

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

**FRIESEN:** Good afternoon, everyone. Welcome to the Transportation and Telecommunications hearing. I'm Curt Friesen from Henderson. I represent District 34. A few things that I'll announce up here. Please, I ask that you silence all your cell phones and electronic devices. We'll be hearing bills listed in the order on the agenda. Those wishing to testify on a bill should move to the front of the room and be ready to testify. We have set aside an on-deck chair up here and so that you're ready to go when the next testifier's turn comes. If you'll be testifying, I would ask that you legibly complete one of the green testifier sheets located at the rear, at the entrance. Give the completed testifier sheet to the page when you sit down to testify. Handouts are not required but, if you do have a handout, we need ten copies. One of the pages will assist you if you need help. When you begin your testimony, it's very important that you clearly state and spell your first and last names slowly for the record. If you forget to do that, I will stop you and remind you. We will use the light system today; I think we'll go five minutes. And try not to repeat yourself if it gets too long. We'll have the green light at four minutes. You'll get the yellow light and give you one minute to kind of start wrapping up. When you get the red light, I would appreciate it if you'd wrap it up. Those not wishing to testify may sign in on the pink sheet by the door to indicate their support or opposition to a bill. And I also ask that you keep all water bottles and drinks off of the tables so that we don't leave water stains on the nice decks. To my right is the committee legal counsel, Tip O'Neill; and to my left, in the rear, is the committee clerk, Sally Schultz. And I will let the committee introduce themselves, starting up my right with Senator Bostelman.

**BOSTELMAN:** Senator Bruce Bostelman, District 23: Saunders, Butler, and the majority of Colfax Counties.

**GEIST:** Senator Suzanne Geist. I represent District 25, which is here in Lincoln on the east side of Lancaster County.

**DeBOER:** I'm Wendy DeBoer, District 10: Bennington and the surrounding areas and northwest Omaha.

**HILGERS:** Mike Hilgers, District 21: northwest Lincoln in Lancaster County.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

**CAVANAUGH:** Machaela Cavanaugh, District 6: west-central Omaha and Douglas County.

**HUGHES:** Dan Hughes--

**FRIESEN:** And the pages that are help-- oh, sorry, Senator Hughes [LAUGHTER]. Oh, you are here.

**HUGHES:** I'll just leave.

**FRIESEN:** You've been so quiet lately. I thought you were gone.

**HUGHES:** Senator Dan Hughes, District 44: the counties of Perkins, Chase, Dundy, Hayes, Hitchcock, Frontier, Red Willow, Furnas, Gosper, and Harlan. Thank you, Mr. Chairman [LAUGHTER].

**FRIESEN:** Our pages today are Alyssa and Preston. With that, I will turn it over to the Vice Chair, and I will introduce the first bill.

**GEIST:** Good afternoon, Senator Friesen.

**FRIESEN:** Thank you, Vice Chair Geist. So LB462 today is part of the One-Call bill. And we held some hearings on this. We had an LR this summer. We looked at that, and part of the problems-- we've, we've been working on some of this for probably two to three years now. Senator Smith started some of this. We had some bills back when he was here. And so, as time went on, we kept refining it a little bit and listening to it through the hearing process, and, and coming up with some of the changes that, that we wanted to make. And as we, as we listened to testimony, we ran across situations that we're trying to address. And so if, if for instance, you know, we-- there are some things that are still a little controversial, but we will, we will listen to the testimony and we'll see once if we can correct some of those things. But one of the ideas at first was to move the, the One-Call Board and put it underneath the Public Service Commission. And so far we're-- everything's going to stay under the Fire Marshal's Office, like it currently is. So some of the issues that we heard that needed to be addressed is that there were cases where they did a poor job of marking. So you had excavators come out and they started to do their digging, and the marks were not correct. They were too far off and so lines got hit and damage was done. And so we had a problem with-- sometimes it was, maybe, competence. Maybe sometimes, who knows what the reason was, but the marks were, were missed by too far and then the lines got damaged anyhow. Some of the other complaints would

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

have been that when lines did get damaged, we, we-- there's, there's really no process in there of kind of making the owner of the facility that got damage making them whole, because right now you can take it to the Attorney General's Office, but one of the complaints was that those cases never got dealt with. And so that's where the idea of the dispute resolution board came in. And so if we could address some of those complaints at a more local level, we thought it would probably save the Attorney General's Office from a lot of work in having to look at those and since they weren't being looked at anyhow. We feel most of those resolutions, or those disputes, could have been solved kind of at the, at the lower level, because most times it was just a matter of being able to document what happened there, whether it was a bad mark, whether the excavator was wrong and not being careful when he was digging, and some of those issues like that. So those are some of the things. And now one thing we wanted to do is, too, is the competency of the, of people that do the marking those, is, is look at licensing, and whether or not they shouldn't have some minimum level of training before they're asked to go out and, and mark lines. And so that, that's addressed in here. Now I know there's a lot of companies that have a very extensive training program for their, for their people that do the markings, but a lot of times these days we're having third party come in and do the, the line marks. And so we, I think the way I intended it was that a company coming in and show what their training is, and the Fire Marshal would just say: OK, your training is, is up to our standards, he will approve you, and then, now all of your people are automatically licensed now to operate in the state. So we are, have more and more third-party marks come in. I think I've hit most of, most of the changes. Some of it's just cleanup language, but I think we've touched on the majority of, of what the bill comprises of. So if you have any questions, I'd be glad to answer them.

**GEIST:** Thank you, Senator Friesen. Are there any questions on the committee? Seeing none, do you plan to stay for closing?

**FRIESEN:** That's [INAUDIBLE].

**GEIST:** We'd like to hear from proponents of the bill. So if you plan to testify as a proponent, we do have an on-deck chair here. So if one or two of you want to come on forward, there are places here you can sit and be next.

**BRAD WEGNER:** There's handouts also. Good afternoon. Good afternoon, Senator Friesen and also the members of the Communicate, the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

Telecommunications and Transportation Committee [SIC]. My name's Brad Wegner. I'm the vice president of Midlands Contracting in Kearney, Nebraska. And today I come to you representing two different trade associations. The first is the Nebraska Chapter, the National Utility Contractors Association. I was past president of that group. And I'm also representing the Nebraska Chapter of the heavy highway division of the Associated General Contractors; and you guys all know them as AGC. The members of these two associations are the companies that build the infrastructure for you and your constituents across the state, whether it's sewer, water main, bridges, highways, interstate, electrical systems. We use and rely on the One-Call system every single day. On behalf of both of those associations, I'm here as a proponent of LB462 and over the last few years, like Senator Friesen said, we spent a lot of time working with the other stakeholders, mainly the, the One-Call board as it exists today, trying to come up with rules and regulation changes. And there's been a lot that's come in front of this committee, and I thank all of you for listening to us and doing something about some of the issues that we've had. And I, just for a second, want to talk about, you know, what the One-Call law is. At its heart, the One-Call law is a public safety law. It's a law that protects Nebraska's citizens from hits of their utilities. And we've seen some utility hits that have caused some pretty significant damage across the state the last couple years. It's also there to prevent outages. Those outages to, to the citizens can be inconvenient. Sometimes they're costly and even, in some cases, they can be deadly. So it's for them, first and foremost, but also it's for the facility owners, for them to know that they have an insurance policy that us excavators won't just go in and dig up their utilities and be irresponsible. The other part is for us excavators. We need a system to keep our people safe, and along that end, we also are using the system to be cost-effective in digging around utilities. The old way used to be we had to go find them ourselves, and it was quite a process and added quite a bit of cost to our bids. So it's made us more cost-effective over the last 25 years. To that end, we believe that LB462 is going to improve the system. Our big issue, and the one we support, is the dispute resolution board. It's gonna be an effective way for us to improve our enforcement and to get a ruling in a quick manner. This system already exists in other states, so this isn't something new; it's something that's been done before. And the current system is just not effective. For us, on the excavator side, it's nonexistent. We've got, I've got-- right now I've had claims that have taken 18 months to close out. And at the end of the close-out, the letter simply said we're going to take no further action. That's

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

unacceptable. There's no due process there. So this dispute resolution board is a way to get this done quicker and also cost-effectively and not at a lot of cost to the state. The other part you got to realize is that the USDOT PHMSA has said that Nebraska is deficient in this area in their enforcement. And three years in a row we've been labeled deficient. So this will help cover some of that. The other thing that is in this bill is the locator licensing, and we do support that as long as it's a flexible system because, like Senator Friesen said, many of these companies, both small utilities and large, already have a program to train their people. We do need to deal with contract locators, and even some of them I know have a training program within their midst. So it's one of those deals where you have to, we'd have to come up with a system that is simplified for the State Fire Marshal to deal with on his side, as well as the smaller utilities and the third-party locators, what they can deal with on their side to make sure their people are properly trained. So we support both those pieces, and we also look forward to continuing to work with the stakeholders in all this. We've done a lot of work with the One-Call Board-- task force work-- and we hope to continue that, as well as working with you guys to improve the law. So with that I'd take any questions.

**GEIST:** Thank you for your testimony. Are there any questions from the committee? Go ahead, Senator Bostelman.

**BOSTELMAN:** Thank you, Vice-- thank you Vice Chairwoman Geist. Mr. Wegner, could you tell me-- do you have an idea, since you're representing different organizations here of a group, how many, how many of the, I guess, locations are incorrectly marked, percentage-wise? Is it a high number? Is it a low number?

**BRAD WEGNER:** Percentage wise? Well, there is no-- the problem with this is the reporting on it is difficult because our members typically save the day. We catch it, we find it before we hit it, and we don't report it. We just go ahead and dig around it and get on with our business. I do know, as far as mislocates and all that, there is some information out there from the One-Call board. I do not have numbers; it's not something they readily make available. As far as my company goes, we have mislocates. I would say, on a weekly basis, I probably do 20-30 locates a week and probably 10 of them are incorrect in some way. Or they're late; they don't show up on time. So I mean it's an epidemic for us. And again, we are starting to work on getting reporting coming back from our members so that we can start showing

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

better numbers. But typically, it's just easier for us to-- we see that they're mismarked, we get around them and we go. And again, we also use some other methods to find the utilities on our own because we know how bad they're, they are out there. And again, it depends which locating, which person's doing the locating. We get to know when it works and when it doesn't.

**BOSTELMAN:** Sure. On your dispute resolution, is that a high number of jobs or is that a, or is that a fairly low number that you have to go that route with?

