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Transportation and Telecommunications Committee March 18, 2024
Rough Draft

MOSER: --and Telecommunications Committee will now come to order. We have two items on our agenda for today. They're both gubernatorial appointments. My name is Mike Moser. I'm the Chair of the committee. We'll start with senator introductions, starting with Senator Fredrickson.

FREDRICKSON: Afternoon. Senator John Fredrickson, representing District 20, which is in central West Omaha.

DeBOER: Hi, everyone. Wendy DeBoer, District 10. That's northwest Omaha.

BOSTELMAN: Bruce Bostelman, District 23, Saunders, Butler, and Colfax Counties.

DeKAY: Barry DeKay, District 40, which encompasses Holt, Knox, Cedar, Antelope, northern part of Pierce, northern part of Dixon counties.

M. CAVANAUGH: Machaela Cavanaugh, District 6, west central Omaha, Douglas County.

BRANDT: Tom Brandt, District 32 Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster counties.

MOSER: Thank you. Our committee clerk is Lynne Woody. Our committee counsel is Mike Hybl. There are blue testifier sheets on the table near the entrance of the room. If you want to testify, please complete it and hand it to the page when you come up. You can sign the gold book in the back if you want to record your presence, but not testify. Handouts should be provided in quantities of ten. Senators may come and go depending on other bills and other business they need to conduct. First, we'll hear from the introducer, the, the nominee, and then we'll hear of supporters, opposition and neutral in that order. Commentation will be limited to three minutes today. All right. So the first item on the agenda is Jeremy Borrell. We had one proponent email, and no opponents and no neutral comments. So please introduce yourself and tell us why we're here.

JEREMY BORRELL: Good afternoon, Chairman Moser, distinguished members of the Transportation and Telecommunications Committee. My name is Jeremy Borrell, J-e-r-e-m-y B-o-r-r-e-l-l, director of the Division of Aeronautics for the Nebraska Department of Transportation. I appreciate the opportunity to come before the committee to introduce myself. I'd like to offer you a brief history of my career, my

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assessment of the last nine months in the position, and my vision and plan for the state of aviation in Nebraska. Following that, I'm available to answer any questions. I'm a Nebraska native and have been a resident my entire life. I live in Hastings with my wife, Kimberly, and our two children, Briella [PHONETIC] and Brooks [PHONETIC]. My decision to pursue an aviation career began after a flight with a general aviation pilot in a single engine aircraft. I initially selected the professional pilot program at the University of Nebraska at Kearney. While attending UNK, I simultaneously worked at Great Lakes Aviation, the essential air service provider for Kearney at that time. This period of employment served as an opportunity to understand the importance of commercial air service access to the citizens of Nebraska. Following an extended military training school which took me away from my flight training, I switched to the University of Nebraska Omaha and its Air Transportation Administration program. While at UNO, I participated in an internship and a period of employment with United States Senator Mike Johanns' office, this experience allowed me to gain an understanding of the congressional process. After graduating from UNO, I was employed by Jet Linx Aviation, a Nebraska based Part 135 air carrier. In this role, I was responsible for maximizing fleet utilization and charter sales. It was a challenging and rewarding position that provided insight into the value of air travel to businesses nationwide. Following my time at Jet Linx, I accepted a role as operations manager for Stein Manufacturing, an agricultural and industrial equipment manufacturer in Hastings. I remained in this role until I was selected by the Department of Transportation director, Director Kramer, to lead the Division of Aeronautics. I have also served in the Nebraska Army National Guard for the last 21 years, currently serving as First Sergeant with Bravo Company, 2nd in the 134th Infantry Battalion, Airborne. During my time with the Nebraska Army National Guard. I've had the opportunity to deploy, respond to instate emergencies, serve as a cavalry scout and parachute rigger, and fulfill the role of jumpmaster, a safety critical position overseeing tactical airborne operations. I also maintain membership with several professional aviation organizations. Upon taking this role, the first step was to develop a deeper understanding of the division's history and current state. First and foremost, the division is comprised of a team of dedicated individuals with whom I am proud to work. The division has a long history of supporting aeronautics within the state, and that success can be seen in the robust aviation infrastructure spread across the state of Nebraska. The state has 79 public use airports, ranging in size and complexity from Omaha Eppley, which just broke ground on a terminal modernization program, to a

