

Transcript Prepared By the Clerk of the Legislature
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Transportation and Telecommunications Committee
March 10, 2009

[LB93 LB334 LB649]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, March 10, 2009, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB93, LB334, and LB649. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Kathy Campbell; Galen Hadley; Charlie Janssen; Scott Lautenbaugh; and LeRoy Louden. Senators absent: Tim Gay. []

SENATOR FISCHER: Welcome to the Transportation and Telecommunications Committee. My name is Deb Fischer and I am the Chair of the committee. I am senator for the 43rd District from Valentine, Nebraska. At this time I would like to introduce the other committee members to you. On my far right is Senator Charlie Janssen from Fremont. Next to Senator Janssen is Senator Kathy Campbell who is from Lincoln; next we have the committee counsel, Mr. Dustin Vaughn. To my immediate left is Ms. Laurie Vollertsen, she is our committee clerk. Next on the left we have Senator Galen Hadley from Kearney. And on the end is Senator LeRoy Louden from Ellsworth. We do have three other members who will be joining us but they are introducing bills in other committees. And this time of year we come and go from committees as we have bill introductions in other committees. Our pages for today are Justin Escamilla from Scottsbluff and Rhianna Needham from Bellevue. And the pages will be happy to help you with anything. If you need any copies of your material, please let me know and we'll make copies of that for you. We will be hearing the bills in the order listed on the agenda. 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. I would ask that you complete the sign-in sheet on the on-deck table so it's ready to hand in when you testify. We're using a computerized transcription program so it's very important that you follow the directions on that sign-in sheet. And you will need to hand the sign-in sheet to our committee clerk before you sit down to testify, please. For the record, at the beginning of your testimony please spell your last name and also your first name if it can be spelled several different ways. And we ask that you keep your testimony concise and try not to repeat what someone else has covered. If you don't want to testify but you want to voice your support or opposition to a bill, you can indicate so at the on-deck table on the sheet provided. This will be part of the official record of the hearing. However, if you want to be listed on the committee statement as a testifier at this hearing 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 comments in writing and those will be read into the official record. At this time I would ask that you turn off your cell phones. This committee does not allow cell phones on, that means no text messaging, please. With that, Senator Howard is here and I will open the hearing on LB93. And welcome, Senator Howard.

[LB93]

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SENATOR HOWARD: Thank you. Good afternoon, Senator Fischer and members of the Transportation Committee. For the record, I am Senator Gwen Howard and I represent Legislative District 9. I appreciate this opportunity to present LB93 for your consideration. The purpose of this bill is to prevent children who don't have a choice from being exposed to the harmful effects of secondhand smoke while traveling in motor vehicles. LB93 would prohibit the operator of any passenger...the operator or any passenger in a motor vehicle from smoking cigarettes, pipes or cigars in a motor vehicle, passenger van or pickup truck when a child who is under the age of 16, that would be 15 or younger, is also present in the vehicle regardless of whether the windows are down. Arkansas claims it was the first state to ban smoking in cars carrying minors, while Maine, Louisiana and California have passed similar laws that prohibit smoking in cars with minors present. Texas, Oklahoma and Alaska prohibit smoking in cars when foster children are present. New Mexico and North Dakota have similar bills being debated this year. And the ages of the children included in these bans range from 6 to 18 years old. There is no doubt that exposure to secondhand smoke has harmful, long-term effects particularly on the developing body of a child. But the potentially harmful effects of secondhand smoke are personified in confined spaces with limited ventilation. According to the U.S. Environmental Protection Agency, secondhand or environmental tobacco smoke is a mixture of the smoke given off by the burning of a cigarette, pipe or cigar and the smoke exhaled by smokers. Secondhand smoke contains more than 4,000 substances, many of which are known to cause cancer in humans or animals. Children are particularly vulnerable to the effects of secondhand smoke because they are still developing physically, have higher breathing rates than adults and have little control over their indoor environment. Children exposed to high doses of secondhand smoke such as those who parents or primary caregivers smoke run the greatest risk of experiencing damaging, permanent health effects. Exposure to secondhand smoke can cause asthma in children who have not previously exhibited symptoms, increased the risk for Sudden Infant Death Syndrome, increase the risk for middle ear infections and infants and children younger than six who are regularly exposed to secondhand smoke are at increased risk of lower respiratory tract infections, such as pneumonia or bronchitis. For children with asthma, exposure to secondhand smoke can trigger asthma attacks and make asthma symptoms more severe. We cannot continue to turn a blind eye to this issue, the stakes are simply too high. This is an opportunity to reduce the physical and economic consequences that occur as a result of children being involuntarily exposed to secondhand smoke. It would not be unprecedented for this Legislature to establish guidelines about what people can and cannot do in their private vehicles, nor is it unprecedented for us to regulate adult practices regarding the safety of children who are in their care. We require adults to wear safety restraints and helmets, we also require drivers to restrain children in safety seats when they are traveling in motorized vehicles. Like these examples, LB93 is designed to protect our children. This is the right thing to do for them. And I ask the committee's favorable consideration of this bill. Thank you. [LB93]

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SENATOR FISCHER: Thank you, Senator Howard. Are there questions? And I would like to note for the record that we've been joined by Senator Scott Lautenbaugh from Omaha. Senator Lautenbaugh. [LB93]

SENATOR LAUTENBAUGH: Thank you. Senator Howard, I might have a little bit of comfort with this bill if I thought this was finally, at long last it. Is there any chance that's the case or are we going to be haranguing people on their patios, and in their dens, and in their kitchens, and everywhere else that someone might dare to light up a cigarette where someone else might be a football fields length away and take offense? [LB93]

SENATOR HOWARD: Was that the "it" you're looking for? [LB93]

SENATOR LAUTENBAUGH: Yes. Can this be it? (Laughter) [LB93]

SENATOR HOWARD: I was confused with the safe haven "it." So I don't have the answer to that. For me this is what I can tell you is it all boils down to safety for children. Regardless of some other disputes on the floor it all boils down to safety for kids. And this is one of the factors that I look at in terms of do we have more control over this, should we have more control over this? And I appreciate the committee considering this and listening to this issue. One interesting side effect of my bringing this bill in last year was that a number of private agencies that do foster care in Omaha contacted me and said that they eliminated the availability of foster parents to smoke around the children which I think is a great consequence, if you will, of this bill being discussed. So there are good things that come from our bringing issues in, even if they don't become law. There are good consequences. [LB93]

SENATOR LAUTENBAUGH: And I don't mean to seem hostile to you. [LB93]

SENATOR HOWARD: No, I...you don't. [LB93]

SENATOR LAUTENBAUGH: I'm hostile to the bill, I'm not hostile to the bill. [LB93]

SENATOR HOWARD: No, I understand that you aren't. [LB93]

SENATOR LAUTENBAUGH: Just for clarity sake. But I just...I have this sneaking suspicion that if we were to even think about doing this, there would be the next thing. [LB93]

SENATOR HOWARD: Um-hum. [LB93]

SENATOR LAUTENBAUGH: And I wish the slippery slope were a fallacy but it's not. We will soon be in people's homes, we will soon be places that we never would have imagined being on this issue. And I just...I worry. [LB93]

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SENATOR HOWARD: Well, it appears that in our environment we seem to live on the slippery slope. But I do appreciate you listening to this. And there are some other people that have come to testify and share their feelings, too, with us. [LB93]

SENATOR LAUTENBAUGH: I see that. [LB93]

SENATOR HOWARD: Thank you. [LB93]

SENATOR FISCHER: Senator Hadley. [LB93]

SENATOR HADLEY: Senator Fischer. Senator Howard, just a quick question. I assume there will be people that we can talk to about the technical details of how they would go about stopping cars and such as that? Is that a fair statement? [LB93]

SENATOR HOWARD: Yes, I think so. [LB93]

SENATOR HADLEY: Okay. [LB93]

SENATOR FISCHER: Other questions? I see none, thank you very much. [LB93]

SENATOR HOWARD: Thank you. And I'm going to waive closing because I need to return to Education since Senator Adams is going to have a bill up and I need to be the Vice Chair. Thank you. [LB93]

SENATOR FISCHER: Okay, thank you, Senator Howard. At this time, I'd like to ask how many people are here to testify on this bill today. If you could raise your hands, please. We have one? Okay. Would the proponents step forward. And we are using the lights so a three minute statement, please. Good afternoon. [LB93]

MARK WELSCH: (Exhibit 7) Good afternoon, Senator. Chairman Fischer, thank you for holding this hearing today. And other senators, thank you for being here to listen to the very important discussion about a very important health bill. I want to start off by saying that this is not... [LB93]

SENATOR FISCHER: I need you to start out by saying and spelling your name. [LB93]

MARK WELSCH: Oh, I'm sorry. Yes, I'm sorry, I should know that, done this a few times. My name is Mark Welsch. I am the...and that's spelled M-a-r-k W-e-l-s-c-h. And I'm the president of GASP of Nebraska, it's the Group to Alleviate Smoking Pollution of Nebraska, Incorporated. We're a nonprofit organization. We've been around for 20 years. And I live at 5611 Howard Street in Omaha, Nebraska, zip code is 68106. And is that all you need? Yes, I think. Okay. LB93 I do not believe is an antismoking bill. This is