**BRAD WEGNER:** Oh, on dispute resolution, I mean, I would say right now I have, I have one that's in this-- I currently have a complaint that would be in front of a dispute resolution board. At the moment, I have three on my desk that I'm considering whether I'm even going to spend my time issuing or asking for a complaint. I would say that I would probably have five-six a year, minimum. That's what I'd be looking at.

**BOSTELMAN:** Thank you.

**BRAD WEGNER:** You bet.

**GEIST:** Any other questions from the committee? I do have one. When you talk about disputes, is there a threshold that you look at before you take something before the, to the AG, or whatever the process is right now? What is your minimum requirement?

**BRAD WEGNER:** You know, it's gonna be company by company. But yeah, for me, I would say it's anything that's under \$500.

**GEIST:** OK.

**BRAD WEGNER:** And if there were such a dispute resolution board, I would expect that, that for you to file a complaint would have a cost, you know, a filing fee to prevent people from just sending in \$100 disputes and creating a, you know, gumming up the system. But for me it's \$500. And the problem is we don't know what the cost is at the time. So the way this works is-- for instance, I just, I got a bill from AT&T 19 months after the hit happened, and, you know, I had to go back and look in our records and pull things out of the files. And so then I went ahead and filed the, rather the, the complaint, and this was in the state of Kansas, and because I needed to fight that \$2,200 invoice that they sent me. It was from a claims company; they were just fishing for money. But so at that time, I sent the complaint into

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

Kansas. So the time line on this is hard because, when I hit something, they don't immediately tell me, three days later: well, this is gonna be a \$15,000 charge or a \$500 charge. I mean we can guess. So you-- typically, if I was talking to my constituents at NUCA and AGC, I'd say if you hit something and it's not your fault, file it. You've got to file it with the dispute resolution system, whatever it may be at that time.

**GEIST:** And you have that done immediately? They file immediately? Or is there a, usually a period of time lag, that lags between?

**BRAD WEGNER:** Well, I would say that the training-- I'm actually in to do a training with AGC this week about when to do this. And I would say it's immediate because, at that time, you're taking videos, pictures, and you're filling out the complaint form under the current regimen, and you're admit, you're submitting that to the AG's office. And so the idea is to get it in front of them right away. Don't wait for them to bill you a year or even two years from now. Go ahead and get it done.

**GEIST:** Good, OK. Any other questions? Thank you for your testimony.

**BRAD WEGNER:** Sure.

**GEIST:** The next proponent?

**LUCAS BILLESBACH:** Good afternoon, Vice Chair Geist and members of the Transportation and Telecommunications Committee. My name is Lucas Billesbach; and that is L-u-c-a-s B as in boy-i-l-l-e-s-b as in boy-a-c-h. I'm a licensed professional engineer with JEO Consulting Group, helping to advance water, wastewater, and aquatic improvements in the communities that JEO serves. Today I'm here representing the American Council of Engineering Companies of Nebraska, as legislative committee chair, to deliver comments on LB462. ACEC Nebraska is testifying in support of the current proposed legislative bill because we believe it will create improved job site safety for all of our members who are also active on those job sites. I'd like to thank Senator Friesen for continuing to work on this One-Call Act and looking to create a better bill in the end. ACEC would recommend, though, that the bill be revised to contain language requiring operators to perform locates or provide detailed location information during the survey or design phase of a project. Our members believe we are the first and the best opportunity to develop proper planning to avoid or mitigate utility conflicts well in advance of construction.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

If utilities are properly identified and located during design, there can be considerable cost savings and time saved on projects to all parties involved. Having detailed the utility location information during the design has a number of benefits, including the ability to mitigate and design around a utility to decrease the need for impacts or relocations. In addition, it can lead to increased accuracy of field locating, especially during construction when erroneous markings or failures to locate creates greater risks to job site personnel, public safety, and consumer disruption. The benefits of providing One-Call locates during design far outweigh the costs. The One-Call system is designed to mitigate utility interruptions during construction and create a process for who is at fault when a conflict arises. The concern for utility conflicts is not only with the state-owned rights of way but is also within counties and municipalities and in both urban and rural areas. The current process, however, is inadequate to properly help mitigate and avoid conflicts during design. The proposed language within the current bill seeks to create processes for what happens when a conflict occurs in the field. Although this may be needed legislation, it is not addressing the underlying issue of the ability of engineers and designers to plan for the avoidance of utilities in the first place. Utilities currently receiving a ticket for locating during the survey or design phase of a project are often providing basic maps that do not provide the level of detail to properly plan for avoidance or mitigation. Locating in the field provides the highest level of accuracy. North Dakota is a state who currently legislates a requirement for operators to provide detailed information about the location of their utilities for a topographic survey. A copy of their bill, with a highlighted section, has been attached to our testimony. ACEC would be happy to work with this committee or staff to revise the current legislation to include this important language. ACEC Nebraska represents 47 engineering firms doing business in Nebraska. ACEC Nebraska initiatives create an enhanced business climate for our members. Our members are engaged in engineering construction projects that propel Nebraska's and the nation's economy and enhance and safeguard America's quality of life. Thank you for the opportunity to appear before you today, and I'm happy to answer any questions that you may have.

**GEIST:** Thank you for your testimony. Are there any questions from the committee? Seeing none, thank you for your testimony.

**LUCAS BILLESBACH:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

**GEIST:** The next proponent. Seeing none, we will move on to opponents. If you are an opponent, you may come up and testify and also have a chair on deck.

**GEIST:** Good afternoon, Miss Becker.

**JILL BECKER:** Good afternoon, Senator Geist and members of the Transportation and Telecommunications Committee. My name is Jill Becker, J-i-l-l B-e-c-k-e-r, and I am a registered lobbyist on behalf of Black Hills Energy, and we appreciate the opportunity to testify today in opposition to LB462. We are opposed to LB462 for a couple of reasons which I'll get into in just a minute. Black Hills Energy serves over 300 communities around the state of Nebraska, both large and small communities. We as the underground, we as a utility undertake numerous capital projects every year and we utilize both internal and third-party locators. As a utility, we are both an excavator and a locator. We are opposed to the provisions of the bill regarding licensing of locators, and we're also opposed to the provisions regarding dispute resolution. We, as Black Hills, have an operator qualification program which all of our locators complete prior to work. The Fire Marshal audits us to make sure that our plan meets the requirements of Title 192 and ensures that we're following our plan. So we don't believe that we need to have an extra, separate program as the bill would anticipate for our locators. And I also wanted to provide some specific numbers for you. And these are specific to Black Hills Energy for 2019. In 20-- I'm sorry, 2018. In 2018 we had 331 line hits. Of these hits, 248 of them-- or almost three-fourths-- were excavator fault. We, as a company, have dedicated specific resources, time, and energy to improving our investigator, in our investigation process and thoroughly analyzing and determining the root cause of all of our incidents wherever we can. One-fourth of those hits were fault, from, our fault as Black Hills. We ended the year with 1.6 hits, 1.66 hits per thousand locates. That's the metric that the industry uses; it's hits per 1000. And that is the lowest in our Black Hills Energy footprints. So as a company, we analyze these incidences to determine who is at fault, whether it's the excavator, whether it's the locating, the location, the locator, whether it's the One-Call practices, like One-Call wasn't used, or whether there are other things in play. We're also abused, opposed to the dispute resolution board provisions in the act. We don't believe that those are really appropriate for, for what we're trying to do. We would encourage that the civil actions remain as an option for instance, for any instances that occur. Ultimately, our goal, as a company, is to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

prevent any damage, and we believe that there are definitely some things in place that can help us really do that. We also believe that having a strong relationship between all of the parties involved in these, in the entire One-Call system is really important. And so for the proponent of this bill, if there really are issues with a specific entity, I think it's really incumbent upon us to do something about that outside of a dispute resolution board, outside of the Attorney General's Office. And as an organization we have undertaken those measures. Are we perfect? No. But really our goal is for the safety of, of all of our citizens, our employees, and the communities that we serve. And with that, I'll be happy to take any questions.

**GEIST:** Thank you, Miss Becker. Are there any questions from the committee?

**JILL BECKER:** Oh, OK.

**GEIST:** Seeing none, thank you for your testimony.

**JILL BECKER:** Thank you.

**GEIST:** Yes, go ahead. And I'll let the audience know this is Senator Albrecht joining the committee.

**ALBRECHT:** Hi.

**GEIST:** You may go ahead. Thank you.

**BRUCE HOEHNE:** OK. Hello. My name is Bruce Hoehne; it's H-o-e-h-n-e. I'm testifying today on behalf of the Nebraska Rural Electric Association and our 34 systems across the state of Nebraska, in opposition to LB462. Just a little about myself-- I've been locating underground utilities for Stanton County Public Power District for 44 years, of which my first 16 years I was the primary operator for a northeast Nebraska fault-finding group which was made up of 10 public powers in northeast Nebraska. During that time we averaged 130 15,000-volt underground cable faults per year while covering nearly all the underground faults in northeast Nebraska. For the last 28 years I've been operations manager at Stanton County Public Power District and I have served, and currently serve, as a member of the board of directors of the Nebraska811 call notification center for, for the last 21 years. So as far as licensing on the locators, just a little bit about what we have going on-- our locators receive training during their two years going to college, studying utility line, at

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

various community colleges. Our locators also are trained by factory represents, representatives on each individual locating device. And in our inventory, as well as any of them that are updated constantly there, our locators are additionally, after graduating from college, coming to work for us, they're in a four-year apprenticeship program where we train. Through those four years, they're under close supervision of, of one of our other locators, and then they are tested by local professionals. And lastly, as far as what training that, that our folks go through, we do attend Nebraska811 stakeholders' workshop and training courses. Another part here would be looking at the One-Call system performance reports. You know, it would suggest that incorrect locates are at about 0.26 percent of all locates in the state of Nebraska. And out of 414,000 tickets last year, considering that and then that our locators, the locating units themselves, the manufacturers will tell you that they are not 100 percent accurate. You know, I'd submit to you guys these numbers are outstanding. Just a little bit about our organization, and which is reflective of all of the systems, rural electric systems throughout state of Nebraska, we're, we're a, we're a very small company. We do have ten locators on staff. If I had to send all of my locators in, for the lost time and everything associated with it, I'm gonna estimate that it would cost our, our small district \$6,000 or another, or our consumers. And at the same time, we would have the loss in production, you know, for something that we're-- you know, would seem that we're hopefully doing a really good job of right now. You know, I do have the greatest respect for the Fire Marshal-- it's a tough job-- and his organization, but I do question whether they could exceed or even meet the training safety that we give or the programs that we give. And we've been doing this for over 50 years-- our training-- and I, I've been around for 44 of them. Personally, and from what I see, you know, from being on the board and then talking to other operations managers throughout the state of Nebraska-- and, and, and we do get together quite often-- I do not believe that there are any quality or accuracy problems in the rural electric systems' locating. My opinion of this is that the logistics of overburdening the locating community from extreme large projects is really where a lot of this problem comes from because, at that point with the quantity, it's hard to get that kind of quality, no matter how much money and how many locators you bring in from out-of-states to do these projects. That's, that's where things seem to fall apart. You know, this may be a direction that, you know, legislatively we could, we could explore. I, as far as a sport, dispute resolution, resolution board, when a utility has a dig in, we automatically investigate it from a safety standpoint first and then,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

try to determine whether it was the excavator or our fault. You know, sometimes it's hard to make a call on that, even being right there in the field. From there we'll be in contact with the excavator and, if the situation allows, you know, we take his input and, if an impasse is met, then we go through the 811 System and the Attorney General's Office. And I see my time is out, so I will ask-- first, I'd thank you for your time, and is there any questions for me today?

