

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

Transportation and Telecommunications Committee  
September 12, 2008

---

[LR322 LR324 LR365]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Friday, September 12, 2008, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR365, LR322, and LR324. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Scott Lautenbaugh; and LeRoy Louden. Senators absent: Ray Aguilar; Carol Hudkins; Dwite Pedersen; and DiAnna Schimek.

SENATOR FISCHER: Good afternoon and welcome to the Transportation and Telecommunications Committee. We are having an interim hearing today on three resolutions that were proposed this last session. We will be taking them in the order that they were posted. First of all, I would like to introduce committee members that are present today. To my far right is our Vice Chair, Senator Arnie Stuthman of Platte Center; to my immediate right is our committee counsel, Mr. Dusty Vaughan; to my left is our committee clerk, Ms. Pauline Bulgrin; to her left is Senator Scott Lautenbaugh from Blair; and on the end we have Senator LeRoy Louden from Ellsworth, Nebraska. We do have two pages today, Brennen Miller from Lincoln and Chauncey Brown from Gothenburg; and if you have any handouts or materials that you would like the committee to have, please when you come up to testify, just call for one of the pages and they will be happy to take care of that with you. Those wishing to testify should come to the front of the room and be ready to testify as soon as someone finishes, in order to keep the hearing moving. I would like you to complete the green sign-in sheets--we have those at the on-deck table--and have that ready to hand in. When you step forward to testify, if you would bring that up and hand that to our committee clerk, Mrs. Bulgrin, I would appreciate it; and do that before you testify. For the record, at the beginning of your testimony please spell your last name and also your first name, if it can be spelled in different ways. We do that for our transcribers, and I would ask that you try and keep your testimony concise. If you don't want to testify but you want to indicate your presence regarding a resolution, you can do so at the on-deck table, and

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

Transportation and Telecommunications Committee  
September 12, 2008

---

that's on the yellow sheet that is provided there; and that will be part of the official record of our hearing. And if you don't choose to testify, you may submit comments in writing and have them read into the official record at the hearing. With that, I would like to open the hearing on LR365, with Senator Louden, will be introducing the bill. We will be on this resolution until about two o'clock. At that time I would like to move to the next two. I don't want to hurry anyone, but we would like to keep the hearing moving. So welcome, Senator Louden. [LR365]

SENATOR LOUDEN: (Exhibits 1 and 2) Thank you, Senator Fischer, members of the Transportation Committee. I'm LeRoy Louden, representing the 49th Legislative District, here today to introduce LR365, to examine railroads' responsibilities to the citizens of Nebraska. Railroad traffic continues to increase at an impressive rate. One newspaper recently reported that the Union Pacific has more than 400 trains in operation this year than it had last year. Coal is being hauled at an enormous rate on the Union Pacific and the Burlington Northern Santa Fe railroad lines. Hence, rail congestion is increasing on steep grades and in major towns and cities. This congestion has, in turn, increased the number of blocked crossings, noise complaints, and citizen safety concerns. Today I want to address citizen safety and one-person helper units that are used on steep grades. I believe that the information presented at this hearing should be placed on the record, because citizen safety concerns about one-person helper crews do not appear to be fully addressed by the Burlington Northern Santa Fe or the Federal Railroad Administration. My interest in this issue arises not only from people living in the 49th District but also from correspondence I have received from the Federal Railroad Administration. I will give copies of that correspondence to the committee clerk and for you. There is a long, steep grade about 20 miles in length south of Crawford, Nebraska. The grade is known as the Crawford Hill. Extra locomotives known as helper units are required to push long coal trains up the hill. On May 27, 2008, the Burlington Northern Santa Fe began using one-person crews instead of two-person crews on the hill. Some Crawford residents feel this threatens their safety, because Crawford lies at the bottom of the hill. Prior to May 27, 2008, two-person crews were used to operate the helper

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

Transportation and Telecommunications Committee  
September 12, 2008

---

units. This allowed someone to be in control of the locomotive at all times, because if a situation arose that required a crew member to dismount, there was another crew member to stay with the locomotive. As you know, railroad operations are reviewed by the Federal Railroad Administration. The administration approved the BNSF use of one-person helper units on the Crawford Hill. I have been told that because of the steepness of the grade, an unattended locomotive on the Crawford Hill would become unstoppable after only rolling a matter of yards. So questions arose, such as, is there a danger to a crash at Crawford, what guarantees can a railroad give for the citizens' safety, and will a locomotive be left unattended if an engineer of a one-person crew has to dismount the unit? I wrote to the administration and I'd like to share with you an excerpt from the response I received. They quoted, "If operational conditions occur that would require the engineer to perform duties that would leave the locomotive unattended, the Burlington Northern Santa Fe will call a two-person crew to relieve the engineer or other appropriate assistants when such conditions exist. This raises additional questions, such as, who can call a two-man crew? Only the railroad? Or can the mayor or sheriff also call an extra crew? The administration also wrote to Senator Chuck Hagel on this subject on May 10, 2004, stating that in many instances, helper locomotives may be required to be operated backwards; that is, the long nose forward, for long distances. Under these circumstances, the engineer's view of the track ahead can be restricted as the locomotive negotiates curves. Hence, the nose of the locomotive extends approximately 50 to 60 feet beyond the engineer's view. The engineer is able to see the track ahead on his side of the locomotive but cannot see the track ahead when the track curves to the other side of the locomotive. In two-person operations, the track ahead can be viewed at all times by the two crew members. Railroads can alleviate this condition by requiring that two locomotives be used in a one-person helper service back to back, meaning each locomotive headed in the opposite direction. The engineer then would be able to operate the locomotive in the preferred forward position, which is the short nose forward, in either direction. "Most locomotives in operation today are equipped with safety features that will stop the locomotive in the event the locomotive engineer fails to respond within a specified

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

Transportation and Telecommunications Committee  
September 12, 2008

---

period of time." This describes one of the problems with one-person helper units. The engineer cannot see the track ahead when the track curves to the other side of the locomotive. This doesn't exactly sound safe to me. It is also not much comfort to read that most locomotives are equipped with safety features that will stop the locomotive if the engineer doesn't respond. Will all of the units on the Crawford Hill be equipped with these safety features or just most of them? The 2004 letter to Senator Hagel goes on to state that the FRA considers possible scenarios before approving an operation request. The letter states, and I'll quote: "Regarding rules compliance, FRA expects these operations to comply with all applicable operating rules." Operating scenarios could occur in all other helper operations. If credible safety issues are identified or brought to our attention, we would take the necessary actions to correct them. Again, more questions come to mind. When the FRA made its decision to approve one-person helper units on the Crawford Hill, did it consider all possible mishap scenarios, or did it only consider scenarios that deal with safety issues of concern to the railroad? Also, I believe that credible safety issues have been identified, but I'm not assured that these issues are taken seriously. Therefore, I appreciate very much your hearing LR365 today, and because even though the federal government makes decisions on railroad operations, I believe that there are many questions that should be addressed and that there should be on record those questions and the answers provided, in the event that an accident occurs. I thank you for your time and your attention today, and I'd be happy to try to answer any of your questions. [LR365]

SENATOR FISCHER: Thank you, Senator Loudon. Are there any questions? Senator Stuthman. [LR365]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Loudon, it talks a lot about, and you mention it in your testimony, that the locomotive's nose is 50 or 60 feet out there, beyond where the crew member can see? Is that what is really happening? I mean, it seems like that's a long distance out there. Don't you think they can see? [LR365]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

SENATOR LOUDEN: It depends on which...if they're operating...the cab of the locomotive is at one end of the locomotive, but when they run them the other direction, then the cab is at the back end of the locomotive, is what...that's what they're discussing here. So the way the FRA expects the railroad to do is to run at least two locomotives back to back, so that when the engineer gets ready to run them the other way, he goes down to the other end of those two locomotives and he's on the short end of the locomotive then, so he has a clear view. That's what is expected to happen all the time. [LR365]

SENATOR STUTHMAN: Okay. Thank you. [LR365]

SENATOR FISCHER: Other questions? Thank you, Senator. When we have interim study hearings, as most of you in here know, it's in order for senators on this committee to receive information, so we don't have proponents or opponents to any resolution. So at this time, I would just ask if you have any testimony, any information on this resolution to present to this committee, that you step forward. Good afternoon. [LR365]

ROBERTO MUNGUIA: Good afternoon, Senator Fischer, members of the committee. My name is Roberto, R-o-b-e-r-t-o, Munguia, M-u-n-g-u-i-a. I'm the director of government affairs for the BNSF Railway Company and I've prepared a written statement that I'd like to read and make part of the record. BNSF Railway Company does not operate in a vacuum, where we wake up one day and arbitrarily decide to implement a certain operating procedure on our system. The safety of our train operations is governed by the U.S. Department of Transportation under the leadership of Secretary of Transportation, Mary Peters. Within the DOT the specific agency that promulgates and enforces rail safety regulations operating procedure is the Federal Railroad Administration, FRA. The one-person helper unit operation that was implemented on Crawford Hill on May 27, 2008, in Bridgeport, Nebraska; on January 19, 2004; and in Sheridan, Wyoming in 2003; was reviewed and approved by the FRA

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

Transportation and Telecommunications Committee  
September 12, 2008

---

prior to implementation. First of all, let me briefly describe our train operation on Crawford Hill. The train has an approximate grade of 1.7 percent; as a result, we need to help our trains over the hill with the assistance of a helper unit. These are locomotives which are attached to the rear of the train to help shove it up and over the hill. During this operation the locomotive engineer in the lead locomotive is in control of the movement of the train. The locomotive engineer on the helper units assist with power and air-braking systems, when needed. Once the train has reached the apex of the hill, the helper units are separated and returned to the bottom of the hill to assist other trains in the same manner. The same operation is in place in Bridgeport, and it has a grade of 1 percent, and also in Sheridan, Wyoming. The crew members of the lead locomotive on this operation consist of a certified locomotive engineer and a conductor. On the helper units, the traditional operation is to have the same amount of crew members; however, with the implementation of one-person helper units, the helper unit consists only of a certified locomotive engineer. There are approximately 40 to 45 coal trains and 3 to 4 freight trains that operate over Crawford Hill on a 24-hour basis. As information, we currently have positions known as emergency responders working on Crawford Hill on a 24/7 basis, assigned to the task of transporting train crews, providing mechanical tools and equipment to train service employees, in the event of minor repairs, as needed. This type of position is also assigned to our Bridgeport operation. As background: On December 10, 2003, BNSF Railway conducted a one-person helper unit informational meeting with members of this Transportation Committee and the Nebraska Public Service Commission. During that meeting we shared with the group the safety and operational procedures involved with this practice. At that time we also advised the group that we were going to implement this operation in Bridgeport in 2004 and were contemplating whether we were going to implement it on Crawford Hill in the same year. On January 24, 2004, we had discussions with Senator Loudon and Senator Erdman, advising them of our intent to implement one-person helper units within their legislative districts. At that time we shared with the senators that as early as September 2003, we had discussions with leadership of the Brotherhood of Locomotive Engineers and the United Transportation Union about this procedure and

