverage talent and put more money into runways and roads, while not sacrificing jobs. We have worked hard to apply a level of Nebraska common sense and...that will support our commitment to public safety and promote economic growth through effective and efficient customer service driven government. There are many details to work out, but we will...we welcome the partnership and look forward to working closely with Director Mitchell and his team. And I'm appreciative of the ongoing support the Legislature has given to the Department of Roads. And I'm thankful for your commitment to infrastructure improvements, but also to helping us find ways to work smarter and meet the needs of Nebraskans. The Legislature has shown a steady hand in laying out the policies and providing resources to meet our transportation needs, and I think that's something that we can all appreciate. So thank you for your attention, and I look forward to answering any questions you might have. [LB339]

SENATOR SMITH: Questions for Director Schneweis. Senator Hughes. [LB339]

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SENATOR HUGHES: Yes, thank you, Director, for coming today. Could you go into a little bit more detail as to where you think the efficiencies will occur? And I'm assuming this is a money-saving move... [LB339]

KYLE SCHNEWEIS: Correct. [LB339]

SENATOR HUGHES: ...by the administration. So I guess, help me understand the (inaudible). [LB339]

KYLE SCHNEWEIS: Well, I think the fiscal note identified it...a couple opportunities. There are three positions in the fiscal note: one is a vacant maintenance worker position that's currently vacant that will remain so, and the other two are accounting positions that would move over from Aeronautics to the Department of Roads and, therefore, freeing up those resources to now be spent on runways. But I should say that I believe that the fiscal note is very conservative in nature. I think we have learned enough to know that there are efficiencies to be gained and have identified some. But it will take time for us to get our teams together and identify others. Some opportunities that have...we've explored, just for example: the Aeronautics folks have a striping program and they use one of their maintenance workers to help stripe runways. It currently takes three days, as I understand it, to do that with their program, and they have to drive and cover the entire state. We have striping...big striping machines that can do it much faster than three days; and we have them located all over the state. So you could see we could do things faster if we're working together, and we're positioned to be able to, probably, address the need quicker than if you have to get in line and wait for the entire state to be covered. So those are the kinds of things we have to go. I think there's opportunities to share equipment. I think there's...when you look at just one of the primary goals of the Aeronautics Division--or Department--and the Roads Department, it's to administer federal aid. And we currently do that at the Department of Roads in several areas: We administer federal rail money, we administer federal trail money...or transit money and, of course, federal highway money. And so we're doing all these things and able to leverage the organization to keep the overhead down. And so I think there are opportunities to administer the federal aviation program, where you can leverage some of the resources that we have with the department. [LB339]

SENATOR HUGHES: Thank you. [LB339]

KYLE SCHNEWEIS: Um-hum. [LB339]

SENATOR SMITH: Director Schneweis, I have a few questions for you, but I know this committee has enjoyed working with you in your role as director of DOR. [LB339]

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KYLE SCHNEWEIS: Thank you. [LB339]

SENATOR SMITH: And I think you'll do a fantastic job in this new role. I...you've been a great leader in transportation. I have some questions about funding restrictions. Does the federal government, the federal...does the federal government place restrictions on how the current Department of Aeronautics spends federal money received for airport aviation purposes?
[LB339]

KYLE SCHNEWEIS: I would very much presume so. I think that that might be a question better directed towards Director Mitchell, but I would say that there are restrictions on every, nearly every source of federal funding that we currently have. And we rely on the experts today that work for us at Roads, to make sure that we hit the right chords on those. And we would continue to do so. [LB339]

SENATOR SMITH: Okay. Then I had another one about that, so I'll save that for Director Mitchell. Under the merged departments, would the director of Transportation, for example, be able to use aviation fuel-sourced bonds to pay for public road improvements around the airports?
[LB339]

KYLE SCHNEWEIS: No, the funding will remain separate, so Aeronautics funds will go towards Aeronautics projects and Roads funds would go towards Roads projects. [LB339]

SENATOR SMITH: Kept separate, okay. [LB339]

KYLE SCHNEWEIS: Yes. [LB339]

SENATOR SMITH: All right. So do you anticipate this being the end of reorganization efforts? So, in some of the other states... [LB339]

KYLE SCHNEWEIS: Um-hum. [LB339]

SENATOR SMITH: ...there have been efforts to look at DMV, Motor Carrier Services Division of DMV, and merge those or reorganize. Do you anticipate any of that? [LB339]

KYLE SCHNEWEIS: Well, I should say that the Department of Roads started as the Department of Irrigation and has changed the name five times in the last hundred or so years, so I would never say never; it is not my intention. I don't believe that we have much interest in any further

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merges at this time. DOTs are diverse across the country. Some contain aeronautics; most do, not all. Some, as you mentioned, contain highway patrol. Our neighbors to the west...that's the case, I believe. Some contain DMVs and it...so it is a little bit of a diverse thing that I think needs to be customized for the state. [LB339]

