

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

Transportation and Telecommunications Committee
February 14, 2012

[LB1167 CONFIRMATION]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, February 14, 2012, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1167 and gubernatorial appointments. Senators present: Deb Fischer, Chairperson; Galen Hadley, Vice Chairperson; Kathy Campbell; Annette Dubas; Charlie Janssen; Scott Lautenbaugh; and Scott Price. Senators absent: LeRoy Loudon.

SENATOR FISCHER: Good afternoon and welcome to the Transportation and Telecommunications Committee. My name is Deb Fischer; I am Chair of the committee and I am the senator representing the 43rd District here in the Nebraska Unicameral. At this time I would like to introduce to you the members of our committee. On my far right is Senator Scott Price from Bellevue. Next we have Senator Kathy Campbell from Lincoln. Next is our Vice Chair, Senator Galen Hadley from Kearney. On my immediate right is Dusty Vaughan who is our committee counsel. On my immediate left is Jonna Perlinger who is our committee clerk. Next we have Senator Scott Lautenbaugh from Omaha and Senator Annette Dubas who is from Fullerton. Senator Charlie Janssen from Fremont and Senator LeRoy Loudon will be joining us later. As you know, there are a number of committees that are meeting and so you'll see senators come and go during the hearing. Please do not take offense at that; they're just introducing bills in other committees. Our pages for the day are Alyssa Stokes who is from Omaha, and Gera Carstenson who is from Lincoln. So if you need any help with anything, please let the pages know. We will be going through the confirmation hearings and the bill in the order that they're listed on the agenda. Those wishing to testify, I would ask that you 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. Please complete the yellow sign-in sheet at the on-deck table and hand that into our committee clerk before you sit down. We use a computerized transcription program, so it's important that you follow the directions on that sign-in sheet. For the record, at the beginning of your testimony, please spell your last name and your first name if it can be spelled in several different ways. Keep your testimony concise, try not to repeat what someone else has covered. If you don't 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. There is a sheet that is provided there that will be part of the official record of the hearing. However, if you want to be listed on the committee statement, you will need to come forward, state your name and your position on the bill. We also accept any written comments and those will be read into the official record. At this time I would ask that you turn off your cell phones please. In this committee we do not allow cell phones on, which means no texting. With that I will open our confirmation hearings for the day and ask that Mr. David Wacker please come forward.

[CONFIRMATION]

DAVID WACKER: Good afternoon. [CONFIRMATION]

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SENATOR FISCHER: And good afternoon and welcome, sir. I appreciate you coming in today. And this is for your confirmation on the Board of Public Roads Classifications and Standards. And so I would just ask that you tell us a little bit about yourself and why you're interested in the board and your service on that board. [CONFIRMATION]

DAVID WACKER: (Exhibit 1) Okay. I grew up in Edgar, Nebraska, which is southeast of Hastings. I attended high school in Sandy Creek High School in Fairfield, Nebraska. I went to the University of Nebraska and I graduated in 1976 with a degree in civil engineering. Later I went on and worked on my master's in public administration at the University of Omaha. I'm a licensed engineer in Nebraska since 1980. I hold a street superintendent license and also a county street superintendent license. I began employment with the city of Hastings at the age of 25 as the assistant city engineer. At the age of 26, I became the city engineer and I've held that position since I was 26 years old. My responsibilities include engineering, landfill management, solid waste management. I assist the planning department with a lot of review of planning plans. EPA, there's nine superfund sites in Hastings and the city is responsible for three, so I head up also the environmental staff that deal with those issues. And most recently, well about six years ago when Lieutenant Governor Rick Sheehy was mayor of Hastings, he walked in one day and said the airport has dissolved and you are now the airport manager. I said, Mayor, I don't know anything about being an airport manager; and he said, well, it's part of transportation. So, I've been involved I guess in the municipal and design work for, basically, 36 years right now; actively involved from project inspection to actual design and head up a team of 10 people in Hastings that are specifically designing not only local projects, but federal aid projects. This last year we completed four stimulus projects that were designed, submitted, and were constructed with our own forces. Currently, I have active eight federal aid projects that are currently ongoing through the system. Part of the frustration I think that I've experienced in the last two years has just been the NEPA process and I've been immediately involved in that. I've been right in the trenches in helping writing those documents and assisting my city. So that's a little bit about me. I came on the board last March to fill the unexpired term of Steve Riehle. I'm the city's representative for first-class cities on the board. I've enjoyed working with the other individuals there, and one of my missions on the board is to see that the document filings that come into the Board of Public Roads Classifications and Standards are brought into the modern age or that are electronic. Currently, there's about...of course, there is 93 counties and probably 500 cities that each year have to submit the annual reporting documents to the Board of Public Roads Classifications and Standards, and everything still comes in, in paper format. Actually, Hastings, we've been electronically...we keep all of our files electronically, have for about 12 years, so we have to take our electronic version and download it into paper to send it in. So, that's one of the missions that I would like to complete during this term of reappointment is to try to bring the board into kind of the modern age and see that, hopefully, resources are allocated to allow that electronic filing to occur. If there are any questions that anybody