**GEIST:** And thank you for your testimony. Are there any questions on the, on the committee? Yes, Senator DeBoer.

**DeBOER:** Thank you for your testimony today. I want to be sure that I'm understanding sort of what all we're balancing here. The bill would require the State Fire Marshal to adopt minimum training standards and practices, which would be based on current national locator-training standards and practices. Would you-- I assume that the standards that you use for training your folks would meet those.

**BRUCE HOEHNE:** But-- without a doubt.

**DeBOER:** So then the sort of need to license them, would that add some kind of burden for you just in the documentation? Or what are you [INAUDIBLE]?

**BRUCE HOEHNE:** Well, I guess is what I'm looking at is if I've got to bring, bring my folks out of the field and, you know, send them, you know, to Lincoln or wherever for the testing and, you know, the whole deal, that, that's what I'm concerned about.

**DeBOER:** Is it just that the, the-- currently, so you, so this probably wouldn't affect anything in the future, right, 'cause you would have whatever training you're going to do for your locators--

**BRUCE HOEHNE:** Um-hum.

**DeBOER:** In the future you'd probably already meet the high standards and could document that as you were training them. So this is just about existing locators and how we would be able to sort of certify that they hadn't met those standards.

**BRUCE HOEHNE:** Yes. Yes. And also if, you know, if, if I'm gonna spend this amount of time, my board of directors may very well say: Well, we don't want to budget the dollars for the safety program or that locating portion of the in-house. Let's use the State Fire Marshal's.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

And at that point I think we would lose, lose out on the whole, whole thing there.

**DeBOER:** OK, thank you.

**BRUCE HOEHNE:** Um-hum.

**GEIST:** Any other questions? Yes, Senator Bostelman.

**BOSTELMAN:** Thank you. My question is, since you've had some experience over the years sitting on the One-Call, what do you see as the most pressing issue that we have today?

**BRUCE HOEHNE:** Just keeping up like we-- moving forward electronically with everything we're doing. We've, we've constantly got new ways to log and to register our underground facilities, which will make it easier for the contractors-- and which we are one of ourselves; we dig literally thousands of holes a year-- of being able to go out and do it. Some of the new programs that, that the One Call Concepts are-- which is the company that is operating the One-Call center for the Diggers Hotline board-- they're tightening up everything. You know, as to the fellow from JEO that was talking about design, this will help that whole process quite a bit because they'll be able to go on-line and see that neighborhood and see within maybe 15-20 foot where we're running on that map. You know, that won't substitute for us going out and locating but, as far as a design perspective, they'll be able to--

**BOSTELMAN:** I understand that for maybe current day going forward, 'cause how we mark now we can actually pick up where old utilities, facilities that have been buried maybe 15-20 years ago don't have that same ability to mark, to see that. So what I heard from our previous testifier, and what we've heard before in the interim study and last hearings before this, was there seems to be a larger number of, of near misses, should we call it--

**BRUCE HOEHNE:** Um-hum.

**BOSTELMAN:** --where they're fixing the problem out in the field and not reporting it, so that's almost to their detriment. So, you know, we still have a problem, I think, out there in marking and locating with older facilities, other older utilities that are out there. So I guess what that is, I guess the challenge is, is, is we're only seeing, being reported a quarter of a percent, or whatever, of actual hits or complaints. I think we have a larger problem out there, that we've

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

heard of in the hearings, a study in that before, that's not being reported. I think to me, I guess, that goes to that, to the, to the overall-arching problem of, of again, you know, if it's a dispute resolution, is it proper marking? Is it getting training? What is, what is the right answer to, to correct the issue moving forward? We know that those facilities are going to be marked properly where you can identify them as you go. But those old facilities aren't there. And I guess I, I'm just, my concern is, is that we're fixing, we're fixing the problem out there and we're not reporting it. So that number is greater than it what it actually is. So maybe that training, maybe some of these other things are more important than what we're realizing.

**BRUCE HOEHNE:** Well, you know, is what would be really big is, you know, the reporting. You know, it's hard to have any accuracy and know where our program is. You know, some of this is somewhat shocking for me, listening to this today, that there's that much craziness going on out there, that things are mislocated and we have contractors trying to figure things out on their own. You know, that, that, obviously that's not the answer. But, but relaying that problem so that we know as a diggers' board, you know, that's, that, that would be a really, really big part of the thing. Now, you know, in my little neck of the woods in northeast Nebraska, I have, I have a good amount of underground power cable buried up there. It's, it's been 15 years since I've had a dig-in and, you know, that's a testament to the locator-- or to the excavators for doing a really good job and being careful with things, as well as my locators making sure that they don't miss anything.

**BOSTELMAN:** OK, thank you.

**GEIST:** Thank you, Senator. Any other questions? Seeing none, thank you for your testimony.

**BRUCE HOEHNE:** Thank you.

**GEIST:** The next opponent, please.

**JUSTIN BRADY:** Senator Geist and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Telecommunications Association, in opposition to LB462. I'd start with-- I understand what Senator Friesen is doing. He and I have had a conversation about this, and I think the goal is good, to say how, how can we look at this system and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

make it better. Nobody wants their lines hit, whether your gas lines, telecommunications line. I would say, from our standpoint when the companies look at this bill, they thought that it might have been a step too far, as far as the licensing and the burden that it would place on companies. A specific conversation they had was about their own employees, that, if they send their own employees-- train their employees-- out to the field to do a locate, they have the vested interest to make sure that's located correctly. It is their line cut, it is their service that goes down, it's them they get to show up in front of the Public Service Commission if they can't get that line back up and running. So it's not like they have no skin in the game already. They need to make sure that, whether they're using their current employees or hire a third-party locator, they are hiring the best people out there because they do have a vested interest in making sure that this is happening. So with that, you know, I'd say a couple of the proponents talked-- I know one of the proponents talked about that the engineers should, if I understood it right, should be allowed to do the locate because they were best positioned to find it. I guess I would argue that probably the employees of the company who were responsible for placing the lines there would be as good or, in my opinion, better to locate those. And sure, there'll be issues. There are always going to be mistakes made, whether it's by people or by equipment. But I think this bill goes a step too far in the cost it would put on business to do that. So with that, I'll try to answer any questions.

**GEIST:** Thank you for your testimony. Are there any questions from the committee? Seeing none, thank you. Oh, I did just think of one.

**JUSTIN BRADY:** Yep.

**GEIST:** Do you have no opposition to the dispute board?

**JUSTIN BRADY:** Well, I guess some of the questions that were raised with the dispute board were similar to the previous two testifiers, about it, so I didn't. But yeah, it was just a question of is the State Fire Marshal's Office able and prepared to handle that? And what kind of process does that set up for the appeals down the road? And so--

**GEIST:** OK. So your, your, your opposition there is to the process that has not been put in place, or is it the entire concept of the board?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

**JUSTIN BRADY:** I don't know if it's the entire concept of the board. I think it's the process that potentially could be there. I know it says that the State Fire Marshal can make a ruling and then, from there you can appeal under the Administrative Procedures Act which then, obviously, we have procedures in place on how to, to proceed with that. You know, and from the telephone company setting, I'd tell you they've been on both sides. I mean they've been, I mean over my years of representing them, I've heard them say: Hey, we can't get the Attorney General to move fast enough, or we finally got the Attorney General to move. And so I do understand that-- to looking at that process as something worth looking at. I just don't know if the State Fire Marshal-- nothing against that office-- is the right place to put that.

**GEIST:** OK.

**JUSTIN BRADY:** It may be to give the Attorney General some more resources so he or she has that opportunity to pursue there.

**GEIST:** OK, thank you.

**JUSTIN BRADY:** Um-hum.

**GEIST:** Anyone else? No? Thank you for your testimony.

**JUSTIN BRADY:** Thank you.

**STEVE PREISTER:** Good afternoon, members of the Transportation and Telecommunications Committee. Thank you for the opportunity to testify before you today. My name is Steve Preister; that's S-t-e-v-e P-r-e-i-s-t-e-r, and I am the state director for United States Infrastructure Company, USIC. I've been involved with the Nebraska One-Call as a telephone operator, actually starting in 1994, moved into the locating, underground locating, and now director for USIC. USIC is the largest locating company in the U.S. Our core business is providing an efficient, safe, and highly trained work force to locate underground utility infrastructure. We provide locates for all types of companies, including: gas, telecommunications, electric, sewer, water, fiber, and others. USIC opposes LB462 because we believe the licensing requirement in Section 8 will not only impose an additional financial burden on us and companies like ours who already train locators in compliance with this legislation, but eliminate the flexibility to move our work force across state lines, when necessary, to protect underground facilities timely. In addition, the broad

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

language provides little certainty about how these licensing requirements will be implemented and enforced. USIC has invested considerable resources to make sure that our employees have the necessary training to protect themselves and the public, and prevent damages to our utility customers. The USIC training and development program provides three phases of training for new employees. First, all new hires attend a program that covers elements of the locator job that applies, regardless of location. Topics include safety and awareness training, basic equipment operation, and technical training pertaining to USIC systems. From there employees participate in a second phase, focused specifically on the employee's geographic area and our utility customers in that area. That includes learning how to read a state's locate tickets and familiarizing the employee with the local utility's record keeping and blueprints. Those who perform work for gas customers are required to participate in an additional operator qualification program, as required and regulated by the Pipeline and Hazardous Materials Safety Administration. Finally, new employees complete an on-the-job training phase under the supervision of a field trainer or mentor. Only once an employee passes a final certification review with management, is the employee allowed to perform unsupervised field operations. In addition to new hire training, USIC also provides continuing education and retraining programs for its employees. We believe USIC's training programs are the gold standard for locator training, and our continued growth is proof that our utility customers agree. After all, it is their investment that we protect. USIC performs around 75 million locates annually, nearly a third of the approximately 220 million locates in the U.S. In order to meet that demand, we will employ up to 10,000 locate technicians across the country this coming year. This year in Nebraska, we will perform about 1 million locates. We fear that adding licensing requirements at the state level will only serve to delay entrance of newly trained employees into the field and add a patchwork of laws. We would prefer a more standardized, nationwide approach and have been working with other stakeholders, as part of the Common Ground Alliance, to reduce damages to underground utilities and develop national training standards. We understand that inaccurate locates do occur and, in some cases, it is the fault of the locate technician. However, approximately 80 percent of underground utility damages are due to excavation errors, not the accuracy of utility marking. When we make a mistake, USIC works with its customers to make them whole, and is diligent about retraining the locate technician to avoid future errors. Our training program safeguards the public, our employees, and our customers' investment. We are confident our

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

training programs would exceed the standards set pursuant to LB462. A licensing program will only hinder our ability to do business in Nebraska where the market demands that USIC have a sufficient work force that can perform locates in a timely and accurate manner. I'd like to thank Senator Friesen for his willingness to discuss our concerns with LB462. But at this time I must urge you to vote no on LB462. Thank you, and I'm happy to answer any questions.

