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Transportation and Telecommunications Committee
January 23, 2017

[LB86 LB114 LB271]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, January 23, 2017, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB86, LB271, and LB114. Senators present: Curt Friesen, Chairperson; Jim Smith, Vice Chairperson; Bruce Bostelman; Tom Briese; Suzanne Geist; Mike Hilgers; Dan Hughes; and John Murante. Senators absent: None.

SENATOR FRIESEN: It's 1:30 and I'll welcome everybody to the Transportation and Telecommunications hearing. I'm Curt Friesen of Henderson, and I'll be chairing the committee. I represent District 34. I'll begin with a few procedural items. First thing, I'd like everyone to make sure their cell phones and electronic devices are turned to "quiet" or to silence them. I will also ask that the audience not portray any outbursts of emotion on either for or against a bill. We will be hearing bills in the order listed on the agenda, and those wishing to testify should move to the front of the room. We have the chair reserved for the testifier that would be next in line, and so I'd ask, when you have a full house, at least that you move up to that chair and be ready to go. And if you'll be testifying, we have one of the green testifier sheets; they're located and they need to be filled out and handed to the page when you sit down to testify. Handouts, if you have them, a page can help you with those. When you begin your testimony, I would ask that you clearly state and spell your name and, if you don't do that, I will interrupt you and ask you that you please do that. We will use a light system, and that means you will have five minutes: four minutes with the green light and one minute with the yellow light in order to wrap up and, at the red, you should be done with your testimony. Those not wishing to testify but want to sign in, in opposition or support to a bill, may do so on a sheet by the door. And I would like to now introduce the other members of the committee. And I will start on my far right, and we have Senator Tom Briese from Albion, representing District 41. Next we have Senator Bruce Bostelman from Brainard, representing District 23. Senator John Murante from Gretna, representing District 49, will be with us a little later; I think he's in another hearing. I have Senator Jim Smith, Vice Chair of the committee, from Papillion, representing District 14. And then I have Committee Legal Counsel Mike Hybl. To my left we have Committee Clerk Elice Hubbert. And next to her will be Senator Dan Hughes from Venango, representing District 44; Senator Mike Hilgers from Lincoln, representing District 21. And we have Senator Suzanne Geist from Lincoln, representing District 25. We have two pages with us this afternoon. That's Heather Bentley from Miller; she's a freshman at UNL, majoring in Ag Economics, and Jade Krivanek from Omaha, a junior at UNL, majoring in Economics. With that, we'll open the hearing on LB86. Senator Blood, welcome.

SENATOR BLOOD: (Exhibit 1) I'll apologize in advance for my voice; I'm just getting over a virus, so. Good afternoon, and thank you to Senator Friesen and the Transportation and Telecommunications Committee for scheduling my bill, LB86. My name is Senator Carol Blood,

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C-a-r-o-l B-l-o-o-d, and I represent District 3, which is located in the fastest-growing county in Nebraska. This is a bill that eliminates the requirement relating to bids for county bridge contracts. Now I should make it very clear that we are not requesting any changes, as far as transparency to the public. This bill allows the bids to be opened outside of a board meeting and does not force the contractors or other interested parties to sit through other discussions. For example, in Sarpy County the Board of Equalization convenes at 3:00 p.m. and conducts such business as necessary. Then the BOE will adjourn and the County Board of Commissioners convenes with a roll call, the commissioner/administrator comments, and the consent agenda. Any item pulled off the consent agenda will then be addressed prior to the regular agenda. Although it has been practiced to try and schedule the bid openings first on the regular agenda, there is some time consumed prior to the opening. The processes for these bids are usually still going to be normalized to the point where the confusion can be kept at a minimum. When a county is dealing with a sealed bid which is over \$20,000, the bid will be advertised in the newspaper for two consecutive weeks. This advertisement and the bid documents will state the date, time, and location where the bid opening occurred. The bid opening process is also done at a public meeting, complete with sign-in sheets, as well as a bid tabulation form to be completed by the clerk's office. Once the bid opening meeting is complete, the bids are formally tabulated by the clerk's office and reviewed by purchasing. When it comes to sealed public works bids over \$20,000, it is advertised in the newspaper for three consecutive weeks with the advertisement and bid documents, once again, stating the date, time, and location of the bid opening. While there isn't a sign-in sheet for the official meeting dealing with these sealed public works bids, they are usually the first item on the agenda, so those who have an interest know what is going on during these meetings. I want to make it very clear that we are not changing anything when it comes to transparency. The issue is really more about expediency and not making contractors and other interested parties sit through discussions of issues not pertaining to the bids. The bids will still be dealt with by the county board, but they simply will not need to be present at the openings. The bottom line for those who might be concerned that this bill would harm transparency is that, whether the bids are opened in the presence of the county board or not, the awards are always going to be made at an open public county board meeting and the bids will be readily accessible and viewable by the public. Despite these assurances, we have been told that some of the smaller counties still have reservations about changing their process for opening bids. I'm personally not someone who wants to impose the state's will on county and city governments who don't want it, if it can be avoided. So I have brought an amendment for the committee's consideration, which you should have before you, that would make these changes pertain only to counties that have populations over 150,000, as they tend to have more complicated and longer agendas. With that, I believe there should be some people here who may be able to speak more on what they see as a need for this bill. And I would simply ask that you pass it out of committee, with my amendment, for debate in front of the entire Legislature.

[LB86]

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SENATOR FRIESEN: Thank you, Senator Blood. Are there any questions from the committee? I know I've sat through some bid openings in the past with a small city, but there were issues. I think the reason for this is opening them in front of people. But the process I see that's in your amendment then spells out a process that those larger entities will use then that doesn't allow someone to open them in private. [LB86]

SENATOR BLOOD: Right. [LB86]

SENATOR FRIESEN: Basically they're still opening them in public; it's just a different process. [LB86]

SENATOR BLOOD: That would be right, Senator. Transparency is always going to be an important issue for every level of government here in Nebraska, and we certainly wouldn't want to create any laws that would take away from that transparency. [LB86]

SENATOR FRIESEN: Thank you, Senator Blood. Seeing no further questions, thank you. And are you going to stay for closing? [LB86]

SENATOR BLOOD: I'm going to try to stay for closing. I have another hearing so, if they come and get me, I'm going to sneak out. [LB86]

SENATOR FRIESEN: Okay, thank you. [LB86]

SENATOR BLOOD: Thank you, sir. [LB86]

SENATOR FRIESEN: Anyone, proponent, wish to testify? [LB86]