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

Transportation and Telecommunications Committee  
September 12, 2008

---

our intent to implement it. We conducted a town hall meeting with our employees and others in Bridgeport on January 14, 2004. On January 19, 2004, we implemented one-person helpers at Bridgeport. At that time, the decision was made to postpone implementation of one-person helper at Crawford; and again, that was in 2004. Now we'll fast forward to the first part of this year. The decision was made to implement one-person helper units at Crawford effective the end of April. On March 19, 2008, I and other BNSF representatives met with Senator Louden to advise him of our decision and to again explain the operation. In communicating this decision and operation, town hall meetings were held with our employees and the general public on March 27 and March 28 of this year. Additionally, there was a Crawford subcommittee developed to discuss safety concerns and training, brought to the safety committee by employees. This subcommittee consisted of local union leadership and management. A separate meeting was also held with the Crawford fire chief on April 9, 2008, to discuss his concerns about this operation. To be certain as much communication about this operation was accomplished, we again pushed back the effective date of implementation to March 27, 2008. On March 20 of this year I advised Senator Louden of our decision for implementation of this operation in Crawford, or on Crawford, to begin on the 27th. Since that time, the operation has worked safely and effectively. The safety of our employees and the residents of communities wherein we operate are paramount in our minds, as well as with the FRA and the Department of Transportation. If the one-person helper operation was not evaluated as a safe procedure, the FRA would not have allowed us to implement it back in 2003. That was not the case. As a matter of fact, the FRA has had on-site inspections of this operation, both in Crawford and in Bridgeport, taking no exceptions. The fact is that this operation is safe, and we have five years of demonstrated experience to prove it. This is not a new operation. Not to be redundant, but this operation has been in place in Nebraska for the last four years, and it's working as intended. I appreciate and respect Senator Louden's concerns. I see he's looking after the safety and welfare of constituents and the good citizens of Nebraska. But one-person helper units have been working as designed, in a safe manner, which is our responsibility and the responsibility of the Department of

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

Transportation and Telecommunications Committee  
September 12, 2008

---

Transportation and the FRA, to the citizens of Nebraska and the nation. The fact that we have held off in implementing operation in Crawford for four years demonstrates our good-faith effort in trying to make all those directly or indirectly involved with this operation to better understand the procedure. Thank you. [LR365]

SENATOR FISCHER: Thank you, Mr. Munguia. Are there questions? Senator Stuthman. [LR365]

SENATOR STUTHMAN: Thank you, Senator Fischer. Can you explain to me the situation of the coal train? You've got how many cars? [LR365]

ROBERTO MUNGUIA: Between 120 and right around 136. [LR365]

SENATOR STUTHMAN: Okay, and you've got two engines on the front? [LR365]

ROBERTO MUNGUIA: Well, they can either come two in the front and one in the back, or two in front and two in back, beside the helper units. The helper units consist of three locomotives. [LR365]

SENATOR STUTHMAN: The helper units? And the reason I'm asking these questions is because you said that the helper unit just gets them to the hill and then backs off, right? [LR365]

ROBERTO MUNGUIA: Yeah, it gets them up and over the hill, and at some point they cut away, the helper units do--and again, we're talking about three locomotives that we call the helper units--they cut away from the train and they go back down to the hill. [LR365]

SENATOR STUTHMAN: Go back down the hill. So that train still has two in the front and one on the back? [LR365]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

ROBERTO MUNGUIA: It can either have two in the front, one in the back, or two in the back. [LR365]

SENATOR STUTHMAN: Or two in the back? [LR365]

ROBERTO MUNGUIA: Yeah, that's the train makeup before the pushers or the helpers hook on it. [LR365]

SENATOR STUTHMAN: That's the train makeup, but...and then this helper unit is manned by one engineer? [LR365]

ROBERTO MUNGUIA: That's the one-person helper operation, yes, sir. [LR365]

SENATOR STUTHMAN: Yeah, and it gets them to the top of the hill and then it backs off or it goes off to (inaudible). [LR365]

ROBERTO MUNGUIA: Cuts away and it goes back down to the hill. [LR365]

SENATOR STUTHMAN: Do they help every train up the hill? [LR365]

ROBERTO MUNGUIA: I believe so. There's a fellow behind me that can answer that better than I can. [LR365]

SENATOR STUTHMAN: Thank you for the information. [LR365]

SENATOR FISCHER: Senator Louden. [LR365]

SENATOR LOUDEN: Yeah. Thank you for testifying, Bob. I agree that you had, you know, Burlington Northern had a lot of meetings with people and that sort of thing. I

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

Transportation and Telecommunications Committee  
September 12, 2008

---

mean, that's...and that was well that they did that. I guess as I've looked at it, the FRA approved this, providing all rules are followed. [LR365]

ROBERTO MUNGUIA: Yes, sir. [LR365]

SENATOR LOUDEN: And therein in where I sometimes have the problem with one person being back there on that locomotive. If there's a situation comes up that something has to be done, can the rules be followed? What does he do if there comes a situation that he probably has to move off the train or he has to...the uncoupling device doesn't work as planned or something like that? What happens then? This is my concern, is that there's these three locomotives, as you say. I knew there was two or three. Some of them had a fuel car in-between, but I don't think they do that anymore, but they're sitting there, what, 240 tons apiece, and there's three of them sitting there, and there's one man up there to look after that. And I've been around machinery all my life. Everything don't work perfect all the time. So this is my concern, is this time when something goes wrong, or that the rules aren't followed completely, you know. What do we do then? [LR365]

ROBERTO MUNGUIA: Well, are we talking about at the point of the helpers separating, or are we talking about as the engine is going back down to Crawford? [LR365]

SENATOR LOUDEN: Either way, any place along the line there. [LR365]

ROBERTO MUNGUIA: Well, let's take the last one first. You talked about the safety appliances on these locomotives. Every helper unit that is used in this one-helper unit operation consists...the locomotive has to have an operational...what's called an alerter, and the alerter is the device in the locomotive wherein I'd say it's a safety precaution, in the event, let's say that engineer is coming down the hill and for some reason becomes incapacitated. There's a system that begins, and it begins with a visual warning saying that that engineer has to do something in that locomotive; in other words, has to pull the

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

Transportation and Telecommunications Committee  
September 12, 2008

---

horn, do something with the throttle, do something with the movement of the train. Otherwise, if it doesn't within a certain period of time...or they can hit the reset button. If they don't, that engine will stop. [LR365]

SENATOR LOUDEN: Okay now, is that the part that this one letter refers to, is most locomotives are equipped with that? Is that what they're talking about? [LR365]

ROBERTO MUNGUIA: Yeah, and that isn't...let me answer this. All locomotives that are used in this operation do have and will have alerters on them, operational alerters. [LR365]

SENATOR LOUDEN: Okay. Do they have now? [LR365]

ROBERTO MUNGUIA: Yes, they do. [LR365]

SENATOR LOUDEN: Okay. [LR365]

ROBERTO MUNGUIA: Okay. Now going back to your question about when they actually make the separation, there is an operational procedure--and again, the fellow behind me will be able to better answer that, in as much as he's an operational person--but there is a procedure you have to follow in order to set the brakes on those locomotives when they get off...should they have to uncouple the train. There's a procedure that locks...that puts the brakes in operation at that point. [LR365]

SENATOR LOUDEN: Okay. And that would be the rules that they're expected to follow. [LR365]

ROBERTO MUNGUIA: That's right. [LR365]

SENATOR LOUDEN: Now what about when they're up at the top, then, do they got to

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

Transportation and Telecommunications Committee  
September 12, 2008

---

get off from the front of the locomotive and walk back to the other locomotive to drive it down the hill, or do they stay in the cabin and just drive it back down the hill? [LR365]

ROBERTO MUNGUIA: Well, they'll have to either...yes, they'll have to switch ends and go to the other end of the consist of the locomotives, okay? They can either choose to stay on the train and walk the catwalk, if you will, or they can get off and walk, and climb up to the lead locomotive. [LR365]

SENATOR LOUDEN: Okay. Then while they're walking for that distance, how is that locomotive tied down? [LR365]

ROBERTO MUNGUIA: And again, that's the operating procedures that are in place, where they have to set the brakes on that locomotive. And one thing to understand is, at that point where they do the separation of the helpers against the train, there is...I'm trying to think of the words...the geographical makeup at that point is not just a descending grade. If for whatever reason those locomotives broke away, and we don't see that happening, they would have to go up an incline and then go back down, so that...if anything, if they were to roll, they would roll against the train. But again, with the procedures in place, that won't happen. [LR365]

SENATOR LOUDEN: Okay. Thank you. [LR365]

SENATOR FISCHER: Other questions? I noticed in your testimony you said at Bridgeport there's a 1 percent grade? Do you know what the percentage of grade there is at Crawford and Sheridan Wyoming? [LR365]

ROBERTO MUNGUIA: I don't know the Sheridan, Wyoming, one. The one at Crawford is 1.7. [LR365]

SENATOR FISCHER: So like...? [LR365]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

ROBERTO MUNGUIA: Yeah. [LR365]

SENATOR FISCHER: Okay. Thank you. Thank you, Mr. Munguia. Next person who would like to come forward. I need you to bring up your green sheet, please. Thank you. Welcome. [LR365]

MARIA BUCKLES: (Exhibit 3) Thank you. My name is Maria Buckles, B-u-c-k-l-e-s. I am a locomotive engineer out of Alliance, Nebraska, and I have worked all of these jobs that Mr. Munguia is talking about. I had a prepared statement for you, but I'll just let you read that on your own. I think I need to answer some of, I guess, what I would consider misconceptions that Mr. Munguia has said here today. I was at the meeting at Bridgeport when they went to the one man only, and at that meeting we voiced our concerns, and they were ignored. That is a 1 percent grade at Bridgeport. Now Mr. Munguia says that that's working fine. It's not. They've had wrecks down there. We had an engineer who actually, because these engineers work seven days a week, 365 days a year minus their vacation, they work a lot. They work nights, they work seven days a week. We had an engineer fall asleep and his locomotives went into the side of a freight train at Bridgeport. Very fortunate, it was at a slower speed, and they didn't hit a HAZMAT car. Very fortunate for that. It hasn't worked great like they're telling you. We've had engineers that have gone by red signals, which are stop signs. Same in Sheridan. They say that that has worked great. They've had engineers, due to mechanical failure or human failure, go into the back of trains. These are all stuff that we actually have write-ups on. It never seems to get far enough away from where it happens for anybody to hear about it. So these...and these are grades with the Bridgeport and the Sheridan that are like comparing apples to oranges when you talk about the Crawford grade--much, much steeper grade there. I sat on their safety committee that they had when we discussed the Crawford stuff. They didn't do it...implement it at Crawford when they did Bridgeport simply because we all agreed at that time that it was very unsafe to do at Crawford, because of the grade. And now

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

Transportation and Telecommunications Committee  
September 12, 2008

---

nothing has changed here four years later, and all of a sudden it's safe to do it at Crawford? I disagree. I have worked Crawford Hill has a locomotive engineer, I've worked it as a conductor, I've worked it as a brakeman, I've worked it as a helper engineer, and I've worked it as a helper brakeman. And I'm here to tell you, it's unsafe. Now Mr. Munguia has talked about the emergency responders that we have up there on Crawford Hill that are there 24/7, and they are. And they went to the one-man only helper engineer, and the first time our crews called for that responder to come and help them, he didn't show up at all. He couldn't find it. The second time that we had a crew call for that helper or that responder to come and help them, he did show up, but it was an hour-and-a-half later. So the responders that they say are there, but they're not railroad personnel. I don't think they truly understand it, and they really don't even know where they're going. So if we had, say, a one-man helper who had a medical emergency, there's nobody there to help him--none. He's just left there. Like I say, their subcommittee that they spoke about that was a safety committee, that was to look at going to the one-man helper only at Crawford, I went to all of those meetings. And we went back and forth on this. I mean, the working people will tell you, if there's any other working people out here, they'll tell you what I'm telling you. It's unsafe. They actually, out of that committee, came out with a thing called the best practice to do if we had trouble on Crawford Hill. And what ultimately came out of that committee, none of the working people would sign off on. We said it's not safe; your best practice is not safe for our people. It's going to get somebody killed. So we did not sign off on that with that subcommittee, safety committee. The working people out there didn't. You know, they talked about the FRA inspectors coming out and inspecting before we did this. Yes, they did. I was there. I was there with the FRA inspectors, with Mr. Berry (phonetic) and with Mr. Elrod (phonetic). When Mr. Berry came out, he came out because I sent a complaint saying, we cannot comply with the air brake test, and that is the test to make sure that you have brakes on your locomotives, and we proved that to Mr. Berry. He agreed with us, that we couldn't comply with that. Instead of shutting the operation down until they could, they just called Burlington Northern Santa Fe and they rewrote the rule and made it less restrictive. Now when it comes to safety, you can't keep going less restrictive and

