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Transportation and Telecommunications Committee
February 26, 2008

[LB786 LB1069 CONFIRMATION]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, February 26, 2008, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB786 and LB1069 and gubernatorial appointments. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Ray Aguilar; Carol Hudkins; LeRoy Louden; Scott Lautenbaugh; Dwite Pedersen; and DiAnna Schimek. Senators absent: None. [LB786]

SENATOR FISCHER: Good afternoon, welcome to the Transportation and Telecommunications Committee. For the record, my name is Deb Fischer and I'm the Senator from District 43 and I am Chair of the committee. At this point I would like to introduce the committee members to you. On my far right is our Vice Chair, Senator Arnie Stuthman, he is from Platte Center; next to Senator Stuthman is Senator Ray Aguilar from Grand Island; on my immediate right is our committee counsel, Mr. Dustin Vaughan; on my immediate left we have a new committee clerk today, Laurie Vollertsen, did I get it close, oh, I did, okay, good, and I'd really like to thank Laurie for filling in today; on her left is Senator Carol Hudkins who is the Senator from Malcolm; and on the far left on the end is Senator LeRoy Louden from Ellsworth; our pages are Matt Pederson from North Platte and Rhianna Needham from Bellevue. We will be hearing the bills in the order that they're listed on the agenda. We do have two confirmations first. I would like to go through some housekeeping details if I could. Those wishing to testify on a bill should come to the front of the room and be ready to testify as soon as someone finishes testifying in order to keep the hearing moving. We ask that you please complete the yellow sign-in sheet at the on-deck table so it's ready to hand in when you testify. We do have a computerized transcription program so it's very important that you do follow the directions on that sign-in sheet. I would ask that you give it to our committee clerk here before you testify. For the record, at the beginning of your testimony, please spell your last name first and also your first name if it is a difficult name and can be spelled in different ways. I don't think we'll have too many people testifying today but if I see that we'll have a number of people on a bill, we may limit testimony so everyone has a chance and an equal chance to be heard. If you do not want to testify but you want to voice your support or your opposition to a bill, you can indicate so at the on-deck table on that sheet that is provided. This will be part of our official record and if you want to be listed on the committee statement as a testifier, you must complete the yellow sign-in sheet and actually testify, even if you just state your name and your position on the bill. If you do not choose to testify, you may submit your comments in writing and those will be read into the official record. If you need anything, our pages are here to assist you. If you need a drink of water or have handouts for the committee, they will take care of that. I would ask that you turn off your cell phones. We do not allow cell phones on in the Transportation Telecommunications Committee so, of course, that means no text messaging. At this time I would like to introduce Senator Dwite Pedersen from Elkhorn, who has joined the committee, and

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

Transportation and Telecommunications Committee
February 26, 2008

also Senator Scott Lautenbaugh from Omaha. With that, I will open the hearing and we have a gubernatorial appointment, confirmation hearing on Mr. Roy Neneman, thank you, who is here seeking the appointment to the Motor Vehicle Industry Licensing Board. So welcome. Appreciate you being here today, Mr. Neneman.
[CONFIRMATION]

ROY NENEMAN: Well, glad to be here. [CONFIRMATION]

SENATOR FISCHER: If you'd like, just give us a little about your background and why you would like to serve on this board. [CONFIRMATION]

ROY NENEMAN: (Exhibit 1) Well, I've been in the car business since 1973. I started selling cars in Omaha and became acquainted with a gentleman by the name of Jim Earp in 1979 and went to work for him and Jim made me a partner in the business in 1994 when we bought our first dealership in Bellevue, Nebraska. And then in 2001 we bought a dealership in Grand Island, Nebraska, and we've been out there since. Mr. Earp was a mentor of mine and a partner and he served on the board two different terms years ago and I was always interested in how our industry is regulated in sticking up for the dealers like myself against the factories and I'd like to be an advocate for all the guys that I work with and compete with. [CONFIRMATION]

SENATOR FISCHER: Thank you very much. Are there any questions? Senator Stuthman. [CONFIRMATION]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Neneman, what size of car dealerships do you have? I'm not familiar with your dealership. Is it... [CONFIRMATION]

ROY NENEMAN: Well, we have, it's Roy's Grand Dodge, Chrysler, Jeep, Mazda in Grand Island. We sell roughly 1,000 cars a year, new and used, (inaudible) car, new car, you know, franchise. [CONFIRMATION]

SENATOR STUTHMAN: So you are a fairly large dealer then? [CONFIRMATION]

ROY NENEMAN: Yeah. The industry, Chrysler classifies us as a B-size store which is more of a rural size store, but we get our share. [CONFIRMATION]

SENATOR STUTHMAN: I want to thank you for your willingness to serve on this board so, appreciate it. [CONFIRMATION]

ROY NENEMAN: Thank you. [CONFIRMATION]

SENATOR FISCHER: I would like to note for the record we've been joined by Senator DiAnna Schimek from Lincoln. Senator Aguilar, did you have a question?

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

Transportation and Telecommunications Committee
February 26, 2008

[CONFIRMATION]

SENATOR AGUILAR: Thank you, Madam Chair, and I don't have a question. I just have a statement and that's just to say that I've known Roy for a number of years now, and if he's going to be a good as board member as he is a dealer, he'll be a great addition to our state. [CONFIRMATION]

ROY NENEMAN: Well, thank you. [CONFIRMATION]

SENATOR FISCHER: Other questions? Senator Lautenbaugh. [CONFIRMATION]

SENATOR LAUTENBAUGH: Thank you, Madam Chair. I notice here you weren't always from Senator Aguilar's district, is that correct? [CONFIRMATION]

ROY NENEMAN: Right. I grew up in Omaha. I was born and raised there. [CONFIRMATION]

SENATOR LAUTENBAUGH: As a matter of fact, there used to be a Neneman's Bakery on South 24th. [CONFIRMATION]

ROY NENEMAN: That's my father and uncle's. [CONFIRMATION]

SENATOR LAUTENBAUGH: Yeah. They helped make me the man I am today, unfortunately. (Laughter) Good luck to you, sir. [CONFIRMATION]

ROY NENEMAN: Yeah, thank you. [CONFIRMATION]

SENATOR FISCHER: Other questions? I see none. Thank you very much for coming in today. We do appreciate it. [CONFIRMATION]

ROY NENEMAN: Thank you very much. [CONFIRMATION]

SENATOR FISCHER: Is there anyone who would like to speak in favor of this nomination? Anyone in opposition? Anyone wishing to come forward in the neutral capacity? With that, again thank you, Mr. Neneman, for coming forward today and as I said the committee appreciates it when we have our nominees come to a hearing. It gives us an idea of who you are, so thank you for being here. [CONFIRMATION]

ROY NENEMAN: Thank you very much. [CONFIRMATION]

SENATOR FISCHER: Our next confirmation hearing is for the Nebraska Railway Council and we have Patrick Meuret? Oh, I'm just murdering everyone's name today. My apologies. It's Meuret. Was I close before? [CONFIRMATION]

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

Transportation and Telecommunications Committee
February 26, 2008

PATRICK MEURET: Meuret. Yes, Meuret. Yeah, you did fine. [CONFIRMATION]

SENATOR FISCHER: Our page is looking at me going, I don't think you did that. (Laughter) So thank you very much for coming today. Would you like to tell us a little bit about your background, sir, and why you would like to be on this council. [CONFIRMATION]

PATRICK MEURET: (Exhibit 2) I worked in the family business for 34, 35 years. My father, my brother and now my three sons have joined the firm. We've...we have a grain elevator. We ship about 25 million bushel a year off of a small branch line and our family help save, along with our state senator in the late '70s, helped save that line. It was going to be abandoned and we all went up to, at that time the BNSF or the BN was in Minneapolis-St. Paul and we went up there and visited with them and told them, we'll make some investments if you keep this branch line going. We think we can make a difference to the farmers in the area and to their credit they did. And so we've got...it's now a branch line but we have some special feelings obviously for the railroad and when I was asked to serve, I went on and looked at their mission statement and I agree wholeheartedly with that mission statement so. [CONFIRMATION]

SENATOR FISCHER: Thank you very much. Are there any questions? Have you ever been to one of the council meetings before? [CONFIRMATION]

PATRICK MEURET: I have not. [CONFIRMATION]

SENATOR FISCHER: Do you know any members on the council currently? [CONFIRMATION]

PATRICK MEURET: I knew the member that was on there whose place I'm taking, Bob Kelly, but that's it. [CONFIRMATION]

SENATOR FISCHER: How many years was Mr. Kelly on? [CONFIRMATION]

PATRICK MEURET: I'm guessing maybe since it's inception. Quite a few years and he has had some health problems now so. [CONFIRMATION]

SENATOR FISCHER: But he enjoyed his experience so you're expecting a positive experience then too? [CONFIRMATION]

PATRICK MEURET: Yes, I am. [CONFIRMATION]

SENATOR FISCHER: Great. Thank you very much. Any other comments? I see none. Thank you very much for coming forward. [CONFIRMATION]

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

Transportation and Telecommunications Committee
February 26, 2008

PATRICK MEURET: Thank you. [CONFIRMATION]

SENATOR FISCHER: And as I said earlier, we do appreciate that you take the time to come down. Anyone wishing to speak in favor of this nomination? Anyone in opposition? Anyone in the neutral capacity? I see none. Thank you very much again, Mr. Meuret. With that I will close our confirmation hearings and I will open the hearing on LB786. Senator Howard is on her way so we will wait until Senator Howard comes for her introduction, and here she is. Welcome, Senator Howard. Perfect timing. [LB786]

SENATOR HOWARD: Thank you. We're down in education and we followed the many school children today. [LB786]

SENATOR FISCHER: And you're very happy to be here with us in Transportation Telecommunications today, aren't you? [LB786]

SENATOR HOWARD: Well, now do you want me to answer that? (Laughter) [LB786]

SENATOR FISCHER: No, you'd better not. [LB786]

SENATOR HOWARD: I'm always happy to be with you. (Laughter) [LB786]

SENATOR FISCHER: And it's always a joy to see you. Welcome. [LB786]

SENATOR HOWARD: Thank you. Thank you, Chairman Fischer, and thank you so much for allowing me to come here today. Thank you, Senator Fischer and members of the Transportation Committee. For the record, I'm Senator Gwen Howard and I represent District 9. Today I bring LB786, the move over bill for your consideration. The purpose for this bill is simple. I want to save lives, and reports from other states are telling us that move over laws improve public safety. Nebraska is one of only ten states that do not have a move over law. All of the states contiguous to Nebraska have move over laws. LB786 would require motorists on Nebraska's controlled access highways, with at least two available lanes traveling in the same direction, to yield the right-of-way to a stopped authorized emergency or road assistance vehicle. The authorized vehicle must be using proper audible or visual signals. Motorists would be required to move into a lane at least one lane apart from the stopped vehicle unless otherwise directed by a peace officer or other authorized personnel. If moving to another lane is not possible due to weather or road conditions, the approaching driver shall maintain a safe speed and proceed with caution. If the controlled access highway does not have two available lanes traveling in the same direction, the approaching driver shall maintain a safe speed and proceed with caution. Violators of this section would be guilty of a traffic infraction for the first offense and a Class IIIA misdemeanor for the second and subsequent offenses. Let me be clear, however. This bill is not intended to be a revenue generator

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

Transportation and Telecommunications Committee
February 26, 2008

for law enforcement. The purpose of this law is to heighten awareness about the importance of yielding to emergency and road assistance workers in order to increase public safety. In the past, there have been concerns about the ability to enforce the provisions of the law. There will be testifiers, that will be following me, who can provide you with the information regarding enforcement efforts in other states. Ideally, what we would like, is to not have concerns about enforcement because people are following the law. Many people think that this law may not be necessary because moving over is a common sense driving strategy that all people should know and apply. But the reality is, that many people are not aware that they should move to yield the right-of-way to emergency and assistance vehicles. Many motorists have never been stopped on the side of the road, lucky for them, and don't realize the potential for danger. Posting illustrated road signs which state, move over, it's the law, in conjunction with this bill, can make a difference. This is a common sense bill that improves driver awareness and public safety. It is a potential to decrease unnecessary danger for those who risk their lives to help others every day. I would ask that you listen carefully to the testimony that follows mine, and I urge your favorable consideration of LB786. [LB786]

SENATOR FISCHER: Thank you, Senator Howard. [LB786]

SENATOR HOWARD: Thank you. [LB786]

SENATOR FISCHER: Are there any questions? Senator Stuthman. [LB786]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Howard, when an individual takes a drivers test, isn't there some question on there as to what to do when there's a vehicle in, either stopped alongside the road or an emergency vehicle that is parked on the road? Isn't there a question in that, and I just thought of that now and I haven't taken the test for many, many years, but as to what to do? [LB786]

SENATOR HOWARD: You know that, that would be my response to you is that I haven't that test in many, many years. And I'm sure it's updated periodically so even if I remembered what was on that test when I took it, it might not be accurate, so I don't know the answer to that. Possibly Rose White, who will be providing testimony, who is with AAA, could have more up-to-date information on the drivers test. [LB786]