FRED UHE: (Exhibit 2) Good afternoon, Senator Friesen and members of the Transportation and Telecommunications Committee. My name is Fred Uhe; last name is U-h-e. I am a registered lobbyist for Sarpy County and I'm also the director of community and government affairs for Sarpy County. The request for this legislation was actually driven by a contractor who approached one of our commissioners, basically saying: why do we have to sit through all this stuff when we've had other bids that may not involve a road project but a construction project and we're usually in and out in ten minutes or so? What I've handed out is actually...I asked the clerk's office to present a random agenda that had a bid opening on it. And then also, there's an affidavit of publication for one of our other nonpublic works bid openings; I believe that one was for toner. Senator Blood is correct, and I wish to thank her for introducing this. You know, we're not trying to hide anything; it just is really a little bit more efficient use of the contractors' times

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versus sitting through there. I know some counties suggest that they do a time certain, but we feel that would run a risk if, say, if we were in the middle of a zoning ordinance or a discussion with a developer, to suddenly say: stop, we're going to go to the bid opening and we're going to come back to you, because, you know, public business is...it's all important to everyone. And what happens in the bid opening is that the purchasing agent opens the bids, our county administrator reads them into the record, and then they're usually referred to...back to the purchasing office and to the public works for review. And so there's...I think the process is pretty good; we agree with the amendment. Sarpy County has had a purchasing agent for a while, but for counties under 150,000, it's an option; usually the county board acts as a purchasing agent or they do appoint one. Statutorily, the three counties over 150,000 are required to have a purchasing agent, so we thought that would be a good point to drop it off, and the amendment meets the concerns raised by some of our bidders, as far as their time. So with that, I will close, and I think Senator Blood covered pretty much the intent of the bill. And I would be willing to entertain any questions. [LB86]

SENATOR FRIESEN: Thank you, Mr. Uhe. Any questions from the committee? Seeing none, thank you for your testimony. [LB86]

FRED UHE: Okay, thanks. [LB86]

SENATOR FRIESEN: Any other proponents wish to come forward? Welcome. [LB86]

BETH BAZYN FERRELL: Good afternoon, Chairman Friesen and members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. I'm appearing here in support of the bill with the amendment to add the 150,000 population reference. This bill would allow counties of both sizes, those in excess of 150,000 and those below 150,000, some flexibility in how they open road bids. I'd be happy to take questions. [LB86]

SENATOR FRIESEN: Thank you, Ms. Ferrell. Any questions from the committee? Seeing none, thank you for your testimony. Do we have any other proponents who wish to testify in favor of the LB86? Seeing none, any opponents wish to testify? Seeing none, are there any who wish to testify in a neutral capacity? Seeing none, we'll close LB86 and move on to LB271. [LB86]

SENATOR BOSTELMAN: Mr. Chairman, do we need a close on that, or did she want to close? [LB86]

SENATOR FRIESEN: Oh, sorry. [LB86]

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SENATOR BOSTELMAN: Senator Blood. [LB86]

SENATOR FRIESEN: Would you like to close? I apologize. [LB86]

SENATOR BLOOD: (Inaudible). [LB86]

SENATOR FRIESEN: My mistake. [LB86]

SENATOR BLOOD: I was willingly going out the door, so. Again, I just ask that you please push this through committee and bring it out onto the floor for debate. And I appreciate your support on LB86. [LB86]

SENATOR FRIESEN: Thank you, Senator Blood. Now we will move forward with LB271. [LB271]

SENATOR HILGERS: Good afternoon, Mr. Chairman and members of the Transportation and Telecommunications Committee. My name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I represent District 21, which is northwest Lincoln and Lancaster County, and I'm here today to open for LB271, which is a commonsense bill that helps to do one simple thing: overcome a necessary hurdle to help give Nebraska's Department of Roads the ability to implement federal environmental laws locally. Specifically--and this is a big technical, but--the bill does the following: LB271 will give the Nebraska Department of Roads the necessary statutory authority to negotiate a memorandum of understanding with the Federal Highway Administration for local implementation of federal environmental laws; this often is called NEPA Assignment. This will do really important things for the development of highway improvements in Nebraska: It will, first, speed up the time for environmental reviews; it will, second, increase the efficiency and productive capacity of department employees; and, third, save the state of Nebraska millions of dollars per year in construction-related costs. The background of this bill is as follows: Currently there are a wide variety of federal environmental laws that must be complied with before construction can begin for a number of state highway projects. Among the most prominent of these federal laws is the National Environmental Policy Act, or NEPA, which has been around since 1969. Under current law, NEPA and other federal statutory authorities are implemented by federal officials and authorities. Beginning in 2005 the U.S. Congress passed, and the President signed, a law that afforded certain states the ability to implement these federal environmental laws themselves. It was an initial pilot project that was expanded in 2012, at that time being made available to all states. There are two primary federal statutes that deal with the authority here today: Title 23 of the U.S. Code, Sections 326 and 327. This federal statutory authority is intended to give local officials, like those in Nebraska, the opportunity to make local decisions regarding local environmental impacts of highway construction projects, speeding projects along

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and saving money. More than five states have utilized this program already and the returns have been very promising. In at least one case, we've seen over 20 percent reduction of the time to complete environmental surveys. This has a tremendous positive impact on construction projects here in the state: First, reducing the time for an environmental review reduces the time for completion of the project. If the review can be completed faster, then the project can be completed faster; that's a very good thing for Nebraska. Second, because it takes less time to complete a review, there is an increased productivity in current staff. And third, and most importantly, the faster reviews result in a large cost savings. The Department of Roads estimates that the cost savings could amount anywhere from \$12 million to \$19 million per year. In order to take advantage of the opportunity to locally implement federal environmental laws, the Department of Roads needs to negotiate a memorandum of understanding with the Federal Highway Administration and, in order to do that, the department must have a specific statutory authorization. It does not currently have that authorization; LB271 is intended to provide that authorization. LB271 just starts the process. If LB271 becomes law, the department still must negotiate the MOU with the Federal Highway Administration and still get federal approval. That process cannot start, however, until this law is passed. This is a commonsense bill that will ultimately lead to faster completion of construction projects and result in significant savings for the state of Nebraska. I would like to touch on two issues that will come up for discussion as part of LB271. The first is...you will see in this bill that there is a limited waiver of the state of Nebraska's sovereign immunity. This is a necessary part of the bill. In order to take advantage of the opportunity afforded by the federal government, the states implementing these federal laws are required to waive sovereign immunity as it relates only to this act...the federal, I'm sorry...implementation of these federal environmental laws such as NEPA. If the state is going to implement NEPA and relay the statutory authorities, it also needs to take on the responsibility of defending its work. If there's no waiver of sovereign immunity, then it cannot take advantage of the opportunity afforded to it by the federal government. That being said, this waiver--and the state of Nebraska does engage and has a number of different waivers throughout its statutes--this waiver is relatively minimal. First, the waiver itself is very limited on its face. It applies only to the implementation of these rules; it does not go beyond implementation of federal environmental laws. It is not a broad waiver that opens up the state to a wide variety of lawsuits. Second, past history suggests that the possibility of a lawsuit is very unlikely. Over the last nearly 50 years since NEPA was first established, there has not been, to our knowledge, one lawsuit relating to the implementation of NEPA or other federal environmental laws here in Nebraska. Third, if there is a suit--and we think that the likelihood is minimal--then the overall cost to Nebraska should be relatively minimal. And that is because most suits under NEPA--and I use NEPA as sort of a catchall for federal and environmental laws--are not suits for damages. It's usually...what happens is the state or federal authorities typically don't...haven't complied with the environmental regulations and so there's a lawsuit filed to essentially force them to comply. So in other words, what is typically sought by such lawsuits is equitable relief--an injunction, not damages. That being said, there are some...there is a possibility of attorney's fees

