

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 24, 2025  
Rough Draft

\*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

**MOSER:** The afternoon hearing of the Transportation and Telecommunications Committee will come to order. I'm Mike Moser. I represent District 22, which is Platte County and most of Stanton County. We'll start by introducing senators, starting on my right.

**GUERECA:** Good afternoon. I'm Dunixi Guereca. I represent Legislative District 7. That's downtown and south Omaha.

**STORER:** Good afternoon. Senator Tanya Storer. I represent District 43, 11 counties: Dawes, Sheridan, Cherry, Brown, Rock, Keya Paha, Boyd, Garfield, Loup, Blaine, and Custer.

**BRANDT:** Tom Brandt, District 32. I only have 5 counties: Filmore, Thayer, Jefferson, Saline, and southwestern Lancaster.

**BALLARD:** Beau Ballard, District 21, northwest Lincoln, northern Lancaster County.

**MOSER:** All right. Our legal counsel is Gus Shoemaker, and our clerk is Connie Thomas. I had to think about that for a second. And our pages today are Logan and Alberto. OK. We have green testifier sheets on the table near the entrance to the room. Please complete one and give it to the page if you'd like to testify. If you're not testifying but would like to record your presence, sign the yellow sheet on the-- in the book on the table near the entrance. The Legislature's policy is that letters for the record must be received by the committee by 8:00 a.m., the day of the hearing. Handouts submitted by testifiers will be included as part of the record as exhibits. Please provide 12 copies of any handouts and give them to the page. Additional copies can be made by the pages for you. Senators may come and go during our hearing. This is common and required, as they may be presenting bills in other committees at this same time. Testimony will begin with the introducer's opening statement. Then we'll hear from any supporters, and then those in opposition, then those speaking in the neutral. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. Please begin your testimony by giving your first and last name and spell them for the record. We will be using a 3-minute timer system today. There are no demonstrations of opposition or support allowed on any testimony. Please be sure to turn off your cell phone or put them on vibrate so

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they don't ring and disturb the meeting. And at this point, I'm going to turn this over to our vice chair, Senator Ballard. Thank you.

**BALLARD:** All right. This will open up our hearing on LB323. Chairman Moser, good afternoon.

**MOSER:** Thank you for such a rousing welcome. Really sounded heartfelt.

**BALLARD:** I'm excited for you to be here.

**MOSER:** I'm excited to be here, too. Good afternoon, Vice Chair Ballard and members of the TNT committee. I'm Mike Moser, M-i-k-e M-o-s-e-r. I represent District 22. I'm here to introduce LB323, which is the Department of Transportation's annual cleanup bill. It modernizes 2 practices relating to the letting and building of projects by the department in order to reduce unnecessary delays, which add both time and as a result of inflation, cost to transportation projects. Section 1 allows the department to advertise for upcoming contract lettings on an officially designated website, instead of only on the official local newspaper where the project is located. The reason that this is needed is that each news-- newspaper has different timelines before notice can be published, and some papers only publish once a week. Delays between different papers can delay when a contract letting is allowed to take place. And if a 3-week notice period has not been met, the-- it can delay the project itself. By allowing the department to publish this notice on their website and having this notice count for the official 20-day time limit, this issue is solved. Section 2 updates the monetary threshold where the Department of Transportation must seek consent of the Legislature to construct buildings. The current limit has not been updated since 1955, and is out of sync with other state agencies. This update would allow needed projects to take place more quickly, and harmonize this statute with the rest of the state. Currently, the limit is \$100,000, and that is so low that even small storage buildings meant to get materials out of the elements could be delayed until NDOT is able to include those in their budget request. Essentially, this change will account for 70 years of inflation, which has occurred since the law was originally passed 70 years ago, allowing smaller buildings to be built more quickly and efficiently. These 2 updates allow the Department of Transportation to act more efficiently and give them ability to deliver projects along more consistent timelines, thereby saving money and eliminating

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unnecessary delays. Thank you all for your time, and appreciate your consideration of LB323. Following me will be NDOT Director Vicki Kramer, to answer any further questions you may have.

**BALLARD:** Thank you, Senator Moser. Are there any questions? Seeing none, we'll see you at close.

**MOSER:** Thank you.

**BALLARD:** First proponent for LB323. Good afternoon, Director.

**VICKI KRAMER:** Good afternoon Senator. Good afternoon, Vice Chair Ballard and members of the Transportation and Telecommunications Committee. My name is Vicki Kramer, V-i-c-k-i K-r-a-m-e-r, and I'm the director of the Nebraska Department of Transportation. I'm here to testify in support of LB323, which is NDOT's annual cleanup bill, which helps modernize provisions related to advertising lettings for the department's construction projects, and updates an outdated dollar figure related to the construction of buildings. I want to thank Senator Moser for his leadership on the committee and for bringing this bill. As stated, there are 2 statutory updates proposed in LB323, which will allow the department to operate efficiently, improve the delivery of important transportation projects. And in Section 1, we propose allowing the department to advertise for the letting of contracts for construction, maintenance, and repair projects for an official NDOT-designated website. Currently, the only statutorily authorized method of this advertisement is publishing an ad in newspaper for 3 consecutive weeks. This creates issues for letting of some projects, as each official local newspaper has different publication schedules and requirements, causing them additional coordination and work for NDOT staff to meet and maintain deadlines. In some cases, it's just not possible to place the advertisements in time across the different required newspapers, due to variances in publication dates, delaying the advertisement requirements, which ultimately impacts when the projects can be let and move forward with notice to proceed. This is a problem, given there is limited amounts of time of the year when certain construction work can be completed due to Nebraska's weather. Highway construction contractors have confirmed they currently use the NDOT website when looking for project lettings and not the newspaper advertisements. So we believe the 3-work-- the 3-week advertisement constraint should be tied to the

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website posting. NDOT also discussed a potential amendment to the proposed bill with the Nebraska Press Association this past week. The amendment clarifies that NDOT's website will be the official notice of advertisement for the contractors, and the 3-week advertisement requirement would be held to the website posting. In addition, NDOT will also continue to place an advertisement in the local newspaper as a means to communicate to the general public that there is a highway project scheduled for bid letting soon, but there will be no advertising time constraint within the newspaper advertisement. This amendment is included in your packets and, we are told, will alleviate the concerns with the bill. Section 2 simply modernizes the cost threshold over which NDOT must seek legislative approval for the construction of buildings each year in our budget. The current threshold of \$100,000 was established in 1955 and has not been updated since. As you can imagine, \$100,000 bought a lot more 70 years ago than it does today, and when adjusted for inflation would equal over \$1 million today. Additionally, NDOT is the only agency that must follow this threshold. As such, we are simply seeking to update this number to be a constraint-- to be consistent with other state agencies and follow the limits set forth in current statute, which is updated every 4 years to account for inflation and is currently set at about \$900,000. With modern prices, even small projects for buildings meant to store supplies, house vehicles in harsh winters, or improve existing facilities can come within the above threshold. This, in turn, requires the department to wait to include buildings in our biannual budget requests, even if the department already has sufficient funding in our operating budget. This can delay projects and can add to construction costs due to inflation. We believe the updating this threshold preserves their original legislative intent of the existing language. I'd like to thank the committee for your time. I would be happy to answer any questions.

**BALLARD:** Thank you, Director Kramer. Are there any questions? Senator Brandt.

**BRANDT:** Thank you, Vice Chair Ballard. Thank you, Director, for appearing today. You're asking for a limit of \$250,000 or \$900,000?

**VICKI KRAMER:** No, we're asking for it to be updated to the current statute.

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**BRANDT:** Which is about \$900,000.

**VICKI KRAMER:** Yes.

**BRANDT:** OK. I just wanted clarification, because when I looked at the fiscal note, it's talking about \$250,000. So, all right. Thank you.

**BALLARD:** Thank you, Senator Brandt. Are there any additional questions? Senator Storer.

**STORER:** Thank you, Vice Chair. And thank you, Director Kramer. Just for clarification on the-- because I wasn't really reading it necessarily in here, but the advertising on the official web page, if you will still advertise in newspapers-- maybe-- here we go. It'll still be put in all the local newspapers. It's just that this will fulfill the obligation of the 3-week, to be on your official website?

**VICKI KRAMER:** That is correct. The intent is we will be able to have better management of time if we put it on our website, which will be the notice to the contractors, and that's when the clock will start. But we will still notify the general public of a bid letting that could impact subcontractors and just general public concerns. So we've worked with the Press Association to make sure that we still have that commitment.

**STORER:** So this basically allows you to just get that 3-week period started probably 3 ,4, 5 days sooner.

**VICKI KRAMER:** Yes.

**STORER:** And then, will that reference people back to the website, as well? Will those--

**VICKI KRAMER:** Yes.

**STORER:** --notifications and local paper-- papers ref-- reference them back to NDOT's website?

**VICKI KRAMER:** Yes. Since we're still working on the intent of it, it'll shift slightly from it being really the notice to contractors to more of a notice to public involvement, so that the general public understands that these projects are happening. And so we are working

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on the language, but yes, it would refer back to the actual notification.

**STORER:** OK. Thank you.

**BALLARD:** Thank you, Senator. Any additional questions? Seeing none, thank you so much.

**VICKI KRAMER:** Thank you.

**BALLARD:** Next proponent for LB323. Seeing none, anyone in opposition to LB323? Seeing none, anyone in the neutral capacity? Good afternoon.

**MATT SCHAEFER:** Good afternoon, members of the committee. My name is Matt Schaefer, M-a-t-t S-c-h-a-e-f-e-r, representing the Nebraska Press Association today. Want to thank Director Kramer and her team for a good conversation that the Press Association had with her team last week, a good discussion. And as, as you've heard, I think we've worked out language that can both make sure that the traveling public and taxpayers have notice of projects happening in their area, while easing any kind of time frame concerns that there are for project delivery. And thanks. I'm happy to answer any questions.

**BALLARD:** Thank you, Mr. Schaefer. Are there any questions? Seeing none, thank you. Any additional neutral testimony? Seeing none, Senator Moser.

**MOSER:** If I had any sense I'd just waive. But as long as we're here for the afternoon, what the heck? I appreciate the robust discussion that my bill has gotten. You can tell I wrote this ahead of time. And I ask you for your support in moving this bill forward and helping the NDOT modernize its contracting and building processes. I appreciate the fact that the Department of Transportation negotiated with some of the people who are concerned about the bill to work out some language that satisfied all parties, and I think it's going to work in the benefit of building roads more quickly and, and hopefully not cost us more money. I don't know how you can save money building roads anymore, but-- and now, we're just into the cause of trying not to go crazy on what it costs to build a road. Any questions?

**BALLARD:** Thank you, Senator Moser. Are there any final questions? Seeing none--

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**MOSER:** Thank you so much.

**BALLARD:** And we had no, no online testimony in the proponent, opponent, or neutral. That will close our hearing on LB323, and open up our hearing on LB594, Senator Prokop.