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has, I'd be happy to answer them. [CONFIRMATION]

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

SENATOR CAMPBELL: Thank you, Senator Fischer. I should know this, but I don't, do you meet on call or do you meet monthly or quarterly? [CONFIRMATION]

DAVID WACKER: We meet every month, the third...I believe it's the third Friday of every month. [CONFIRMATION]

SENATOR CAMPBELL: What is the greatest change that you've seen in terms of how you look at the classification of roads in the years that you've served? [CONFIRMATION]

DAVID WACKER: Well, I think one of the things that's really...the board has seen a lot of is...and just recently we commented about it, is the number of communities that are coming in and are turning, due to financial constraints, turning bituminous surfacing back into gravel. I think this last six months we've seen a lot of requests where counties just can't afford to keep up their road program, and so there's been a number of requests that have come back in to just go back to gravel. One of the other things, I think, you know, is there's been some changes in bridges, bridge design. I think the board has tried to use good judgment in, you know, granting relaxation. For example, if a new bridge deck is 37.5 feet in width and there's an existing 37-foot in place, and if it's going to cost \$3 million or \$4 million to replace that, I think the board in that case has exercised good judgment in granting those relaxations. [CONFIRMATION]

SENATOR CAMPBELL: Does the county have to apply to the Board of Classifications to change a road back to minimum maintenance, do you know? [CONFIRMATION]

DAVID WACKER: Yes. [CONFIRMATION]

SENATOR CAMPBELL: They do. Are we seeing counties do that because of budget? [CONFIRMATION]

DAVID WACKER: Yes. [CONFIRMATION]

SENATOR CAMPBELL: Quite a bit? [CONFIRMATION]

DAVID WACKER: Yes. [CONFIRMATION]

SENATOR CAMPBELL: That's a concern. [CONFIRMATION]

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DAVID WACKER: I think that pretty well shows the condition of I guess the system across the state that, you know, I think too many times we worry about the urban areas, and the rural areas are really hurting, you know, from budgets. I know inheritance tax has got everyone very upset from the areas where I grew up and our surrounding area because most county boards use inheritance tax for road dollars and for road improvement funds. And that was actually brought to the board by one of the legislative representatives this last week...I mean, last...I guess it was November when we had our last meeting, that there was a bill introduced to do away with inheritance tax. And so I know many...if you haven't heard from them yet, there will be a number of individuals from county government that will be probably coming before the Legislature to ask you to rethink the inheritance tax issue. [CONFIRMATION]

SENATOR CAMPBELL: And the reason I ask that question is because if we're turning roads back to a minimum maintenance, I mean oftentimes that can cause a problem for schools trying to pick up children and the most direct route, and certainly from farmers and ranchers who may use those roads. [CONFIRMATION]

DAVID WACKER: Yeah. The agricultural community is very much concerned. You know, today many farmers own semis, the rail service has been removed and so they're...in many cases there's much more importance on the rural roads than what there has been in the past just because of increased traffic and increased loading. [CONFIRMATION]

SENATOR CAMPBELL: Exactly. Thank you very much. [CONFIRMATION]

DAVID WACKER: Yes. [CONFIRMATION]

SENATOR FISCHER: Thank you, Senator Campbell. Other questions? I see none. Appreciate you coming in today and thank you for serving on the board. [CONFIRMATION]

DAVID WACKER: Okay. Thank you for your time. [CONFIRMATION]

SENATOR FISCHER: Thank you. At this time I would ask if there are any proponents for the nomination? Any opponents? Anyone wishing to testify in a neutral capacity? I see none. I will close that confirmation hearing on David Wacker and open the confirmation hearing for Roger Figard for the Board of Public Roads Classifications and Standards. Good afternoon and welcome. [CONFIRMATION]