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in such a suit, so there would be some potential payment made to a plaintiff if their suit was successful. But again, we haven't had a suit in 50 years. The likelihood of having such a suit, combined with the lower amount of dollars related to such a suit, if successful, I think is significantly outweighed by the concrete and real cost savings to the state of Nebraska on a yearly basis. The second item to address, and I think Director Schneweis, who will be testifying after me, will speak to this in a little more detail, that this bill does have a fiscal note for approximately \$500,000. This is an instance, I think, where sort of the theoretical nature of our fiscal note process does not match up with the reality. The fiscal note details what would be necessary to accomplish the ends of this, of LB71 (sic: LB271). But in discussions with Director Schneweis and his staff, I understand there will not be any increase in their appropriations request to, effectuate LB271. In other words, they can accomplish the ends of this, of LB271, within their current budget requirements. At the end of the day, this is an important project that helps get Nebraska to the forward edge of highway develop, will speed up projects here locally, help make...help our local officials make local decision on local environmental impacts, and help save the state millions of dollars which then can be put back into additional road construction. I strongly urge the committee to advance and support this piece of legislation to General File. There are several proponents who, I believe, will be testifying behind me, including Director Schneweis, several of whom I think can answer some of the more specific technical questions you may have. With that being said, I'm happy to answer any questions that the committee might have at this point. [LB271]

SENATOR FRIESEN: Thank you, Senator Hilgers. Are there questions from the committee? I just have a couple, I guess. And I realize that this process, through any highway that has been built, is all this procedure has to be done, dealing with the EPA and the requirements of the Federal Transportation Department. So in the end, what this does, and the sovereign immunity that we ask for, it really changes nothing. We are going to, I take it, follow all the current rules, regulations that we currently have to follow. [LB271]

SENATOR HILGERS: That's exactly correct, Mr. Chairman. [LB271]

SENATOR FRIESEN: So I mean, we are still going to meet all those requirements and yet, in the end, we do expose ourselves, a little bit, to a potential lawsuit which, like you said, has not happened. [LB271]

SENATOR HILGERS: That's correct. That's...currently the federal government has agreed to waive its sovereign immunity for implementing these laws and, again, no suit has been filed over the last 50 years. It sort of goes hand in glove with the authority; if we're going to do our work, we should defend our work. But yes, you stated it exactly right. [LB271]

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SENATOR FRIESEN: Do you know of any other states that do this? [LB271]

SENATOR HILGERS: There are five...at least five other states, including Ohio and California, who have...are participating in this. Ohio, I think, had the most published data, where we've got some of our metrics, including the 20 percent reduction in time to complete the project. [LB271]

SENATOR FRIESEN: Okay. [LB271]

SENATOR HILGERS: But we'd like to think...as someone said the other day, often Nebraska, on these roads projects, are the 48th and 59th (sic) state...or 48th and 59th (sic) state; we'd like to be maybe the 6th or 7th, on the leading edge of this particular opportunity. [LB271]

SENATOR FRIESEN: Okay. Thank you, Senator Hilgers. I'll remember to have you do your closing. Any proponents who wish to come forward and testify? Welcome, Director. [LB271]

KYLE SCHNEWEIS: (Exhibits 1-3) Good afternoon, Chairman Friesen and members of the committee. I'm Kyle Schneweis, K-y-l-e S-c-h-n-e-w-e-i-s. I'm the director of the Nebraska Department of Roads. The intent of LB271 is really quite simple. When you read between the lines of the legal jargon and the federal regulations, it's about amending our state statutes to allow decisions for transportation projects to be made in the communities that they impact. It's about streamlining administrative processes to deliver improvements to infrastructure quicker, while also empowering the people at NDOR to make decisions that reflect the best interests of Nebraska and its citizens. Constructing roads can be a tricky business, as you know. We invest a lot of time into trying to deliver projects as quickly as we can. But there are many laws and regulations that must be navigated before we ever cut a ribbon or break ground. One of these processes is the National Environmental Policy Act, known as NEPA. It's a procedural law that sets the national policy for informed decision making. It applies to all agencies that use federal aid to complete transportation projects and requires them to assess environmental, social, and economic effects of transportation projects. And so sometimes when I hear "environmental policy," I think of things like endangered species and water; and it certainly includes those. It also includes how we gain information from the public, the people of Nebraska, how we impact business...businesses and communities in Nebraska. So it's a very wide-reaching law. We estimate the NEPA process can take anywhere between nine months and three years, depending on the size and the scope of the project. That sounds like a long time, and we are not satisfied with that time at the Department of Roads; we're trying to do as much as we can to minimize it. We've already undertaken some things like we have implemented a Web-based smart form that is helping our team to save time and streamline the process and cut back on that administrative burden. We've also implemented...are beginning some things. We are working to create some efficiency by combining all of our environmental processes into one comprehensive manual and,