**PROKOP:** Good afternoon, everyone.

**MOSER:** Greetings. You're welcome to begin whenever you're ready.

**PROKOP:** OK. Thank you, Mr. Chairman. I appreciate the time this afternoon to discuss LB594. My name is Jason Prokop. For the record, it is spelled J-a-s-o-n P-r-o-k-o-p, and I represent Nebraska's 27th Legislative District, which is in west Lincoln and Lancaster County. I do have a few handouts here-- an amendment to share with the committee. Sorry for the paper here, while we get organized. So LB594 is a bill to prohibit the handheld use of electronic devices while operating a motor vehicle on Nebraska's roads. Our roadways are getting more and more dangerous, as studies show drivers are paying less attention to the road and those around them. I brought this bill because we need to do more to protect those who travel our roadways. Nebraska is currently just 1 of 5 states without a hands-free driving law, or primary enforcement law for texting and driving. As I sought to understand the impact of legislation would have, I consulted with the Nebraska Department of Transportation, the legal community, and law enforcement to craft a bill reflective of best practices and rooted in data, with the intent of saving lives. Many states have seen the value of a hands-free-- a full hands-free ban for electronic devices while driving. By going to a hands-free ban as opposed to a texting ban, we remove the temptation, allow for, allow for lawful use of devices, and clarify how infractions will be enforced. It's good policy and quite frankly, just common sense. The legislation does several things. It would require the operator of a motor vehicle to use only voice-activated or hands-free features or functions, outlaws the ability for a device to be physically held or supported with any part of the body while operating a motor vehicle that is in motion, and it also provides clarification for device usage in emergency situations and allows one-touch functions. Additionally, it removes the need for law enforcement to determine and prove whether the driver was texting specifically or if they were doing some other actions that may not be explicitly prohibited under current law. The amendment that

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you should have just received is simply to clarify its application. There was some language in there around in motion. And so, just want to make clear the-- and, and why-- and purpose of the amendment is so that if the vehicle is in motion, so if you're stopping at a stoplight or a, a, or a stop sign that this would still apply to you? So just-- quite frankly, just a small amendment that would make that change. I believe increased enforcement is needed to address the growing number of fatalities and serious injuries on Nebraska's roads. Our state has unfortunately seen a 17-year high in 2024, whereas other states' numbers have started to trend downwards that have these types of laws. While it's hard to determine the cause of each fatality and serious crash due to the lack of a hard-- due to a lack of hard evidence or willingness by a driver to admit they were distracted, we have seen an increase of about 10% in distracted driving in the state's crash records over the past 3 years, which is when the forms that started denoting this were most recently updated. So you'll see the-- in one of the charts, you'll see one of the big spikes, and that's because the forms were updated. In 2021, distracted driving was believed to be a contributing factor to as many as 28% of all crash deaths nationwide. This is a result of cognitive and visual distraction, which slows reaction times, as well as physical distraction when a driver takes their hands off the wheel to text, which all increases your likelihood of crashing. Studies have shown that the implementation of hands-free legislations helps mitigate the impact of distracted driving. And a study of 4 states which implemented similar laws, there was a decrease in the observation of distracted driving by about 6%. In turn, this should result in fewer distracted driving crashes. Though as I said, unfortunately, sometimes the statistics are a little limited. There is tremendous support for increased enforcement among Nebraskans, too, as people have seen the dangers of distracted driving, which studies have shown increase the risk of a crash by 3.6 times. As a recent study-- traffic study conducted by the University of Nebraska found, over 80% of Nebraskans would support a law that allowed law enforcement to stop a driver solely for texting while driving. I know there are a number of testifiers following me who will be able to dive into more, more of the details on this, around the safety benefits as proposed in LB594, as well as it will actually be enforce. I, again, thank the committee for your time and consideration on LB594 and, and in the interest of making Nebraska's

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roads safer for all drivers. I'd be happy to answer any questions that you might have.

**MOSER:** Questions from the committee? Let's start with Senator Storer.

**STORER:** Thank you, Chairman Moser. And thank you, Senator Prokop. I, I guess my primary question or what has drawn my attention is that you are-- this bill would strike the enforcement aspect. So that I presume, by striking, the fact this would be a secondary action, it would then become a primary action--

**PROKOP:** Correct. Correct.

**STORER:** --for a traffic stop or a--

**PROKOP:** Somebody could be pulled over for being-- having your hand in your, in your phone-- or your phone in your hand. Excuse me.

**STORER:** OK. I mean, that-- and part of that is in-- when people-- I mean, if you're stopped by the police officer, it's pretty clear to see. But, I mean, that becomes kind of difficult to-- I'll have to think about that, but thank you for clarifying that.

**PROKOP:** Yeah.

**MOSER:** Senator Brandt.

**BRANDT:** Thank you, Chair. Thank you for bringing this bill. In, in the bill itself, starting on line 6, you have physically hold or support with any part of his or her body or otherwise use a handheld wireless communication device while operating a motor vehicle that is in motion.

**PROKOP:** Mm-hmm.

**BRANDT:** Doesn't that conflict with the headsets that the truckers wear?

**PROKOP:** So--

**BRANDT:** Because on the bottom, then, you kind of come back and say they can initiate a function by pushing a single touch. But how I

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would-- I would almost read that to be if they have a headset, they're in violation.

**PROKOP:** Yeah. And I will, I will, I will answer your question, but I think there-- there's someone--

**BRANDT:** OK.

**PROKOP:** --from the Nebraska Truckers Association that can probably speak to that even better than I can. So if it was not-- if it's not actually physically in their hand. So a headset, the intent of it would be that that would not be something that would apply to them.

**BRANDT:** So physically in their hand is as witnessed by a law enforcement officer.

**PROKOP:** Correct.

**BRANDT:** Because I would assume that by the time they get them stopped, that cell phone is either under the seat or sitting on the, on the seat. It is no longer in anybody's hand.

**PROKOP:** Yeah. And there's a lot of ways that as I talked to, to law enforcement and the legal community about how that actually happens, because that-- you know, again, to, to point kind of the trucking industry, there's-- they're not allowed to have phones in their hands. But the way that it's en-- and the way it's enforced in other states is law enforcement typically and, and kind of a best practice is if they see someone on their phone and they are going to pull them over for that offense in states where it's a primary, they will do things like they'll have their cameras on in their car and they'll start narrating, saying, I see this. And then you can also go onto it, in that they can look at time stamps on their phones and when it's-- they're unlocked or a phone, phone conversations are happening or texts are happening. They can, they can do all of those things.

**BRANDT:** And then my last question, this, this chart you handed out.

**PROKOP:** Yes.

**BRANDT:** This-- simply the difference is, is that you just changed how we report, so all of the sudden, they spiked up.

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**PROKOP:** Right. Right.

**BRANDT:** So really, the whole chart probably is the same all the way across.

**PROKOP:** Right.

**BRANDT:** Would that be a fair statement?

**PROKOP:** I, I, I think so.

**BRANDT:** OK.

**PROKOP:** I mean, that's, that's-- to some of the shortcomings that we have in the data because of the way the form changed. So yeah, so it's-- I mean, I think it's-- that would be consistent with that statement.

**BRANDT:** All right. Thank you.

**PROKOP:** Yeah.

**MOSER:** Senator Storer.

**STORER:** Thank you. Questions beget questions. So on the-- back to your comment to Senator Brandt, about if they see them, they, they can document that, you know, at such and such time. But then if they were to actually-- would it require a warrant in order to access their, their phone? I mean, that would be personal property with--

**PROKOP:** Yeah.

**STORER:** I just have to think through that, that process. If they were, if they were going to write a ticket based on having to look at their phone and illustrate that you made a call at whatever, 1:34, that kind of gets into a whole nother level of private property, right--

**PROKOP:** Yeah.

**STORER:** --of accessing that information based on thinking that you saw someone.

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**PROKOP:** Yeah. So if that was necessary, they, they could do that. They could access the phone in those instances. In--

**STORER:** Like, on the spot. Like--

**PROKOP:** Right. Correct. Now in practice-- and I, I talked to legal folks and law enforcement on this issue. So they could and, and typically, if they, if they wanted to take it because they needed to prove it, law enforcement could do that under this. Now, in practice, that, that would be a rare, rare occurrence of doing it, because you would have to do all the forensics-type side of things. And, and they don't, and it's costly and timely to, to do all of those things. And that typically only happens in-- if it was a byproduct of, of a crash.

**STORER:** Right.

**PROKOP:** Right. So-- and then, and then that gets a little bit more serious when they are confiscating a phone to take it to look at it. So, so in this case, it's mostly visual. And the, the law or, or what's proposed in this bill would say that it would be able to do-- if they visually identified, saying someone had the phone, had the phone in their hand. That would be the reason for the, for the traffic stop.

**STORER:** So my next question and I understand there's going to be some more folks come up.

**PROKOP:** Yeah, yeah.

**STORER:** But if, if you looked at my phone and it said, you know, you made a call at 1:34, there's no way to tell if that was-- I don't think-- there's no way to tell if you were on-- had it on CarPlay or speaker phone or your iPod, the AirPods. So that still wouldn't necessarily prove that they were holding the phone.

**PROKOP:** Right. It would be the visual observation piece on that. So.

**STORER:** OK.

**PROKOP:** Yeah.

**STORER:** Thank you.

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**PROKOP:** Yeah.

**MOSER:** I have a question. Is this intended to preclude using the phone as a mapping device? I mean, if you had, you know, your mapping app up and running and sometimes it goes dark or gets lost and you need to pick up your phone and touch something to bring it back?

**PROKOP:** No, it's not. I mean, it's-- really the intent of it is to-- is prolonged having, having your hands on the phone or scrolling while you're--

**MOSER:** So they're gonna time you, how long you're holding your phone?

**PROKOP:** Right, right. I mean--

**MOSER:** Oh, God.

**PROKOP:** --you know, if you're look-- if you have mapping navigation up and you go to tap on it to, to-- if it, if it goes dark, that would be, that would be one thing, to, to wake the phone back up, essentially.

**MOSER:** So it's currently not lawful to use your phone while you're driving, but it's just not a primary offense?

**PROKOP:** Correct. It's a secondary offense, where you have something else.

**MOSER:** So you get pulled over for something else, and they could say, well, you, you didn't signal your lane change or you-- your wheel crossed the white line, and then they would give you the additional infraction or ticket--

**PROKOP:** That's accurate.

**MOSER:** --for the--

**PROKOP:** Yeah. Yes.

**MOSER:** Aren't there enough things illegal already?

**PROKOP:** Well, I guess, to me, it comes back to the safety elements of it. You know, if you're-- if you have your-- I was just up in--

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spending a lot of time in Omaha over the weekend driving back and forth on the Interstate, going to-- my son had a hockey tournament up there. And I, I, I couldn't tell you and I'm sure you probably all see it when you're traversing the roads is how many people-- you know, I looked over and there's people doing 80, 85 miles per hour and they have their phone right in front of their, their, their face. So I, I guess, to me, it comes back to a safety element of it. And if you're distracted and not, not having your eyes on the road and hands on the wheel, that just diminishes the, the safety of the driver.

**MOSER:** Well, I drive in every day. I've seen people reading in the newspaper while they're driving.

**PROKOP:** Yeah. Yeah. Yeah.

**MOSER:** Is that illegal?

**PROKOP:** I don't, I don't know about the newspaper. I don't know.

**MOSER:** Maybe you should add that on.

**PROKOP:** I mi-- maybe I, maybe I need to.

**MOSER:** OK.

**STORER:** Putting on makeup.

**MOSER:** Any other questions? Thank you very much.

**PROKOP:** Thank you.

**MOSER:** Nice job, even though I don't all agree with you on that. OK. Anybody else to speak in support?

**ROBERT M. BELL:** Oh, sorry.

**MOSER:** We had 13 letters of support come in, no opponents and 2 neutral, for the record. Welcome.

**ROBERT M. BELL:** Good afternoon. Chairperson Moser and members of the Transportation and Telecommutation-- Telecommunications Committee, my name is Robert M. Bell. I am the executive-- last name is spelled B-e-l-l. I am the executive director and registered lobbyist for the

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Nebraska Insurance Federation. I am appearing today in support of LB594. The Nebraska Insurance Federation is the primary trade association of insurance companies in Nebraska. Currently, the federation consists of 49 member companies. Members write all types of insurance. One of the goals of the Federation is to promote the concepts and importance of insurance products to the public. Nebraska insurers provide high-value, quality insurance products to Nebraskans that help protect Nebraskans during difficult times. Under current Nebraska law, it is unlawful to utilize a hand-held wireless device such as a cell phone while operating a motor vehicle. However, enforcement of the law is secondary, meaning that the operator must first commit another offense before being ticketed for illegal cell phone use. LB594 simply changes this to a primary enforcement, meaning the violation-- violating operators could be pulled over and ticketed for illegal cell phone use without another underlying violation. Driving is the single most dangerous activity most Nebraskans engage in on a daily basis. And the Nebraska insurance industry supports efforts to make traveling in a motor vehicle a safer experience for all Nebraskans. According to the National Highway Safety-- Traffic Safety Administration, distracted driving accounts for a significant portion of all fatal crashes and injuries. Beyond the tragic results-- the tragic loss of life, traffic accidents also have a detrimental impact due to losses in productivity, legal costs, medical costs, and property damage. Insurance companies and their premium-paying customers are financially responsible for many of these costs. LB594 is commonsense legislation that will make Nebraska roads safer. Smartphones are not going to disappear from society anytime soon. Fortunately, smartphone technology has approved to allow new, more reliable options for voice-activated calls and hand-free talking. Such technologies allow drivers to keep their hands on the wheel and eyes on the road. LB594 wisely recognizes this technological evolution and updates Nebraska law to leverage the newer technologies. Primary enforcement on the prohibition against cell phone use while driving should lead to less distracted driving, fewer accidents, and fewer insurance claims, positively impacting both the lives and pocketbooks of Nebraska premium payers. For these reasons, the Nebraska Insurance Federation supports the passage of LB594. I appreciate the opportunity to provide testimony.