SENATOR SMITH: And I know in the past there's been a lot of discussion about the location of your campus and possible relocation of that campus. Will this have any impact on that decision, going forward? [LB339]

KYLE SCHNEWEIS: I don't believe so. I think in...our current plan would be to have the Aeronautics folks maintained in their current location out at the airport; I think it makes a lot of sense. But certainly we'll be looking at a position-by-position basis, going forward. [LB339]

SENATOR SMITH: Okay. Further questions for the director? I see none. [LB339]

KYLE SCHNEWEIS: Thank you. [LB339]

SENATOR SMITH: Thank you, Director. We now move on to the next proponent of LB339. [LB339]

KYLE SCHNEWEIS: Would you mind if Director Mitchell stepped in, in front of you? [LB339]

RICHARD SCHMELING: Nope. I've been here since the beginning; I can wait for Director Mitchell to do his thing. And (inaudible). [LB339]

SENATOR SMITH: And I'm assuming there might be some more information here from Director Mitchell, so it might clear up a few things, too. So thank you for your patience. [LB339]

RICHARD SCHMELING: Hey, I'm willing to stay until midnight if you want to go in that long (laughter). [LB339]

SENATOR SMITH: I hope not (laughter). Welcome, Director. [LB339]

RONNIE MITCHELL: (Exhibit 4) Good afternoon, Vice Chairman Smith and members of the committee. For the record, I'm Ronnie Mitchell, R-o-n-n-i-e M-i-t-c-h-e-l-l, director of the Nebraska Department of Aeronautics. I support Governor Ricketts' legislation, merging the Department of Aeronautics and Roads to form a Department of Transportation. Director of

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Roads Kyle Schneweis and members of his staff, along with myself and members of my staff, have been exploring synergies between our two departments since early September, 2016. We've held a total of eight meetings. We've spent untold hours researching and investigating the issues. A DOT would benefit the Department of Aeronautics through resource sharing and collaboration. You heard Kyle mention several of the items, so I won't repeat those. We do have, also, a two-person Pavement Preservation team. We've had difficulty filling one of those positions due to the overnight travel and the fact that they cover the entire state. So what we would be doing is, perhaps, utilizing a Department of Roads person from the district office nearest the airport where we would be doing the work. And that would save a lot of overnight travel and free up more money for the airports. Kyle mentioned the paint-striping trucks; we'd like to utilize those. We do paint striping on the general aviation airports in the state, and that would also free up more money. Through the sharing and coordination of resources and talent, we anticipate additional efficiencies will result in improved delivery of services to Nebraska airports. Any cost savings in the Aeronautics operations will be used for additional aid to airport improvement projects. Our best initial estimate of cost savings realized through the formation of a DOT is \$93,838 annually, as shown on our fiscal note. No jobs will be lost as a result of the merger, and additional operational efficiencies will be realized from working closely with the Department of Roads on federal legislation, as well as access to the IT and communication teams currently at DOR. Aeronautics will maintain a separate cash fund to maintain accountability and transparency. Thank you; this concludes my testimony. I'd be glad to answer any questions. [LB339]

SENATOR SMITH: Thank you, Director Mitchell. Do we have questions for the director?
Senator Hughes. [LB339]

SENATOR HUGHES: Thank you, Vice Chairman. Thank you, Director Mitchell, for coming today. I want to ask you the same question I asked Director Schneweis: Where do you see the efficiencies coming, a little more specifically? [LB339]

RONNIE MITCHELL: Well, initially it would be the two positions that were mentioned by Director Kyle. And that is the fact that our accounting personnel...two of them would be funded through Roads, although they would be associated with us, attached to our department. Additionally, the one person on the Pavement Preservation team...we would be utilizing a temporary person from the Department of Roads, so that would free up that money. We're still in the process of formulating all of this, so any other efficiencies that will occur, we're going to just have to have time to see what they are. But the first year, we're fairly...we are confident... \$93,838. After that, well, we'll have to wait and see. [LB339]

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SENATOR HUGHES: Okay. A followup, if I might. The...and I apologize; I'm not very familiar with what the Department of Aeronautics does. But you...do you have an engineer who inspects all the runways within the state on a general aviation airport? [LB339]

RONNIE MITCHELL: Yes, we do several inspections on the airports in the state. One of them is called a 5010 Inspection; that's a FAA designation for the inspection that they perform. They go out and they look at the runways, the taxiways. They look for obstructions, any growth that penetrates a certain level. That has to be taken care of, particularly if they have an instrument approach at that runway. So that's just one of the inspections. We also license the general aviation airports in the state, and part of that 5010 Inspection ties in with the licensing. They have to meet certain requirements in order to meet safety issues, so we're very involved in that. And we have two people that do these inspections throughout the state every...just about every year. [LB339]