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by doing so, lay that foundation for all of our environmental work within the agency. So those are things we're doing. There are other things we can do; NEPA assumption is one of those things. We think it will yield considerable time and cost savings for us, and although it is just the first step, we have been doing our homework; we don't come to you without thinking this through. And we had the innovation task force here in the state that's serving the Department of Roads take a look at this. We've been talking with a lot of our stakeholders and really digging in to make sure we're prepared should we begin. Or should we see this bill passed and we have the authority, that we'll be ready to go and hit the ground running. I should state it's not a new idea. NEPA assumption is not new; Congress has seen the benefit when they authorized the pilot program ten years ago. Since then, 11 states have moved in this direction; four have implemented NEPA fully, two more have implemented partial NEPA assumption, and several others, like Nebraska, have determined that it would create a significant enough cost savings that we've begun the process for aligning our resources and amending state laws. There is a map, I believe, in the handout that you have that shows some of those states. It's not a red state/blue state, rural state/urban state thing; it's Utah, Ohio, California, Texas, Alaska. I expect this to be the way that we do business in our country in a decade or so. And I think, as the senator mentioned, I'd like Nebraska to be on the front end of the benefits. And that's why...the U.S. Department of Transportation agrees, and that's why they're out helping states implement this. Also in your packet you'll see a letter from our division office here in Nebraska, Joe Werning, supporting NDOR's move in this direction. I should note that LB271 does not impact our commitment to the adherence of NEPA policy. We are going to have to follow the same rules we follow today. We're good at doing this work; we'll continue to be good at doing it. We will meet all of the environmental requirements that the law requires of us. And let me explain a little bit how it will work. We begin the project development process and our very experienced and specialized staff conducts an environmental analysis on the impact of a project and its construction to the environment and to the community. We document these findings and submit them for review to Federal Highway. They then review our work and eventually concur with our findings. This is a revolving door of administrative review times and concurrences, and extends the project planning period. By taking on NEPA assumption, we will expedite that process and do away with this external review phase. FHWA doesn't go away; they stay in the picture through an auditing process and annual review of our process and our compliance and make sure that we're capable and equipped to be able to continue the authorization of NEPA assumption. The end is a more efficient process; it reduces our preconstruction costs and provides the benefits earlier to the citizens of Nebraska. As the senator mentioned, Ohio has seen a 20 percent reduction in their project delivery times. We estimate that our time lines can be reduced by up to a year and resulting in an annual cost avoidance of \$12 million to \$19 million. We have 183 projects in our current four-year program of which we plan to use federal aid, so that gives you a sense of the size and scope of this--183 projects in which we could shorten the time frame. And every time we can have less review time, we get the projects done quicker--183 times. But we aren't there yet; this in enabling only. LB271 merely grants us the statutory authority to officially

begin the process. The enactment of the legislation will authorize to enter into an agreement with Federal Highway in which we will outline the specific responsibilities and obligations of both parties. This process of aligning our resources and developing our team and receiving the approval could take as long as 18-24 months. And so all of this cost savings...you might be asking yourself: what's the catch? Well, under federal law we cannot enter into this agreement with Federal Highway until we...to assume the responsibility of NEPA unless the state consents to the jurisdiction of the federal courts for the compliance, discharge, and enforcement of any responsibility of the Federal Highway assumed by the state. This simply means that for the agreement to be signed, we must accept the legal responsibility through a limited waiver of sovereign immunity. This would allow Nebraska to be subject to suit in federal court and primarily responsible for defense of the suit. As the senator mentioned, we have not been involved in environmental litigation as far back as anyone who I can find at the Department of Roads can remember. We have no documentation of any lawsuits against us. And as the...I think part of the reason we have not been sued is because we're good at this; we follow these laws. Others have been sued across the country; other states and the federal government have been sued. I should state that our research indicates that they almost always win. Over 90 percent of the time when they face litigation, they come out on the positive side of it. When they have not come out on the positive side, that is, as the senator mentioned, instead of...we're not looking at damages, we're looking at return to the NEPA process to make sure we get it right before we build our project. The senator mentioned the fiscal note. We have some work to do to figure out how, just exactly what resources we need. We've estimated what we think we need from a staffing perspective to be able to implement NEPA assumption. My expectation is that we will be able to get this expertise through the training of our staff that we have now. We may have to hire additional staff. If we have to do so, we'll do that within our existing appropriation, we'll do it within our existing PSL. So you see no new appropriation or PSL is requested at this time. I should end by saying that I believe strongly that LB271 reflects the feedback that I have gotten as I've traveled our state over the last 20 months of my time here in Nebraska, whether it's citizens of the state or the stakeholders, some of which you will hear from today. I keep getting the same message: We need to find innovative ways to deliver our projects; we have to deliver our projects faster; we have to continue to engage the public in the decision-making process; and we have to continue protecting our environment. We've worked hard at NDOR to create a very transparent and public-friendly agency, and this is one more step towards decreasing regulation, increasing efficiency, and improving our state government. It reflects research on best practices across the country, and it gives us the authority to invest more resources towards assuming NEPA responsibility. If we pass it, NDOR will proceed with the formal agreement process with Federal Highway while working with our stakeholders to right size the approach for the people of Nebraska. I continue to be very appreciative for the ongoing support that we've received here in the Legislature; I can't thank you enough for your commitment to infrastructure improvements. You're helping us to find ways to work smarter and meet the needs of Nebraska. And you've showed a steady hand in laying out policies and providing resources to us to be able to meet our

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state's transportation need. So I think that's something that all Nebraskans can really appreciate. And I thank you for your time today, and I would love to answer any questions you have. [LB271]

SENATOR FRIESEN: Thank you, Director Schneweis. Are there any questions from the committee? Senator Bostelman. [LB271]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. A couple questions. As I was looking at the fiscal note here, Director... [LB271]

KYLE SCHNEWEIS: Yeah. [LB271]

SENATOR BOSTELMAN: ...it talks about on the second line at the bottom where it talks about your positions, that four of the biologists will be moved over from within. [LB271]

KYLE SCHNEWEIS: Um-hum. [LB271]

SENATOR BOSTELMAN: It doesn't speak to the attorney. Is that going to be an outside hire? Or is that going... [LB271]

KYLE SCHNEWEIS: Sure. Well, I think we have some options there. Currently all the attorneys that work for us at the Department of Roads are actually employed at the Attorney General. And so I think if we were to continue down that road, it would be, perhaps, a different approach than if we were to, say, imbed an attorney inside our environmental section. And those are details that we have not worked all the way through. I certainly want to engage the Attorney General before we make that decision. [LB271]

SENATOR BOSTELMAN: Thank you. And also, my understanding, from what you were talking about, is your biologists that are on staff already, are already dealing with this, so there's really not a large cost, if you will, or a large time to ramp up to get, you know, equalize or, you know, to understand the rates, what's happening out there. [LB271]

KYLE SCHNEWEIS: Um-hum. Sure. Well, I think one of the things that I see as a benefit of this is that it will...it really will empower our team to make the decisions around these laws in a way that's best for the people of Nebraska. And that means, instead of deferring the eventual authority of assigning these analyses to Federal Highway, we have to do it ourselves. And that comes with responsibility, and so we need to make sure we have the right number of people and the right expertise in the room to be able to make those decisions. So we're trying to be very