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a health bill for children's sake. It's real clear in that way. And I've given you a lot of information to look at. And I won't read all of this, I just want to bring up...point out some of the things in here. This would protect children that are under 16 years old of age from secondhand smoke in a place where they have no control. It's not in their house where when they're bothered they can walk away from that room or walk away from the smoker in that house to get a little further away to dilute the smoke before they are forced to breath it. When they're in a car they just can't move. They can't step out when the car is going 60 miles an hour. And in some cases, there are such small babies that are breathing very fast, if you've had children you know when they're small they breathe very fast. So they're sucking in lots of air, lots of pollutants when they're in a smoking room or in a smokey confined area like a car. And you might ask, how toxic is the air inside a vehicle when somebody is smoking. And are children really impacted by that secondhand smoke. Well, there's a great video and in the handout that I have given to you and I've also e-mailed to all of you, if you take five minutes to look at that link that's in the third paragraph of that, just take five minutes, you will see very clearly how dangerous and how quickly a car becomes filled with very dangerous levels of tobacco smoke. You'll also see, if you've been around awhile, you'll see an old friend of yours, Dr. Mark Horton, who used to be in charge of the Health Department here in Nebraska. He is now in California doing great work out there supporting their smoke-free car law for children's sake. So, and I'll try not to...I've got some things circled to say that Senator Howard already said, so I'll try to skip over some of that. These are the most vulnerable people that I'm asking you to help protect. In 2006, the Surgeon General enhanced earlier findings from earlier reports that confirmed decades of sound scientific studies that made clear that exposure to secondhand smoke creates a variety of serious public health problems. Children exposed to secondhand smoke are much more likely to develop childhood cancers, asthma, chronic ear infections which oftentimes lead to them going to the doctor and having tubes put into their ear and, most importantly, Sudden Infant Death Syndrome, they don't know for sure because it's such an inexact science...got one minute, okay. But they estimate half of the SIDS deaths are caused by people smoking around the child. So this would reduce, if you pass this on and get it passed it would help in that area. Seventy-seven percent of the people in a survey in 2003 support this legislation. That's in a nationwide study, 77 percent of the people support this so I hope you will as well. And I think this will save the state money. I think they erred when they did the fiscal statement because Medicaid and other state and local expenses go towards children that are exposed to secondhand smoke. And if you reduce or eliminate that secondhand exposure you're going to reduce the health care expenses that the state taxpayers pay today. So...and you might also cause some parents to quit smoking in their home if they see, oh I can't smoke in my car, maybe I shouldn't smoke in my home as well. So you'll improve the health not just of the children but also of the parents and other people that live in that home so and travel in the cars. So thank you very much. [LB93]

SENATOR FISCHER: Thank you, Mr. Welsch. Are there questions? Senator Janssen.

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[LB93]

SENATOR JANSSEN: Thank you, Senator Fischer. Mr. Welsch, you said they estimate half of SIDS are from smoking in cars? [LB93]

MARK WELSCH: Yes. No, no, no. [LB93]

SENATOR JANSSEN: Who is "they?" [LB93]

MARK WELSCH: Not from cars but SIDS in general is...the...there's a SIDS foundation that studies sort of thing and they have, if you Google the SIDS foundation, you'll find a web site, and I could find that for you and I'll e-mail that to you, Senator Janssen, that studies around the world, especially in England they've done, I think, more studies that other places, have looked at smoking, not just in cars but also in homes and other environments around children. And I'm not a scientist so I don't know how they've figured this out but they have determined that approximately half of the SIDS deaths are caused by secondhand smoke. [LB93]

SENATOR JANSSEN: Okay. So "they" is the SIDS foundation is what you're referring to? [LB93]

MARK WELSCH: And...well, the scientific studies that they have put together on their Web site and directed me to. [LB93]

SENATOR JANSSEN: Yeah, I'd be...actually, please forward that to me. I'd be very interested to see that. I didn't know that there was any knowledge of what caused that. [LB93]

MARK WELSCH: To say "caused" is not the right word either, and I make that mistake sometimes, because nobody knows what causes SIDS but it's a contributing factor. [LB93]

SENATOR JANSSEN: Oh. [LB93]

MARK WELSCH: You know, just like laying a baby on their back will drastically...that, I think, cut down in half of the SIDS deaths just when they did this huge advertising campaign to get babies to be placed on their back rather than on their stomach or sides. So they know what's a contributing factor. They don't know what causes it yet. [LB93]

SENATOR JANSSEN: All right. Before that they said lay them on their belly because that causes...so it's tough to put your finger on it is kind of what I'm saying. It's a horrible thing but... [LB93]

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MARK WELSCH: Um-hum. [LB93]

SENATOR JANSSEN: In your opinion should we outlaw smoking altogether? [LB93]

MARK WELSCH: Well, you know, that...being in this business for 20 years, I see no socially redeeming value of tobacco myself. So if you guys wanted to pass that law I'd be there cheering you on. But I'm a realist also and I know that's not going to happen probably in my lifetime. [LB93]

SENATOR JANSSEN: You would also be unemployed. [LB93]

MARK WELSCH: (Laugh) I'm not paid to do this, sir. So being unemployed from this job... [LB93]

SENATOR JANSSEN: Okay. Then you'd have a lot of free time then. [LB93]

MARK WELSCH: ...oh, I would have lots of free time. I could find other things to come and talk to all of you about. [LB93]

SENATOR JANSSEN: Thank you. [LB93]

MARK WELSCH: Thank you. [LB93]

SENATOR FISCHER: Other questions? Senator Lautenbaugh. [LB93]

SENATOR LAUTENBAUGH: Thank you, Madam Chairman. Can you think of any laws that we may have passed recently as a Legislature that had the obvious result of encouraging people to smoke in their homes and their cars? [LB93]

MARK WELSCH: That encouraged them to smoke? [LB93]

SENATOR LAUTENBAUGH: By taking away everywhere else they might want to smoke indoors. [LB93]

MARK WELSCH: That might be a result but I don't think that they're going to smoke in their car more while they have children in the car. A lot of times they might smoke in their car when they're at work and they'll go out to their car to have a smoke or when they go out to a restaurant or a bar they might duck out to their car to have a smoke. I don't think that they're going to smoke more when they're driving than they did before. [LB93]

SENATOR LAUTENBAUGH: Do you have any basis for that or are you just hoping that you haven't helped bring about that result? [LB93]

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MARK WELSCH: I'm just making an educated guess. I don't...I do not know. [LB93]

SENATOR LAUTENBAUGH: Okay, thank you. [LB93]

SENATOR FISCHER: Senator Hadley. [LB93]

SENATOR HADLEY: Senator Fischer, thank you. I guess thinking about this bill a lot of times what we do we have to weigh costs and benefits. And we have a law enforcement system right now that I would dare say is probably underfunded, undermanned, "underwomaned" in every area of the state. I guess it bothers me if we put a law on the books that we'd rather than trying to find, you know, apprehend people driving under the influence or speeding negligently or responding to a convenience store holdup or something like that, we have someone pulling someone over to first of all determine if there is anybody under 16 in the car because they have to prove, right, if they're going to be charged they have to somehow prove, get some kind of identification that the person isn't 16, that they're smoking, write the ticket, go through the legal system and such as that. And I guess I'm just concerned that that, to me while it may be a very worthy type of thing, I'm not sure that's what I want our law enforcement people spending time doing. And I'm sure we have a couple people from the State Patrol there they can probably tell us, you know, what an average stop time wise takes to do. So this is just what bothers me about making a law such as this. [LB93]

MARK WELSCH: Um-hum. [LB93]

SENATOR HADLEY: Any comments? [LB93]

MARK WELSCH: Well, yeah. I drove from Omaha today and I didn't, I shouldn't say this, but maybe I didn't go quite the speed limit but people passed me on the road and I didn't see any police officers pulling them over today. So, you know, officers, you know... [LB93]

SENATOR HADLEY: That's because maybe we don't have them enough. [LB93]

MARK WELSCH: Well, but a lot of people follow the laws pretty closely. You know sometimes they bump it up on the speed limit, sometimes they almost stop at a stop sign, but they slow down. When there are laws in place I think by and large people will follow the law voluntarily. That's my hope, that's my expectation, I think what we all hope will happen. So, no, we're not going to...this law, if passed, is not going to stop everybody from smoking in the car. I do not expect the police to focus on this more than anything else. In fact, this is probably going to be very low priority for most officers. So I don't see it as adding to their workload. You know, they're going to look for this if they're not busy doing something that they deem is more important. But most people, most

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parents are going to know that this law exists and they're going to follow the law I believe. [LB93]

SENATOR HADLEY: Just a follow up. I guess that reading almost seems a little convoluted to me because parents know now the danger of secondhand smoke and they're willing to smoke in the car. So I'm not sure how many are going to say if you give me basically a ticket that costs no points and, you know, that I'm going to change behavior because of that, maybe we will. But right now we have a lot, you know we have a lot of information about the dangers of secondhand smoke and people still do it. [LB93]

