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Transportation and Telecommunications Committee  
February 27, 2017

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[LB40 LB41 LB42 LB279 LB471]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, February 27, 2017, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB40, LB41, LB42, LB279 and LB471. 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: Good afternoon, everybody. I would like to welcome you to the Transportation and Telecommunications Committee hearing. I am Curt Friesen from Henderson, representing District 34. A few procedural items: Please silence all cell phones and electronic devices. And there would...please hold any displays of emotion or anything else from the audience while someone is testifying. We'll be hearing bills in order of listed on the agenda. Those wishing to testify on a bill should move to the front of the room and be ready to testify. We have set aside a on-deck chair in the front row next to...so when you get up there and you're ready to go when the next testifier leaves. If you will be testifying, legibly complete one of the green testifier sheets located on the table just inside the entrance. Hand the completed testifier sheet to a 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 with that if you need help. When you begin your testimony, it's important that you clearly state and spell your first and last names for the record. If you happen to forget to do this, I will ask you to stop and do so. And please keep your testimony concise, and try not to repeat what has already been covered. We will use the light system in this committee. There will be four minutes of green light, and then you'll have one minute of the amber light. And then when the red light comes on, I wish you would wrap up your testimony. Those not wishing to testify may sign in on a pink sheet by the door to indicate their support or opposition to a bill. And now we'll introduce members of the committee. 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. Next to him we have Senator John Murante from Gretna, representing District 49; and then Vice Chairman Jim Smith from Papillion, representing District 14. To my immediate right is the committee legal counsel, Mike Hybl. To my immediate left is the committee clerk, Elice Hubbert. And then we have Senator Dan Hughes from Venango, representing District 44; Senator Mike Hilgers from Lincoln, representing District 21, and Senator Suzanne Geist from Lincoln, representing District 25. We have two pages helping us this afternoon: Heather Bentley from Miller, a freshman at UNL, majoring in ag economics; and Jade Krivanek from Omaha, a junior at UNL, majoring in economics. With that, we'll open the hearing on LB40. Welcome, Senator Hilkemann. [LB40]

SENATOR HILKEMANN: Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Senator Robert Hilkemann; that's R-o-b-e-r-t H-i-l-k-e-m-a-n-n, and I represent Legislative District 4 in west Omaha. LB40

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

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February 27, 2017

---

is the first bill I was set to introduce to this committee today. The purpose of LB40 was to prohibit the use of wireless communication devices by an operator of a school bus. However, in final preparation for this hearing, it was discovered that another section of law, 60-6,179.02, has already codified in statute what this bill seeks to accomplish with passage of LB751 in 2012 and LB983 in 2014. I apologize to anyone here who took time out of their day to testify on this bill, and I apologize to this committee for the oversight in the development of this bill. With that, I respectfully ask that you indefinitely postpone LB40. Thank you, and I'll answer any questions. [LB40]

SENATOR FRIESEN: Thank you, Senator Hilkemann. Any questions from the committee? Seeing none... [LB40]

SENATOR HILKEMANN: Aren't I an easy guy? [LB40]

SENATOR FRIESEN: (Exhibits 1-15) We're going to have a quick, quick hearing on this one. Are there any proponents who wish to come forward to testify on this bill? We'll go through the motions. Seeing none, are there any who wish to testify in opposition to LB40? We have a long list of letters of proponents that I will read in: Diane Jackson, chair of the Nebraska State Board of Health; Dr. Michael Cohen of Omaha, Dr. John Vann, Omaha; Amy Borg of Omaha; Carrie Maryott, West Point; Renee Pettis, Omaha; Nikki Dean, Omaha; Amanda Ablott, Hastings; Deborah Hammon, Humboldt; Amanda Jeffres, Burwell; Kristin Luethke; Lisa Schawang, Salem; Jami Brester, West Point; and Tera Boyd, McCook. There's no one in opposition. Do we have anyone who wishes to testify in a neutral capacity? We have one testimony in the neutral capacity from Nathan Leach from Lincoln. Seeing none, you wanting to close? Senator Hilkemann waives closing. And then we will open the hearing on...we'll close the hearing on LB40 and open the hearing on LB41. [LB41]

SENATOR HILKEMANN: (Exhibit 1) Good afternoon again, Chairman Friesen. I am Robert Hilkemann; that's R-o-b-e-r-t H-i-l-k-e-m-a-n-n, and I proudly represent District 4 in the Nebraska Legislature. I am introducing, for your consideration, LB41, which would make the failure of the use of passenger restraint system for a minor a primary offense. The bill also increases the fine for failure to provide a child restraint system to \$50. Would you like me also to testify on LB42 or do you want to be stopped at LB41 at this point? They were put together at one point. [LB41 LB42]

SENATOR FRIESEN: Let's just do them both at one time. I think that would work really well. [LB41 LB42]

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

Transportation and Telecommunications Committee  
February 27, 2017

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SENATOR HILKEMANN: All right. I think so, as well. So also for your consideration today I bring LB42, which would enact the following changes: First, it would require use of a child passenger restraint system for children through the age of seven years when being transported in a motor vehicle. Currently the law requires this for children through age five. Second, children being transported and required to use a child passenger restraint system shall occupy a seat other than the front seat of the vehicle, if available. Third, children up to the age of two would be required to ride in a rear-facing child passenger restraint system. Fourth, it changes the age of requiring an occupant protection system from 6 to under 18 to 8 to under 18. This harmonizes the language with the earlier change I mentioned regarding child passenger restraint system use. Lastly, it makes a change to Section 71-1907, which deals with persons furnishing foster care subject to licensure. When transporting children for whom care is being furnished, the requirements are as prescribed in Section 60-6,267. Looking back at the progression of car seats and seat belt use, over the course of my lifetime, is rather amazing. In the days when I was taking my three kids on road trips, we just put them in the back of the van or the station wagon and let them just pretty much have their own. When I really realized how beneficial child safety belts are is when I was...about three years ago, I went to my brother's funeral and I had...was taking my grandchildren. They were all buckled up. That was the best trip we had to Chicago I can ever remember, because those kids were all buckled and well-behaved. And it certainly was different than the days when I just had them loaded back in the back of the seat belt. Family road trips and so forth, with my three kids, we probably, we did not transport them very safely. I am grateful that our state has prioritized the safety of children being transported in vehicles as crash data and technical improvements have evolved over the decades. I consider myself an avid supporter of public safety and an even more avid supporter of public safety when it comes to our children. My expertise certainly...certainly by...you don't want to go by my experience of what I did...but certainly does not lie in the technical aspects of why these recommended standards exist. But fortunately for you, there are people here who are going to testify behind me who are experts in this area. And they will be able to answer many of the technical questions that may come up on this. One note of consideration for the committee in the language on LB42 is on page 2, beginning on line 23. It says they shall "occupy the rear seat of the vehicle, if available." Now initially we drafted this bill to read, "occupy a seat other than the front seat, if available." So then we changed it and then, through some discussion, we've changed the language so that it is what it is on the green copy today. Legal counsel did point out to us that, as written, the language isn't clear as to whether this...is this in the...if you have a van that has three back seats in it, you have that middle seat plus the back row where the...what's the rear seat? So this is some grayness of this particular bill, but I would be happy to work with the...whatever language that we need to work this out, but whatever is best for the intentions of it. The intentions are is that we place them in the safest portion of the vehicle. With that, I thank you for your consideration on these two bills. [LB41 LB42]

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

Transportation and Telecommunications Committee  
February 27, 2017

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SENATOR FRIESEN: Thank you, Senator Hilkemann. Any questions from the committee?  
Senator Hilgers. [LB41 LB42]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator Hilkemann. I...well, we had a question on, some other questions for people behind you, but on that availability language, is it...can you just describe to me a little bit of what your intent is for...I am thinking of what availability means. So for instance, it may not be available because it doesn't exist. [LB41 LB42]

SENATOR HILKEMANN: Right. [LB41 LB42]

SENATOR HILGERS: Or it might not be available because I am moving some boxes to, you know, across town, and I've put a bunch of boxes in there, and I determine that that's not available. So what would be available, or not available, under this language? [LB41 LB42]

SENATOR HILKEMANN: You attorneys always like to mess with podiatrists like me (laughter). [LB41 LB42]

SENATOR HILGERS: Well, I got you (inaudible), so I want to make sure I am following you. [LB41 LB42]

SENATOR HILKEMANN: No, I would say to that, I would say that if you have a backseat, if you have a second row in your vehicle, and I would say that the priority should be given to the child over the boxes, if there's a second seat available. [LB41 LB42]

SENATOR HILGERS: No disagreement. I just wanted to make sure. So you know, people have to live under the statutes. I just want to make sure it's clear what that means; that's all. [LB41 LB42]

SENATOR HILKEMANN: Okay. [LB41 LB42]

SENATOR HILGERS: I hear you on children more important than boxes; I am with you there. [LB41 LB42]

SENATOR HILKEMANN: Okay. All right. [LB41 LB42]

SENATOR HILGERS: Okay; thanks. [LB41 LB42]

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

Transportation and Telecommunications Committee  
February 27, 2017

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SENATOR FRIESEN: Thank you, Senator Hilgers. Any other questions from the committee? Seeing none, you going to stick around for closing? [LB41 LB42]

SENATOR HILKEMANN: I'll be here. [LB41 LB42]

SENATOR FRIESEN: Okay. Those proponents who wish to testify in favor of LB41 or LB42 can come forward and, if you would specify if you're testifying for only one or both of the bills. Welcome. [LB41 LB42]

JENNIFER BROCK: (Exhibits 2 and 3) Hi. I am testifying on behalf of LB41 and LB42, although I didn't pair them together, so please... [LB41 LB42]

SENATOR FRIESEN: That's fine. [LB41 LB42]

JENNIFER BROCK: ...forgive my disfluency and such. [LB41 LB42]

SENATOR FRIESEN: We'll give you time. As you transition between the two, just let me know. [LB41 LB42]

JENNIFER BROCK: I have copies of my testimony for LB41 for everyone, in addition to that I have some photos that I think may be difficult for you to see from your standpoint and from my presentation. So I'd like you to be able to look at those; thank you. I've got my green sheets. Good afternoon. Thank you so much for allowing me to be here and give you this important testimony today. I really appreciate your time and energy. My name is Jennifer Brock, J-e-n-n-i-f-e-r Brock, B-r-o-c-k, and I am here as a concerned citizen, mother, and child safety advocate for the organization Aidan's Animals. I am here to testify in support of LB41 and LB42. First, I would like to speak about LB41. As you know, LB41 changes the current law for child passenger restraint violations from a secondary offense to a primary offense. This will allow law enforcement to immediately stop an offending vehicle, secure the safety of the child, and educate the person operating the vehicle. It also could increase the potential fine to \$50. While at first glance this may seem to be a minor change with questionable significance, we in fact know that this kind of legislation can have a huge impact on child passenger safety. According to a report in 2013 from the Insurance Institute for Highway Safety, having primary child passenger restraint laws in place, such as this one, increase the use of seat belts and child safety restraints. This finding is further bolstered by the Eastern Association for the Surgery of Trauma's "Child Passenger Safety" (sic: "Child Passenger Safety: An Evidence-Based Review") review. This looked at child passenger safety laws from 1980-2006. In this report that was published in 2010, they found that legislative action in other states that included language like the language in LB41

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

Transportation and Telecommunications Committee  
February 27, 2017

---

and LB42 has resulted in, quote, increased compliance with child restraint use. It also states that there were studies showing a range in, quote, the magnitude of death and injury ranging from 10 percent to 50 percent. A less complicated view of the impact of child safety restraint legislation can be seen by comparing mortality rates. In 1975, when child passenger safety legislation was in its infancy, there were 1,384 child fatalities. When we look at 2015, there were 663. These numbers are quite astonishing when one considers that it does not control for variables, such as increase in population or increase in traffic. And while 663 child fatalities is nowhere near an acceptable number, this broad overview illustrates that, even with minimal legislative intervention, huge progress can be made. LB41 and LB42 will build on the progress we have already seen and will help protect the future of all Nebraska children. I am going to save my statistics for LB42 for another presenter and finish up with my talk on LB41 because I believe it speaks to those bills. So in closing, I would like to offer a personal story and introduce a very precious face to the facts and statistics we will bombard you with today. This is a photo of my beautiful family on December 3, 2011. This is myself, my husband Jeff, my son Aiden, who was two, and my daughter Ansley, who was 17 months. This photo was taken several hours later. This shows our family car after an accident on I-80. This photo that I've just shown you shows the aftermath of a semitruck barreling down on our family vehicle at 69 miles per hour. While everyone in our vehicle was properly restrained, the sheer force of a semi crashing in and over the rear end of a vehicle was, and is, more than any safety restraint or two-year-old body can handle. Aiden was almost instantly killed. As parents we analyze and agonize over every decision and then go back over those decisions with self-doubt when the outcomes aren't consistent with our careful planning. This is especially true when outcomes are as devastating as the one my family experienced on December 3. I am plagued by self-doubt and this overanalysis of the events that transpired that day. Even though my overanalysis has yet to produce the answers I desperately seek or an outcome or scenario in which my son is not ultimately crushed by a semitruck, I have come to two conclusions that I would like to share with you today. The first is this, that there is not a car seat in the world that could have saved Aiden's life that day. He is statistically one of the unfortunate few who have and will die even when proper restraint is used. Second, and most important to you here today, is that, with 100 percent certainty, I can tell you that Ansley would not be alive today if it hadn't been for use and proper installation of her child safety restraint. This is a photo of Ansley right after the accident. As you can see, she was completely unharmed despite the photo before it that completely destroyed the back end of our vehicle. She was sitting right next to her brother when this accident occurred. And this is Ansley today. So I ask you, as you look at this photo of Ansley, what is her life worth to you? What's the life of any of Nebraska's children worth to you? Is it worth a little more work to educate the public and enforce these laws? Is it worth an extra \$25 fine a family may pay in order to learn how their choices could affect the outcome of their child's life? To me the answer is clear, and it is a resounding "yes." Ansley and all of Nebraska's children are worth this and so much more. Please give your support to LB41 and LB42 and increase child safety restraint use and proper use, while reducing child motor vehicle deaths because, after all, doesn't every child deserve a

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

Transportation and Telecommunications Committee  
February 27, 2017

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second chance at a long, happy, and healthy life, like our daughter Ansley? Thank you. I'll answer any questions, if there are any. [LB41 LB42]

SENATOR SMITH: Thank you, Ms. Brock, for your testimony today. And on behalf of the committee, I know this is a very difficult loss for your family, and we're sorry for that. And I think it's a story that should be told. And we appreciate your being here to share that with us. [LB41 LB42]

JENNIFER BROCK: Thank you. [LB41 LB42]

SENATOR SMITH: Senator Friesen had to step away, but let's see if we have questions from the committee. I see none. We do accept your testimony into the record for LB41 and LB42. Thank you. [LB41 LB42]

JENNIFER BROCK: Yes. Thank you, sir. [LB41 LB42]

SENATOR SMITH: Thank you very much. [LB41 LB42]

JENNIFER BROCK: Thank you. [LB41 LB42]

SENATOR SMITH: Next proponent of LB41 or LB42. Welcome. [LB41 LB42]