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

Transportation and Telecommunications Committee  
September 12, 2008

---

less restrictive, just to make it easier. Safety rules are there to protect the lives of the people working and of the public, and they've done this time and time again with the Crawford one-man helper. They get less restrictive and less restrictive with all of the rules that we've wrote in and said, you know, these don't work. You know, we were told...I was at the town hall meetings that Mr. Munguia talked about. I've been at all of them, and we were told flat out by our general manager, Burlington Northern Santa Fe general manager of the Powder River, that the only reason that they're removing the brakemen from the Crawford helpers is due to a monetary reason. They're doing it strictly for economics, which I...you know, Burlington Northern, I work for them. They give me a paycheck. I want them to make money, but I don't want to do it at the cost to the lives of my friends and family. I have friends and family that work out there. I work out there. I have friends and family that live at the bottom of Crawford Hill. When they say that they comply with all of the regulations that the FRA has set forth, it's a lie. I'm going to say it straight out--it's a lie. I got a letter back from the FRA saying that with the one-man helper, if they had to actually get off of their locomotive and leave it and go throw a switch to change tracks, they wouldn't do that with a one-man helper. They would send out a crew. That's what the FRA told me BNSF had agreed to. Six days after I got that letter, they made a one-man engineer, helper engineer, go throw those switches. Now I'm no mechanic, but I do know mechanical stuff fails. I've been on locomotives where the alerter, which is supposed to be their end-all safety thing, has not worked. I've been on locomotives where it was working when I left on my trip, and it quit working halfway through my trip. Their air brake test at the top of the hill, which you were talking about, Mr. Louden, when you change ends on a locomotive and go from one locomotive and you go to the other end, three locomotives away and you're going to run from that end, they changed that test to ensure that our brakes work before we start down that hill, by making it a rolling test. So what that means is that at the top of that hill, when I change ends, I have to start my locomotives moving before I test my brakes. Now I'm not quite sure where Mr. Munguia was talking about, that they change ends that it's flat up there, because I'm hear to tell you--it's not. I've worked it; I've worked the helpers. It's not flat where you change ends, and if you start your locomotives moving

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

Transportation and Telecommunications Committee  
September 12, 2008

---

down that grade before you know you have brakes, you're gone--you're gone down that hill. It's just that simple. And I actually had an engineer, I asked him to try this. I said, you know, from a stopped position, just release your brakes. I want to know how fast you're going before that alerter goes off. He was doing 47 miles an hour before the alerter even started to go off. The motors weigh on an average, I'd say, 400,000 pounds. The brakes aren't going to stop them, and if they do they're not going to stop them right away, even if the alerter works. It's a mechanical device. On a train you're not going to stop 19,000 tons once you've got it out of control, once it's going too fast down that type of grade. I'm...you know, it's just beyond me why they would think we could, because I ride trains; I mean, getting on or off a train about every day. So to say that they have safety regulations in place to stop this from happening is just crazy; they don't. You know, we have a freight train that we have helpers going to the side of down at Crawford, and they hit a HAZMAT car, we've got the whole town of Crawford in trouble now. Where they had that engineer get out of his locomotive consist and walk down to throw those switches, had those locomotives taken off, they're only about a mile, mile-and-a-half, out of Crawford. There's a main crossing right at the bottom of that hill in Crawford. You've got a church on one side and houses on the other. This is where little kids--they told them at the town hall meeting--little kids cross that crossing daily. So you have a locomotive engineer, one man only, coming down that hill and he has a heart attack or a stroke, there's nobody there to stop it. There's a blind spot. As an engineer you have a heck of a blind spot, even if you're not long hood...lead with the locomotive out in front of you, you have a heck of a blind spot on that side where your conductor usually sits, and he can look out the window and say, hey, we got a car coming, you know. I can't do that by myself. I'm playing Russian roulette. I'm hoping I don't have a car coming after a certain amount. I'd say it's a good--and I have never measured this; I'm just going on experience--I would say it's a good, you know, 50 to 100 foot blind spot there, where you know, if a car is trying to beat you, you don't see them. And I know if you're running with most of your motor out in front of you, that's a heck of a blind spot, where you won't see anything. You can't take a preventative measure if you can't see it. So...and that's why I came down here today. I mean, I'm

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

Transportation and Telecommunications Committee  
September 12, 2008

---

very serious about this. I don't want to have to go to a funeral because of this, because Burlington Northern Santa Fe wanted to save a few dollars. I don't think it's worth it.

[LR365]

SENATOR FISCHER: We appreciate it. Thank you, Ms. Buckles. [LR365]

MARIA BUCKLES: Thank you. [LR365]

SENATOR FISCHER: Any questions? Senator Louden. [LR365]

SENATOR LOUDEN: Yeah. I just want to thank you for coming 400-and-some miles to testify; appreciate that, to come down here and give your viewpoint on what's going on on Crawford Hill. So I thank you very much for coming down. [LR365]

MARIA BUCKLES: Okay. [LR365]

SENATOR FISCHER: Other questions? I see none. Appreciate you making the trip down. Thank you very much, and thank you for the written testimony. That's always helpful for us to look over, then, too. Anyone else wishing to come forward on this resolution? Good afternoon. [LR365]

FRANK BENNETT: Hi there. [LR365]

SENATOR FISCHER: Short testimony, I hope? [LR365]

FRANK BENNETT: Well, I was thinking...you said 30 minutes. I hope you can allow a little more than 30 minutes at this point. [LR365]

SENATOR FISCHER: We will not cut off anyone who wants to testify. [LR365]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

FRANK BENNETT: Okay, thank you. My name is Frank Bennett, B-e-n-n-e-t-t. My title is superintendent of operations for the BNSF, in Alliance, Nebraska. What that title means is I'm an operating guy, and I've been an operating guy for many, many years, and I have responsibility for territory all around Alliance, Alliance to Ravenna, Alliance to Sterling, Alliance to Guernsey, Alliance to Edgemont, which includes the Crawford Hill, which we heard talked about today. I've got a written statement here that I'd like to just go ahead and read, and I've got a few comments to dispute some of the previous testimony, and then I'll open for questions. We at the BNSF take safety very seriously, and I'm here to tell you that this one-person helper operation is not an unsafe operation. It is not safer than what we were doing before, nor is it less safe. The technology advancements over the years is what drives this decision, and that is basically why we are where we are today. The BNSF does and has operated one-man helper operation for the past several years. We have a similar operation in Sheridan, Wyoming, where we assist trains on grades up to 2 percent in three different locations, two south of Sheridan and one just north of Sheridan. We also have helper districts at Bridgeport, Nebraska, where we do the same. Neither district has presented any problems, and both have populations--cities--that we operate into and through, just as Crawford. There's been a lot of talk about HelperLink. HelperLink and single-man operation do not really go hand in hand. HelperLink was introduced prior to one-man operation and it's purpose is solely velocity. This piece of equipment allows us to cut the engines off without stopping at the top of the grade. The HelperLink, when we do use it, provides train line error that allows both the train and helper engines to slow with train brakes applied by engineer on the head end, or it also allows for emergency application of the brakes, which can be applied at either end. HelperLink is definitely a bonus with single-man operation but not required. If we don't have it, once the helper engine ties onto the rear of the train to put the train, the engineer of the helper must get off and couple the air hoses between the rear of the train and his lead locomotive. This is a function that brakemen did provide, but the engineer, per rules--per operating and safety rules--can do this. We have engineers all over our system that do this on a regular basis when they stop to pick up a locomotive at any other location. When the

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

Transportation and Telecommunications Committee  
September 12, 2008

---

helper does shove a train and gets to the top of the grade, the HelperLink is activated and the helper itself is cut away from the train, again on the move. The train continues on and the helper engineer stops his engines and commences to change controlling ends, and then he proceeds back down the grade to assist another train. Once this change of ends is complete, per rule, the engineer makes a rolling air test to assure the brakes are operating as intended, simply by applying the brakes once moving at a slow speed, to see if the engine slows or stops. We started this initiative several months ago, probably in January or February of this year. The way we began was introducing the plan to the local chairman of the organizations at Alliance, (inaudible) account of the reductions in positions. No resistance there, as they knew that it was well within all of the scheduled agreements with both organizations. Once word got out the issue came up at our local safety meetings. That resulted in a local subcommittee being formed to identify risk and provide a best practice for this operation. This team consisted of an engineer and a conductor that worked the pool from Alliance to Edgemont, an engineer and a brakeman that worked the helpers, and two local supervisors that are responsible for the Butte subdivision. Local union representation supported and attended some if not all the meetings. This team met three to four times, and the result was this best practice trifold that was handed out and is still available to all who work this particular run. The main focus of this best practice was how to handle a train and when there's a train separation on the grade, how is that train to be secured, how are the repairs to be made, how is the train to be put back together, and how is the train to be started moving once again. Our number one challenge on this grade between Crawford and Belmont--which is about 13 miles, not 20 miles, is the steepest...it's the steepest grade, and the grade is 1.7 percent--the separation is our number one challenge, where a knuckle fails or a draw bar fails and the train comes to a stop. But for a number of reasons, our train separations are greatly reduced this past year. Since May 27 when this initiative was started, we've had two train separations with relatively no major ramifications of our flow. Some of the reasons we are seeing a reduction of these train separations are better locomotive fleet, more locomotives per train, better training of our locomotive engineers, better maintenance of our track, and there's many other reasons.