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conservative; we don't want to underestimate what it might take to be able to do this. And that's why you see the fiscal note as it is. I think it's a fair way to represent what could happen. My hope is we can rely on many of the people...the good people we have already, but we want to make sure that we aren't understating it. [LB271]

SENATOR BOSTELMAN: My final question is, and I just want to make sure I understand the risk that we take with this, as far as the lawsuits, if we get sued. The cost really will be far less than what...it's not a punitive or damages; we're just going to go back in and reevaluate...go back over the steps we did to approve the processes there and the program (inaudible). [LB271]

KYLE SCHNEWEIS: Um-hum. Sure. And you know, I wouldn't...just because damages aren't paid and, as the senator mentioned, it's possible that attorneys' fees could be part of an agreement, time is valuable; that's what we're counting for some of our savings. And so if we have to go back, that does cost us as a state. But we have not been sued. If...someday we might; other states have been. In the meantime, hundreds of projects will have moved much quicker through the process. And so that time that we lose, that rework we have to do, the attorney fees we may someday have to pay, I think, are far outweighed by the time savings we've seen. And that is exactly what we've learned when we've talked to the states that have implemented this. [LB271]

SENATOR BOSTELMAN: Thank you. [LB271]

SENATOR FRIESEN: Thank you, Senator Bostelman. Senator Briese. [LB271]

SENATOR BRIESE: Thank you, Mr. Chairman; and thank you for being here, Director. Does the proposed language here mirror what was successfully used in the four other states that fully implemented this NEPA assumption? [LB271]

KYLE SCHNEWEIS: It does; it does. If you have specific questions, I'll have to get advice from the folks on my attorney team who helped draft it. But a significant amount of research went into making sure that we draft the legislation in a way that it captures on the best practices of other states. So it very much mimics what you find in other places. [LB271]

SENATOR BRIESE: Okay, thank you. [LB271]

SENATOR FRIESEN: Thank you, Senator Briese. Any other questions from the committee? One question I have was...you talked about the number of projects that you currently have going. Do you kind of look at like you may use this process on every project that comes ahead of you,

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or are you going to use it on a specific project because it requires a memorandum of understanding on each project? [LB271]

KYLE SCHNEWEIS: Well, I think we have to get into it with Federal Highway to figure, to determine exactly where we're authorized to use it. Where we are authorized after we get past that agreement, I would intend to use it in every single instance, yes. [LB271]

SENATOR FRIESEN: Okay. All right. [LB271]

KYLE SCHNEWEIS: Some states have got into the process and learned that, say, for very large, complex projects, they maintain the existing relationship with Federal Highway, and they use it on maybe the medium-to-small projects. [LB271]

SENATOR FRIESEN: So in the end, you will reach an agreement with them as whether or not you can use it and proceed with it quickly. [LB271]

KYLE SCHNEWEIS: Exactly. And our intention would be to pursue it in all cases, but I think it's early days yet. [LB271]

SENATOR FRIESEN: Um-hum. [LB271]

KYLE SCHNEWEIS: And when we get into with Federal Highway, we may determine that we need to stick to the smaller and medium projects, for example. [LB271]

SENATOR FRIESEN: Okay. [LB271]

KYLE SCHNEWEIS: But in the handout that I distributed there is a breakdown of the kinds of projects we're talking about, and I think we have...of the 180-some, I think two are considered large projects, so a lot of the savings comes from the small and the medium. [LB271]

SENATOR FRIESEN: Okay. Thank you, Director Schneweis. Are there any other proponents who wish to testify? Welcome. [LB271]

GREG YOUELL: (Exhibits 4-5) Thank you. Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Greg Youell; that's G-r-e-g Y-o-u-e-l-l, and I serve as the executive director of the Omaha-Council Bluffs Metropolitan Area Planning Agency, better known as MAPA. I appear before you today to testify on behalf of

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MAPA, in support of LB271. MAPA is a regional council of governments in the metropolitan area and also serves as a metropolitan planning organization, MPO, for Douglas and Sarpy Counties in Nebraska and western Pottawattamie County in Iowa. And as an MPO, our work focuses on forming policy on transportation issues and is funded, in part, by the federal government. It is through MAPA's funding process that federal projects and federal aid transportation projects of regional significance are allocated to the cities and counties in our transportation management area. I appreciate the opportunity to appear before you today and speak in support of LB271, which would authorize the Nebraska Department of Roads to assume certain responsibilities under federal environmental laws and provide for a limited waiver of the state's sovereign immunity. LB271 represents an innovative approach to use taxpayer dollars more efficiently and productively. It would help simplify the project delivery process for road and bridge projects. In turn, this would allow more money to be put toward roads in order to provide the best possible transportation system across the state. The roads and bridge projects in Douglas and Sarpy Counties are programmed for distribution in MAPA's six-year transportation improvement program, which we call the TIP. The largest funding source for cities and counties is a federal program called Surface Transportation Block Grants, which was previously known as STP, or Surface Transportation Programs, and the current balance of allocated funds in this program for projects that are in the pipeline sits at about \$70 million. This is a balance which continues to grow over the past several years, in part, because of the length of time dedicated to complete the environmental review process during project delivery. The flexibility of this bill, LB271, would allow a more streamlined process for meeting federal environmental requirements and would reduce the occurrence of delays. The costs of delays brought by a lengthy environmental review process are significant. Delays over several years add millions of dollars to total cost for road projects, as Director Schneeweis indicated. LB271 would not only decrease the time consumed by the environmental review process by making it more efficient, it would increase the amount of projects our cities and counties are able to deliver to completion in a shorter amount of time, especially with funding that is time sensitive in nature and limited availability. So I have addressed MAPA's support of LB271; I have submitted to you a letter of support, as well, from the city of Omaha for LB271. That letter highlights the city's trusted working relationship with the Nebraska Department of Roads and the benefits LB271 would provide in saving significant costs and time delivery and time...and project delivery. Todd Pfitzer, who is the assistant public works director for the city of Omaha, had planned to attend this hearing today and, unfortunately, there was a tragic crash in west Omaha involving a city street maintenance employee and a motorist, so he's unable to be here today. But I did bring the letter with the packet you received. So in conclusion, I'd like to thank you for your time today, Chairman Friesen and the members of the committee, and happy to answer any questions you may have on this. [LB271]

SENATOR FRIESEN: Thank you, Mr. Youell. Any questions from the committee? Seeing none, thank you for your testimony. [LB271]

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GREG YOEELL: Thank you. [LB271]

SENATOR FRIESEN: Further proponents? [LB271]