SENATOR HUGHES: So do you see any type of efficiencies gain there? I would assume you have to have a special training as an engineer... [LB339]

RONNIE MITCHELL: You're apt... [LB339]

SENATOR HUGHES: ...to do these inspections. Do you anticipate those two individuals...are those two positions staying in place and not getting some cross-training with the other...any other engineers within the Department of Roads now? [LB339]

RONNIE MITCHELL: Yes, they do require special training. That training is available annually through the program; GSR (sic: GCR) does this training. They select different locations and without that training, of course, they can't really certify the fact that they can look at the airports and determine the things that need to be looked at. So yes, there is specialized training. I anticipate those two people will stay with our department. [LB339]

SENATOR HUGHES: And that (inaudible) is a federal... [LB339]

RONNIE MITCHELL: Yes. [LB339]

SENATOR HUGHES: ...licensing... [LB339]

RONNIE MITCHELL: Yes. [LB339]

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SENATOR HUGHES: ...for federal training. [LB339]

RONNIE MITCHELL: Yes. [LB339]

SENATOR HUGHES: Okay, thank you. [LB339]

SENATOR SMITH: All right. Director Mitchell, the question I had for Director Schneweis before, about the federal government placing restrictions on how the current Department of Aeronautics spends federal money received for airport aviation purposes...does that occur? And if so, what are they? [LB339]

RONNIE MITCHELL: Federal grant money comes to our airports at a 90 percent of the grant cost. The local entity has to fulfill 10 percent of that cost. Now we're what's called a pass-through state. The local entity at the airport--they contract with the consulting engineer; they get a contractor to do the work. The FAA funds that by passing the money to us and then, as the work is completed, we pass that on to the local entity. So yes, there is a restriction on those funds. We have to send in paperwork to the FAA Central Region in Kansas City before we expend any of those funds, and it has to be approved by them. [LB339]

SENATOR SMITH: All right. And what about money that's received by the current Department of Aeronautics from state sources for aviation purposes? And that might be like aviation fuel tax. [LB339]

RONNIE MITCHELL: Okay, the aviation fuel tax is restricted by the FAA for only aviation purposes; it can't be used for any other purpose. There have been several lawsuits during the past year, and the FAA just came out and reiterated that fact, that those fuel tax revenues must be used strictly for aviation purposes. [LB339]

SENATOR SMITH: All right. So that means that, under the merged departments, the director of Transportation would not be able to use aviation fuel-sourced funds to pay for public road improvements... [LB339]

RONNIE MITCHELL: That is correct. [LB339]

SENATOR SMITH: ...like around airports and things? [LB339]

RONNIE MITCHELL: That is correct. [LB339]

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SENATOR SMITH: Okay. All right. Very good. Any further questions for Director Mitchell? I see none; thank you for your testimony today. [LB339]

RONNIE MITCHELL: Thank you. [LB339]

SENATOR SMITH: And good luck with the mergers. [LB339]

RONNIE MITCHELL: All right. [LB339]

SENATOR SMITH: Other proponents of LB339. Thank you for your patience; welcome. [LB339]

RICHARD SCHMELING: Well, it's been interesting. I learned more about weeds and whacking weeds than I ever knew in my entire life (laughter). [LB339]

SENATOR SMITH: As did a few of us, as well. [LB339]

RICHARD SCHMELING: My name is Richard Schmeling, S-c-h-m-e-l-i-n-g. I am here representing two different organizations: One of them is a group called ProRail Nebraska, Incorporated; I am the District 1 director. I'm also here as the president of Citizens for Improved Transit, which is a citizens' action group which was successful in getting improved bus service here in Lincoln. Thanks to the mayor and the City Council, we now have buses that run after 7:00 at night in Lincoln. And we're building a good system that's going to be the pride of the Nebraska capital city of Lincoln. We're not done yet; we're continuing to try to work. Just a little bit of background about me, because I'm not as famous as some of these other people. I grew up in Superior, Nebraska, Senator Bostelman's home territory originally. I came to the university, received a bachelor's degree with a major in history, minors in political science and economics. Got a commission as an officer in the U.S. Army; was in the U.S. Army Transportation Corps. I did a tour in Vietnam, came back as a captain. Came, practiced law here in Lincoln for about 30 years. I am a lifelong student of transportation. My main focus was railroads, and then I got involved with the city bus system and I'm learning about buses. I've written one book about transportation and about 15 nationally published articles about transportation, and I consider myself to be somewhat of an expert in the transportation field. But I was interested in Senator Friesen's concern about the decorum of the committee deliberations. And I want you to know, Senator Friesen, that I had hired the pep band and the university cheerleaders to come here and cheer for me when I testified and, having heard your comment, I told them to go back home (laughter). And of course, you're aware that...that President Trump has just appointed, the new Secretary of Labor; were you aware of that? Yeah, he appointed the seven dwarfs and, of course,