ROGER FIGARD: (Exhibit 2) Good afternoon. Thank you for the opportunity to be here today. I am the representative, if confirmed, for the municipalities over 50,000 and have served on the board the last four years. I would have to say that it's been my privilege. I feel like I have learned a significant amount in that four-year period. I certainly have a

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much greater appreciation I think for the wisdom and the foresight of some of your predecessors, Senator Warner and others, as the Highway Trust Fund was put in place, a way of regulating how that gas tax is collected and used to the benefit and to the safety of the citizens of Nebraska. I think I bring a fairly unique perspective to the board. While I am the city engineer and I serve a large municipality, I grew up in the Sandhills. I very clearly know what not a two-lane road but a two-track road from the house up to the highway is. I went to a small high school. I know what some of the challenges are for the small schools...or small communities, towns, as well as the counties in trying to take care of their resources. So I think I bring a commonsense approach to trying to do what is the right thing. Clearly, the minimum design standards I think are a tremendous thing in providing a safe system of transportation for this community. And I went to the University of Nebraska, graduated. I've got a degree in civil engineering; worked for the Nebraska Highway Department for six years. I've been with the city of Lincoln now over 30 years and I've been the city engineer since 1991. I think in the upcoming term we need to continue to work on some uniformity of standards between state standards and federal standards. And we need to continue to make it easier for the cities and counties to get their information in electronically and just coordinate all that, at the same time with an eye towards what makes common sense for the citizens and the budgets that we have. So with that I'd certainly answer any questions. [CONFIRMATION]

SENATOR FISCHER: Thank you. Are there questions? Senator Campbell.
[CONFIRMATION]

SENATOR CAMPBELL: Thank you, Senator Fischer. And I really don't have any questions, I just want my colleagues to know that I worked with Mr. Figard for 16 years when I was on the county board and he did just an excellent job and consider him a good friend. [CONFIRMATION]

ROGER FIGARD: Thank you. [CONFIRMATION]

SENATOR FISCHER: Any other questions? What do you see as maybe the biggest challenge that the board has faced in the last four years that you've been on?
[CONFIRMATION]

ROGER FIGARD: Well, a challenge that we faced, and one I think we met, was certainly the issues in central and western Nebraska with remote residential road--a huge cost impact to those entities to meet a minimum design standard for a new kind of roadway. And I think coming up with the ability to call converting those roads, building a few of those roads for a very small populated area, and then being able to convert some of those paved roads back and call that a maintenance activity, I think was a significant success for the board and helped a number of the counties accomplish what they want to do. I think moving ahead it is a better understanding and working relationship with the Federal Highway Administration and the marrying the capital improvement programs or

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transportation improvement programs with our one- and six- programs that the state uses, and then just making it more user-friendly for everybody and the education. [CONFIRMATION]

SENATOR FISCHER: Okay, thank you. Questions? Any others? Thank you for coming today and I appreciate your service. [CONFIRMATION]

ROGER FIGARD: Thank you. [CONFIRMATION]

SENATOR FISCHER: Thank you. Are there any proponents for the confirmation? Any opponents? Anyone wishing to testify in a neutral capacity? I see none. With that I will close the confirmation hearing on Roger Figard and open the hearing for Edward Wootton for the Board of Public Roads Classifications and Standards. Good afternoon and welcome. [CONFIRMATION]

EDWARD WOOTTON: Good afternoon. Thank you for having me testify. [CONFIRMATION]

SENATOR FISCHER: Well, thank you, sir, for coming in today. [CONFIRMATION]

EDWARD WOOTTON: (Exhibit 3) I have...I'm Edward Wootton, W-o-o-t-t-o-n, and I've been with the Board of Classifications and Standards for several years already, so I kind of understand a little bit about it. And my background, I'll just go through it real quick, has just been in roads all my life, every since I've been a young boy. I've been involved in either building them for contractors or highway superintendent for years for Sarpy County. And I was a street superintendent in Bellevue when I got out of high school, so that's about all I can tell you. I've been in roads all my life. I don't know anything else. So I kind of...and I also teach a motor grader course for the LTAP, that's the Local Technical Assistance Program, and I've been doing that since...just part time since 1988. And I've lived in Bellevue for all my life, a long time, and I've been a volunteer fireman there for 61 years, until they went paid. So that's my little tenure. And I'm married to a wonderful woman that's in here today, Twila, and she...I just feel it an honor to be on this board. I think that we've got a big job and it's an honor to be on it. That's all I got to say. [CONFIRMATION]