SENATOR STUTHMAN: Okay. Thank you. [LB786]

SENATOR FISCHER: Other questions? Senator Howard, you introduced a similar bill last year and our questions at that time dealt with enforcement. How would you respond this year? How is this going to be enforced? We're going to spend money to put up signs and then what? [LB786]

SENATOR HOWARD: Which will be minimum. The cost is really minimal for the signs

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

Transportation and Telecommunications Committee
February 26, 2008

and, you know, I pondered that over the last year, enforcement, enforcement, enforcement. But really the message of this bill is, as I said before, not to be a revenue generator for our state but rather to save lives and be an instrument of safety. It's important that people, even though it would seem common sense to all of us here today, realize that you should move over when there's someone on the side of the road aiding a motorist. But that is not always the case. And we put individuals, who are out there working for us, in danger when people don't use that common sense of moving over. All of the patrol cars do have cameras so they do have that availability to record what's going on around them, and that's one way to look at it. Also Rose White will be able to give some more information when she comes up too. [LB786]

SENATOR FISCHER: Okay. Thank you very much. [LB786]

SENATOR HOWARD: Oh, you're welcome. Thank you. [LB786]

SENATOR FISCHER: Other questions? I see none. Oh, I'm sorry, Senator Lautenbaugh. [LB786]

SENATOR LAUTENBAUGH: A late entry. Thank you, Madam Chair. Senator Howard, would this bill be effective even without the signs? [LB786]

SENATOR HOWARD: I believe this, the posting of the signs would be required. The signs are posted in all of the states that have this law, so that people do know we have a law in the state of Nebraska. I think it would be very difficult for people if they weren't educated about the matter. [LB786]

SENATOR LAUTENBAUGH: Thank you. [LB786]

SENATOR FISCHER: Other questions? Thank you very much. [LB786]

SENATOR HOWARD: Thank you. [LB786]

SENATOR FISCHER: Would the first proponent please step forward. Good afternoon. [LB786]

ROSE WHITE: (Exhibit 1) Good afternoon, Senator, and members of the committee. My name is Rose White, R-o-s-e W-h-i-t-e and I'm here today representing AAA Nebraska. While a great deal of our traffic safety efforts is focused on motorists, AAA also has concerns for those working along our highways. Now this includes law enforcement officers, tow trucks operators, motorist assist volunteers, and fire and emergency rescue teams. Now whether they are changing a tire, investigating a crash or providing emergency medical treatment, these professional service providers and volunteers put their lives at risk every time they stop along the shoulder of the highway. Now most

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

Transportation and Telecommunications Committee
February 26, 2008

states recognize the dangers faced by emergency first responders and have enacted laws that require motorists to move over if practical, leaving a one-lane safety cushion when they pass emergency vehicles on the side of a multilane highway. Now you have been given a map and basically there are only nine states that do not have a move over law. Hawaii is included, and Hawaii likely will not pass such legislation because their infrastructure doesn't demand so, but five of those nine states are having legislation pending at this time. Now, if moving over is not possible due to heavy traffic or other issues, most laws require motorists to simply slow down. Nebraska is one of only a few states in the continental U.S. that does not have a move over law. The only other states without this law are located near the east coast and most of them again, have legislation pending this year. And AAA believes that move over laws should be consistent across the country and not vary from state to state. And if it was consistent across the country, we might not have to have the signs posted but since there is that variance, yes, we do need to post that sign for education purposes. Now such variances in state laws create confusion for travelers that sometimes result in hefty fines charged to visiting motorists from Nebraska, who are unaware that such laws exist. With motorists and truckers speeding along at 65 miles per hour or more on our highway and interstate system, it's imperative that we pass legislation this year to help prevent roadside tragedies. In fact, in many states they pass laws after a tragedy has already occurred, and some of the states have laws named after particular law enforcement officers because of that issue. Another reason we need this law now, is some of the latest models of SUV's and pickup trucks are wider to help improve vehicle stability. Side view mirrors on some models extend nearly two feet from the body of the vehicle. Now can you imagine the injuries that may result if a person is struck by a side view mirror of a vehicle traveling 65 to 75 miles an hour? Now in regards to the dangers this imposes on roadside assistance providers, these newly designed, wider vehicles leave little margin for error. As an example, the new 2008 Chevy Silverado, I'm just using this as an example, there are actually several others, it measures 95.9 inches wide and that's just one inch shy of eight feet in width. Now the Nebraska Department of Roads reports that the lanes of our interstate multi lane highway system are only twelve feet wide. So traveling in the center of the lane in this type of vehicle, the driver has only two feet of clearance on both sides, just 24 inches of air space that separates a first responder from a high speed vehicle. Now this is simply not enough clearance for them to safely perform the duties expected of them. An officer from Florida was quoted in his testimony as saying, an officer has a better chance of surviving after being shot than getting hit by a car. Now, chairman Fischer and members of the committee, AAA Nebraska urges you to advance this bill out of committee. It's the least we can do for those that we depend on to come to our aid for emergency assistance, and it's simply the right thing to do. And I want to thank you for your consideration. I'll be happy to answer any of your questions at this time. [LB786]

SENATOR FISCHER: Thank you very much, Ms. White. Are there any questions?
Senator Loudon. [LB786]

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

Transportation and Telecommunications Committee
February 26, 2008

SENATOR LOUDEN: Yeah, thank you for being here from AAA. I've been a member of that for a long time. I don't believe in everything they say but I do use their, some of their work they have. (Laughter) [LB786]

ROSE WHITE: Thank you, Senator. [LB786]

SENATOR LOUDEN: I guess my question is, when you say here, you talk about, you know, some of the models extend nearly two feet out and all that. You got to have everything less than 96 inches on a state highway or else you got to have a permit or have a sign or something like that, so it doesn't matter whether they're SUVs or rear view mirrors or what, nobody is wider than that with their car, so that part isn't that, doesn't make that much difference does it? [LB786]

ROSE WHITE: Well, the issue is that maybe the commercial, larger trucks and so forth are that way, now we're getting into more popular trucks that are that way and in Nebraska pickup trucks is the most popular vehicle of choice on our highway system. [LB786]

SENATOR LOUDEN: Yeah, but you can't be over eight feet wide no matter what you stick out there. [LB786]

ROSE WHITE: Correct, but again that only allows for that 24 inches of air space. [LB786]

SENATOR LOUDEN: Yeah. The other question I have, when there's a first responder there and there's lights and stuff going on, aren't there other regulations that you have to slow down and be alert and that sort of thing? If you go through one of those areas with some of those lights flashing and stuff like that, you're already subject to some type of ticket aren't you? [LB786]

ROSE WHITE: From what I understand, no. There's no obligation for them to slow down. The only thing that would make it obligatory, would be to pass this law. Now the other issue too, pertains to, you know, are there any concerns about people that might not be able to move over because of traffic or weather? You know, they simply do have to slow down and so that's what is expected of them. But as you will hear from some of those testifying today, like I said, they have to face this every day. Well, they're almost blown away by the wind that's created from some of these vehicles, and so we just want to pass this to help prevent any tragedies here in Nebraska. [LB786]

SENATOR LOUDEN: If you go zipping by an accident scene at 75 miles an hour, you know, and there people around and stuff like that, can't you, maybe be picked up for reckless driving or something like that? [LB786]

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

Transportation and Telecommunications Committee
February 26, 2008

ROSE WHITE: I don't know if you can or not, in all honesty, Senator. I don't know if that's one of the issues associated with reckless driving. It might not be able to be considered reckless since they're following the speed limit, so I couldn't see how that would be considered reckless. [LB786]

SENATOR LOUDEN: They're endangering somebody's life by zipping by like that, I guess. [LB786]

ROSE WHITE: Again, I don't know if the bill would be that specific enough to charge them with that. [LB786]

SENATOR LOUDEN: One other question I'd have. Would this law actually be an after the fact law? I mean it wouldn't be used unless somebody went zipping by there and hit somebody and then it could be used because they didn't move over. Is that actually more what this would be, as an after the fact rather than doing anything to curtail it? [LB786]

ROSE WHITE: No, we want to prevent accidents and one way that we actually have a benefit here in Nebraska, is that we have the highest percentage of traffic enforcement vehicles in Nebraska equipped with on-camera equipment, 85 percent. That's the highest percentage in the country. And so if that officer is alone, that camera can actually pick that up if they want to follow up with a citation or communication with that person or they can simply use their phone to call ahead to another officer if that person actually was speeding in excess that caused some endangerment to that officer. But that's one area, I know enforcement was a concern of yours but that's where we have a benefit here in Nebraska. Now in other states, they charge somewhere, somewhere in excess of \$400 for this fine. This is basically just going to be a misdemeanor here in Nebraska but we've actually taken complaint calls from travelers who are Nebraska members saying, I was cited for a citation in Michigan or Colorado because I did not move over. I had no idea what a move over law is and so we try to intercede them with that. [LB786]

SENATOR LOUDEN: One other question. What with, as you, how many, how many, do you have research on how many accidents have happened in Nebraska that was, somebody got clipped on an interstate? [LB786]

ROSE WHITE: I wish we did, Senator. Unfortunately, that's not an area that's covered on the accident report and so we do not have any statistics in regards to that. The only thing we have to base our information is on the national statistics. [LB786]

SENATOR LOUDEN: Now are there more them, do you know how many of them happen on two-lane highways? [LB786]

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

Transportation and Telecommunications Committee
February 26, 2008

ROSE WHITE: No, I do not. Again on Nebraska... [LB786]

SENATOR LOUDEN: Because I was going to say, anytime I've ever heard of them it's always been on two-lane highways where somebody got hit. I don't know, I just question whether there's a, the research sets up how many are on interstates and how many are on two-lane highways and if you had that kind of information. [LB786]

ROSE WHITE: That's an excellent point and I'll be happy to research that for you. [LB786]

SENATOR LOUDEN: Okay. Thank you. [LB786]

ROSE WHITE: Okay. Certainly. Thank you, Senator. [LB786]

SENATOR FISCHER: Senator Aguilar. [LB786]

SENATOR AGUILAR: Thank you, Madam Chair. Thanks for being here today, Rose. Just looking at this picture here, it looks like a pretty simple task ahead of us because we really only have to train Nebraskans. Everybody else knows what the right thing to do is. (Laugh) [LB786]

ROSE WHITE: Yes, yes, that is true, Senator. Uh-hum. And like I said, it's in the true benefit too as when they're traveling out of state they won't be fined. Uh-hum. [LB786]

SENATOR AGUILAR: Absolutely. Thank you. [LB786]

SENATOR FISCHER: Senator Lautenbaugh. [LB786]

SENATOR LAUTENBAUGH: Thank you, Madam Chair. I'm kind in the same vein as Senator Aguilar's comment, I guess. I have the same question about the signage. I never noticed the signs in all of the other states around us. I mean, I just assumed it was common sense that you moved over. Would we have to spend the money on the signage if everyone around us... [LB786]

ROSE WHITE: Yeah. The only area where driver education is processed right now in this area is in the high school driver education books. There may be one or two lines about making a courtesy lane change. A courtesy lane change when approaching first responders but otherwise in a driving test and so forth, it's not listed because it's not a law. In the other states, signage is posted. In fact in Missouri, they have fines, if that's listed on a sign, it's \$10,000 if you strike a roadside worker. Ten thousand dollars, they take it so seriously in Missouri. And so in the other states they do have messages posted and I think initially, yes, we would have to have those signs and until it's a law

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

Transportation and Telecommunications Committee
February 26, 2008

passed in all 50 states, then we can probably relax a bit on our education. [LB786]

SENATOR LAUTENBAUGH: And I know your correct, I have seen that sign in Missouri now that you mention the \$10,000 figure. (Laughter) I've just seen the sign, that's all I'm saying. (Laughter) [LB786]

ROSE WHITE: Well, I do want to mention there was a high office government employee that received a citation, I think, about a month ago that wanted some assistance on seeing if we could do anything, so it does happen. [LB786]

SENATOR LAUTENBAUGH: Okay. Thank you. [LB786]

SENATOR FISCHER: Other questions? I have some questions, Ms. White, similar to what Senator Loudon was asking. Do you know how many accidents have happened in Nebraska where people on the side of the road have been hit? [LB786]

ROSE WHITE: Unfortunately, no totals were listed. The only area where we know that they have occurred is when they come out in the newspaper where it's actually indicated that. But unfortunately... [LB786]

SENATOR FISCHER: AAA doesn't keep track of how many accidents we have in the state and where they occur? [LB786]

ROSE WHITE: We gather information from the Nebraska Office of Highway Safety but as far as incidences that are pertaining to move over, that's not included on the accident reports and so we have no idea how many actually occur in Nebraska. [LB786]

SENATOR FISCHER: Would it be on those reports if some, someone is a pedestrian at the side of the road and they're hit along an expressway or interstate system? [LB786]

ROSE WHITE: It would be included in the pedestrian accident report, yes. [LB786]

SENATOR FISCHER: How many pedestrians then have been hit in the state of Nebraska, not necessarily on the move over issue but just total? [LB786]