**GEIST:** Thank you for your testimony. Are there any questions on the committee? Yes, Senator Bostelman.

**BOSTELMAN:** Thank you. Do you sit on the board now currently? Do you sit on the board of-- are you--

**STEVE PREISTER:** We attend the Nebraska board. I personally am a member of the Kansas One-Call Board, as well.

**BOSTELMAN:** OK, thank you.

**GEIST:** Does PHMSA have requirements for training locators?

**STEVE PREISTER:** Yes, under the operator qualifications, similar to the Black Hills testimony, we operate under that.

**GEIST:** OK. OK, thank you. Are the, are the requirements that we're asking for here in this bill-- is that drastically different than what you experience in Kansas when you sit on that board?

**STEVE PREISTER:** There's, there's no-- from the Kansas Board there's no training that's overseen by the, the regulators there.

**GEIST:** And what about when--

**STEVE PREISTER:** It would be similar to, to the OQ, the PHMSA.

**GEIST:** OK. What about when you have a dispute? Is it, do they, is there a board there that you would go to for disputes and--

**STEVE PREISTER:** There's not a dispute resolution board there, no.

**GEIST:** OK, thank you.

**STEVE PREISTER:** Thank you.

**GEIST:** Thank you for your testimony. Next opponent.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

**JIM SPICKELMIER:** Afternoon, Senators. My name's Jim Spickelmier, S-p-i-c-k-e-l-m-i-e-r. I'm coming to you as a private contractor. We're a small family business. I have five employees, and we do close to 600 One-Calls a year. I'm kind of opposed to this bill. Senator Friesen has done a lot work on this and he's got some good points, but there's some bad points to it. The first one is the locator training program. We also offer private locating for people that have parking lots that need lights located for-- that aren't covered under the One-Call jurisdiction. If this goes into effect, it will cost my company some money to send my guys to get this training done. We have in-house training that we do at least once or twice a year to train our guys how to use different locators and how to do things properly. All my trucks are equipped with locators when we go out to a job, so if something doesn't look right that's been done by a third party or by the utility themselves, we hook up, check it ourselves. The locators are only as good as the people running them. And sometimes the locators will not work right. I've got three different brands of locators, and you can hook them all up and you'll get three different readings at times, and it's all to the ground conditions and how the person's operating it. So that's one part that I'm against. Good part to this bill is there would be a board to voice your opinions and concerns about, if you do have a hit line. We have had hit lines in the past. I'm sure we'll have hit lines in the future because we run two to three crews a day. And so that would be nice to have that part in the bill. But there's too many things in here that I can see could be problems. Where's the Fire Marshal go get the money to staff all these people to do this? When he's looking at 400,000-plus tickets a year that he's going to have to, to control, that's going to be another problem. Licensing all these guys like USIC or Black Hills, or whatever utility it is, sometimes when we go out to job sites we meet a guy for the first time, he's out there being trained by a supervisor. Next week we go to the job site, there's a supervisor training a new guy. Are they going to allow people to be trained on a daily basis, a weekly basis? It's tough for these guys to get locators, and then you go throw them into more training on top of what their company already has for them in place. That's about the extent of what I have, so hope I didn't step on anybody's toes.

**GEIST:** Thank you for your testimony. Are there any questions from the committee? Yes, Senator Albrecht.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

**ALBRECHT:** Sorry I didn't hear the beginning of this, but how much would it cost for you to train your people to locate?

**JIM SPICKELMIER:** I don't-- they haven't set up a cost to what it's going to cost to send people to training.

**ALBRECHT:** So right now you just teach them.

**JIM SPICKELMIER:** We, we bring in the factory reps and have them trained in-house. You know, it's our time is our biggest thing, finding time, so--

**ALBRECHT:** And you only do this type of work in Nebraska, or do you go outside of the state?

**JIM SPICKELMIER:** Yes. No, we do mostly primary directional drilling, so we put in gas lines, water lines, cable lines, and that kind of stuff. So I'm different than most of the people here. I'm a contractor, so--

**ALBRECHT:** Appreciate your information; thanks.

**GEIST:** Anyone else? Seeing none, thank you for your testimony.

**JIM SPICKELMIER:** Thank you.

**KRISTEN GOTTSCHALK:** Thank you, Senator Geist. Members of the Transportation and Telecommunications Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the government relations director and registered lobbyist for the Nebraska Rural Electric Association, and I'll be here representing them today, as well as the Nebraska Power Association, which is the trade association for all of the electric utilities in Nebraska, representing public power districts, electric cooperatives, municipal systems, and public power and irrigation districts, so all 164 of Nebraska's utilities. And first of all, I think what I need to do is say thank you to Senator Friesen, because the intent of this bill is safety, and for those of us in the electric industry, safety is a priority-- safety for our workers when they're out doing a very dangerous job in inclement weather, but also safety for the public and, also, that public would include contractors. So the intent of this bill is, is important, but we do come in today in opposition simply because electric utilities who own, operate, and maintain their distribution lines and transmission lines, whether above ground or below ground, are well-trained in using the equipment to locate and identify where

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

our facilities are. It's important for us in our daily work but it's also important for us as part of the 811 system. As you heard from Mr. Hoehne, who sits on the One-Call Board and is-- also works with Stanton County Public Power District, the training process that we have in place would probably meet or exceed anything that would be expected through this. So I don't think that that creates an outright conflict, but it's the process to go through licensing that becomes concerning. Is there a way that we can prequalify training programs? Is there a way that we can be assured we won't have lost time by not having licensed people on the ground? And what will the cost be? Because, as you know, the 811 program is paid for those that own the underground facilities. And will this add additional costs? And will those costs have to be borne by the electric utilities as they go through the locate process and the ticket process? So the safety is a priority and can, as a, others have mentioned, can programs that are already in existence be, be qualified, be predetermined to be, meet the standards? What we're going to find-- and, and you heard before questions asked-- that changes in the enhanced ticketing process, that will allow contractors who are going to be digging to more accurately mark locations, and for our locations to be more accurately reflected in a quicker manner for those people doing the digging, will, will go a long way to alleviate some of the problems that we have here. And, as was mentioned before, large volume projects do become a problem, and that's where you tend to find that you're getting mislocates and other problems associated with, with marking lines. We are not necessarily opposed to dispute resolution-- a little concerned about the process or the way the dispute resolution board would be set up. And granted, when you have a balance, you have two contractors, you have two operators, are they active in the industry at this time? And will that create conflict in the process of trying to settle disputes within your, your own industry? But overall, you know, I think our intent is the same, is to enhance the safety of our employees and the, and the public. So we do laud that but, until some of these issues may get worked out, we would stay in opposition to the bill.

**GEIST:** Thank you for your testimony. Any other questions from the committee? Yes, Senator Bostelman.

**BOSTELMAN:** Thank you, Senator Geist, and thank you, Ms. Gottschalk, for being here today. I guess my concern is with the training and I'm hearing a lot of people talk about the training. Personally myself, this happened to me. I know where the power-- we build our house, myself and a general contractor, as you know. I think you-- I've told

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

you this story before and you know, but I want the rest of the committee to understand this, as well, and for the, the rest of you out here to understand this, as well. I live in the country. So we built our house and I know where the power line goes. I know where our telephone line goes. I called One-Call. We need to plant some trees on our property. Somebody needs to come out and mark it. The next day, the utility power company was out there. The line was-- if you take the back door as the transformer, and I am at the house where the, where it comes into the house. I walked outside, looked out the window, and the person was looking over there past-- out in the field for the buried line. Well, it's a direct line that goes from the transformer to my house. And I could point it out to them, and they couldn't find it; that was with the electric line. The telephone company refused to come out at all, said there's not a buried line. There was a buried line there 'cause we had a landline. They refused to call, to come out. And when I called back to find out what's happening with it, the, they said: Oh, there's no line there; we're not coming out. So on the training side and the licensing side, I don't know if licensing is the right answer, but I think, for the benefit of the rest of the committee and the others that are here, I think there is an issue here that we need to pay attention to and need to, we need to understand that it's not perfect, that we do have problems out there, and that this does need to be addressed, one way or another, because I had a power line in my backyard, I knew where it was. I could have dug where we wanted to dig and put, put those trees, put those right on top of that power line. So we moved it off to where I knew it wasn't. But that's only after I had the power company come out, and we marked exactly where it was. I showed them exactly where it was. They couldn't find it. So it's not really a question for you, but it's just a statement I think everybody needs to know. And I want to put it on the record. I think there is something here that we need to look at. And I think everybody needs to take a look at it. What that answer is, we'll figure that out. But I appreciate your testimony. Thank you.