SENATOR FISCHER: Well, thank you, sir, thank you, and thank you for your service for many years on the board and in your community. [CONFIRMATION]

EDWARD WOOTTON: Thank you. [CONFIRMATION]

SENATOR FISCHER: Are there questions? Senator Hadley. [CONFIRMATION]

SENATOR HADLEY: Senator Fischer, thank you. Did you get on the volunteer fire

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department when you were about eight years old then? (Laughter) Never mind, I'll withdraw the question. (Laughter) [CONFIRMATION]

EDWARD WOOTTON: I'm 81 so. [CONFIRMATION]

SENATOR FISCHER: Any other questions? I see none. Thank you so much for coming in today. [CONFIRMATION]

EDWARD WOOTTON: Thank you very much for having us. [CONFIRMATION]

SENATOR FISCHER: Are there any proponents for the nomination? Any opponents? Anyone wishing to testify in the neutral capacity? I see none. I will close the hearing on Mr. Wootton and open it on Darold Tagge for the Board of Public Roads Classifications and Standards. Good afternoon. [CONFIRMATION]

DAROLD TAGGE: (Exhibit 4) Thank you for inviting me in for appointment. And it's been a little while, actually I was appointed by Mike Johanns when he was Governor. As far as the Republicans are concerned, I was his campaign manager for our county. I actually was born and raised on a farm by Cairo, a little ways from Grand Island, and worked for the Department of Roads for a period of time and then I went out to Colorado, came back and opened up an engineering office of which I ran for pretty close to 35 years before I retired. And I had about anywhere from 12 to 15 people under me. I also owned a fourth of a partnership in an engineering firm in Valentine, Nebraska, and about 80 percent of an engineering firm in Grand Island, which was Rockwell and Associates. So I've been in the engineering field for a long time. I was happy to be appointed to this board. Like I said, I've served on it for about nine years; would like to, obviously, continue to do so. And I noticed that you've asked...some of you have asked about questions that you think that...or what we think is really a concern. I represent the 3rd District, and when I was in the engineering business we actually had five counties that we did their engineering work for and surveying. We also had about 30-some towns, villages, and etcetera, that were our clients besides our private clients. As far as...I guess I would say that the biggest concern I have now is what is going on in our rural areas as far as our bridges are concerned. As you all know, with the bridge that collapsed in Minnesota, that has created kind of a snowball effect on all the bridges and there's been a continuing inspection of bridges and trying to keep up what load limits on those bridges, and then not only that, but keeping them up as far as being repaired and passable. That's hard to do for these small counties in western Nebraska because they really don't have the money to do it. They do the best they can. They would like to replace most of the bridges if they could, and most of them have plans to do so, but, obviously, federal funds are not so available. So I think there's about 90 percent federal and I think there's a small percent of state and the rest is the county's position. Now that sounds like they ought to be able to do all kinds of bridges, but the problem is there is just not money, even from the federal level, to do these bridges. And so the most they

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can do is go out and repair them and try to make them passable and get the signs up as far as the tonnage and stuff like that is concerned. And so that's...right now, I think that's one of the critical things in the rural area that I see. As you well know, farming has changed dramatically. We're not running with single-axle trucks anymore; it's all semis and big grain cars that can carry up to 1,500 to 2,000 bushels of corn, and you know, you try to run one of those over those bridges, why, you're going to have some problems. And so that's one of the things that I see from the county level that they are struggling with and they are trying to replace some of the smaller ones with culverts and stuff like that, but some of them they just can't replace. They've got to try to maintain what they have. And, obviously, our main goal too, we need to see that the farmers get their product to market. And so I have a concern for that. And like I said, I think I have a lot of experience with the time that I was in business, so I kind of know what the communities need and the counties need, and I would appreciate that I could stay on that board for a few more years at least. I've been retired now probably for about two years actually. [CONFIRMATION]

SENATOR FISCHER: Thank you, sir, and thank you for your service on the board and your willingness to continue. [CONFIRMATION]

DAROLD TAGGE: Okay. [CONFIRMATION]

SENATOR FISCHER: Are there any questions? I have one for you. You mentioned bridges. Can you tell me, do you have any idea how many bridges have been closed at the county level across the state because of lack of funds to maintain them?
[CONFIRMATION]

DAROLD TAGGE: Oh, that's a hard one. [CONFIRMATION]

SENATOR FISCHER: Does that come through your commission at all?
[CONFIRMATION]