MARK WELSCH: And a lot of people don't believe that information is what I think. Because a lot of the parents who continue to smoke in their car or their home, I think they simply don't believe that information. But passing this kind of a law, I think, and the publicity that it will gather, I think, will help drive home the fact to those people that, no, it really is true, folks, it does harm children. You can't do it in your car. And hopefully, some of those parents will open their eyes to that fact and not smoke in their cars and homes as well. [LB93]

SENATOR HADLEY: Thank you. [LB93]

SENATOR FISCHER: Other questions? I see none. Thank you very much for being here today. [LB93]

MARK WELSCH: Thank you, Senator. [LB93]

SENATOR FISCHER: (Exhibits 1-6, 15 and 20.) Are there other proponents for the bill? Any other proponents? We did receive some e-mails and letters that I'd like to enter into the record in support from the Nebraska Medical Association, from Clyde Anderson of Omaha, Gilda Pieck of Omaha, Linda Demeulmeester of Omaha, Matteah Barelmann of Wayne, and a letter in support from the Douglas County Health Department. Anyone wishing to speak in opposition to the bill? Anyone in opposition? I see none. Anyone in the neutral capacity? I see none. Senator Howard did waive closing. With that, I will close the hearing on LB93 and open the hearing on LB334. And Senator Giese is here. Good afternoon and welcome. [LB93]

SENATOR GIESE: (Exhibits 8 and 9) Good afternoon. Thank you, Senator Fischer and members of the committee. My name is Robert Giese, G-i-e-s-e, and I represent the 17th Legislative District which includes Dakota, Dixon, and Wayne Counties in northeast Nebraska. Today I am very proud to introduce LB334 which is my priority bill. The ultimate goal of this legislation is really quite simple: completion of the Nebraska expressway system. While the need for an expressway system to complement Interstate 80 was formally identified by the Department of Roads during the 1960s, it

wasn't until 1988 that the expressway system really took shape. During the 1988 session the Legislature passed two bills which required the Department of Roads to submit a report on the needs of the state highway system, and begin development on a system of expressways. What ultimately emerged was a 600-mile expressway system that was designed to connect cities with populations greater than 15,000 to an interstate system, and routes which have an average daily traffic of 500 or more heavy commercial vehicles, and 3) add additional segments for continuity. The original 600-mile expressway system was scheduled to be completed in 2003, and there are currently 179 miles of the 600 that have not been completed. Since the original system was proposed, there have also been three additional projects proposed to the expressway system as part of the long-range planning. The Heartland Expressway connecting Colorado to the Black Hills; Highway 35 between Norfolk and South Sioux City; and Highway 75 between Nebraska City and Auburn. Based on the information in the 2006 Department of Roads needs assessment, work on these three projects constituting 220 additional miles of expressway will not begin until after the original 600 miles have been completed. LB334 seeks to spur the construction of these expressway projects in two ways. First, Sections 1 and 2 of the bill would define the Nebraska expressway system in statute. The expressway system was prominently featured in the 2006 Needs Assessment and you'll notice that LB334 would define the map from that year's assessment as the state expressway system. This is not because the 2006 map is better than the 2007 or 2008 maps, it is because there was no reference to the expressway system at all in the 2000 and 2008 Needs Assessments. In fact, if you look at the Summary of Needs from each of the last few years, you'll notice that the expressway system, both urban and rural, constituted 9.1 percent of the Department of Roads' needs in 2006. In 2007 and 2008, the expressway system slice of the pie is just gone. My concern is that if the expressway system isn't included in the needs assessment and if it's not in statute, these projects will never be finished. LB334 also seeks to require the Department of Roads to include the expressway system when developing their annual specific and long-range state highway system plan. Specifically, Section 3 of the bill would add two additional factors for the department to consider: the ability of residents of cities of 15,000 inhabitants or more to access the National System of Interstate and Defense Highways through a completed expressway, and the impact of uncompleted portions of the expressway system on the economic development of cities along the expressway system. Essentially, by adding these two factors the department would be forced to consider the economic cost of not completing the expressway. The many communities throughout Nebraska that have representatives here today or who have sent letters in support are really suffering because these projects have essentially been put on hold. One of the first things a prospective new employer is going to look at when locating...when looking to locate in Wayne, or Norfolk, or Columbus is whether that these communities have a four-lane access to the interstate system. In northeast Nebraska, these communities have been growing in spite of the lack of completed expressway. Just imagine the economic growth that could be seen with four-lane expressways running from Omaha all the way to Columbus and

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Norfolk. All that these communities are asking of the Department of Roads is that these projects get looked at sooner rather than later. One of the main reasons I chose to make LB334 my priority bill this session was that the recent change by the Department of Roads to increase the standards for building four-lane highways. Under old standards, highways would be considered for expansion from two- to four-lane if they had a projected average daily traffic count of 6,000 vehicles per day. In 2007, the State Highway Commission recommended an increase of the ADT standard to 10,000 vehicles per day, which would essentially eliminate the remaining expressway segments from construction, at least in my lifetime. According to the Department of Roads, just 24 of the 179 uncompleted miles in the expressway system meet this new criteria. I firmly believe that if we consider traffic numbers alone in constructing our highways that we are doing a great disservice to our state's economy. In fact, if an average daily traffic standard of 10,000 vehicles had been applied to the interstate system, then large portions of Interstate 80 would still be incomplete. Looking at some of these incomplete sections of expressway on the map my office has provided, these are not long stretches of road: 30 miles between Bellevue and Nebraska City; 24 miles between Schuyler and Fremont; and in one case, less than five miles between the interstate and Kimball would link the communities of Scottsbluff and Gering to the interstate. In many cases, there are gaps between complete sections. The completed sections, that if completed, would have significant economic benefits to these communities. Many expressway projects have federal funding that has been earmarked for them that is just sitting there waiting for work to begin: \$5 million for Highway 75 between Bellevue and Plattsmouth; more than \$21 million for the Lincoln South Beltway; \$24 million for the Heartland Expressway; and almost \$30 million for Highway 35 between Norfolk and South Sioux City. The department should be taking advantage of these matching funds now, because with every year that passes these federal dollars build fewer and fewer miles due to increased construction costs. I believe that the inclusion of more than \$235 million for roads and infrastructure in Nebraska as part of the federal stimulus package presents a golden opportunity for finally getting these projects moving along. While most of these projects are not shovel ready, every additional federal dollar for other projects can potentially free up money to finish the expressways. Transportation is at the core of our economy. If we fail to complete the expressway system, it places in jeopardy the hundreds of millions of dollars that we have already invested. LB334 is not designed to prioritize the expressway system above all other road construction. Thanks to the hard work of the Department of Roads and the State Highway Commission we have a quality highway system in Nebraska, and the department should be commended for making the maintenance and preservation of our existing system their top priority. But 20 years ago, the Legislature decided that the Nebraska expressway system was an important priority. And I think it is time we live up to the promises made to the communities that have been patiently waiting for their expressways to be completed. I would urge the committee to advance LB334 to General File and I would be happy to take any questions. [LB334]

SENATOR FISCHER: (Exhibits 10-14) Thank you, Senator Giese. Are there questions?

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Senator Louden. [LB334]

SENATOR LOUDEN: Yeah. Well, thank you, Senator Fischer. Thank you, Senator, for reviving this argument again. I think this is something that I've been working on for a long time and I think it's something that needs to be...continue to be brought to the forefront. And I agree that they used to have the map in their needs assessment and here in the last couple of years or so they've taken it out, so that is a worrisome part. Do you think that anything should be brought along with this bill about bringing up the idea that you've got to have 10,000 vehicles a day in order to have an expressway? Do you think that should be reassessed and perhaps reevaluated? Because, like you say, there's going to be a bunch of those that won't ever live long enough to see that much traffic on there and, in fact, there would be some interstate that wouldn't even make that criteria. [LB334]

SENATOR GIESE: I do, Senator, and thank you; I appreciate the comments. This is a bill that has been brought back again, and I'm happy to bring it back. And I do think that with the 10,000 cars per day that there are no cities, or fewer cities, that are going to meet that criteria. So if we don't look at that and adjust those numbers, I don't see how that we're ever going to get the expressway completed, so yes; the answer is yes to your question. [LB334]

SENATOR LOUDEN: Okay, thank you. [LB334]

SENATOR FISCHER: Other questions? I see none; thank you very much, Senator. Could I ask for a show of hands on how many people plan to testify on this bill, please? Two, four, five, six; okay, thank you. Would the first proponent please step forward. Good afternoon. [LB334]

DENNIS SMITH: Good afternoon. My name is Dennis J. Smith, D-e-n-n-i-s S-m-i-t-h. I'm the public works director of the city of Norfolk. I am here in support of LB334, codifying the expressway system and requiring the Nebraska Department of Roads to use economic development of cities along the expressway system in determining highway needs. In Section 23 of LB632 of the 1988 laws, and I quote: the Legislature finds and declares that the highways of the state are of the utmost importance to the future development with the state and that following actions are necessary for such development. And I'm paraphrasing: One was the accelerated completion of the interstate, accelerate removal of geometric incapacity deficiencies, resurface of highways to protect the pavement integrity; and again I'm quoting: number four, the development of a system of expressways which include, but not be limited to, a north-south expressway; and paraphrasing: the general upgrade of highway system. Items one and two are generally completed, with item three being required continuously. Out of LB632 was a task force that recommended the existing expressway system which LB334 will codify. The task force generally used the following criteria to establish