**GEIST:** Any other questions from the committee? Seeing none, thank you for your testimony. Next opponent.

**JOE KOHOUT:** Vice Chairwoman Geist and members of the Transportation and Telecommunications Committee, my name is Joe Kohout, K-o-h-o-u-t, and I appear before you today in opposition to LB462, on behalf of our client, the American Petroleum Institute, or API. API is the only national trade association representing all facets of the natural gas

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

and oil industry, which supports 10.3 million U.S. jobs, 8 percent of the U.S. economy. API's more than 600 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms. We appear in opposition to the provisions of LB462 which would require the licensure of any individual engaged in locating underground facilities under Nebraska's One-Call Act. Our member companies utilize their own employees to locate facilities pursuant to the act. These employees are trained by our companies in a manner consistent with best practices. We, to be frank, are very protective of our facilities because they are moving liquid products and natural gas. These products are under enormous pressure and can be flammable and/or combustible. As such, we would ask the committee to take one of two actions before advancing LB462: one, exempt the facilities owned and operated by our member companies from the provisions of the bill; or second, to consider providing an exception for all companies who have their own employees doing locates and have the training already envisioned under the bill. API takes no position on the dispute resolution process envisioned under the bill. Thank you for your time, Vice Chairwoman Geist, and I would be happy to try to answer any questions that you might have.

**GEIST:** Thank you, Mr. Kohout. Any questions from the committee? Seeing none, thank you for your testimony. Next opponent.

**DENNIS PLACKE:** Vice Chair Geist, members of the committee, Senator Friesen, thank you for having us here today. My name is Dennis Placke; that's P as in Paul-l-a-c-k-e. I am the regional manager for NorthWestern Energy. A little bit about NorthWestern Energy-- we're a South Dakota-based utility with operations in Montana, South Dakota-- both gas and electric. And here in Nebraska we distribute gas in Grand Island, Kearney, North Platte, and the village of Alda. We're here to oppose the locating license bill, LB462, that would create duplicate effort and oversight of the Code of Federal Regulations and add undue burden and additional costs to the company and its ratepayers. NorthWestern Energy, as well as all gas utilities, locate per the requirements of the Department of Transportation Code of Federal Regulations, DOT CFR 492, 49-192, Subpart N, Sections 801-809. I handed those out. Everybody's been talking about the PHMSA and OQ qualifications. We qualify our pipeline personnel and have our own internal OQ plan, operator qualification standards. An independent evaluator verifies our employee proficiency with a locating task through both written and hands-on testing. We also have a four-year

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

apprenticeship program for all of our employees. The certification takes place every three years. Furthermore, the Nebraska State Fire Marshal's Office reviews and approves our OQ plan and NorthWestern Energy feels this is adequate oversight. Regarding the creation of a dispute resolution board, NorthWestern Energy could support the concept of dispute resolution board process, however, feels that there may be a better avenues to achieve this goal. NorthWestern Energy would be happy to collaborate with others to form, to go forward with this issue. With that, I'm complete. And thank you for your time.

**GEIST:** Thank you for your testimony. Any questions from the committee? Seeing none, thank you for your testimony.

**DENNIS PLACKE:** Thank you.

**GEIST:** Next opponent.

**LASH CHAFFIN:** Good afternoon. My name is Lash, L-a-s-h Chaffin, C-h-a-f-f-i-n. I represent the League of Nebraska Municipalities. And I'm here today to oppose LB462. I did have a long outline, but I'm going to ignore that because it would be 100 percent repetitive of almost every utility speaker up to this point. I do want to make-- although Senator Bostelman's story-- I do make one, I will make one quick point because his story is very on point and I think, to a large extent, reflects where city and village governments might be on, on these issues. Cities are not, not, not unlike the other utilities that, that preceded me, are in a somewhat unique position in that they wear three or four different hats on One-Call issues, sometimes in the same hour. Sometimes they're, they view themselves as an owner of an underground facility-- the waterline sits there; we need to protect the water line. Then also city in, that same city employee also might be an excavator, excavating around somebody else's facilities, and then that same utility employee might have to be a locator of their own facility. All within the same hour they might get to wear three different hats. So One-Call issues are sometimes a complex internal discussion amongst municipalities. And I think on, on this, the, the, we ended up siding on the issue of being excavators and that we are opposed to the licensure requirement at this time. Although, interestingly, I, I-- that, that statement, there might be some, some sort of qualification to that in that I think, you know, I think every city employee could tell a story not unlike Senator Bostelman's, where an out-of-state company came in or a company with distant that, that doesn't have a local office or some regional office, and completely mislocated their facility, when the city employee knew exactly where

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

that line was because they were there when it was put in. And not unlike-- and so I suspect if really quizzed on the issue-- and I don't know if it's ever been broken out that far-- the, our utilities would be opposed to the mandatory licensure of locating the facilities they own themselves, that in all likelihood they were there when they were put in, they own the maps, they, they have some familiarity with those facilities. And of course that might actually speak more to the aging municipal workforce, that they were there when they were put in, but that, that is the current state of the law right now. As far as the dispute resolution process goes, that is an interesting idea and I don't, don't-- the expedited dispute resolution process-- and that would be certainly something that we would continue to look at. But at this point we're opposed to LB462. Thank you.

**GEIST:** Thank you for your testimony. Any questions from the committee? Seeing none, thank you. Any other opponents wish to, wish to testify? Does anyone wish to testify in the neutral position?

**CHRISTOPHER CANTRELL:** Good afternoon, Vice Chairperson Geist, Chairman Friesen, members of the Transportation and Telecommunications Committee. My name is Christopher Cantrell, spelled C-h-r-i-s-t-o-p-h-e-r C-a-n-t-r-e-l-l, and I am the Nebraska State Fire Marshal. I'm here to testify in a neutral position on LB462. LB462 would impact the agency in three main areas: licensing locators; contracting with the board of directors for services to carry out the One-Call Notification System Act; and initiating, proceeding before and, and being a member of, and issuing orders on behalf of the dispute resolution board. The legislation would create a new occupational licensing requirement which could restrict people from seeking work opportunities in Nebraska. Licensing all locators in the state may create an undue financial burden on Nebraska-based companies, as well as companies wishing to work on projects within the state borders. Further, individual companies often train their locators in-house, and to require them to then also have a national certification may increase training costs. It is unknown how many locators are operating in this state and how many would be making applications to the Fire Marshal agency under this new requirement. Without this information, the agency cannot determine an accurate fiscal impact nor the scale of work that would be required. The legislation also states that the One-Call board of directors is to contract with the State Fire Marshal for services to carry out the One-Call Notification System Act. It is unclear from the legislation what services this might encompass or what staffing might be needed to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

carry out these services. The agency currently has inspection investigation duties through the administration of the Nebraska Natural Gas Pipeline Safety Act of 1969, but these duties are limited to the area of jurisdictional pipelines. Being asked to perform services out that, side this practice scope could require additional time, personnel, and training. As part of this legislation, the, it states the board of directors will have as a part of operations a dispute resolution board which shall consist of two excavator members, two operator members, and one employee of the State Fire Marshal's Office. The function of this dispute resolution board shall be to hear disputes between excavators and operators stemming from excavation damage to the underground facility. To start the dispute resolution process, a complaint will be filed with the agency, and the agency will be required to initiate a proceeding before the dispute resolution board, and serve notice to all parties of a time and place for the hearing. After a hearing, the dispute resolution board shall submit a recommendation to the State Fire Marshal for issuance of an order and determination of liability. The State Fire Marshal shall also issue his or her order, order, and this order may be appealed in accordance with the Administrative Procedures Act. As stated earlier, the agency has a duty to investigate damaged underground pipeline facilities as part of the Pipeline Safety Act. As such, there could be a conflict of interest that would arise when a Fire Marshal employee sitting on a dispute resolution board, in cases where other employees have conducted a damage investigation and made a determination about the cause of the damage. Additionally, the agency is charged with issuing an order based on the decision of the dispute resolution board. An appeal of such order would also have to be held before the Nebraska Fire Safety Appeals Board, which is a nine-member board. The possible number of such hearings is unknown, but we feel this could create an undue burden on a volunteer board, as well as unknown cost to the agency, as legislation only states the cost of the initial hearing before the board will be reimbursed. I want to thank the committee for all your time and attention to this matter. I do know it's been a long time and you've had a lot of attention paid to it, so I do appreciate that. I'll be happy to answer any of your questions.

**GEIST:** Thank you for your testimony. Are there any questions from the committee? Seeing none, thank you for your testimony.

**CHRISTOPHER CANTRELL:** Thank you.

**GEIST:** The next neutral testimony.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

**RANDI SCOTT:** Vice Chairman Geist and members of the committee, my name is Randi Scott, R-a-n-d-i S-c-o-t-t, of O'Hara Lindsay Government Relations. I'm a registered lobbyist, testifying on behalf of Northern Natural Gas, in a neutral capacity. First, we would like to thank Senator Friesen for working with us to address our concerns. And we have an amendment that is being passed out right now that does three things: First, it authorizes the Fire Marshal to approve training programs and will allow a locator who goes through those training programs to be able to perform locates. It clarifies that liability determinations by the State Fire Marshal will be those under 76-2324, and it would remove the exclusion of natural gas pipelines so that having gas pipelines would be covered by the act. That is all that we ask for today, and we ask that the amendment be adopted. And I'll take any questions.

**GEIST:** Thank you for your testimony, Miss Scott. Just a minute. Let me see if there are any questions. Are there any questions from the committee? Seeing none, thank you.

**RANDI SCOTT:** Thank you.

**GEIST:** Go ahead.

**TODD HEYNE:** Good afternoon, Vice Chair Geist, distinguished senators. I'm Todd Heyne, T-o-d-d H-e-y-n-e. I'm the director of plan operations for ALLO Communications. I'm here on behalf of ALLO Communications and Nelnet in a neutral position on LB462. Our position is based on the good intent of the bill and the opportunity to improve it further. ALLO is neutral on the dispute resolution board. We believe it is a step in the right direction, yet we could see where the small board could easily be influenced by position and competition. While we believe a resolution board to be useful, ALLO would prefer a neutral party with no third-party influences. ALLO would recommend that the committee consider requiring a permanent executive director to oversee the One-Call program. Further, ALLO recommends the executive director be tasked with submitting regular reports to the committee on the state of the Nebraska One-Call system, evaluating contact and utility locators and evaluating excavators operating in Nebraska. The exec, executive director would also be well positioned to make recommendations to the One-Call board and committee to improve the system. ALLO locates all of our own fiber with ALLO employees. We do not use third-party locating firms. ALLO has an extensive training program and continual audit program for our employee locators. During 2018 we conducted more than 80,000 locates and had three at-fault

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

damages. We're at four nines in our accuracy and we have a goal of five nines in 2019. Maintaining and submitting training documentation with administrative license fees creates an administrative and a financial burden on Allo. As the committee knows, ALLO and our construction contractors rely on other utilities to locate their assets, and many the utilities utilize third-party contracting locating companies. We believe these contract locating companies have the training programs and could easily comply with the legislation, again with the additional administrative and financial burden. The training standards referenced in the bill are vague. Who would conduct the training? Where would training occur? The frequency and costs of the classes are all issues that could, that need to be clarified by policy. Would Allo's in-house training be satisfactory to meet the requirement? Allo's locators are expert at locating fiberoptic lines, and ALLO sees minimal use in training our locators in other utilities and would be concerned classes would focus on those utilities. Pending your questions, this concludes my testimony.

