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Transportation and Telecommunications Committee
January 20, 2009

[LB6 LB49 LB50 LB92 LB108]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, January 20, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB49, LB92, LB6, LB108, and LB50. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Kathy Campbell; Tim Gay; Galen Hadley; Charlie Janssen; Scott Lautenbaugh; and LeRoy Loudon. Senators absent: None. []

SENATOR FISCHER: Good afternoon, and welcome to the Transportation and Telecommunications Committee. My name is Senator Deb Fischer, and I am from Valentine, Nebraska. I am Chair of the committee, and at this time I would like to introduce our committee members to you. On my far right is Senator Charlie Janssen, Senator Janssen is from Fremont. Next to Senator Janssen is Senator Kathy Campbell, she is from Lincoln, Nebraska. Both of those senators are new senators this year to the Legislature and to this committee, so we welcome them. We have another new member of our committee this year, but not new to the Legislature, Senator Tim Gay, who is from Papillion, Nebraska. Next to Senator Gay is Senator Arnie Stuthman, he is from Platte Center, and he is the Vice Chair of the committee. To my immediate right is Mr. Dustin Vaughan, he is our committee counsel. To my immediate left is Ms. Laurie Vollertsen, she is our committee clerk. Joining us is Senator Scott Lautenbaugh, he is from Omaha, Nebraska. Next to Senator Lautenbaugh is Senator Galen Hadley from Kearney, Nebraska. He is new to the Legislature and to our committee, we welcome him. Senator Loudon will be joining us later. I hope you all understand that all of us introduce bills during this time, and if we don't have a member here or if a member of the committee happens to get up and leave, they are probably going to another committee to introduce legislation that they are proposing before that committee. So please do not take offense if you see us coming and going during these hearings. I would also like to introduce our pages for the day. We have Justin Escamilla from Scottsbluff and Rhianna Needham from Bellevue. Rhianna is here. We will be hearing the bills in the order that they are listed on the agenda today. Those wishing to testify on a bill should come to the front of the room and be ready to testify as soon as someone finishes testifying, in order to keep this hearing moving. Please complete the yellow sign-in sheet that is at the on-deck table, which is back there, and have that ready to hand in when you testify. We do have a computerized transcription program, and so it is very important that you follow the directions on that sign-in sheet. And you will need to hand that sign-in sheet to our committee clerk, Ms. Vollertsen, before you testify. For the record at the beginning of your testimony, I would ask that you spell your last name and also your first name if it can be spelled in several different ways. And please keep your testimony concise, try not to repeat what someone else has covered. If you don't want to testify but you do want to voice your support or your opposition to a bill, you can indicate so at the on-deck table on a sheet that is provided there, and this will be part of our official record of the hearing. If you want to be listed on the committee statement as a testifier at the

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hearing, you must complete the yellow sign-in sheet and actually testify--even if you just come forward and state your name and your position on the bill. If you don't choose to testify, you may submit comments in writing, and they will be read into the official record. I ask that you relax, not be nervous. If you need anything, please ask me, and we will have a page take care of you. At this time I would ask that you turn off all your cell phones. In this committee we do not allow cell phone usage, that includes texting, so I would ask that you turn off your cell phones, and with that I will open the hearing on LB49. Welcome, Mr. Vaughan. [LB49]

DUSTIN VAUGHAN: Thank you, Senator Fischer and members of the Transportation and Telecommunications Committee. For the record, my name is Dustin Vaughan, V-a-u-g-h-a-n, and I am the legal counsel for the committee. LB49 consolidates all motor vehicle and motor boat services into the county treasurer's office. These services include certificates of title, registrations, license plates, renewal decals, the notation and cancellation of liens, and the collection of taxes and fees for all types of vehicles. Forty-seven of the 93 counties have already combined vehicle titling and registration services into one office. The other 46 counties still split up duties between the county treasurers and county clerks. In the counties where the duties are split, the Department of Motor Vehicles now has duplicate equipment in each office. The equipment that is now deployed is outdated and needs replacement. In order to simplify oversight of the DMV system and reduce the amount of replacement equipment needed, the DMV wants to consolidate all DMV-related services to the county treasurers in those 46 counties where the duties are still split. This will result in better customer service and some direct hardware cost savings. And the director of the DMV, Director Beverly Neth, is here to testify, so I am sure she can answer any questions you have about those services. With that I will end my testimony. [LB49]

SENATOR FISCHER: Thank you, Mr. Vaughan. Are there questions? I see none, thank you very much. Director Neth, would you like to come forward and testify please? [LB49]

BEVERLY NETH: (Exhibit 2) Yes, thank you. I have my testimony. Chairwoman Fischer, members of the committee, I am Beverly Neth, director of the Department of Motor Vehicles. I am appearing before you today to offer testimony in support of LB49. I want to thank Senator Fischer for sponsoring the bill on behalf of the Department of Motor Vehicles. LB49 requires that all counties provide for a one-stop process for vehicle titling and registration services. Currently there are 47 counties that have voluntarily converted or have committed to converting to the one-stop process. Those 47 counties title and register more than 60 percent of all the vehicles in Nebraska. Forty-six other counties still split the vehicle titling and registration process between the county clerk's office and the county treasurer's office. In those counties, the DMV provides and maintains duplicate equipment in each county office. When the Vehicle Titling and Registration System, known as VTR, was designed in the late 1980s, there