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the existing expressway system: to connect urban centers of 15,000 population or greater to the interstate system, to add routes which have an average daily traffic of 500 or more commercial vehicles, and to add segments for continuity. Rural Nebraska has patiently waited for 20-plus years for completion of the expressway system. Now it appears that due to tough times in highway funding, the standards are being adjusted to reduce the highway needs. It appears the new standards will require an average daily traffic count of 10,000 vehicles with no discussion of the 500 or more commercial vehicles used by the task force to establish the existing expressway system. I believe the findings and the declarations of the 1988 Legislature and the task force criteria used to develop the existing expressway are as valid today as in 1988 and urge your support of LB334. Thank you, and I would answer any questions. [LB334]

SENATOR FISCHER: Thank you, Mr. Smith. Are there questions? Senator Louden. [LB334]

SENATOR LOUDEN: When you talk about the 10,000 vehicles, here a few years back it was somewhere around 4,000, then I think it went up to 6,000. What number do you think would be a...I mean, you're going to have to have a criteria someplace. Where should that be at: 4,000, 6,000, or 8,000, or what? [LB334]

DENNIS SMITH: Well, I think the 6,000 probably served us well because that was a 20-year projection, but I also think that some consideration needs to be given to the heavy commercial vehicles. You look at a lot of these segments in rural Nebraska--they might not make the 6,000 vehicles, but they will be well over that 500 commercial vehicles threshold. And you know, you start mixing heavy trucks and cars together and it doesn't take that much traffic to start causing concerns with the motoring public. [LB334]

SENATOR LOUDEN: Should any consideration be given for economic development? [LB334]

DENNIS SMITH: Well, I think that that also should be in that mix. And I think that probably the commercial vehicles is something that will be an indicator of economic development that is occurring in some of these regions. The economic development comes from a lot of the commercial vehicles supporting that. [LB334]

SENATOR LOUDEN: Okay, then when you mention that then in other words you've got to wait until the traffic's there before you would get that criteria. I mean, if you're going to have 500 trucks a day you're going to have a pretty busy highway before you get four lanes, and I'm wondering what kind of lead time there would be in there if...by using something like that. [LB334]

DENNIS SMITH: Well, and that's why I think that your indication that 10,000 is too high,

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maybe it should be that 4,000-6,000 vehicles, I'm saying that also needs to be looked at is the number of heavy commercial vehicles. I think if you look at it, a lot of the existing expressway system will have vehicle counts that are well over the 500 threshold. There's sections of Highway 275 that I looked at specifically that you're approaching 800-plus heavy commercial vehicles on some of those segments and still are in that 4-6,000 ADT range. [LB334]

SENATOR LOUDEN: I agree. I think that 10,000 vehicle deal was something they figured out themselves and I haven't been satisfied with that myself. Do you have a...there's always funding. Now that we probably agree on vehicles, now, where are we going to get that money? We had hearings last summer and there were people that weren't a bit concerned that we should maybe raise the gas tax a little bit and should send...some be...some gas tax be earmarked for express highways. What's your opinion on something like that for funding? [LB334]

DENNIS SMITH: I don't know if gas tax necessarily should be earmarked for expressways, but I would support that this state needs additional funding for its highway system. I think that the gas tax and the user tax on that area is an area that has served the state well and probably should be looked at and probably increased. You know, I'm of the opinion that this \$2.00 gas is probably not the best thing for this country because it's going to stop alternative fuels, it's going to have an impact on the ethanol industry, it's going to have an impact on crude oil prices, and the next time that \$150 isn't going to stop the crude oil because it's going to take more than that before people are going to start getting serious about alternatives, so. When you're seeing gas prices jump around by a dime, you know, a two-, three-, four-, five-cent increase in gas tax should not be a major issue. I understand that it is, but. [LB334]

SENATOR LOUDEN: That part I agree. The other thing is there's about 24 or 25 counties in Nebraska that have over a billion dollars valuation. When they get to somewhere around that threshold should they, perhaps, be required to do some work on some of this...these shorter pieces or something like that and make some kind of contribution from the counties? [LB334]

DENNIS SMITH: You know, again, it's something that most certainly could be looked at. You know, most of the funding that goes into the roads comes through from the gas tax so whether it's state gas tax or county gas tax... [LB334]

SENATOR LOUDEN: Well, it would be some type of property tax on counties that have over a billion dollars valuation. It's what I'm wondering, if some of those counties, if that would be a consideration some place for some of those counties to do some of that themselves; and what your opinion on that was. [LB334]

DENNIS SMITH: If we had guarantees that we could get the expressways completed in

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a timely fashion I think that you could probably get some support for that. [LB334]

SENATOR LOUDEN: Okay, thank you. [LB334]

SENATOR FISCHER: Are there other questions? I just have a statement that I heard, I think I heard you say, that the standards were changed to meet the needs. Did you say that? [LB334]

DENNIS SMITH: Ask that question again. [LB334]

SENATOR FISCHER: Did you say the standards for a road...the standards were changed? I think you might have used the word reduced to meet the needs. [LB334]

DENNIS SMITH: I said adjusted to reduce the highway need. I said that the highway funding standards are being reduced and actually it's the standards for the threshold for the expressway system, and some of the other standards for the state highway regs were reduced which resulted in the highway needs calculation being reduced. [LB334]

SENATOR FISCHER: Were you referring to the numbers in the conversation you were having with Senator Louden that are required, or were you referring to the width of shoulders and standards like that? Or both? [LB334]

DENNIS SMITH: Both. [LB334]

SENATOR FISHER: Both. [LB334]

DENNIS SMITH: The ADT for the expressway system for four lanes was raised from that 6,000 to 10,000. [LB334]

SENATOR FISCHER: 6,000 to 10,000. [LB334]

DENNIS SMITH: There was also some changes as to ADTs required for shoulder widths, or paving widths, and some of those things. And there again, I'm not sure that those were...that's necessarily the best thing for the state of Nebraska either. [LB334]

SENATOR FISCHER: I will tell you that Nebraska...the standards we previously had considering shoulder widths and things like that...those were higher than the federal standards, the ASHTO standards, and now Nebraska is in line with ASHTO standards. So there hasn't been any safety threat by changing those standards at all because they do meet the federal ASHTO standards. [LB334]

DENNIS SMITH: They meet the federal standards? [LB334]

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SENATOR FISCHER: Correct. [LB334]

DENNIS SMITH: I would probably disagree that we may have lost some safety aspects with some of those narrower paved shoulders in that any time you narrow that down when that driver moves outside of the 12-foot lane that we allow for them, there's no forgiveness if there's not a paved shoulder there. They're dropping off the edge of the paving and now you've got a more severe motion to get back on the paving, and tends to cause problems. Also, I think every time one of those wheels drops off the edge of the highway you're just starting a problem that the next driver encounters that was worse than the first one. [LB334]

SENATOR FISCHER: And I don't argue with you on that, but when the state is looking for more money for roads...if you do change those standards, say, for shoulder widths and narrow them by two feet and still be able to meet the safety standards that are set by ASHTO, that does free up quite a chunk of change for other road projects--which you're looking for, for your expressways, by the way. [LB334]

DENNIS SMITH: I understand. I appreciate that, Senator Fischer. You know, I come here and say that I know that funds have to be raised, and you know I'm supportive of that and have been for quite some time...recognize that the... [LB334]

SENATOR FISCHER: As I am in support of that too. [LB334]

DENNIS SMITH: Yes, you are. And the funding just isn't there today, so. [LB334]

SENATOR FISCHER: It's tough. [LB334]

DENNIS SMITH: Yeah. [LB334]

SENATOR FISCHER: It's tough, but thank you for being here today, Mr. Smith. Appreciate it. [LB334]

DENNIS SMITH: You're welcome. [LB334]

SENATOR FISCHER: Next proponent, please. [LB334]

MARLENE JOHNSON: Good afternoon. [LB334]

SENATOR FISCHER: Good afternoon. [LB334]

MARLENE JOHNSON: My name is Marlene Johnson. I...kind of here in a double, dual position. I'm the mayor of West Point, Nebraska, which is one of the communities along one of the expressway systems. And I'm also here as part of the Nebraska