ROSE WHITE: (Exhibits 4-7) Thank you, Chairman Friesen and senators. My name is Rose White, R-o-s-e W-h-i-t-e. I am here today representing AAA and the Auto Club Group, and I, too, had prepared separate testimonies for both bills. I'd first like to address LB41. Basically our current passenger restraint laws for children requires children up to age six--age five and under, basically--must ride correctly secured in a federally-approved child safety seat or booster seat; and that is a primary law. In addition, children ages 6 up to age 18 must ride secured in a safety belt or child safety seat; it is secondary enforcement. And the fine for noncompliance is \$25 plus court costs and one point assessed against the operator's driving record. Now with the passage of LB41, simple changes would be made. Basically we'd still require children up to age six...they must ride securely in a federally-approved child safety seat or booster seat, primary law--no changes in that element. The element that would change would be children age six up to age 18 must ride secured in a safety belt or child safety seat, and this would be primary enforcement, not secondary. The other change that we are requesting is a fine for noncompliance would change to \$50 plus court costs and 1 point assessed, so basically an increase of \$25. Now the fine has not been increased since the law was first adopted in 1983 and, if you take inflation into consideration, it would basically be about \$63 right now. And if you look at the situation,

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

Transportation and Telecommunications Committee  
February 27, 2017

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basically the fine is much lower than what you would pay for a child safety seat. So there really is no incentive there. Right now the usage rate across Nebraska is 98.4 percent child safety seat usage rate. It's the highest on record. Even with that, though, there were 946 motorists who were cited with failure to use a child safety seat or booster seat last year. We realize that financial limitations should never be a factor in not having a child safety seat, as there are many programs across the state that provide free child safety seats or booster seats to low-income families. The programs are funded by agencies in the public and private sectors. As an example, the Nebraska Highway Safety indicated that they provide seats at no cost for qualified, low-income families for nearly a decade, and they have always been able to meet the needs of the child passenger safety organizations and events that they serve. Even AAA and the Cornhusker Motor Club Foundation...we have distributed more than \$250,000 to hospitals and organizations in Nebraska so that they may provide car seats for low-income families. Increasing the fine should not provide a hardship, but adds an incentive to obtain or purchase a car seat. And, in some cases, we do know that law enforcement, they basically waive the violations--or the judicial systems, I should say--if they provide proof that a car seat was purchased. And this is exactly what we want to do; we want to provide the incentive so that they use them properly. Nebraska's current primary enforcement law protects children up to age six. Increasing the age limit for a primary enforcement law to age 18 will help to ensure that all children are safely restrained. Seat belt usage by teen is the lowest of any segment of our society. And the other issue we're seeing with that is we're seeing an increase in the number of 14-year-olds that are obtaining school permits, because the laws have changed over the years. They've relaxed a bit, and so we actually had seen a big jump in the number of 14s obtaining permits now. But tragically, we see that age group consistently showing one of the lowest usage rates. But by making our child restraint law primary for this age group, we will help to protect novice drivers and teen passengers and help prevent the serious injuries and fatalities on our roadways that we so frequently hear about in the news. Many of them, of course, are ejections. Roadway crashes, injuries, and fatalities are on the rise. In 2015 our nation reported the largest percentage increase in highway deaths in nearly 50 years. And unfortunately, 2016 data was even worse with a steep increase in fatalities for nearly every crash category, including unbelted vehicle occupants and teen drivers. But by making all elements of our child passenger safety law primary enforcement, we hope to prevent these needless tragedies on Nebraska roadways. We urge you to please give LB41 your full support by advancing this measure forward. Are there any questions on LB41? [LB41 LB42]

SENATOR SMITH: Thank you, Ms. White, for your testimony. Do we have questions for Ms. White? I see none. Now is that only for LB41, or did you want to also submit it for LB42? [LB41 LB42]

ROSE WHITE: I would also like to speak on LB42, Senator, if that's all right. [LB41 LB42]

SENATOR SMITH: Oh, okay. Please go ahead. [LB41 LB42]



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

Transportation and Telecommunications Committee  
February 27, 2017

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ROSE WHITE: Thank you. As stated, we also fully support LB42. Now we do know that motor vehicle crashes remain a leading cause of accidental death for children age 5-14. An average of three children under age 14 are killed, and nearly 500 injured, every day in motor vehicle crashes in the U.S. And in 2015 it amounted to a total of 1,132 children who were killed and 178,000 that were injured. And, tragically, early projections for 2016 show an increase in fatalities of nearly 8 percent for all age groups. Now the best way to protect children from risks posed by deploying airbags is to place them in the back seat, restrained by a child safety seat, booster seat, or safety belt, as appropriate. And LB42 would require parents to do so. When children are properly restrained in a child safety seat, booster seat, or safety belt, as appropriate for their age and size, their chance of being killed or seriously injured in a car crash is greatly reduced. Studies have shown, by the NHTSA organization, when used properly, child safety seats reduce fatal injury by 71 percent for infants and 54 percent for toddlers in passenger cars. And across all age groups, injury risk is lowest--less than 2 percent--when children are placed in an age-appropriate restraint in the rear seat. This change, with LB42, would basically make our state law an optimal law, one that other states have adopted and one that certainly many more children would be able to live if we pass this and move it forward. It would basically require the rear-facing safety seat for infants and toddlers; they would remain rear-facing child restraint in the rear seat until age two. They could then advance to a forward-facing harness and tether seat after the child reaches a maximum weight and height limit for their rear-facing seat. And then they would advance to a booster seat. And so basically, we know that because of a child's size, because of their height, because of their weight, being in an adult safety restraint is not acceptable. It has to be a transitional process. And so this law basically would help to ensure that all children are going through the proper process to be safely restrained. And so, as we do with LB41, we ask for your consideration of LB42. And I'll be happy to answer any questions at this time. [LB41 LB42]

SENATOR SMITH: Thank you, Ms. White. You've heard the testimony on LB41 and LB42. Do we have questions from the committee? I see no questions; thank you. [LB41 LB42]

ROSE WHITE: Thank you; thank you very much. [LB41 LB42]

SENATOR SMITH: Next proponent of LB41 or LB42. Welcome. [LB41 LB42]

LAURIE KLOSTERBOER: (Exhibit 8) Thank you. And I'll be testifying on both in one testimony here, for LB41 and LB42. Senator Smith and members of the Transportation and Telecommunications Committee, my name is Laurie Klosterboer, L-a-u-r-i-e K-l-o-s-t-e-r-b-o-e-r, and I am the executive director of the Nebraska Safety Council. We are a nonprofit organization, and our mission is to educate Nebraskans on living a safe and healthy life. One of the core programs to serve our mission is providing traffic safety education. We are here today

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

Transportation and Telecommunications Committee  
February 27, 2017

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testifying in support of LB41 and LB42. These two bills will strengthen our current child passenger law and enhance the safety of our children. In my testimony, I have provided a study that was completed by the Insurance Institute of (sic: for) Highway Safety, on states that had expanded and enhanced their child restraint laws, covering children through age seven. And with that, they found a 5 percent reduction in the rate of children with injuries of any severity, a 17 percent reduction in the rate of children with fatal and incapacitating injuries. Children were being three times as likely to be in appropriate restraints, and a 6 percent increase in the number of booster seat-age children seated in the rear of the vehicle, where children are better protected. This is good legislation to protect our youngest citizens. We ask that you vote this out of committee and to the floor. Thank you, and I would entertain any questions you might have. [LB41 LB42]

SENATOR SMITH: Thank you, Ms. Klosterboer. Do we have questions from the committee? Senator Briese. [LB41 LB42]

SENATOR BRIESE: Thank you, Senator. And thank you for being here. The existing statute refers to a passenger restraint system of a type which meets the Federal Motor Vehicle (Safety) Standard Number 213. And do you know what that is, necessarily? That's just a child restraint seat that like my grandson rides in? [LB41 LB42]

LAURIE KLOSTERBOER: Specifically, I don't know. I know that there are certain regulations for the child restraint system, as far as if you have them in...there's an infant, there's a convertible, there's a booster. I would refer, probably, to...I know we have some certified technicians who are going to be testifying and will probably have more technical knowledge of that than I. [LB41 LB42]

SENATOR BRIESE: Okay; that will be great. Thank you. [LB41 LB42]

LAURIE KLOSTERBOER: Okay. [LB41 LB42]

SENATOR SMITH: Other questions from the committee? I see none. [LB41 LB42]

LAURIE KLOSTERBOER: All right; thank you. [LB41 LB42]

SENATOR SMITH: Thank you for your testimony. Next proponent. Welcome. [LB41 LB42]

LAURA OSBORNE: (Exhibits 9 and 10) Good afternoon. My name is Laura Osborne, L-a-u-r-a O-s-b-o-r-n-e, just like our former coach and athletic director. And yes, my dad's name is Tom,

but it's not that Tom (laughter). I am from Auburn, Nebraska, and I've been working in child passenger safety since 1999. And I currently hold the national certification of child passenger safety technician instructor through the National Highway Traffic Safety Administration or NHTSA for short. The aspect of proposed legislation that I want to address first is with LB41, and then I'd like to go ahead and address LB42, as well. First of all, with LB41, I wanted to address the issue of the fine. Currently our law provides for a \$25 fine, and that was per vehicle. So even if the vehicle is pulled over and it has three children in it who are unsecured, there's only one fine. It's my opinion that \$25 fine is too low. And it's my understanding that right now in Nebraska, the fine for throwing a cigarette out the window of a car is three times as much as the fine for failing to have your child buckled into a child safety seat. Raising the fine to \$50 per stop, not per child again but per stop, as it has been in the past, would still be less expensive than purchasing infant convertible or combination child safety seats. Across Nebraska, we have child passenger safety technicians who would be standing ready to assist parents and caregivers with the necessary education about keeping their kids secured correctly in the vehicle if the proposed changes to the law are made. Increasing the fine would create greater attention on the part of parents and caregivers to the need to seek out such education, which is provided at no charge. My colleagues here today will be addressing this further, including the availability of low-cost child safety seats through these educational venues. 40 states have a child restraint law with a higher age limit than Nebraska, and 36 of them have a fine of \$50 or more, including our neighbors Colorado and Kansas. Studies show that an increase in fines results in increased child safety seat usage and law compliance. A 2010 study showed that fines are not effective until they are set between \$50 and \$100. A fine of \$50 would not be an outrageous amount when compared with actually complying with the law, which would mean the purchase of appropriate child safety seats. As an example, if child seats were purchased at a Walmart store, the cost of seats needed for children from birth to age eight would range from \$90 to almost \$200, depending on what type and brand and style of seats that were chosen by the parent or caregiver, in comparison to a \$50 fine. I am expressing my support for LB41 today for all of these reasons, and so I hope it will be advanced out of committee. Is it okay if I go ahead with LB42? In 18 years of working with parents and caregivers of all socioeconomic levels, I can tell you that one of the questions that I've been asked most often is, what does the law require? I have to explain to them that our current law does not provide adequate minimum safety requirements for all children riding in motor vehicles. With our current law stopping at the sixth birthday of the child, it is leaving a great gap in safety coverage for children, age six and above, who do not yet physically fit properly into the seat belt system alone. Sadly there are times when a parent or caregiver would only follow the minimum law requirements rather than choosing the safest option for their child. Those were the hardest days for me, as a child passenger safety technician, knowing that a child too young to make such a decision for his or herself was not being kept as safe as they possibly could when riding in a motor vehicle. Child safety seats today are marvels of technology. Manufacturers have made great strides in developing seats to keep kids age, six and over, better protected in crashes just in these 18 years since I've been involved in this area of injury

prevention. I am amazed when I think about it, because back in 1999 most homes still had land line telephones, we were still rewinding videotapes that we had rented at Blockbuster, cell phones had these tiny little screens on them and they didn't have any Internet connection, we were saving computer files on floppy disks, we were waiting for dial-up to connect us to the Internet, we used printed directions or a map to help us navigate to new places, and people paid their bills either in person or via U.S. mail. Now all of those technologies have improved in that time, and people have no problem taking full advantage of them. And I believe we need to do the same thing when it comes to child passenger safety and take full advantage of the technology available to keep our youngest citizens as safe as possible when riding in motor vehicles in Nebraska. After the law was changed to its current requirements, which I testified for that as well, we saw a rise to 96 percent of children, up to the age of six, riding in car seats in Nebraska. To me, this demonstrates that families who need assistance are able to access it across the state in spite of any financial constraints they may have. The American Academy of Pediatrics and NHTSA have both recommended law upgrades in 2012, and we have not yet implemented them. The Insurance Institute for Highway Safety has rated Nebraska poorly for our child restraint law, categorizing us in the red/danger classification, due to the inadequacy of our current law, to protect children. It's my hope that this bill will be advanced from committee and that it will find strong support in the Unicameral. I strongly support it, both as a child passenger safety technician and as a parent. I thank you for your time and attention today, and I'd be happy to try to answer any questions that you may have. [LB41 LB42]

SENATOR SMITH: Thank you, Ms. Osborne, for your testimony on LB41 and LB42. Are there questions from the committee? Senator Bostelman, then Senator Briese. [LB41 LB42]

SENATOR BOSTELMAN: Thank you, Mr. Vice Chairman. Thank you for being here this afternoon, Ms. Osborne. Question. Can you just explain...this is for my clarification to understand...currently on two-year-olds and under, what's the requirement, and then this...what this change will be? [LB41 LB42]

LAURA OSBORNE: Currently the requirement does not have anything specifically addressing under age two. It simply says having a child up to their sixth birthday restrained in a child passenger safety restraint system correctly. And that child passenger restraint system, as Senator Briese referred earlier, it has to be approved by FMVSS 213, which is a federal standard for the construction and safety requirements of all child safety seats that are manufactured. They have to meet certain minimum safety standards when tested. So that's how you get that FMVSS 213 in there. But there's nothing about under age two, other than just being correctly installed. [LB41 LB42]

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Transcriber's Office

Transportation and Telecommunications Committee  
February 27, 2017

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SENATOR BOSTELMAN: Right. My curiosity is just because obviously infants are restrained... [LB41 LB42]

LAURA OSBORNE: Right. [LB41 LB42]

SENATOR BOSTELMAN: ...differently than once they get a little bit older. [LB41 LB42]

LAURA OSBORNE: Yes. [LB41 LB42]

SENATOR BOSTELMAN: And I don't remember. It's been... [LB41 LB42]

LAURA OSBORNE: Sure. [LB41 LB42]

SENATOR BOSTELMAN: ...a couple of years since...I don't remember what that... [LB41 LB42]

LAURA OSBORNE: Sure. [LB41 LB42]

SENATOR BOSTELMAN: ...where that change comes about, as far as when they're changed...you know, when you change from an infant or from that to more of a toddler and that age. [LB41 LB42]