**GEIST:** Thank you for your testimony. Are there any questions from the committee? Seeing none, thank you very much.

**TODD HEYNE:** You bet.

**GEIST:** Are there any others who wish to testify in the neutral position? Seeing none, Senator Friesen, you are welcome to close.

**FRIESEN:** Thank you, Vice Chairman Geist. I know how to bring out the opposition testimony, don't I? So I mean, again, I'll, I'll go over a couple of points here. And I think that I am willing to make changes, and one thing I did hear is on the training. When we first wrote the bill-- and the wording is not, doesn't reflect maybe my feelings so much is that I was under the assumption that each company does have training standards. The Fire Marshal's Office would develop some criteria for what minimum training standards would be. If you would come to the Fire Marshal's Office and say here's what our training standards are, they would license you to operate in the state. It wouldn't be that each individual, but it's not worded correctly but we can we can address that. I would just say that there has to be a minimum training standard. We heard stories of an excavator who-- there was a line locator came out to locate a pipeline, and the guy was out locating; he put his flags all out. And then they went and asked him what he was doing, and he said he was marking a pipeline. And they said: Well, we moved that three weeks ago; it's not there. He went and grabbed his flags, got in his truck and left. There was no

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

pipeline. So obviously we need some standards. And I know most of the facility owners have training standards 'cause they are protecting their own facilities. But obviously there's also some who have no training or very little. I, you know, the locates-- we heard from numerous excavators. They are so cautious about the markings already that they go to great lengths to verify the location. They do what they call "potholing." They hand dig until they locate that facility because they don't trust the marks. So they don't report them. They just have gotten to the point where they just dig and they "pothole." They, they check and verify everything because they're held to the standard, then, of trying to prove that it was wrong. And this all happens in, in afterwards. And so you get the bill of hitting something, and suddenly you got a \$2,000 bill a year later and the documentation is all gone, nobody can prove anything, and it is not fair, a lot of times, to the excavators. So again, I, I'm willing to look at that. I think the dispute resolution board still is a good thing. Maybe we need to work out who that is but, if we can stop some of these things from having to get to the Attorney General's Office and settle them sooner, it's a lot cheaper to do it there than to have the Attorney General involved. They've got other work, too, that's important, and the only time that they should maybe be involved is when the pipelines are hit or something like that. We, we do have, you know, the safety involved with pipelines as a whole different thing than locating the water and sewer. There are standards there that are-- again, we'll, we'll go through the testimony. We're willing to make changes. But again, I think there's, there are numerous things that do need to be fixed. I will say that the One-Called board has taken a more active approach in the last couple years but, up until we started pushing, there was very little being done. And I think they've gotten better but they still have got a ways to go. So I'm, I'm open to suggestions on how we change some wording. We're open to that, but we, I still strongly feel we do need to move forward with some of this. It will make it a better system. Thank you.

**GEIST:** Thank you, Senator Friesen. Are there any questions from the committee? I do have a few letters I need to read into the record. There is a letter in support from Nebraska Building Chapter. There's letters in opposition from: Allen Meyer, Craig Danielson, John Buckley, David Stroebale, Bruce Hoehne, Metropolitan Utilities District, Nebraska Public Power District; and one in the neutral position: Nebraska Department of Transportation by Kyle Schneweis. And this will conclude our hearing of LB462.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

**GEIST:** We will now get ready to open for the hearing of LB616. Senator Hilgers.

**HILGERS:** Thank you, Vice Chair Geist and members of the Transportation and Telecommunications Committee. My name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I represent District 21, which is northwest Lincoln and Lancaster County. I'm here to open on LB16 [SIC]. This morning, I think, was a very exciting day for anyone who lives in Lincoln, certainly for myself. And I don't want to speak for the Vice Chair as well, but those of us who represent Lincoln, and hopefully for the rest of Nebraska, it's a very exciting day because an announcement was made this morning from Governor Ricketts and Director Schneweis that impact, will impact the timing of the long awaited South Beltway. And the South Beltway, for those of you who don't live in Lincoln or haven't heard of it, is a project that is decades in the making. And in the last year or so, we, funding was finally secured for this project. It's a \$300 million project, which I understand is the largest project ever in NDOT's history. And under the normal time frame before today, the completion of that project would be eight to nine years. So they'll move dirt starting in 2020 and, under the normal course, the project would be complete in about 2028 or 2029, when my daughter, I think, will be close to starting college, graduating from high school. That is a very long time and, unlike other roads projects, you can't use any of it until it's complete. It's a brand new highway in the south part of town. Today, however, was an announcement that really is a win-win-win, from my perspective, for the city of Lincoln; and that is that this project will now be done in three years. And I'll explain the mechanism here in a second, but it will get done in three years, saving tens of millions of dollars for the taxpayers, money that could be now used for other roads projects, and also accelerating the use of the project from eight years to three years, and providing a significant safety benefit for the citizens of Lincoln right now, with the heavy traffic that comes in through Highway 2, rather than, under the Beltway, it would now come in through a four-lane highway south of town, so significant, a significant benefit. Originally LB616 was introduced because this project was going to be bid this year and, in order to dot all of our I's and cross all of our T's legally, I wanted to make sure that there was a train that was going to go out of the station to make sure that we could do this type of-- it's a build-finance project for the state. Those legal I's have been dotted and T's have been crossed, including not the least of which was an Attorney General Opinion last week that provided the legal basis for part of this project, rendering, for the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

most part or not for the most part, LB616 sort of moot, as it were. Instead, what I will have in front of you, what is in front of you is AM203, which will become the bill. And AM203 is, is a part of this project, and a part of the cost savings I believe, if passed, will be part of the cost savings of this project. And what it does is it helps conform to this kind of unique custom project, a current provision of state law for interest, providing for interest payments. Currently under state law, contractors-- for payments, I believe after 90 days, there's a certain threshold, a certain interest payment that the state owes those contractors. Currently it's around 7-8 percent; it does vary. This is a custom project in the sense that the project will be done in three years. But the payments will occur over the course of eight years. And so under that kind of contractual regime where, where there's a known schedule of payments, the interest provision isn't necessary. Without this if we, without this change in law, we think there would be about \$7 million in additional interest costs that the state could be on the hook for. It's unnecessary. The contracting community will be aware of this, the change in law when they bid for the project and, ultimately we think, in addition to all the other cost savings that I referenced, AM203 will help save around-- we anticipate, estimate or anticipate around \$7 million to Nebraska taxpayers. Again, that could be costs, or dollars that could be used for, for other roads projects. So I'm happy to answer any questions about AM203 or about the project itself. NDOT will be coming behind me and can explain, in a little bit more detail, some of the technical aspects of the project. But at the end of the day, this is a, this is an exciting day because we're going to get the beltway done faster, we're going to save money doing it, and it's going to be an economic boon for the city of Lincoln. And I could not be more excited to be here talking about it. So with that I will answer any questions if the committee has any.

**GEIST:** That's great news, Senator Hilgers. Any questions from the committee? Seeing none,--

**HILGERS:** Thank you.

**GEIST:** --thank you for your opening. First proponent.

**KYLE SCHNEWEIS:** Good afternoon, Vice Chairman Geist-- Chairwoman Geist, excuse me. Members of the committee, I appreciate being here. Kyle Schneweis, K-y-l-e S-c-h-n-e-w-e-i-s. I'm the director of the Nebraska Department of Transportation, and I'm here in support of LB616, as amended in AM203. I've spoken with you before about how, at

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

the DOT, we're really trying to focus on our customers and think about our business, trying to be more effective and efficient. And I would like to thank the committee and Senator Hilgers. Along the way the past four years, we've had a lot of ideas that have crossed your desk and you've helped us to implement some things that are really helping us with those goals; so I appreciate it. A little bit of background on the Lincoln South Beltway-- as the senator mentioned, it is long-awaited. I think it was first discussed in the 1960s and yet here we are, still awaiting construction. It was revived during, with the passage of the Build Nebraska Act. That's where the funding became available. And the challenge is that it is the largest project we'll have under ever undertaken at DOT, at \$300 million. And to, to fit a \$300 million project into our program, the traditional way would be that we would not do one project, but we would instead do five projects and phase the construction over eight years. And as we got started down that path, it became clear to us that that is not something that our customers would appreciate, having traffic cones out there for eight years, especially on a project that has absolutely no value until the entire thing is complete. It's not like a four-lane project where you can do half of it, realize the benefits of that piece. But, but in this case with the beltway there are no benefits until it's complete. So we decided we have got to figure out a way to do this faster. And today, as the senator mentioned, we were able to announce that we have found that path forward. I want to describe for you what the contract looks like. It will be a low-bid contract, just like every other contract that we do, meaning that we'll open up bids and the lowest bidder will receive the contract. The difference is that, instead of paying the contractor as they complete the work, which is the traditional way, the contract will have a provision in it that outlines what the payouts will look like over that eight-year time line, the same time line we've been talking about as a more traditional approach. And then the contract will require and incentivize the contractor to finish it in three years. We're excited, of course, about the time piece; that's a big win for the city and for the department and for the state. But I think there's more than just time. It is a money piece. We evaluate it from the financial perspective. And we, when, any time you take five projects and consolidate them into one, you will save money. We think we can save money on the mobilization costs; you only mobilize the contractor one time. The earth work alone, removing 7 million cubic yards of dirt on the project, to be able to do that all under one contract will save, save dollars. And so, not to mention the time savings, but even just the pavement. Imagine starting on the one, on one side and building

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

pavement and bridges that you can't drive on for eight years. By the time we drive on them, we'll be sealing cracks on the, on that pavement. And so it just makes sense for us to try to get done quicker. And then the last piece, and I think this is important for you folks on the committee because we have 10,000 miles of highways and 3,500 bridges, and our number one priority is to maintain that system. And by spreading the payments out over eight years and delivering this project this way, that's how we can keep that commitment to the rest of the program and deliver projects that are long awaited all over the state. And so it saves time, it saves money, and it keeps the commitments that we need to keep. I, I wanted to mentioned that our approach has been affirmed by an Attorney General Opinion. And so we don't believe there are any statute changes that are required for us to move forward. I do want to talk about the amendment just a little bit because we do need that changed in statute. Today, if we are, if we're late on our payments to a contractor, we pay interest on the, on that delay, as we should. And I think that that statute has served the state well. It served the contracting industry well. It makes sure we pay our bills on time, which is good. Now as I've described this contract to you, though, we're going to pay it out in a different way over a longer time line, and so that interest provision doesn't make sense. And what this amendment does is clearly, is just cleanly exempt this kind of contract from that interest provision that, in every other case, does serve the state well. So it provides that exemption. And without the exemption, as the senator mentioned, we anticipate that it would cost the state an additional \$7 million to complete the project, money that we would gladly use on other projects across the state. And so I hope that I've explained it well enough, but I'm sure that you have questions, and I would like to conclude my testimony and try to answer them.