ROSE WHITE: I'd have to research that, Senator, and then, plus, find out which ones were on multilane highways that would apply to this particular bill. [LB786]

SENATOR FISCHER: Other states, have they seen a decrease in pedestrians being hit along the side of a road, whether it's an emergency vehicle or runner, somebody walking their dog, whatever? [LB786]

ROSE WHITE: I don't have the information as to pre and post law but that certainly is an

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

Transportation and Telecommunications Committee
February 26, 2008

interesting question. I do know that several states have increased fines just in an effort to get more people in tune to the law. Florida being one of them. They had 250 officers that were hit last year as a result of them providing service alongside the road which is significant. [LB786]

SENATOR FISCHER: In what state was that? [LB786]

ROSE WHITE: Florida. [LB786]

SENATOR FISCHER: In Florida. How...you don't know how many officers have been hit in the state of Nebraska? [LB786]

ROSE WHITE: I do not know. And unfortunately, I wish we could... [LB786]

SENATOR FISCHER: I don't know if we have any state patrol here that can help us with that today or not. [LB786]

ROSE WHITE: From what I understand, they're supposed to maintain a neutral position on this bill so they're not able to testify. [LB786]

SENATOR FISCHER: Usually they are here if we have questions though, so I don't see the state patrol here today. How many tickets have been written in the other states surrounding us? I'm trying to get to the point, is this, and I don't mean to make lightly of it, but is this necessary? Has there been a decrease in accidents, have there been tickets that are written or is this a law, you know, what's wrong with this picture? Sometimes I like it that Nebraska stands out. Maybe it's common sense that we're standing out on this one. So how many tickets have been written in other states? In Iowa for their move over law? Do you have any of that information? [LB786]

ROSE WHITE: I don't know how many tickets have been written. Again, I'd be happy to research that. I think the important issue... [LB786]

SENATOR FISCHER: Well, see the problem is, we're getting towards the end of session so the research might be too late. [LB786]

ROSE WHITE: I understand. Yes. Well, I'll start working on it tomorrow morning if I have to. I just can't emphasize enough the dangers that are associated with our workers, On the tow service side we certainly know about the dangers that have existed. We know there have been a few fatalities involving tow truck drivers. I also know there was a student out in North Platte that was killed a few years ago because he was providing assistance to someone. So there are issues that occur and we're just trying to make sure that we get a bill passed so people will follow the law, move over, provide the medics a margin of safety, especially with the growing number of vehicles now that are

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

Transportation and Telecommunications Committee
February 26, 2008

wider. We feel that it's only going to make the situation worse and the dangers much more worse for these people. [LB786]

SENATOR FISCHER: And I certainly appreciate that. You know, I travel over 35,000 miles a year. I was speaking with these gentlemen earlier. It's dangerous on our highways and it's dangerous on expressways. It's dangerous on the interstate but it's sometimes, there's also a danger when you can't move over whether it's for an emergency vehicle or someone merging in on the interstate. It's impossible to move over and you see traffic coming up behind you while you're slowing down, I just don't know if this law and putting up signs will help in some of these situations. [LB786]

ROSE WHITE: And we know when there's gridlock traffic, it's not going to be probable to move over. In fact, you're probably going at a slow enough traffic that you're providing ample safety. But it's for those areas where they're traveling at 65, 70, in excess of 75 miles per hour, that they really need this assistance because again, the wind itself can even create almost like a vacuum to pull them out on to the highway and so they really this margin of safety. [LB786]

SENATOR FISCHER: Okay. I appreciate it. Thank you. [LB786]

ROSE WHITE: Thank you, Senator. Thank you, Senators. [LB786]

SENATOR FISCHER: Senator Lautenbaugh. [LB786]

SENATOR LAUTENBAUGH: Thank you, Madam Chair. That did lead to another question and a comment about Missouri. A violation of this, a first offense, is an infraction? [LB786]

ROSE WHITE: Correct. [LB786]

SENATOR LAUTENBAUGH: So we are actually counting on some enforcement of this prior to a tragedy happening, not just an enhanced charge once there has been a tragedy on the road. [LB786]

ROSE WHITE: That is correct. [LB786]

SENATOR LAUTENBAUGH: Do we have an enhanced charge already, like Missouri, the \$10,000 thing? [LB786]

ROSE WHITE: No. [LB786]

SENATOR LAUTENBAUGH: I'm just trying to think of which would be more effective as far as enforcement on this, an infraction that you're unlikely to be caught for, or a huge

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

Transportation and Telecommunications Committee
February 26, 2008

penalty if some tragedy follows from your result or as a result, and I don't know if you know the answer to that. [LB786]

ROSE WHITE: I don't know. I just feel that it would probably be easier for people to accept if it's a minor infraction to start with followed by heavy education. And then if that doesn't seem to be working based on the results of the state patrol and the other people behind me testifying, that we may have to increase it to make it a little bit more serious, something with a little more bite. [LB786]

SENATOR LAUTENBAUGH: Thank you. [LB786]

SENATOR FISCHER: Other questions? I see none. Thank you very much for being here today. [LB786]

ROSE WHITE: Thank you very much, Senator. [LB786]

SENATOR FISCHER: Next proponent please. Don't be shy. Good afternoon. [LB786]

JOHN BENNER: Good afternoon, ma'am. I'm John Benner, B-e-n-n-e-r. I'm from Papillion and I've worked with the Metro Area Motorist Assist Program for almost nine years and during that time, Lincoln here, a couple of years back, had one of their motorist assist program demolished. Thank goodness the driver was out of the vehicle in front of it waiting to remove an obstacle from the middle of the road when a young lady in a moving van demolished his vehicle. Nobody was injured. She wasn't injured too bad. And in my opinion, anybody who does not agree with this bill should go out on the interstate, pull to the shoulder, turn their flashers on, and stand between the driver's door and the white line for five minutes and just see how many people will move over for a pedestrian standing by that white line or cars sitting with four-way flashers on. They will not move over. You might find a few out of many will move over. If the lane is empty, they might move over. If the lane's not empty, like the traffic says they can't move over, they will not slow down. It is very dangerous out there. Here just a few weeks back, we had a trooper in Omaha got rear-ended sitting on the shoulder with his lights on. Here last year, we had two troopers rear-ended in Omaha sitting on the shoulder with the lights on. We need something for the safety of the motorists if they're stopped out there trying to change a tire, motorists assist, tow trucks, emergency vehicles or any vehicles sitting out there with lights on flashing. To get their attention, move them over because when everybody is moving down the road at 75 miles an hour it don't seem very fast. But put your toes against that white line and watch a car go by you at 75 mile, you get an idea real quick just how fast 75 miles an hour is. And a lot of times, it's more than 75 miles an hour. So that's about all I've got to say, but we do need the bill. [LB786]

SENATOR FISCHER: Thank you, Mr. Benner. Can you tell me, do your vehicles have cameras in them? [LB786]

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

Transportation and Telecommunications Committee
February 26, 2008

JOHN BENNER: No, we don't. Not the motorists assist, the patrols do, but we don't. [LB786]

SENATOR FISCHER: How do you suggest we enforce this then? You're out there, which I appreciate and I visited with you folks earlier. I appreciate that you're out there assisting motorists. I appreciate the danger you put yourself in on being on the side of the road. How is this bill going to better protect you? How are we going to enforce this? [LB786]

JOHN BENNER: Like this gentleman right over here says, Missouri has it. Illinois has it. Hit a worker, \$10,000 fine and one year in jail. It doesn't say or. [LB786]

SENATOR FISCHER: I was going to say that I don't know if a life is \$10,000. I think it's more than that when you hit a worker. [LB786]

JOHN BENNER: Illinois has a sign stating \$10,000 and one year, not or, but and. Put those up at the borders and put them up a couple different places along the state. Might not have to be \$10,000 but put a stiff penalty up there and wake these people up because they need to be woke up. [LB786]

SENATOR FISCHER: Have you or do you have any information from other states that the number of accidents have decreased or the number of tickets that have been written since they have implemented these laws? [LB786]

JOHN BENNER: I have no statistics whatsoever about anything from other states. [LB786]

SENATOR FISCHER: Any other questions? [LB786]

JOHN BENNER: And may I say one other thing? [LB786]

SENATOR FISCHER: Certainly. [LB786]

JOHN BENNER: A barricade, a person in the middle of the road, a flashing red light means one thing to a lot of motorists. It's an obstacle to overcome. Once they get around it, they drop right back in the lane that you just moved them away from. So there again, you need something to keep them people moved over and stay over until they get past the scene, and we're all volunteers. [LB786]

SENATOR FISCHER: Senator Stuthman, do you have a question? [LB786]

SENATOR STUTHMAN: Thank you, Senator Fischer. Don (sic) I appreciate your

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

Transportation and Telecommunications Committee
February 26, 2008

comments and everything like that. The thing that concerns me is, you know, if we would make this a law, put it into the statute, in your situation where you don't have cameras or anything like that, if somebody's going by, how are you going to be able to get the license plate number when they're going by so fast and everything like that? The thing that I'm concerned with is, how are we going to enforce it if we're going to spend a lot of money for signs and everything like that? [LB786]

JOHN BENNER: Sir, that's a good question. I don't know but I would imagine that the state patrol, the Omaha police and your local communities and law enforcement agencies could probably come up with a solution without duping the public. [LB786]

SENATOR STUTHMAN: I really think, you know, common sense should tell you to move over but, you know, there is a lack of that in some of the drivers, I will admit that. But I just, I just don't know how we're going to enforce it. This may, to me it might be a feel good bill that we've got something and is it going to save life, has it saved lives. And I appreciate the question from Senator Fischer, you know, what have other states found and you're not aware of what they found either? [LB786]

JOHN BENNER: No, sir. [LB786]

SENATOR STUTHMAN: I'm just concerned about we're going to be doing things...I would sooner see something, and I hope you would agree with this, is that we need to get in the drivers education, which I think it is, you know, to move over, there's an emergency vehicle there. To instill that into the young drivers of what to do. That's the common sense portion of it. I wish we could do that and maybe you could help try to get that into some driver training classes. [LB786]

JOHN BENNER: That's a possibility there, sir. But like you just says, it's common sense and if so many people, once that key has turned the ignition, something up here is turned off. (Laughter) Common sense is turned off and they just follow that hood. Where that hood goes, they go. [LB786]

SENATOR STUTHMAN: I don't think it's totally turned off. [LB786]

JOHN BENNER: No, not totally. [LB786]

SENATOR STUTHMAN: It's clicked over to one that engages their ears to the phone. (Laughter) Thank you. [LB786]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Benner, and thank you again for volunteering to help us when we're out there on the road. Thank you. [LB786]

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

Transportation and Telecommunications Committee
February 26, 2008

JOE BENNER: Pleasure being here. Thank you. [LB786]

SENATOR FISCHER.: Thank you. Next proponent please. Good afternoon. [LB786]

JERRY STILMOCK: Good afternoon, Senators, thank you. My name is Jerry Stilmock, S-t-i-l-m-o-c-k, lobbyist on behalf of the Nebraska State Volunteer Firefighters Association, with over 7,000 members in Nebraska providing volunteer fire and rescue services throughout the state. Once again, supporting the efforts of Senator Howard in introducing LB786 this year. Unfortunately, one of my members from York, Nebraska, was unable to travel here this afternoon so I asked him to share with me so I could relate to you what he would have said had his work schedule allowed him to be here. He said he was on a rescue call on the side of the road and unfortunately, it doesn't exactly fit the bill because it was not the interstate, but he was on a rescue call. And paint this situation, if you would please, for just a few seconds. It's a burning vehicle. He knows that there is someone inside that burning vehicle. Time is short. The vehicle is burning but it has not exploded from the fuel capacity yet. He knows time is short. There's two items that are obtained from the emergency vehicle, that are the jaws of life and a tool box to use, Bill, to help Bill operate the jaws of life. The tool box is on the immediate end of the pavement on the roadway and he's already assembled the jaws of life in the burning vehicle and he's...again time is of the essence. He reaches to the tool box and a motorist comes by and runs over his tool box as he's about to engage the tool box with his hands in order to grab that equipment, so he can apply it and use the jaws of life. That was his episode that he described to me. One incident. One volunteer. I said, Bill, tell me, you're in York, how often a week do you go to the interstate system which this bill is groomed for. He said, at least two to four times a week, so just one community in Nebraska that is faced with going out on the interstate system and having to do this. Other Senators, before Senator Howard had introduced this bill, and it comes along a lot of different ideas, a lot of different issues are brought up. Those that have been brought up this afternoon as well. The one issue that I'd like to at least talk about is, is that of common sense. We're asking you to legislate common sense. There's no doubt about it and I tried to think of what's another example. There's no way in God's green earth that we would move into a house any longer with lead based paint. If it was in there, we would remove it and it's just common sense now that we would not live in a home with lead based paint, particularly if we had minor children or infant children. In the same way, there had to be a law passed in order to educate the people about lead based paint and I think that's my request of you, as committee members, to do this piece of legislation to protect those people that put their life on the line when they go out, in my situation for my client, volunteering to rescue those in need. For those reasons, we ask you to advance LB786 to the floor. [LB786]