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the word is that they were on the short list. Well, let's cut to the chase. ProRail Nebraska, ten years ago, attempted to get the name of the department changed, and we were unsuccessful. We are the only state in the 50 states that still has the Department of Roads; the change is long overdue. ProRail Nebraska wholeheartedly supports this bill and what it is going to do. We have no reservations about it at all. As a matter of fact, it's long overdue. And I hope it comes out of the committee, goes to the floor of the Legislature, and I hope it gets enacted into law just as soon as possible. And, on behalf of the Citizens for Improved Transit, allusion was made to the fact that the Department of Roads is more than roads; they are administering federal transit funding, and there's a rail component. And now that we're going to be a Department of Transportation and we have a director who had experience in the state of Kansas that had a full blown Department of Transportation, I'm hoping we're going to see some shuffling out there, in terms of the structure. And, since we now have a division of aviation, I'd like to see a division of rail and public transit. But that's...you don't have to enact that; that's something that the director could make a decision on. But it's something that I would like to see. I think that's essentially about all I have to say, and it's always a pleasure to come and address the Transportation Communications (sic: Transportation and Telecommunications) Committee. In my opinion, it's the most important committee in the entire Legislature. And I don't know Senator Friesen that well. Senator Smith, thank you for continuing on the committee, because I think your expertise, having served as chairman, is going to be very valuable to this group as you deliberate. And just a little hometown commercial, Senator Friesen...you're from the Henderson area, as I recall, and the citizens of Henderson, Nebraska, recently built a replica of the Chicago and Northwestern wooden passenger depot and the Immigrant House there. And it's part of a wonderful museum complex. So if you're out cruising the interstate and you see the Henderson exit, take a few minutes and go take a look at it. I'm really impressed by the community and the work that went into doing that. That... [LB339]

SENATOR SMITH: All right. Do we have questions for Mr. Schmeling? I see none. Thank you for your military service, and thanks for your work on behalf of good transportation in our state. [LB339]

RICHARD SCHMELING: Thank you. [LB339]

SENATOR SMITH: Next person wishing to testify in support of LB339? Can I see a show of hands how many we have that are planning to testify on this bill yet? Okay, thank you. Welcome. [LB339]

LUCAS BILLESBACH: Good afternoon, Senators. My name is Lucas Billesbach; that's L-u-c-a-s B-i-l-l-e-s-b-a-c-h. I'm the chairperson of the legislative committee of the American Council of Engineering Companies of Nebraska, and I'm here today to speak in support of LB339, on behalf

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of our organization. Our members partner with both the Department of Roads, as well as the Department of Aeronautics, to bring safe and efficient transportation systems to the citizens of Nebraska and the thousands of visitors that travel throughout our state. Our members are business owners and we recognize the value of consolidating departments and maximizing personnel and efficiencies. We're supporters of the state of Nebraska also realizing those same efficiencies. We support the changes proposed to consolidate the two departments into one. The savings to the state taxpayers and the efficiencies that can be created by combining their departments is clear. The Department of Roads, under the leadership of new Director Kyle Schneweis, has been looking for best practices in management models to maximize the dollars available in their program. This change to consolidate the departments is another step in the right direction. Our organization requests you to advance LB339; it's an extremely important step that will make it possible to advance projects in a more efficient manner within our state. Thank you for consideration, and I'm happy to answer any questions. [LB339]

SENATOR SMITH: Any questions for Mr. Billesbach? I see none; thank you for your testimony. Next proponent? Welcome. [LB339]

JULIE HARRIS: Thank you, Senator Smith. My name is Julie Harris, J-u-l-i-e H-a-r-r-i-s, and I am here representing the Nebraska Bicycling Alliance. Our mission is to cultivate a safer, more bicycle-friendly Nebraska through partnerships, advocacy, and education. To some, LB339 simply represents some administrative shifting and a new logo. To the Nebraskans that bike and walk, it is a significant change and one that is welcomed enthusiastically. We are delighted to see this bill introduced and we extend our thanks to Governor Ricketts and Senator Friesen for bringing it forward. Nebraska has many unique traits that are to be celebrated. The fact that we are the only state in the nation left with a Department of Roads is not one of those unique traits that we celebrate. But why do we care? Transportation is more than just cars. Transportation is about moving people, whether in cars, trucks, and airplanes--planes, trains, and automobiles--but also on bicycles, on foot, or on public transportation. The name Department of Roads is a throwback to a very outdated perspective that makes Nebraska look out of touch. Changing the name to the Department of Transportation is one more step that we can take to continue to evolve the name...or to evolve the department's culture, a culture that has made great strides under the guidance of Director Schneweis, by the way, that the state cares about all modes of transportation utilized by its citizens. I personally care about this issue for more the selfish reasons. In my ten-plus years as an active transportation professional, I have kept a stiff upper lip in the face of good-natured jokes at the state of Nebraska's expense. We've been called out on the podium at national conferences, on multiple occasions, for being the only state left with a Department of Roads. Crowds snicker and sad trombones play when this dubious distinction is mentioned. Nebraska is the asterisk of transportation and not in a good way. Please save us from having to continue this humiliation on the national stage. But seriously, LB339 is very important. It's time for transportation in Nebraska to reflect national best practices and the professionalism