**GEIST:** Thank you for your testimony, Director. Are there any questions from the committee? Yes, Senator Bostelman.

**BOSTELMAN:** Thank you, Chairwoman, Chairwoman Geist. Thank you, Director Schneweis, for being here. Is the mike [INAUDIBLE]? First question I have is what we're, what you're, what we're proposing to do here in the amendment and the bill. How is that not a form of bonding?

**KYLE SCHNEWEIS:** Well, good question. I think the first thing is we aren't issuing any bonds. The contractor will be, the contract will be a low-bid contract. And so the, the, if additional capital is needed

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

on the contractor side, which I would expect it would be since we're only paying, they're completing the work in three years and paying for it over eight, will be the responsibility of the contractor themselves. I, I think that because it's low-bid we'll see a lot of competition on that piece of it. And the thing that's different for me is, is the time line, because the time line is exactly the same as it would be for any other project or any of the traditional approach. Then then it doesn't equate to bonding. We have a long history in Nebraska of paying as you go. It has served us very well. I've worked in other states, as you know, and where bonding has been utilized. The state that I came from and worked in the most before here takes \$250 million off the top of their, their annual budget just to pay off debt service. And I think that the pay-as-you-go approach has worked well for us in Nebraska, and I think that this project, because of its very unique size and scope, requires a different approach. And I think we've found one that doesn't require the use of bonding and doesn't lay the groundwork or set the precedent that we need to.

**BOSTELMAN:** OK. Why can't we use this form of contracting, building out on other projects?

**KYLE SCHNEWEIS:** Well, I think, again, because of the uniqueness of this project. If, if we were going to use this, say, for a four-lane project that I hear many needs about as I travel the state, traditionally we would do five miles, ten miles at a time and pay as you go. And I think that that has served us well, in part because the benefits of that improvement are realized as we complete them. This project, if we were to do that same approach, there would be no benefit. There would be no traffic that could even use the facility until it's complete, until it's connected on both sides. So I'm not going to say that there aren't other projects where this might, this approach might be warranted. I can tell you that there aren't any in our current six-year program. And as I think about the kinds of projects that we do, we typically can handle them in one phase if they, if the benefits of the project must be realized for it to, to, when it, for it to be completed before the benefits would be realized.

**BOSTELMAN:** OK, thank you.

**GEIST:** Thank you, Senator Bostelman. Any other questions? Seeing none, thank you for your testimony.

**KYLE SCHNEWEIS:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

**COBY MACH:** Good afternoon. My name is Coby Mach, C-o-b-y M-a-c-h, appearing today on behalf of the Lincoln Independent Business Association. We are supporting this as a test pilot case for many reasons. One is that we see an urgent need for the South Beltway, and it has to do with safety concerns. The confluence of commercial heavy traffic and local traffic on the stretch of Highway 2 in the city of Lincoln, with multiple signalized intersections, has resulted in many issues. Just a few years ago, for example, Lincoln was faced with a truck accident that shut down traffic on 56th and Highway 2 on a Husker game day. The truck was carrying 34,000 pounds of radioactive waste. A container slid forward into the truck cab. Fortunately, the radioactive waste was fully contained, but the incident provides a clear example of the dangers posed by stop-and-go heavy traffic in Lincoln, if you can imagine if we had had a nuclear waste spill on a Husker game day at 56th and Highway 2. Over the last two decades on Highway 2 there were 22 accidents involving at least one fatality or more. That's over 22 people dead on Highway 2 in the city of Lincoln during the last 20 years, and that's the people who have died; others have been seriously and critically injured. Pedestrians crossing the major highway create an even further risk as middle school students cross seven lanes of traffic at the intersection of 48th and Highway 2 to attend classes at Pound Middle School. Fast tracking the construction of the South Beltway will not only benefit Lincoln, but the entire state, as it will free up additional funding for resources for road projects in other parts of the state. Thank you for your time. I'd be happy to try and answer any questions.

**GEIST:** Thank you for your testimony. Are there any questions from the committee?

**COBY MACH:** Thank you.

**GEIST:** Seeing none, thank you. The next proponent. Good afternoon.

**KATIE WILSON:** Hello. Senator Friesen-- Friesen; I know it's not.

**GEIST:** I know we look a lot like; we're often mistaken [LAUGHTER].

**KATIE WILSON:** See-- when you have to read these things-- Jeez, I even practiced. Senator Geist and members of the committee, my name is Katie Wilson, K-a-t-i-e W-i-l-s-o-n, and I'm testifying in support of LB616 on behalf of the Associated General Contractors-Nebraska Chapter. You know them as AGC Nebraska. AGC is a trade association of highway contractors who perform highway, bridge, municipal, utility

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

infrastructure work across the state. My members don't build Nebraska alone, but depend on the 47,000-plus construction workers who are out daily improving Nebraska's infrastructure. We appreciate the steady support for transportation in the Legislature. We strongly believe in Nebraska's pay-as-you-go approach, which has served the state and contractors well and works for the mass, vast majority of the projects in the annual highway program. At the same time, AGC has also been excited to partner with the Department of Transportation and the Legislature to bring creativity and innovations to the state, such as the Transportation Innovation Act, Design-Build, the NEPA assumption, the DOT merger, and the County Bridge Match Program. As announced this morning, the approach to accelerate the Lincoln South Beltway time line is also appreciated. It will allow NDOT to deliver on the rest of the program and better serve the travelers of southeast Nebraska. AGC supports AM203, which becomes the bill. We believe this is the right approach to keep the underlying Prompt Payment statute on the books, which provides interest for delayed payments while also acknowledging the unique contractual approach and time line the DOT is taking with the South Beltway. Once again, thank you, Senator Geist and members of the committee, for your strong support for infrastructure in Nebraska. And I'd be happy to answer any questions you might have.

**GEIST:** Thank you for your testimony. Are there any questions from the committee? Seeing none, thank you very much. You got off easy today.

**MIKI ESPOSITO:** Good afternoon, Senator Geist and members of the Transportation and Telecommunications Committee. My name is Miki Esposito, M-i-k-i E-s-p-o-s-i-t-o. I am the director of transportation and utilities for the city of Lincoln. I'm here today in support of this legislation to authorize the state to use a creative financing tool to expedite the construction of the Lincoln South Beltway. Thank you for the opportunity to testify today. The Lincoln South Beltway has been the most significant and sought after project in our region since the 1960s. This vital link connecting Nebraska Highway 2, on the east, with U.S. 77 on the west has countless benefits, and some of them have even been discussed today, namely safety. I'd just like to share a little more crash data with you that LIBA actually shared. We had, over the last 20 years, over 6,100 crashes and, as you've already heard, 22 of those resulted in fatal, in fatalities. So diversion of heavy commercial truck traffic away from the urban network is important to reduce conflicts between semitruck traffic and local traffic. Greater east-west connectivity across Nebraska, moving goods to market reliably and efficiency, and efficiently, and, finally,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

...serving as a catalyst for jobs, growth, tourism, and economic prosperity for the city of Lincoln, Lancaster County, and the state of Nebraska. We are extremely grateful that this construction is beginning next year. Lincoln supports the legislation before you because it means we can drive on the beltway sooner than expected. Rather than enduring seven to eight years of construction, we can realize the project in three, due to the innovative financing proposed by the state to accelerate, accelerate project delivery. We want to thank the administration, together with Senator Hil-- Hilgers, for bringing forward legislation that combines innovation and fiscal responsibility. This tool will save taxpayers considerable time and money so that we can all realize the significant safety benefits the beltway will bring. In closing, I'd like to thank all of our project partners, including the Federal Highway Administration, the Governor's Office, the Nebraska Department of Transportation, the state Legislature, the Lancaster County, the Railroad Transportation Safety District, the business community, our industry partners, and the private sector, together in partnership with Lincoln. Thank you. I'd be happy to answer any questions you have.

**GEIST:** Thank you. Does the committee have any questions? Yes, Senator Albrecht.

**ALBRECHT:** Oh, thank you for being here. And I'm not real familiar with what has happened in the, in the past. But is this a city, a county, and a state project, or just a county and state or--

**MIKI ESPOSITO:** Yes it's actually located in Lancaster County so the project itself is just outside of city limits to the south. But it has been of great interest to Lincoln, as a city, and we've been a important funding partner for the project and in support of it for a very long time.

**GEIST:** Very good.

**MIKI ESPOSITO:** Yes.

**GEIST:** Any other questions? Seeing none, thank you for your testimony. Next proponent. Good afternoon.

**GINA COTTON:** Good afternoon. Senator Geist and members of the Transportation and Telecommunications Committee, my name is Gina Cotton, G-i-n-a C-o-t-t-o-n, and I'm the executive director of 4 Lanes 4 Nebraska. I'm here to do, today to testify in support of LB616. 4

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

Lanes 4 Nebraska is an industry and business coalition, working to raise awareness of the economic, social, and public safety benefits of finishing Nebraska's expressway system and connecting our communities with 21st century infrastructure. These high-priority infrastructure projects are a huge part of realizing the potential across the entire state. 4 Lanes supports giving NDOT all the tools necessary to get these projects done in a timely and cost-effective manner. LB616 is another tool in their toolbox. Each high-priority project that is completed is one less project competing for the department's time and resources. Each step in this process gets us closer to completing the expressway system, as promised to the citizens of many communities for over 30 years. Thank you, and I would be happy to answer any questions.