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Expressways for Economic Development coalition. It's a group of small communities that have formed together to see if we can't promote getting the expressways moved forward and hopefully finished in the not too distant future. I'm pleased to be here this afternoon, Senator Fischer, and thank you to the members of the Transportation and Telecommunications Committee for giving us all the opportunity to come back and speak to you again and reaffirm our commitment to the expressway system. And I also want to thank Senator Giese for selecting LB334 as his priority bill. The goal of the NEED coalition is to keep the expressways that were planned and implemented 20 years ago to continue to be a part of the highway plan. The reason for designing them in 1988 are more relevant today, and they're more necessary today than they were when they were designed. Safety is obviously one of the foremost things that always comes into consideration, and I guess on this I would probably be speaking as mayor of West Point. The highway intersects our community right down the middle. We actually have two highways coming into our community: Highway 32 and 275. We have, at times, reached the 7,000 vehicle a day number and it's a challenge to cross the highway with 7,000 vehicles. I can't imagine what it would be like if it was 10,000. It's a test of friendship now, as I would say. We have school children that have to continually cross the four lanes of Highway 275 to get to school and to get home from school; people going to our library. I mean, it just affects everything in the community of West Point with the crossing of the four lanes of the highway. And we would have been in the good number above 6,000 until they changed it and, as I said, I would challenge anyone to imagine what it would be like to have that many vehicles going through our community. The commercial trucks and so forth that go through, sometimes two abreast at a time, because it is four-lane; and it does create, I think, a lot of safety issues. We've been fortunate--we do have one stoplight that does kind of slow the traffic down now and then, but we've just been very fortunate that we've had a minimum of accidents, although they do happen occasionally. The other thing that I would like to stress is the economic development, and that in itself is a very important issue for all of the communities along all of the expressways; not only just for the economic development part of it but for the planning ahead, because we all realize that these highways are not going to be built tomorrow. But we need to plan ahead for economic development. We need to design our communities and find the areas that can grow to bring in new business. And until we know the corridor that's going to be laid out for these expressways it's very difficult for a community, any community, to decide what areas can be used for growth for new business. We have businesses in the community that are interested in where is the expressway going to go so that they can possibly purchase ground in the area along the corridor for possible movement out when the expressway does happen. Those plans have to just lay on hold; they can't do anything about them, they can't move forward. And it does kind of stymie the growth of a community which is something that we're obviously striving for all the time. You know, we want to keep our population growing. And it's time for me to stop so I just want to say thanks for the opportunity. I know funding is a problem, and I just request that the expressways be left in the highway planning so that if funds become available where it

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can be done to move these roads to completion. [LB334]

SENATOR FISCHER: Thank you, Mayor. [LB334]

MARLENE JOHNSON: Thank you, all. [LB334]

SENATOR FISCHER: Are there questions? Senator Janssen. [LB334]

SENATOR JANSSEN: Thank you, Senator Fischer. Mayor Johnson... [LB334]

MARLENE JOHNSON: Yes. [LB334]

SENATOR JANSSEN: Welcome. I did a little bit of a history lesson last night, I guess, for me. I've spent a lot of time when I went to college coming from Fremont, going through West Point... [LB334]

MARLENE JOHNSON: Okay. [LB334]

SENATOR JANSSEN: On up to Wayne. [LB334]

MARLENE JOHNSON: Yes. [LB334]

SENATOR JANSSEN: And I was wondering, was 275, where it's at, did the...would it be to the east? Is that the newer housing there? When that was put in a number of years ago, was West Point developed as much or...probably not as much, but... [LB334]

MARLENE JOHNSON: The four lane or...? [334]

SENATOR JANSSEN: No, the town, where the housing... [LB334]

MARLENE JOHNSON: The town. Well, it has actually...we can't grow to the west because the Elkhorn River is right on the edge of our... [LB334]

SENATOR JANSSEN: I might be geographically challenged right now. [LB334]

MARLENE JOHNSON: Well, and it's confusing because sometimes Highway 275...they talk about it going east and west: through West Point it actually goes north and south so it's very confusing. But our town does grow to the east because we cannot grow to the west... [LB334]

SENATOR JANSSEN: East, right. [LB334]

MARLENE JOHNSON: ...because of the river. And we have increased...the

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development has all basically gone east since, you know, since the town started and started to grow. And that's where our continued growth is going to have to go. And we've had a couple of housing developments that have happened since the 1960s and we are looking again to the east. Our schools are all east of the highway--have been, basically, from the first, so. [LB334]

SENATOR JANSSEN: Okay. So then my question, basically is...you answered. I was just curious with the roads--it seems like a lot of times you put them outside a town and then the town grows around the road. So there is an economic development impact on that as well. [LB334]

MARLENE JOHNSON: Right, right. No, the highway was always...the town started around the highway. Our main street is not the highway. Our main street is a block west. [LB334]

SENATOR JANSSEN: Right. [LB334]

MARLENE JOHNSON: So that doesn't interfere, but the town was sort of based around the highway at that time. [LB334]

SENATOR JANSSEN: Thank you. [LB334]

MARLENE JOHNSON: Oh, you're welcome. [LB334]

SENATOR FISCHER: Senator Campbell. [LB334]

SENATOR CAMPBELL: Thank you, Chairman. Mayor Johnson, it's just too good of an opportunity to pass up when you're out here testifying to ask if you have any recommendations to us on funding. Well, take Senator Loudon's previous question, we're, you know, open to all suggestions. [LB334]

MARLENE JOHNSON: And I'm sure you are and, you know, I wish I had the magic answer to that because being a mayor of a community that's one of the things that we're always looking for is funding and how to make things happen, you know. And I do not have the answer; I wish I did. I guess it's just a matter of looking at how things...I guess I'm just asking that if funds become available, can the expressways be put back in as far as that issue is concerned? [LB334]

SENATOR CAMPBELL: Thank you, Senator Fischer, just to continue. I do want you to know that a group of Lincoln senators who are very concerned about the South Beltway met with the director on somewhat of the issue that you just touched on and saying, okay, well it's no longer there, whatever...you know, in that list. And his explanation to us is while it's no longer there it's really on a construction list--they have not lost sight of

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all of these roads. And I understand what you're saying because we all did the same thing you just did: we all kind of shook our head. But I think the department is well aware of what that list is; their question back to us was what I said to you, and that is, it's the funding issue that becomes so critical. And I appreciate your keeping the issue alive; we all need to do that. [LB334]

MARLENE JOHNSON: Well, and I think that's probably part of where all of this comes from is the fact that for the first time this year the expressway's disappeared from the needs list and so then we all start to panic and think, did that get tossed out and are we never going to see them forevermore? So I think that's one of the reasons we just came together and decided that we needed to express our feelings that this is something we feel needs to be done; we don't have a magic answer. If I win the lottery, I will certainly contribute. (Laughter). [LB334]

SENATOR CAMPBELL: Thank you. We'll call you. (Laughter) [LB334]

SENATOR FISCHER: Other questions. Senator Hadley. [LB334]

SENATOR HADLEY: That comment you just made, Mayor Johnson, that they had disappeared from the needs list: on page 11 of the bill, lines 9-11 it says: the state highway system plan shall include the designation of those portions of the state highway system which shall be expressway. So are they in violation of the statute as it now stands? Because it says the plan must include those portions which shall be expressways. [LB334]

MARLENE JOHNSON: Goodness, I'm not sure that I can answer that question. What are you reading from? [LB334]

SENATOR HADLEY: I'm reading from the actual law. [LB334]

MARLENE JOHNSON: Oh, okay. [LB334]

SENATOR HADLEY: I'm sorry, I'm reading...okay. [LB334]

MARLENE JOHNSON: Okay. Then I have to admit that I can't answer that question, I'm sorry. [LB334]

SENATOR FISCHER: I think what the mayor has been referring to, and the previous testifier, is the needs assessment... [LB334]

MARLENE JOHNSON: Right. [LB334]

SENATOR FISCHER: ...when it comes out with the one-year and the five-year plan.

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[LB334]

MARLENE JOHNSON: When we have our... [LB334]

SENATOR FISCHER: That's a needs assessment. [LB334]

MARLENE JOHNSON: Yes. [LB334]

SENATOR FISCHER: In the plan, yes, I believe the expressways are still there. [LB334]

SENATOR HADLEY: They're still there in the plan itself? [LB334]

MARLENE JOHNSON: But in the plan, yes. [LB334]

SENATOR FISCHER: But not in the needs assessment. [LB334]

MARLENE JOHNSON: The needs assessment that we get from the Department of Roads every year when we have our district meetings. And they were not in there this year, oh, or last fall, and so we all sort of asked, where did they go? [LB334]

SENATOR FISCHER: I believe the executive branch with the Department of Roads made a decision that only projects that truly could be completed in that one-year or five-year period would be put in the needs assessment on that. Just to be more realistic... [LB334]

MARLENE JOHNSON: Sure. [LB334]

SENATOR FISCHER: ...and more open with the public on what will be done. [LB334]

SENATOR HADLEY: One last thing. [LB334]

MARLENE JOHNSON: Yes. [LB334]

SENATOR HADLEY: As former mayor of Kearney if you have a couple of hours I'll tell you about an interchange that's taken twenty years and getting on and off the needs list. (Laughter) Senator Fischer would probably hit me if I did. (Laugh) [LB334]

SENATOR FISCHER: Thank you, Senator Hadley. [LB334]

MARLENE JOHNSON: And we've experienced a lot of things that have not happened, not only on the highway thing. But when you're mayor of a community there's a lot of things that don't happen when you want them to happen and you keep working at it until it does. And I guess that's kind of where this is coming from also; we just want to keep