SENATOR FISCHER: Thank you, Mr. Stilmock. Are there questions? Senator Aguilar. [LB786]

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

Transportation and Telecommunications Committee
February 26, 2008

SENATOR AGUILAR: Thank you, Madam Chair. Jerry, in the situation you just described, a person's driving by a burning vehicle who doesn't pull over for that, that particular incident didn't kick in the common sense theory, so that pretty much tells me common sense is not working. [LB786]

JERRY STILMOCK: I appreciate your comment, Senator. [LB786]

SENATOR FISCHER: Questions? Senator Stuthman. [LB786]

SENATOR STUTHMAN: Thank you, Senator Fischer. Jerry, and I think you testified on the bill last year to also. [LB786]

JERRY STILMOCK: Yes, sir. [LB786]

SENATOR STUTHMAN: What difference is there with last year as this year's bill? Is there any difference, do you see any difference in it? [LB786]

JERRY STILMOCK: I want to turn the corners of my mouth up and say something smart, but I'm not going to, smart-alecky. (Laughter) There's a new member on the committee (Laughter) but the bill remains the same as far as what I saw, Senator, yes. [LB786]

SENATOR STUTHMAN: Okay. And also do you think, if we would pass this thing, and you know we can't legislate common sense, you realize that but is that going to make a lot of difference for the people that are traveling through the state? If they're traveling through the state and an interstate, you know, is from one state to the next state and they've got laws all over. They just came from a state where it was had to move over and then they get into Nebraska, do they really tell themselves, you know, I don't have to move over while I'm going through Nebraska today, but... [LB786]

JERRY STILMOCK: Well, that's a tremendous comment that makes it difficult to respond to but we still have our 1.4 million, our people here in Nebraska, that we have to be concerned about. I know it's cliché and how, to name a law. It seems like it comes up more and more in transportation committee to name a law after a terrible incident, after a trooper's name, a volunteer's name. We have enough named laws already. Let's not make another one. [LB786]

SENATOR STUTHMAN: Thank you. [LB786]

JERRY STILMOCK: Thank you. [LB786]

SENATOR FISCHER: Other questions? Do you know how many volunteers have been involved in accidents that would have been covered under this law? [LB786]

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

Transportation and Telecommunications Committee
February 26, 2008

JERRY STILMOCK: I don't. I listened...I don't. [LB786]

SENATOR FISCHER: Do you know how many volunteers have been killed in the last five years? [LB786]

JERRY STILMOCK: Killed because of... [LB786]

SENATOR FISCHER: Because of an accident where they've been on the side of a road, whether it's interstate or a two-lane highway. [LB786]

JERRY STILMOCK: Zero. I'm confident and that number is none. [LB786]

SENATOR FISCHER: Can you remember when the last person was killed along a two-lane or an interstate highway? [LB786]

JERRY STILMOCK: I cannot. I don't believe since '93 when I was invited to this work, to this job. [LB786]

SENATOR FISCHER: I don't want to see anybody killed along the highway either. [LB786]

JERRY STILMOCK: I understand, yes. [LB786]

SENATOR FISCHER: But I'm asking these questions to see if this, if this law has had affects in other states. You know, we're surrounded by most of the country here that has implemented the law. Do you know, if they have seen any kind of decrease in accidents? [LB786]

JERRY STILMOCK: I do not. [LB786]

SENATOR FISCHER: Okay. Thank you very much. [LB786]

JERRY STILMOCK: Yes. [LB786]

SENATOR FISCHER: Other questions? Thank you. [LB786]

JERRY STILMOCK: Okay. Thank you. [LB786]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB786]

KORBY GILBERTSON: Good afternoon, Madam Chair, members of the committee. For the record, my name is Korby Gilbertson, K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing

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

Transportation and Telecommunications Committee
February 26, 2008

today as a registered lobbyist on behalf of the State Troopers Association of Nebraska in support of LB786. Let me first start by saying that State Troopers Association is not the state patrol. It is made up of state patrol officers. Secondly, you've asked several times about specific statistics regarding accidents or deaths. I don't have the statistics. I would be happy to make contact with the state patrol and see if I can get those for the committee and I will send them a text message as soon as I leave the room. Can't do it in here. [LB786]

SENATOR FISCHER: Thank you. Thank you very much. [LB786]

KORBY GILBERTSON: However, the State Troopers Association does support LB786 and when we discussed this bill at their board meeting, every single member of the board had personal stories about instances where they have either had an accident or not had an accident, been hit or had an automobile hit or been, come close, really close to where they're standing on the side of the road and nearly been pushed into a car, or other things happening. So this isn't something that happens rarely or occasionally. It's an every day occurrence for these people who spend their time out on our roadways. Also we would encourage that you advance the bill because it has been selected as a speaker priority bill and we would look forward to being debated by the full Legislature this year. And I'd be happy to try to answer any questions. [LB786]

SENATOR FISCHER: Any questions? What about enforcement, Ms. Gilbertson? How do you enforce this? The troopers have cameras in their cars but what about enforcement for other people? [LB786]

KORBY GILBERTSON: They do and frankly during their meeting I was trying to play a bit of devil's advocate based on questions that came from last year. [LB786]

SENATOR FISCHER: Some of us do that every now and then. (Laughter) [LB786]

KORBY GILBERTSON: I know. I think you and I are a lot alike in that way but...because I said, you know, it won't be looked on very favorably if you're relying on a camera that's in a cruiser. You can see maybe one lane of traffic. You can't see that there are maybe four cars behind you, two in front of you, and beside you and you cannot get over. If people are, all of a sudden, getting tickets in the mail because you got their license plate number, that would not, you know, that kind of stuff just won't fly. They didn't have any solutions. We weren't part of drafting the bill but we'd be happy to work on things. [LB786]

SENATOR FISCHER: What do you think of the penalties in the bill and where you have a traffic infraction for the first offense and a class IIIA misdemeanor from then on? What...is that reasonable? What do you think? [LB786]

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

Transportation and Telecommunications Committee
February 26, 2008

KORBY GILBERTSON: I think that is for the Legislature to decide. [LB786]

SENATOR FISCHER: No comment? [LB786]

KORBY GILBERTSON: No comment. [LB786]

SENATOR FISCHER: Okay. Any other questions? Senator Louden. [LB786]

SENATOR LOUDEN: Yeah, thank you, Senator Fischer. As I've asked before, Korby, this bill would be actually after the fact. I mean, when you talk about some of your state troopers that have had somebody zip by them or something like that, if nobody got hurt, chances are they probably won't go out and try and run them down because they're busy taking care of the business at hand. So it would actually be, if they clipped somebody and caused some other kind of serious injury or property damage and, of course, by then they would have escalated into some other type of fine or something like that. So I'm wondering, you know, other than having these signs up and, of course, I drive interstate a lot, a lot of people move over the way it is. I'm wondering is, you know, how this thing is written, if it would do that much good or is it going to be case where you got to wait until somebody gets hit before you do it and then it isn't of any value anyway. [LB786]

KORBY GILBERTSON: I can see what you're saying, Senator Louden. I also do think there will be instances though if you have, perhaps one of the motorist assist vehicles helping someone and maybe a trooper is coming the other way and sees, you know, a car go whizzing by them, they could pull them over. There could be instances where they call ahead to another trooper and say that someone has just done this to them. [LB786]

SENATOR LOUDEN: Okay. Now if this, if this is a motorist helping another motorist, this... [LB786]

KORBY GILBERTSON: One of the motorist assist vehicles. I think the... [LB786]

SENATOR LOUDEN: Okay. Because unless you got some helmets flashing, nobody has to move over. [LB786]

KORBY GILBERTSON: Right, they would still have to have...right. That's correct. [LB786]

SENATOR LOUDEN: Okay. And this is, that would be the only time. Thank you for your testimony. [LB786]

KORBY GILBERTON: You're welcome. [LB786]

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

Transportation and Telecommunications Committee
February 26, 2008

SENATOR FISCHER: Other questions. I see none. Thank you very much. [LB786]

KORBY GILBERTSON: Thank you. [LB786]

SENATOR FISCHER: Next proponent please. [LB786]

JOE KOHOUT: Good afternoon, Chairwoman Fischer, members of the Transportation Committee. Joe Kohout, K-o-h-o-u-t, appearing today as a registered lobbyist on behalf of the Nebraska Fraternal Order of Police, here to support this measure. We supported it last year. We will continue to support the concept. Senator Fischer, your questions regards to reductions in injuries or claims by police officers, I'm happy to float that up to our national organization frankly to see if there has been a reduction. I think we're in a unique position that we can maybe see if they've got any documentation on that front. So I don't have an answer to you but I'm happy to float it up (laugh) anticipating the question... [LB786]

SENATOR FISCHER: Thank you. [LB786]

JOE KOHOUT: ...and I'm happy to float it up and try to get that question back to you. But like I said, we supported it last year, we support it this year, we will support it next year if the committee (laugh) doesn't act on it so that being said... [LB786]

SENATOR FISCHER: So you're saying we shouldn't advance it from committee if we want to see you here year after year after year? (Laughter) [LB786]

JOE KOHOUT: Yeah, exactly. [LB786]

SENATOR FISCHER: Thank you very much. [LB786]

JOE KOHOUT: Thank you. [LB786]

SENATOR FISCHER: Any questions? Senator Stuthman. [LB786]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Kohout, you've heard the question a lot of times. How are you going to enforce it? Have you got any idea on that? [LB786]

JOE KOHOUT: No, and frankly the conversation with our executive board was, I would say to some extent, similar to the conversation Ms. Gilbertson had with her board as well. Two of our, I believe, two of the members of our executive board are traffic enforcement consultants, in fact the president of the state FOP is, in fact, a traffic officer in Omaha and does do enforcement on the interstate and he was the first one to say,

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

Transportation and Telecommunications Committee
February 26, 2008

yes, we need to support this. So he sees it on a regular basis. We did not discuss, how do you enforce this. That was not a conversation we have. I'm happy to have that with them and get back to the committee on that conversation. [LB786]

SENATOR STUTHMAN: Thank you. [LB786]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB786]

JOE KOHOUT: Thank you. [LB786]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB786]

JACK CHELOHA: Good afternoon, Senator, members of the committee. My name is Jack Cheloha, C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I wanted to testify in favor of LB786 on behalf of our Omaha Police Department and our Omaha Fire and Rescue squad. It seems to me, yes, we are trying to legislate common sense but oftentimes we ask government to pass laws, paternalistic laws, and to me it seems like this one would make sense for us to adopt it and move it forward. Another thing is, I see that this is going to be adopted as one of the rules of the road and I don't know for a fact, but it seems like to me, that the driver's manual that's written and given to us as we prep for our exam, what is it every five years now if you need to take it that is, is based on the rules of the road so it would make sense that if we want to educate Nebraskans, we should pass this law, get it in the rules of the road and we could include it in that manual for Nebraska drivers to realize this. Other questions you've had, I was trying to think, well, what's the answer to enforcement. Omaha police, we enforce traffic and rules of the road on the interstate through Omaha. We could radio ahead to other cruisers that happen to be around. If they notice, you know, at the time what's going on, with someone violating this should it become law, or another example is, in terms of trying to enforce. I mean, what if somebody runs a stop sign now, how do you enforce that? You enforce it by sight if you witnessed it or things like that. So it seems to me that this would fit well within our rules of the road and make sense and our law enforcement and rescue people are asking for such provision. I would ask you respectfully to advance this to the floor and make it, you know, a bill we could debate since it is a speaker priority. I'll try and answer any questions you might have. [LB786]

SENATOR FISCHER: Thank you, Mr. Cheloha. You know how I feel about government being maternalistic. [LB786]

JACK CHELOHA: Oh, yes. (laugh) [LB786]

SENATOR FISCHER: But I will have to say that, your testimony just now, I think you put forth the best argument for this bill. [LB786]

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

Transportation and Telecommunications Committee
February 26, 2008

JACK CHELOHA: Thank you. [LB786]

SENATOR FISCHER: And it's through education, it's getting it in the driver's manual, it's...and that's the way you make the change and that's the way you do it, so I appreciate you coming forward. [LB786]

JACK CHELOHA: Thank you. [LB786]

SENATOR FISCHER: Any questions? [LB786]

JOE CHELOHA: If I could make one more comment. [LB786]

SENATOR FISCHER: Certainly. [LB786]

JACK CHELOHA: It seems to me that most of our rules that we write or statutes for driving have to do with either improving traffic flow or safety. And as I thought about that, I think this one, I think this meets it on both accounts because we're trying to improve traffic flow if we ask people to move to the left, it keeps them, you know, if you were moving along, it tries to cut down on our favorite term called, rubber necking, if you will, and also it provides safety for those that happen to be on the side of the road doing their job, so the points again. [LB786]

SENATOR FISCHER: I think you just did it again. Now don't get cocky. (Laughter) But... [LB786]

JACK CHELOHA: Now can we talk about roads funding? (Laughter) [LB786]

SENATOR FISCHER: I think you and I will have that discussion, sir. (Laughter) [LB786]

JACK CHELOHA: Okay. [LB786]

SENATOR FISCHER: Any other questions? I see none. Thank you very much. [LB786]