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of the employees at the Nebraska Department of Roads. The Nebraska Bicycling Alliance is proud to support this, and we hope the committee will see the wisdom in moving it forward. Thank you. [LB339]

SENATOR SMITH: Thank you, Ms. Harris. Do we have questions for Ms. Harris? I see none; thank you. [LB339]

JULIE HARRIS: Thank you. [LB339]

SENATOR SMITH: Next proponent? Welcome. [LB339]

MATTHEW ROQUE: (Exhibit 5) Hello and thank you. My name is Matthew Roque; that's M-a-t-t-h-e-w R-o-q-u-e, and I am the president of ProRail Nebraska. My colorful colleague, who you heard from earlier, did speak a little bit about our organization. First off, I want to thank Senator Friesen for introducing LB339. My appreciation is also extended to the rest of this committee for their work on behalf of the citizens of Nebraska. I am here today representing ProRail Nebraska and have just a few short comments. This nonprofit advocacy group focuses on increased passenger rail services, as well as other public transportation options within the state. For some time, one of the objectives of our organization has been advocating for the creation of a Nebraska Department of Transportation. This has been one of our objectives because we recognize that fully integrating all forms of transportation into one department benefits the citizens of Nebraska. Transportation by road, air, rail, and river all play a part in ensuring the future success of our state. Creating one department tasked with coordinating all of these transportation modes will ensure the best mix and greatest value to our citizens. Please vote to advance LB339 from your committee. I can answer any of your questions at this time. [LB339]

SENATOR SMITH: Questions for Mr. Roque? I see none; thank you. [LB339]

MATTHEW ROQUE: Thank you. [LB339]

SENATOR SMITH: Welcome. [LB339]

DAVID HARING: Thank you. Vice Chairman Smith, members of the committee, my name is David Haring, D-a-v-i-d H-a-r-i-n-g, and I am the executive director of the Lincoln Airport Authority. First, before I talk about my support of LB339, I think it's important to echo the sentiments of many of my colleagues that either have or will convey, regarding the efforts of the Department of Aeronautics as it stands today. While I've only had the privilege of working in Nebraska since 2014 and have limited experience in dealing with the department, their reputation

with, and importance to, my colleagues throughout the state is apparent. They're an invaluable asset to small airports through: the provision of administrative services, such as the management of federal and state grant programs, as you have heard; financial services, such as the hangar and fuel storage loan programs; and technical services, such as pavement maintenance programs; and general guidance and expertise on a wide array of airport-related issues. With that understood, my support of LB339 is rooted in three main areas. The first of those, as you've heard from both directors, is resources. The department, like so many of their clients and, quite frankly, small airports in general, have become experts at doing a lot with a little, as both personnel and equipment resources are at a premium. While there is certainly no illusion that a newly-formed DOT will present a fountain of unlimited funds, it is obvious that the joint resources of the DOT will significantly exceed that of the Department of Aeronautics on their own. Access to these additional resources can do nothing but enhance the already vital services that the department provides to airports throughout Nebraska. The enhancement of these services leads me to my second support justification, and that is the presentation of new opportunities. As efficient of an entity as the department has been, it is becoming more and more apparent that the Department of Aeronautics has approached, or is approaching, their ceiling, with respect to the services that they provide to airports. In the department's 2015 annual report, it shows the long-term declining trends in both overall revenues and state grant funding. Additionally, in August 2015, a national association of state aviation officials put out a report outlining aviation funding across the states. Despite Nebraska falling in the top half of the states in the number of airports, Nebraska ranked last of the 31 who provided data in both total and state-only grant funding. With the Department funding being drawn, as you've heard, from very specific and somewhat limited resources, the proposed merger into a DOT not only has the opportunity for additional funding from the realization of efficiency savings, but also from the acknowledgment that aviation is an integral piece of the larger transportation network. With the department incorporated into a comprehensive DOT, it places aviation within the foundation of the present and long-range transportation planning process for the state, including the applicable financial planning for the goals and objectives played out through that process. Finally, I am in support of the proposed merger for the simple reason that I have seen its concept successful before. As I mentioned earlier, I have only had the privilege to call Nebraska home for the last two and a half years. For 13 years prior, I served at an airport within a state that had the DOT with an Aeronautics Division, just as being contemplated here. While the scale and overall operation was different, as there were half as many airports and, quite frankly, a much larger overall budget, the majority of the airports were rural and relied upon the state to provide the very same sort of services that the Department of Aeronautics provides today. However, they didn't stop there; they continued to serve as an authority and an advocate for aviation throughout the state through the provision of grants and of recruiting air service to markets that were struggling, aviation encouragement grants for events such as fly-ins and open houses, and marketing grants for the overall utilization and awareness of the airport. Furthermore, the Aeronautics Division was able to enhance overall grant funding available to airports for critical infrastructure projects. In conversations with the