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the issue alive until something can happen. [LB334]

SENATOR FISCHER: Right. Any other questions? I see none, thank you, Mayor Johnson. [LB334]

MARLENE JOHNSON: Thank you very much. Thank you for your time. [LB334]

SENATOR FISCHER: Thank you. Next proponent, please. Good afternoon. [LB334]

ROD KOCH: (Exhibit 16) Good afternoon. My name is Rod Koch, R-o-d K-o-c-h. I'm a councilman from the city of South Sioux City. Chairperson Deb Fischer and members of the Transportation and Telecommunications Committee, on behalf of the mayor and city council of the city of South Sioux City we wish to go on record in support of LB334. We appreciate Senator Giese for introducing and prioritizing the bill. The Nebraska expressway system is essential in providing safe and efficient transportation routes in the state, but also in connecting Nebraska to major centers across the country. If Nebraska is to remain competitive in this world market, we must have a highway system that allows for Nebraska goods to be shipped to the major markets, but also as a transportation corridor for the millions of tons of goods shipped across our country. I have attached a map of freight tonnage to and from Denver as an example of the massive amounts of goods that are shipped in and around Nebraska. Connecting to United States Highways 60, 75, 20, and 77, and Interstate 29, the 35 Expressway is logical to bring increased commerce to Nebraska and to provide a convenient route to the many tourists that enjoy our great state. Recognizing this, the United States Congress has designated the 35 Expressway as one of the Congressional High Priority Corridors on the National Highway System as depicted on the attached map. The last of the maps I have enclosed shows how this expressway will connect to the other four-lane facilities of the Nebraska expressway system as proposed in this bill. We encourage the passage of this bill and look forward to working with you to see this program implemented. [LB334]

SENATOR FISCHER: Thank you very much. Are there questions? I see none. Thank you very much [LB334]

ROD KOCH: Thank you. [LB334]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB334]

LYNN REX: Senator Fischer, good afternoon. Members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We are here in strong support of LB334. We want to thank Senator Giese for introducing this measure, and I would like to indicate that, as Senator Campbell knows from being the chair of a transportation task force under Governor Johanns' administration, we know

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that the issue of economic development, the issue of expressways, is an issue that came up repeatedly throughout our forums across the state of Nebraska. And, in fact, that is included in the report that was given to Governor Johanns from the task force. I think it's very important to put in perspective that there are a number of things and a number of entities in this state that drive the state's economic engine. And municipalities certainly are among those. The university's an economic engine, but so are municipalities. And because economic growth does not typically happen unless it's happening around a municipality because that's where the infrastructure is. That's where the infrastructure is for sewer, water, streets, roads; that's where it needs to be. And as a consequence, it is vitally important that Nebraska's municipalities be allowed to take advantage, basically, of economic development, opportunities, and, in fact, as all of you know because I know each and every one of you have been involved in some way, shape, or form in terms of economic development in your own city: Senator Hadley; and certainly Senator Campbell; Senator Janssen as a Fremont City Council member; and Senator Louden for years, also, in his area of the state. But indeed, unless you have the infrastructure and the transportation infrastructure, you simply don't get businesses to come and in some instances you don't get businesses to stay. So this is extremely important. I think it's also very important to take into consideration and ask yourselves the question of what would have happened to our economy--how much stronger would Nebraska's economy been today if this expressway system had been complete? How much stronger would we be? Because you can see where the growth has been in those cities across I-80. You can see that are attached and have that access. And essentially, those cities that are closest to these types of transportation expressway systems, whether it's I-80 or other types of major highways in this state, those are the cities that grow. So municipalities can help grow the state's tax base; we're a major part of the state's economy; and we certainly hope that you would advance this bill. And we appreciate Senator Giese prioritizing this measure. I'd be happy to respond to any questions that you might have. [LB334]

SENATOR FISCHER: Thank you, Ms. Rex. Are there questions? I see none, thank you very much. [LB334]

LYNN REX: And also on behalf of the league we want to thank all of you for your work on behalf of municipalities and in particular in the transportation area. This is extremely important. Thank you. [LB334]

SENATOR FISCHER: Thank you; we're working hard. [LB334]

LYNN REX: We know that, thank you. [LB334]

SENATOR FISCHER: (Laugh) Next proponent, please. Good afternoon. [LB334]

K.C. BELITZ: (Exhibits 17 and 18) Good afternoon. Senator Fischer, members of the

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committee, I'm K.C. Belitz, K.C.; last name is B-e-l-i-t-z. I'm here today to testify on behalf of the Columbus Area Chamber of Commerce, both our Transportation Committee and Legislative Committee. Also, I'm distributing written testimony provided by the Columbus Economic Council, which is the economic development organization in Columbus, in support of LB334. We appreciate the introduction and prioritization of that measure by Senator Giese. We also want to thank our own Senator Stuthman for signing onto the bill as well. We strongly support, as you all know from our past testimony, the purpose of LB334 in prioritizing completion of the Nebraska expressway system. While certainly the entire system needs to be finished, and I don't want to be any more parochial than necessary, obviously our experience with the expressway relates to Highway 30 between Schuyler and Fremont as well as Highway 81 south of Columbus. Our Chamber of Commerce Transportation Committee has made the completion, specifically of Highway 30, as their top priority. And the reasoning behind that position includes some of the points in the written testimony, not all of which I'll share, but a couple: completion of those miles of expressway would provide four-lane access to an area that's geographically the size of New Hampshire and Vermont combined; the population along that corridor is suggested by Department of Roads documents to grow by more than 10 percent--which we hope will be the case--by 2020, and obviously that results in higher traffic counts and more safety concerns. Traffic counts, safety, economic development: all of those issues, we think, are all legitimate reasons for us to support prioritization of completion of the expressway system. We know that, realistically, the dollars simply are not there today; there's no way around that. But we also know that, or at least we have confidence that someday they will be; that solutions will be found. We don't believe that this body nor Nebraskans will settle for never building another road in greater Nebraska. We know that those solutions will have to be found and when they are we hope that the expressway systems will be a part of the priority. We would certainly urge you to move LB334 out of committee and allow for debate by the full Unicameral. And again, appreciate the Senator for introducing this measure. I'd be happy to answer any questions. [LB334]

SENATOR FISCHER: Thank you. Are there any questions? I see none, thank you very much for making the trip today. Next proponent, please. [LB334]

CURTIS SMITH: Good afternoon, Senator Fischer... [LB334]

SENATOR FISCHER: Good afternoon. [LB334]

CURTIS SMITH: ...members of the committee. I appreciate the opportunity to be here. My name is Curtis Smith, C-u-r-t-i-s S-m-i-t-h. I am the executive director of the Associated General Contractors of Nebraska. And really, after hearing the other proponents talk, I don't think I need to take a lot of your time other than I would like to go on record and say that the contractors are in support of Senator Giese's bill and urge the committee to consider forwarding it forward before it becomes nothing more than a

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fading memory to the members of the communities that have proposed this and supported it over the last 20 years. I think that...I know the other thing we would like to support, and it's been brought up time and time again here in this committee, is how are we going to pay for it? And that is a continuing...we would support continuing discussion of those matters and urge you to forward this bill forward. Thank you; that's all. [LB334]

SENATOR FISCHER: (Exhibits 10-14) Thank you, Mr. Smith. Are there questions? I see none. Thank you very much. Other proponents? Do we have other proponents for the bill? I do have some letters to read into the record. From Karan Legler, the mayor of city of North Bend; Ken Walter, Dodge County supervisor; Robert Engles, mayor, city of Auburn; the city of Fremont; and the village of Shelby. Are there any opponents to the bill? Any opponents? Anyone wishing to testify in the neutral capacity? I see none. Senator Giese, would you like to close? [LB334]

SENATOR GIESE: Thank you, Senator Fischer and members of the committee. For me, today, it's kind of like--I think Yogi Berra said--deja vu all over again. I sat in this chair two years ago and testified on the importance of the expressway system, and I believe that there are folks that testified today that have been here more times than I have, so. I am happy and excited and proud to bring this back, representing my district and hopefully something that we can work on and see that will help, not only District 17, but as you've heard in the explanation of the bill, different areas throughout the state. One thing that we have heard today--I think Mayor Johnson solidified this--is that communities are growing in Nebraska in spite of the lack of the completion of the expressway system. I feel that this would just be a way that would pump new blood into it if you will. And we all understand that, and that's what we're all here doing as we speak. So I'm not telling you anything new that you haven't heard today. But one of the things that I would like to also bring up that we haven't touched on very much is the stimulus money that we will receive. To me, it appears that that is a...at this point a bonus, if you will, or something to jump start us and get this started. I look at it as a win-win, not only for the state of Nebraska to use this money to help with roads, but also then, in turn, it helps our communities continue to grow. So if there was any time that this would be, as I'm concerned, beneficial and helpful with the stimulus money, it's now. So I look at it as potentially a springboard to do this. Some of the other funding solutions that...I would just like to bring up are that a lot of these projects have federal earmark money already, so we have a little bit going in. And one thing that we haven't talked about today is the bonding issue. And that's been talked about in the Legislature, and if that's something that we have to do I think that's worthy of discussion. And I'm sure you've had that discussion before about the bonding issue, so. Just in closing I want to thank the committee for listening and I did designate it as a priority because I have been here before; because this is a monumental, as I feel, bill as we go forward. And it is a tough decision that we have to make and we will do that, so. With that I want to thank you for your consideration and would entertain any other questions that we have not covered. [LB334]