JACK CHELOHA: All right. Thanks so much. Thank you. [LB786]

SENATOR FISCHER: Any other proponents? Good afternoon. [LB786]

GARY BEHLMANN: Hi, my name is Gary Behlmann, B-e-h-l-m-a-n-n. I am with Kearney Towing and Repair Center out of Kearney, Nebraska, and I'm also the western vice president of the Professional Towing Association of Nebraska. On January 16 of this year, one of our tow trucks was struck from behind while it was parked on the side of the interstate with all its lights flashing. Fortunately, no one was injured. Both vehicles were destroyed. We still do not have a replacement vehicle. It takes about

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Transcriber's Office

Transportation and Telecommunications Committee
February 26, 2008

three months to get one of those back in action. We, of course, would like to see this bill advanced. It's very important to us. I hear a lot of comment about some of the other states, what has happened. And I spoke with a tower friend of mine from Missouri. He says that the signs with, of course, the \$10,000 figure on it was probably the biggest asset to that bill they had, public awareness. He also suggested that while he's working on the roadways, sometimes law enforcement will come into the area that wasn't there originally and basically watch for violators, and just the increased presence, he felt, increased his safety. And with that I would like to see you advance this bill as quickly as possible. (Laugh) [LB786]

SENATOR FISCHER: Thank you, Mr. Behlmann. Are there questions? Senator Stuthman. [LB786]

SENATOR STUTHMAN: Thank you, Senator Fischer. Gary, this incident that you had that ran into the back of your tow truck. Was that a Nebraska resident? [LB786]

GARY BEHLMANN: Sioux City. I don't know which side of the fence they're on. (Laugh) [LB786]

SENATOR STUTHMAN: Well, I just thought maybe he was from a state that has the law and he should have known what was going on. [LB786]

GARY BEHLMANN: They were from Sioux City and I don't know which side, if it was Iowa or Nebraska. [LB786]

SENATOR STUTHMAN: Okay. I too, I am also concerned about, you know, the safety. I'm a volunteer fireman and the thing that concerns me is that, you know, when you're on the side of the road and you see a vehicle that just goes, shoosh,(phonetic) right by you and about blows you off the road and you have to get your senses back together before you even see the vehicle, he's probably at the top of the next hill already. [LB786]

GARY BEHLMANN: Right. [LB786]

SENATOR STUTHMAN: There would be no way to ever, ever, you know, enforce it. That's the concern that I have. Because you're looking at your own safety to start with. Does this, do you see a lot of people move over though at the present time? [LB786]

GARY BEHLMANN: No. I would just guess maybe half. Some do, some don't. Some could and won't, some can't. But, you know, as tow truck drivers, we obviously are not going to be able to enforce the law at all. In the incident we had, there was no fines issues, no tickets written. Basically, no law was violated. The guy hit a parked vehicle. I would think maybe this law would entice law enforcement to follow up on something like

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

Transportation and Telecommunications Committee
February 26, 2008

that or as the Missouri guy was just telling me, they kind of look for violators more. They have a bill that would allow them to do something about it. [LB786]

SENATOR STUTHMAN: Okay. Thank you. [LB786]

SENATOR FISCHER: Other questions? I see none. Thank you very much for coming in today. [LB786]

GARY BEHLMANN: Thanks. [LB786]

SENATOR FISCHER: Next proponent please. Could I ask how many more are speaking in favor of the bill? I see one other hand. Is there anyone who plans to speak in opposition to the bill? I see one hand. This is just to let the next Senator who has a bill up, have an idea of when they need to come to the hearings, and thank you. Good afternoon. [LB786]

JAMES WOERNER: I'm James R. Woerner from Nelson, Nebraska. [LB786]

SENATOR FISCHER: Could you spell your last name, please? [LB786]

JAMES WOERNER: W-o-e-r-n-e-r. I run a small towing company in Nelson and run a maintenance shop for trucks. Also do DOT inspections on trucks and maintain school buses and also our power company trucks which is located in our city. For this bill to, the only experience that I had, the closest I came was on a two-lane highway changing a tire on the left side of a car. Put my flashlight down at night, went to get it and it was gone. So that, from the distance between me and the tire and the vehicle that run over it, destroyed my flashlight. We are Nebraska football fans. An automobile traveling down interstate 80 covers the length of that football field every second. So you go, one, two, he just went down to the goal line and back in that length of that time. If you stand on the front of your bumper of your truck and try to get in the door and see a speck down the highway, especially out around North Platte, that speck is a 18-wheeler and by the time you get in your vehicle, he's already at your door. From experience I know that. Tried to put a battery in a car one time and I literally pushed it into the grader ditch then and installed the battery. Senator, you was talking about the width of a truck. Most meat hauler trucks, which are coming out of Grand Island, are 102 inches on the inside so, and they even write that on the back door. So the width of eight feet is gone by the wayside. The reason they're eight foot on the inside is they can put two four-foot pallets in there and stack your box of meat on it. Another discussion we've been talking about here today is, how we going to enforce it? My question is, how many are you going to kill before you enforce it? I mean we got close...just last week I was reading in the Omaha World-Herald where some patrolman got killed in Omaha by a drunk driver. She drove over him...hit him with a car. He was on a motorcycle. Not related to the move over law but we're still losing people each day if you go back and do the statistics on it.

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

Transportation and Telecommunications Committee
February 26, 2008

You said something about, one of the Senators did, I believe it was you, trying to, on a driver's test they have a move over law, a move over section in it. But if you really take a CDL out which I do have and present, it's a 100 question test, of those 100 questions, very few of them are about how to drive a truck. It's more on how to maintain it. Is the air pressure right, are your tires right, are the brakes adjusted? Things like that. Has nothing to do with driving the truck and that's another thing, but that's another day. I do take my pictures, I take a picture of every accident I do, or a recover. I take those pictures to the drivers ed classes. There's a teacher there in my school district has me come in and present my pictures to them. Of those pictures, not one of them are what would indicate accidents. I used to work for a trucking company and they didn't believe in accidents. An accident is something that is man-made and you can avoid it and that's what they felt and that's the same way with car wreck. Usually if you study it far enough back, you'll find out the person wasn't paying attention to what they was doing and that's the same as this bill today we're talking about is, people go by you and if you stop that car and ask him what color was the tow truck that was parked beside it, he couldn't tell you, or her. I guess that's all I got to say. I do hope you put it forward because like the gentleman that was talking about the being a volunteer, until you've once done it and felt that air, it's closer than you want to be. [LB786]

SENATOR FISCHER: Thank you very much. Are there questions? I see none. Thank you for coming in today. I think we have our last proponent. [LB786]

EUGENE TSCHIDA: My name is Eugene Tschida, T-s-c-h... [LB786]

SENATOR FISCHER: I'll need you to sit down for the mike first. (laugh) Thank you, sir. Your anxious to be here even though you're the last one. [LB786]

EUGENE TSCHIDA: I'm sorry? [LB786]

SENATOR FISCHER: I said you're anxious to get started aren't you? [LB786]

EUGENE TSCHIDA: Got to get it over with, yeah. [LB786]

SENATOR FISCHER: That's right. (Laughter) [LB786]

EUGENE TSCHIDA: Eugene Tschida, T-s-c-h-i-d-a. My association and concern with this bill is that I'm a member of the Metro Area Motorist Assistance Program in Omaha or metropolitan area. We also have units right here in Lincoln. We have units in Grand Island. We have units in Kearney. The units in Lincoln, as was alluded to by a fellow driver, two of them have been smacked already. We're volunteers. We go out there and the, almost ten years that our metro area program has been in business, we've driven better than 1,500,000 miles. We've assisted more than 75,000 contacts with vehicles on the side of the road. We've helped about every kind of car and just about every type of

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

Transportation and Telecommunications Committee
February 26, 2008

person that you could run into. And the most frightful thing we do, is approach the car on the roadside of the vehicle, particularly, we also do the Kennedy and they don't...speed limit is not as fast there. But on the interstate at 75 miles an hour or in the city at 60 miles an hour, you do not have time to react when someone comes over and crowds at that line. We've had them drive over our flares. We've had them drive over our orange cones. We've been sideswiped. We've had the front of our car I was in, was banged by a lady was going too fast to stop, slow down or move over. She went around on the right side of the road into the dirt and swerved back in front of us and hit our front end. We're out there five days a week including football Saturdays, not including but in addition. We are there because we're volunteers and we want to help people. But we would appreciate the help of some type of bill like this bill that's being considered, that if people transgress, if they don't get caught, well, on to the next one. I, glad I haven't gotten a ticket every time I was more than 5 miles over the speed limit but we would appreciate the protection that this bill would give us. I just came back with my wife, we drove almost 4,000 or 3,000 miles down to the south, across Florida, up the Florida coast and everything. And it was kind of interesting the map that Mrs. White passed out, that red blob in the middle of it, it doesn't really indicate it, it's the seed of a yellow poppy. It's amazing, I saw people moving over when they saw emergency vehicles on the side of the road. They actually were moving over. If they couldn't move over, they slowed down. And that's what the intent of this bill is to ask them to do. It's more common sense than anything because, yes, you've raised the question, how would you enforce it? If you're standing outside, you've got your radio with you, you can use that. If your busy ducking, maybe you don't have time but if it's just the sign, when I'd get into these states and see their signs, I would say, now that's a pretty progressive state because...well, I'm a little closer to the subject probably than the average person because of our volunteer work. But I saw those states had the signs up. I did not see anybody pulled over by a law enforcement because of an infraction of the law or anything. It's just having the signs up and knowing indeed that there is a penalty. You may never get caught but there is a penalty. Most people, I think, turn a switch on and say, well, yeah, one more rule I've got to comply with but these other states have it. Mrs. White, possibly can get statistics with her incredible resources of how many, who, whatever. All I can tell you that as volunteers, we're out there on the road and a bill like this, if it did nothing else but to make people think, would be a real asset to us. [LB786]

SENATOR FISCHER: Thank you, sir, and I certainly thank you for your volunteerism in traveling the roads and assisting motorists like me when we need your help. Thank you very much. [LB786]

EUGENE TSCHIDA: Thank you. [LB786]

SENATOR FISCHER: Any questions? Senator Pedersen. [LB786]

SENATOR PEDERSEN: Thank you, Senator Fischer. Sir, thank you, and thank you to

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

Transportation and Telecommunications Committee
February 26, 2008

all good people who do this kind of work. With your experience out there, is the truckers or the cars the biggest trouble or is there one that's more negligent in not seeing you people or giving you any courtesy? [LB786]

EUGENE TSCHIDA: Taking for first person singular I'd have to say that we have a better chance of having a truck pull over or slow down for us than we have vehicles, passenger vehicles other than non over-the-road trucks. We have them pull over in the lane, the next lane over on the interstate. We've had some that didn't pull over but generally I'd say the over road truckers are the most courteous. [LB786]

SENATOR PEDERSEN: That has been my own experience when driving out there but I wanted to make sure. You people do a lot more of that than I do because you're out there but thank you. [LB786]

EUGENE TSCHIDA: All I know is that at 75 miles an hour when you're changing a tire on the highway side of that car, it sure draws your shorts up. (Laughter) [LB786]

SENATOR FISCHER: Thank you very much for being here today. (Laughter) Are there other supporters for the bill? Anyone else wishing to speak in support? Anyone in opposition? Good afternoon. [LB786]