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seaplane base located at Harlan County Reservoir. These airports support a wide range of activities impacting all Nebraskans. Nebraska airports face challenges similar to airports across the nation and across other modes of transportation. The cost of maintaining our infrastructure continues to increase, far outpacing the funds available to meet this need. This will require our team to explore systematic and innovative solutions to meet the needs of Nebraska citizens. To facilitate the ongoing support and development of our aeronautical system, the division will focus on three primary areas of opportunity. First, the division will develop streamlined, data driven, data-driven, and transparent decision making processes. We are currently developing a prioritization methodology for the Aeronautics Commission to assist them in making informed funding decisions to ensure that our limited funds address the most pressing needs. Second, it is critical that the division work to establish an environment that encourages emerging technology. The aviation world is on the cusp of a significant change, with increased integration of uncrewed aircraft systems, or drones, and advanced air mobility development. These new technologies represent a significant opportunity for economic development and increased access to the National Airspace System. Finally, the division will enhance existing partnerships and explore opportunities to develop new ones. Through these partnerships, we are able to secure funding and leverage resources to advance the cause of aviation in Nebraska. Chairman Moser and members of the committee, thank you for your time. I remain optimistic for the future of aeronautics in the state of Nebraska, and I look forward to the opportunities and challenges that this role presents. I'd be happy to answer your questions.

MOSER: Senator DeKay?

DeKAY: Thank you. What is a Part 135 air carrier?

JEREMY BORRELL: They conduct non-scheduled operations. So your traditional airline carriers are Part 121, and Part 135 are on demand carriers.

DeKAY: Thank you.

MOSER: Like charters, that sort of thing?

JEREMY BORRELL: Correct, Senator.

MOSER: OK. Senator Cavanaugh.

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M. CAVANAUGH: Thank you. Thanks for being here. Well, first of all, I see that you have a Purple Heart accommodation [SIC], so thank you for your service. We also are in the market, since we are losing Senator Brewer, for somebody with a Purple Heart to be in service to the state, so thank you for your willingness to serve.

JEREMY BORRELL: Thanks, Senator.

M. CAVANAUGH: You said in the division the final point was about existing partnerships and developing new ones. Could you just give an example of what those partnerships are, what they could look like?

JEREMY BORRELL: Absolutely, Senator. Our, our primary partner is the federal government through the FAA. So the Federal Aeronautics Administration, they provide us with a significant amount of funding for our infrastructure within the state, far exceeding what we as a state are able to generate. And so that partnership is critical for what we do as a division in increasing our infrastructure capacity and maintaining the existing infrastructure here in the state of Nebraska.

M. CAVANAUGH: Thank you.

MOSER: Oh, I'm sorry. Senator Brandt.

BRANDT: Thank you, Chairman Moser. Thank you for your testimony today. Two quick questions. I'm astounded, we have a seaplane base in Nebraska. Why?

JEREMY BORRELL: Senator, there are a handful of seaplane enthusiasts who have, have decided that they want to operate that. That particular air base is very low cost, as you can imagine. There's no pavement to maintain. So it is simply something that is inspected to make sure that there are no problematic obstructions, and that it will meet the needs of those seaplane enthusiasts.

BRANDT: So does the marina carry av fuel, aviation fuel?

JEREMY BORRELL: The-- I do not believe that they carry av fuel. Most of the seaplane enthusiasts are able to do both sea oper-- waterborne operations as well as land.

BRANDT: OK. Second quick question. Do you have an opinion on sustainable aviation fuel?

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JEREMY BORRELL: Thank you for the question, Senator. I think sustainable aviation fuel presents a significant opportunity for the state of Nebraska with us being a bio engineering state. The federal government's desire to move sustainable aviation to a large portion of the fuel used by the aviation industry presents a significant opportunity for the state.

BRANDT: All right. Thank you.

MOSER: Senator Bostelman.

BOSTELMAN: Thank you, Chair Moser. Thank you for your willingness to serve in this capacity. Have you had much time to look at the budget and our financial needs of the state and the airports across the state? And the reason why I ask this is because the funding for your department comes through the Department of Transportation, and that has not existed before, and there has not been hardly any, if at all, funding that has come to the Department of Aeronautics once we combine the two. Have you looked at that, and have you talked with Director Kramer about how that might be changed in the future?