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was little attention paid to modifying the existing business processes. Instead, the system was developed to accommodate the existing processes. Maintaining the existing process has resulted in higher costs to modify and support VTR. Given the magnitude of the project and the fact that it was Nebraska's first major technology project, those decisions were probably right for the time. However, it is neither feasible nor reasonable to maintain a bifurcated process. Maximizing technology through business process modification delivers the highest return on investment. The DMV has recently completed a hardware refresh relative to the county treasurer's VTR equipment. We have replaced the green screen terminals, which is really old technology known as dumb terminals, with PC-like products called thin clients, which are basically a scaled-down PC. The hardware upgrade is one impetus for a mandatory one-stop. As reflected in the fiscal note, there is...there would be direct hardware cost savings with LB49. The savings associated with moving all titling and registration functions to one office gives the DMV a cost-effective option to consider upgrading the existing dot matrix printers to a higher cost laser printers. Dot matrix printers are the printers that are used by the treasurer's staff for completing and preparing registration documents, they are also how they prepare the renewal postcards. Laser printers will allow the DMV to bar code all motor vehicle documents. Adding bar codes to vehicle documents provides a value-added benefit for law enforcement and for county personnel. Information in the bar code can populate vehicle data fields on citations and accident reports. A bar code on both the driver license, which currently exists, and the motor vehicle registration translates into the virtual elimination of data entry and furthers the e-citation project developed by the Crime Commission, the Nebraska State Patrol, and the DMV. The motor vehicle documents bar code is a key element in the development of the Department of Roads e-accident reporting system. Scanning the bar code not only reduces the time law enforcement spends filling out reports, it enhances the accuracy of information that is input ultimately into both the JUSTICE database and the DMV Driver Record database. County personnel can also use bar codes to retrieve data from VTR for issuing titles and renewing vehicle registrations, thereby eliminating keystrokes and enhancing the accuracy of the data. I'll be happy to answer any questions that you may have. [LB49]

SENATOR FISCHER: Thank you, director. Are there questions? Senator Lautenbaugh. [LB49]

SENATOR LAUTENBAUGH: I thank you, Madam Chairman. Director Neth, this doesn't change the services that are available in any county? [LB49]

BEVERLY NETH: That's correct. All motor vehicle titling and registration services would still be available in every county. What we are proposing is that they be consolidated into one office, that being the county treasurer. [LB49]

SENATOR LAUTENBAUGH: Thank you. [LB49]

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SENATOR FISCHER: Other questions? Senator Stuthman. [LB49]

SENATOR STUTHMAN: Thank you, Senator Fischer. Director Neth... [LB49]

BEVERLY NETH: Senator. [LB49]

SENATOR STUTHMAN: Welcome. [LB49]

BEVERLY NETH: Thank you. [LB49]

SENATOR STUTHMAN: It's nice to see you again. I have a question of moving all of the performance into the county treasurer's office. Is this going to create a problem where the county treasurer's office is going to need additional work force to handle that? And how is that going to be handled if you're going to add another one in the treasurer's office, are you going to be...are they going to be taking one away from the clerk's office? [LB49]

BEVERLY NETH: Well, ultimately those decisions really rest within the county offices. We have seen really a couple of different models out that have been put in place in the counties. A county as large as Buffalo County was able to take on the titling duties without any additional staff. There were some staff reductions in the clerk's office, but the treasurer's were amply...adequately staffed for the additional duties relative to titling and lien notations. So we think it can be done without additional staff, depending upon the size of the county. Some of the larger counties, Douglas County, Lancaster County, have been one-stop counties for a long time. One of the largest counties that currently isn't is Sarpy County, but they have really kind of developed almost a virtual one-stop in Sarpy County where I don't think the customer really knows that they are interacting with two different branches of the local government. And so, it's sort of...in that county if they were truly to move everything over to the treasurers, I think there would be some staff issues relative to that. But we have done a couple of different things, I think, that are reducing...that ultimately will reduce the workload on the treasurers as well, most importantly, the on-line vehicle registration renewal that was unveiled in December. We believe ultimately that will lead to a reduction of work on the treasurer's side as well, because they won't see those customers. They still have some data processing they do, but the customer is not there in front of them. [LB49]

SENATOR STUTHMAN: Well, I truly support the fact of trying to get it at a one-stop, I truly do. But I think the issue that I am concerned about is so that the county doesn't have to raise more property tax, you know, to take that route by adding another individual to that treasurer's office. And I think my county, Platte County, you know, there is a good possibility that they probably want to add another individual to the work force there, but I don't think they are going to dismiss one in the clerk's office and that's directly on property tax. [LB49]