TERRY CAMPBELL: (Exhibit 2) Good afternoon, Senator Fischer. My name is Terry R. Campbell. I'm a retired Omaha police lieutenant for 30 years. I was one of the people at the side of the road conducting accident investigations or being involved in selective traffic enforcement. I am now a member of the board of directors of the Best Highway Safety Practices Institute. We have offices in, our corporate office is in Portland, Oregon. We have offices in San Diego and Reno, Nevada. We are a privately funded organization. Our goal is the advancement of the concept of traffic safety. I'm here to try to get you, try to convince you to perhaps rethink the passage of LB786 because we think it might cause more problems than it's designed to help. We certainly appreciate Senator Howard's interest in trying to protect police officers, EMTs, firefighters and emergency first responders out on the highway but we think this could be a danger to the traveling public, law enforcement, and everybody else. I've given you a great deal of information in a packet. I don't expect you to go over it all today but we have, we've talked about dash mounted television cameras on police cars and we have seen on popular TV programs the result of people coming too close and either hitting the police car or hitting the person up front of the police car who was stopped. And we can't understand this. We see fire equipment and police equipment with all sorts of flashing lights and red and blue and yellow lights. We wonder how in the world can people not see this. In order to have the best traffic safety, we have to have a smooth even flow of traffic moving down the roadway at the same speed, undisturbed and unfettered. What happens is, a lot of times, chaos can result when this flow is disturbed if something happens up front, something like a move over law which will make people react

suddenly and attempt to move over whether or not it's safe to do so. In the packet of information I talked about a 58 car pileup, I believe it was in Pennsylvania. It resulted from a semitrailer truck moving over, getting caught in the slush on the road, pulling over, I believe, into the opposite lane of traffic and causing chaos. We've heard about the young wrestler that died on interstate 29 in Council Bluffs. He was on his way to a meet. They were in a van. They saw a car at the side of the road. They moved over, the van rolled and unfortunately he was killed. The most recent incident happened this week out in Scottsdale, Arizona. A motorcyclist, a middle age individual, was driving with some friends and they saw one of the notorious radar vans in Scottsdale. His friends tried to slow and break for the radar van. He wasn't able to stop. He lost control of his motorcycle and was killed as a result. We talked about the, all the lights on the emergency vehicles. Apart from fatigue and sleep deficit, flow chaos and friction cause the greatest, is the greatest threat to highway safety. There is something called the moth effect and there's growing evidence that motorists who are driving fatigued, when confronted with bright flashing lights become mesmerized by these lights and while looking at them, they tend to steer towards the flashing lights. I don't know if any of, if any of you are pilots. But in an airport, you will see very few flashing lights. You might see a rotating beacon, something of this nature but the runway lights, the threshold lights are not flashing. In fact, a pilot can ask the tower to turn the lights down, to tone them down so that they keep their night vision. California highway patrol is doing some groundbreaking work on the moth effect and most of their cars, once they get a motorists pulled over, they will turn off all of their emergency lighting. Because a motorist loses spacial recognition, they lose the ability to focus on a flashing light to determine how quickly they are closing on that vehicle. We have lighting experts on our staff and we would be very willing to work with the state of Nebraska and with the emergency service providers to begin to look at how we can, how we can put better lighting on emergency vehicles so that there's not flashing, so that approaching motorists can get a better idea of where the parameters are on these vehicles to move them over. There was some discussion about roadside workers being out on the roadway. Like I say, I was there for 30 years. I'm an old school person. What we did when we had an event out on the side of the road, we sent a cruiser back up on the flow and we had that officer get out of the cruiser and maybe put on their orange vest and to do traffic control. To take control of the situation and sometimes now, I roll my eyes and shake my head when I see officers parked at the side of the road, sitting in their cruiser, letting their lights do the talking and not taking into consideration this moth effect. The federal highway administration has statistics that say that nine our of ten road violations are very minor in nature. Why are we putting officers in danger to effectively take an enforcement action against a very minor, a minor violation. Law enforcement has been doing the same thing for over 80 years since the first traffic ticket was written to the first motor vehicle. In this new century, why don't we work together to try to put together new standard operating procedures. Let's look at how we position our fire trucks, how we position our rescue squads, how we position our tow trucks. Let's get law enforcement out to coordinate better how to place their cars further upstream so that we can

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

Transportation and Telecommunications Committee
February 26, 2008

eliminate the moth effect, so that we can eliminate a lot of the traffic chaos that could happen as a result of the move over law. We are very, very appreciative of Senator Howard to bring this to light and what we would like to recommend is, perhaps this issue be tabled, let our people work with your people and try to come up with something much better. [LB786]

SENATOR FISCHER: Thank you, Mr. Campbell. Are there questions? Senator Aguilar. [LB786]

SENATOR AGUILAR: Thank you. Thank you, for being here today too. Did I understand you to say correctly they were better off to shut off their flashing lights? [LB786]

TERRY CAMPBELL: Many departments, like I said, the California highway patrol has turned their lights off. Let me give you another example. [LB786]

SENATOR AGUILAR: Let me do a follow up. [LB786]

TERRY CAMPBELL: Okay. Please. [LB786]

SENATOR AGUILAR: I want to make sure I understand clearly. Do you mean turn them off to dark or just make them quit flashing? [LB786]

TERRY CAMPBELL: Make them quit flashing. Our neighbor had a heart attack the other night, it was Friday night, and I noticed that the aerial company and the fire, the rescue squad out in front of his house did not have their flashing lights on. It was 2:30 in the morning and I used that as an example because there were a couple of cars that went up and down our street. The rigs were easily noticeable. There was no problem but they do turn the lights off. We would like to explore, perhaps, putting some side lights on police cars, maybe fire trucks, rescue squads, that are not flashing that would denote the four corners. We are doing work right now, I believe, in Nevada to relight snow equipment. [LB786]

SENATOR AGUILAR: Okay. I appreciate what you're saying and I'm not going to dispute it in any manner. The part I'm struggling with is, and I really appreciate your offer to help work with and change the system, so to speak, but how long do you think it's going to take to change a system where every law enforcement officer, every emergency vehicle has flashing lights, how long do you think it's going to take to get them trained to shut them down? [LB786]

TERRY CAMPBELL: When I heard this, I couldn't believe it either and it took, it took a lot of convincing for me. I was always an advocate of more lights, more flashing lights, strobe lights or something new, but our founding director convinced me. [LB786]

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

Transportation and Telecommunications Committee
February 26, 2008

SENATOR AGUILAR: Thank you. [LB786]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB786]

SENATOR STUTHMAN: Thank you, Senator Fischer. Terry, I'm very interested in your statements as far as shutting the lights off. And you know, I think the reason behind that and you can disagree with me is, is the fact that if you could move off of the road a little bit further, shut the lights off, then the continual flow of traffic will not be interested into the area where the flashing lights are and probably they will looking and cause an accident as they're looking or going by is, would that be a reason? [LB786]

TERRY CAMPBELL: It could be a reason. I travel quite a bit. I have a large motor coach, a 40 foot motor coach and sometimes I pull a 24 foot trailer. So I'm about as big as a semi and a lot of times...when I can, naturally, I'll move over. But a lot of times, I'll look in my mirrors and I'll see somebody coming up along side of me and it's impossible, it's impossible to move. Another problem is, a lot of enforcement agencies are using stealth vehicles, they are unmarked vehicles. Some are non traditional police cars, or non traditional vehicles, pickup trucks, SUVs, sport cars, and if you're traveling down a road and you're quarter to a half mile away, how do you know that they're police cars? [LB786]

SENATOR STUTHMAN: Thank you. [LB786]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Campbell, for being here today. [LB786]

TERRY CAMPBELL: Thank you, ma'am. [LB786]

SENATOR FISCHER: Are there other opponents to the bill? Anyone wishing to testify in the neutral capacity? I see none. Senator Howard, would you like to close, please? [LB786]

SENATOR HOWARD: Daniel Getty was a tow truck driver in Nebraska who was killed on the highway in 1995. I don't know much about Mr. Getty but it's safe to assume he had a family and so did the motorist who struck him. His tragic death affected many people including other men and women who risk their lives performing the same work. If the move over bill can prevent one person from being killed or seriously injured on a Nebraska highway, then it's worth the time we've invested here today. I just want to remind you in closing, that the purpose of this bill is to enhance public safety for the emergency road assistance providers and for other motorists traveling our roadways. I ask you to help me make Nebraska safer by advancing LB786. And in checking the Nebraska driver's manual, of which we obtained a copy, there isn't a reference in the manual to move over simply because it's not a law. Thank you. [LB786]

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

Transportation and Telecommunications Committee
February 26, 2008

SENATOR FISCHER: Thank you, Senator Howard. Questions? Senator Aguilar. [LB786]

SENATOR AGUILAR: Yeah, Senator Howard, correct me if I'm wrong but when I listened to your opening, first of all let's relate back to, there was a ton of questions about how you going to enforce this, how you going to enforce this. If I remember back to your opening, you made the statement that your goal was not necessarily to be punitive in any manner but define a means of way to educate the motoring public so that they know enough to pull over and knowing that they're more apt to do so if we have something in statute telling them to do that. [LB786]

SENATOR HOWARD: You're absolutely right, Senator Aguilar, and I appreciate so much how diligently you were listening to that. That's exactly the point and the purpose of this bill is to prevent accidents. It's not to generate funds for the state of Nebraska. It's to save lives. [LB786]

SENATOR AGUILAR: Thank you. [LB786]

SENATOR FISCHER: Thank you, Senator Howard. With that, I will close the hearing on LB786 and open the hearing on LB1069 and I see that Senator Dubas is here. You might just want to pause a minute until we clear the room a little bit. Thank you. [LB786]

SENATOR DUBAS: (Exhibits 1 and 2) Senator Fischer and members of the Transportation Committee. Thank you very much. My name is Senator Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s, and I represent the 34th Legislative District. I come before you once again to discuss the prolonged blocking of railroad crossings at public intersections. As you know, we have current statute that deal, that places a ten minute limitation on blocking these crossings. And I've been working to update Nebraska statute to match or look at what 32 other states are successfully doing as far as penalties on their books. And what this bill simply does, is just raise the fine for the blockage of railroad crossings to \$1,000. I would like to thank the committee for carefully deliberating this issue. I appreciate the interim hearings that we were allowed to participate in last session or during the interim. I thought they were very well attended and a lot of really good information was brought forward. So I know and appreciate that the committee does understand that this is a serious issue. And as you saw, it was an incredibly important issue to the people in my district. I brought this legislation because there are very few places that I go in my district without hearing words of encouragement to find a resolution to this problem. And so, I hope that a resolution will be reached, with or without legislation. It's never been my intention that legislation is the only answer to the solution, the only answer to the problem. And I'm more than open to working with all of the interested parties in just trying to find what solutions are available. I am very happy to report that as a result of the interim hearings, the railroads and

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

Transportation and Telecommunications Committee
February 26, 2008

officials from emergency management have been meeting to discuss the issues that were raised during the interim hearings, especially those that deal with emergency vehicles. I do appreciate those efforts and I hope to encourage the continuation of those efforts and hopefully some solutions and some positive ideas will come out of those meetings. So I don't come forward to be a pest or to be a thorn in your side. I come forward because it is an important issue to my district. Again, whether it has to be legislatively, no. That's not my aim. My aim is to keep the dialog going, to keep people talking about the issue. If we have to have a little bit of a fire lit to make sure that the discussion continues, you know, I'm more than willing to light that match. But I do hope that the conversations continue. That we will be able to find some workable solutions to this issue. It's not just an issue of inconvenience. It is an issue of commerce and public safety not only to people in my district but across the state. So I appreciate...I did bring an amendment forward that was brought to me by the co-op council that addressed their concerns with loading of rail cars along elevators. It wasn't my intention to hold them responsible for this issue, so I did work with the co-op council in coming up with this amendment. I also did introduce a letter to, sent to me by Mr. Leon Cederlind with his concerns. So with that, I'd be happy to answer any questions. [LB1069]

SENATOR FISCHER: Thank you, Senator Dubas. Are there any questions? I see none. Thank you very much. [LB1069]

SENATOR DUBAS: I will be waiving my closing. The state fair calls, so thank you again for your attention to this issue. [LB1069]

SENATOR FISCHER: Thank you very much. Would the first proponent to the bill please step forward. Any proponents? Good afternoon. [LB1069]

PETER McClymont: Good afternoon, Madam Chair, members of the committee. I'm Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t and I am vice president for legislative affairs for the Nebraska Cattlemen. And we are here in support of the bill basically out of the fundamental efforts of our membership to always keep forward the fact, in case of emergency, in case of fire, that with prolonged blockage of crossings, you know, affects our membership, especially in the 3rd District. So just two basic concerns in our support of this bill. [LB1069]

SENATOR FISCHER: Thank you, Mr. McClymont. Are there questions? I see none. Thank you very much. [LB1069]

PETER McClymont: Thanks. [LB1069]

SENATOR FISCHER: Other proponents, please. Are there opponents to the bill? Would the first opponent please step forward. Good afternoon. [LB1069]