LAURA OSBORNE: Right. And that actually is technology that has advanced in the last 18 years. They have discovered that, over time, that it's...the longer you can leave a child rear-facing, the safer they are. It's all about development of the spinal column that is protecting the spinal cord. When infants are newborns, or even up to age two, those bones in that neck are still very soft. They're still very malleable so they need to get strengthened through time. That's the only way to strengthen those bones in our babies so that, in a crash, if the child is in a forward-facing child safety seat, their head will move forward in a crash. So you want the spinal cord protected inside that spinal column, so that it does not stretch too far. It can actually be an internal decapitation if that head stretches too far and their bones are not strong and fully developed. And again, that's been something they've learned much more about over the last 18 years. So now we know we need to keep them rear-facing as long as we possibly can. [LB41 LB42]

SENATOR BOSTELMAN: Thank you. [LB41 LB42]

LAURA OSBORNE: Yeah. [LB41 LB42]

SENATOR SMITH: Senator Briese. [LB41 LB42]

SENATOR BRIESE: Thank you, Senator. And thank you for being here. And so I don't know if I am understanding this completely, but does Federal Safety Standard 213 allow for varying sizes of kids? Or what about the child that outgrows the child restraint seat, you know, the six-, seven-, or eight-year-old? What are we required to do then? Is is booster seat? Or... [LB41 LB42]

LAURA OSBORNE: Well, and that's where it, as the children age, it does get hard because children grow at different rates, right? So having a maximum age, where you can absolutely say this child absolutely, because they're this many years old, doesn't have to ride in anything but a seat belt now. That can be really hard to define, but FMVSS has safety standards that apply to all child safety seats. So if a manufacturer is producing a child safety seat that is rear-facing, then it has to meet certain safety requirements about...in safety testing, how far does that seat go forward in a crash? How far does it allow for head excursion in a crash? Does it protect and keep that child down in that seat so that the entire seat shell in an infant seat is providing protection to that head/neck/spinal cord? When they move to forward-facing, again, they're looking...is there head excursion? If so, how far forward does the head go in the crash? Is it keeping them in the seat properly? Are they being ejected out of it or partially ejected out of it? Because they're not supposed to be. So the safety standard is there saying that seat, and the harnesses in it, has to keep the child in that seat. When it moves on to booster seats, it's figuring out whether or not the seat belt system, when working with the booster seat, is resting on the child in the appropriate places. It needs to be on their hip bones, not up on their soft abdominal tissue, and across the shoulder, not up in the neck, to keep them adequately protected. [LB41 LB42]

SENATOR BRIESE: If I may follow up, a restraint seat has a size or weight limit to it, typically? So... [LB41 LB42]

LAURA OSBORNE: Right. They're required to have labeling that tells you what the height/weight limits are on them. [LB41 LB42]

SENATOR BRIESE: And an eight-year-old could oftentimes outgrow that, correct? [LB41 LB42]

LAURA OSBORNE: The booster seats we have today, they've done a lot better job of providing higher weight limits than they used to when they very first came out with booster seats. So you can actually do a pretty good job these days finding an appropriate child safety seat for every

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Transcriber's Office

Transportation and Telecommunications Committee  
February 27, 2017

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child, whether they're very small because maybe they were a preemie, to very big, to special needs. I just can't tell you how much the technology has changed in 18 years. It's been a wonderful thing to watch. [LB41 LB42]

SENATOR BRIESE: So a booster seat can meet the Safety Standard 213? [LB41 LB42]

LAURA OSBORNE: Right. [LB41 LB42]

SENATOR BRIESE: Okay, thank you. [LB41 LB42]

SENATOR SMITH: Senator Hilgers. [LB41 LB42]

SENATOR HILGERS: Thank you, Mr. Vice Chairman. Thank you for your testimony, Ms. Osborne. [LB41 LB42]

LAURA OSBORNE: Um-hum. [LB41 LB42]

SENATOR HILGERS: Following up on Senator Briese's comment, I have a five-month-old and so I am in the middle of this right now (laughter). [LB41 LB42]

LAURA OSBORNE: Yeah. [LB41 LB42]

SENATOR HILGERS: So I understand this. And I get...we've been kind of going by the year, you know...at one year we go rear-facing to forward-facing. At five years we'll go to the booster. So here it says at two years...you're rear-facing until two years unless--or it says, it doesn't say unless...it says until the child outgrows the child restraint system's...the manufacturer's height or weight requirements. So what I thought I heard you say was the manufacturers are required to put a limit on... [LB41 LB42]

LAURA OSBORNE: Correct. [LB41 LB42]

SENATOR HILGERS: ...label them for the height and weight for the use of those particular safety seats. Is that right? [LB41 LB42]

LAURA OSBORNE: Right. [LB41 LB42]

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

Transportation and Telecommunications Committee  
February 27, 2017

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SENATOR HILGERS: And are those called...what are those called? Are those called max, or is there a term of art that's used for those limits? Are they called limits? Are they called...are they called requirements? [LB41 LB42]

LAURA OSBORNE: We just... [LB41 LB42]

SENATOR HILGERS: I just want to make sure the language is clear for what's available to parents. [LB41 LB42]

LAURA OSBORNE: We have always referred to them as the height and weight limits of the child safety seat. And basically that all goes back to your physics. You know, if you put this seat in a vehicle, buckled in, and a child this weight, will that seat hold up in a crash? Because you're adding to the force, the crash forces being enacted upon that seat. So it all goes back to the physics, and that's why they have to put the weight limits on there, to make sure your child truly will be protected in a crash with that type of seat. [LB41 LB42]

SENATOR HILGERS: Thank you. [LB41 LB42]

LAURA OSBORNE: Um-hum. [LB41 LB42]

SENATOR SMITH: Senator Murante. [LB41 LB42]

LAURA OSBORNE: And don't turn your child forward-facing too soon. [LB41 LB42]

SENATOR HILGERS: Oh, for me (laughter). She'll be ten before she goes forward (laughter). [LB41 LB42]

LAURA OSBORNE: Plenty of folks in Lincoln who can help. Yeah, yeah. [LB41 LB42]

SENATOR SMITH: Senator Murante has a question for you. [LB41 LB42]

LAURA OSBORNE: Okay. [LB41 LB42]

SENATOR MURANTE: Thank you for your testimony. So as I understand the bill, we are now going to require, as Senator Hilgers was stating, that all children up to the age of two shall use rear-facing restraint systems until the child outgrows the manufacturer's weight requirements. So



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

Transportation and Telecommunications Committee  
February 27, 2017

---

if I am a police officer and I pull someone over and I see a kid, how am I supposed to know what the manufacturer's height or weight requirements are, in order to make a citation? [LB41 LB42]

LAURA OSBORNE: They are on labels on the side of the car seat, first of all. Also, I think I should mention, just as a point of clarity, there are two different types of child safety seats that can be used rear-facing. The infant seat, which a lot of people, you know, kind of think of it as a bucket with a handle, you know, that they can carry the baby around in. But then there's also the convertible child safety seat that can be used rear-facing and then, when the upper weight limits are reached, it's turned to forward-facing with a whole different set of upper weight limits. So there are two different types of seats to be used rear-facing. But I know that at the law enforcement academy, that they do have a section of training about child passenger safety, and so I know that that helps them be prepared to enforce whatever child passenger safety laws we have on the books. [LB41 LB42]

SENATOR MURANTE: Okay, I am interested in hearing a little bit more, maybe perhaps from Senator Hilkemann, as well, in his closing... [LB41 LB42]

LAURA OSBORNE: Sure. [LB41 LB42]

SENATOR MURANTE: ...of just how, in a practical process... [LB41 LB42]

LAURA OSBORNE: Sure. [LB41 LB42]

SENATOR MURANTE: ...a law enforcement officer is supposed to know: A) what the requirement of the system is and B) what the height and weight of the child is, because in order to issue a citation, that...the officer would have to know the answers to both questions. [LB41 LB42]

LAURA OSBORNE: Right, right. [LB41 LB42]

SENATOR MURANTE: So I am just kind of interested in knowing more about that. Thank you. [LB41 LB42]

LAURA OSBORNE: But the labels are actually required, by law, to be on the side of the child safety seat. [LB41 LB42]

SENATOR MURANTE: Thank you. [LB41 LB42]

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Transcriber's Office

Transportation and Telecommunications Committee  
February 27, 2017

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LAURA OSBORNE: Yeah. [LB41 LB42]

SENATOR SMITH: I see no further questions. Thank you, Ms. Osborne, for your testimony. [LB41 LB42]

LAURA OSBORNE: Thank you. [LB41 LB42]

SENATOR SMITH: Next proponent of LB41 or LB42. [LB41 LB42]

AMY BORG: (Exhibit 11) Hello, Senators. Thank you for this opportunity. My name is Amy Borg, A-m-y B-o-r-g, and I have also separated everything out. So LB41, again, changed child passenger restraint enforcement from secondary to primary. On behalf of CHI Health's employees and as a child passenger safety instructor and technician in Nebraska, I'd like to address ages...children ages 6 to 18, secured in a safety belt or child safety seat becoming a primary enforcement. You will hear us say, over and over again, that motor vehicle crashes are the number one killer of our children. In Nebraska, it is the leading cause of death of 5- to 35-year-olds. Maybe it is because I am a mother of four, I do not think there's anything worse for a parent to have to experience than the death of their child. Nebraska is 1 of only 15 states that enforces seat belt laws as secondary action. Motor vehicle crashes cost Nebraska over \$8 million in 2015. An unbelted, injured driver has an average medical cost of over \$17,000, compared to, roughly, \$6,000 medical charge for a belted driver. That is over a \$10,000 difference. In 2015, 74 percent of motor vehicle occupants that died were not wearing their seat belts in Nebraska. Already in 2017, eight motor vehicle crashes...excuse me. Eight motor vehicle crash fatalities have occurred so far. 100 percent of them were unrestrained, according to the Nebraska State Patrol. This is quite alarming. I personally know three families that have experienced their children seriously injured from motor vehicle crashes in the last six months. Two were 15 and one was a 16-year-old, all unrestrained passengers. They also had multiple broken bones, internal injuries, emergency surgeries for broken femurs, and one was put into a coma so his brain could heal. In two of these cases, the driver of the vehicle, who was buckled up, was injured because the passengers were unbuckled and thrown around inside the vehicle. I cannot begin to express the fear and anxiety of these parents' experience over the choices that their children made. They did not know if their child would live or die, if they would have permanent disabilities, mentally or physically. Each of these children are still in therapy today to try to regain abilities they had prior to their crashes. The emotional and financial burden they have experienced most likely could have been prevented. The frontal lobe, which is responsible for decision making, is not fully formed until around the age of 25, yet we are giving these children the option of not buckling up, essentially...excuse me...the option of not buckling up or not, essentially saving them from serious injury or even their life, or not. Because their decision-

making processes are not fully developed, it is up to our lawmakers to protect our children. It is a fact that seat belts save lives. Any questions regarding LB41? [LB41 LB42]

SENATOR SMITH: And we'll wait and let you go ahead and open on... [LB41 LB42]

AMY BORG: Okay. [LB41 LB42]

SENATOR SMITH: ...LB42 and then we'll take questions. [LB41 LB42]

AMY BORG: (Exhibit 12) Thank you, sir. So on LB42, again, I have been a child passenger safety technician in Nebraska for over 11 years. So I want to share with you the importance of keeping children rear-facing until the age of two, and a booster seat and in the rear seat of the vehicle until age eight. So first I want to address the importance of keeping kids rear-facing until the age of two. American Academy of Pediatrics, the National Highway Traffic Safety Administration, Centers for Disease Control and Prevention, National Safety Council, and Safe Kids Worldwide, the nation's leaders on safety, all agree that children are safer rear-facing until a minimum of two years of age or until they meet the higher weight and height requirements of a car seat. The goal of rear-facing is to protect children's head, neck, and spinal cord, as Laura mentioned. The neck is able to bend far more than the spinal cord, so 44 percent of spinal cord injuries are caused by motor vehicle crashes. When a child is rear-facing in a crash, the crash forces are spread across the entire backside of that child's body. No one part of a fragile infant or toddler takes on the full amount of that impact. When a seat is rear-facing, most of the crash forces are absorbed by the car seat itself. There is more surface area when they are rear-facing, increasing a child's protection. Children under the age of two are 75 percent less likely to be injured or killed if they are rear-facing. In 2015, 49 children died nationally in motor vehicle crashes, under the age of one. That number jumps to 171 for age group of one to three, when children can be turned around forward-facing. I know many of our fellow Nebraskans drive pickup trucks. This law would not negatively affect them. Currently any pickup truck, which does not have a backseat or is able to safely fit a rear-facing only seat for infants, can put that child seat in the front seat. There are many shapes and sizes for car seats, so it would be no problem for pickup truck drivers to be able to accommodate to LB42 requirements. And just from experience at our monthly car seat events around Omaha, many parents do keep their children rear-facing until two years of age. If they do come in forward-facing, after being educated most of them do choose to turn the child around rear-facing. I'd also like to address keeping kids in booster seats until a minimum of eight years of age. It is a fact that car seats and booster seats save lives. For five- to nine-year-olds, motor vehicle crashes are the number one cause of unintentional deaths in 2014. The same safety organizations I listed previously also agree that children should remain in a booster seat until they are between the ages of 8 and 12 years old. According to the Nebraska Department of Health and Human Services in Nebraska,

the risk of motor vehicle crash injury increases as children get older. The evidence of this is by a study done in Nebraska between 2004 and 2013. The age group of four- to eight-year-olds almost doubles in injuries when compared to the zero- to three-year-old category. Our law does not completely protect this age group because we only address children through age five, and many parents think booster seats are unnecessary because our law does not require it. Booster seats have been shown to reduce risk of serious injury by 45 percent for children four to eight years old when compared to booster--or seat belts, excuse me--alone. Booster seat-aged children wearing a safety belt alone, with no booster seat, suffer the most serious injuries to their head by 44 percent, followed by lower extremities, thorax, and pelvis, and abdomen, according to the CDC. Booster seats are inexpensive and come in many shapes, sizes, and colors. Manufacturers have come up with very creative designs that are easy to transport in a backpack or to store in a vehicle to help with carpools. From my personal experience, these children that come in from the four- to eight-year-old age range, their parents aren't coming for them; they're coming for their younger sibling. So I always address that child. How do you buckle up? And when they show me they're tucking that shoulder belt under their arm or they're wrapping it behind their back, which significantly increases their chances of injury in a crash. So the majority of the time we are giving them a booster seat to leave with. So parents and caregivers, they want to protect their children; they're just uninformed. But we can educate them by updating our law. So lastly, I'd like to address children being required to be in the rear-seating position. It is the safest place to be. Restraining children in rear seats, instead of front seats, reduce fatal injury risk by three quarters for children up to age three and almost half for children ages four to eight. Vehicle manufacturers also know this so they do post warnings in the vehicle. Children have been injured and killed in Nebraska from being in the front seat when they would have been protected from being in the back seat. So I thank you, committee members, for your time and consideration. And we hope that you will pass LB41 and LB42 to General File. [LB41 LB42]

SENATOR SMITH: Thank you, Ms. Borg, for your testimony. Do we have questions for Ms. Borg? I see none. Thank you. Next proponent of LB41 and LB42. Welcome. [LB41 LB42]