**MOSER:** Thank you. Questions from the committee? Senator Brandt.

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**BRANDT:** Thank you, Chairman Moser. Thank you, Mr. Bell, for your testimony today. If we were to make this a primary offense, are Nebraskans' car insurance rates going to go down 15%, 25% or 50%? How much, how much of a discount are we gonna get?

**ROBERT M. BELL:** Oh, 50%, Senator. No. You're welcome, by the way, for, for testifying. The-- I don't know that they're going to go down at all.

**BRANDT:** All right.

**ROBERT M. BELL:** But it might bend the increase some, in the future.

**BRANDT:** So we already have a law in force.

**ROBERT M. BELL:** We do.

**BRANDT:** Using the example that Senator Prokop-- you know, somebody is doing 80 miles an hour on an Interstate where the legal limit is 75. An officer could observe that person, pull him over, give him a ticket for speeding, and also give him a ticket for a phone today. Would that be correct?

**ROBERT M. BELL:** Absolutely. That would be correct.

**BRANDT:** All right. Thank you.

**ROBERT M. BELL:** You're welcome.

**MOSER:** OK. Other questions from the committee? Thank you very much for your--

**ROBERT M. BELL:** You're welcome.

**MOSER:** --testimony. Are there more supporters to testify? Welcome.

**KATIE WILSON:** Good afternoon, Chairman Moser and members of the Transportation and Telecommunications Committee. My name is Katie Wilson, K-a-t-i-e W-i-l-s-o-n, and I'm testifying today on behalf of the Associated General Contractors, Nebraska Chapter, in support of LB594. AGC and the entire construction industry supports all efforts to increase safety on the roadway. Our workers face significant

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hazards in the form of distracted driving by the traveling public. Before becoming the executive director of AGC, I worked in the industry for a traffic control company. We installed traffic control devices, which separate the traveling public from the actual jobsite and the workers. All the orange cones and orange things, right, that's what we did. But ultimately, these devices don't really keep workers safe. Workers are only as safe as the person driving by them. Picture working on I-80 between Lincoln and Omaha. It sees 50,000 vehicles every day, 2,000 every hour. That's a lot of strangers to trust your life with. Could you do it? Could you trust that every one of those drivers is paying attention as they pass by, mere feet from where you're working? I personally know of a guy who works for my previous employer. He was doing his job here in Lincoln one day, setting up a work zone. He was plowed into by a woman who wasn't paying attention and was on her cell phone. Thank goodness he survived, but he lost both of his legs. Wouldn't have never happened if she had just kept her purse-- or her phone in her purse. I could have brought hundreds of people here today to tell you the stories of what happens to them while they're working on the streets, on the roads, night and day. Texting and driving don't go together. AGC thanks Senator Prokop for introducing this important bill, and we urge the committee to advance it to General File. I'll have-- answer anything if you have a question.

**MOSER:** Questions from the committee? Seeing none, thank you for your testimony. More supporters? Welcome.

**TIFFANY YANT:** Good afternoon, Chairman Moser and members of the Transportation and Telecommunications Committee. My name is Tiffany Yant, T-i-f-f-a-n-y Y-a-n-t. I'm here today to support LB594. On April 12, 2024, my father, Officer Ross Bartlett, tragically lost his life in the line of duty in a tragic incident that should never, never have happened. While conducting a routine traffic stop on Highway 77, outside of Ceresco, Nebraska, my father's police cruiser was struck by a vehicle. The driver who hit him wasn't impaired by alcohol or drugs. He was impaired by his phone. He was texting while driving, completely distracted, and unaware of the road ahead. That moment of negligence took my father's life and forever changed our family. Distracted driving is impaired driving. If that driver hadn't been preoccupied with his phone, my father would still be here. The pain of losing him, the void in our lives is something that no family should ever have to

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endure. This tragedy brings to light the urgent need for stricter laws and enforcement against distracted driving. As a society, we've come to recognize the dangers of drinking and driving. We know the consequences: Arrest, fines, loss of license, even death. But right now, the law treats texting or using your phone behind the wheel as a secondary offense, meaning law enforcement cannot pull someone over for it unless they've already committed another crime. This law doesn't allow officers to address distracted driving as the deadly behavior it truly is. LB594 changes that. It makes phone use while driving a primary offense, meaning that law enforcement can pull someone over specifically for texting or using their phone behind the wheel. That is a crucial change. Every person on the side of the road, whether they're changing a flat tire or performing their job, should feel safe. My father should have been safe while doing his duty. The safety of those on our roadways, whether they are first responders or everyday citizens, should always come first. That's why it's crucial that we take action to prevent tragedies like the one we've experienced from happening again. On behalf of my father, office--fallen Officer Ross Bartlett, I am asking you to support and approve LB594. This legislation will help ensure that drivers are held accountable for their actions and the safety of others on our roads. By passing this bill, you'll honor my father's sacrifice and help protect future generations from the pain we now have to live with. Distracted driving is a choice, a deadly choice. It takes just one second to end a life. It's time for Nebraskans to put down their phones while driving. I ask for your support in making our roads safer for all of us. I encourage you to support LB594 and to advance this bill from committee. Thank you.

**MOSER:** OK. Thank you. Questions from the committee? Thank you very much for your testimony. Are there more supporters?

**KENT GRISHAM:** Good afternoon, Mr. Chairman, and members of the Transportation and Telecommunications Committee. My name is Kent Grisham, K-e-n-t G-r-i-s-h-a-m, and I appear today as the president and CEO of the Nebraska Trucking Association. And I am most happy to be here today and to speak in support of LB594. The trucking industry in Nebraska sincerely appreciates Senator Prokop's leadership in bringing this bill forward. I do not come today to quote a lot of statistics, trying to prove how devastating and deadly the costs of distracted driving are. I don't need to do so. You will hear a lot of

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stats in this hearing, and you don't have to look very hard to find news articles and research studies that prove all of that. I will quote just one. The Federal Motor Carrier Safety Administration reports that 80% of all truck accidents involved some type of driver distraction in the 3-second window leading up to the crash. The report goes on to say that looking at a phone for just 8 seconds leaves a driver distracted for the length of 2 football fields. And finally, that report shows that distracted driving is the second leading cause of fatal truck crashes in 2021. Now, to be clear, that doesn't mean the truck drivers were always the ones distracted in those studies. I'm not here to talk about who is at fault, just the causes. All of this has led the FMCSA to ban the use of handheld devices by professional truck drivers across the board. The industry has embraced that ban and taken many steps to enforce it. We've invested millions of dollars in education and training, along with the technology that monitors our drivers for device usage and whether or not they're focused on the road. We have not reached perfection, but we have taken the problem and our responsibilities seriously. And it is time for the state of Nebraska to take that problem and its responsibilities just as seriously, and that begins with passing LB594. As a quick, personal side note, I happen to be one of those people who commutes between my home and Omaha-- my home in Omaha and our office in Lincoln. I can echo what Senator Prokop says. It never ceases to amaze me what people will do behind the wheel of their car going on I-80. But our law enforcement officers lack the most basic ability to address this incredibly dangerous situation. I also spent 30 years as a first responder, first as an EMT, and then 24 years as a reserve police officer. I have responded to these entirely preventable crashes, if only a law enforcement would have had that basic tool. The trucking industry sincerely hopes you pass LB594. I will point out also, a couple of additional handouts are in your packets. One is the FMCSA guidelines. It gives you some background information that you might find interesting, including the hefty fines that a driver faces, and his employer faces hefty fines, as well, if he receives a ticket. And the other is a website that was developed by a trucking insurance company that actually allows you to test your own response times. It simulates the use of a cell phone by you and how quickly you can apply the brakes. So it's a great tool. I hope you will take the time to visit it and kind of prove this to yourselves. Thank you.

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**MOSER:** OK. Thank you. Questions from the committee? Senator Brandt.

**BRANDT:** Thank you, Chairman Moser. Thank you for your testimony today. Your statistics involving truck-related accidents, you guys have been hands-free for 4 or 5 years?

**KENT GRISHAM:** Actually, longer than that. The first guidelines came out from the FMCSA in 2012.

**BRANDT:** So are all those accidents with other distracted drivers, not the hands-free device-- not the truckers? Do you have a, do you have a breakdown of those accidents, I guess is what I'm asking?

**KENT GRISHAM:** I do have-- I did not bring that break-- I didn't bring the details with me.

**BRANDT:** OK.

**KENT GRISHAM:** I'm more than happy to send it over to you, that breaks it all down in terms of which driver--

**BRANDT:** Sure.

**KENT GRISHAM:** --was distracted and all that.

**BRANDT:** I'd kind of like to see that.

**KENT GRISHAM:** Sure.

**BRANDT:** Thank you.

**KENT GRISHAM:** Happy to do that.

**BRANDT:** Yep.

**MOSER:** OK. Any other questions from the committee? All right. Thank you--

**KENT GRISHAM:** Thank you, sir.

**MOSER:** --for your testimony. Any other supporters? Proponents? Welcome.

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**ERIC KOEPPE:** Good af-- oh, good afternoon, Senator Moser and members of the Transportation and Telecommunications Committee. My name is Eric Koeppe. That's E-r-i-c K-o-e-p-p-e, and I want to point out that's the first time I've remembered to spell it in all these years, I serve as president and CEO of the Nebraska chapter of the National Safety Council. I'm here today to address a matter of impairment-- of importance to the safety and well-being of Nebraskans, the urgent need for hands-free distracted driving legislation. LB594, as you know, represents a proactive approach to addressing a significant public safety concern. By restricting the use of handheld devices while driving, we can make our roads safer for the drivers, the passengers, the pedestrians, and all those we share the roadway with. According to a 2024 study by the Governor Highway Safety Administration [SIC] and Cambridge Mobile Telematics, hands-free laws are effective in preventing injuries and saving lives. The report states that in the 6 months after Ohio adopted its hands-free law in April of 2023, there was a notable 8.1% decrease in driver distractions. In addition to that, that Cambridge estimates that it prevented 3,000 crashes, 1,700 injuries, 14 fatalities, and to kind of speak to the insurance industry, they estimate that the Ohio law has reduced economic damages by \$121 million. The report also states that after Michigan adopted its hands-free legislation in June of '23, the state has achieved an average reduction of 9.5% in distracted driving, saving 11 lives, 1,400 injuries and \$98 million in impact. I also want to point out that this is not necessarily a teen driving problem. The report I handed out to all of you has the statistics, but it also points out that they did a study and the individuals 30-44 are particularly prone to distracted driving, showing a strong inclination towards using social and communications apps. Here is the most used apps by drivers, and it's in that packet I gave you. Instagram, 24%, the camera app and WhatsApp, 20%. Shockingly, 19% of drivers had said that they used YouTube while driving. Out of the top 10, using your phone is actually in 10th place at 15%. So I would encourage the members of the committee to pass this bill out of committee and onto the floor. And I would be happy to answer any of your questions.