**GEIST:** Thank you for your testimony. Does anyone have any questions? Seeing none, thank you.

**GINA COTTON:** Thank you.

**GEIST:** The next proponent.

**BRUCE BOHRER:** Good afternoon, Senator Geist, members of the Transportation and Telecom [SIC] Committee. Bruce Bohrer-- for the record spelled B-r-u-c-e B-o-h-r-e-r. I'm the registered lobbyist for the Lincoln Chamber of Commerce, testifying on behalf of the Lincoln Chamber of Commerce, the Greater Omaha Chamber of Commerce, and the Nebraska Chamber of Commerce and Industry, in support of AM203 to LB616. First, I want to thank Senator Hilgers for introducing this and other legislation designed to bring more efficiency and speed to the process used for building our state transportation network. I also want to thank, and express our appreciation, to Director Schneweis for his persistent embrace of innovation and his drive to make things happen. Finally, I want to thank current and former senators who have understood the importance of our transportation system and prior to, prioritized this need. As you've heard from prior testifiers, the build-finance contract option and also the interest exclusion exemption in the amendment will allow us to expedite completion of the Lincoln South Beltway, a missing link in the state's expressway system, from eight years to complete that in three years. The old adage that time is money is certainly applied here, and it's helpful for, we believe, for both Lincoln and our entire state system. It has been long awaited, the South Beltway. This was one of the first projects. I've been working for the Chamber, this next month, for 19 years. I had a full head of hair like Senator Hilgers when I first

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

started on this [LAUGHTER]. But it has been long awaited. People-- I think every year somebody in Lincoln asks me if this is actually going to get built. So hopefully, after this coverage, this will, this will finally put this to rest. Getting the South Beltway in the Nebraska expressway system completes-- also saves money, as you've heard already, and allows DOT to put this toward building other projects. This advances the timetable for statewide system optimization. It will enhance safety and bring cost savings. Like you've already heard, the truck and local traffic that's intermixed really does create a safety issue, as was noted by our Director Esposito. We also anticipate the South Beltway, especially if we can get it done a little bit quicker, will be a catalyst for jobs and growth, continued job, jobs and growth in Lincoln. Again, on behalf of the Lincoln Chamber of Commerce, the Greater Omaha Chamber, and the Nebraska Chamber of Commerce and Industry, we thank the many leaders involved in advancing this innovative build-finance approach for delivery of a major project for Lincoln and the state of Nebraska. I have to make a comment about a former highway commissioner that I first started with on this job, Duane Acklie, the late Duane Acklie, late, great Duane Acklie, who was such a huge proponent for this. He kept telling me: always call it the expressway, the south expressway, Bruce, because it is part of our state expressway system. That never caught on. It's still-- everybody calls it the beltway; and that's OK, as long as it gets done. We'd love to get it done in three years so we would appreciate your support. And I'd be happy to answer any questions if you have any.

**GEIST:** Thank you for your testimony. Any questions from the committee?

**BRUCE BOHRER:** Thank you.

**GEIST:** Seeing none, thank you.

**LASH CHAFFIN:** Good afternoon. Vice Chairperson Geist, members of the committee, my name is Lash, L-a-s-h Chaffin, C-h-a-f-f-i-n, a staff member at the League of Nebraska Municipalities. I also would like to thank Senator Hilgers for bringing this, and, and echo the sentiment of some of the other testifiers that-- appreciative of the very persistent insistence of the Department of Transportation, over the last five or six years, in bringing stakeholders to the table to start to understand different, innovative ways of doing business. And, and it's-- sometimes it's very difficult to understand. There's lots of acronym, acronyms and big words and things like that, and it's very difficult to understand new and innovative processes but I hope, I hope this is something that can bring, ultimately bring a lot of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

innovation to the state and to the transportation system, as well.  
I'll certainly answer any questions.

**GEIST:** Thank you for your testimony. Are there any other questions from the committee?

**LASH CHAFFIN:** Thank you.

**GEIST:** Seeing none, thank you. Any other proponents of the bill? Are there any opponents of the bill? Seeing none, any neutral testimony? Seeing none, Senator Hilgers, you are welcome to close.

**HILGERS:** Thank you, [INAUDIBLE]. Thank you, Vice Chair Geist. Just very briefly in responding to Senator Bostelman's question, I, I, I don't support bonding, and I think there's a couple of reasons why this is distinct. One is, as the director mentioned, there's no bonds issued, which I think is maybe the fundamental distinction. Secondly, these are, this is a paid-for project. These funds have already been committed. They're part of, they're, they're all, they're part of the Transportation Innovation-- or Build Nebraska funds, and so these are, as opposed to bonding which brings, you know, new money from outside financiers, this is, these are dollars that were already being committed. The third thing I would note, just, just so the record is clear, I think I heard-- in your question you asked if the amendment had the, if the amendment wasn't bonding. And just to be clear, the amendment actually replaces the bill, so the amendment only deals with the interest portion of this, and so it refers to the contract, but the amendment doesn't have anything to do with any sort of financing of a project. So with that, I appreciate the committee's consideration. I appreciate, also, Ms. Wilson and some other testifiers noting the work this committee has done, including LB271, NEPA assumption, which we think will speed up the East Beltway, among other projects in Nebraska. I think it's a great legacy for the work of this committee to see this project and others done. So with that, if there are any last questions I'm happy to address them. But thank you for your time.

**GEIST:** Any questions from the committee other than one that I have? I'm just curious, Senator Hilgers, if those funds will be protected in case we have another downturn or continue a downturn. Are those funds not capturable by any other need we may have?

**HILGERS:** The funds to build the beltway? Well, that's a good question, and I'll answer to the best of my ability, subject to clarification

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

from the department. But they might be able to answer, clarify any mistake I might make, outside of the mike. Those are, those are gas tax funds. It was primarily-- and see, I think the Build Nebraska sales tax and the Transportation Innovation Act includes gas tax funds. I think the contract has to be subject to any future appropriation so I think, technically I suppose, there could be-- I don't know exactly how that would work in the future-- I mean, if we were to do it either way, where it's subject to us having dollars in year 7 or year 8 if we're cash flowing as a state. So I'm not sure that the bill will impact it or the process announced this morning from the administration will impact that particular aspect. I don't know if that answers your question. It's probably-- if it doesn't, it's because I don't know the specific answer.

**GEIST:** I'll just inquire afterwards; thank you.

**HILGERS:** Ok. I should've just said that before I started talking.

**GEIST:** That's all right. That was-- it was close. It was close. I appreciate it; thank you.

**HILGERS:** Thanks.

**GEIST:** Are there any other questions? Thank you.

**HILGERS:** Thank you.

**GEIST:** And this closes-- oh, I have to read a couple of letters into the record. We do have a letter of support from the Nebraska Cooperative Council, Rocky Weber, president. And that will conclude--

**HILGERS:** Thank you.

**GEIST:** --the hearing of LB616. And now we-- moving on to LB269. OK. And Senator Friesen had to leave, and so his legislative aide will be--

**KURT BULGRIN:** Right.

**GEIST:** --taking his place. You're welcome to open.

**KURT BULGRIN:** All right. Thank you Chairwoman Geist and members of the committee. My name is Kurt, K-u-r-t Bulgrin, B-u-l-g-r-i-n. I'm the legislative aide for Senator Curt Friesen who represents the 34th Legislative District. He had a conflict this afternoon and couldn't be

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

here, so he asked me to come up here and present LB269 to you. LB269 would allow a student with a school permit to drive to school-related events and functions located on property used by the school they attend. Examples could include driving to a golf course for golf practice or to a YMCA for swimming and driving [SIC] events. It's a very simple bill, and thank you for your time.

**GEIST:** And thank you. Are there any questions on the committee? Yes, Senator Cavanaugh.

**CAVANAUGH:** I have questions, but I'm not sure if it's, if you can answer them. I just had two questions. They, I don't know enough about the current permits. Do the students, drivers, receive drive, driving training already? And is there a limit on the distance, so like if the school function is, you know, from one side of the state to the other for a state tournament?

**KURT BULGRIN:** The idea of the bill was to limit students from driving from like Omaha to Scottsbluff for a playoff game. Originally it was, the way it was drafted looked like that would allow for that to happen. Senator Friesen was hoping, with this draft, it would prevent that from taking place.

**CAVANAUGH:** Okay, thank you.

**GEIST:** Any other questions? Yes, Senator Bostelman.

**BOSTELMAN:** So Mr., Mr. Bulgrin, does that-- say there's a off-site play practice, off-site debate practice. Perhaps they have to practice, you know, their sports program off the school site. Does that prohibit them from going there?

**KURT BULGRIN:** It shouldn't if it's-- as long as the school uses or it leases the property or uses the property, they should be able to do that.

**BOSTELMAN:** So it wouldn't, as you said, it wouldn't be to go to a speech meet in, if you were in Brainard to go to Howells to go to a speech meet, they wouldn't do that; it's just for that--

**KURT BULGRIN:** Right. If they're, if they're participating in that event, they can drive--

**BOSTELMAN:** OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

**KURT BULGRIN:** --to that then.

**GEIST:** Thank you. Any other questions? Seeing none, will you stick around for closing?

**KURT BULGRIN:** I'll stick around but I probably won't close.

**GEIST:** OK.

**KURT BULGRIN:** Thank you.

**GEIST:** Thank you. Any proponents who wish to testify for the bill? Are there any opponents who wish to testify for the bill? Seeing none, any neutral testimony for this bill? Seeing none, you are waiving closing? All right. So this will end the hearing for LB269. And next we will have Senator Bostelman open on LB278. Afternoon, Senator Bostelman.

**BOSTELMAN:** Good afternoon, Chairwoman Geist and the Transportation Telecommunication Committee. My name is Bruce Bostelman; that's B-r-u-c-e B-o-s-t-e-l-m-a-n. I represent Legislative District 23 on LB278 introduction, on behalf of the Veterans' Affairs. This will be a very short opening as this bill is actually incorporated in, incorporated into LB192. LB192 is currently on Select File. I have this bill sitting just in case there was a problem with LB192 and, if there was, then we would have this in, in committee. And I would appreciate your support if we so need it. If not, thank you for your time.

**GEIST:** Thank you, Senator Bostelman. Are there any questions from the committee? Yes, Senator Cavanaugh.

**CAVANAUGH:** Thank you. I would just like to commend you and Senator Hilgers on your ability to get bills that you no longer need.

**BOSTELMAN:** I'm sorry?

**CAVANAUGH:** Bills that you no longer need.

**BOSTELMAN:** So it's good-- on a roll.

**CAVANAUGH:** Way to go.

**GEIST:** Any other questions? Seeing none, I assume you're going to stick around to close?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 11, 2019

**BOSTELMAN:** I will.

**GEIST:** OK. Are there any proponents for LB278? Any proponents? Are there any opponents for LB278? Seeing none, any neutral testimony for LB278? Seeing none, Senator Bostelman, you are welcome to close. Actually, I will read into the record one letter of support from Charles F. Craft and that is, as I said, a letter in support. And Senator Bostelman waives closing, and this will conclude our hearing for LB278 and our hearing for the day. Thank you. We are closed.