AMANDA ABLOTT: (Exhibits 13-15) My name is Amanda Ablott: Amanda, A-m-a-n-d-a; Ablott, A-b-l-o-t-t. I am a pediatric nurse, and I am also the Safe Kids-South Central coordinator out of Mary Lanning Healthcare in Hastings, Nebraska. Our Safe Kids Coalition is a nonprofit childhood injury prevention group, so our goal is to prevent childhood injury. And because of motor vehicle crashes being the number one killer and number one injury cause for our children, that is a big focus of what we do. We work primarily out of Adams, Clay, Nuckolls and Webster County, but we will assist anyone that comes to see us, regardless of their address. My voice in support of LB42 is to explain that our state of Nebraska has a vast set--excuse me--set of resources already in place to assist these families. Our state has 21 child passenger safety inspection stations that give information on how to select and properly install your child safety seat. They also help teach the parents how to put their child into the seat properly. So both sides

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Transportation and Telecommunications Committee  
February 27, 2017

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are covered there. Inspection stations were established, using federal funds, to assist low-income families. So a lot of times there is some money there to allow families with...that need the financial assistance to get a free or reduced seat to help their family if they are in need. We do teach everyone how to use the seat for free, so the information is there, regardless, to anyone and everyone that wants to see it. We...those inspection stations are distributed throughout Nebraska. There's a map included. They're at hospitals, fire departments, health departments, those sort of things, so there is equitable distribution throughout our entire state. Last year we checked 1,940 seats and distributed 968 seats, just at the inspection stations. And approximately 50 percent of the seats checked, those families received a new seat. Sometimes they're inappropriate, sometimes the child has outgrown them or they have expired. There are also car seat events that aren't even included in that number. They are held across the state, where multiple child passenger safety techs are available to help families that arrive, to educate and aid them in installing their child restraints. Just like the fitting station, if a child arrives without a car seat or a car seat that's inappropriate, one is provided at a reduced rate or no cost. These car seat events allow us to broaden our coverage area and allow different times for families to come see us at their convenience. Nebraska already has over 400 trained child passenger safety technicians that run these inspection stations and help host these events throughout the year. We try to make sure that we reach our rural areas, as well as our city areas, as well. We train approximately 60-80 new child passenger safety technicians each year in Nebraska, and every year we have a free annual update so that people maintain their certification. Our Safe Kids-South Central coalition...we have the longest standing inspection station in Nebraska, and we check about 400 seats a year in Hastings. Families have become familiar with our services and routinely return for education and services. Our coalition believes in serving all the counties in our region, including our rural areas. So we also have a check in Superior, Nebraska, that checks about 50 seats a year. Nebraska technicians and instructors provide trainings to day cares that help transport the children. This has become a requirement for day cares, and so over 4,000 employees have come through our training in the last several years. This education has increased their knowledge and helped to transport our children with a higher level of safety. At that training we stress about the importance of having children rear-facing until at least two and, also, proper use of car seats and booster seats much until that...past the age of six. As mentioned, all families have opportunities to receive education and seats at a free or reduced price. The benefit of these inspection stations is focused on child passenger safety, and it far outweighs the potential cost of hospitalization. The National Center for Injury Prevention reports, in 2010, that the average cost of a child between zero and eight, who was hospitalized from a motor vehicle crash, was \$66,000. And this dollar amount does not even include the stress and emotional hardships that these families endure. Child safety seats have advanced in safety and economics. There are types of seats that allow longer use and make it so that every child would only require two seats from birth to age eight. The average total cost a family would pay for both these seats at a local retail store is around \$150. These car seats are good for six years or more, so the cost would really be less than \$20 a year for the life of the car seat. If the family chose to purchase the lowest seats at the same

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Transcriber's Office

Transportation and Telecommunications Committee  
February 27, 2017

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retail store, their total cost would only be \$55. Families are also able to utilize our inspection stations and events, too, if there is any financial burden. Safe Kids Nebraska has a Web site where there's a wealth of information for families. There's a calendar of events so that they can...families can find out where they can come to have their car seat checked. It lists all the inspection stations and events that cross the span of our state. In this world of technology, a lot of families do utilize that, and that is how they come in connection with us. The state of Nebraska has the resources already set in place to aid our families, should this bill progress. By passing this bill, it would make our state's children safer, and no family would be unable to provide what is needed for their child to ride safer and follow these guidelines. I thank you for your time and request that you advance LB42. [LB41 LB42]

SENATOR SMITH: Thank you, Ms. Ablott, for your testimony. Do we have questions from the committee? I see none. [LB41 LB42]

AMANDA ABLOTT: Thank you. [LB41 LB42]

SENATOR SMITH: Thank you. Next proponent of LB41 or LB42. Welcome. [LB41 LB42]

CHRISTA THELEN: (Exhibits 16 and 17) Thank you. Good afternoon. My name is Christa Thelen, C-h-r-i-s-t-a T-h-e-l-e-n. On behalf of Children's Hospital and Medical Center, I would like to offer my support of LB41 and LB42, and I'll be doing that combined. Thank you, Senator Hilkemann, for introducing these important proposals. I am the child passenger safety specialist at Children's Hospital and Medical Center in Omaha, Nebraska. Over the last two and a half years, my work has been to educate and assist families at our hospital and within the Omaha community to ensure that their children are riding safely in car seats while traveling in motor vehicles. I have been a certified child passenger safety technician for 18 years and an instructor for 2. I'd like to explain a little bit more about our car seat program. At Children's we have a fitting station on site, where we are able to assist families with car seat installations between 8 and 12 hours per week. This is a free service to check car seats and also provide families who may need assistance and aren't able to obtain a car seat through other means. They can come to us and, for a reduced cost, receive a car seat so that their children are riding safely. Over the past few years we have seen our numbers increase. Parents seek out our service to gain assistance in properly harnessing their children and installing their seats correctly. This is not something that we're marketing, but that we're being sought out. We also partner with CHI Health, Boys Town National Research Hospital, OneWorld Community Health Centers, and Methodist Women's Hospital to offer free community events to assist families and, again, provide car seats if needed. There are also over 100 child passenger safety technicians in the Omaha community who volunteer to assist at these events. Safe Kids Worldwide provides resources available on-line that we utilize in educating parents and caregivers. And also, each car seat manufacturer has

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Transcriber's Office

Transportation and Telecommunications Committee  
February 27, 2017

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information that they provide, hard copy or through their Web site, to assist us in educating. I have included some statistics from our car seat fitting station over the past few years, along with data from our community events, to show the numbers of families that we serve and car seats that we check. In supporting LB41, I feel increasing the fine of \$50 allows the consequences of not abiding by the law to be taken more seriously. Currently, 41 of the 50 states and territories in the U.S. have higher fines than Nebraska. I am also in support of LB42, in having children rear-facing until age two, in their car seats, as well as extending the age for booster seats to age eight. Kids who should be rear-facing until two, since it has been proven to be a safer way to ride and reduces the risk of injuries, as was stated earlier. Since 2011 the American Academy of Pediatrics' policy statement, which I have included in your packet, "Child Passenger Safety," (sic: "Policy Statement--Child Passenger Safety") has stated that the best practice is for children to remain rear-facing until at least age two, provided they fit the size limits of the child restraint. The AAP based this policy on a thorough review of laboratory and real-life data collected over several prior years. Kids should be in a booster seat until age eight because this is also a safer way to ride. A booster seat allows for a seat belt to fit the child properly across their shoulder and hips, the strongest parts of their bodies. When children are moved into a seat belt before it fits properly, the lap belt can ride up over their abdomen and, during a crash, the soft tissue can sustain significant injury. Also, injuries to the spinal cord and neck, as were mentioned earlier, can be sustained. According to Children's Hospital of Philadelphia, among children four to eight years of age, those who were in a seat belt at the time of a crash were more than three times likely to sustain an abdominal injury, compared with those in a belt-positioning booster. In researching this topic further, I found it interesting that in July/August of 2016 in the Safe Ride News publication, they ran an article where a jury found a car seat manufacturer, Dorel Juvenile, contributed to child...to a child's injuries by failing to warn against the forward-face use before age two. In May 2013 a 20-month-old from east Texas was riding forward-facing, in the back seat in a Safety 1st Summit Deluxe car seat, when the vehicle was frontally impacted by another vehicle. Reports from the trial proceedings say that the child suffered brain and spinal cord injuries leading to partial, lifelong paralysis, including the inability to walk. The jury determined that Dorel Juvenile, the parent company of Safety 1st, was 80 percent responsible for the boy's injuries and was guilty of gross negligence because it failed to provide adequate warning in instructions--children under two should not ride forward-facing. At Children's Hospital and Medical Center, we have had patients who have been in motor vehicle crashes, who have sustained minor to major injuries in those crashes. Most of the children had been in a car seat, some harnessed correctly and some not. Although the car seat was not always installed in the vehicle properly...also, the car seat was not always installed in the vehicle properly. And adding best practices, which is what we are proposing to our law, we will be helping parents to know the better choices of properly restraining their children and having them rear-face until two and using booster seats until age eight. I appreciate Senator Hilkemann's work on LB41 and LB42 and hope your committee will decide to pass them through into law. Thank you. [LB41 LB42]

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

Transportation and Telecommunications Committee  
February 27, 2017

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SENATOR SMITH: Thank you, Ms. Thelen, for your testimony. Questions from the committee? I see none. Thank you. [LB41 LB42]

CHRISTA THELEN: Okay; thank you. [LB41 LB42]

SENATOR SMITH: (Exhibits 18-38) Others wishing to testify in support, as proponents to LB41 or LB42. Seeing none, we do have letters for the record, in support of LB41 and LB42. It's lengthy, so please bear with me. We have: Diane Jackson, chair, Nebraska State Board of Health; Debbie Von Seggern, president, Nebraska Emergency Medical Services Association; Elizabeth Kelsey, Omaha; Rosie Terrell, Angora; Seth Eveland from Lincoln (sic: Ogallala); Dr. Michael Cohen of Omaha; Dr. John Vann of Omaha; Amy Borg of Omaha; Carrie Maryott of West Point; Renee Pettis of Omaha; Nikki Dean of Omaha; Amanda Ablott, Hastings, coordinator of Safe Kids-South Central Coalition; Deborah Hammon, Humboldt; Amanda Jeffres, Burwell; Kristin Luethke; Lisa Schawang, Salem; Jami Brester, West Point; and Tera Boyd, McCook. Those were all letters sent in support of LB41. For LB42 we have Jacqueline Gillan, president, Advocates for Highway Safety (sic: Advocates for Highway and Auto Safety); Debbie Von Seggern, president, Nebraska Emergency Medical Services Association; Katie Foote of Omaha; Brooke Van Arsdale; Elizabeth Kelsey, Omaha; Rosie Terrell, Angora; Dr. Michael Cohen, Omaha; Dr. John Vann, Omaha; Amy Borg, Omaha; Carrie Maryott of West Point; Renee Pettis of Omaha; Nikki Dean of Omaha; Amanda Ablott, Hastings; Deborah Hammon, Humboldt; Amanda Jeffres, Burwell; Kristin Luethke; Lisa Schawang, Salem; Jami Brester, West Point; and Tera Boyd, McCook. Those were sent in support of LB42. And those letters are for the record. We now move to opposition to LB41 or LB42, those wishing to testify in opposition to LB41 or LB42. Seeing none, we move to neutral testimony on LB41 or LB42. We do have letters in a neutral capacity on both LB41 and LB42, the same person, Nathan Leach, Lincoln, Nebraska. We now invite Senator Hilkemann back to close on LB41 and LB42. [LB41 LB42]

SENATOR HILKEMANN: Thank you, Senator Smith, and the committee. When I hear stories of Jennifer Brock, I once again realize how fortunate I was in raising our own children. I'd like to stress the importance of continuing to reevaluate the safety standards we put into place. Hearing these bills and weighing the merits of them are an awesome responsibility, and I applaud your commitment to the issues that come before your committee. As systems become more sophisticated, we are able to identify ways to make improvements that can reduce the incidences of traffic fatalities and serious injuries, and keep people safer overall. Thank you to all of the testifiers who took time to appear here today. I personally went out to one of their Saturday afternoon--or Saturday--events that they had where they install and instruct these people in the proper use of safety seats. And these child passenger safety technicians are absolutely wonderful. It was an eye opener. And I actually learned how to put one of those in, and that was a benefit to me, as well. So I look forward to working with the committee and respectfully ask for your



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

Transportation and Telecommunications Committee  
February 27, 2017

---

consideration in advancing LB41 and LB42 to General File. And that ought to do it. [LB41 LB42]

SENATOR SMITH: Thank you, Senator. Thank you, Senator Hilkemann, for your closing. We do have some questions. Senator Murante. [LB41 LB42]

SENATOR MURANTE: Senator Hilkemann, thank you. Thank you for the bill. Okay, I have a question, especially as it relates to LB41. This is a section of statute, and I've tried looking it up on my phone to try and get a grasp of what this section of statute does. And it appears that the overwhelming bulk of this section deals with the regulation of passengers, and that there's a separate statute that's three statutes down, 6,270, that deals with drivers. So my question for you is, is it your intent to make a primary offense, up to the age of 18, using seat belts for passengers? Or is it your intent to apply that law to drivers, as well? [LB41 LB42]

SENATOR HILKEMANN: For children up to the age... [LB41 LB42]

SENATOR MURANTE: Because, because when right now, right now...I am sorry; go ahead. [LB41 LB42]

SENATOR HILKEMANN: Yeah, it's for the drivers. [LB41 LB42]

SENATOR MURANTE: It's for the drivers, as well. [LB41 LB42]

SENATOR HILKEMANN: Yes. [LB41 LB42]

SENATOR MURANTE: So we would be changing...it's your intent to change the law to say that drivers have to be belted...have to wear their seat belt, as a primary offense, between the ages of 16 and 18. Is that correct? Is that your intent? [LB41 LB42]

SENATOR HILKEMANN: That's correct. [LB41 LB42]

SENATOR MURANTE: So why are we making it a primary offense to wear a seat belt for an 18-year-old driver, but it's a secondary offense for a 19-year-old driver or someone older than that? [LB41 LB42]

SENATOR HILKEMANN: Well, we're dealing with child safety here, at this point. We'll...that's a conversation for another day, for over 18. [LB41 LB42]

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

Transportation and Telecommunications Committee  
February 27, 2017

---

SENATOR MURANTE: Well, it's not, if that's the... [LB41 LB42]

SENATOR HILKEMANN: Over 18, it's... [LB41 LB42]

SENATOR MURANTE: ...if that's what your bill does. [LB41 LB42]

SENATOR HILKEMANN: Pardon? [LB41 LB42]

SENATOR MURANTE: But that's what you... [LB41 LB42]

SENATOR HILKEMANN: For over 18 is a...is a, for adult drivers, that's a conversation for another bill, to making it a primary offense. Unless if I...maybe I am not understanding your question. [LB41 LB42]

SENATOR MURANTE: My question is if your intent is to apply it to drivers, then I am going to use a word--I don't mean it as a pejorative--but we're discriminating between two different segments of the population,... [LB41 LB42]

SENATOR HILKEMANN: Okay. [LB41 LB42]

SENATOR MURANTE: ...16- to 18-year-old drivers and drivers that are over the age of 18. I am asking why are we discriminating against them? If we want to make it a primary offense, why don't we just do that? [LB41 LB42]