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

Transportation and Telecommunications Committee  
September 12, 2008

---

Prior to this implementation, we asked emergency responders to assist with problems that arise on the grade. We started with 16-hour coverage from 1400 to 0600. We have since gone to 24-hour coverage with these responders. These individuals are contract employees that have a pickup truck loaded with tools and supplies. They are to be in the field and when issues arise, they come to assist. Scheduled agreements prevent them from doing actual repairs, but they do provide transportation and tools to conductors on trains in distress. Prior to the implementation we did have the FRA involved to an extent of two to three conference calls and two actual visits to Alliance, Crawford, and to our existing engineer-only operation in Bridgeport. We have made some rule modifications, and we have taken some recommendations by the Federal Railroad Administration and implemented it. But overall, the government has not taken exception with this single-person operation. We as a company have single individuals working all over the railroad. We have single maintainers that work by themselves, we have track inspectors, we have bridge inspectors, we have truck drivers, crane operators, etcetera. Amtrak across our country has engineer-only operation in several locations. In Crawford, Nebraska, on a daily basis there are hazardous shipments that run through the town via truck with only one driver. We alone daily send a tanker of diesel to Crawford to fuel our engines, with only one driver. In most all of these vehicles, the driver has to control the speed, be able to stop, and he's got to steer the vehicle. An engineer of a train does not have to steer the train--it's guided by the track. Our operation is safe, and the town of Crawford is not at any more risk than before. We don't want to have a runaway train, an explosion at Crawford, any more than Senator Loudon does or anybody else. We have safety rules in place and operating rules that will prevent it. We do currently have seven positions in Crawford that are manned with...and of the seven positions, two of those are manned with two men, meaning we've left brakemen on two positions. And we did this to make it easier and quicker to switch our locomotives around. We're constantly switching locomotives around because of...they're due FRA tests or their BAT order. There are...the jobs are 9 o'clock and 1500. All other jobs other than these two are engineer only. However, the engineer only can, at times, do the same work. They can make these switches of these locomotives. That's the gist

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

Transportation and Telecommunications Committee  
September 12, 2008

---

of my prepared testimony, but just a few comments to dispute some of the comments that came up earlier. The alerter has been mentioned before. The alerter is, like was mentioned, on all of the locomotives in this service. We have a newer locomotive fleet on all of our coal trains. The engines that we use as helper engines are an older style of locomotive, but they are still all equipped with the alerters. An alerter does go off--it's based on speed and time. Going up the hill we average 12 to 15 miles an hour. The alerter may go off if there's no activity, a minute and 15 seconds. Going down the hill it's a much different story. If the speed is much higher, it's going to go off much quicker and stop the movement. Unattended locomotive consists versus attended--I guess that's up for an interpretation. Our interpretation is if an engineer gets off of a locomotive and is right there next to the locomotive, within several feet of the locomotive, it's not necessarily unattended. It's still attended. If the locomotive starts to move, if that engineer can get to that locomotive and stop it, it's attended. We have rules for leaving engines unattended or attended. There are no provisions, really, to leave a locomotive unattended on a main line. If an engineer is instructed to stop and hand operate what we call a dual control switch, you have to walk several feet, probably 100 feet, to one switch and then operate another switch. He could be 150, 200 feet away from his locomotives. That would be an unattended situation. We do not require that, and I am not aware of that happening. We do have our engineers hand operate hand-throw switches, where they are relatively close to the locomotives. The long-nose forward issue: The makeup of these locomotives is three engines, and it's...we have one engine facing east on one end, and one engine facing west on the other end--and the middle engine, we don't care--so whichever direction they're going, they're operating from the short nose forward; not to say that it never happens where we have to operate with long nose forward, but in this service, it happens very, very rare. And I can tell you, I'm not aware of it happening at all since we've started this process. There have been incidents in the engineer-only operation, the one that was mentioned at Bridgeport, but it was a human factor incident. The individual fell asleep, and the comment about, the reason that they fell asleep is because they work seven days a week, that's by choice. We don't make them work seven days a week. They've been offered days off a number of times,

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

Transportation and Telecommunications Committee  
September 12, 2008

---

but the individuals that work those jobs don't want the days off. They work the positions because they would like to make a lot of money and then take the time off when they can take it off. So we have incidents, but most of the incidents are human-factor incidents and really not attributed to engineer-only operation. The responders, that's an issue that we work with on a regular basis. We have regular meetings set up for the responders, to get them better. They are not railroad employees; they're there basically as a security blanket for us. We're going to see more and more responders across our system as time goes on. The subcommittee which was mentioned was actually a very good effort, and it was...the team consisted of people that worked the pool, that actually worked the coal trains, and it consisted of two people that worked the helper engines, and local supervisors that are responsible for the territory. The best practice trifold was created because our number one problem on that hill is train separations and how to deal with train separations. That was the concern, that's what the subcommittee worked towards, and as far as buying off on it, I don't know what the comment means. There was really no...there is no agreement. Per agreement, we can operate this way. The subcommittee helped us come up with the best practice, and as far as I know, everybody on the subcommittee was well-pleased with it, and we moved forward. The rolling air test, I think that's an understanding. We start the engines moving at three or four miles an hour to set the brakes, and if they come to a stop and/or slow, the brakes are working. That's a provision that's there for engineer-only operation. Well, just one other comment and I'll open for questions. It was stated that if the engines get away--which it could happen; I'm not going to say that it's never, ever going to happen--if the engines get away at the top of the Crawford Hill, start rolling towards Crawford, it was stated that within a short distance they got up to 47 miles an hour. If they got up to 47 miles an hour in that short of a distance, those engines will never, ever make it to Crawford. We have such sharp curvature from the top of the hill to Crawford that they'll fall off the rail before they get to Crawford. And there's nothing up there. That's never, ever going to happen. Well, I can't say never; it could happen, but those engines will not make it to Crawford. If they get to Crawford, the track is straight all the way through there. They'll just fly right through and stop someplace west of there. But

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

Transportation and Telecommunications Committee  
September 12, 2008

---

the curvature, we have some hairpin curves. Our maximum speed going down that hill, because of the curvature, is 25 miles an hour, on all trains. So the engines, if they did get away, God forbid, they would never make it to Crawford. That's all I've got. Any questions? [LR365]

SENATOR FISCHER: Okay. Thank you, Mr. Bennett. I just have a question. In the previous testimony also it was brought up, you know, about working seven days a week. Is that regulated by federal law, or obviously, there's no regulation whatsoever on hours an engineer can work? Are you on so many hours, off so many hours? [LR365]

FRANK BENNETT: There is a regulation. The only regulation is they can work 12 hours at any one stint. Then they've got to have at least 10 hours off. [LR365]

SENATOR FISCHER: Okay. [LR365]

FRANK BENNETT: But as far as working 7 days, working 30 days straight, they can do it. We have people that like to do that, because the more they work, the more they get paid. [LR365]

SENATOR FISCHER: Right, so it's just hours on, hours off, as with pilots and...thank you. Other questions? Senator Stuthman. [LR365]

SENATOR STUTHMAN: Thank you, Senator Fischer. I just have one. How often do train separations happen, and why do they happen? That...you mean that, you know, in 100 car there would be 50 cars, and 70 cars, and they're separated? [LR365]

FRANK BENNETT: Right. [LR365]

SENATOR STUTHMAN: Why does that happen? [LR365]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

FRANK BENNETT: Well, a number of reasons. Prior to commencing this single-man operation, we had it figured where we were experiencing about seven or eight train separations a month on the Crawford Hill. Since we started on May 27, we've had two. But anyway, how they happen, they come together with knuckles; we call them knuckles. Sometimes, you know, over time these knuckles will weaken and/or get cracked because of slack action, and then when there is a lot of stress going uphill, one of them might give way. Or if a locomotive acts up, if they make transition at a different time and there's extra slack action going up the hill, it might cause a knuckle to break or a draw bar to actually pull all the way out. [LR365]

SENATOR STUTHMAN: Are there train separations in other parts of the railroad, other than just on your Crawford Hill? [LR365]

FRANK BENNETT: All over the system we experience them. I mean, there are hot areas, there are areas where we have more trouble than others, but it's a common occurrence. [LR365]

SENATOR STUTHMAN: Okay. Thank you. [LR365]

SENATOR FISCHER: Thank you, Mr. Bennett. Or Senator Louden, you had a question? [LR365]

SENATOR LOUDEN: Yes. Well, thank you for coming also from Alliance, Frank, to testify on this. And of course, these are questions, and like I said before, I have no doubt that the railroad had meetings with people and all that. I do question whether or not, if this is something done just so you can save crew and save some money. And I have a trouble with, if you're trying to save money at the expense of the safety to the rest of the people, not only the workers but the citizens. You mentioned like a truck driver only has one person, but you want to remember: A truck driver isn't driving anything over 80,000 pounds, and that guy on that locomotive is what, a million and a

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

Transportation and Telecommunications Committee  
September 12, 2008

---

half pounds, or about 720 tons. So there is a difference. Although he doesn't have to steer the thing, he's got a lot more weight coming down off of the hill than what a trucker would have, and of course, truckers get in trouble, too. When you mentioned about your fail-safe method of, if it goes too fast it will go off the track (laugh), I would hate to consider that a fail-safe method. I think that's an accident waiting to happen. I mean, you know, I don't know if that should be in a discussion about why it would never get to Crawford, because it would go too fast and fall off the tracks. [LR365]

FRANK BENNETT: I didn't ever refer to it as a fail-safe method, and it's not one of our fail-safe methods. I'm saying that that's...in reality, that's what would happen. [LR365]

SENATOR LOUDEN: Well, supposedly. And then I did question, you know, you talked about the person going to sleep or something like that. It was a personnel problem was the reason these trains run into another one and all that. And I would just want to point out that all of the safety measures you have, or the people you have, all the times everything works right doesn't count. It's that one time when it doesn't work that you have to be aware of. [LR365]

FRANK BENNETT: That's true in everything, but you can't safeguard against everything. [LR365]

SENATOR LOUDEN: And I've always...I guess where I've learned that was that underpass in Kimball, as the fellow told me that was in the implement business. He said, all the times you remember to go around that underpass doesn't count; it's the one time you forget that makes the difference. And this is what my concern is, is the safety. This one time when...I realize there's all kinds of safety measures supposed to be there, but there's always the time, again, or maybe more than one time, when some of that doesn't work. And this is my concern, that...would it be better if there were two people on those pusher locomotives, rather than one, as a safety factor? And how much does that cost the railroad to have that safety factor for not only the railroad personnel, but

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

Transportation and Telecommunications Committee  
September 12, 2008

---

the people in Crawford? I guess that's what it gets down to, and that's the bottom line again. [LR365]

FRANK BENNETT: Well, it would be better if you had five or six people on there, no doubt. But it's a matter of people getting to a point where they actually comply with the given rules that they have to comply with. You're familiar with the collision, the serious collision we had at Antioch about two years ago. If we had employees doing what they're supposed to do, following the rules that they're supposed to follow, that wouldn't have happened. And there was two people on board that train. I tend to think...my personal opinion is, it's got nothing to do with our rules, but my personal opinion is, we have one person operating this consist. I think that one person is far more alert, because he's by himself. But I can't argue the point. You know, if there were four or five people, maybe that would not be so safe, because there might be distractions. But you know the old saying, you know, four eyes are better than two, or eight eyes are better than four. You know, there's no arguing that. But our operation is safe, and we've proven it safe for the past several years, in Sheridan and in Bridgeport. [LR365]

SENATOR LOUDEN: Okay. Thank you. [LR365]

SENATOR FISCHER: (Exhibits 4 and 5) Thank you, Mr. Bennett, appreciate you coming in today. Anyone else wishing to present information on this resolution? I would like to note for the record that we received a packet of information from Senator Louden, and that will be entered into the record. We also have a letter from the Union Pacific on this resolution, from Brenda Mainwaring, who is the director of public affairs for the UP Railroad. With that, I will close the hearing on LR365. The next two resolutions are going to be heard together, so I will open the hearing on LR322 and LR324, and committee counsel Dusty Vaughan will be giving the introduction. [LR365]

DUSTY VAUGHAN: Senator Fischer, members of the Transportation and Telecommunications Committee, for the record, my name is Dusty Vaughan, spelled