JOSH MOENNING: Chairman Friesen, thank you. Members of the committee, my name is Josh Moenning, J-o-s-h M-o-e-n-n-i-n-g. I am executive director of 4 Lanes 4 Nebraska. We are a statewide business and industry advocate for modernized infrastructure systems throughout our state. 4 Lanes 4 Nebraska fully supports LB271 for the following reasons: First, it stands to create efficiencies within what now can be a cumbersome and overwrought regulatory process. Second, it potentially saves time and money on projects without compromising standards in place for environmental protection. The same rules for compliance remain; environmental standards are not weakened. Third, costs and time savings realized with this reform potentially will allow for other resources to be made available for newly prioritized state projects. For example, new expressway project priorities announced in September may benefit from additional resources available from federal aid project savings...process savings. The quicker we can complete expressway projects, the more growth opportunities our communities will see, from Lincoln to Lodgepole and places in-between. Lastly, frankly, it feels good to be on the front end of responsible reform. By adopting this measure, Nebraska would join the states of California, Texas, Florida, and Ohio, who have already taken advantage of this opportunity established under the federal highway bill, MAP-21. Recognizing the benefits of such action, seven other states are now moving to adopt the change. For these reasons, 4 Lanes 4 Nebraska encourages your support and advancement of LB271. Thank you. [LB271]

SENATOR FRIESEN: Thank you, Mr. Moenning. Any questions from the committee? I know you've been very active in promoting the roads up in your area--Norfolk--and you also recognize the huge opportunity to move a project up and what that does for economic development. Could you talk a little bit about what's been happening up there, that if a project speeds up, the dollars that are saved in construction are one thing, but the economic development that could happen from moving a project up is? [LB271]

JOSH MOENNING: Right. Not only the cost savings here, as you noted, but the time savings in starting and completing these projects is very important, in our view. The longer we wait to complete these expressway projects, in particular, which were promised to Nebraska taxpayers to be done decades ago, the quicker we can bring more economic opportunities to our communities. And so you look at the state of Nebraska, the places that are growing are on the interstate system or have access to four-lane corridors. And so our organization is very interested in moving the ball forward, and we are very encouraged by some of the reforms right now taking place within the Department of Roads and the leadership that this committee and the Legislature has shown in adopting creative and innovative ways to modernize our infrastructure systems. [LB271]

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SENATOR FRIESEN: Okay. Thank you for your testimony. [LB271]

JOSH MOENNING: Thank you. [LB271]

SENATOR FRIESEN: Other proponents who wish to testify? Welcome. [LB271]

DICK LUDWIG: Thank you. Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Dick Ludwig, D-i-c-k L-u-d-w-i-g, and I am testifying in support of LB271 on behalf of the Associated General Contractors-Nebraska Chapter. We are the voice of Nebraska's heavy highway, bridge, municipal utility contractors. This bill would allow NDOR to assume responsibilities for environmental review under NEPA, to ensure that highway projects in the state comply with existing environmental law. Recent federal legislation, and now FAST Act, are allowing states to take on these responsibilities. Although contractors don't get involved in the NEPA process, allowing NDOR to assume the FHWA's role would shorten project delivery time and reduce annual costs to the state which, in turn, would mean better stewardship of tax dollars and more projects delivered for the citizens and taxpayers of Nebraska. AGC and our contractors care about being good stewards of the environment; however, the process shouldn't be excessively expensive, in terms of time or dollars. NDOR's Environmental Division (sic: Section) is qualified to carry out the NEPA review process. They have successfully carried out their obligation to follow all federal, state, and local environmental laws for years. In summary, streamlining the process is good for the state. Shortening the time it takes to get a project to bid and reducing the project costs is absolutely good for Nebraska. [LB271]

SENATOR FRIESEN: Thank you, Mr. Ludwig. Any questions from the committee? Seeing none, thank you for your testimony. [LB271]

DICK LUDWIG: Thank you. [LB271]

SENATOR FRIESEN: Welcome. [LB271]

LISA RICHARDSON: Good afternoon. My name is Lisa Richardson, L-i-s-a R-i-c-h-a-r-d-s-o-n. I am the chair of the Transportation Committee for the American Council of Engineering Companies of Nebraska. I'm here today to speak in support of LB271 on behalf of our organization. Our organization partners with the Department of Roads to bring safe and efficient transportation systems to the citizens of Nebraska and the thousands of visitors that travel throughout our state. We are engaged with the design and construction of transportation projects. Environmental reviews, including those required by NEPA, are part of the design phase and are

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critical to the overall schedule and successful implementation of transportation projects. Environmental reviews are required by a variety of state and federal regulations and, more importantly, they provide valuable information to the Department of Roads and other decision makers regarding the environmental, social, and economic effects of transportation projects. The Department of Roads carefully considers these effects when developing projects. Today, for federally funded transportation projects, after the Department of Roads reviews the NEPA analysis and decides that a project should move forward for implementation, the Federal Highway Administration then reviews the same information. This takes additional time and money and, ultimately, delays the construction of critical transportation infrastructure. LB271 would allow the Department of Roads to assume responsibility for NEPA reviews from the Federal Highway Administration, shortening the time required for environmental reviews by eliminating a duplicate review by FHWA. The Department of Roads has estimated this would save \$12 million to \$19 million each year, freeing up money to construct additional transportation improvements each and every year. Nebraska's transportation infrastructure is critical to the efficient movement of people and goods across the state. At a time when the state's infrastructure needs are growing and funding sources are constrained, yet the public wants to see improvements constructed more quickly, LB271 provides both additional funding to help meet those needs and an opportunity to streamline project delivery and better serve the citizens of Nebraska. Our organization requests that you advance LB271. This is an extremely important step that will make it possible to advance transportation projects more efficiently in our state. Thank you for consideration. I'd be happy to answer any questions. [LB271]

SENATOR FRIESEN: Thank you, Ms. Richardson. Any questions from the committee? Seeing none, thank you for your testimony. [LB271]

BRUCE BOHRER: Good afternoon, Chairman Friesen and members of the Transportation and Telecom (sic: Telecommunications) Committee. I'm Bruce Bohrer, registered lobbyist for the Lincoln Chamber of Commerce. For the record, my name is spelled B-r-u-c-e, and the last name, B-o-h-r-e-r, here on behalf of the Chamber to lend our support for LB271. I won't try to rehash all the statements that have been made already, but I would just say LB271 supports--or falls clearly--under our regulatory reform agenda, also infrastructure/economic development agenda, as well, that you've already talked about. It supports local control, environmental protection, streamlining our process, innovation, accelerated reviews, and increased efficiency. Obviously it helps us stretch our federal dollars; and who would not want to support that? So it's a very good thing to see the collaboration that has already gone into LB271. We thank Senator Hilgers for putting this bill in and, also, Director Schneweis for working on it and here in support of it. And so I know that the city of Lincoln also put a letter of support in...good to see that collaboration happening, and we just want to be a part of it and help in any way we can. I'll conclude my remarks and answer any questions you might have. [LB271]