DAROLD TAGGE: I would say...I would say it could very well be...it would depend on the number of bridges in each county, and some counties...and we don't have all the counties. So if I were to pick a county, like Furnas out there, which has probably about 250-some bridges, and so I think they had to close about a half a dozen of them. And as it keeps moving along with the critical findings and what they consider a bridge and how it's going to last and is it getting protected with riprap and stuff like that so that it can stay in place as long as it can, that's going to be the critical thing. Otherwise there will be, obviously, more closed because, like I said, they can't stand the weight that they're trying to put over the top of those bridges with the type of equipment we have today as far as the...when these farmers are farming as much as 10,000 acres they have to have large equipment to be able to do that, but those bridges were not built for that and the roads were not built for that either. So that's to me one of the critical things we have, at

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least in western Nebraska. And I don't want to say that we are really...we're kind of on the eastern edge of what I would consider western Nebraska. [CONFIRMATION]

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

DAROLD TAGGE: Well, thank you. [CONFIRMATION]

SENATOR FISCHER: (Exhibit 5-9) Thanks. Are there any proponents for the nomination? Any opponents? Anyone wishing to testify in the neutral capacity? I see none. With that I will close the hearing on Darold Tagge. Next we have Timothy Weander. I will open that hearing. Mr. Weander was unable to come in. I remind the committee that all of these are reappointments. And Mr. Weander did send a letter, I believe it's before all the committee members. Is there anyone here wishing to be a proponent for the nomination? Opponent? Neutral capacity? I see none, so I will close the hearing on Timothy Weander and open it on LeRoy Gerrard. Again, Mr. Gerrard was unable to be here today. Again, I have a letter; I believe all the committee members have that letter. We also...well, I have the letter from Mr. Gerrard. I will ask, are any proponents for the nomination? I do have a letter from Mr. Larry Dix, the executive director of the Nebraska Association of County Officials in support of the nomination. Any other proponents? Opponents? Anyone wishing to testify in the neutral capacity? I see none. With that I will close the hearing on Mr. Gerrard, and that does close the confirmation hearings for today. Again, I would like to thank all of you gentlemen for coming in today. It is important for the committee to be able to see you and listen to you, and I know it's a sacrifice to take off time and drive in here to Lincoln to do this, but it is important that you do and I truly appreciate it. So thank you so much for coming in today. With that I will open the hearing on LB1167. And Senator Lautenbaugh, would you like to introduce your bill please? And I would just like to say this is our last bill of this session and the last bill on the last day that I'm Chair of the committee for a hearing, so do well. (Laughter) [CONFIRMATION]

SENATOR HADLEY: Too bad it couldn't have been something important, huh.

SENATOR CAMPBELL: No pressure.

SENATOR LAUTENBAUGH: Wow. This is not what you would call finishing strong, I have to be honest with you. This bill was... [LB1167]

SENATOR FISCHER: Good afternoon. [LB1167]

SENATOR LAUTENBAUGH: Thank you, Madam Chair Fischer and members of the committee. I introduced this bill, it's a bill that I introduced two years ago, I introduced this as a place keeper in case we needed to do something to address some concerns I

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had regarding construction issues on the state highways as they pass through our only metropolitan city. I've met with the city. We've had some great discussions as far as what they are doing as far as limiting lane closures, charging rent for lane closures to encourage people to move it along with their construction projects, seeking the ability to cover smaller utility-type projects with metal plates and let traffic proceed rather than closing a lane, etcetera. So in light of all that, there is no purpose for this bill at this time. I've arranged...as is almost always the case, I've arranged no one to come testify on this either way, but there's nothing for us to do, there's nothing we should do. I'll probably move to IPP my own bill once we exec, so I can't image that there would be a point to any proponents, opponents or neutrals, but we'll see what happens. [LB1167]

SENATOR FISCHER: Okay, thank you, Senator. Questions? [LB1167]

SENATOR LAUTENBAUGH: I'd be happy to take any questions you might have too, of course. [LB1167]

SENATOR FISCHER: Let's not encourage that. Any questions? (Laughter) [LB1167]

SENATOR LAUTENBAUGH: I'll waive closing, but I'll just be over here. [LB1167]

SENATOR FISCHER: Okay. Thank you, Senator Lautenbaugh. Are there any proponents for the bill? Any opponents? Anyone wishing to testify in a neutral capacity? Senator Lautenbaugh has waived closing. With that I will close the hearing on LB1167, and that closes the hearings for today. Thank you so much for coming. [LB1167]