JEREMY BORRELL: Yes, Senator. It's an excellent question. We have taken a look at our financials. We, as a division or the, the department historically, we're funded primarily through aviation fuel sale taxes. As we've moved into the Division of Aeronautics as part of DOT., we're actually very lucky, through the support of the congressional delegation last year to be the benefactors of two different legislative bills that benefited the Division of Aeronautics. The first of which is the LB138, which allows the Department of Transportation to support our administrative needs. We've taken a conservative approach to that. We are focusing primarily on the PSL or the salary component. And then we're going to take a line by line look to determine what administrative costs qualify for that funding. And the other was LB727, which moved the aviation sales and use tax from the General Fund to the, the newly created Aeronautics Capital Improvement Fund. And so we as a division are, luckily, in a far better state this year than we were historically. And so we are-- that's the primary reason for us to take a look at the prioritization methodology, which the working group meets for the first time tomorrow, to make sure that we're allocating those resources in an appropriate manner and doing so transparently.

BOSTELMAN: Thank you.

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MOSER: Senator Brandt?

BRANDT: Thank you, Chair Moser. Senator Bostelman spurred a, a quick question. So in the budget, we've allocated \$20 million of ARPA funds to NDOT, but the first \$3 million is, as Director Kramer said, going to aeronautics to fill a deficit currently there. Are you going to need any more deficit funding after that, or you're able to fund yourself as you go along?

JEREMY BORRELL: Senator, that request for that \$3 million is actually in line with the SFLR-- SLFRF guidance that came out that is revenue replacement for loss during Covid. I went ahead and took a look at what our budget should have been during the designated period, and utilized the Treasury's equation to determine what our revenue loss was, and that is the figure that was determined. And so that we're applying for those ARPA funds to meet that revenue loss. That's a revenue loss replacement, not a calculation of a deficit moving forward.

BRANDT: So there-- if, if you did not get the \$3 million, it would have no impact on your operations.

JEREMY BORRELL: We-- should we not receive those funds, we will not be able to have as great of an impact on infrastructure in the state of Nebraska. But we will not close our doors, Senator.

BRANDT: All right. Thank you.

MOSER: OK. Thank you very much for your testimony.

JEREMY BORRELL: Thank you, Chairman.

MOSER: Are there any supporters for Mr. Borrell? Are there any opponents? Is there anyone to testify in the neutral? Seeing none that will close our hearing on Jeremy Borrell. And we'll move to Brandon Varilek. Welcome to the Transportation and Telecommunications Committee.

BRANDON VARILEK: Thank you. And good afternoon, Chairman Moser and members of the Transportation and Telecommunication Committee. My name is Brandon Varilek, spelled B-r-a-n-d-o-n V-a-r-i-l-e-k. I'm appearing before you to seek confirmation for my appointment by Governor Pillen to serve as representative of the Nebraska Department of Transportation on the Nebraska Board of Public Roads, Classifications, and Standards. I am the District 1 Engineer for the Nebraska

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Department of Transportation, which encompasses Lincoln and other portions of southeast Nebraska. I've served in this role since July of '23, succeeding Tom Goodbarn, who became the District 2 Engineer following Tim Weander's retirement. When Tim Weander retired, he also stepped down from the Board of Public Roads, and it is that vacancy that I have been appointed to fill. For a little background on myself, I grew up on a farm west of Culbertson, Nebraska, and graduated from Culbertson High School in 1995. After earning a bachelor's of science degree in civil engineering from UNL in 2000, I served as a civil engineer and officer in the United States Air Force from 2000 to 2006, stationed at Offutt Air Force Base, Nebraska, Scott Air Force Base, Illinois, and a deployment in Baghdad, Iraq. I started my career at NDOT in 2006, serving for more than 15 years in various roles in the areas of payment design, asset management, construction, and then in 2021, I assumed the role of division head of the Materials and Research Division. In my current role as a District 1 Engineer, I am responsible for the project programming, construction, maintenance and daily operation of over 1,800 miles of roadway and over 700 bridges throughout southeast Nebraska. This is a monumental task accomplished by over 200 dedicated employees in our district. I understand the Board of Public Roads, Classifications, and Standards is responsible for the overseeing the construction planning and fiscal reporting, as well as the application of minimum design standards for a safe and efficient roadway system. As a district engineer, I fully understand the need to build and maintain roadways in the safest possible standard in a fiscally constrained manner. I understand relaxations to minimum standards are sometimes appropriate, but must be thoroughly vetted to ensure the public safety. Serving as District 1 Engineer at work, and a volunteer firefighter EMT responding to vehicle accidents outside of work, I have a unique and vested interest in highway safety. I believe my 18 years of BOT experience in pavement design, construction, division and district leadership will benefit me in performing the duties of this new role. In conclusion, I'm excited to continue my work with NDOT as a representative of the Department on the Board of Roads-- Public Roads, Classifications, and Standards. I would like to thank you all for your time, and would be happy to answer any questions that you may have.