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

Transportation and Telecommunications Committee  
September 12, 2008

---

V-a-u-g-h-a-n, and I'm the legal counsel for the committee. And I'll try to make this brief so we can get on to the real presenters. Today we are here to discuss highway finance. Over the past couple of years key highway officials have repeatedly stated that we are at a crossroads in terms of highway funding. Our dollars continue to lose their purchasing power, as prices continue to skyrocket. From 2004 to 2006 inflation averaged 11 percent. In 2007 the rate was 23 percent, and I believe in 2008, this year, it's in the mid-twenties again. Since the Legislature adjourned in April, we have seen gas prices climb to over \$4 a gallon. With high gas prices, consumers drive less across the nation. In times of low demand the state takes in less gas tax revenue. Our funding problem has been exacerbated at the federal level. As of October 1 of this year, the federal Highway Trust Fund will most likely have a negative balance. In response, the Federal Highway Administration will only reimburse states in proportion to what is available in that fund; and currently Congress is working on a short-term fix that will deposit \$8 billion in the trust fund that would cover those current expenses, but that is a short-term fix that will only cover the current expenses that they've already budgeted for. In response to our current situation, the Nebraska Department of Roads has a plan for a \$317 million program level. The program level is what will be spent on actual road construction. The department estimates a cost anywhere from \$180 million to \$200 million to preserve the current system. That leaves approximately \$117 million for new construction. While the Legislature continues to come up with new ideas for funding our highway system, the department has worked on prioritizing the needs of our highways in the most objective way possible to deal with the reality of our situation, and I believe the department is prepared today to give the department is prepared today to give the committee a presentation on how that new funding method works. So with that, I will take any questions the committee has. [LR322 LR324]

SENATOR FISCHER: Thank you, Dusty. Once again, this is a hearing to receive information, and with that, I would like to welcome the director of the Department of Roads, John Craig. As many of you know, we will be meeting with the Appropriations Committee the first part of November to have our needs assessment, as required by

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

Transportation and Telecommunications Committee  
September 12, 2008

---

statute when the department comes before that joint committee hearing. But I appreciate the director being here today to talk about prioritization of those needs. So welcome. [LR322 LR324]

JOHN CRAIG: Thank you. Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. I'm going to do something I normally don't do, which is not testify on LR322. Then I'm going to introduce the gentleman that will, on my behalf. And I will entertain whatever questions are appropriate for me to respond to, when we get to that point. And so with that, I would like to introduce Mr. Randy Peters, who is the Department of Roads' planning and project development engineer, and Randy has been involved in both the current process as well as the new process and so is the very person to talk about this. Randy? [LR322 LR324]

SENATOR FISCHER: Welcome, Mr. Peters. [LR322 LR324]

RANDALL PETERS: (Exhibit 1) Good afternoon, Senator Fischer, members of the committee. I do have some charts that will help you absorb the testimony I'm going to read. There are two, separated by the orange thing. Make sure that...one of each. As Director Craig said, my name is Randy Peters, and I'm the planning... [LR322 LR324]

SENATOR FISCHER: Could you spell your last name for us? [LR322 LR324]

RANDALL PETERS: P-e-t-e-r-s. [LR322 LR324]

SENATOR FISCHER: Thank you. [LR322 LR324]

RANDALL PETERS: I have some prepared testimony; it's about three pages and takes about nine minutes, so if you'll bear with me so that I cover all the bases. And it will describe...it will go towards LR322, and it will describe the current process and then a

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

Transportation and Telecommunications Committee  
September 12, 2008

---

process that the Department of Roads is proposing. The current process is that the Nebraska Department of Roads allocates approximately 77 percent of its total revenues to the highway construction program. Routine maintenance activities and supportive services such as administration, capital facilities, and public transportation account for the remaining 23 percent. Following the creation of the annual needs analysis in 1988, NDOR established a policy to ensure that state highway construction funding was distributed based on needs. Geometric and resurfacing needs are assessed for each district annually. Historically, two-thirds of the highway construction program is spent on asset preservation and one-third is spent on capital improvements. Figure 1 is a flow chart showing how NDOR currently prioritizes these needs. Since 1997 approximately 50 percent of the highway construction program is allocated for primary highways. The remaining 50 percent is allocated for the combined needs of the interstate system, Missouri River bridges, and the expressway system. On the primary highway allocations, each year the department completes an assessment of the highway system, comparing roadways and bridges with established criteria. This evaluation is based upon conformance with design standards and output from a bridge management system and a pavement management system. These assessments establish the dollar value of needs in each district and for the state as a whole. Each of the eight districts receives a construction budget based upon the percentage of the needs in their district, as compared to the total statewide primary highway needs. Using this budget, the district engineer, in consultation with his or her highway commissioner, selects the appropriate asset preservation and capital improvement projects necessary to accomplish the goals of the department. In the interstate and Missouri River bridge allocation category, to maintain consistency in the condition and operation of the interstate system, the NDOR created an interstate task force. The task force includes the deputy directors for engineering and operations, and other members include the Federal Highway Administration, members from central office divisions responsible for delivering projects, and district personnel. Input from the district engineers is a key part of the project's scope and selection process. This task force is charged with annually reviewing the condition and operation of the interstate system and establishing the scope and priority

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

Transportation and Telecommunications Committee  
September 12, 2008

---

for asset preservation and capital improvement projects on the interstate. The Missouri River bridges' capital improvement and asset preservation projects are selected in program based on condition ratings of the structure, operational characteristics, and agreements with the adjoining states. Next in priority is the expressway allocations. As a result of the 1988 needs study, an expanded system of approximately 600 miles was identified. The individual projects within each corridor were prioritized based on safety, pavement, and traffic needs, as well as project delivery considerations. That's the current system. The system has been under review, and I have been working with a group of people in the department to propose some changes in the way these priorities are determined; and Figure 2 is a flow chart showing how the NDOR proposes to prioritize funds. In the first category is high priority bridges. Each year the bridge division will produce a list of high priority bridges which, based on their condition, require some near-term action to maintain their safety and functionality. Each year the full amount of funds will be allocated to address the needs of those specific structures identified as high priority. After those needs have been met, we propose that preservation of existing highways and bridges be next. Next in priority is work performed under contract, as opposed to state forces, that is vital to the preservation of the existing highway system. Preservation consists of maintaining the existing roadway to a given condition, maintaining a minimum condition of bridges, and maintaining and in some instances upgrading roadside appurtenances such as guardrail. Some asset preservation work is performed by state maintenance forces. Annually the bridge division will calculate the bridge preservation and minimum standard bridge needs for each district. The materials and research division will calculate the payment asset preservation and minimum standard needs for each district, and combine this information with the bridge needs to determine the allocations to the districts. Once the administration has approved the proposed district budgets, each district will be furnished with a list of roadway resurfacing and preventative maintenance candidate projects, as well as a list of the bridges which are candidates for improvement and repair. Each district's annual budget will include funding for roadway and bridge asset preservation and to improve roadways and bridges to establish minimum standards. District engineers have the flexibility to

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

Transportation and Telecommunications Committee  
September 12, 2008

---

use the funding to select preservation projects using their best judgment. District engineers are encouraged to spend about 10 percent of their asset preservation funds on preventative maintenance projects. Capital improvement projects will not be funded with asset preservation funds. The asset preservation needs for the interstate system are determined as a result of an annual review by the interstate task force, comprised of NDOR staff, expert in various disciplines. Members of this team perform an annual field review of the interstate system and evaluate the condition of the roadway, bridges and appurtenances. Following this review, the team meets to discuss the findings and to schedule preservation projects for the future one-year program and the five-year planning program. The next box in Figure 2 is the Interstate 80 six-lane from Lincoln to Omaha. Next in priority after preservation of existing highway and bridges is to complete the six-lane construction of I-80 between Lincoln and Omaha. And lastly, the last in priority, if there are funds remaining, capital improvements consist of major modification road projects that extend beyond the work permitted under the minimum design standards. These projects generally entail a correction of vertical or horizontal alignment, removal and replacement of the surfacing and base, increase in capacity, or construction on a new alignment. Thank you for your time and attention, and I'd be happy to try to answer any questions that you have. [LR322 LR324]

SENATOR FISCHER: Thank you, Mr. Peters. Director Craig, did you want to come up in case there's questions, or do you want to see what they are first? [LR322 LR324]

JOHN CRAIG: I'll do it. [LR322 LR324]

SENATOR FISCHER: Are there any questions? Senator Louden. [LR322 LR324]

SENATOR LOUDEN: Well, thank you. As I look I look at...your Figure 1 is what you're doing now. Now on the expressway needs, does that include that new deal, that 10,000 vehicles a day before you're going to do anything for expressway needs? [LR322 LR324]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

SENATOR FISCHER: I would ask, before you answer, you need to identify yourself for the record. You need to say this is Randy Peters--I'm sorry. [LR322 LR324]

RANDALL PETERS: I'm sorry, I'm sorry. This is Randy Peters. [LR322 LR324]

SENATOR FISCHER: Thank you. [LR322 LR324]

RANDALL PETERS: Yes, Senator, the 10,082 figure is one of the criteria we use to compare roadways, too. And that figure is a traffic projected; in other words, the traffic that we anticipate 20 years from the project is that criteria, and it did change. From the current system, that number was 6,000 ADT, and under the proposed system, as a result of an internal team chartered in 2006 to review the standards that are used to identify needs, that has been raised to 10,000. [LR322 LR324]

SENATOR LOUDEN: Now by having done that, then, does that do away with putting any expressway systems in any rural areas? I mean, out in western Nebraska, where are we going to have 10,000 vehicles, because you don't have roads enough to hardly cover 4,000 now. [LR322 LR324]

JOHN CRAIG: This is John Craig, Senator, and I understand the question. There is one thing I would add to Randy's response, and then I'll answer that question; first, that when this team recommended criteria adjustments, one of them was the 10,000 average daily traffic, up from 6,000, and that lined us up with virtually every other state in the country. That's an AASHTO standard set by convention of the 50 states, and so that was an adjustment, arguably, we should have made some time ago, but we had not. It has the effect that you describe. It doesn't add or delete any money, that adjustment from 6,000 to 10,000, but it certainly tightens the priorities up and puts money where the traffic is. That is the blunt truth of what you asserted, it certainly does. [LR322 LR324]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

SENATOR LOUDEN: Now when you say puts money where the traffic is, if you never build a road out there, there will never be any traffic out there, so you'll never have the traffic out there to bring the money out. So I mean it's a losing battle on that, as far as trying to bring some economic development to the rest of Nebraska, especially in your western part of Nebraska, where we... [LR322 LR324]

JOHN CRAIG: And while I understand that, the premise is, what is the road there in the first place for? It's to carry traffic. That is the simple purpose, and so as best we can estimate what traffic is going to be in the future, those are the roads we build, and that's not unique to Nebraska. So that's everywhere, I would say. You try and put money where it's needed. [LR322 LR324]

SENATOR LOUDEN: Okay, my next question would be on this I-80 six lane between Lincoln and Omaha. Is that an 80/20 match, what you're doing now, from the federal government? Or is that strictly state of Nebraska funding, most of that? [LR322 LR324]

JOHN CRAIG: It could be both, and we make a strategic decision when we spend money. We could spend state-only money, 100 percent, or we could involve federal funds, and there are times when we do both. And so you would have to ask what particular project, and there are even some variations on that theme. We in fact do both. We can spend on any, the state system, 100 percent state money or involve federal funds, and for infrastructure, it is generally, but not absolutely, an 80/20 match. [LR322 LR324]

SENATOR LOUDEN: Okay. [LR322 LR324]

JOHN CRAIG: There are other matches for other programs, I might add. [LR322 LR324]

SENATOR LOUDEN: Now how much money is that costing the Department of Roads or

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

Transportation and Telecommunications Committee  
September 12, 2008

---

the state of Nebraska? I mean, how many millions of dollars is that costing all of us to do that six-lane interstate from Lincoln to Omaha, and what percentage of your budget is going into that? [LR322 LR324]

JOHN CRAIG: Off the top of my head I can't answer that question. We can get that answer, though. That's not an issue. [LR322 LR324]

SENATOR LOUDEN: They've quoted to me, different ones, is \$10 million a mile, is what it's going to cost from Lincoln to Omaha. Is that in the ballpark? [LR322 LR324]