**MOSER:** OK. Questions from the committee? Senator Fredrickson, welcome.

**FREDRICKSON:** Thank you.

**MOSER:** Please introduce yourself.

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**FREDRICKSON:** Yes. John Fredrickson, District 20, central west Omaha. Thank you for being here and for your testimony. I'm, I'm sorry. I missed the opening of this, so if this has already been covered, I apologize for being redundant. But what, what happens in the case where-- and maybe-- I don't even know if this technology exists, but if someone's driving an older vehicle that doesn't have the capacity or ability to have a hand-held-- or hands-free, I should say--

**ERIC KOEPPE:** Right? I'm not sure what each cell phone does.

**FREDRICKSON:** OK.

**ERIC KOEPPE:** But I know, you know, mine can go on speakerphone.

**FREDRICKSON:** Yeah. Oh, got it.

**ERIC KOEPPE:** It can be mounted like that.

**FREDRICKSON:** Yeah.

**ERIC KOEPPE:** Certainly, a lot of us have vehicles that have Bluetooth technology that goes right in--

**FREDRICKSON:** OK.

**ERIC KOEPPE:** --right into the car.

**FREDRICKSON:** I'm also now just visioning in my head those things you put on the windshield where your phone sticks on it for an amount--

**ERIC KOEPPE:** Yeah, yeah.

**FREDRICKSON:** Got it. Never mind. I answered my own question. Thank you.

**MOSER:** OK. Other questions? Thank you very much.

**ERIC KOEPPE:** Thank you.

**MOSER:** More supporters? Welcome.

**MARK MEISINGER:** Good afternoon, Senator Moser, members of the Transportation and Telecommunications Committee. My name is Mark

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Meisinger, M-a-r-k M-e-i-s-i-n-g-e-r. I'm a professional engineer in the state of Nebraska, also licensed in Iowa, Kansas and South Dakota. I'm also a professional traffic operations engineer. It's a national certification. I'm here today on behalf of ACEC Nebraska, American Council of Engineering Companies, to support LB594. As a traffic engineer, my primary responsibility is to ensure the life, health, and safety of the public by designing and advocating for safer roadways. The use of handheld devices while driving directly undermines these efforts, increasing crash risks and endangering all road users. Traffic safety requires proper infrastructure, driver behavior, and enforcement. And without strong deterrence, distracted driving [INAUDIBLE] claim lives and cause preventable injuries. I know there's been a lot of statistics. I'll leave you with one from Nebraska. From 2014 to 2023, there has been 114 lives lost on our roadways in Nebraska and 12,908 injuries due to distraction. Every one of these instances is preventable, and it represents the failure to protect our road users from avoidable harm. From an engineering perspective, the roadway system is designed with safety measures in place, including speed limits, signage, and traffic signal timing. These designs rely on drivers being attentive and responsive. And hand-- handheld device use while driving negates these safety measures, leading to increased reaction times and higher likelihood of red light violations, lane departures, and the reduced ability to avoid hazards. This is also known as inattention blindness. It's particularly concerning, concerning for general road users such as pedestrians and cyclists, and they suffer disproportionately in distracted driving crashes. There was some mention of teen drivers. They do face a greater risk, you know, according to research. Teens often don't have the benefit of years of experience driving. They might be more prone to making mistakes anyway. And when they put a cell phone or other device in their hand, it really, you know, increases that likelihood of, of being distracted. And again, you know, it was mentioned that Nebraska doesn't have a primary law. Treating the handheld device use as the primary offense is a crucial step in pri-- prioritizing public safety. So just to close, you know, as traffic engineers, we really advocate for policies that protect our road users, and safety is our first priority. We want the roads to be safe for everyone. And distracted driving is an entirely avoidable hazard that threatens public health and safety. Strengthening enforcement through primary offense legislation is not just a legal necessity, but it's an ethical

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obligation of engineers to protect the lives of all who use our roads in Nebraska. So thank you. I can answer any questions.

**MOSER:** Questions from the committee? Seeing none, thank you very much. Anyone else in support? Welcome.

**BRIAN ORTNER:** Good afternoon, Chairman. Moser and members of the Transportation and Telecommun-- Telecommunications Committee. My name is Brian Ortner, B-r-i-a-n O-r-t-n-e-r. I'm the public affairs specialist with AAA of Nebraska. On behalf of AAA and its more than 224,000 members in Nebraska, thank you for the opportunity to speak today in support of LB594. As a state, we must continue to prioritize the safety of our residents on the roadways. Implementing a hands-free law is not only common-- a commonsense approach to reducing distracted driving, but also a measure that can save lives and prevent injuries. Distracted driving is one of the leading causes of motor vehicle crashes in Nebraska and across the United States. You've heard many statistics today. In the sake of saving time, there are references in the testimony you've been provided that have stats that I used as part of my testimony. And while distracted driving encompasses more than just mobile phone use, we know that cell phone use is a, is a significant contributor. A study by the AAA Foundation for Traffic Safety found that drivers who engage in handheld phone use are 4 times more likely to be involved in a crash. Numerous studies and state level experiences have demonstrated that hands-free laws are an effective way to reduce crashes and fatalities. For instance, a 2021 study by the Insurance Institute for Highway Safety found that states with hands-- hands-free laws saw a 15% reduction in the rate of fatal crashes involving distracted drivers. Public opinion strongly supports hands-free laws. A 2020 survey conducted by the AAA Foundation found that 84% of Americans supported banning handheld cell phone use while driving. With public sentiment aligned with safety objectives, now is the right time for Nebraska to join the growing number of states that have adopted this type of legislation. Adopting a hands-free law in Nebraska will help us protect not only drivers, but also pedestrians, cyclists, passengers, and those who work on the sides of the roadway getting people back on the road safely or enforcing our laws. Reducing distracted driving would decrease the economic burden caused by accidents, which cost Nebraska millions of dollars each year in emergency services, hospital stays, rehabilitations, and more importantly, it will save lives. In conclusion, the data is clear:

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hands-free laws work. They lead to fewer accidents, save lives, and set an example of safety for drivers across the country. Nebraska has a responsibility to ensure the safety of its citizens, and implementing a hands-free driving law is a proactive, evidence-based step we can take to achieve that goal. I urge the committee to support the passage of LB9-- LB594, and to make Nebraska's roadways safer for all. I can take any questions you may have.

**MOSEER:** Questions from committee members? Seeing none, thank you very much--

**BRIAN ORTNER:** Thank you for your time.

**MOSEER:** --for your testimony. Are there more supporters? Any more supporters? Proponents? Are there any opponents? Welcome.

**SPIKE EICKHOLT:** Thank you. Good afternoon, Chair Moser and members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm appearing on behalf of the Nebraska Criminal Defense Attorneys Association and the ACLU of Nebraska in opposition to LB594. I did visit with Senator Prokop a number of times-- actually, before he was even sworn in, when he indicated that he would likely introduce a bill like this, that we would be opposing it. What this bill would do is it would create a new criminal infraction. Even though it's a traffic infraction, it's a new crime to prohibit or to criminalize holding a phone or other device while your vehicle's in motion. If you look on page 2, lines 5-7, and Senator Brandt referenced this earlier, that's the crime. The phone does not have to be on. You don't have to be using it. You're simply holding it. You can be moving it in your car. You plug it in. That's the crime. On page 2, lines 28-31, as Senator Storer referenced earlier, that's the elimination that this is a secondary offense. Generally, if the legislature passes a law like this, unless you say otherwise, it's a primary offense and I can justify a stop and detention. This is more than simply texting or simply actually holding a phone or something like that. I think in response to Senator Grant's question. It would include a headset that somebody uses, because if you look on page 2, line 7, it references a handheld wireless communication device. And on page 3, lines 12-17, that's the definition, which includes but is not limited to a mobile cellular phone, that sort of thing. Maybe it doesn't quite capture that and perhaps that's not enough intent, but I think that does

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capture that. You've heard some arguments for the bill, and you've heard a lot of references to the phrase distracted driving, not necessarily driving or using a phone, but distracted driving. And when you talk to proponents and supporters of this bill, you'll typically hear them say something like this: I was driving and I saw somebody who was weaving in their lane and they were on their phone; or they were driving 80 miles an hour and they were on their phone; or they didn't use a turn signal and they were on their phone. On the second page of my testimony they handed out, we have a whole series of crimes that criminalize bad driving, distracted driving, and reckless driving. If you are not using a turn signal, that's it. You can be stopped for that. And if you were on your phone at the time, then you can get a secondary citation. In other words, it's not a defense to those charges that you were on your phone. The officer doesn't let you go if you say, you know what? Sorry, I didn't pay attention to the speed limit. I was sending a text. That's not how it works. The concern that we have is that this will essentially allow law enforcement to stop anyone at any time, because the reality is, all of us have our phones with us at all times. We do not put those in our trunk when we get our vehicle. We do not lock them in our console or our glove compartment. We have them in our vehicle. There's an exception-- there's a-- if an officer sees you do it, they can stop you for it. There's another line of cases that allow officers that act in good faith and mistakenly think that they saw that you-- if you just do the one-touch feature, for instance. Officer says, you held your phone. In response to Senator Storer's question-- I'm going to run out of time. As far as searching it, officers are going to need a warrant to search your phone, unless you authorize them to search it. And there's all kinds of reasons why you wouldn't want to have to get into your phone, little to do with why you might be stopped. But anyway, I'll answer any questions if anyone has any, but we would urge the committee to not advance the bill.

**BRANDT:** All right, let's see. Question? Senator Fredrickson.

**FREDRICKSON:** Thank you, Senator Brandt. Thank you, Mr. Eickholt, for being here and your testimony. So I, I can certainly appreciate your concerns about-- what I'm hearing is and, and tell me if I'm misunderstanding this, is the, is the primary concern you have that this would make this a primary offense versus a secondary offense?

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**SPIKE EICKHOLT:** That's one of the concerns. Because in earlier iterations of this bill, that's generally what was done. They just eliminated the second offense protection--

**FREDRICKSON:** All right.

**SPIKE EICKHOLT:** --secondary offense protection. This does a little bit more. It eliminates that and it creates a broadening of texting while driving. It's not just texting. It's holding your phone--

**FREDRICKSON:** Mm-hmm.

**SPIKE EICKHOLT:** --or holding a handless communication device.

**FREDRICKSON:** Mm-hmm, mm-hmm.

**SPIKE EICKHOLT:** That's the violation. You don't have to be-- it, it could be a nonfunctioning phone.

**FREDRICKSON:** Right. Right.

**SPIKE EICKHOLT:** It could be your wallet and the officer thinks it's a phone.

**FREDRICKSON:** OK.

**SPIKE EICKHOLT:** That's the concern we have. You know, since we've had this texting while driving, I think, in 2010, it's always been a secondary offense. And there's been regular efforts to change that. And I think that-- it's been a deliberate policy decision that the state has opted not to have that.

**FREDRICKSON:** Yeah.

**SPIKE EICKHOLT:** And it doesn't mean-- sorry.

**FREDRICKSON:** Oh, no, no. That's fine. And, and I, I haven't spoken with the introducer about this at all, so I, I don't know if he's amenable to amend-- amending the bill or not. But would-- if, if it were-- to not eliminate the secondary offense piece, so in other words, to keep this as a secondary offense, would that eliminate your

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opposition or would that-- would it still be something that you would have concerns about?

**SPIKE EICKHOLT:** I suppose that would be a little bit more reasonable. But I, I-- and I can't speak for Senator Prokop. I have not even talked to him about that. But that's one of the biggest concerns that we have. It's our position there's enough reasons to stop somebody who is distracted driving.

**FREDRICKSON:** Sure. Sure.

**SPIKE EICKHOLT:** Right?

**FREDRICKSON:** Sure. Yeah.

**SPIKE EICKHOLT:** I'll have to talk to my members about that to see if that's something that they're amenable to, but that might be something.

**FREDRICKSON:** Thank you.

**BRANDT:** Other questions? All right. I've got a few.

**SPIKE EICKHOLT:** Sure.

**BRANDT:** So I'm from a rural area. Probably 20% of the traffic on my roads are tractors, swathers, combines, vehicles that generally go 15-30 miles an hour. Does this law apply to those people operating those vehicles?

**SPIKE EICKHOLT:** Well, maybe committee counsel knows, but it [INAUDIBLE] the phrase motor vehicle. And that's a, that's a term of art. As you know, when you dealt with your ATV bills earlier, you slightly changed the definition of those to allow them to be on the roadways or to move snow after hours, because they aren't motor vehicles and not allowed on the road. I think that some of the vehicles that you mentioned, the tractors and the trucks are motor vehicles under the law, so it would impact those.

**BRANDT:** Because my concern is in a lot of those vehicles, we have high technology. To your point, I could be holding a garage door opener in my hand, turning off from the road, and I could see where an officer

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might think that that was a, a cell phone. I mean, there's a lot of other devices and a lot of specialized equipment out there in rural Nebraska. I'm glad to hear, in your opinion, a warrant would, would need to happen in order to confiscate that phone. I think-- and I live on a state highway, and, and it, it is bad. There's a lot of people on the phones. I agree with that. But all that's going to happen is instead of them having it up here where they're watching the road, they're going to set it on their leg down here and the officer is going to see a guy doing this. In your opinion-- yeah. Is that-- would that warrant a primary safety stop?

**SPIKE EICKHOLT:** It might. And I mentioned that earlier. If officers see you committing a crime that justifies a stop, no matter how minor it might be, speeding, not using a signal, that's enough probable cause for the officer to stop you and keep you, at least for that limited purpose. There are some cases, and our Supreme, Supreme Court has adopted this exception to-- if an officer reasonably believes, but is mistaken, that you violated the law, they can pull you over. So there's a mistake of fact exception allowed, and there's also a mistake of law. In other words, some states are single county-- or single-plate vehicles. There's a couple of cases, not necessarily in Nebraska, but throughout the country, where officers have mistakenly pulled over somebody from Idaho for having one plate, but it turns out-- or not for having two plates, but it turns out Idaho is just a one-plate state, for instance. The courts have allowed that kind of flexibility. If the officers try and they mean well but they mistake, then it still allows the stop and the charge to still happen. So to answer your question, I think it would be. If an officer sees somebody looking down constantly, especially if it's a young person, you're going to think, probably not looking at their phone, they're probably listening to songs on YouTube or something like that, and I'm going to pull them over.