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

Transportation and Telecommunications Committee
February 26, 2008

BRENDA MAINWARING: Hello, my name is Brenda Mainwaring, B-r-e-n-d-a M-a-i-n-w-a-r-i-n-g. I'm here on behalf of Union Pacific Railroad. The committee's heard from several railroad representatives over the last several months on this issue and so I want to take the opportunity today to focus on two issues that were raised at previous hearings that I don't think were fully addressed at the time. One of the things we heard repeated several times was the issue of communication and whether or not the railroads and especially emergency responders were communicating. Now I think there was a sense that we were not and so as Senator Dubas pointed out, we have met. We met in Grand Island in December with BNSF, Union Pacific, several sheriff and volunteer fire department representatives and had a very productive meeting, I think. What I heard at that meeting is that, for the most part, the railroads are doing a pretty good job of notifying emergency responders when we have a planned maintenance activity, when that maintenance activity is going to go on for a while. But they did ask that we try to find a way when we have a shorter maintenance activity, it's going to be only a couple of hours, that we try to find a way to notify their emergency call center and we are working on that. I think we have a solution for that and so when we meet again and we're just looking at dates for when that meeting will occur, hopefully we'll have a solution to that. The other thing that Union Pacific is doing is sending out a public safety units in each of our service units who are working directly in the communities to talk to businesses, to talk to emergency responders, to make sure that they understand what our processes are. I think there was some concern at the hearings previously that maybe some people didn't actually know how they should get in touch with the railroad and so we're trying to send people out specifically to walk in the door of a business, who is near a railroad track, and say, this is what you need to do if you have a problem. The other issue I want to talk a little bit about is kind of more philosophical, I think. I think for people who have been on this committee for a long time, you must be having a sense of deja vu on this issue. We've heard about it for quite a few, quite a few times and one of the questions that came up in the last hearings were, we keep talking about this. Why don't the railroads fix the problem? And I want to talk a little bit about that. On average the railroads put about 80 cents of every dollar back into solving this very problem. If you ask the average railroader, I think they'd tell you that railroads spend money to make trains run faster and to make sure we don't have unscheduled stops. And there's mechanical failures. We've talked about that. But other than mechanical failures, there's a handful of reasons why trains slow down and stop when they're not supposed to outside of their trip plan. High volume of traffic, not enough crews to run trains, track maintenance or capacity problems, derailments, crossing accidents. And I want to talk about each of these very briefly individually. In terms of volume of traffic. We all know that the nation has experienced a very extended period of national economic growth. Not right now, but up until the last couple of quarters the railroads have experienced record quarters, quarter over quarter over quarter with volume of freight that we're hauling. And the reasons for that is because we're more fuel efficient. We're more environmentally friendly and frankly, we're cheaper. And so freight traffic continues to get, to come to the railroad and as all of the states are dealing with increasing freight

traffic and fewer means to pay for highway repair, I think that freight traffic is going to keep going to the rails as an alternative way to protect the highways. National studies and Mr. Munguia from BNSF shared the study with you at the last hearing. National studies show that parts of the rail lines in Nebraska are already near or at capacity. Both railroads, both of the major railroads have implemented a lot of measures to control that traffic so that we don't actually exceed capacity. We're investing capacity with triple tracks and yard improvements with new processes that we use to make the trains move more quickly. Every gain that we get to improve traffic flow has been consumed by another carload of freight. And so it looks like we're standing still but the fact of the matter is, we're handling unprecedented volume levels and we don't have major blockages or delays. In terms of crews, if you don't have enough crews to run trains, they slow down and they stop. Up until very recently the average age of the employee at Union Pacific was over 50. Over 50, average age. You can imagine how quickly we are losing people to retirement. In the last six years we've hired 20,000 people, most of those in train and engine service. And so we continue to add crews as quickly as we can and even when we're in a downturn, we continue to fully hire people because we want to make sure that we maintain enough crews that we can keep those trains running. We're doing a pretty good job at that. In terms of maintenance and capacity, the industry as a whole has invested \$42 billion in the last six years in maintenance and capacity. Union Pacific alone has invested \$16 billion in maintenance and capacity in six years. In Nebraska in the last ten years we've spent half a billion dollars to increase our capacity. Triple track again, centralized traffic control, communications, increasing speeds, larger trains, all of the things that help us to maintain our capacity and keep things going faster. And then in terms of derailment prevention, I'd love to invite you out sometime to look at some of the technology that we use to make sure we don't derail cars or trains. The wayside detection systems that we have are unbelievable. We can tell if there is a high, wide load. We can tell if there is a dragging car. We can tell if, what we call them, thumpers, if a wheel has a flat side on it. We can tell if a wheel has a crack in it. All of, they go by wayside detection and so we can stop that train or we can repair it before we have a derailment that's going to slow traffic down. We have track inspection cars and geometry cars that travel about 60,000 miles every year using radar, using sonogram, using infrared to make sure that our track is in good condition. So all of this technology we use to make sure that we don't derail a car so that we slow traffic down. So in terms of crews, volume, we're handling unprecedented traffic volume while we're hiring unbelievable numbers of people and we're absorbing unbelievable amounts of freight and we're frankly maintaining some pretty good service from what our customers tell us. We don't think this trend is going to change so while it looks like we're standing still and while you feel like this is deja vu, and while you feel like the railroads aren't addressing the problems, I promise you that we are. [LB1069]

SENATOR FISCHER: Thank you very much. Are there questions? Senator Stuthman. [LB1069]

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

Transportation and Telecommunications Committee
February 26, 2008

SENATOR STUTHMAN: Thank you, Senator Fischer. Brenda, I would like to have you discuss a little bit more with me and the committee as far as crew changes. I've been told that if a train, if a crews been on so many hours, they just plum stop and then you have to get another crew to them, is that correct? [LB1069]

BRENDA MAINWARING: Railroads do have hours of service. A train crew can only serve a certain number of hours. They can only be on duty a certain number of hours by federal law. We work really hard to make sure they don't expire those hours while they're in the cab of a locomotive. It's in our interest, it's in the crews interest and so, while for times several years ago we were having a lot of trouble with that, we don't expire crews on hours of service very often. But it does happen and when they expire on hours of enough service, they have to stop and we have to replace them. [LB1069]

SENATOR STUTHMAN: And they have to stop no matter where they're at, they have to stop and that continues, that slows everything down behind them too. [LB1069]

BRENDA MAINWARING: It does. We certainly hope, our dispatchers are tuned into that fact. They know when a crew is coming up on their hours of service and it's their goal to make sure that if they have to stop that train, they stop it someplace where it's not going to impede traffic. [LB1069]

SENATOR STUTHMAN: Okay. Another question, Brenda. If there is a situation in a community where a train does stop and block the crossing, you know, maybe fairly regular and it's an inconvenience, do you feel that it would be better for the individual to contact Union Pacific and try to, try to get it where they could move a little bit or should we try to pass a bill like this? [LB1069]

BRENDA MAINWARING: Since our last discussion, I sat down with several, with our lead dispatching, with our managers in our dispatching center, to try to understand how we handle the situation. And when we know that there is a recurring problem, we understand that we have an operational issue that we need to address, which we do address, and so having those people, you know, that we have those numbers that we hand out, having someone call the number understanding that we've got a recurring problem, it allows us to address it at an operational level instead of ad hoc just having someone go out to penalize us. [LB1069]

SENATOR STUTHMAN: Okay. Thank you, Brenda. [LB1069]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB1069]

BRENDA MAINWARING: Thank you very much. [LB1069]

SENATOR FISCHER: Next opponent, please. Any other opponents? Good afternoon.

[LB1069]

ROBERTO MUNGUIA: (Exhibit 3) Good afternoon, Senator Fischer, members of the committee. My name is Roberto Munguia, R-o-b-e-r-t-o M-u-n-g-u-i-a. I'm here representing BNSF Railway Company. I'm giving testimony in opposition to LB1069. I've prepared a written statement that I'd like to read and make a part of the record. As Yogi Berra once said, it's deja vu all over again. On this date exactly one year ago today, I was before this committee giving testimony opposing LB676 which was last year's version of the bill before us today. We oppose this bill for the same reasons we opposed last year's version. Those reasons are: Number 1, we are already taking proactive measures to minimize and eliminate block crossing problems. Number 2, there are no provisions available that allow for moving trains or trains that are being separated or reassembled at a crossing. Number 3, excessive monetary penalties, and Number 4, it conflicts with federal interstate commerce regulations specifically, the Federal Railway Safety Authorization Act of 1994. First of all, I would like to apologize to any individual whose been blocked at a railroad crossing for an excessive amount of time. Blocking a crossing is not something we plan nor is it in our best interest to do. The challenge of our industry is to deliver the nation's commerce as safely, effectively and efficiently as possible. A commerce railroad transport touches everyone of us on a daily basis. The clothing you might have purchased at your local department store came by rail. The coal needed by utility companies to produce the electricity in this hearing room, came by rail. The thousands of tank cars of ethanol shipped out of Nebraska to help reduce our dependence on foreign oil are shipped by rail. Millions of bushels of corn produced by our rural neighbors are shipped to competitive markets by rail and the critical military ammunition and equipment needed by our sons and daughters in our current conflicts in other lands are transported by rail. The railroads rise to meet these challenges 24 hours a day all year long. The movement of BNSF's fleet of 6300 locomotives and 220,000 freight cars on its 32,000 miles of track is orchestrated by our central dispatching office in Ft. Worth, Texas. It is not a perfect system and trains do not always flow as we plan, and yes, we have blocked highway rail crossings. We do understand the inconvenience these blockages may have caused our neighbors and we are trying to minimize these blockages as much as possible. We are not ignoring this problem and we again apologize for any inconvenience these events may have caused. So what is BNSF doing to correct the problem? Following are four areas that we are concentrating on to try to minimize the blockages. First, we have created a computerized reporting system that monitors the frequency of blocked crossings by location. This system allows us to focus and to build corrective measures at specific highway rail crossing locations that are frequently blocked. Secondly, we have, we are improving our operational planning on the movement of our trains. We have had communication with our train dispatching offices and instructed them to closely work up with our train crews, so that both parties will have a clear understanding as to how long a train may be held at a crossing. This practice gives the train crew members better information to evaluate when a train should be separated at a particular crossing. Thirdly, we have heightened the

awareness of our operation supervisors and train crews about this issue. Instructions, both verbal and written, have been communicated to our train crews. The trains are to be separated unless there is a mechanical breakdown or for a federal railway administration safety requirement when they anticipate or become aware that their train will be on a highway rail crossing longer than ten minutes. Fourthly, BNSF continues to invest in capital expansion projects to improve train velocity by means of double tracking our mainline from Lincoln to Alliance and by making yard improvements at both locations to facilitate the movement of freight. From 2005 to the end of this year, we will have invested approximately \$360.3 million on infrastructure expansion projects specifically here in Nebraska to keep up with the nation's transportation requirements. These expansion projects will help trains from being stop at highway rail crossings. And so the bill itself, LB1069 has no provision for moving trains or for the time required to separate or recouple a train at a crossing for purposes of complying with the language of this bill. Under this bill, if a train is moving through a crossing, and it has to slow down to observe FRA track conditions, comply with federally mandated signals or become, or because of mechanical operational issues and cannot clear that crossing within ten minutes, is in violation of the bill and if convicted a particular railroad will be guilty of a Class I misdemeanor and shall pay a fine of \$1,000 for each offense. Or if the train blocks the crossing for five minutes, then begins to pull, it will not clear that crossing as stipulated under this bill. Additionally, if a train is stopped at a crossing and it is determined the train has to be separated, that during the act of separating or recoupling a train it takes longer than ten minutes, you guessed it, we're in violation of the bill. As to the issue of federal preemption, I ask the committee to carefully review the language of LB1069 because the unintended consequences of the bill will impact train speeds and their movements which are in direct conflict with provisions established by the Federal Railroad Safety Authorization Act of 1994. I've handed out a copy of the January 25, 2008, opinion from the Illinois Supreme Court, Docket No. 103543, the Village of Mundelein vs. Wisconsin Central Railroad. This case is right on point with the issue we are discussing here today. In this case, the Wisconsin Central Railroad was issued a citation for violating an ordinance enacted by the Village of Mundelein prohibiting obstruction of a railroad-highway grade crossing. Following a bench trial, the trial court found the railroad guilty of violating the ordinance and imposed a fine of \$14,000 plus costs. The appellate court reversed the trial court's judgment and vacated the fine, holding that the village's ordinance is preempted by the Federal Railroad Safety Authorization Act of 1994. The Illinois Supreme Court agreed that the village's ordinance is preempted by the FRSA and affirmed the judgment of the appellate court. This is just one of many cases dealing with the federal preemption issue. On a side note. When I was before this committee on January 29 giving testimony against LB837 which was the repeal of redundant crossing bill, I handed out copy of this particular study, the National Rail Freight Infrastructure Capacity Investment Study conducted by Cambridge Systematics dated September, 2007. They are an independent employee owned company out of Cambridge, Massachusetts, comprised of transportation specialists recognized throughout the world for providing innovative policy and planning

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

Transportation and Telecommunications Committee
February 26, 2008

solutions to meet transportation needs now and in the future. They were commissioned by the Association of American Railroads at the request of the National Service Transportation Policy and Revenue Study Commission to conduct this study. The commission was charged by Congress to develop a plan of improvements to the nation's service transportation systems that will meet the needs of the United States for the 21st century. This study was presented to Congress in January, 2008, and has been the subject of several House and Senate hearings since then. In my testimony, I made reference to a specific chart in the study reflecting that rail freight traffic in Nebraska is projected to increase from 50 to over 100 percent on certain corridors by the year 2035. To give credence to the study, just last Thursday, the chief economist at the Department of Agriculture said that farm exports are forecast to surge to a record 101 billion in the fiscal year ending September 30. And ethanol production capacity is projected to rise to 13.4 billion gallons annually during the next two years from its current level of 7.3 billion gallons. My point is, if the Cambridge study is a wake-up call to all of us who are directly involved with transportation, and those individuals in the development of public transportation policy to work together to deal with the demands our nation will have on all rail infrastructure, penalizing railroads as they try to meet these demands is not the answer. In closing, I would ask this committee to indefinitely postpone LB1069 as you recently did to last year's version of this bill, LB676. And with that, I thank the committee. [LB1069]

SENATOR FISCHER: Thank you, Mr. Munguia. Are there any questions? Senator Stuthman. [LB1069]

SENATOR STUTHMAN: Thank you, Senator Fischer. Roberto, do you feel that communications and cooperations with individuals, communities, with the rail as far as blocking of intersections, would be a lot better solution than just running the big stick and a big fine? [LB1069]

ROBERTO MUNGUIA: Absolutely. And we're already doing this. As Brenda indicated, we have had meetings with some of the emergency management people. And also, if a person has an issue with a blocking that is frequently blocked, all they have to do is pick up the phone, give me a call and we'll monitor that situation to make sure that there's, you know, it doesn't happen on a regular basis. Yeah, I'm a big proponent, we are a big proponent of communicating and trying to work with the community. [LB1069]

SENATOR STUTHMAN: Thank you. Thank you very much. [LB1069]

SENATOR FISCHER: Other questions? You said this is deja vu. [LB1069]

ROBERTO MUNGUIA: Yes, ma'am. [LB1069]

SENATOR FISCHER: Do you have that in a lot of other states too or just in Nebraska?