SENATOR HILKEMANN: Again, I think that that...that we're starting to get into the adult, after the...after the 19. I would be happy to have conversation with this, and we can work that out...I, you know, so that we can...my intent is, is that if you're driving a car and you've got kids in the car, you have to have them buckled up. That's your responsibility. [LB41 LB42]

SENATOR MURANTE: And that's what I thought the intent of the bill was... [LB41 LB42]

SENATOR HILKEMANN: Yeah. [LB41 LB42]

SENATOR MURANTE: ...was relative to the passengers. And almost everything in this...the way that the statute is laid out is it basically deals with kids under the--as it exists now--under the age of six. It's clearly intended to... [LB41 LB42]

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

Transportation and Telecommunications Committee  
February 27, 2017

---

SENATOR HILKEMANN: Right. [LB41 LB42]

SENATOR MURANTE: ...regulate parents, making sure that their kids are buckled up. [LB41 LB42]

SENATOR HILKEMANN: Right. [LB41 LB42]

SENATOR MURANTE: But when you increase that age from 6 to 18, now we're dealing with people who potentially have the capacity to--or not potentially--they can legally drive themselves. So if we're treating people in different ways, I think we need a public policy rationale for that. [LB41 LB42]

SENATOR HILKEMANN: Okay. I would be able to...I would work with you on that language to make it more acceptable. [LB41 LB42]

SENATOR MURANTE: Okay; thank you. [LB41 LB42]

SENATOR SMITH: Further questions for Senator Hilkemann. I see none. Thank you for your closing on LB41 and LB42. [LB41 LB42]

SENATOR HILKEMANN: Okay. [LB41 LB42]

SENATOR SMITH: It sounds like we'll have further discussion. [LB41 LB42]

SENATOR HILKEMANN: All right. [LB41 LB42]

SENATOR SMITH: Thank you. [LB41 LB42]

SENATOR HILKEMANN: You bet. [LB41 LB42]

SENATOR SMITH: So now we will invite you, Senator Hilkemann, to open on LB279, which requires lap-shoulder belts on school buses as prescribed. [LB279]

SENATOR HILKEMANN: Okay. Thank you, Senator Smith and members of this committee. I am still Robert Hilkemann, R-o-b-e-r-t H-i-l-k-e-m-a-n-n, and I represent District 4. I am introducing, for your consideration, LB279, which would require the use of lap-shoulder seat

belts on public schools, purchased after January 1, 2018. In 2015 I introduced a bill almost identical to LB279. In short, the only change is the effective date. It is a simple, but significant, piece of legislation: simple because it requires newly-purchased school buses to be equipped with lap-shoulder belts; significant because it will save lives. At the end of 2015 a major change occurred within the National Highway Transportation Safety Administration, or NHTSA. The NHTSA is the national agency which is comprised of experts whose purpose is to determine the policies that need to be enacted relative to school buses, to ensure that they are as safe as possible. On November 8, 2015, Dr. Mark Rosekind, the administrator of this agency at the time, gave a groundbreaking speech which signaled a changing position in regard to the use of seat belts in school buses. Dr. Rosekind said, and I begin quotation: There is one issue that carries elevated significance in the minds of the media, policymakers, and the families we all serve. And that is the issue of seat belts on school buses. It is not new. The data and the arguments have not changed, but my message to you today is that we don't really need to change the data and the arguments. What we have to change is all of us. The NHTSA administrator, as NHTSA administrator, my primary role, as the leader of our agency. NHTSA has not always spoken with a clear voice on the issue of seat belts on school buses. So let me be clear up any ambiguity now. The position of the National Highway Traffic Safety Administration is that seat belts save lives. That is true whether in a passenger car or in a big yellow school bus. And saving lives is what we are about. So NHTSA's policy is that every child on every school bus should have a three-point seat belt, end of the quotation. Throughout his speech, Dr. Rosekind mentioned that seat belts are icons of safety and that every child on a bus seat, without a seat belt, means more risk of serious injury to precious cargo. He stressed, and I quote again, "Everyone--NHTSA, state policy makers, local school districts, manufacturers--everyone with a stake in this needs to step up," end of the quote. As you may know, Dr. Rosekind left his post, as administrator of NHTSA, last month. As we prepare for a new era in regulation under President Trump, I acknowledge that there are unknowns at this point. However, I still feel strongly that the debate from this day forward no longer should be whether or not, but how. The why is crystal clear--saving lives. The why is what has brought me before you today. There are Nebraska children who have missed birthdays and milestones because they died in a school bus crash. You've heard their stories before, before this committee. Their parents have come before this committee and have shared the tragic details of losing their children. No parent should ever have to endure that, and my heart is with all those who have experienced it. It isn't a matter of if there will be another fatal school bus crash in Nebraska, but when. I am bringing this bill because I don't want to read about another school bus tragedy without being able to say I did all I could. Colleagues, it's time for us to make a plan to make kids on school buses safer. I am looking forward to hearing the testimony of all those who are here today, because I believe that, together, we can craft a Nebraska policy that could become a standard bearer across the country. We don't need to wait for the federal government. We will do this the Nebraska way. And as Nebraskans, we put the lives of even our youngest citizens at the top of our priority list. Please join me in committing to consider this crucial safety standard. Dr. Rosekind posed two very important questions in his remarks on that

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

Transportation and Telecommunications Committee  
February 27, 2017

---

November date. How can we not want every child who rides a school bus to have the protection of a three-point belt system? And how can we not work to remove every barrier to that basic safety protection? Thank you for your time and consideration on LB279. [LB279]

SENATOR SMITH: Thank you, Senator Hilkemann, for your opening on LB279. Do we have questions from the committee? This bill is pretty much the same as the previous year's? Or what... [LB279]

SENATOR HILKEMANN: Only thing different is we (inaudible). We started in 2018. That's the only difference from what I brought before. [LB279]

SENATOR SMITH: Okay. So this is...is this only for school buses purchased by entities in Nebraska? What about those that are leased to entities in Nebraska that are leased for the purposes of use by a school district or under contract to a school district, they're not owned by the school district? [LB279]

SENATOR HILKEMANN: But if they're...if they're operating in Nebraska, basically it would apply to them. [LB279]

SENATOR SMITH: Okay. [LB279]

SENATOR HILKEMANN: That would be my intent. [LB279]

SENATOR SMITH: All right. And the cost is in that neighborhood of \$8,000 to \$15,000 per bus, but no retrofitting of existing buses. [LB279]

SENATOR HILKEMANN: No retrofitting. That's correct, Senator Smith. My understanding is that the cost to these is about \$8,000 to \$12,000 per bus, yes. [LB279]

SENATOR SMITH: Okay, all right. Senator Geist has a question. [LB279]

SENATOR GEIST: Yes, Senator Hilkemann. Thank you for testifying. And I have a question just that came to my mind after listening to our previous testimony. Because the children on the bus are such a variety of sizes and weights, how do you accommodate for those who might need a booster seat or where the seat belt doesn't fit properly? How is that situation accommodated? [LB279]

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

Transportation and Telecommunications Committee  
February 27, 2017

---

SENATOR HILKEMANN: You know, Senator Geist, the new seat belts that are being made for the...that are adapted for the school... [LB279]

SENATOR GEIST: Um-hum. [LB279]

SENATOR HILKEMANN: ...are made such that they will accommodate children up to about five years of age or taller. [LB279]

SENATOR GEIST: Oh, okay. [LB279]

SENATOR HILKEMANN: And when I brought this bill two years ago, we actually had one of the seat belts that one of the school bus seats, how it was adapted... [LB279]

SENATOR GEIST: Um-hum. [LB279]

SENATOR HILKEMANN: ...and you could see how it would easily accommodate. You could put three little children across there and each one be accommodated. And as they would grow up, the same seat belt can be used for older children. [LB279]

SENATOR GEIST: Very good; thank you. [LB279]

SENATOR HILKEMANN: You bet. [LB279]

SENATOR SMITH: Senator. I am sorry. [LB279]

SENATOR BOSTELMAN: (Inaudible). [LB279]

SENATOR SMITH: Is there another question over here? Senator Hilkemann, I do have another. Going back to what I said, I did look at the language, and it does say "and purchased." So for those school buses that are under contract or leased to an education entity in the state, I don't think it would be covered under this language. So I think this is something we need to go back and take a look at. [LB279]

SENATOR HILKEMANN: I would be happy to work with you on that, yes. [LB279]

SENATOR SMITH: All right. Senator Briese. [LB279]

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

Transportation and Telecommunications Committee  
February 27, 2017

---

SENATOR BRIESE: Thank you, Senator; thank you for being here. But just to follow up on Senator Smith's question there. Section 1 refers to a bus purchased by someone other than by a school board or board of education. That would include those buses that are leased and purchased by other entities, wouldn't it? [LB279]

SENATOR HILKEMANN: Right. Okay, thank you. That's my intent, yes. [LB279]

SENATOR BRIESE: Okay, thank you. [LB279]

SENATOR SMITH: Senator Bostelman. [LB279]

SENATOR BOSTELMAN: Thank you, Vice Chairman. Senator Hilkemann, a question, I guess, to kind of follow up with what Senator Geist was talking about. If there's requirement in LB42 that says a five-year-old needs to be restrained according, or a six-year-old needs to be restrained in a booster seat or some other type of seat, how is it, then, that...what's your intent, as far as the buses or language we need to put in, that would need to be put into the bill that would kind of draw the difference between the two? See where I am going...if I am in my car... [LB279]

SENATOR HILKEMANN: Um-hum. [LB279]

SENATOR BOSTELMAN: ...and I've got a six-year-old or a five-year-old, and they have to be in a booster seat, they have to be in a certain type of a car seat, how is it that now, on our buses, that we're going to have that different? And I am just kind of thinking of language-wise, as...if that's addressed in here. [LB279]

SENATOR HILKEMANN: Yeah. Senator, there are the seat belts, and I will...I don't have that available hereto, but I will show you videos where these seats can...and actually they do have some modifications that they actually use for the real small children. It's a good conversation. [LB279]

SENATOR BOSTELMAN: So my understanding of what we're saying here is that you feel that, in LB279, we can address that, that school buses would be--I don't know if you would say exempt from LB42--but would have another application for those restraints, because if LB42 requires us, in all vehicles, which it says... [LB279]

SENATOR HILKEMANN: Yeah. [LB279]

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

Transportation and Telecommunications Committee  
February 27, 2017

---

SENATOR BOSTELMAN: ...and in all vehicles, and now we're in a school bus, and in a school bus we're not going to use those same restraints we use in any and all vehicles here, I am just...here again, I am just...it's a language thing, you know, terms in here, how we separate that out. [LB279]

SENATOR HILKEMANN: Yeah. [LB279]

SENATOR BOSTELMAN: And we can talk about that later, but that's something that I...that comes to my mind. [LB279]

SENATOR HILKEMANN: I appreciate that, and I can... [LB279]

SENATOR BOSTELMAN: That's like I can (inaudible) that. [LB279]

SENATOR HILKEMANN: I can appreciate your question, and we can...I would certainly be willing to work with that on that. [LB279]

SENATOR BOSTELMAN: Sure; thank you. [LB279]

SENATOR SMITH: I see no further questions. [LB279]

SENATOR HILKEMANN: Okay, thank you. [LB279]

SENATOR SMITH: We now move to proponents of LB279, those wishing to testify in support of LB279. I...welcome. [LB279]

JENNIFER BROCK: (Exhibit 1) Hello. Good afternoon. As you may recall, my name is Jennifer Brock, J-e-n-n-i-f-e-r B-r-o-c-k, and I am still a proud Nebraskan mother and child safety advocate for Aidan's Animals. Today I would like to offer my support, as well as Aidan's Animals' support, to LB279, that would require new school buses purchased to have three-point restraint systems, and naturally phase out the old buses which do not. I sit here today with the unfortunate job of trying to convince you to do something with limited data. The truth of the matter is that the potential cost has hindered adequate safety studies and crash tests with school buses. I know that school buses were designed to compartmentalize students, minimizing risk of injury and death. I also know that school buses account for a very small portion of the motor vehicle deaths, and that often it's not even the students that are killed or injured, but those outside of the bus. I also know that buses have well-trained drivers and multiple safety procedures in



place to ensure student safety, to the best of the vehicle driver and company's ability. But I am looking at you today and telling you that this is simply not enough. To support this notion, let's talk about some additional facts. Per the NHTSA, from 2004 to 2013, 106 school bus occupants were killed. 45 of those killed were drivers, while 61 were passengers. That's 57 percent. School bus drivers have, and are required to wear, a three-point restraint. Children spend more time in personal vehicles at much greater speeds than they do on school buses. Therefore, comparing child fatality statistics in personal vehicles versus school buses allows for an inaccurate portrayal of school bus safety. A study in the Academy (sic: American Academy of Pediatrics) journal of Pediatrics found 17,000 school bus-related injuries occurred, on average, per year. While 42 percent were related to crashes, many of these injuries were sustained while the bus was in motion during normal stops and turns. This led experts to conclude that safety belts should be required and could further reduce injuries, not only in a crash, but just in general transportation. The NHTSA has updated its recommendations for smaller vans and buses, those 10,000 pounds or less, and requires them to be fitted with restraints at this time. The AAP recommends that school buses without restraints be phased out, and replace buses that have restraints, which is exactly what we're asking here today. Consistency of seat belt use is the key component in successful safety campaigns. We know that asking children to buckle up in certain situations, and not others, reduces their overall use. I can personally tell you that I had this conversation with my six-year-old the other day, who told me that her and her friends were planning on falling off the seat as it turned a corner in the school bus. When I told her that that was not an acceptable thing to do, she said: Why not? There's no safety belt holding me in place. And then we had the conversation of: Why isn't there a safety belt on a school bus, if it's important? And when can I stop using my safety belt in the car? The National Safety Council also supports the transition of nonbelted buses to buses with safety belts. In 2014 there was a school bus accident in Anaheim, California, in which a school bus hit a pole, going 43 miles per hour. All students and the driver had three-point restraints on. There were five serious injuries and five minor injuries in this crash, There were no fatalities. There were only minor injuries. Excuse me. In 2015 in Chattanooga, Tennessee, a similar accident occurred, in which a school bus hit a tree, traveling 50 miles an hour. Six children were killed, 31 were injured. The driver, who was wearing his seat belt, was uninjured. Six other states have already enacted laws to include seat belts on school buses. Just as everything else in our schools has evolved and become more safety conscious, so should our school buses. Please support LB279, which is a fiscally responsible way to move forward with protecting our kids from both accidental and crash-related school bus injuries and deaths. While we have been fortunate to not have a student fatality on the school bus in several years, the time will come again when we do. And when that time comes, as a community we want to be able to look those parents in the face and be able to honestly tell them that we have and will continue to do everything in our power to keep children safe. Thank you for your time and your support of LB279. Are there any questions? [LB279]

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

Transportation and Telecommunications Committee  
February 27, 2017

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SENATOR SMITH: Thank you, Ms. Brock, for your testimony on LB279. Do we have questions from the committee? I see none. Thank you. [LB279]

JENNIFER BROCK: Thank you. [LB279]

SENATOR SMITH: Next proponent of LB279. Welcome. [LB279]