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former Aeronautics director for that state, it was her opinion; and much of what they able to accomplish during her tenure would've been impossible, if not for the support of the Department of Transportation. Aviators and those involved in aviation are extremely proud of their industry and, quite frankly, almost isolationist in many ways, so I can certainly understand and respect the hesitance and trepidation that has come from this proposal. However, I also firmly believe in the saying that we can achieve far more working together than we can separately. In addition to being isolationist, we also can have fairly loud voices when we want to. And as such, I support LB339 and am confident that neither the Department of Aeronautics nor airports will let the newly-formed Department of Transportation forget about the importance of aviation. Be happy to answer any questions. [LB339]

SENATOR SMITH: Thank you, Mr. Haring. Do we have questions? I see none; thank you. [LB339]

DAVID HARING: Thank you. [LB339]

SENATOR SMITH: (Exhibits 8-10) Next proponent of LB339? Anyone else wishing to testify in support of LB339? We do have some letters, for the record, in support. We have a letter from 4 Lanes 4 Nebraska, a letter from Mode Shift Omaha, and from the city of Lincoln, Department of Public Works; all are...all sent letters in support of LB339. We now move to opponents, those wishing to testify in opposition to LB339...opponents. Please come...welcome. [LB339]

JARED ESSELMAN: I feel like I'm getting a thousand dirty looks right now. [LB339]

SENATOR SMITH: Welcome. [LB339]

JARED ESSELMAN: Thank you. Thank you, Vice Chairman Smith. My name is Jared Esselman; it's E-s-s-e-l-m-a-n. I'm with the Aircraft Owners and Pilots Association, and I did not bring a written testimony because I don't want my opposition to be permanent. We completely understand the intent of the bill and we agree with it, but there are some concerns and questions from Nebraska pilots that we have to represent and we have to bring up. Two of these major concerns are the reporting structure...pilots are worried about their Aeronautics Division and they want to keep that. Like he said, they're isolationists; they want to keep what they've got. But they're worried about the reporting structure. They want to know that it's clear and codified in this bill. And there is a simple amendment that we'd like to suggest on page 9 of line 18. If the four words, if only four words could be added...so it's page 9, line 18. After the word "by" and before the word "the," if " , and report directly to," could be added, I think that would alleviate a lot of the heartburn that the pilots are feeling in Nebraska. They want to ensure and, like I said, just make sure it's clear and codified. They don't get to hear what I hear in here today. I mean, a

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lot of my concerns have been alleviated by the testimonies, and I feel good. But they don't get to hear that; they're not getting that piece. So I think if those four words could be added, it would alleviate a lot of their concerns. Secondly, they're worried about their budget structure. I've heard a lot in here that kind of alleviates those concerns for me, especially the...keeping the cash flow...the cash funds separate. We know that the federal government, the FAA, mandates use of airport revenue, aviation fuel revenue. We know that; we're okay with that. But the pilots want to know that their Aeronautics budget is going to remain intact. And I don't know that they're hearing that. There's just some confusion, and it just needs clarification. So on behalf of Nebraska pilots, I'm beholden to request that LB339 be amended or briefly tabled to provide pilots time and opportunity to work directly with this committee to alleviate those concerns and address those concerns. We've had several conversations, even with the Governor's Office, and they explained some of the issues and, you know, we're okay with it; we know the intent, we see the intent, we agree with the intent. We just want some things clarified and codified in this bill. And I especially appreciated hearing that the Aeronautics will remain at the airport. I don't know if there's a way to write that into the bill but, if there is, we love to have that, too. So I would love to, again...we agree with this. We would love to support it. We would just like to see a few tweaks to make it a little more clear. Thank you. [LB339]

SENATOR SMITH: All right; thank you for your testimony. Do we have questions? I see none; thank you for your testimony today. [LB339]

JARED ESSELMAN: Thank you much. [LB339]

SENATOR SMITH: Additional opponents of LB339? Welcome. [LB339]

SANDI DECKER: Thank you. I am Sandi Decker, S-a-n-d-i D-e-c-k-e-r, and I'm from Fairbury, and I am chairman of the Fairbury Airport Authority and also vice president of the Nebraska Association of Airport Officials. And I am here to oppose LB339. I have been working with my airport for 37 years and, during that time, I have very close working relationship with the Department of Aeronautics. And has been mentioned earlier, they administrate all of our federal grants from the FAA and which is something the small airports are not able to do. And my main concern on this is that, if the two were merged, that suddenly the Department of Aeronautics would disappear, maybe not so much under the current director, because he seems to be pro-aviation. But I am very concerned that future people may have no interest in aviation whatsoever, and it's just going to die away. There are several states, as stated, that are DOTs. One of them has absolutely the worst airports in the entire nation, and I would just hate to see our very fine airport system fall to that disarray. And with that, thank you for your time. [LB339]