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SENATOR FISCHER: Senator Hadley. [LB334]

SENATOR HADLEY: Senator Fischer. Senator Giese, thank you for bringing this. Just so that I just completely understand it...basically it has two purposes. One is to put the map, right, shall be designated as part of the state expressway system referenced to the map, right? [LB334]

SENATOR GIESE: Correct. [LB334]

SENATOR HADLEY: And the other is just telling the Department of Roads that they have to, or that they should consider these two items, the closest are the towns of 15,000 and also then the economic development, is that correct? It doesn't require them, really, to do anything except take those into account. [LB334]

SENATOR GIESE: You are correct. That is the intent of the bill as it is today is to do that and just...basically, if I can just break it down in simple terms, it's telling the Department of Roads that we think the expressway system should be a priority and that we want to see it completed and we're back again. [LB334]

SENATOR HADLEY: Could I add one last question? Someone asked me one day, do we ever worry that if we make the expressway system easier that it makes it easier for people to leave the state to shop and do their business? And, you know, that we might be defeating our purpose? That if you live in western Nebraska you make it easier to get to Denver; if you live up at northeast Nebraska you'd make it easier to get to Minneapolis; if you live in southeast Nebraska you make it easier to get to Kansas City with the expressway system? [LB334]

SENATOR GIESE: My answer to that is no. [LB334]

SENATOR HADLEY: Okay. [LB334]

SENATOR GIESE: We'll have more traffic, more people, so. [LB334]

SENATOR HADLEY: Okay. [LB334]

SENATOR GIESE: But I appreciate the thought. [LB334]

SENATOR FISCHER: Other questions? I see none, thank you very much, Senator Giese. [LB334]

SENATOR GIESE: Thank you. [LB334]

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SENATOR FISCHER: With that I will close the hearing on LB334, open the hearing on LB649, and Senator Christensen is here. Good afternoon, Senator Christensen. [LB334]

SENATOR CHRISTENSEN: Good afternoon, Senator Fischer. Are we ready? [LB334]

SENATOR FISCHER: If you want to wait just a minute, we'll wait until the room clears out. [LB334]

SENATOR CHRISTENSEN: I'm good at clearing rooms. [LB334]

SENATOR FISCHER: It will get a little quieter when we can close the door there. Okay. Welcome. [LB334]

SENATOR CHRISTENSEN: Thank you, Chairman Fischer and members of the Transportation Committee. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District here today to introduce LB649. LB649 would create a special permit for overweight vehicles when carrying grain from storage or stockpiles outside the current harvest exemption which is destined for a border state that has a greater maximum weight limit than Nebraska law allows. This permit would allow vehicles being operated for a distance up to 60 miles from the state line which are hauling grain and destined for a border state to be loaded to such border state's maximum weight or up to 10 percent greater than maximum weight specified in Nebraska law whichever is less. Currently, state weight limits are frozen by the federal government across the country creating the inability for states to change the limits except for allowing special permits for overweight vehicles in certain situations. LB649 would recognize an additional situation when failure to transport grain in abundant quantities would cause economic loss to a person having their grain transported because the majority of the trip is in a state with greater maximum weight limits. Loading your vehicle to the maximum limit of the border state would potentially save you trips when transporting your grain. Last year the economic loss was magnified even more because of the extreme high fuel cost. The new permit created in LB649 took language from the current harvest exemption located in Section 60-6,298, Section 1(a)(ii) and added a 1(a)(iii). In trying to delineate between the special harvest permit and our special destination permit, we took out the words "seasonally harvest" which left "grain and other products." The term "other products" without clarifying language "seasonally harvested" opened up categories beyond what we intended and has led to the Department of Roads interpret this to mean "any product." Not surprisingly, this affected our fiscal analysis and has led to a higher estimate of increased road costs. I'll be willing to work with the committee to address any additional language or changes needed to accomplish the intent of LB649. The intent of LB649 was to provide a common sense approach to cutting the costs of trips, fuel and time when transporting grain to neighboring states and when a majority of the trip is in the other state with higher weight limits. I encourage you advance LB649 to General File and then thank you for your

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consideration. I might bring up one thing I might be more simple. If you turn to page 9 in the bill, line 14, if one word was removed, "seasonal," would accomplish the same thing that I'm after, I just noticed today. Because if you go over to the harvest permit, 007.02 (f), the harvest permit may be issued for 30 or 60 days and may be renewed for a total number of days not to exceed 120 days per year. That right there would take care of the needs of people hauling off their bin sites to town or to end destination out of town. By removing "seasonally" would eliminate it having to be during the...for like corn harvest, typically October, wheat harvest, typically July, would eliminate the specific time of which they can apply for that permit. Would still leave the length of time at 120 days and accomplish what I'm setting out to do, would probably get rid of the fiscal bill because it's already figured, just eliminate adding the new section. And I throw that as an idea that I just come up with this afternoon to the committee to ponder, I guess, as we look at this bill. And with that, I will be glad to take any questions. [LB649]

SENATOR FISCHER: Thank you, Senator Christensen. You're our last bill this year. And see, it was good you scheduled you so you would have time to ponder that. (Laughter) So thank you. Any questions? Senator Louden. [LB649]

SENATOR LOUDEN: Yeah. Thank you, Senator Fischer. Thank you, Senator Christensen. I...we went through this from year to year, I think, from time to time on there. And I remember, I think, Senator Heidemann and Senator Chambers got stuck on single axle trucks (laughter). [LB649]

SENATOR CHRISTENSEN: I remember. [LB649]

SENATOR LOUDEN: But it went down the tubes from there. What you're doing with this is you can't have anymore than 20,000 pounds on any single axle, is that correct? Now will that take into consideration these spread axle trailers by doing that? Because that's a problem always running across, let's see, you're entitled, to what, 38,000 pounds on a tandem axle. But I think you can overload a tandem axle but you can't overload a spread axle, you can't go more than 20,000 pounds. And I see when you put that in there on page 10 where no permit shall authorize weight greater than 20,000 pounds an axle. And that kind of comes apart with your other part where you're hauling grain. And I'm wondering if that will work on the spread axle also? [LB649]

SENATOR CHRISTENSEN: I guess I'm not sure how to answer you. I'd have to further look into that one. [LB649]

SENATOR LOUDEN: See, usually, they have a distance. And I thought, let's see, I was looking in here. Where's the dry bean deal? Those guys know how to live because they got theirs in there that I think you can overload dry beans and get by with it. [LB649]

SENATOR FISCHER: Page 9, I think. [LB649]

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SENATOR CHRISTENSEN: Page 9 on the bottom is dry beans. [LB649]

SENATOR LOUDEN: Okay, thank you. And then see, it goes around where you get no more than 20,000 pounds an axle. But anyway, the beet haulers last fall were getting picked up for...I don't know if they were going over the 20,000 pounds. But those with spread axles they couldn't, they couldn't overload a spread axle. They could overload a tandem axle but you can't overload a spread axle. [LB649]

SENATOR CHRISTENSEN: And see that's back in the first 2 to 3 pages gets into your different axles and then it explains on the spreads, but... [LB649]

SENATOR LOUDEN: Yeah. And this is...you can only...you got to be within 60 miles? [LB649]

SENATOR CHRISTENSEN: I put 60 miles because the intent was if you're going out of state and most of your trip is going to be out of state it made sense to be able to load up to that. My other suggestion that I've thrown at you would eliminate all the new language, remove one word and I believe take care of the same situation. [LB649]

SENATOR LOUDEN: Okay. I just wondered how come you didn't do like the dry bean people, you know, and go 120 miles? (Laugh) That's already in statute. [LB649]

SENATOR CHRISTENSEN: Well, I probably should have. In reading through this again today I even thought the same thing to myself, why we didn't do it. But I know the intent was I wanted the trip to be longer out of state than in-state if you was going to bump up and utilize that advantage. [LB649]

SENATOR LOUDEN: Okay. The other thing, is there...you know, we worked once about trying to put livestock in here. And it has "harvested products" and from the field and all that, and grain. But it doesn't say anything about overloading a cattle truck. And so that would be here there, you can go up to 20,000 pounds an axle on a (inaudible). [LB649]

SENATOR CHRISTENSEN: You know, for me it's great if you want to put cattle in there too. That's not offensive to me because I haul cattle too. So... [LB649]

SENATOR LOUDEN: Okay. That's what I wanted to know. Thank you. [LB649]

SENATOR FISCHER: Any other questions? Senator Hadley. [LB649]

SENATOR HADLEY: Senator Fischer. One quick question. Last time I can that this year, Senator Christensen. What, our surrounding states are they generally all allow more than Nebraska does? [LB649]