**BRANDT:** OK. No questions? Senator Fredrickson.

**FREDRICKSON:** I'll ask another one. Thank you, Senator Brandt. Spike, thank you, again, for being here. How do-- and I'm sorry if I missed this earlier. How do we compare to other states with this?

**SPIKE EICKHOLT:** I think-- I haven't looked at it in detail. It's-- I always think this "compared to other states" is kind of a self-serving

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argument. And admittedly, I've used it before, but the last couple years, I've stopped arguing it because that really doesn't seem to matter. But our, our traffic offense-- our traffic infractions are all criminal in nature, and that matters for a variety of reasons that we don't really have to talk about today. So when you compare our traffic infractions [INAUDIBLE] you can stop vehicles and what the penalty is, you're kind of comparing it to other states where it's civil in nature, and you don't get arrested if you don't pay a fine, you don't necessarily lose your license if you don't pay a fine and that sort of thing that happens here. I think, admittedly, most states do have what would be considered a primary stop way of doing phone usage. I think some other states have a general offense of distracted driving, where phone usage is just one of those things. It's phone usage, it's putting on makeup, it's reading a physical paper, it's eating, it's all those things. I think we have that, but it's called different things, like failure to maintain your lane or failure-- following too close or not using signal or not coming to a complete stop, all those other bad driving things. So-- but admittedly, I think the proponents are probably accurate when they say that what we have now is in the minority of what other states have.

**FREDRICKSON:** OK. Thank you.

**BRANDT:** I see no other questions. Thank you for your testimony. Other opponents. Any opponents? Anyone in the neutral capacity? Welcome.

**VICKI KRAMER:** Good afternoon, Senator Brandt. Good afternoon, members of the Transportation and Telecommunications Committee. My name is Vicki Kramer, V-i-c-k-i K-r-a-m-e-r, and I'm the director of the Nebraska Department of Transportation. I am here to testify in the neutral capacity for LB594. I would like to sincerely thank Senator Prokop and the Legislature for considering legislation foc-- focused on improving the safety of our roadways, especially at a time where we are at a 17-year high in roadway fatalities. Over the past year, the department has evaluated a number of proven safety countermeasures and best practices to understand how best to influence safety. This led to several legislative actions, including the department's comprehensive safety bill with Senator DeBoer, LB600, focused on work zone and schools zone safety. Most notably, this research showed a need to address distracted driving. Data shows that in 2024, phone use while driving in Nebraska was higher than the national average. The

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department believes that higher phone usage while driving is influenced by the fact that Nebraska is 1 of 5 states without a handheld-- without a hands-free driving or a primary enforcement of texting and driving, which creates an unsafe environment. National statistics show that 34% of drivers are distracted the minute before they crash. Additionally, we know that there are more types of distraction other than just texting, as even holding or reaching for a phone can lead to a driver to take their hands off the wheel or eyes off the road. Furthermore, the department believes distracted driving was previously under-reported in crash records, as officers may not have been able to prove a driver was texting prior to the crash, and as such may choose not to mark it on the form. With that being said, our crash records do show distracted driving as a cause of crashes has increased 10% over the past 3 years since it was last updated. While distracted driving makes up only 1 possible factor, leading to the 200-plus fatalities that Nebraska saw on the roadways in 2024, the data shows that it disproportionately harms young drivers, and motor vehicle crashes are the leading cause of death for teenagers in the United States. The department has engaged in educational campaigns such as "Buckle Up, Phone Down" to inform the public on the dangers of distracted driving, but its effectiveness is limited because drivers don't believe that they will be pulled over for texting and driving given the current secondary enforcement. This would be addressed by LB594, by prohibiting the holding of the electronic device while operating a motor vehicle. In our conversations with law enforcement on how to tackle this topic, it's become clear that the hands-free standard was much more effective than going from secondary to primary enforcement of our existing distracted driving laws. This is because it would allow for both easier enforcement and prosecution. Our law enforcement partners have indicated that simply spotting a phone in a driver's hand is easier to enforce than making a determination on whether the driver was texting at the time. As I stated, Nebraska is unfortunate-- Nebraska unfortunately saw fatalities reach a 17-year high in 2024, whereas other states' numbers have started to trend downwards. Nationally, distracted driving is believed to contribute to more than 10% of all crashes. While data is limited, there is data which shows the implementation of hands-free legislation helps reduce the instances of distracted driving by approximately 6%. You did hear this statistics coming out of the recent Governor's Highway Safety Initiative that talked about Ohio, Michigan, and other

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implementations. The department would ask the committee and the Legislature to consider any legislation that may improve the safety of our Nebraska roads and highways, which is our top priority. I want to thank you for your time. I'd be happy to answer any questions.

**BRANDT:** OK. Let's see what we've got. Questions. Quiet group today, isn't it? I know that safety is a very high priority for you, I applaud that. But is there a statistic with simply changing it from secondary to primary will cause people to decrease using their phones on the road?

**VICKI KRAMER:** Thank you for the question, Senator. I think that's the question that the department has been trying to answer for the last couple years. It's a, it's a question that lots of states deal with, of what are the impacts of actually just legislating your way around it. But what we found is in the 26 states or over 26 states who have implemented hands-free, they have seen their crash statis-- they have seen their crashes come down. They have seen distracted driving go down. You do have your law-abiding citizens who typically, maybe once every other time they drive, they pick up their phone, they buy the hands-free device, they mount it, and they follow those rules. That prohibits crashes as well. It's not just the people that are out willful, reckless driving. It's law-abiding citizens [INAUDIBLE]-- that just make a mistake. They make the decision to address it head on. They buy the, the hands-held device, and they do better. That creates a safer environment. So as much as I would love to say that you can shop, you can't see the correlation, you can't legislate around it, you can. And that's what we're seeing.

**BRANDT:** So one of the previous testifiers for the engineers talked about the accidents in the construction zones. And that's just absolutely deplorable. But in Nebraska when you come up to a construction zone, there's a mandatory speed limit. It says put your cell phones down. I mean, fines are doubled if there's workers present, you're aware of all these. And yet this is still happening today. Is this more of an enforcement issue with our current law that we just don't have enough patrolmen in those construction areas to pull these people over?

**VICKI KRAMER:** I think that's part of it. And the, the department does have a bill, LB600, which will introduce cameras into the work zones

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to deal with that and to allow us to have better enforcement within work zones. I do also think that you have to put, put into play the fact that not all work zones are, are static. Some of our work zones, especially the department's maintenance activities, they, they move. And so, putting those signs up and that notification that allows people to understand what the impacts of their actions are isn't always there. And so we really do need people to be actively engaged in the act of driving. And right now, statistics show, evidence shows just driving on the side-- just driving on the road and looking next to you shows that people are not actively engaged.

**BRANDT:** OK. Senator Storer.

**STORER:** Thank you, Vice Vice Chair?

**BRANDT:** Just, just-- yeah. Just Senator.

**STORER:** Yeah. Just trying to process this from the standpoint of what-- I think, I think the, the goal would be the same: the safety on the roads, you know, how do we continue to promote safety, and whether that's punitive-- you know, whether that's the carrot or the stick. Right. I mean, I will say, you know, when I go through a work zone, when you see that sign, no cell phone in use, it makes you be a bit more disciplined, certainly. But if that isn't-- in essence, we, we don't have a, a penalty. There is a penalty, right? If you're, if you're driving through a work zone and you're visibly on the phone-- and I guess I don't know, what is the penalty for that now?

**VICKI KRAMER:** You wouldn't be pulled over because it would be secondary still.

**STORER:** It would still be secondary. But has there been a reduction in accidents since that? And that was kind of your question, I guess. Since--

**VICKI KRAMER:** So, so we are looking to address the work zone safety piece in LB600 this year. But we-- no. I, I don't-- this bill wouldn't specifically.

**STORER:** [INAUDIBLE] of putting the signage up.

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**VICKI KRAMER:** No, that hasn't impacted us, that I'm aware of, that I've seen. What we have seen is over the last 5 years, our crash statistics have gone significantly up. We are at a 17-year high of fatalities. We are seeing now that we have distracted driving being reported and being part of the checklist within the way that law enforcement documents the tickets being a primary cause of crashes. That changed 3 years ago. And if you look in your packets, you'll see the-- how the statistics have jumped significantly to show that distracted driving is really, the most dangerous thing that's happening on our roadways.

**STORER:** So how are we getting those statistics now, about the number of-- you know, whether or not that accident was a direct result of being on the phone. Is that something that obviously, just has to be the, the admission of the driver, right?

**VICKI KRAMER:** So yes, you'd have to have the, the driver admit that they were distracted or that the-- the officer to see it and check it on the infraction. And then that would go forward, as to how they were being held accountable. And that, that becomes part of our crash records that we report every year.

**STORER:** So is there currently a process for-- OK, accident happens, and the, the driver says, yes, I was on my phone, or maybe he just asked, were you on-- let's flip that around. Were you on your phone? Says no. Officer has reason to believe they were. Does, does the officer currently have the ability to search that phone without a warrant or any other--

**VICKI KRAMER:** So we-- this is what we talked to-- talked with our law enforcement partners about, in trying to understand what kind of legislation would actually move the needle, as well as talking with peer states. And what it-- the common practice, what, what we were told from law enforcement is typically, they'll ask them. If they say no and they have a different-- they have-- they, they were speeding. They're going to get a speeding ticket and they're not going to push the phone piece. It's, it's too difficult to introduce it in and to get it-- to get access to that phone to prove it, so they kind of just leave it. And so what we're trying to do-- and, and if you ask me personally, what we're really trying to go after is those law abiding citizens that are going to see this legislation, want to do the right

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thing, buy the hands-free device, and pay more attention. Because what we've seen in other states is that does address the safety of our roadways. Those moms like me, who are trying to manage 8 different things at once, they buy the device, they put it in their vehicles, and they follow the rules.

**STORER:** Are there other way-- I mean, and I'm just thinking out loud, but are there other ways to get there in terms of education, again, incentives through insurance companies to, you know, you prove you have, have the hands-free device, I mean, you get a little bit of a discount on your insurance, even just an education campaign across the board, like NDO--has there been-- or discussion about just a very targeted educational campaign about text-- texting while--

**VICKI KRAMER:** There, there is a, there is a very targeted campaign right now that we spent lots of money to push forward. We sat down with NHTSA, which is the highway traffic-- the safety arm of U.S. DOT, and they told us that in a, over 10-year study, they've shown that education does very little. Because even if you get to kids in grade school like my kids, you get it to them in second grade, you get them to have that full parroting, they're telling their parents how to drive. They're doing all these things. By the time they turn 16, they, they, they've lost it all. And so it's, it's very frustrating as a, as a transportation professional, because we have gone through, we have done all those things, and we're still seeing the numbers trend upwards on distracted driving. We've invested in a safety education. We've invested in trying to get people to do the right thing. The one thing that we have found that's moved the needle is hands-free. And it's worked in 26 other states with significant rate of return in terms of safety. And so for us, we would love to see that education matters. We've invested there. We've got over 10 years of research, but we're not seeing the difference. We're seeing it go the other way.

**STORER:** That was my next question, is how many years. So it's been a 10-year, 10-year campaign for education or just 10 years of collecting the data?

**VICKI KRAMER:** It's more than 10 years. We've always had a distracted driving ever since cell phones really became super popular. But the "Buckle Up, Phone Down" specific branded campaign is about 2 years old, in, in terms of actually being established. We're getting into

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schools now and having conversations. My hope is that that does move the needle. But I can tell you that when we went back and sat down with NHTSA to try to be able to answer that question better, NHTSA told us, and this was very disappointing, that they, they can now see-- show that the education doesn't move the needle as much as we thought it would. And that is the 10-year data point.

**STORER:** Thank you.

**BALLARD:** Thank you, Senator Storer. Senator Brandt.

**BRANDT:** Thank you, Vice Chair Ballard. Can-- you obviously have the statistics on accidents in the state on our roadways. Are you able to separate this accident happened because of increased speeds versus having a cell phone in the car or in their hand? I mean, how do-- how do we go about-- because it just seems like people are driving faster and faster and faster. That-- to me, that would have a disproportional effect on, you know, whether they had the cell phone and they were doing 55 miles an hour, or they're doing 85 miles an hour. Am I looking at this wrong?