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

Transportation and Telecommunications Committee
February 26, 2008

[LB1069]

ROBERTO MUNGUIA: Of this particular type of bill...I cover three states, Oklahoma, Nebraska and New Mexico and I've been doing this for about ten years and I haven't seen it in any of the states... [LB1069]

SENATOR FISCHER: Are you saying we complain more than other people or maybe you have more problems on your side here in the state? [LB1069]

ROBERTO MUNGUIA: (Laugh) That's a loaded question. [LB1069]

SENATOR FISCHER: I do my best, sir. [LB1069]

ROBERTO MUNGUIA: Quite frankly, it seems like, you know, be frank, it seems like there's a anti-railroad sometimes opinion or mentality out there here in this state as opposed to what I've seen in other states and I don't understand why. You know, we're trying to move the commerce as best we can. As Brenda indicated, the volumes are just, they're immense out there. We're trying to do what we can to keep these trains moving and we've got less than 60 miles left of single track between here and Alliance. Once we get that double track in place, it's going to help out a lot. But to answer your question... [LB1069]

SENATOR FISCHER: Do you...maybe you'd better not. Do you go through populated areas in the other states that you represent? [LB1069]

ROBERTO MUNGUIA: Absolutely. New Mexico, we have a, what we call our Transcon. That's our hot line from, that runs from Chicago to the ports of LA and Long Beach and on that line we have between 100 and 120 trains a day. [LB1069]

SENATOR FISCHER: The number of complaints here in Nebraska have, have you seen an increase, decrease, about the same, over the last six months? [LB1069]

ROBERTO MUNGUIA: I've seen a decrease. I really have. [LB1069]

SENATOR FISCHER: I have had no complaints from my area and so obviously, you must be not blocking some of the crossings that we heard about earlier. [LB1069]

ROBERTO MUNGUIA: Well, I think it's working. What we're doing, I believe, is working. I mean there's a, as I said earlier, it's not in our interest to block crossings and we need to move the freight and we're trying to do our best. Will we block crossings? Sure, that's going to happen. Especially with the long trains that we have. It's going to happen but we're trying to do our best to minimize that. [LB1069]

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

Transportation and Telecommunications Committee
February 26, 2008

SENATOR FISCHER: I appreciate that you and Union Pacific have worked with citizens and with communities on trying to not have these complaints in the future. Thank you. Other questions? Senator Aguilar. [LB1069]

SENATOR AGUILAR: Thank you. Roberto, I have a theory about, you talked about how people are anti-train anymore. In the city of Grand Island there are so many trains that go through east-west and they're coal trains and they're long trains and for the most part, they don't stop. They're moving the whole time. But invariably, the majority of the people in Grand Island are stopped at that crossing waiting for the moving train to get out of their way. It gets frustrating. So when there is one that's stopped, they raise more Cain about that because of that one incident and it's all because those other trains made them mad and begin, you know, and that's commerce. You know, that's all about commerce. Those trains have to go through there. We would be hard pressed if they didn't go through there because those coal cars furnish our power plant in Grand Island. [LB1069]

ROBERTO MUNGUIA: Absolutely. [LB1069]

SENATOR AGUILAR: We need them to go through there. People just can't get that through their head in my fair city. [LB1069]

ROBERTO MUNGUIA: And not to beat a dead horse here, but I keep referring to this study. If you haven't had a chance to look at it you may want to because what's coming down the pipe is pretty serious stuff. If we think we've got problems now, you know, if we don't start working together to deal with these kinds of issues, we're going to have some real headaches ten years from now. [LB1069]

SENATOR FISCHER: And again I appreciate your openness and that of Union Pacific in working with the citizens of this state in trying to avoid many of the problems that we hear about from constituents. [LB1069]

ROBERTO MUNGUIA: And we'll continue to do so. [LB1069]

SENATOR FISCHER: Hopefully, not too often though. Senator Louden. [LB1069]

SENATOR LOUDEN: Yeah, Bob, thanks for your testimony today. Can you tell me from Grand Island to Ravenna how much double track or how much single track do you have left? Is there, that isn't all double track yet, is it? [LB1069]

ROBERTO MUNGUIA: No, but I know, well, just from point to point from Alliance to Lincoln we've got less than 60 miles. [LB1069]

SENATOR LOUDEN: How many? [LB1069]

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

Transportation and Telecommunications Committee
February 26, 2008

ROBERTO MUNGUIA: Less than 60. [LB1069]

SENATOR LOUDEN: Okay. What I'm wondering is if some of the complaints that we've had here over this bill, if that was in that area there and how soon you're going to have double track through there or if it, how much of it was double track and that sort of thing. Because usually where there's double track you don't have near as much trouble with blockage do you? [LB1069]

ROBERTO MUNGUIA: No, that's right. And what happens is, you know, is when you go from a double track to a single track, you bunch up on both ends and that mushrooms out and you have, you have trains that are blocking crossings. And, you know, the other thing is you got to remember is, the crossings out there are basically a mile apart. Well, you know 30, 40 years ago our trains were 60 or 70 cars in length and they were less than 5,000 feet. Now you've got coal trains that are 135 cars that are in excess of 8,000 feet so what happens is, when you have, when you go from a double to a single track, you have that ripple effect that unfortunately plugs some of those crossings. [LB1069]

SENATOR LOUDEN: Okay. Two more questions. One is, if you put in double track are you going to run trains on it or are you going to park trains on the other track? [LB1069]

ROBERTO MUNGUIA: As I said earlier, our business is moving the commerce of the industry and we'll try to move those trains as quickly as possible. [LB1069]

SENATOR LOUDEN: Okay, and when you, as you move your trains, or you're double track, will there be any difference in speed or anything like that? I mean, they always run about 45 mile an hour and that, that's, is that federal regulations or what? [LB1069]

ROBERTO MUNGUIA: Well, no, the regulation depends on the condition of the track. From here to Alliance it runs from 45 to 60 miles an hour but certain locations, maybe because of track conditions, it might have to go a little slower. But double track it would be the same thing. [LB1069]

SENATOR LOUDEN: I see. The last question is, if those crossings are a mile apart, why don't you pull trains that are a mile long and hire more crew people? [LB1069]

ROBERTO MUNGUIA: Well, the problem with that is, then you've got more trains on there that you've got to worry about instead of one, and when you think it would speed things up, in actuality it would make it worse. [LB1069]

SENATOR LOUDEN: But we'd have more crew people working on the railroad. (Laughter) And you'd have less people out in the country. [LB1069]

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

Transportation and Telecommunications Committee
February 26, 2008

ROBERTO MUNGUIA: That's exactly right. [LB1069]

SENATOR LOUDEN: Okay. Thank you, Bob, for your testimony. [LB1069]

ROBERTO MUNGUIA: Yes, sir. [LB1069]

SENATOR FISCHER: Other questions? Senator Pedersen. [LB1069]

SENATOR PEDERSEN: Thank you, Senator Fischer. Bob, how long is a coal train now? [LB1069]

ROBERTO MUNGUIA: On a 135 car coal train, each car weighs or is 60 cars in length, or 60 feet in length, then you have three locomotives, so you're looking at about 8300 plus feet. [LB1069]

SENATOR PEDERSEN: So when a coal train goes, well, you don't have to go through Columbus, but when a coal train goes through Columbus, the UP, you could tie up every at grade crossing at one time. [LB1069]

ROBERTO MUNGUIA: Oh, sure. Yeah. [LB1069]

SENATOR PEDERSEN: That's a big community so we need more of them over-the-grade crossings, close up some of them short crossings. [LB1069]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB1069]

ROBERTO MUNGUIA: Thank you. [LB1069]

SENATOR FISCHER: Any other opponents? Good afternoon. [LB1069]

ROBERT ANDERSEN: Senator Fischer, members of the committee, my name is Robert Andersen. I'm with the Nebraska Cooperative Council. It's Anderson, A-n-d-e-r-s-e-n. As Senator Dubas had said, in her opening statement, that she had met with the cooperative council. We had visited with her. The bill, as originally worded and introduced, was of concern to us. We did work with her and offer an amendment to try to be excluded. I have not seen what she may have or the final draft at this point in time. But what you need to understand in front of the cooperative sector, is that we've invested a lot of money statewide in terms of trying to take advantage of the unit car shipping destination grain to, you know, the east coast, excuse me, the west coast, down south, whatever the case may be. We are somewhat upheld hostage in terms of when the trains come in, where it's a 50, 100 unit car train. It takes time to load those things out. The way the bill is originally worded, is going to create some problems for us there. Now, one of the things that I'm seeing more of our people doing, and I need to get

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

Transportation and Telecommunications Committee
February 26, 2008

more information on this, is that when you ask the question, are you trying to work with people in the community, there in terms of when you are loading out cars and your blocking a road, people come in, the farmers and ranchers, the people of the community. A lot of these co-ops are now taking, putting signs up, you know, a mile down the road, what have you, advising that they're, the track is blocked as they're loading out unit car trains. So it is trying to work with that community there. Now, is everybody doing that? I have no idea. I'm strongly suspect it isn't but we need to do a better job of that. But the bill as currently worded, is going to create a problem for us because then the fact instead of a \$10 fee if somebody turns you in, you've got a \$1,000 and that all adds up. So understand where we're at on this thing. We understand the concern of the people in the community in terms that is safety and the commerce. Well, we're involved in the commerce business as well. So Senator Fischer, I'd welcome any questions that you or the committee may have at this point in time. [LB1069]

SENATOR FISCHER: Thank you, Mr. Andersen. Are there questions? I see none. Thank you very much. [LB1069]

ROBERT ANDERSEN: Thank you. [LB1069]

SENATOR FISCHER: Are there any other opponents to the bill? Any opponents? I see none. Anyone wishing to testify in the neutral capacity? Good afternoon. [LB1069]

JERRY STILMOCK: Thank you, Senators. Jerry Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of the Nebraska State Volunteer Firefighters Association. We, as a group of 14 people, met in Grand Island during December to follow the encouragement during the interim study hearing to get together and actually talk and try to communicate among the parties. So we did that for about three hours, and I'm hopeful that before Easter we'll have another, we'll have another meeting. But there were five railroad representatives present. There were three from law enforcement. There were four from emergency medical services and one from the department of roads. We identified areas that were problems in communicating. We expressed an interest of areas where we wanted to receive information in terms of closings. If they were slated to be closing for repairs, find a better system, develop a better system between railroads, communities and perhaps even dispatch centers, 911 dispatch centers so that information could be shared across the board. And that's what Ms. Mainwaring was speaking of in terms of trying to develop a better process of notifying. And then on the emergency rescue side of things, trying to get a better understanding from the railroads as other reasons why there may be a blockage, when a train crew goes time out. What's the motivation for the crew to go time out at that particular location versus, that may block more than one crossing, versus going time out at a location perhaps farther away, yet requiring that train crew to perhaps to walk a distance. Trying to understand those issues. Of course, derailments are going to cause blockage, pretty common sense. But another reason for blockage, why is it necessary for the railroads to have stacked trains waiting in sequence that

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

Transportation and Telecommunications Committee
February 26, 2008

adds to it? So it's a matter of communicating where we've taken the, I guess, the signal to try to do that. The railroads were quite enthusiastic to meet as were three members from the field, I guess you'd say, of the emergency medical services and volunteer fire and rescue. We're going to continue with those discussions and I hope that they bring about a favorable result for our interest for providing emergency services but also to mend and continue to work with, understanding and communicating with the providers, the two railroads in the state. Thank you. [LB1069]

SENATOR FISCHER: Thank you, Mr. Stilmock. Are there any questions? Senator Aguilar. [LB1069]

SENATOR AGUILAR: Jerry, did I understand you correctly, you've said the railroad has been very cooperative about showing up and participating and trying to be helpful in those meetings? [LB1069]

JERRY STILMOCK: Yes, yeah, the three people that I recognize in the room from the railroads, two of whom have testified, those people were present and have expressed their support and willingness to continue on and looking forward to our next meeting. [LB1069]

SENATOR FISCHER: Any other questions? I see none. Thank you very much. [LB1069]

JERRY STILMOCK: Thank you, Senator. [LB1069]

SENATOR FISCHER: Anyone else wishing to testify in the neutral capacity? Senator Dubas has waived closing. With that, I will close the hearing on LB1069 and I will close the hearings for the day. I would entertain a motion to go into Executive Session. [LB1069]

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

Transportation and Telecommunications Committee
February 26, 2008

Disposition of Bills:

LB786 - Advanced to General File, as amended.

LB1069 - Indefinitely postponed.

Chairperson

Committee Clerk