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SENATOR CHRISTENSEN: Well, it varies state to state. And I don't know that I brought a list in. Like, Colorado is 85,000...well, again, now it's going to come back to different axles, number of axles you have. Like one truck I was comparing, Colorado is 85,000, Nebraska is 80,000, 5,000 pound difference. And when you take off the amount of grain or the weight of the base truck, you're going to save one trip in ten. [LB649]

SENATOR HADLEY: I guess my question is, is that Kansas happens to be the reverse, does Kansas let us take in more weight because Nebraska has a higher limit than Kansas has? [LB649]

SENATOR CHRISTENSEN: I do not know that. I didn't look that far, Senator. [LB649]

SENATOR HADLEY: Okay. [LB649]

SENATOR FISCHER: Other questions? [LB649]

SENATOR CHRISTENSEN: But Kansas is the other way. (Laugh) [LB649]

SENATOR FISCHER: Senator Campbell has a quick question. [LB649]

SENATOR CAMPBELL: Thank you, Senator Fischer. And actually it's more of a comment because I am...Senator Loudon, I'm reading this closely to see whether I can start moving landscape product. (Laugh) That's how quick it was, Senator Fischer. Thank you. [LB649]

SENATOR FISCHER: Any other questions? Thank you, Senator Christensen. [LB649]

SENATOR CHRISTENSEN: Thank you. [LB649]

SENATOR FISCHER: Are there proponents for the bill? Any proponents? I see none. Opponents to the bill? For the record, I would like to note that we have been joined by Senator Arnie Stuthman, the Vice Chair of the committee. He has been busy with bills in other committees this afternoon. Good afternoon. [LB649]

GERRY KROLIKOWSKI: (Exhibit 19) Good afternoon, Senator. So I'm the last testifier of the year? [LB649]

SENATOR FISCHER: It's an honor to have you here. [LB649]

GERRY KROLIKOWSKI: Except for closing, I guess, it is. [LB649]

SENATOR LAUTENBAUGH: We hope. (Laughter) [LB649]

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GERRY KROLIKOWSKI: Senator Fischer, members of the Transportation and Telecommunications Committee, my name is Captain Gerry Krolikowski, that's G-e-r-r-y K-r-o-l-i-k-o-w-s-k-i, of the Nebraska State Patrol. I'm here today to testify in respectful opposition to LB649. One of the State Patrol's main responsibilities is to operate the weigh stations and portable scales and enforce laws relative to weight of vehicles. We have concerns regarding enforcement of LB649. This bill would require our officers to be proficient in not only Nebraska's laws but those of our six neighboring states as well. Nebraska State Statute 60-6,294 addresses weight limitations for vehicles in Nebraska. Essentially, three sections in that statute outline the weight limits, with nine additional sections addressing exceptions to the weight limits. Many of our neighboring states have statutes or laws that contain numerous exceptions as well. Some states may even restrict vehicle weights based on the season, for example, those related to thaw time in the spring season. Enforcement of LB649 would require troopers to remain proficient in the laws of seven states, to include statute changes and their effective dates as law as added, repealed or amended. Nebraska State Statute 60-6,298 currently allows for permits to be issued for vehicles carrying grain or other seasonally harvested products from the field to storage, market or stockpile in the field or from a stockpile to market or factory. The intent of the allowance was to give the farmer some understandable leeway in getting their product harvested and to a place where it would not be so dramatically affected by Mother Nature or other uncontrollable variables. As currently drafted, LB649 will allow any vehicle transporting any product from storage or stockpile to include grain, steel, gravel, manure, only to name a few, to exceed the legal weight limits as long as it is within a 60-mile range of the state line and destined to a state...to a border state. It would be difficult for a trooper on the scene to determine the destination of the load. Finally, LB649 includes a number of subjective criteria to the permitting process, including determinations of economic loss and best interest of national defense or general welfare. It is the concern of the Nebraska State Patrol if troopers in the field are to determine the validity of such requirements, such determinations are best left to policy makers. In closing, I would like to urge the committee to carefully assess the impact of LB649 on the compliance and the enforcement of weight laws. Thank you for consideration. I would be happy to address any questions you may have. [LB649]

SENATOR FISCHER: Thank you, Captain. It's always nice to see you. [LB649]

GERRY KROLIKOWSKI: Thank you. [LB649]

SENATOR FISCHER: Any questions? Senator Louden. [LB649]

SENATOR LOUDEN: Yes. Thank you, Senator Fischer. Thank you, Captain. When you mentioned in your testimony you could carry gravel and manure and everything else in there, well, that...in the new language it just says when carrying grain or other products from storage or stockpile to market or factory. Would that include manure? [LB649]

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GERRY KROLIKOWSKI: Well, I would think that...and we've seen all kinds of things out there, Senator. But I would think that an individual would say that taking manure from one place to another place is taking it to market. [LB649]

SENATOR LOUDEN: For stockpile, that's how you read it then? [LB649]

GERRY KROLIKOWSKI: From a feedlot they could certainly scrape it off the feedlot and stockpile it. [LB649]

SENATOR LOUDEN: Okay. That's how you read the new language then. Yeah, because it has to be in new language. The old language they didn't change that. It has something similar to that but it...because it says when carrying grain or other seasonably harvested products, and that's...is that the difference in the wording then where they changed the new language. [LB649]

GERRY KROLIKOWSKI: Yes. [LB649]

SENATOR LOUDEN: What about this 20,000...these spread axles then, is that what that is, is a maximum of 20,000 pounds on an axle, whether it's a spread axle? But how much...but you can't overload a tandem axle, is that correct, more than 38,000 pounds? [LB649]

GERRY KROLIKOWSKI: Yeah, tandem axle has a definition and it's...definition of tandem axle is any two axles that are at least 40 inches apart and no more than four feet apart. It's general term that's used by many people. In fact, it was used by ASHTO at one time to set the weight limits to preserve the highways. And so it's still two single axles. A tandem axle is two single axles, neither one of those axles can exceed 20,000 pounds. Once you exceed four feet it's no longer a tandem axel, it's a simple fact. It's still two single axles spread nine feet, ten feet. [LB649]

SENATOR LOUDEN: Because I'm wondering how did those beet harvesters get in, because they were calling me up about it and having kind of a fit. But they...I think they were maxed out at 40,000 pounds or 20,000 pounds on each axle. But if they had a tandem axle they could go to...you could get 40...you could overload the tandem, you could get over 40,000 pounds on the two tandems axles. Is that correct or were they still maxed out? [LB649]

GERRY KROLIKOWSKI: No, that's...they couldn't exceed 20,000. And a 15 percent would not, my math, 39-1 would be a tandem axle at 15 percent over legal limit. [LB649]

SENATOR LOUDEN: Okay. And they...what is your maximum on tandem axles? [LB649]

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GERRY KROLIKOWSKI: Legal weight is 34,000. [LB649]

SENATOR LOUDEN: Thirty-four thousand, okay. They were getting 5,000. That was their concern, they could yield over 5,000 on their tandem axle but they couldn't go a pound...they couldn't throw on another beet on their spread axles. And that's because in the law, why, you got 20,000 pounds max on an axle, is that correct? [LB649]

GERRY KROLIKOWSKI: Makes perfect sense to me. [LB649]

SENATOR LOUDEN: Yeah. Okay. [LB649]

SENATOR HADLEY: It does to me too. (Laughter) [LB649]

SENATOR LOUDEN: Thank you. [LB649]

SENATOR FISCHER: Are there other questions? Senator Lautenbaugh. [LB649]

SENATOR LAUTENBAUGH: I was going to ask (inaudible). Just ask if you have enforcement power to pull over smokers in their cars? But that's another topic for another time. Manpower, I should say, to do it, but... [LB649]

SENATOR FISCHER: As I said, our last hearing day. Other questions? I see none. Thank you very much, Captain. Are there other opponents to the bill? Any other opponents? Anyone in the neutral capacity? Senator Christensen, would you like to close? [LB649]

SENATOR CHRISTENSEN: Yes. We're trying to get you out of here quickly. [LB649]

SENATOR FISCHER: Appreciate it, thank you. [LB649]

SENATOR CHRISTENSEN: I guess I'm going to encourage the committee to look at that one word change that I suggested because I believe using that harvest permit and changing that language from "seasonally harvested" to "harvested products" leaves everything in same context we've had with the state, it would address any of the issues the State Patrol just had with having to know six other state's limits and still would allow farmers to get up to 120 days where they could have that overweight permit to move grain I think would address the issue that I'm looking at and stay within the current parameters of the law we have now, which I do believe would probably be a better approach. Thank you. [LB649]

SENATOR FISCHER: Thank you very much. Questions? I see none. Thank you, Senator Christensen. [LB649]

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SENATOR CHRISTENSEN: Thank you. [LB649]

SENATOR FISCHER: With that, I will close the hearing on LB649. I would like to thank our two pages that we've had this year, Justin and Rhianna, on Tuesdays. Thank you so much, you've done a good job. (Applause) And with that, I will close the hearing for the day. [LB649]

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Disposition of Bills:

LB93 - Indefinitely postponed.
LB334 - Held in committee.
LB649 - Indefinitely postponed.

Chairperson

Committee Clerk