**VICKI KRAMER:** No. I, I completely understand where you're going, Senator. To answer your question, our data is only as good as the information coming in from law enforcement. So we take those-- that data and we move it into our crash statistics. And so I think you'll see in your packet, when you see the, the numbers jump significantly up, that's when we started allowing more than one checked box so you could start seeing distracted driving. So to your point, were they-- was this crash because of distracted driving or is it because they were speeding at a rate that was reckless? Well, in the past, if that crash was 30 over, that-- law enforcement is just going to say it was speed. Now, they can check, check distracted driving, as well. And so that's why you'll see some of the variance within our statistics. That's relatively new.

**BRANDT:** Yep. That answers my question. Thank you.

**BALLARD:** Thank you, Senator Brandt. Any additional questions? Seeing none, thank you, Director.

**VICKI KRAMER:** Thank you, Senator.

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**BALLARD:** Additional neutral testimony? Seeing none, Senator Prokop.

**PROKOP:** Thank you, Vice Chair Ballard. And I appreciate the committee's time and attention on, on this bill this afternoon. A couple things I just-- in close, I want to, I want to touch on that have been discussed. And I think it kind of came out in the, in the process of some really terrific questions that the committee had, is really what we're talking about is, is changing behavior here. Right? And so by making it a primary offense, we're trying to change the behavior and instill in folks how important it is to keep your eyes on the road. I don't know about you all, but you know, when I was learning to drive, when it was, when it was my dad teaching me to drive, or maybe a parent was teaching him to drive, or a grandparent, or a driving instructor, they didn't tell me, you know, seatbelt on, start the car, pick your phone up and look at it. They said, hands on the wheel, eyes on the road is, is what I learned. And I think that, that practice is just so important. And then the other, other piece to it is we have all of the data that, that backs this up. Other states have shown that have implemented this, they have decreased the amount of crashes and the severity of crashes. Nebraska, quite frankly, is behind the times when it comes, comes to this. We're, we're one of the last 5 states to not do something like a primary hands-free law. So I think it's-- we're at, we're at that point. I know there were some questions about how in practice this would, how in practice this would work. I think because of the advances in technology, both in vehicles and then just in, in cell phones-- I mean, an easy way to solve the problem is if you are making-- if you're going to be on the phone in a car or, or any type of vehicle, you, you put it on speakerphone and you can continue to have that conversation. Your hands are still on the wheel at that, at that time. Too, one of the items that Mr. Eickholt mentioned, as far as well, you can, you can get pulled over for anything if you, if you swerve because you're distract-- distracted or anything like that. You know, I think that's kind of a kind of a, a, a, a false argument, because if you're going to wait for the bad thing to happen that's going to cause the crash or cause something bad to happen, why would you, why would you wait for that? Again, it's kind of back to behavior, and if you're not on the phone in the first place, it would, it would likely not make that, make that happen in the first place. So thank you again for your time this afternoon. Appreciate the committee's attention on this bill.

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**BALLARD:** Thank you, Senator. Are there any final questions? Senator Brandt.

**BRANDT:** Thank you, Vice Chair Ballard. So you've heard some of my questions about ag equipment and in the rural areas. You heard the concerns from Senator Storer and myself and Mr. Eickholt, about warrants--

**PROKOP:** Yeah.

**BRANDT:** --to get on the phone. In, in a rural area like mine, there are specific dead zones. And you'll be going down the-- and we've all experienced it.

**PROKOP:** Yeah.

**BRANDT:** Once you get outside of a very, you know, well-organized place like Lincoln, and you go out where we don't have enough broadband or cell phone towers or anything like that, there are a lot of specific places where we lose connectivity. So if, if the person's holding a cell phone and he has no connectivity, is he still getting a ticket?

**PROKOP:** If it's in-- if it would be in your hand, yes.

**BRANDT:** So if it's turned off and it's in their hand, they're getting a ticket.

**PROKOP:** Right. Right. They would not, they would not know if you would-- yeah. The, the law enforcement officer, if they pulled you over, they would not know if that phone was in operation or, or not.

**BRANDT:** And then my, my last concern is I think you used the word electronic device in, in there. Can you define that in statute so that we don't--

**PROKOP:** Yeah.

**BRANDT:** --particularly in the ag community, where we have a lot of very specialized equipment in these--

**PROKOP:** Yeah.

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**BRANDT:** --many different devices--

**PROKOP:** Yeah.

**BRANDT:** --in, in tractors and combines and, and swathers and sprayers and-- you know.

**PROKOP:** Yeah.

**BRANDT:** I'd, I'd kind of like to see some, some guardrails around some of this.

**PROKOP:** I, I, I understand your point on that, Senator Brandt. I'd be happy to take a look at that, at how we might be able to tighten that up.

**BRANDT:** I appreciate it. Thank you.

**BALLARD:** Any additional questions? Seeing none--

**PROKOP:** All right. Thank you.

**BALLARD:** Senator Prokop, before we close the hearing, we had 13 proponents, zero opponents, and 2 in the neutral. That will close our hearing on LB594, and open up our hearing on LB542, Senator Dover. LA? All right. Good afternoon.

**JON WINKELMAN:** Good afternoon. Senator Dover is currently talking in Appropriations, so you get me instead. So I'm going to read his thing, but I'm going to change it to be me. All right. OK. Well, thank you, Vice Chairman Ballard. And good afternoon, committee members. For the record, my name is Jon Winkelman, J-o-n W-i-n-k-e-l-m-a-n. Senator Dover is my senator for District 19, who I am his legislative aide for. He serves Madison County and the southern half of Pierce County. He has introduced LB542 to ensure that the cost of any project which will require the alteration, change, move, or relocation of a currently installed utility facility as part of a project funded through state or federal dollars, will be reimbursed to the owner of the utility facility. If the relocation of a utility facility is required for a project, that relocation must be considered part of the project, and the cost of the relocation should be budgeted for in the planning stage and reimbursed accordingly. Forcing utility providers

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to pay the cost of relocation when they have no control over the project plans negatively impacts their Nebraskan consumers. This is especially true when a number of relocations are required within the same community or service location. These forced relocations drastically and unpredictably increase the cost of doing business in this state, which could impact rates for consumers or take money away from other planned expansions or infrastructure enhancements. LB542 recognizes these points and requires projects that necessitate utility facility relocations to plan accordingly. You also have before you AM313. This amendment clarifies that the bill applies to all utilities, not just telecommunications or broadband. The fiscal note on this bill is significant, and with the current status of our state and budget, it is questionable whether there will be funds available. But Senator Dover does want to raise awareness on this issue and see something change. In closing, he wants to restate that LB542 is limited to those projects funded by state and federal dollars, so that we could mitigate any impacts on local budget. We would urge your support for LB542. Thank you.

**BALLARD:** Thank you so much. We will take the first proponent. Good afternoon.

**DAYTON MURTY:** Good afternoon, Vice Chairman Ballard and members of the Transportation and Telecommunications Committee. My name is Dayton Murty, spelled D-a-y-t-o-n M-u-r-t-y, and I'm here today testifying on behalf of Charter Communications in support of LB542. We do business under the brand name Spectrum, and we have roughly 156,000 customers in Nebraska and over 90 communities. We employ over 270 Nebraskans and expanded our network to an addit-- I'm sorry. And last year, we invested over \$38 million to enhance and expand our network to an additional 2,000 homes and small businesses. This bill recognizes that requiring the relocation of a utility facility for a project to move forward is-- makes that relocation a part of the project and therefore it should be reimbursed. As a utility provider. We don't get control over those types of projects that would, would require us to move, making them extremely unpredictable. And it's, it's very difficult to mitigate those costs without affecting other areas of the business. LB542 recognizes these facts and requires the reimbursement when their funds are from state or federal dollars. For these reasons, we support LB542 and would encourage you to-- your passage of the bill. I'd be happy to answer any questions.

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**BALLARD:** Thank you, Mr. Murty. Are there any questions? Senator Fredrickson.

**FREDRICKSON:** Thank you, Vice Chair Ballard. Thank you for being here and for your testimony. So currently, these costs are covered by Spectrum or Charter.

**DAYTON MURTY:** Yeah. Yeah.

**FREDRICKSON:** Privately?

**DAYTON MURTY:** Absolutely. And we see them range from, you know, a couple thousand dollars to we had one that was over \$250,000, because we initially were asked to move our facilities along a long stretch of road. And then the project changed and we had to remove the facilities in over 8 different locations. And so we, we moved, and then we moved 8 additional times, raising the cost of that one forced relocation to, to over \$250,000.

**FREDRICKSON:** And how much would-- and, and I-- obviously, you're one company, but how much would a company typically have to budget per fiscal year for these types of projects?

**DAYTON MURTY:** It's entirely unpredictable because we don't get to make the decisions on when we have to move. Oh, I can, I can tell you we spent a couple million dollars in 2024 doing forced relocations. But if, if a city-- I'm sorry. If, depending on the circumstances, for decisions that would require us to move, if there's a, a, a road widening or a city decides to do a beautification project move entirely underground, those costs can go through the roof.

**FREDRICKSON:** Thank you.

**BALLARD:** Thank you, Senator Fredrickson. Senator Brandt.

**BRANDT:** Thank you, Vice Chair, Ballard. Thank you, Mr. Murty, for testifying today. Does your company pay rent on the right-of-way when they're out on state highways?

**DAYTON MURTY:** On state highways, we pay franchise fees to local governments. So count-- counties that we're providing service in or cities that we provide service in, we pay a 5% franchise fee for use

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of the right-of-way, but I don't believe we pay a franchise fee to the state.

**BRANDT:** 5% of?

**DAYTON MURTY:** Video service revenue.

**BRANDT:** Of what?

**DAYTON MURTY:** Video service revenue.

**BRANDT:** So of your total revenue, 5% goes to an occupation tax in a city or a county?

**DAYTON MURTY:** It's a franchise fee to the community that we're providing service in.

**BRANDT:** So wouldn't it be reasonable-- because he's got a \$28 million fiscal note on this-- to take the total miles on state and county right-of-ways that are not charging any rent at all, and divide it by all the miles out there and impose a fee to fund that fiscal note.

**DAYTON MURTY:** I'd have to see the language and talk to our corporate folks, but we're certainly willing to talk about different iterations of the language, what we're looking for, some form of relief when it comes to forced relocations that are, are unpredictable and extremely high cost.

**BRANDT:** Sure. And I guess it's your unfortunate position to be the first one up here. And this is why I'm, I'm talking to you.

**DAYTON MURTY:** Absolutely.

**BRANDT:** So when I look at utility, I'm thinking-- or public power districts in the rural areas. And they have changed their tactics because if the power poles are on the state or county right-of-way, when the county or the state widens that road, that power district has to pay for it. But if those power poles were placed on private property and they widen the road, then the state or the county has to pay to do that. Does that same rule kind of apply if, if your utilities were located on private property adjacent to a road that

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gets widened, the state or the county would have to pay for that today. Is that right?

**DAYTON MURTY:** I, I would have to do more research on that.

**BRANDT:** OK.

**DAYTON MURTY:** It's my understanding is we mostly operate in the, in the public rights-of-way, so I would have to figure out how we would operate under that circumstance [INAUDIBLE].

**BRANDT:** So you are-- you don't, you don't have any utilities on, on private land where you're paying these landowners a royalty fee to--

**DAYTON MURTY:** We, we could. It would be extremely rare. The vast majority of our facilities are, are all in public right-of-way.

**BRANDT:** Why is that?

**DAYTON MURTY:** We, we get access to the right-of-way through our franchise agreements. That goes back to the cable act, the Federal Cable Act in the 66 order.

**BRANDT:** All right. Thank you.

**BALLARD:** Thank you, Senator Brandt. Any additional questions? Seeing none, thank you.

**DAYTON MURTY:** Thank you.

**BALLARD:** Good afternoon.

**TIP O'NEILL:** Good afternoon. Vice Chairperson Ballard, members of the Transportation and Telecommunications Committee, my name is Tip O'Neill. That's spelled T-i-p O-'-N-e-i-l-l, and I'm president of the Nebraska Telecommunications Association. The NTA represents 20 companies providing broadband and landline telecommunications services in Nebraska. The NTA supports LB542. Federal law in 23 U.S.C. Section 123, allows federal reimbursement for the cost of relocation of utility facilities paid by the state for construction of a project on any, any federal aid system. State law must allow for the state to pay those relocation costs in order for federal reimbursement to occur. We

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believe the bill would be strengthened by adding the language of AM313, as proposed by Senator Dover. I'd be happy to answer any of your questions.