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SENATOR FRIESEN: Thank you, Mr. Bohrer. Any questions from the committee? Seeing none, thank you for your testimony. [LB271]

BRUCE BOHRER: Thank you. [LB271]

SENATOR FRIESEN: (Exhibits 6-10) Any other proponents who wish to testify? Seeing none, we do have a couple letters in support: League of Municipalities, the Greater Omaha Chamber of Commerce, the city of Lincoln Department of Public Works, and Dan Thiele, president of the Professional Engineers Coalition. Are there any opponents who wish to testify? Anyone wish to speak in opposition to the bill? Seeing none, is there anybody here wish to testify in a neutral capacity? Seeing none, Mr. Hilgers, would you like to close? Waives closing, and we will close LB271. We will now open the hearing for LB114, and she's on her way. I know Senator Craighead is on her way; we'll just hold up and wait; that's all right. Welcome, Senator Craighead. [LB114]

SENATOR CRAIGHEAD: Thank you. [LB114]

SENATOR FRIESEN: We will open the hearing on LB114. [LB114]

SENATOR CRAIGHEAD: Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Joni Craighead, J-o-n-i C-r-a-i-g-h-e-a-d. I represent Legislative District 6 of Omaha, in Douglas County. LB114 is a bill for an act relating to the Nebraska Rules of the Road, to change provisions relating to motor vehicle lighting requirements, with the intent to harmonize provisions and repeal original sections. The bill would clarify the requirement for motor vehicle headlight and taillight use when windshield wipers are in use, to include new language stating, "(1) Motor vehicle headlights and taillights shall be turned on: (a) During the period from sunset to sunrise; (b) When the motor vehicle operator cannot discern a person or vehicle upon the highway from a distance of five hundred feet ahead due to insufficient light or unfavorable atmospheric conditions, including, but not limited to, rain, snow, sleet, hail, fog, smoke, or smog; or"--new language--"(c) When the motor vehicle's windshield wipers are in continuous or intermittent use due to precipitation or atmospheric moisture, including, but not limited to, rain, snow, sleet, or mist." The bill replaces prior language that allowed for vague interpretation of statute, stating only that headlamps shall be used "during the period from sunset to sunrise and at any other time when there is not sufficient light to render clearly discernible persons or vehicles upon the highway at a distance of five hundred feet ahead." The current wording leaves the burden of interpretation on drivers and law enforcement. I would like to state that LB114 is a bill that is currently an enacted law in 20 other states and would allow the Department of Motor Vehicles to insert the law into the Driver's Manual. LB114 is a true bill of the citizens of the state. It is legislation that was submitted to us

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by individual citizens who work in law enforcement and driving education, who have firsthand knowledge of the devastating effects of accidents that may otherwise have been prevented simply by vehicles being more visible by use of adequate lighting. The bill does not alter fines or degree of the offense, which...and it will remain a Class III misdemeanor. Fines are currently set at \$25 for violations. It has been made clear that this legislation is not being requested as a reason to increase issuance of fines; rather, the requesting parties expressed that this would give officers defined boundaries to give warning of safety requirements without the obligation of written tickets with fine. The true intent is to make our roads safer for all Nebraskans while driving in the inclement weather conditions that are so common to our region. I'll take any questions, if you have them. [LB114]

SENATOR FRIESEN: Thank you, Senator Craighead. Are there questions from the committee? Senator Bostelman. [LB114]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. Senator Craighead, hi. How are you today? [LB114]

SENATOR CRAIGHEAD: Good, thank you. [LB114]

SENATOR BOSTELMAN: I'm struggling a little bit with the last part of the bill, where whenever motor vehicles' windshield wipers are in use due to precipitation or atmospheric moisture including rain, snow, sleet, or mist. I guess my question is...I'm wondering if we're over-legislating something that should be common sense. And one of my vehicles that we have has automatic windshield wipers. And the other day, after a frost, I was coming into town and just the moisture off the road coming up--it was a fine day--my windshield wipers come on. So I'm struggling a little bit with this portion. If you could, maybe, help me through it with... [LB114]

SENATOR CRAIGHEAD: Be glad to. Well, common sense isn't so common, as we know. Okay? This actually came from a number of people who live in the western part of the state...the Sandhills, where there is, you know...not like Omaha-Lincoln area. The areas where there are, you know, few travelers and a lot of, you know, a lot of road. And they said that they don't turn them on and the lights aren't there, and the fog is there and things like that; and there are accidents. So the comment was just...if you've got to have your windshield wipers on, turn your lights on, whether it's intermittent or, you know, full force. So that was the thinking behind that. [LB114]

SENATOR BOSTELMAN: Because of...okay, thank you. [LB114]

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SENATOR FRIESEN: Thank you, Senator Bostelman. Senator Smith. [LB114]

SENATOR SMITH: Thank you, Mr. Chair. Senator Craighead, I think Senator Bostelman kind of touched on what I was concerned about, as well, and that it gives a...I know that the law is a bit vague already, dealing with the 500 feet. But it adds to that, with another condition of use of windshield wipers in an intermittent fashion. We trust our law enforcement; we certainly all want to be safe. But this certainly, maybe, gives a bit too much discretion as to when that may be in violation. I know we face this each year when we talk about texting laws, seat belt laws, and such. And who was it that brought this particular bill to you? And can you give us a little bit more information on that? [LB114]

SENATOR CRAIGHEAD: It was a constituent who lives in Sheridan County, and she and her husband own a ranch out there. And of course, as we know, there's a lot of land, not a lot of people. But they said there have been so many times that they almost gotten in accidents just because of...headlights aren't on. You know, weather might be just a little bit bad, but if the headlights had been on...and there would have been absolutely no problem with the possible accident. [LB114]

SENATOR SMITH: But we don't know whether, in those circumstances, intermittent wipers were in use or not. [LB114]

SENATOR CRAIGHEAD: The wipers weren't on. She said that theirs weren't, and she said the other ones weren't either. So...and that was why she wanted to bring this. And it's just...it's a safety issue. [LB114]

SENATOR SMITH: All right. Thank you, Senator Craighead. [LB114]

SENATOR CRAIGHEAD: Sure. [LB114]

SENATOR FRIESEN: Thank you, Senator Smith. Any other questions from the committee? One question I have, I guess, is some vehicles are equipped with daytime running lights. Would those be viewed as headlights on? Or, then... [LB114]