JOHN CRAIG: That is probably beyond the high side, but actually I don't know. There could be a segment in there that might cost that, and the example I would give is the segment that has the bridges over the Platte River. Whenever you build a structure, it's a very expensive undertaking. [LR322 LR324]

SENATOR LOUDEN: Well, any time I drive it, there's a bridge of some kind, either over it or under it, about every mile and a half, my observation is, on that interstate. So I mean there are a lot of bridges to build. [LR322 LR324]

JOHN CRAIG: It happens. [LR322 LR324]

SENATOR LOUDEN: And then with your flow chart, how come...perhaps some of your other...your capital improvement or something like that, would be put up...I mean, why wouldn't I-80 six lane be clear at the bottom of your priority list, I guess? Is there any reason it wasn't at the bottom of your priority list? I guess, is it that important for what, six days of the week, except on Saturdays, on football days? Is that the only time it's important to have six lanes? [LR322 LR324]

RANDALL PETERS: This is Peters again. I think the reason that that priority carried over from the current program, the current means of prioritizing to the proposed means,

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

Transportation and Telecommunications Committee  
September 12, 2008

---

is that it was based on the level of service that the interstate provides. The traffic is there on this six lane to justify...on this four lane to justify improving to six lanes. The project development work and the environmental things were ready to go, and it was a priority. The same group that looked at the standards looked at the interstate expansion priorities that did stretch all the way to Wood River in the 20-year time horizon and said, after you finish Omaha to Lincoln, slow down and in the 20-year horizon, only look at going as far as Grand Island. And that was partially in response to the revenue crystal ball and partially in response to the traffic numbers. They're not...prior to this summer they weren't decreasing, but their rate of increase was slower, and so it was a nod to them. [LR322 LR324]

SENATOR LOUDEN: My last question: When you talk about going to Grand Island, would it be more cost effective to put an expressway system like on the north side of the Union Pacific? What is that? Is that I-34 that goes from Seward to Grand Island? Would it be more cost effective to put a four-lane expressway there, rather than building six lanes on your interstate? In other words, you would divert part of your traffic to another roadway? [LR322 LR324]

JOHN CRAIG: This is John Craig. We don't know, bluntly. Everything we study to answer those kinds of questions, but I would say I doubt it. I doubt that it would be more cost effective. To expand--not always, it varies--but to expand an existing structure is usually, and I'm over generalizing, less expensive and more cost effective, therefore, than adding something new, a new expressway, as an example. [LR322 LR324]

SENATOR LOUDEN: In other words, a new road right alongside the highway that is already there. [LR322 LR324]

JOHN CRAIG: You would have to study it, and some variations on that questions we've looked at, and some other states have actually feasibility study on such things, not that it's exactly your question, but truck-only lanes and that sort of thing. So those things

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

Transportation and Telecommunications Committee  
September 12, 2008

---

have to...if it's...if somebody is willing to pay for those feasibility studies, that's exactly what we do, is we run it to ground and run the details and calculate what is the most cost effective use of our monies. [LR322 LR324]

SENATOR LOUDEN: Okay. Thank you. [LR322 LR324]

SENATOR FISCHER: Other questions? Senator Lautenbaugh. [LR322 LR324]

SENATOR LAUTENBAUGH: Thank you, Madam Chair. Gentlemen, I don't know which one of you to address this to. I note that in the new proposed priority, the I-80 six lane is the only real specific project in this new priority flow chart, if you will. When is it going to be done, and then does this box disappear? [LR322 LR324]

JOHN CRAIG: This is John Craig again. That is an excellent question, I might add. When will it be done? Well, it depends on the funds available, and we don't know the answer to that question, but there was a time...and I'll give some history, and then I'll project it out into the future and a best guess. But it's good for today; it's just a best guess, because there's enough uncertainty. We don't really know. If we did...we'd do a lot of things differently if we knew exactly what the future was going to hold. There was a time where we estimated, based on revenues available some years ago, that the interstate would be six lanes between Omaha and Lincoln on or about 2012, 2013. You can go further back. When the Legislature asked the Department of Roads to build a 600-mile expressway system, the Legislature directed to have that done by...and let's contract by the year 2003. Well, that's passed. There's a little analogy with the interstate system...and that the funds would be generated. Well, the political will was lost, and I'm not being critical of anyone, but the political will was lost in terms of doing that. That's a dynamic that's true for the interstate. Our best projection right now, what we've been saying, is that we estimate that we may have the interstate completed, the six lane, by 2015. That's later than 2012, 2013. So it has continued to slip, and it may well continue to slip into the future. It literally depends on funds, and it depends on inflation, which

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

Transportation and Telecommunications Committee  
September 12, 2008

---

was mentioned earlier, which has been significantly higher in recent years than it had in previous years. So it's a challenge, but that's a little bit on the interstate. Simply, we don't know. But if you'd ask for a discrete year, I'd probably say we estimate 2015, but that's probably not a real good date. [LR322 LR324]

SENATOR LAUTENBAUGH: This might be a very difficult question for one of you to answer. How many highways are there that have the 10,000-vehicle-a-day volume at this point in Nebraska? I'll limit it to Nebraska at least. [LR322 LR324]

JOHN CRAIG: That currently have 10,000, or we estimate, over the next 20 years, would have 10,000? [LR322 LR324]

SENATOR LAUTENBAUGH: Both, really. [LR322 LR324]

JOHN CRAIG: I don't know the answer to that question, and I doubt Randy does. We could get that, again. It's available. We... [LR322 LR324]

SENATOR LAUTENBAUGH: And I don't know the answer, either. Obviously,...what is it? Ten do you think, or is it a hundred? I mean, you know, is 10,000 an impossible threshold, so we're only talking about the interstate, or you know, what exactly are you saying with that number? [LR322 LR324]

RANDALL PETERS: This is Peters. I...it's in our 2007 needs report. When we had the discussion about the changing criteria, it's itemized there, and I just read that this morning, but I still can't quote it. It's between 50 and 100. [LR322 LR324]

SENATOR LAUTENBAUGH: Okay. Are there... [LR322 LR324]

RANDALL PETERS: These would be any road, not just roads that are mapped as expressway, but any road on this system that approaches that 10,000 future ADT

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

Transportation and Telecommunications Committee  
September 12, 2008

---

threshold. [LR322 LR324]

SENATOR LAUTENBAUGH: Okay. [LR322 LR324]

SENATOR FISCHER: Other questions? Senator Stuthman. [LR322 LR324]

SENATOR STUTHMAN: Thank you, Senator Fischer. I have a real concern, you know, with these two charts that we have here and the fact that you've changed the 6,000 car to...6,000 vehicle to 10,000. And my concern is, you know, we've got the expressway system from Schuyler to Fremont, you know, that we would like to see completed. And I don't know where we're at as far as the count on that, and it's raised, and I'm sure this puts us more years behind. What I fear--and this is more of a comment--is once that six lane is done from Omaha to Lincoln, and then the next proposal will be the Lincoln to Grand Island, and then the level on these other roads will be raised from 10,000 to 15,000, and we're never, ever going to accomplish the fact that we can get those expressway systems done. And we have a very good economic growth in our area, in the Columbus area, where if we could get that one completed, you know, I'm sure that the amount of vehicles would be there. But it's not there now because we have a problem of, you know, attracting more growth because of the system. [LR322 LR324]

JOHN CRAIG: This is John Craig. And as I pointed out earlier, the...even if we didn't change the standard from 6,000 to 10,000 or just any other standard, there are other standards but that's the one that gets most of the attention, it's simply...it doesn't generate any more or any less money. It's simply a matter of priorities. And as has been talked about earlier, preserving the current \$7.5 billion asset that Nebraska calls roads is an example of if we don't preserve that first, then it compounds the cost for roads, I mean it makes things worse. So unfortunately, as we establish priorities it comes down...it's almost as simple as what is the available funding, and what's inflation, and what's the buying power of the dollar which is getting eroded? So there is no simple answer to let's spread it out. We could ask, well, who's willing to let their road degrade?

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

Transportation and Telecommunications Committee  
September 12, 2008

---

And I doubt we'd get many hands shown in a group. All Nebraskans, I believe, deserve to have the roads cared for as best we can, as a first priority. And so that's whickered into our system. And it (inaudible). [LR322 LR324]

SENATOR STUTHMAN: And I think that's very true and I also agree with you on preserving the roads that we have there. But I think preserving a road that's 20 years old, needs preserving. But when we got to do so much repair on the roads that are four years old and almost totally rebuild those roads because of poor construction, I mean that is a real concern of mine. And how can we make sure the contractors that are awarded the bids, you know, place a road so that it can be utilized for 15 years with little or no expense? How can we ever accomplish that? [LR322 LR324]

JOHN CRAIG: Well, we could debate at length, you know, the quality of work. And we measure smoothness and condition of pavement every year, which are two measures. And I would say in general, the contracting industry does a good job for Nebraskans. And there are exceptions and then there are perceptions. For example, it's common, some of the people that...some of the senators here have asked this question, well jeez, you just built this road, Highway 2 out here, and the next year out here cutting six slots in between these independent concrete slabs. Well, that's preventative maintenance. That's not work that was done poorly. That is an effort to tie those independently moving concrete slabs together. And our estimate is to extend the life, the useful life of the pavement 15 years. So you almost have to ask about a specific segment of pavement. And I would fairly admit there has been...there are projects that did not meet our specifications. And generally, the contractor goes back, at their expense, and repairs that; not a state expense. That's a little bit of a response. There is no simple answer. You almost have to say, what about this specific segment of pavement, and I could give you a more specific answer. [LR322 LR324]

SENATOR STUTHMAN: Okay, thank you, Director. [LR322 LR324]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

SENATOR FISCHER: I just have a couple questions here. Could you tell us how many high priority bridges there are? I know that after the Minnesota bridge collapsed you came out with a study on ours. And I felt Nebraska...we did really well in the condition that our state bridges are in. So how many high priority bridges do we have right now? [LR322 LR324]

JOHN CRAIG: Is the question... [LR322 LR324]

SENATOR FISCHER: Where you need to have action taken soon? You know, it's first on a proposed priority list. So you have high priority bridges. How many need action taken basically immediately to make them safe? [LR322 LR324]

JOHN CRAIG: Do you know, Henry? [LR322 LR324]

RANDALL PETERS: I have a draft... [LR322 LR324]

SENATOR FISCHER: This is Peters. [LR322 LR324]

RANDALL PETERS: This is Peters. I have a draft copy of our report for the proposed...that I will...I'm not sure how to hand off to you. But I have copies for all of you. [LR322 LR324]

SENATOR FISCHER: Maybe in November at that meeting on the needs? [LR322 LR324]

RANDALL PETERS: Well, I have them here for you today, back here. [LR322 LR324]

SENATOR FISCHER: Oh, okay. [LR322 LR324]

RANDALL PETERS: And we have an estimate that was done to prepare that. And so I

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

Transportation and Telecommunications Committee  
September 12, 2008

---

can't quote the number, but it's...I mean it's not going to be of the magnitude that it sucks all of the funds into the high priority needs. So I'll answer your question by giving you the report. [LR322 LR324]

SENATOR FISCHER: Okay. Do you know a percentage breakdown on what percentage of the budget would go for the high priority bridges? What percentage goes for the preservation? There might be a little percentage left for the I-80, and then I doubt there is much at all for capital improvements. But do you have a breakdown on that percentage? [LR322 LR324]