**BALLARD:** Thank you, Mr. O'Neill. Are there any questions? Senator Fredrickson.

**FREDRICKSON:** Thank you, Vice Chair Ballard. Thank you for being here, Mr. O'Neill, and for your testimony. So am I to understand this correctly, so this would-- would this be all a federal expense? There would not be a cost to the state?

**TIP O'NEILL:** I'm sure that someone from the DOT will be able to answer that question better than I, but it's my understanding that the state has to reimburse the costs first-- or has to pay the cost for utility relocation first, and then collect from the federal government the percentage that the federal match was for that specific project.

**FREDRICKSON:** Got it. So not necessarily 100% of the cost.

**TIP O'NEILL:** No. No. It would rarely be 100%.

**FREDRICKSON:** Thank you.

**BALLARD:** Thank you, Senator Fredrickson. Additional questions? Seeing none, thank you so much.

**TIP O'NEILL:** Thank you.

**BALLARD:** Additional proponents? OK. Mr. Lindsay, how are you? Good afternoon.

**JOHN LINDSAY:** Wonderful. Thank you. Vice Chair Ballard, members-- I guess Senator Moser and members of the committee, my name is John Lindsay, L-i-n-d-s-a-y. I'm appearing today as a registered lobbyist in support of LB542 on behalf of Black Hills Energy. We do support LB542, although we encourage the committee to adopt AM313 that was just referenced by Mr. O'Neill. Black Hills Energy has a long history of strong partnerships with the cities and counties that we serve. And in most instances, these positive working relationships that we have with the cities and other utilities results in good outcomes for all the interested parties. For example, we may need to negotiate the

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depth of certain utilities or their location, depending on the number of utilities in the right-of-way. In 2023, Black Hills Energy spent \$1.6 million statewide to relocate facilities. In 2024, that was \$1.87 million statewide, and those figures do not include any of the projects that cost less than \$20,000. We believe it's good policy to have the relocation costs, since the relocation would not be necessary without the project proceeding. So it's good policy to include relocation, relocation costs within the costs of the project, so that that project does include all of the costs associated with that project. Be happy to answer any questions.

**MOSER:** Questions from the committee? Senator Brandt.

**BRANDT:** Thank you, Chairman Moser. Thank you, Mr. Lindsay, for testifying today. I'm just curious. You've got a lot of expertise in, in forming legislation. Could this be written in such a way that the total-- that the utility would be entire-- entitled to just the federal reimbursement, therefore not costing the state of Nebraska anything? So if it's a 90/10 match on, on the federal portion of the road, and you have to re-- move your utility and it's \$1 million, that-- if it was written in such a way you would get \$900,000 and walk away with \$900,000 more than what you have today. Is, is that-- could-- would that pass constitutionality?

**JOHN LINDSAY:** I don't know. But I, I would say, to, to paraphrase Mel Brooks in, in History of the World, Part I, it's good to be a senator. Yeah. I-- bottom line, I, I think you can unless, unless challenged, you could pretty-- you could write legislation the way the Legislature would like to. That particular question about whether that qualifies, whether that would allow qualification for the federal funds or not would depend, I think, on, on how the federal law is written. It's probably a question that might be best to-- I don't know that you can still ask for Attorney General's Opinions, but it would have been, back in the day, a good question for the Attorney General to provide some guidance on.

**BRANDT:** All right. Thank you.

**MOSER:** Other questions? Seeing none, thank you for your testimony.

**JOHN LINDSAY:** Thank you.

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**MOSER:** Any other proponents for LB542?

**\*JOHN WYVILL:** Dear Chairman Moser and Members of the Committee: Cox Communications supports Senator Dover's bill, LB542. Passage of LB542 would ensure that there is clear statutory authority for reimbursement in those situations in which we are required to relocate our equipment and lines for highway projects. Cox Communications invests in its network, upgrading the infrastructure to provide multi-gig speeds, while also expanding our network to unserved and underserved areas. Every business has a finite budget, as does Cox Communications. The total Cox cost of all similar Nebraska forced road relocation projects, including those covered by LB542, was over \$1.87 million in the last year alone. Every unreimbursed dollar paid to relocate facilities is a dollar we can't spend in extending broadband to unserved Nebraskans or could result in higher prices. But most of all, it could potentially broaden the digital divide. LB542 will help Cox Communications and other companies expand broadband and close the digital divide. We would appreciate the committee's support and vote in favor of LB542.

**MOSER:** Any opponents for LB542? Welcome.

**KHALIL JABER:** Good afternoon, Chairman Moser and members of the Transportation and Telecommunication Committee. My name is Kahlil Jaber, K-h-a-l-i-l J-a-b-e-r, and I'm the deputy director of the Nebraska Department of Transportation. I am here today to testify in opposition to LB542. LB542 alters state law by removing the requirements the utility company must pay for the cost of the relocation of their facilities in the public right-of-way when they are required to be moved for a transportation project on an adjoining roadway. This would add tremendous cost to each highway project, potentially delaying the state ability to deliver these project. As the committee knows, the primary purpose of the right-of-way owned by the state and its political subdivision is for the transportation of people and goods in the state. Under current law, utilities such as electric provider, telecommunication companies, and natural gas providers are allowed to occupy the right-of-way upon which the state's roads are built with a permit from the NDOT. This arrangement enables utility companies to more easily place their facilities without having to purchase all the necessary tracts of land, one by one, to connect to their customers, which would add an additional

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service delivery cost. When a utility company chooses to locate in the public right-of-way by permit, they occasionally must move their facilities when the transportation project requires the footprint of the highway to change. This can happen, for example, when expanding from a 2-lane to 4-lane highway, adding an interchange, or even when resurfacing highways require necessary upgrades to meet standards to address drainage. When this happens, the cost to relocate the facilities that were placed by choice in the public right-of-way is correctly designated to the companies themselves. This shift in fiscal responsibility would come at a significant cost to the state. These added nontransportation costs would need to be considered every time a project is programmed that involve adjusting the footprint of a section of a highway. As an example, just 1 mile of a state highway may have more than 5 different utilities crossing it or running alongside it, each of which may need to be relocated during such a project. As such, NDOT estimates a fiscal impact of nearly \$29 million for our 2025 program alone, when considering all scheduled projects and their associated impact to the right-of-way. This grows to upward of \$45-- \$45 million dollars annually when looking at the 6-year program. This represent cost shifted from the companies which assume that risk when they locate in the public right-of-way to the highway users of Nebraska. In conclusion, the fiscal impact of LB542 would add to the existing \$150 million annual deficit needed to meet the 20-year needs that we reported to the committee in December. This would means numerous important highway safety and improvement project would be significantly delayed. We are strongly opposed to this legislation, and the committee should maintain this current practice as outlined in state law. Thank you for your time. I'd be happy to answer any questions the committee may have.

**MOSER:** Let's start with Fredrick-- Senator Fredrickson. Sorry.

**FREDRICKSON:** Thank you, Chair Moser. Thank you, Deputy Director, for being here and for your testimony. I don't know if you've heard my earlier question, but could you maybe elaborate a little bit more? So from-- I was asking about federal reimbursements with this, I understand it's a maybe a 90/10 split there. Can, can you walk me through that a little bit more?

**KHALIL JABER:** Absolutely, Senators. And thank you for the questions. Actually, that is not true. Some of our federal aid eligibility sits

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at 80/20; on the Interstate is 90/10. However, that's about 50% of our projects. So a good example is take the BNA projects, if we expand, you know, some of our expressway system. That has no federal aid involvement in it. Some of them may, by-- you know, if we prepare it that way, but the majority of those would not. So we are about 50% federal-funded, 50% state-funded.

**FREDRICKSON:** OK. So even though there might be some federal reimbursement, it sounds like there's-- that that's maybe 50% of, of the projects that potentially could come up.

**KHALIL JABER:** That's the, the possibility of it.

**FREDRICKSON:** OK.

**KHALIL JABER:** The bigger issue with that is well, these relo-- relocation is eligible expense. The agency focused on the actual-- and, and some other senator said that earlier. All the utilities outside the existing right-of-way are actually reimbursed. And so, in, in our agreements with utilities, if they are occupying or they're outside the existing right-of-way, then we can reimburse them. But if they're within the existing right-of-way, then, you know, we-- it's a longstanding practice that we have with them through agreements. And I actually-- I only have one permit that I brought. You know, just a-- and I would leave it with the chair. This permit is just from, you know, 19 miles of location within our highways. That's the choice that this utility made by applying for that permit. And it's tremendous cost-saving for them. And we recognize that. And we understand that. We try to work with these utilities companies to give them the exact location where they can put that. Any given highways that we have, I have yet to see a highway that doesn't have, by the way, a public utilities in there. But any segments of our highway could range from 4-5 differing utilities that by permit, they were allowed, given the state statute, to occupy the public right-of-way. And so that up-- you know, upfront saving for them is, is kind of understood that when we come and we do it-- we're not saying that we do it all the time. But when a project is qualified for expansion, safety improvement, drainage improvement, then you know, that's where the permit comes in there, and in it is very, very carefully, basically, narrated, where they are required to move their utility at their cost.

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**FREDRICKSON:** Thank you.

**MOSER:** Senator DeBoer.

**DeBOER:** Thank you. Thank you for being here. I was actually going to ask for a copy of your permit, so I will look at that from the chair. All of these infrastructure sidings that these companies have is through a permitting process. Right?

**KHALIL JABER:** That is correct.

**DeBOER:** And they-- how long are those permits for? Do they have an open-ended time period or is it--

**KHALIL JABER:** Open-ended.

**DeBOER:** It's an open-ended time period.

**KHALIL JABER:** Yep.

**DeBOER:** And within the permits, do they say this-- you know, this permit allows you to have a, a-- basically, that you will have to move it if, if-- at your own expense, if we decide we need it.

**KHALIL JABER:** Absolutely.

**DeBOER:** OK.

**KHALIL JABER:** It's, it's captured in that. That's what I brought, and I'm-- I'll be glad to give you a different one. I chose this initially because it was broadband, because that's kind of at the beginning before the, the-- we requested of Senator Dover's-- you know, a little bit understanding of the intent at the time, to see if that's only to the broadband or to all utilities. And as, as you heard, it's-- it actually applies to all utilities. And so I-- we would be glad to furnish further permits as an examples, so you can see whether it's Nebraska public powers or any, you know, gas lines or any of those nature.

**DeBOER:** Yeah. Send us a couple of those if you will, because I think what, what this bill then does is it shifts the responsibility for

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moving these, these pieces of infrastructure within the right-of-way from the companies who they belong to--

**KHALIL JABER:** Correct.

**DeBOER:** --to the owner of the right-of-way, or the people of the state, which arguably own the right-of-way, and that this is just going to put this on-- it's going to provide a benefit for companies at the cost of taxpayers. Is that--

**KHALIL JABER:** That's a fair assessment, Senator, and I agree with you totally.

**DeBOER:** Well, I don't feel very strongly about helping companies at the cost of taxpayers, taxpayers, particularly if they entered into an agreement that suggested that they were going to be responsible for something and now they want to change that.

**KHALIL JABER:** I agree with you. And I included our analysis, just so you can see it. I know sometimes people look at our fiscal note and go, wow, this is a huge number. We think we're not even close, but we did our best to use, you know, prior impacts on utilities through some of these reimbursable analysis. We give you that year 1 and the other 5 years, and by type, just so you get a feel for whether it's a, it's a gas line or, or others. And it is-- it's pretty costly for us and it's going to shift a lot of funds that goes from safety improvement to any highway to pay the same utilities that, by agreement, that they made the decision to occupy our right-of-way for their convenience.

**DeBOER:** So this will take even longer to get some- I mean, if, if we were to pass a bill like this and keep the amount of funds that you have the same, it would take even longer to build out the roads and fix the roads in Nebraska than we already had.

**KHALIL JABER:** That's accurate, Senator.

**DeBOER:** All right. Thank you.

**MOSER:** I've had the page get your example, and he gave it to the clerk and she'll scan it so if any of the committee members want to read that, we won't kill a whole bunch of trees. But we'll make a few electronics spin wherever they go. Senator Storer.