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SENATOR SMITH: Okay. Ms. Decker, we appreciate your concern; thanks for being here today to testify. Do we have questions for Ms. Decker? I see none; thank you. [LB339]

SANDI DECKER: Thank you. [LB339]

SENATOR SMITH: (Exhibit 11) Other opponents of LB339? We do have one letter for the record, in opposition, from William Hamilton, from Granby, Colorado...sends a letter in, in opposition. Do we have anyone wishing to testify in a neutral capacity? Neutral? Welcome. [LB339]

JAMES METHE: Thank you; excuse me. My name is Jim Methe, spelled M-e-t-h-e, District 13--same district that Eppley Airfield is in. I...my testimony is based around one area, and that's the efficiencies that will come with this reorganization. The one thing that has a caveat has not been discussed, and that is that, as this is blended together, there is an opportunity from the FAA for this airport...airport improvement plan, which is the monies which, coming from the feds, can be done in a block grant instead of the, as the director has indicated, the money has to go over...the decisions go to the FAA and then back to here. And there is now ten of these now in the United States, and it's a possibility now with the new...we expect another ten, possibly. That would give the door opening for the Department of Aeronautics to get a block grant. A block grant is much more efficient, and it's controlled by the people of the state...the money. That's all I have to say, and I thank you; I'm sorry for the throat today. [LB339]

SENATOR SMITH: Thank you for your testimony, Mr. Methe. Do we have questions from the committee? I see none; thank you. [LB339]

JAMES METHE: Thank you. [LB339]

SENATOR SMITH: Others wishing to testify in a neutral capacity? Welcome. [LB339]

DIANE HOFER: (Exhibit 6) Thank you, Senator Smith, committee. My name is Diane Hofer, D-i-a-n-e H-o-f-e-r. I am the airport program leader for Ollson Associates, a Nebraska-based engineering firm. But I'm not here to represent Ollson or any other group. I'm here to make sure that Aeronautics and airports are not forgotten, regardless of whether Aeronautics is a division or a separate department. So I am testifying in a neutral position. As a civil engineer, I've spent 35 years on airport construction and development and have worked with over 100 airports across the Midwest. Airports are vital to Nebraska's economic success. The aviation industry has a \$4 billion impact on the state's economy, per an FAA report from 2015. Business and flight activities create jobs and improve business efficiencies that help Nebraska to recruit and retain

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companies. We've all used Nebraska's airports for passenger service and overnight shipping-- thank you, Amazon. But airports do so much more: aerial applicator for agricultural use, rural medical, business travel, tourism such as hunting. Agricultural use for aerial application...there are 436 aerial applicators doing business in Nebraska and 83 percent of them use Nebraska's 80 public use airports. These airports are vital to Nebraska's agricultural economy. But surprisingly, rural medical services, you may not be aware of, not only include Flight for Life emergency services out of the community, but transportation of medical specialists into rural communities for regularly scheduled clinics. I have personally seen up to 17 specialists a week fly into O'Neill, Broken Bow, Imperial, to name a few. There are cardiologists, oncologists, other specialists that travel into these communities to treat patients, rather than the patients driving hundreds of miles. And we're talking about hundreds, probably thousands of patients that would have to drive out for these services. These specialists use the local hospital or clinic and employ local staff, and it helps these facilities financially. The patients stay in town, perhaps eat lunch, do some other shopping, further helping the local economy. These airports are a key component to providing medical services for all our citizens. And yet this important industry gets very little state support. Airport grants have declined from \$2 million in 1999 to an average of \$140,000 since 2010. What other multi-billion dollar industry in the state gets this little support? Kansas provides \$5 million, Iowa \$6 million; Colorado had \$20 million program a few years ago. The lack of airport funding has had some tragic consequences. In Gordon, a young boy died because the airport didn't have the necessary weather reporting equipment, and Flight for Life was unable to land at the airport. On the other hand, airports that are lucky enough to snag a federal grant have really seen some significant private investment. Honestly, build it and they will come. In Alma, a town of just a few thousand, we paved the runway there and, within one year, three new hangars were built and a new aerial spray business opened in town. In Auburn, the runway was paved last year. NPPD is now using that runway to access their Brownville plant and will freely tell you that that is providing them business efficiencies. Plattsmouth is planning to pave taxiways, and there are several parties planning to put private investment into the airport for hangars and businesses. So I think it's clear that grant funds often lead to private development and provide a boost to local and state economies. From Auburn to Omaha to Valentine, airports are a key component to the economic success of Nebraska. But the needs of this \$4 billion industry are great. We need to continue to support Aeronautics and find ways to improve the support of our airports across the state. [LB339]