CHRISTOPHER WELSH: Good afternoon, members of the committee. My name is Christopher Welsh, C-h-r-i-s-t-o-p-h-e-r Welsh, W-e-l-s-h. I am here on behalf of the Nebraska Association of Trial Lawyers (sic: Attorneys). I was here two years ago when this committee, one of the big things that they talked about...well, NHTSA. NHTSA is not for it. That was a big reason why it didn't get out of committee. Well, NHTSA is behind it now. And then we heard testimony that well, only six states are doing it. Nebraska needs to be a leader in child safety. We listened about different child safety for the last hour and a half, this committee has, about different types of child safety. I have three children, and when they go on and ride a school bus, they say the same thing to me: Dad, how come we don't have to wear a seat belt like we do in a car, in an airplane, when we ride on a ride at an amusement park? Everything we do, our kids are belted. In fact, when I purchased a sled for my three-year-old two years ago, it had a belt on it. Everything, that's what kids...it's hammered in their brain from the moment they realize that they have to wear a safety belt. But what are we teaching our children who are riding on school buses? They don't have to wear it. When I was in second grade, I rode school bus every day to school. We didn't wear seat belts, and kids were messing around. One of the things I wanted to address...there was an article in the Grand Island Independent, by a school bus driver. And some of the things that he talked about that this committee should talk about today is: "What do I do when my bus is filled with smoke from an electrical fire and I have anywhere from 25-50 or more passengers in seat belts to evacuate?" Well the simple answer is education and training. We educate and are training our kids for every type of emergency situation that they're faced with. In a school setting it's no different than if they're on a bus. Education and training solves that problem. "Will my riders, age five to seven, orderly and quietly board the bus and systematically fasten their seat belts?" And he puts in quotes (sic: parentheses) "absolutely not." I strongly disagree with that. I coach my kids in sports, I transport other fellow students with me in the car. Kids are much better than us adults; they fasten their seat belts. They remind their parents: You need to buckle up, Mom; you need to buckle up, Dad. Safety first...that's the motto they all live by. I don't think that's going to be a problem for children. Again, education and training will solve that problem. His third point: "If I have an emergency on or near a railroad crossing, do I have time to evacuate my passengers who may have trouble getting their seat belt unfastened?" Again, education and training. We have fire drills, we have tornado drills, we have lockdown drills in case something is going on...same thing--education and training for these children on how to get out of a bus in an emergency situation. "I have many distractions and hazards as it is when I am driving that tonnage, such as intersections, slow moving vehicles or inconsiderate

drivers. Now I have to police seat belt usage as well?" He's 100 percent correct. We live in an age where we have cell phones, people are texting and driving; there's all kinds of distractions. All the more reason why we should protect our children in a school bus, because the chances of another driver causing an accident are far more greater now than ever before. Children who are not belted have a heightened risk of injuring themselves. I talk about, "Say I have the unfortunate situation where my bus is in a swollen creek...which passengers do I help out" ...help with their seat belts first? Well, Dawn Prescott is not here; she has testified many times in support of this bill. Her son was one of the little boys that died in the accident out on West Dodge Street (sic: Road). And I am here to tell you if those kids were belted, you're not unbuckling people who are unconscious, because they're belted and they're protected. And like anything else, when there's an emergency situation, education and training will get those kids out. When we look at the Omaha World-Herald, Tuesday, November 22, 2016, "Bus Crash 'Worst Nightmare' for Responders," this is the Chattanooga crash. There were no seat belts on that bus. And we know, from our own history in Nebraska: October 13, 2014, two students in Omaha were injured on board; September 13, 2013, out in Cheyenne County, seven students plus driver injured; September 6, 2012, Blue Hill, bus driver and two students killed, five students injured, bus collision with an 18-wheeler; August 24, 2009, Firth, bus driver and 33 students injured, bus collision with 18-wheeler; October 14, the Seward crash. How many more front-page news headings do we have to have before Nebraska decides to be a leader in the safety for our children and change the law? Thank you. [LB279]

SENATOR SMITH: Thank you, Mr. Welsh, for your testimony. Questions from the committee for Mr. Welsh? I see none. [LB279]

CHRISTOPHER WELSH: Thank you. [LB279]

SENATOR SMITH: (Exhibits 2-15) Thank you. Next proponent of LB279. Seeing none, do we have any letters in support? We do have letters for the record in support of LB279: Diane Jackson, Chair, Nebraska State Board of Health; Charles Vit, Regulatory Affairs Manager, SafeGuard IMMI; Dr. Michael Cohen, Omaha; Dr. John Vann, Omaha; Amy Borg, Omaha; Carrie Maryott, West Point; Renee Pettis, Omaha; Nikki Dean, Omaha; Amanda Ablott, Hastings; Deborah Hammon, Humboldt; Amanda Jeffres, Burwell; Kristin Luethke; Lisa Schawang, Salem; Jamie Brester, West Point; and Tera Boyd, McCook. Again, those letters were introduced, for the record, in support of LB279. Do we have anyone wishing to testify in opposition to LB279? Opposition. Welcome. [LB279]

MATT DUNNING: Thank you. Vice Chairman Smith, members of the committee, my name is Matt Dunning. I am with the Nebraska Association of School Boards, here on behalf of over

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Transcriber's Office

Transportation and Telecommunications Committee  
February 27, 2017

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1,700 elected school board members in the state. The association is opposing this bill, but it is not on the basis of safety. [LB279]

SENATOR SMITH: Mr. Dunning, will you spell your name for us? [LB279]

MATT DUNNING: Oh, I am sorry. Matt, M-a-t-t, Dunning, D-u-n-n-i-n-g. [LB279]

SENATOR SMITH: Thank you. [LB279]

MATT DUNNING: Our concerns are not related to safety. We would note that the fiscal note on this bill says that the cost for seat belts would be \$8,000-\$15,000 per bus. LB279 does not allocate any funding or otherwise account for the additional expenses. School districts are certainly in favor of making investments to support student safety and would do so. The association would like to see the funding issues addressed, as part of this measure, if the bill advances. Given the grandfathering of buses that are already in use, LB279 may have unintended consequences, such as districts avoiding the cost of seat belts by rehabbing or repairing buses beyond their useful life. This would result in older buses being on the road and has the potential to raise other safety issues. The liability issues associated with this bill are not necessarily addressed in the language of the bill. Parents who request that their children be kept on buses without safety belts or the other way, with safety belts, may file litigation in the event there is an accident and injury occurs. Courts will not necessarily be governed by the language of the bill, indicating that there is no change of liability in the statute; just simply may or may not control. Even if there are new...even if there aren't any new liability issues, the logistics of this bill...the logistical issues raised by this bill would also be significant. Again, parents who are requesting that their students be on the new buses with seat belts, versus the old buses that don't have seat belts, will be contacting transportation directors, and there will just be a complicated scenario, the potential for complicated scenarios regarding bus routes, availability for buses for serving out-of-school events, etcetera. We also...the association also has concerns regarding the role and obligation of the bus drivers. Again, it is not an issue that's addressed in the bill. Are the drivers responsible for verifying that the children are belted? Are they responsible for verifying that the children remain belted during the rides? What mechanisms will be in place to assist the drivers in this role? And will school districts need to hire additional bus attendants to do this instead of the drivers, and how will those costs be accommodated? In order to address these issues, NASB requests a one-time fund for districts to cover these expenses and that the fund be administered through the Department of Education. And with that, I will request that the bill be indefinitely postponed and conclude my testimony. Thank you. [LB279]

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

Transportation and Telecommunications Committee  
February 27, 2017

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SENATOR SMITH: Thank you, Mr. Dunning, for your testimony. Do we have questions from the committee? I see none. You did mention the funding. You don't have a value placed on that at this point, I take it. [LB279]

MATT DUNNING: No, we do not; we don't have a number. The \$8,000-\$15,000 is certainly in the range of cost that we've seen, and the fiscal note notes that there's no determination of the impact on school districts. [LB279]

SENATOR SMITH: Very good. Thank you for your testimony. [LB279]

MATT DUNNING: Thank you. [LB279]

SENATOR SMITH: Any others wishing to testify in opposition to LB279? Seeing none, anyone wishing to testify in a neutral capacity on LB279? Seeing none, we invite Senator Hilkemann to close on LB279. [LB279]

SENATOR HILKEMANN: Thank you, Senator Smith. Just a few thoughts on closing. I think safety is a really important issue. And I think that, as our last testifier said, maybe we would work out some areas of funding, we'd talk about that. But the fact of the matter is that safety is the issue that's here. And again, as I said earlier, it's not a matter of if we have another bus accident, it's a matter of when it happens. And I really want to stress, and our school buses are safe. In fact, riding on a school bus to school is the safest way to get to school today. But we can do better, and that's what the intent of this legislation is, is that we can do better. With that, I'll close. And did you have any questions? [LB279]

SENATOR SMITH: Thank you, Senator Hilkemann. Remaining questions from the committee for Senator Hilkemann? I see none. I know you've been a very strong advocate for safety, and this has been a passion of yours. And I appreciate you bringing this discussion to us. [LB279]

SENATOR HILKEMANN: Thank you. [LB279]

SENATOR SMITH: Thank you. That closes our hearing on LB279. We are going to allow the room to transition here for just a moment. And then we're going to invite Senator Kolowski to open on LB471. LB471 relates to providing for enforcement of the prohibition against using a hand-held wireless communication device as a primary action. Welcome, Senator Kolowski. [LB471]

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

Transportation and Telecommunications Committee  
February 27, 2017

---

SENATOR KOLOWSKI: Thank you, and good afternoon, Transportation and Telecommunications Committee. Senator Smith, thank you very much. My name is Senator Rick Kolowski, R-i-c-k K-o-l-o-w-s-k-i, representing District 31. I am here today to introduce LB471, which changes our current law against texting while driving from a secondary offense to a primary offense. This means that law enforcement will be able to pull you over when they see you texting. I have not changed or expanded any of the definitions of the current law. I introduce this bill to help protect lives and property. We have seen how dangerous distracted driving can be. This will increase enforcement and save lives. There will be those following me who can give you the statistics and details concerning this bill. I appreciate your time and attention to this important matter, and I do want to make a comment, also, from an educational career of 41 years in public education. I saw many changes over those years and, with the inclusion of cell phones that came into the use in the late 80s/early 90s through the 2000s to the current time. Those things really changed the lives of our families and of our students. I would ask you to, or think about, one aspect of what I have seen, what I have gone through as far as watching students with their hand-helds in their automobiles. If you could sit about two blocks from any high school at exiting time and just watch the cars go by, and see how many kids are on their phones that are dangerously driving in a very hurried-up manner as they're trying to get to home or work or wherever they're going after they leave high school, then you'd have a different picture. And the number of fender benders that happen just in parking lots or around schools that go on--you can check with police on that--and I have watched that and noticed that over the years. More importantly, the distractions of kids--high school kids, students in a car with multiple sets of teenagers--and the things that go on as far as texting and the lack of careful driving, we have had funerals. All schools, all districts, have had funerals because of those kids. I don't want to go to any more funerals of high school students that were killed because of a distracted driving situation. And I think, with the number of calls that we've had, e-mails that we've had, almost universally to the point, from parents and concerned citizens, backing the idea behind this bill because they want their kids to be safe and secure on the road, as well. And I will stop with that; thank you very much. [LB471]

SENATOR SMITH: Thank you, Senator Kolowski, for your opening on LB471. Do we have questions from the committee? I see none. [LB471]

SENATOR KOLOWSKI: Thank you. [LB471]

SENATOR SMITH: Will you remain for closing? [LB471]

SENATOR KOLOWSKI: Yes, I will; thank you. [LB471]

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

Transportation and Telecommunications Committee  
February 27, 2017

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SENATOR SMITH: Okay. We move to proponents, those wishing to testify in support of LB471. Welcome, Ms. White. [LB471]

ROSE WHITE: (Exhibits 1-8) Thank you, Senator. And thank you, Senator, for introducing this legislation. My name is Rose White, R-o-s-e W-h-i-t-e, and I am here today representing AAA and the Auto Club Group. Now national studies show that crashes as a result of distracted driving are on the rise. In 2015 the National Highway traffic Safety Administration reports that 35,092 people were killed in motor vehicle crashes on our nation's roadways. And this is the largest percentage increase in nearly 50 years. Unfortunately, early data for 2016 appears to be even worse with an 8 percent uptick in fatalities compared to 2015. These numbers are alarming, and they are unacceptable. A decade-worth of data and studies, combined with extensive research, show that a key problem is distracted driving. Research has shown that the combination of visual, cognitive, or mental, and physical distractions involved in text messaging while driving makes it an inherently dangerous activity compared to other activities we do behind the wheel. AAA believes that text messaging, e-mailing, or other manual manipulations of portable, wireless devices for electronic data communication while driving should be illegal. Now currently 41 states ban texting while driving as a primary offense. Only five states, including Nebraska, restrict texting as a weak, secondary enforcement measure. Three of these five states with secondary laws are considering legislation this year to move enforcement forward. Along with Nebraska, policymakers in Iowa and Florida are considering a move to primary enforcement. In Texas, where more than 5,000 crashes have occurred as a result of texting while driving, a state law is being considered this year. But, out of frustration, more than 90 cities across Texas have already adopted local laws to help prevent texting while driving. Communities in Montana, Arizona, and South Dakota are doing the same, since the state policymakers have failed to pass legislation. Now driving should never become a secondary task for those operating a high-speed, moving vehicle that weighs approximately 1,500 pounds. AT&T reports that nearly four in ten drivers engage in social networking while driving. Now this might include Facebook, Twitter and Instagram, and Snapchat interactions. And teen drivers surveyed by AT&T report that 75 percent say texting while driving is very common among their friends. The first primary law in the U.S. was adopted ten years ago. An effective law is one that will result in a positive change in behavior and improve safety. It's not all about enforcement; it's about changing to positive behavior. Now we know we can't pass laws to prevent every type of dangerous driving behavior, but with strong evidence confirming the dangers associated with texting and driving, with distracted driving crashes increasing to the point that insurance companies are being forced to raise premiums...and with that said, I want to bring attention to a Wall Street Journal article that just ironically came out just last week. It indicates "Smartphone Addicts Behind the Wheel Drive Car Insurance Rates Higher," and it indicates that insurers "increasingly blame distracted drivers as costs related to crashes outpaced premium increases." And though this is taking place nationwide--so it is a national problem--and that more lives are being lost on our roadways...and I also have to mention that even today, there was an accident that occurred in central Nebraska.