MOSER: Questions from committee members? So what do you do?

BRANDON VARILEK: In my role as a district engineer?

MOSER: In this role as Standards.

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BRANDON VARILEK: In-- OK. Yes, sir.

MOSER: So do you set standards or you allow some variation from them?

BRANDON VARILEK: We've-- we enforce the standards and we make exceptions when necessary. So the minimum design standards say for every category of roadway, you have to be-- meet at least these minimum standards. So whether it's an interstate, or an arterial, or a county road, every road system has a standards.

MOSER: Radius off the road and--

BRANDON VARILEK: Correct. Design speeds, radiuses, vertical and horizontal profiles, lane widths, shoulder widths, bridge widths. And that's, that's all dictated by the classification of that roadway. There are times when a city, county, or the state may come to the board and ask for a design exception. For example, bridge width often comes up. You know, it's going to-- it's going to cost a lot more money when there's constraints that could impact the environment or the community. And so in certain circumstances, if you're not affecting the safety, you can build to a, a lower standard in some cases. And so we have to consider those requests for exceptions to the design standards to see if they make sense.

MOSER: How many people are on the board?

BRANDON VARILEK: There's approximately eight members. The-- I'm the-- would be the second one from the DOT.

MOSER: And then there are other local people on the board?

BRANDON VARILEK: Correct. Yep.

MOSER: Well, other citizens in Nebraska?

BRANDON VARILEK: Right.

MOSER: You, you cover the whole state?

BRANDON VARILEK: Correct. And it's, it's all public roads, whether it's city, county, state highway systems. So any public road falls under that board.

MOSER: OK. Any questions from the committee? Senator Cavanaugh.

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M. CAVANAUGH: Thank you. Thanks for being here. And thank you for your service to our country and the state. So we had the start of the budget debate last week. And one of the things in there was \$20 million in ARPA funds for roads. And the question I had, I guess, externally, so I'll put it to you if you are able to answer. It appeared that the Highway Fund had \$181 million in it, but of course, we don't know if that's obligated or not. And so maybe you can't give me this answer today, but I think the Legislature would like to know if the \$20 million in ARPA funds is truly necessary. Because we are shifting other things to our General Funds to make that money available. Or are there enough dollars in the Highway Fund to do what you need to do?

BRANDON VARILEK: Sure.

M. CAVANAUGH: Because infrastructure is super important, and you have talked today about your eye to keeping track of dollars and cents, but also maintaining infrastructure. So I guess I'm just kind of putting that question to you.

BRANDON VARILEK: Sure.

MOSER: If you can answer it now, great, but.

BRANDON VARILEK: Yeah, and as far as, as what's been obligated, I can't tell you that today. But as far as the, the need or the necessity for those funds, I was-- I did the needs assessment for several years as the asset management engineer, and we've always got more needs than we've got money for. And so I know personally in my district, when that-- when the possibility of those funds became available, we easily identified a couple roadways that need resurfaced, but because of other priorities just were not getting resurfaced. And then I built my program for the next six years. I just went through my second round of pushing projects back because I can't afford everything that I need to do.

M. CAVANAUGH: So if there were more ARPA funds available, you would be able to utilize those as well?

BRANDON VARILEK: Correct. With, with the caveat that with those ARPA funds, it was a requirement that it couldn't be a project already in your program, it had to be a new project. So we'd have to find those additional candidates that, that haven't made it into the program yet, but still have a need to be resurfaced or rebuilt.

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M. CAVANAUGH: OK. Thank you.

BRANDON VARILEK: Sure.

MOSER: And where was your area? Was it near Omaha?

BRANDON VARILEK: District 1 is in southeast Nebraska. So up to-- up to the Platte River, Kansas line, Iowa, Missouri.

MOSER: OK. Senator Brandt?

BRANDT: Thank you, Chairman Moser. Thank you for your service. And you've got some big shoes to fill with the previous engineer--

BRANDON VARILEK: Sure.

BRANDT: --was our engineer down there in some of my counties. But it's kind of interesting that you worked in R&D for as long as you did. What can we do to make these rural highways last longer? I mean, it just seems to me a lot of highways in, in my part of the state are getting lane rutted, the shoulders are deteriorating, the roads are sloughing off. Is there anyth-- any new technology or-- other than just overlaying the road like we traditionally do?