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**STORER:** Thank you, Chairman Moser. Just to follow up a little bit. I'm just trying to understand the federal. Are you at 23 U.S., sect-- U.S.C. Section 123. Is that-- is there any provision today that, that Nebraska gets reimbursed by the federal government for those federal highway systems or federal aid systems?

**KHALIL JABER:** Only if they're outside our right-of-way, since the, you know, the state statute and the [INAUDIBLE] practice that we have in place, Senators. We do not pay any utilities back. We just try to communicate with them. Since we publish our program, we try to do it-- give them plenty of advance notice-- years-- to tell them this is a project that's going to start. We try to coordinate with them at all kind of different level, what, from the engineering side, we referred 30%, you know, 50%, 60%. We try to communicate, send them plans, so they can budget and prepare for it. But that's-- we never gone to the federal highway and requested reimbursement for those utilities that occupy the existing right-of-way. Because by our policy, by the permit, we go-- you know, we basically ask them to relocate at their cost, that they use their cost.

**STORER:** So in order-- I mean, in order for, for the state to get any reimbursement from the fed--federal government, you would first have to be paying that, the way I read this.

**KHALIL JABER:** Correct.

**STORER:** So currently if you're going to-- if it's outside of the right-of-way, that's likely a brand new project or a major shift. I mean like something pretty significant, either expansion or, or moving a highway. I mean that's--

**KHALIL JABER:** That's correct.

**STORER:** --that's not just putting a new shoulder on, generally. So tho-- in those instances, their utilities obviously would be on private property, which would trigger the reimbursement.

**KHALIL JABER:** That is correct.

**STORER:** And, and the state can then get reimbursed from the federal government for those projects?

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**KHALIL JABER:** That is correct.

**STORER:** OK. But there's probably no guarantee. I mean, just reading the code, it doesn't look like there's, there's no, there's no percentage. Is that going to be different every time you apply? Is there any certainty?

**KHALIL JABER:** Just depends on the project. The majority of our projects are 80/20.

**STORER:** OK.

**KHALIL JABER:** So we still have to bear the 20% cost of that, so you get reimbursed for 80%. Some of our projects are 90% on the interstate. Safety projects are 90% reimbursable. So that's kind of the rate that we have.

**STORER:** And more just out of curiosity, about what percent of projects-- that's probably the best way to ask the question-- a year would that account for where you're, where you're having to pay utility companies for-- when, when they're already outside of the right-of-way?

**KHALIL JABER:** Well, and I hate to say it, it depends on the year, whether we're doing a lot of expressways, you know, interchanges and impacts. But I can tell you that we average 100-125 projects per year, maybe, you know, 10 projects where we impact utilities outside.

**STORER:** Outside of the right-of-way.

**KHALIL JABER:** So it's a, a few millions of dollars compared to a \$28-29 million annual impact if this bill passes.

**STORER:** Thank you.

**MOSER:** Senator Brandt.

**BRANDT:** Thank you, Chairman Moser. Thank you for your testimony. Does the State Department of Transportation maintain a map of all the miles of utilities that currently occupying our right-of-ways?

**KHALIL JABER:** We do, Senator, in our system.

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**BRANDT:** OK. And I would assume that's not for public disclosure, and I can understand why. But would it be possible to give the committee how many miles of broadband, and, and gas lines, and copper, total miles in the state of Nebraska occupy state right-of-ways?

**KHALIL JABER:** It would be possible. It would require a lot of work because we don't have it. You know--

**BRANDT:** OK.

**KHALIL JABER:** Some of these utilities are--

**BRANDT:** And I guess, I guess the point I'm trying to make is we have thousands of miles of occupied right-of-way out there, and we don't receive one dime in rent. Is that correct?

**KHALIL JABER:** That is accurate. We do not.

**BRANDT:** Yeah. And so, the grand bargain is this. If you want to occupy 50 miles of right-of-way out there, and someday you guys want to make a larger intersection that's on that utility, and then that utility's recourse is they can go back and charge their customers for that cost. Would that be right?

**KHALIL JABER:** That is right.

**BRANDT:** All right. Thank you.

**MOSER:** So just to follow up on the question that Senator Brandt asked, you don't charge them anything to use your right-of-way in the first place.

**KHALIL JABER:** We do not.

**MOSER:** Cities and counties sometimes do charge utilities. I know the city--

**STORER:** Counties.

**MOSER:** --has.

**KHALIL JABER:** They can. The state can't.

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**MOSER:** And when you expand, in the instances where you have to pay for moving utilities, primarily, that would be where the utility is perpendicular to the road. And you're expanding and you might catch one of their poles in your expansion or something like that.

**KHALIL JABER:** It could be both, Senators. I mean, we have some projects if we are widening the, the highway and they're longitudinal along the highway, we--

**MOSER:** Or maybe they go along there.

**KHALIL JABER:** So we, we, we actually ask them to relocate that. And the majority of them, they still make the choice to wait on us until acquire the right-of-way. So they still move it inside our right-of-way. So that's by choice, and then we, we renew the permit at that time for the new locations and address all the different insurance and all the different pieces of that. But we have not-- as some of the gentlemen you heard from, that despite the choice, they want to occupy the state right-of-way. It's very convenient. It gives them the ability to connect from point A to point B without having, you know, go through so many property owners.

**MOSER:** Do you ever turn down somebody that wants to use the right-of-way?

**KHALIL JABER:** Only if there is a conflict, to where we already have so many utilities in place. And-- but you know, I have yet to, to run across a, a, a permit or a request that we deny. We always try to work with those utilities.

**MOSER:** Find a way to make it work out?

**KHALIL JABER:** We, we try to work it out.

**MOSER:** Are utilities generally located on one side or the other, or both sides of the highway?

**KHALIL JABER:** Both sides, Senators.

**MOSER:** Low voltage on one side, high voltage on one, or just mix and match?

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**KHALIL JABER:** It's mix and match. It depends on what corridor you're talking about. We try it as our best with our new policies, trying to, you know, work on co-locate, trying to, trying to get [INAUDIBLE] so we can minimize the impacts when we do that. But sometimes it just doesn't work, given the 80-foot right-of-way, 100-foot right-of-way or 300-foot right-of-way. We just don't know. It depends on the corridor.

**MOSER:** Does the utility have to follow the same bugs and bunny rules that the state follows?

**KHALIL JABER:** Apparently they do, but I'm not sure that if-- you know, how they are restricted, you know, we-- they don't use federal funds.

**MOSER:** You're responsible.

**KHALIL JABER:** I'm responsible. That's right.

**MOSER:** So no matter what happens, it falls on you. Lucky you. Thank you.

**KHALIL JABER:** We're, we're lucky. Thank you.

**MOSER:** Other questions for the testifier? Thank you. Other opponents?

**KATIE WILSON:** Good afternoon, Senator Moser, mem-- members of the Transportation and Telecommunications Committee. My name is Katie Wilson, K-a-t-i-e W-i-l-s-o-n. I'm testifying today in opposition to LB542 on behalf of the Associated General Contractors Nebraska Chapter. AGC is a trade association of highway contractors who perform highway, bridge, and municipal utility infrastructure work across our state. Our primary objection to LB542 is that it would likely result in a significant reduction in the amount of dollars in the NDOT budget available for roads construction and maintenance. As this committee has previously heard multiple times this year, the latest NDOT needs study presented to this committee and the Appropriations Committee in December indicated we're already around \$150 million short annually in roads funding. These unmet needs are in every corner of our state and are necessary to help agricultural products get to market, kids get to school, and products in and out of our factories safely. The fiscal note to LB542 indicates that \$29 million would be diverted to utility reimbursement if the bill passed. We think that those dollars would be better spent annually pouring concrete, resurfacing highways with

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asphalt, making our bridges safer for travel. Secondly, AGC would point out that the utilities were well aware before they placed their lines in the state's right-of-way they could someday be required to move it. The utilities don't pay anything to be in the right-of-way, so there shouldn't be an argument for why they should get paid to move them. And we can go deep into all the things of the utilities and the construction, but we're not going to. So, thank you, and I'd be happy to answer any questions.

**MOSER:** Questions for the testifier? Seeing none, thank you. Are there any other opponents for LB542? If you plan to testify, come on up to the front. Get close by. Welcome.

**ELIZABETH ELLIOTT:** Good afternoon. Thank you, Chairperson Moser and members of the Transportation and Telecommunications Committee. I'm Elizabeth Elliott, E-l-i-z-a-b-e-t-h E-l-l-i-o-t-t, director of Lincoln Transportation and Utilities. I'm here to testify in opposition to LB542. As you've heard, LB542 shifts the full financial burden of utility relocations for highway projects to the state, and in some circumstances, could be the local cities and counties, as well. In addition to NDOT's estimated \$28.5 million in annual costs, local street pro-- projects will also become more expensive, leading to fewer road and bridge improvements across the state. Utility providers voluntarily choose to place their facilities in public rights-of-way and thereby assume the risk. While this is convenient for them, relocation costs have historically been borne by the utility to keep highway and street projects financially viable. Shifting these costs entirely to taxpayers removes incentives for utility companies to make responsible siting decisions. As has been talked about, we've-- there's been a lot of focus more on the broadband, but this does have language broad enough that does cover all public u-- pri-- private utilities such as electricity, gas, and other users of the public right-of-way. At times, there could be numerous, as NDOT was testifying earlier. This would significantly increase the financial burdens. LB542 places a significant strain on transportation funding without any new revenue to offset the costs. I urge the committee to consider the long-term consequences of this policy and to oppose LB542. Thank you again for the opportunity to provide testimony. I'm happy to answer any questions you may have.

**MOSER:** Questions from committee members? Seeing none, thank you.

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**ELIZABETH ELLIOTT:** Thank you.

**MOSER:** Are there more opponents? Welcome.

**AUSTIN ROWSER:** Good afternoon, Chairman Moser, members of the Transportation and Telecommunications Committee. My name is Austin Rowser, A-u-s-t-i-n R-o-w-s-e-r. I'm the city engineer for the city of Omaha, and I appreciate you hearing my testimony today in opposition of this bill. This bill introduces a significant amount of uncertainty regarding the funding consequences for local governments. I think we heard in the introduction that local governments weren't supposed to be affected by the bill. Let me give you a couple scenarios where I think that may not be true. The first has been referenced here. Oftentimes when we have federally funded projects or projects funded by the state, there is a percentage of that that is shared by the local municipality. And so, there is a, a portion of that cost for the utility relo-- relocation that, that would be borne by the municipality, which significantly affects our ability to deliver projects. The second uncertainty that, that I would have with regards to that, is if, if we have a, a locally-funded project where we have, say, a transportation bond funded project, but we supplement that project with some street allocation funds that are funds that we receive from the state through gas taxes, that has the potential to be under the purview of this bill also. And so, that, that could potentially cost us money. Now, on the local government level, you know, we're talking about water, gas, and power. Those are the big ones. And then we have-- in, in certain parts of the city of Omaha, we could have up to 5 or more of the fiber optic providers that might be located within the envelope of a project. So we're talking about moving a significant amount of utility. That now becomes very cost burdensome on the city of Omaha and on municipalities, to have to move that and to pay for those relocations. We, we believe that there's a free land right. I know it was mentioned that municipalities we do charge, on our right-of-way agreements, there is a franchise fee that's associated with that. That franchise fee is relative to the cost of providing the service by the business. It's not necessarily associated with the land use of the right-of-way. And so oftentimes we'll have leases for other, you know, not-for-profit things that are, that are within the right-of-way, but those would not be covered under, under, under this, this bill or within these projects. And so the city of Omaha has-- would have a great burden to bear to pay for

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the cost of this. I believe there's a trade-off there. I think that the, the trade-off is that if that utility is, is going to locate for free within a right-of-way, it's common and practical for them to be expected to relocate when they come into conflict. We expect their placement to be engineered and designed in such a way to avoid future conflicts. And I-- we oppose this bill, and I'm happy to answer any questions.

**MOSER:** Questions? Maybe it's like letting somebody live with you free, and then you're going to remodel the house and you make them move out, and then they want you to pay their rent somewhere else.

**AUSTIN ROWSER:** I think that's an accurate analogy.

**MOSER:** Yeah, it's a little crazy, but-- OK. Thank you very much for your testimony. More opponents. Any more opponents? Anybody to speak to the bill in the neutral capacity? Anybody in the neutral? We received 1 proponent testimony, and I have 1 opponent, and we received 1 by ADA from John Wyvill. OK. Is Senator Dover waiving his closing? And that's the end of our hearing for today. Thank you very much for attending.