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

Transportation and Telecommunications Committee  
February 27, 2017

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A woman, texting while driving, slammed into a rear of a parked car. Both of her children have been taken to the hospital with head injuries. This, unfortunately, is occurring. Over the weekend another fatal crash, where someone crossed the center line...we have to believe that, again, distracted driving could be part of this type of crash. We see it too...many too times. We want a law that will simply send a message, loud and clear, that texting while driving is not acceptable. And I do want to let you know that there is a government Web site, [distraction.gov](http://distraction.gov), that basically, that organizations like police departments, who receive federal funding for grants, for enforcement efforts, for education efforts, can report their findings on this Web site and share it with other law enforcement groups. So I know that a question has come up before about: Is enforcement possible? Yes, they are showing proof that enforcement is possible, and they're sharing their best practices on this Web site. So I encourage you to visit that site, [distraction.gov](http://distraction.gov). But the problem is clear that too many lives are lost, serious injuries sustained, and needless cost incurred because of motor vehicle crashes. We need to look for workable and realistic solutions to distracted driving, and we simply urge your support to move LB471 forward. Let's change our secondary law, our very weak secondary law, to primary enforcement. Thank you very much. [LB471]

SENATOR SMITH: Thank you, Ms. White, for your testimony. Do we have questions from the committee? Senator Briese. [LB471]

SENATOR BRIESE: Thank you, Senator. And thank you for being here. And maybe you hit on this. If you did, I missed it; I apologize for that. But how do crash statistics compare in primary versus secondary states? Any data on that? [LB471]

ROSE WHITE: That's a very good question, Senator. I'll be happy to get that for you. I do not have it in this particular documentation, but I'll be happy to explore that for you. [LB471]

SENATOR BRIESE: Thank you. [LB471]

ROSE WHITE: Good question. [LB471]

SENATOR SMITH: I see no further questions, Ms. White. Thank you for your testimony. [LB471]

ROSE WHITE: Thank you. [LB471]

SENATOR SMITH: Welcome, Ms. Klosterboer. [LB471]



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

Transportation and Telecommunications Committee  
February 27, 2017

---

LAURIE KLOSTERBOER: (Exhibit 9) Thank you, Senator Smith and members of the Transportation and Telecommunications Committee. My name is Laurie Klosterboer, L-a-u-r-i-e K-l-o-s-t-e-r-b-o-e-r, and I am the executive director for the Nebraska Safety Council. We are a nonprofit organization. Our mission is to educate Nebraskans on living a safe and healthy life. Teaching safe driving skills is one of the core programs we provide to serve our mission. I am sure you have heard about the four "Es" of traffic safety: engineering, education, enforcement, and EMS, or emergency medical services. While we participate in the education component of the four Es, we are here today testifying in support of LB471 that would strengthen our enforcement, or the E. Secondary enforcement traffic safety laws send the wrong message to our citizens about the seriousness of the injuries and deaths occurring on our roads and the responsibilities all drivers have on our roadways. I would be surprised if most of us have not seen someone texting while driving. LB471 will strengthen our law. In our annual traffic survey, which we conduct with the Nebraska Department of Roads, Highway Safety Office, we've asked Nebraskans if they would support a law allowing law enforcement to stop a driver and ticket them solely for texting while driving. Nearly nine out of ten, almost 89 percent--almost 90 percent--support a primary law. We do have support among the public for such a law. We would ask that you vote LB471 out of committee and forward it to the floor. Thank you, and I would be happy to answer any questions you might have. [LB471]

SENATOR SMITH: Senator Geist. [LB471]

SENATOR GEIST: Yes, thank you for your testimony. And I am curious, and maybe this is a question you can't answer or maybe so. My thinking with this bill is how would a law enforcement officer be able to prove that that driver was texting? Do they confiscate the phone? Or how does that look? [LB471]

LAURIE KLOSTERBOER: You know, I think I am not an expert, since I am not in law enforcement. But I would think that they would probably ask. Obviously, I know that I don't believe they can go any further than that. [LB471]

SENATOR GEIST: Okay. [LB471]

LAURIE KLOSTERBOER: But I think that sometimes we forget that, while we would like to strengthen our law, it's not that we want to write a bunch of tickets. It's that we want to encourage, with the law, that people will be law-abiding and they will not be texting behind the wheel. I guess I look at this...we had these same type of arguments when, in the early years when we had a lot of people that were driving behind the wheel drinking, and the argument was: well, how are we going to know? How is law enforcement going to know if somebody has been drinking? Well I think, again, these are judgment calls... [LB471]

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

Transportation and Telecommunications Committee  
February 27, 2017

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SENATOR GEIST: Okay. [LB471]

LAURIE KLOSTERBOER: ...that law enforcement is asked to make each and every day.  
[LB471]

SENATOR GEIST: Well, I would say that I am not saying that because I disapprove of the law. I am just questioning how it would look on a traffic stop, and what is the responsibility of the officer and how the person complies. [LB471]

LAURIE KLOSTERBOER: Well, and I would think that, again, if you look at...we do have a child passenger law now, right, that's up through age six? Again, when a police officer has to stop someone if they see that there's a child that's not in a child restraint, again, isn't that the same scenario? Well, how do they know for sure that that child is under that age that should be in a car seat? [LB471]

SENATOR GEIST: Um-hum. [LB471]

LAURIE KLOSTERBOER: So I...we have a law, a child passenger law. That law works. I think it's the same scenario if we would have the texting law move from secondary to primary.  
[LB471]

SENATOR GEIST: Okay; thank you. [LB471]

SENATOR SMITH: Senator Hilgers. [LB471]

SENATOR HILGERS: Thank you, Mr. Vice Chairman. Just following up on Senator Geist's question, because I think it's a good one. I mean drunk driving...drinking and driving is something where we have a whole set of tools for law enforcement to determine whether there's probable cause for...that they were driving under the influence. You've got, you know, portable breath tests, you've got nystagmus tests, you've got sobriety tests, all those types of things. But with the texting, there's other reasons you could be using your phone. Not all those are immediately checkable, if that's a word, at the moment when the officer asks. So I guess the question would be, do you...are you aware of how other states have dealt with the enforcement aspect of their laws? [LB471]

LAURIE KLOSTERBOER: Well, I know that they are doing high-visibility enforcement and public safety campaigns. So some of the different ways that they are testing in states that do have the law is they will have roving patrols. They may have an officer that is at an intersection where

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

Transportation and Telecommunications Committee  
February 27, 2017

---

they're able to see the vehicles, and they call ahead to other officers so that they can stop that car. I know that there are...they're using high visibility SUVs, trucks, those type of things, so that the law enforcement officers are sitting higher up, and so that they can see into the cars. And that's another way they are using for enforcement. So I think that here are ways that you can enforce the law. [LB471]

SENATOR HILGERS: Well, by the way, I think it's a huge problem. I guess...so my understanding of the way the current law currently works is that, if I am on, if I am just checking my GPS on my phone, for instance, would that be a...under the current law, would that be a secondary offense? [LB471]

LAURIE KLOSTERBOER: You have to be...you have to be manipulating the phone. So it can be...and that's while the car is in motion. [LB471]

SENATOR HILGERS: So I guess then, and this may not ultimately be an issue, but so I guess, if someone (inaudible)...if someone is on their phone and they get pulled over, and they say: no, no; I wasn't manipulating; I was just looking, just following my GPS, the officer has no way to really verify. Maybe that's not a big issue. Do you know of anything, whether that's been an issue in other states? Or... [LB471]

LAURIE KLOSTERBOER: You know, I don't know that it's been an issue in other states. I mean I do know that we have had officers that have been writing tickets for distracted driving. So even in Nebraska, even though it is a secondary law, they have been able to enforce it that way. I think it's just, again, the primary law is going to really send the message, not only to the general public, but to law enforcement, that we support traffic safety laws in our state, and we want people to be focused on driving when they are behind the wheel. [LB471]

SENATOR HILGERS: Thank you. [LB471]

SENATOR SMITH: I see no further questions from the committee. Thank you, Ms. Klosterboer. [LB471]

LAURIE KLOSTERBOER: Thank you. [LB471]

SENATOR SMITH: Next proponent in support of LB471? Welcome. [LB471]

JERRY STILMOCK: Senator, members of the committee, my name is Jerry Stilmock...Jerry, J-e-r-r-y Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients: the Nebraska State Volunteer

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

Transportation and Telecommunications Committee  
February 27, 2017

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Firefighters Association and the Nebraska Fire Chiefs Association, in support of LB471. The title invokes that of fire, but it is EMS and rescue, as well. Our associations comprise about 85 percent of the EMS protection throughout the state. And, as Laurie, the previous testifier, said--she referred to the four Es--we come in to you, in support of the legislation with the fourth E, that of EMS, emergency medical services. Having the opportunity to once again review the bill as the previous testifier was reviewing and speaking with you, it appears that there are three areas, and three areas of enforcement of the secondary violation. Those three areas are: reading a written communication, which probably the first one would be the most difficult for law enforcement, I would imagine, to prove. How to you prove if I was reading the phone or if I was looking at the radio station? Anyway the first, reading a written communication. Secondly, manually type a written communication. There's the action that is occurring that a law enforcement officer would need to observe. And the third category is send a written communication while operating a motor vehicle which is in motion. Our organizations merely want to prevent and stop the distractions as they relate to texting while driving. And we've been before the committee before, in support of it, and we're back again, urging you to advance the bill to General File. Thank you. [LB471]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Senator Hilgers. [LB471]

SENATOR HILGERS: What happened to Vice Chairman Smith (laughter)? [LB471]

SENATOR MURANTE: I took care of it, Senator Hilgers (laughter). Seeing no... [LB471]

JERRY STILMOCK: If that's the question, I am out (laughter), if you'll excuse me. [LB471]

SENATOR HILGERS: I think he was texting while driving to committee. [LB471]

SENATOR HUGHES: And he got arrested. [LB471]

SENATOR SMITH: Welcome. [LB471]

BUB WINDLE: Senator Smith and members of the Transportation and Telecommunications Committee, my name is Bub Windle; that's B-u-b W-i-n-d-l-e. I am here today on behalf of AT&T, in support of LB471. Distracted driving is a critical public safety issue. Consider this: a typical text message takes five seconds to read. In less than five seconds, a car going 55 miles per hour will travel the length of a football field. That is a long way for a car to travel, basically, without a driver. The National Highway Traffic Safety Administration estimates that driving

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

Transportation and Telecommunications Committee  
February 27, 2017

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while texting is six times more dangerous than driving while intoxicated. Because of the dangers posed by distracted driving and because of our increasing use and relationship to smartphones, AT&T has been at the forefront of a national campaign called, "It Can Wait." You've maybe seen the advertisements. It Can Wait started with a single premise: no text is worth a life. But it has grown to include other smartphone uses like Web surfing or using social media. AT&T supports LB471, just as it has supported similar measures in other states, because it helps deter the use of smartphones while driving and, hopefully, helps save lives. The message is simple: Keep your eyes on the road, not on your phone. In the words of the campaign, it can wait. [LB471]

SENATOR SMITH: Thank you, Mr. Windle, for your testimony. Do we have questions from the committee? Senator Hilgers. [LB471]

SENATOR HILGERS: Thank you, Vice Chairman Smith. Thank you, Mr. Windle, for your testimony today. I was just curious. From AT&T's perspective, are there any technological solutions that they're working on? You know, my phone automatically connects when I am driving and it sends an autoresponse that says: I am driving; I'll get back to you later. Are there any...do you know of any... [LB471]

BUB WINDLE: They actually have an app; it's called the AT&T's DriveMode, that you can activate whenever you're in the car. And it does just that: it sends an automatic reply whenever you get an incoming message, saying that you can...that they'll respond once to the destination. [LB471]

SENATOR HILGERS: Anything that might like automatically disable texting, other than emergency calls or anything like that? I am just curious. [LB471]

BUB WINDLE: So there's that feature which does the automatic reply. I could look. I don't know if there are other things that they're doing. I suppose you could interface something with the car itself, but I don't know that they're doing that specifically. [LB471]

SENATOR HILGERS: Okay; thank you. [LB471]

SENATOR SMITH: I see no further questions. Thank you, Mr. Windle. [LB471]

BUB WINDLE: (Inaudible). [LB471]

SENATOR SMITH: Next proponent of LB471. Welcome. [LB471]

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

Transportation and Telecommunications Committee  
February 27, 2017

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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 today on behalf of the Nebraska Bicycling Alliance, and here representing our most vulnerable road users, the people that are biking, the people that are walking, and people doing road construction. A study was done a few years ago, 2013, by some researchers at the University of Nebraska Medical Center, that showed that between 2005 and 2010 there was an increase of 45 percent in fatalities for pedestrians and 31.5 percent for people on bikes, due to distracted driving. And we know that, since that time, that the use of cell phones in cars has increased and so we can reasonably assume that those statistics have also increased. The most vulnerable users on our roads need to be protected, and they need to know that we take this law seriously in our state. We need to show people that we mean what we say, we need to...that this is a serious offense. And we need to make it a primary offense, accordingly. Last week I was out at a conference that was put on by the Nebraska Department of Tourism (sic: Nebraska Tourism Commission, to discuss eco- and agri-tourism in Nebraska. Bicycling was a huge part of that conversation for Nebraska, and it has shown to be a huge opportunity for us. And so we need to make sure our roads are safe for the visitors that come here to explore Nebraska as a tourist and to make sure that we are looking out for them, as well. In terms of enforcement, I was recently observing a video that showed a bike patrol that was assisting in enforcement of a primary texting law. And for the record, they were...they identified somebody texting, the bicycle patrol officer rolled up and just basically said: Hey, are you on your phone? Were you just texting back there? And he, you know, and the person basically gave it up and said: Yeah, yeah, I was. I mean that was almost what happened every single time. And so from an enforcement perspective, I just thought I would add that, as well. I think it's important to know that we need to not discourage people from biking and walking, for a variety of reasons. And we know that safety is the number one thing that does discourage people. So anything we can do to make our roads safer, and show that we mean business with enforcement in safety, is an important thing to do. So I encourage you to pass LB471 on to the floor. I'll take any questions you have. [LB471]

SENATOR SMITH: Thank you, Ms. Harris. Do we have questions from the committee? I see none. [LB471]

JULIE HARRIS: Thank you. [LB471]

SENATOR SMITH: Thank you. Next proponent of LB471. Welcome. [LB471]