BRANDON VARILEK: Yeah, it's more of just the, the cycle of the resurfacing, Senator. Every, every strategy's got its own life cycle. In some cases, for asphalt roadways we'll mill and fill three or four inches and get about twenty years out of those. In some cases, we limit it to a two inch mill and fill strategy, which addresses the surface but is not as long lived. We may only get 12 to 15 years out of those. Now the concrete roadways we design for 35-year design life, and then we plan on that four inch asphalt overlay to extend that to 50 years. And our, we've got a few roads with, with rutting. But we use an incredible amount of recycled asphalt pavement, the highest in the nation, and so-- because we're trying to be sustainable and fiscally, fiscally responsible, and that really stiffens the mix and-- the mix, and cuts down on a lot of that rutting. So when, when you do see, see those problem roads, it's mainly just a matter of actually getting back to those because, you know, we, we try to resurface them within 15, 20 years. There's roadways that haven't been touched for 20, 22, 25 years. So it's just getting back into those when money and designs allow.

BRANDT: So what does chip coating do?

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BRANDON VARILEK: That is a preventative maintenance. It seals the surface. One of the biggest impacts, or cause for deterioration is moisture getting in the pavement. And then it-- it'll-- you'll get your freeze and thaw cycles within the pavement. The moisture will get into the subbase and soften the subbase, and that-- the pavement will lose support beneath it. So if you apply an oil and a chip seal, that seals the surface up, sheds the water on the outside. So it's just an interim treatment before you can-- before you resurface in the future.

BRANDT: All right. Thank you.

BRANDON VARILEK: Sure.

MOSER: It's kind of a Band-Aid?

BRANDON VARILEK: I'd, I'd say more, more preventative maintenance than a Band-Aid.

MOSER: You're not already bleeding, but--

BRANDON VARILEK: Correct. Yep.

MOSER: All right.

BRANDON VARILEK: Because it, it's a lot easi-- it's a lot cheaper to, to keep a road in good repair than to try to fix it after it's already fallen apart.

MOSER: Senator DeKay?

DeKAY: Thank you. So do the materials going into the base and the shoulders and stuff, say clay, sand was available, do you take into consideration-- I'm guessing you have to take into consideration what you're using as far as expanding and contracting as far as a base that would cause those cracks in the highway too?

BRANDON VARILEK: Sure. Yep. And in the case when we're-- when we're building new or rebuilding a highway, we can address any issues in the subgrade. We've got a lot of clay soils in Nebraska so we can add lime, fly ash, or cement to stabilize and reduce the ability of that soil to swell. Unfortunately, most of our roadways are already built, so we're stuck with what-- whatever is underneath there. And one of the-- one of the continual problems we face, you mentioned the, the earth shoulders and erosion of those earth shoulders. A lot of our 2 lane, 24 foot pavements don't accommodate the large agricultural

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equipment that, that gets off the pavement there and ruins that soil. So that's a constant battle, bringing the soil shoulders back. We started building the beveled edge years ago on our asphalt pavements and concrete as well to provide that taper, so as the soil erodes away, if a vehicle were to off track, they can safely get back onto, to the highway. But that's just a safety measure. It's with-- it's a continual battle keeping those earth shoulders in place and keeping them vegetated with the salt that we put on there. Because safety's always a priority. You got to get the, the ice off the roadway, but that also affects the vegetation and the ability to hold that earth shoulder.

DeKAY: Is there a difference between the salt and brine solutions that are beneficial or not, as far as deterioration of the roads, or are the salt and the spray brine about the same in the winter time?

BRANDON VARILEK: We-- here in District 1, we nor-- we use mostly the, the hardened salt, rather than the brine. We run brine a little bit. There's also mag chloride that we treat the salt with that just gets it to ac-- pop at a-- at a little lower temperature. They're all detrimental to the, the vegetation in some manner. There's not one that's significantly better than the other.

DeKAY: Thank you.

BRANDON VARILEK: Sure.

MOSER: All right. Thank you very much for your testimony.

BRANDON VARILEK: Thank you.

MOSER: Is there anybody here to speak in support of Mr. Varilek? Anyone here to speak in opposition to Mr. Varilek? Anybody to speak in the neutral? Seeing none, that will conclude our hearing. Committee members, if you could just stick around a couple minutes.

M. CAVANAUGH: I'm up on the bill.

MOSER: Oh. You're up next?