SENATOR CRAIGHEAD: Yes. If you look at bill, it gives you all of the different things, as far as, let's see...let me see if I can find it exactly for you in here. Who said page 2? [LB114]

SENATOR GEIST: I did. It just says, starts at (7), I think: if there are no more than two auxiliary lights...paragraph 7. And then it goes on to paragraph 10. [LB114]

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SENATOR CRAIGHEAD: This talks about motorcycles, autcycles, automobiles, trucks, tractors, all kinds of things in this on page 2. [LB114]

SENATOR FRIESEN: Would daytime running lights...would be considered the same as headlights? [LB114]

SENATOR CRAIGHEAD: Yes. [LB114]

SENATOR FRIESEN: Okay. Thank you, Senator Craighead. Any other questions from the committee? Seeing none, thank you. [LB114]

SENATOR CRAIGHEAD: Thank you. [LB114]

SENATOR FRIESEN: And you'll stay around for closing? Thank you. Proponents? Welcome. [LB114]

WILLIAM SAXTON: Thank you. Senator Friesen and members of the committee, my name is William Saxton...William, W-i-l-l-i-a-m, Saxton is S-a-x-t-o-n. I'm currently owner and operator of Road-Ready Driver Training School here in Lincoln, have been for about 20 years. Prior to that time, I was a state trooper with the Nebraska State Patrol for nearly 30 years. I was one that brought this to another senator and asked to have this bill enacted, primarily not so much to increase the ability for a driver to see ahead, but to make the driver more visible to oncoming traffic, so that we can see each other. Senator, you mentioned many cars are equipped now with daytime running lights, and we know that cars become more visible to us as we're driving. The AAA Foundation for Traffic Safety estimates that, when we're on the highway, cars are about twice as visible with their headlights on as they are without. And I think we all experience that in our routine driving. As we go through this, as I talked about this bill with another senator, and one of the things that I harken back to is a crash that I investigated in south-central Nebraska during a rainstorm. Both vehicles had windshield wipers on. The oncoming vehicle didn't...it was a semi truck that did not have any lights on. A middle-aged couple from Iowa pulled into the lane to pass at the time, hit the semi head-on, and both of them perished in the end crash. So I know that visibility of other vehicles, obviously, creates a safer environment for us to drive in. This would give one more avenue of measuring that rather than trying to estimate what is 500 feet ahead. Are we... what, 500 feet would be about a football length and about another half of a football length. Is it that far ahead that I can see or not? How do I estimate that? This gives a little bit firmer measure to that. So I ask the senators to look at this bill, support it, and move it forward. [LB114]

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SENATOR FRIESEN: Thank you, Mr. Saxton. Are there any questions from the committee? I guess continuing the questioning, a little bit, on the daytime running lights, do you feel they're the exact same thing as a headlight? [LB114]

WILLIAM SAXTON: They're not exactly the same thing, but I think they would probably fulfill the requirements of the headlight bill...of the light bill, the lighting bill. [LB114]

SENATOR FRIESEN: Okay. I know we've...the intermittent wiper issue...I mean, when you have a light mist or something, and so most vehicles, like I said, are equipped with running lights these days, but not all. [LB114]

WILLIAM SAXTON: That's correct. [LB114]

SENATOR FRIESEN: And most vehicles are equipped with the automatic headlight option. And so, I mean, I think, as it switches back and forth, you do see a difference. But would you say that, under this current law now, that you should be required to turn it to headlights, even if it is not automatically switched over that, because there are going to be conditions where it's going to say that it doesn't need the extra light, so you're going to have to physically turn on the lights? [LB114]

WILLIAM SAXTON: Yes, Yes. And even there are newer cars, even, that don't have the automatic--or the daytime--running lights that, yes, you'll have to turn them on. One of the things that we try to do in driver education is try to encourage the drivers to turn their headlights on, especially new young drivers. We try to get them in the habit of turning their headlights on, day or night, just to make themselves more visible. [LB114]

SENATOR FRIESEN: Okay. Thank you, Mr. Saxton. Any other questions from the committee? Senator Bostelman. [LB114]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. Two questions, I guess. One...first one is, is we have vehicles that automatically turn them on. They automatically...you know, lights come on, come off, whatever, according to the sensors that are on it. And... [LB114]

WILLIAM SAXTON: Pretty soon we won't have to drive even, because this thing will take over. [LB114]

SENATOR BOSTELMAN: There you go, yes. My thought is...my question is with this, is there may be times that the headlights don't come on that I'm not going to know about and that I would

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have to turn that switch on. But just driving the vehicle, I'm not going to know that headlight is on or off. Potentially it could be...the situation I just described earlier was: frosty morning; there's a lot of moisture come up off the road; it was a clear day out, no reasons for the headlights to come on; running lights are on. I would not know that I'd have to turn that switch on so then, hence, I would be in violation, potentially, of this statute because I didn't have my lights on, because I didn't even know that they weren't turned on themselves. And so we're relying on the sensors of the vehicle. Do you see that as an issue or a problem? [LB114]

WILLIAM SAXTON: I guess I would assume that you would know your vehicle enough to know if your headlights are going to be automatically coming on or not. I wouldn't see that as a big problem there. Many of the cars which also now have the automatic windshield wipers that come on--when the windshield wipers come on, the headlights also come on. So, you know, in the safety field, we're already seeing this as being an automatic safety measure that needs to be done. And I guess we're looking primarily at the older cars or the ones that don't have the automatic that...make yourself visible, you know, make yourself seen. [LB114]

SENATOR BOSTELMAN: Thank you. And the second question I have...you referred to that accident that happened. Was it found in the accident report that contributing factors was the lights were not being used? Or was it just that low visibility was an "impactant" to that accident? [LB114]

WILLIAM SAXTON: It was...I don't believe it was shown to be a...the couple from Iowa pulled into the lane, the head-on lane, so obviously they were the ones, you know, that would've been at fault, if you want to look at that, because they were in the head-on, correct. But the contributing factor was no lights on (inaudible). [LB114]

SENATOR BOSTELMAN: Sure. Thank you very much. [LB114]

WILLIAM SAXTON: Sure. [LB114]

SENATOR FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? Thank you, Mr. Saxton. [LB114]

WILLIAM SAXTON: Thank you. [LB114]

SENATOR FRIESEN: Any other proponents who wish to testify? Seeing none, is there anybody who wishes to testify in opposition to this bill? Seeing none, are there any who wish to testify in a neutral capacity on LB114? Seeing none, Senator Craighead, do you wish to close? Senator

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Craighead waives closing. Thank you, and I think at this time we'll close the hearing for today.
[LB114]