SENATOR SMITH: Thank you, Ms. Hofer, for your testimony. Questions for Ms. Hofer? I see none; thank you. [LB339]

DIANE HOFER: Thank you. [LB339]

SENATOR SMITH: Others wishing to testify in a neutral capacity? Welcome. [LB339]

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RODNEY STORM: (Exhibit 7) Thank you, Mr. Chairman, committee members. My name is Rodney Storm. I am the...R-o-d-n-e-y S-t-o-r-m. I am the city administrator and airport manager for the city of Blair and Blair Airport. I'm here today testifying in a neutral position, and I've furnished you with a few comments, and then I'm going to just try to keep this short because I'm sure you can read that. Airports across the state are struggling. We...the current department has done a tremendous job with the few resources that we've given them to work with in support of our airports. Our concern is that the Department of...that the Department of Aeronautics will get lost in the Department of Roads. I made a comment last week at the Nebraska Aviation Symposium when this was being discussed, and I truly meant that if there's a director that can make this work as a DOT and not allow the Department of Aeronautics to get lost in that mix, that's the current director, Kyle. But at the same time, I worry about the future on down the road of what we're going to do if we do not have that type of leadership in that position. It concerns me that the department...we've been discussing this for some time now over the summer, and the first that anybody really had anything to comment on it was when the bill was introduced, to know that this was coming forward. So what...as you'll see in my letter, what we're asking, in a neutral position, is to take a step back and let's take a look at this. It may be the...and take a look at this, hold an interim study on it, make sure we've got the facts, and make sure that we're doing it for all the right reasons. Some of the efficiencies that they've said that we can gain out of here, those are things that local government, local cities, counties, schools, NRDs do daily, weekly, through interlocal agreements. The departments on the state level should be able to do those same types of things to gain those same types of the efficiencies without combining those agencies in that process. If it works on the local level, it should also work on the state. So all we're asking is, is it's like make sure that we're doing this for all the right reasons. Make sure everything has been considered and then, if it is the right thing to do, then let's move forward and we'll support it. Any questions? [LB339]

SENATOR SMITH: Thank you, Mr. Storm. Questions from the committee? Senator Bostelman. [LB339]

SENATOR BOSTELMAN: Thank you, Mr. Vice Chairman. Mr. Storm, I guess my question would be...we've heard this several times of concern that, you know, that the Department of Aeronautics get kind of lost within the Department of Transportation. Is that something you've seen or you can speak to as other states specifically? [LB339]

RODNEY STORM: It's probably a fear as much as anything. I can't say that I've seen it, but we do know that the Department of Roads is a large department and the Department of Aeronautics is a very small entity. And when you mix that together, are we going to still be able to maintain the efficiency through the department that we've had over the years? And I think that's a concern. I will tell you that, in my opinion, out at the aviation conference last week, there was a lot of mixed emotions on this...people really wanting to, maybe, support it but, at the same token, there

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was only one or two people in that whole conference that really spoke out that they would support it. At the same time, there was only one or two that was really vocal against it. The majority in the middle were concerned; they wouldn't support it but they didn't want to testify against it because they didn't know. They didn't know what the benefits were to moving forward. If there are benefits, we want...by all means, I think the people support and would like...would be willing to move forward with the DOT. But just to change the name, just to combine the two, is not a reason to do that. Let's gain something with it if we're going to do it. [LB339]

SENATOR BOSTELMAN: Thank you. [LB339]

SENATOR SMITH: I see no further questions; thank you, Mr. Storm, for your testimony. Others wishing to testify in a neutral capacity on LB339? Senator Friesen, you're welcome to close on LB339. [LB339]

SENATOR FRIESEN: Thank you, Chairman Smith and members of the committee. You know, I'm open to any of the suggestions; we will look at them. When talking to Mike Hybl earlier in the day, I mean, we want to make sure that the firewalls are in place to separate out the Department of Roads and the Department of Aeronautics. And we will do it to the best of our ability but, as you know, we cannot tie the hands of any future legislation that may come and do something different. But our intent is to maintain a strong Department of Aeronautics. And, when you look at economic development in rural Nebraska, I mean you will have to say that, having a valid airport at Kearney and Lexington and Grand Island is extremely important to the state. So I don't think it's our intent that we...I don't know if Venango has an airport, but... [LB339]

SENATOR HUGHES: Yes, they do. [LB339]

SENATOR FRIESEN: ...we will...I think, on our part, make sure that we maintain that strong relationship within the Department of Transportation. Other than that, I have nothing else; thank you. [LB339]

SENATOR SMITH: Further questions for Senator Friesen on LB339? I see none. Thank you, Senator Friesen, for closing on LB339. Would you like for me to close the hearings for the day? And the hearings for the day are closed. [LB339]