RANDALL PETERS: This is Peters. The appendix that we prepared for our draft report was done using 2007 dollars. And 2007 dollars are starting to look pretty precious in 2008. The number of high priority bridges was 30. And the...so the percent of that I'm not seeing. But rolled in with the asset preservation and high priority needs, in 2007 dollars we were looking at \$188 million. That gives you an indication with...this program was published at \$317 million for the current 2009 fiscal year. That gives you an indication of how much is left over. [LR322 LR324]

SENATOR FISCHER: Okay. On the traffic counts, we've had a lot of discussion on that. And we see it in the papers a lot on the changes on the classifications, for one thing, in order to make the dollar go further here in the state of Nebraska. But when you get to the traffic counts from the 6,000 to the 10,000 many people get upset by that. Would you say a number of the projects that are high on individual senator's wants list...would you say that those...many of those projects would even meet the 6,000 count? [LR322 LR324]

JOHN CRAIG: This is John Craig again. [LR322 LR324]

SENATOR FISCHER: And if you'd rather not answer, that's okay. [LR322 LR324]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

JOHN CRAIG: Well, I would say it's...I even have, somewhere in the back of my mind I have the number of...it's 179 miles of a 600-mile expressway system as I recall are not finished. And I cannot remember, and I'm sure there are people behind me that remember the numbers of miles that meet those 10,000 ADT warrants that we would call it. And it's a fairly small number, it's 20 or 30 miles I want to say. That's in the ballpark. And again, it's simply a matter of trying to set priorities. And I absolutely understand when people have had an expectation that a road was going to be built, and then money begins to diminish, and they know it's...if I were in their shoes I wouldn't like it either. But it's an ugly reality that we all have. And we're trying to come to grips with it at this... [LR322 LR324]

SENATOR FISCHER: I think we saw an article in the...I think it was the Lincoln paper on Highway 81, on the expressway there. And the numbers were shown. I don't remember specifically, but I really can't recall that any of the sections on that even met the 6,000 mark. And that included sections that are currently expressway. Is that true? [LR322 LR324]

JOHN CRAIG: It's almost certainly true. I can't recall traffic counts on roads. But one, in 1988, when we were directed to build a 600-mile expressway system and the funds were promised to have it...elected construction by 2003, traffic counts were not part of it. [LR322 LR324]

SENATOR FISCHER: But in the '88 study, I can't quote this exactly right, but I think I remember reading in the '88 study that part of the expressway system, a reason given for the need for that expressway system was because in 20 years it was, I guess, expected that the traffic on those roads would be 6,000 without the expressways. Am I...I probably need to look that up again. [LR322 LR324]

JOHN CRAIG: I can't remember the...I can't remember the wording either. And I would want to go back and check. But it was, and I don't know that it's put just this way in

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

Transportation and Telecommunications Committee  
September 12, 2008

---

that... [LR322 LR324]

SENATOR FISCHER: (Laugh) Dusty says I'm not right. So we'll go on. (Laughter)  
[LR322 LR324]

JOHN CRAIG: ...expressway study. Thank you. I didn't remember it, but I didn't want to say, no that's not true, because my memory is not all that good. [LR322 LR324]

SENATOR FISCHER: Oh, no, you can tell me when I'm wrong too, that's okay. That's okay. [LR322 LR324]

JOHN CRAIG: But the 600-mile expressway system, part of the rationale for that...  
[LR322 LR324]

SENATOR FISCHER: He doesn't remember for sure, let me clarify that. [LR322 LR324]

JOHN CRAIG: ...was to connect cities of 15,000 at the time with the interstate system. Incidentally, when the interstate was contemplated, it was originally contemplated to connect cities of 50,000 or more at the time. [LR322 LR324]

SENATOR FISCHER: And where would you say that we are on that now? Are we at 50,000 or more on the interstate? [LR322 LR324]

JOHN CRAIG: Oh no, that was communities at 50,000 or more. [LR322 LR324]

SENATOR FISCHER: Oh. [LR322 LR324]

JOHN CRAIG: So it was communities of 15,000 or more at the time with the interstate.  
[LR322 LR324]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

SENATOR FISCHER: Fifteen with the expressways to connect, yes. [LR322 LR324]

JOHN CRAIG: But that was only one of the criteria. It had nothing to do with...I don't want to say nothing, it had...it was almost all economic development. And I don't know that it says that in the report. But it wasn't driven by safety or pavement condition or traffic. Those are simply mechanisms for us to establish the best priorities with the funds we had. It was to build it and purely and simply for economic development. Even though I don't recall that those words are in the needs study or not. [LR322 LR324]

SENATOR FISCHER: Believe me, I'll read it this weekend. On another question, what do you see on traffic count around areas in the state where we see population growth? The metro area, Lincoln? I know it's increasing. What do you see it, a percentage? Can you give us a percentage of how it's increasing? [LR322 LR324]

JOHN CRAIG: I don't know if I can give a figure for that. Can you, Randy? [LR322 LR324]

RANDALL PETERS: The rule of thumb in an expanding economy, which I don't know if we're in anymore, frankly, but it's 3 percent per year was the baseline. And then if you're in a rapidly developing suburban area, Sarpy County area might be 4 percent or something like that. So that's the kind of annual growth, and that compounds when you're looking at traffic. [LR322 LR324]

SENATOR FISCHER: Okay, thank you. [LR322 LR324]

RANDALL PETERS: And this was Peters. I don't know if I said that. (Laughter) [LR322 LR324]

SENATOR FISCHER: Thank you, Peters. Other questions? Senator Loudon. [LR322 LR324]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

SENATOR LOUDEN: Yeah, thank you, Senator Fischer. I guess, following up on Senator Stuthman's comments about, you know, repair work. Since your money is supposed to be so much shorter, you're doing some, I call it blade patching. I don't know what you guys call it. But in there east of Alliance here lately they've done quite a lot of that. I've had more people complain about that. That's the roughest piece of road I've ever seen. It's worse than it was before they started probably. How much of that are you going to continue to do? And how long do you expect that type of maintenance to last? Is this something that's just going to get you through the winter, or are you planning on that lasting for five years when you do that? [LR322 LR324]

JOHN CRAIG: This is John Craig. I don't recall what we are doing east of Alliance. [LR322 LR324]

SENATOR LOUDEN: What they did was different segments. And they took oil stock and laid it out on the road and more or less blooded it off, flattened it, rolled it, and then graveled over the top of that. [LR322 LR324]

JOHN CRAIG: I would want to check. There are different strategies, preventive maintenance and other wise, for pavement. And I'll check. [LR322 LR324]

SENATOR LOUDEN: But is this a strategy now that you intend to do to lengthen the life of roads rather than redo them? [LR322 LR324]

JOHN CRAIG: Well, I'm not sure what the strategy is that we're (laugh) using out there right now. So I'd be irresponsible to answer it. I'll check though. [LR322 LR324]

SENATOR LOUDEN: Okay, because I've had more complaints on that than I have on any other road work done in my district ever. [LR322 LR324]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

JOHN CRAIG: We get a lot of complaints. And I will check on that, Senator. I will find out. [LR322 LR324]

SENATOR LOUDEN: The other part, I guess, is when this interstate or expressway system was first kind of brought forth you mentioned there was no road count, because like from York, York south I think there's been, what, about 3,800 to 4,000 vehicles a day for a long time, was the vehicle average daily count, vehicles through that area. And then you're talking about raising it to 10,000 or something like that. Well, are there...how far from 10,000...they're not even to 6,000 now going south from York, are they? [LR322 LR324]

JOHN CRAIG: Yeah that's...you know, if we knew in hindsight, if we knew in advance what hindsight tells us, we would do a lot of things differently. But knowing...we knew a certain thing then, and we know something differently now. So you adjust your priorities, I think, accordingly with the money you've got, just like a household budget, at least my household. [LR322 LR324]

SENATOR LOUDEN: Well, I don't have any problem you building an expressway through there. I just have the problem that when you decide that you don't...that you want to do something else, then you just raise the numbers on the expressway system. And you've forgotten any economic development that may occur by putting in an expressway system. I guess this is where I have the problem because I'm an advocate of that forced (inaudible) across western Nebraska. And it doesn't seem like the Department of Roads has any interest in that whatsoever, but yet we're getting highway...expressway systems coming into the state. But we can't seem to get anything to go across the state. I guess this is my concern, that we're going to lose a lot of that business to Wyoming, because Wyoming is planning on doing something. [LR322 LR324]

JOHN CRAIG: It has 100 percent to do with money, funding and inflation, 100 percent,

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

Transportation and Telecommunications Committee  
September 12, 2008

---

not 99 percent. It really is simply a matter of establishing priorities. And as you point out, some of those current expressways, part of the 600-mile expressway system, if we were having to prioritize them today they would not be built, period, because the money is not there and inflation erodes the buying power. At the time, go back to 1988, and within five years the department realized, and the Highway Commission began to establish reset priorities because it was obvious the political will was lost to build the 600-mile expressway system...or let it to contract by 2003. So for the last, however that works out, almost 20 years, 15 years there has been a...there's a continual...a continuum in terms of reestablishing priorities. This is just the most recent one, because the money and inflation are impacting what we can do. [LR322 LR324]

SENATOR LOUDEN: But yet it doesn't...money doesn't seem to be a problem like on our interstate, six-lane interstate because what's this interchange out here, what about 72nd or past 56th, whatever that one is where 77 goes south to Wahoo, isn't that a \$26 million project for that interstate, right there for that interchange right there? [LR322 LR324]

JOHN CRAIG: I don't recall. [LR322 LR324]

SENATOR LOUDEN: Okay, because that's what I thought I saw it quoted at. And I mean this is...you can put it all in 40 acres for 26 million bucks. And when you're talking about expressways at \$2 million a mile, you can build a lot of expressways for that interchange. And did that interchange need to be redone, I guess? [LR322 LR324]

JOHN CRAIG: I would have to go back and find out the details where we're building it at. But I am absolutely certain we built it because it needed to be rebuilt. [LR322 LR324]

SENATOR LOUDEN: Okay, thank you. [LR322 LR324]

SENATOR FISCHER: You are probably wanting to say to us that we all wanted our

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

Transportation and Telecommunications Committee  
September 12, 2008

---

individual roads, but we're not willing to put up the money to pay for them, right? You don't have to answer that. (Laughter) [LR322 LR324]

JOHN CRAIG: Yes. [LR322 LR324]

SENATOR FISCHER: Senator Lautenbaugh, did you have a question? [LR322 LR324]

SENATOR LAUTENBAUGH: Yes, thank you, Madam Chair, briefly. The widening to six lanes, between Omaha and Lincoln is not done with just an eye towards game day traffic, is it? As a matter of fact, there is quite a volume every day between Omaha and Lincoln, is there not? [LR322 LR324]

JOHN CRAIG: Yes. [LR322 LR324]

SENATOR LAUTENBAUGH: Some days it's very dangerous to drive between Omaha and Lincoln in the mornings, is it not? [LR322 LR324]

JOHN CRAIG: Can be. [LR322 LR324]

SENATOR LAUTENBAUGH: Okay, I can attest to that, so thank you. [LR322 LR324]

SENATOR FISCHER: We have a couple people up here who would attest to that. I just have one more question for you. On the process of your proposed priority highway needs, the change here. You have a draft, this is proposed now. Do you take it to the Highway Commission and then ultimately the Governor will approve this or not approve it, is that correct? [LR322 LR324]

JOHN CRAIG: This is John Craig again. And obviously the director of the Department of Roads works for the Governor. So the Governor has trump card, he simply does on everything. From a more practical standpoint, we have spent a good deal of time with