BEVERLY REICKS: (Exhibits 10-17) Good afternoon. Vice Chairman Smith, members of the Transportation and Telecommunications Committee, I am Beverly Reicks, B-e-v-e-r-l-y R-e-i-c-k-s, president and CEO of the National Safety Council, Nebraska. The National Safety Council, Nebraska is a nonprofit, community-based service organization affiliated with the National Safety Council. We are a membership organization comprised of businesses, government

agencies, and schools and community organizations interested in the advancement and promotion of safety and health in the workplace, on the roads, and in the community. I am here today in support of LB471 and want to thank Senator Kolowski for introducing this very important highway safety bill. As was earlier stated, for the first time in nearly a decade, preliminary data from the National Safety Council estimates that nearly 40,000 people died in motor vehicle crashes in 2016. That marks a 6 percent increase over 2015 and a 14 percent increase over 2014, the most dramatic two-year escalation in 53 years. Additionally, an estimated 4.6 million roadway users were injured seriously enough to require medical attention, a 7 percent increase over 2015. The cost of all this to society was estimated at \$432 billion--with a "b." Recently National Safety Council president and CEO, Deborah Hersman, stated: Our complacency is killing us. Americans believe that there is nothing we can do to stop crashes from happening, but that is not true. The United States lags behind the rest of the developed world in advancing highway fatalities. We know what needs to be done; we just haven't done it. Technology allows us to make phone calls, dictate texts or e-mails, and update social media while driving. All actions are proved to increase crash risk. With more than 300 million wireless subscriptions in America today, and a growing number of devices and services designed to keep people constantly connected, technology is playing an increasing role in enhancing our quality of life, yet using these technologies behind the wheel have devastating consequences. The United States Department of Transportation-National Highway Traffic Safety Administration, known as NHTSA, estimates that there are at least 3,000 deaths annually from distract-affected crashes, crashes in which drivers lost focus of the safety control of their vehicles due to manual, visual, or cognitive distraction. Many organizations, including the National Safety Council, believe this number is significantly underreported. Studies have shown that texting simultaneously involves manual, visual, and mental distraction, and is among the worst of all driver distractions. In 2012, NHTSA published its "Blueprint for Ending Distracted Driving." In it, it stated four major components needed to combat the issue: 1) Enacting and enforcing tough state laws. Since 2012, 41 states have adopted laws banning cell phone use and/or primary antitexting laws. Five states, among them Nebraska, have a secondary ban, and four states have no law. The second component is better educating young drivers. Like most driver education providers in the state, our driver education program addresses distracted driving. However, only 40 percent of Nebraska's teens take a driver education course. The majority of teens obtain their driver licenses by using a 50-hour driving log. A recently published AAA Traffic Safety Foundation study indicated that nearly 60 percent of all teen crashes resulted directly from distractions. 3) Advocacy is a major component in ending distraction. It goes without saying advocacy is a critical component to the adoption of state laws, workplace policies, and local ordinances. However, advocacy only goes so far. In your packet you will find the results of a National Safety Council public opinion poll which...in which adults and teens were questioned about their driving behaviors, absent any government...any laws governing the same. I wish I could say that the...I am shocked by the answers but, in reality, the answers seem to represent what is happening now in Nebraska. For example, despite the fact that 24 percent of the teens surveyed

admitted having a friend or had a friend who was injured or killed because of a technology-related distraction, a full 50 percent of them said they would check social media while driving, 46 percent said they would do...they would do it while driving in excess of 55 miles per hour. One third said they would text, and one in five saying they would text often. Finally, the fourth component is addressing technologies in vehicles. Senator Hilgers, this goes to your point...there are...I believe there's a little...there's little states can do to require technology in vehicles; that's really an area that's governed by NHTSA and vehicle manufacturers. And they are, I think, doing some things to address it. That's not...but it doesn't...that's not to say that technology doesn't already exist, because it does exist. However, the adoption of that is not widespread. I recognize it's difficult to adopt laws strong enough to protect everyone. However, in the "2017 Roadmap of State Highway Safety Laws," released in January by the Advocates for Highway and Auto Safety, Nebraska was one of seven states cited as having...as falling dangerously behind in the adoption of recommended optimal laws. We have but 5 of the 15 recommended laws in Nebraska. The title of the Advocates' report is "Have We Forgotten What Saves Lives?". I ask you, members of the legislative committee that can advance highway safety bills to the General File for full and fair debate: Have you forgotten what saves lives? Senator, I'll be happy to answer any questions you or members of the committee might have for me. [LB471]

SENATOR SMITH: Thank you, Ms. Reicks. Good to see you again. [LB471]

BEVERLY REICKS: Thank you. [LB471]

SENATOR SMITH: Questions for Ms. Reicks? Senator Briese. [LB471]

SENATOR BRIESE: Thank you, Senator. And thank you for being here. Do you have any data that would indicate what reduction in distracted driving we could expect from adoption of a primary enforcement? [LB471]

BEVERLY REICKS: You know, Senator, I could look at that, what's happened in other jurisdictions, in terms of the reduction...if there's a reduction in other...in fatalities and crashes. Unfortunately what we're seeing is a continued increase in fatalities and crashes across the country. That is not to say that I don't believe a primary enforcement ban is effective. I think it is, but I am not sure there has been good studies done to get us the kind of data we need. But I will certainly do that check for you and look for it. [LB471]

SENATOR BRIESE: I appreciate that. Common sense would suggest that yes, it should have some effect. But so far, I don't think I've heard any data on that, but... [LB471]



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Transcriber's Office

Transportation and Telecommunications Committee  
February 27, 2017

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BEVERLY REICKS: Yeah. One of the things that we're seeing is that we continue to see, across the country, are the miles driven are escalating. We haven't built nearly the percentage of roads that we have...that we're driving in miles, as well as the addition of more vehicles, all of the time, to the roadway, and the addition of more distractions to the roadway. So we may be putting safety measures in place, but other factors are really undoing those almost as fast as we can bring safety measures in. [LB471]

SENATOR BRIESE: Okay; thank you. [LB471]

SENATOR SMITH: Other questions for Ms. Reicks? It's always good to see you and, you know, this is a committee of new faces to you, I know. But you've been here many times before, and for folks that don't know you, you served a number of years in the Heineman administration as director of DMV. So you spoke before this committee. [LB471]

BEVERLY REICKS: Many times. [LB471]

SENATOR SMITH: And we welcome your expertise. [LB471]

BEVERLY REICKS: Thank you, Senator; I really appreciate being here. It's a real privilege to participate in this kind of democracy and be a part of making laws. [LB471]

SENATOR SMITH: All right. Thanks for what you...for what the Nebraska Safety Council does for the state. Thank you. [LB471]

BEVERLY REICKS: Thank you, thank you. [LB471]

SENATOR SMITH: (Exhibits 18-27) Continuing with proponents, those wishing to testify in support of LB471. Seeing none, we move...we probably have some letters for the record here. These are letters submitted, for the record, in support of LB471: Jacqueline Gillan, president, Advocates for Highway (and Auto) Safety; Pell Duvall, executive director, Omaha Bikes; Rocky Weber, president, Nebraska Cooperative Council; Jeffrey Bliemeister, Chief of Police, city of Lincoln; Angela Eikenberry, Chair, Mode Shift Omaha; Brad Wiebe, Norfolk; Dr. Richard Azizkhan, CEO and President, and Liz Lyons, Director of Advocacy and Government Affairs, Children's Hospital and Medical Center; Max Lawlor of Omaha; Paul Becker; Ann Parr, President, Nebraska Insurance Information Service. And again, those were submitted, for the record, in support of LB471. Anyone wishing to testify in opposition? Welcome. [LB471]

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

Transportation and Telecommunications Committee  
February 27, 2017

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SPIKE EICKHOLT: Thank you. Thank you, Vice Chairman Smith and members of the committee. Spike Eickholt...first name is S-p-i-k-e; last name is E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Criminal Defense Attorneys Association as their registered lobbyist. We are opposed to LB471. LB471 is, as you have heard from the proponents and the introducer, would make Nebraska's current texting-while-driving, commonly referred to as a primary offense...would make that a primary offense. We've heard a lot of testimony about texting and the danger of textings. But if you look at the language of the actual law, this would criminalize and make it a crime for many other things that a person might do with their phones or other things. And that matters to us because the Supreme Court, our Supreme Court, has been clear that any primary traffic offense, no matter how minor, no matter how trivial, is reason to stop and detain that driver. So you will be allowed to stop...an officer would be allowed to stop people for a whole variety of things if this law becomes a primary offense. Senator Hilgers gave an example about maybe just using a GPS navigation device; that would be prohibited. The officer would not even have to think that you are texting because, if you look at the current law, that would be considered texting while driving, or whatever you want to call it, because on page 2, lines 6-7, it prohibits a person from using a hand-held wireless communication device to read a written communication. On page 3, line 9, written communication includes, but is not limited to...and then the last example on page 3, line 10, is Internet Web sites. So if you are using a GPS app that is connected to the Internet, if you're following directions, you are violating this law. It doesn't matter at all whether the officer thinks you're testifying (sic: texting) or not. If the officer sees you holding that phone and looking at, you can be stopped. That matters because there's been a lot of testimony about safety, but there is no nexus that's required between someone maybe using a phone, touching a phone, accessing a phone and bad driving. That's not required by this law. Something that Senator Geist mentioned earlier: How would an officer have to prove it? How would it be proven, if you will? There's this concept called good faith, and that is that, I said before that an officer has to have a reason to stop you. But the officer can also have good faith, where the officer mistakenly thinks that, because you picked up your phone and you put it down, or you turned off your phone and put it back on your seat, that you were using it. And if that is reasonable, then the courts will allow that and say that the stop was completely valid. That matters because we don't keep our phones in our trunks when we drive. When you get pulled over and you want to dispute or argue with a cop: I wasn't using my phone; I didn't have it, you're going to go to court. And the cop's going to say: I found a phone there right next to him. And the defendant will say: Yeah, my phone was out there, but I wasn't using it. And you know exactly how that argument is going to be solved by the court. There's also this notion of pretextual stops, and that is when an officer or an officers may stop somebody, not because they think or observe an actual violation, because they're using that as a reason because they have a hunch that that person has committed some other crime. As I said before, people have their phones with them at all times. I have mine on me now. Many of the members in front of the committee have theirs with them now, as well. You keep your phones with you. We just do that in our society. I would remind the committee that the fines in this bill are pretty significant. It's

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

Transportation and Telecommunications Committee  
February 27, 2017

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\$200 for a first offense, up to \$500 for a third offense. When you consider court costs, that's pretty costly to many people. There's also the loss, I think, of...assessment of three points for each violation, as well. I understand the desire for safety. You've heard some statistics about fatalities going up. I would argue, and I think that Ms. Reicks kind of acknowledged that when Senator Briese asked a question that there seems to be something else driving that. If 41 states have this as a primary offense, and they've had it for years, and more and more states keep adding it, then the fatality and accident numbers should be going down and not up. There's something else driving it, not necessarily this. So we would urge the committee to not advance this bill from the committee, as I said before. [LB471]

SENATOR SMITH: Thank you for your testimony. Senator Hilgers. [LB471]

SENATOR HILGERS: Thank you, Mr. Vice Chairman. Thank you for your testimony. I think it's very valuable. So a couple questions. One is you talked about the youth, the broad scope and the difficulty of maybe defending against a charge of violating this law. How does it curb the...or do you...do you have any information about it? It's still an offense now, just a secondary offense. So how does that work out so far in the court system? [LB471]

SPIKE EICKHOLT: Thank you. There...typically how that works out now, Senator...there's other offenses, other crimes that are primary offenses, that will control bad driving. There's a crime of willful reckless driving, reckless driving, negligent driving, speeding, failure to stay within a lane, improper turn signal. And if an officer pulls somebody over for any of those offenses and happens to know, during the stop or even sometimes before the stop--and I've seen enough dash cam videos, I do practice criminal law where I've seen my clients holding up the phone, you know, real quick even--then that is a secondary count, if you will. That's added from the first count. The person is cited for reckless driving; they're also cited for count two--use of a hand-held wireless device, this thing. And that's how it's done now. But there is some other sort of...our system sort of has that. Now we would argue that, if there is bad driving going on or if it's distracted driving for any reason, there are certain laws that do prohibit that. [LB471]

SENATOR HILGERS: And on your concern on the...it would, you know, give an officer pretty wide latitude to pull someone over. Is that...how much of that is just the...just that they could get a ticket for violating the statute? How much of that is that now you've opened the door to an officer who...and maybe it's 2:00 in the morning, maybe they think you're driving...they don't have probable cause because you're not swerving, your light is not out, they don't have anything, you're not speeding. They have no reason to pull you over, but they want to pull you over. So how much of it is the offense and how much of the concern is, now it opens the door to basically stopping anyone at any time? [LB471]

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

Transportation and Telecommunications Committee  
February 27, 2017

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SPIKE EICKHOLT: Well, it's a little bit of both because the offense is so broad. We would argue that a lot of officers stop anyone at any time. Anytime the officer sees you touch your phone or sees you touch something that looks like a phone or glance at something that looks like a phone or is a phone, that's when the violation occurred. As long as the vehicle is moving, in motion, whether it is in a parking lot or moving very slowly on the street, that's all that's required. And we would argue that that would just give too much discretion to the officers. [LB471]

SENATOR HILGERS: Is there an amendment that you would propose or that you've seen in other states that would address your concern? [LB471]

SPIKE EICKHOLT: It's been awhile since I looked at it, but I know some other states have some sort of use of a mobile device or telephone that somehow is related to reckless or negligent driving. So if the committee is going to do anything without waiving or opposition, we would propose that you just look at the current statutes that deal with negligent and reckless driving. [LB471]

SENATOR HILGERS: Thank you. [LB471]

SENATOR SMITH: Further questions from the committee? I see none. Thank you for your testimony. Next opponent to LB471. Seeing no additional opponents, neutral testimony...anyone wishing to testify in a neutral capacity? We invite Senator Kolowski to close on LB471. [LB471]

SENATOR KOLOWSKI: Thank you, Senator Smith. And committee, thank you very much for your time this afternoon. Thank you to all those who testified and brought forward the important points of today's lesson, I believe. One of the things that I think that's...that we need to think about, and I come from the background as a high school principal, not every student has a brand new car out in the parking lot. So the student cars range from 8, 9, 10, 12 years old, and they don't have Bluetooths because they weren't born yet. So you have the opportunity of mobility, because they have a used car, and they're getting back and forth, and they haul their brother and sister here and there to practices and other things. But not having Bluetooth is certainly a missing link in the safety factor. If you have Bluetooth in your automobile, as I do in one of our cars, that's pretty handy because it's all right here in my hands. I can control it all as I am driving, and that comes on and answers the phone and does the things I need it to do. Students usually don't have the opportunity to do that because they don't have a more modern car. It just raises the bar on the possibility of problems and accidents because they're holding their hand-held and doing whatever combination of things they might be doing with that hand-held in their car, if they're alone or with others, in the raising the possibility of not driving safely and having a traffic situation that would be very detrimental to themselves or to others. As a high school principal, I saw a number of accidents. I saw some very serious accidents, and I saw fatalities with students.

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

Transportation and Telecommunications Committee  
February 27, 2017

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That's just one way students would be injured or killed in their daily lives of what they're doing and how they're doing that. I wouldn't want to see that happen anymore. It's very dangerous. The greatest amount of calls that we've had have been from parents. Thank you for doing this, bringing this forward, because it's necessary. It gives me, as a parent, an extra stick to hold over my kids and some leverage to say: don't do that; you get a ticket doing that. The price has been mentioned as far as what they'd be paying for, the first, second, and third offense. But more importantly, the parents would have a hammer to come back and say: Give me your phone; you've just lost it for a week...or whatever they want to do, as far as the control over their kids on that particular issue. So keep that in mind. Most of their cars are not new, modern...probably don't have Bluetooth or anything of that nature. And so we're putting more and more kids on the road with dangerous situations when it's the social thing to do, to pick up your phone and use it right away when you get in your car. As I said before, sit two blocks from any high school at exiting time. Count the kids, because they're all there, and they're all going to be using, and they're all going to be driving dangerously because they're kids. Thank you. [LB471]

SENATOR SMITH: Thank you, Senator Kolowski, for your closing on LB471. Do we have any remaining questions from the committee? I see none. [LB471]

SENATOR KOLOWSKI: Thank you, sir. [LB471]

SENATOR SMITH: Thank you. That closes the hearing on LB471, and that closes our hearings for the day. Thank you all. [LB471]