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

Transportation and Telecommunications Committee  
September 12, 2008

---

the state Highway Commission on this funding distribution team report. And most recently they have recommended to us, because they are only advisory, that we seek additional public input. And so part of the reason that Mr. Peters is here reading his testimony is to then take this out to each one of our districts, in our fall district meetings, with the purpose of gaining additional public input, certainly trying to further educate the public. And then bring that back to the Highway Commission, make whatever adjustments we need to and put that process in place. And our intention is, and I think the Highway Commission's is, to have that work completed perhaps by the December commission meeting. So we would be implementing it, quote unquote, shortly thereafter. [LR322 LR324]

SENATOR FISCHER: So you anticipate that this will probably be the system that will be in use when we come back in January, when we have our discussions on roads in January? [LR322 LR324]

JOHN CRAIG: It's very possible. And it's not, I'll say this, it really is a transition. It's not like a light switch or it gets turned on and things change. It's a transition that occurs. [LR322 LR324]

SENATOR FISCHER: It's not a radical, it's not a radical change that I see here at all. [LR322 LR324]

JOHN CRAIG: No, and it occurs over a period of years. So it's just not a flick of the switch, which some people might think well they've gone from this to this. Things just don't happen that way from a practical side. [LR322 LR324]

SENATOR FISCHER: Okay. Thank you very much. Appreciate you being here today. [LR322 LR324]

JOHN CRAIG: Thank you. [LR322 LR324]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

SENATOR FISCHER: Next person who would like to come forward on either of these resolutions that we have. No one else? Oh, okay. Good afternoon. [LR322 LR324]

STAN CLOUSE: Madam Chairman, committee, my name is Stan Clouse, C-l-o-u-s-e, and I am the current mayor of the city of Kearney. And I appear before you today to testify on our state's transportation funding programs and where these efforts might, under the Legislature's guidance, take us in the future. And I want to thank you for holding a hearing on this very important issue. Last week, I was at a meeting in Kearney with various civic leaders from across the state. And we discussed an idea that you're aware of, that you're hearing about, and it involves taking action on some of the bigger road projects that the state and local communities would like to build that cannot due to the present funding conditions. So I can't give you all the details about how this proposal is going to be coming forward to the Legislature, but my purpose here is to encourage you to take a look at that and see if it's something that we need to change our mindset or our culture, if you will, on how we look at funding. As we just heard previously, you know, if we had all the money we needed we wouldn't have any problems. So maybe there is an opportunity here to change our way of thinking and look at some of the potentials. We do need to be...and we are very conservative. And that's good for our state. But yet there may be times that we need to take another look at how we do it and put the safeguards, all the proper safeguards and so forth in place and still be able to meet the needs of our state. An example that I would like to talk about is as I was hearing this presentation last week and was talking about the bonding process was what we were talking about. And the city of Kearney has been working with the Department of Roads for some time on another interchange out at Cherry Avenue, which is in the eastern part of our city. And we had gone, based on the request of the department, and again we're talking four or five mayors ago, so this is a long time in process. We were encouraged to go out and get federal funding. And so we went out and got some earmarks. Then the problem became that once we got the earmarks with the 80-20 match, how do we come up with that match? And recently it's been more and

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

Transportation and Telecommunications Committee  
September 12, 2008

---

more troublesome that we cannot get the project completed. The Department of Roads has been excellent to work with, but their hands were tied with the priorities and where do they need to spend their money. So we met with the Governor and Mr. Craig, and this was probably in February or March of this year. And we said, as a city what can we do to ensure that this project moves forward? And the discussion or what happened as a result of that meeting was, well, if you can come up and provide the state's matching portion of this, then we can proceed with phase one. This is a three phase project, approximately...initially when it started out it was about a \$37 million project. And in current dollars, with the inflation and the rates we've talked about, it's up to around \$50 million and we haven't turned a spade of dirt yet. And so those are issues that I think we're all very well aware of. But we said, what do we need to do to get phase one, which is just simply getting the interchange built. And the matching funds for that to release the federal funds was only about \$3 million. However, the state didn't have the \$3 million to put towards that. So as a community we agreed and said we will come up with that \$3 million. We would be willing to do that to pay that match so that we could obtain our federal funding, so that we could get the interchange built. I don't think that's anything that is really outside the box, thinking it may have been done in the past. I don't know the answer to that. But it was something that we felt was important enough for our community that we, as a community, should step forward and do that. Then at the end of the session, thanks to you senators, you came up and (inaudible) some more money for that purpose, to obtain those federal funds. So we went back to the Governor and he agreed to give us...to split that in half. So now we only had to come up with \$1.5 million. And we went back and we talked in our community about how we were going to fund that. We didn't want to raise property taxes, we didn't want to use sales tax, because obviously sales tax is very important to a community, to our city budget. So we looked at using occupation tax and some keno funds. And so we're set, we're prepared to at least get the interchange built and about a mile or so forth going north from the interstate. And then we'll proceed with phase two and three in the next few years after that. And we would probably be using surface transportation funds. We've saved up \$4 million or so of surface transportation funds that we can use toward that project in working with

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

Transportation and Telecommunications Committee  
September 12, 2008

---

the state Department of Roads. So, I guess, what I would...the reason I'm here is that with the bonding proposal there are things in there that address community matches and partnering with the communities in the state. Certainly not every community has...is able to do that. And in the scheme of things, \$1.5 million or \$3 million is not a lot of money when we're talking hundreds of millions for what we need to do for our projects all across the state. But, I guess, I would just encourage the Legislature and the committee to keep an open mind to what's being presented, being cautious, if you will, but yet I think they may have some merit. Any questions? [LR322 LR324]

SENATOR FISCHER: Okay. Thank you, Mayor. Are there questions? Senator Louden. [LR322 LR324]

SENATOR LOUDEN: Yeah. Thank you for testifying today, Mayor. Do you know what the valuation of Buffalo County is? [LR322 LR324]

STAN CLOUSE: No, I do not know. [LR322 LR324]

SENATOR LOUDEN: Do you know what the valuation of the city of Kearney is for property valuation? [LR322 LR324]

STAN CLOUSE: No. [LR322 LR324]

SENATOR LOUDEN: I was wondering if it was getting close to around 1 billion dollars or more? [LR322 LR324]

STAN CLOUSE: It's...I don't know, it's a growing community, I do know that much. [LR322 LR324]

SENATOR LOUDEN: Okay. Then what is your mill levy for Buffalo County? [LR322 LR324]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

STAN CLOUSE: Our mill levy, I can tell you our city mill levy is 15 cents. [LR322 LR324]

SENATOR LOUDEN: Okay. [LR322 LR324]

STAN CLOUSE: And our consolidated, gosh I'd hate to give you a wrong number on that. But it's... [LR322 LR324]

SENATOR LOUDEN: I guess, what I'm getting around to is there's some of these counties now are starting to get a billion dollar valuation and beyond. In my district I have a bunch of counties that are maxed out for their levy. I mean there's no slack left. And I think some of these counties that are at this higher valuation, I think they're going to have to do like you folks are doing. The county or the city is the one that's going to have to come up with some of the match money. Now whether we can always get earmark money or not, but I think this is part of the thing that will happen around your cities when you want, like you say, your interchanges or your bypasses or something like that. I think there are...some of these counties and cities around are probably going to have to come forward and do that themselves, because right now in Nebraska we have some areas that are very hard up for cash. Sheridan County, up there, has no room whatsoever. I mean they're talking about having to build a new jail, 20 people average a day coming out from the reservation in that jail. And there's no money to do it there. So consequently there is no way that they can ever do any major road improvement on something like that. But yet you get down here to Aurora, Hamilton County, you know, and they got over a billion dollar valuation. They got about a 22 or 23 percent levy. They do have some wiggle room in there. Like you say, some of that money isn't that much, especially if the state or the Legislature appropriates some of the money, and you have kind of a, what would you say, a neighborly development here between everyone so that local people can't pick up a little more of it. So I commend you for going that route. And I think this is probably what we're going to have to do in the future for some of this road construction. [LR322 LR324]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

STAN CLOUSE: Thank you. And our county has agreed to pave a lot of the roads from the city limits out to the interchange. So they're stepping up. I do believe the county has room under their lid. And, of course, the city of Kearney, we're pretty fortunate that we're clear down at the bottom on our lid, so we have some advantages that not a lot of communities do, one, being on the interstate; and two, the growth community with the university, and our economy is doing quite well. So I know that this doesn't fit for all communities. But it seems to fit for us. [LR322 LR324]

SENATOR LOUDEN: Thank you for your testimony. [LR322 LR324]

STAN CLOUSE: Thank you. [LR322 LR324]

SENATOR FISCHER: Other questions. I, too, Mr. Mayor, would like to compliment you on how you worked that out in order to get it. I would like to clarify, though, that the money you were matching was federal money. Is that correct? [LR322 LR324]

STAN CLOUSE: Right, yes. [LR322 LR324]

SENATOR FISCHER: In the bonding proposal I haven't gotten that much information on it, but reading in the papers it seems to be the idea we would have state money available for cities or counties to access or match. Is that how you understand the proposal? [LR322 LR324]

STAN CLOUSE: I really wasn't too clear on how they were...I think you could be right on that, because I wasn't sure on the details. But what caught my eye was the local community match. Now whether that was state dollars or federal dollars...in our instance it was the federal dollars. [LR322 LR324]

SENATOR FISCHER: Right. [LR322 LR324]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

STAN CLOUSE: Now how this funding comes about and the bonding comes about, there's a lot of details that need to be worked through on that, I'll grant you that. [LR322 LR324]

SENATOR FISCHER: And I like, truly I do like that you accessed those federal dollars. That was one of the purposes we were trying to get to last session. And hopefully you'll be a good example for other communities who can access it. But when you're talking about bonding, it would be my interpretation that that is state money and a state obligation. Do you have any ideas where this...the state would find money to get the project started? [LR322 LR324]

STAN CLOUSE: Well, I think as I read through the project they talk about in other states where they've done that. And, of course, everything I've read too is there are some states that haven't done it real well, and other states that have some pretty good models. So I think that they all have to be studied. But where...I think that was in one of the papers that...some of the revenue streams that pay off those bonds or maybe going back to some of the vehicle taxes, some of those types of things. Now granted, they're all high in Nebraska and we always have those issues to contend with. [LR322 LR324]

SENATOR FISCHER: So first we have to find the pot of money to start the bonding process. And then we need a continuous revenue stream every year to keep it going. Is that how you understand it? [LR322 LR324]

STAN CLOUSE: That's my understanding on how that works, is you would borrow that and then you pay that back, pay back into it through some grants. [LR322 LR324]

SENATOR FISCHER: But any ideas how we're going to start it or where we're going to find a revenue stream? [LR322 LR324]

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

Transportation and Telecommunications Committee  
September 12, 2008

---

STAN CLOUSE: I haven't even... [LR322 LR324]

SENATOR FISCHER: We'd certainly be willing to listen. [LR322 LR324]

STAN CLOUSE: I haven't even heard this in more than a week, so it's...but it's intriguing. I think it's something we need to look into. [LR322 LR324]

SENATOR FISCHER: Okay. Yeah, I do, I do compliment you that your community stepped forward. But I would also have to echo what Senator Loudon said, that there are areas of the state, my 13 counties are right up against the lid. They wouldn't be able to do anything in that matter on their own. But I do compliment you. I think you were...it showed a lot of community support that you were able to step up and leverage those federal dollars. So thank you very much. [LR322 LR324]

STAN CLOUSE: Okay, thank you. Thank you. [LR322 LR324]

SENATOR FISCHER: Any one else wishing to step forward? Any other ideas on funding for us? Okay. Well, with that I will close the hearing for the day then. And I thank you all for coming. [LR322 LR324]