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BEVERLY NETH: Uh-huh. We've tried to work closely with counties that have converted to one-stop to show them that it isn't a substantial increase in the workload. It can be done most of the time with existing staff. And what we are really looking at is developing a mentoring program so counties that are adjacent to a one-stop county can have a discussion with that county treasurer and clerk to say, this is how we did it, either we were able to reduce staff on the clerk side, and we did it without any increase of staff on the treasurer side. Really, to sort of give them the realities of how implementation of one-stop can be done without increasing any staff, as long as the workload is compatible to that. [LB49]

SENATOR STUTHMAN: Okay, okay. Thank you, Director. [LB49]

SENATOR FISCHER: At this time I would like to note for the record that we were joined previously by Senator Louden from Ellsworth, Nebraska. Any questions? Senator Hadley. [LB49]

SENATOR HADLEY: Senator Fischer, thank you. Director Neth, I applaud your efforts in doing this, because I think anytime we have one-stop shopping it just makes it easier for people to do it. Just a little bit with your crystal ball. Do you see the time in the future where we will somehow make it possible that people don't have to drive 30 or 40 miles potentially to do something like this, that they could eventually do this from home? [LB49]

BEVERLY NETH: Well, titling laws are such that it really becomes incumbent upon us, on a national level, to develop an electronic titling process. Where, in a country where you can sell stocks and do all that sort of transaction on-line, purchase stocks, you don't see the stock certificate, very seldom anymore. We are...I think we are challenged as motor vehicle administrators to overcome some of the obstacles that have been historically in place to move this nation into an electronic titling process where you don't see the paperwork anymore, you're doing it, it's stored. You have the ownership documents, maybe a copy of them if you want. But titling can be done electronically. And then, I think, ultimately we could be able to do it from home, from our computers. Certainly we are trying to move that way with the on-line registration renewals. Titling has some unique hurdles we have to overcome. [LB49]

SENATOR HADLEY: Thank you. [LB49]

SENATOR FISCHER: Senator Louden. [LB49]

SENATOR LOUDEN: Yes. Thank you, Chairman Fischer, and thank you for being here, Director Neth. Now we are talking about titling, and that's the title on it and all that. What about recording the title? Now, how do you handle that, then, does the county treasurer

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have to take the title over to the county clerk to get that title recorded for you or are you going to have to do that on your own anyway? [LB49]

BEVERLY NETH: No. When you are issued a title in the state of Nebraska, that information...you have a paper title, but the information relative to that vehicle is recorded in real-time in our database. So there is no paperwork done on the back-end. That information is going into, through the vehicle title registration system, it's being stored on a local level in an AS400 server, computer storage, and on a nightly basis, those 93 servers that sit out one in each county are updated. All of that data, we pull that data from those servers and we update the state's mainframe database with that information. So each night the mainframe is updated with that day's business relative to titling and registering of vehicles, so we have that data in our database. It also rests locally in a database, there aren't really books or anything like that anymore. [LB49]

SENATOR LOUDEN: Then if you lose your title, then you go to the state to get a new title? [LB49]

BEVERLY NETH: No, you can apply for a lost title with the county of your residence where you have the vehicle. [LB49]

SENATOR LOUDEN: Okay, but would you go to the treasurer's office or the clerk's office? [LB49]

BEVERLY NETH: You'd go to the treasurer's office to do that. [LB49]

SENATOR LOUDEN: Okay. And then you're...okay and that goes through all of these... [LB49]

BEVERLY NETH: Um-hum. [LB49]

SENATOR LOUDEN: ...magic machines... [LB49]

BEVERLY NETH: That's right. [LB49]

SENATOR LOUDEN: ...down in the state of Nebraska. Now, do all those counties have those magic machines? [LB49]

BEVERLY NETH: Yes, they do. They've had that system in place since the early 1990s. They've all been using the VTR System. I think the last county to come on was maybe Douglas County, think they came on in 1996, but every county has been using the VTR System since early 1990s. [LB49]

SENATOR LOUDEN: Okay, there will be no costs to any counties to buy any, anything,

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and if there is, will the state of Nebraska buy it for them? [LB49]

BEVERLY NETH: We currently do. The equipment is paid for by the state of Nebraska, the system is maintained and paid for by the state of Nebraska. All titling, paperwork, all of that stuff is provided to the counties. We provide the thin clients, we provide the printers, we pay all of those costs through the Department of Motor Vehicles. [LB49]

SENATOR LOUDEN: Okay, then if this goes through, then, the county assessor, the county clerk will have nothing to do with your vehicles? [LB49]

BEVERLY NETH: That's right. The county assessor's office hasn't been involved in the vehicle process for some time since we moved to the ad valorem. I think that was the late 1990s we moved into the different type... [LB49]

SENATOR LOUDEN: Okay. The valuation on those vehicles comes directly out of the treasurer's office, then? [LB49]

BEVERLY NETH: It comes out of the system, honestly. We have incorporated into VTR a package called a VINA package, that the trigger really is the VIN. Each vehicle has a unique VIN, Vehicle Identification Number, that has a lot of information encoded within it. So it tells us the year of the vehicle, the make of the vehicle, the model of the vehicle, and from that, then, we match that data to what the manufacturer said the manufacturer suggested retail price of that vehicle should have been. [LB49]

SENATOR LOUDEN: Okay, then the county treasurer takes care of that through the state. The assessor doesn't have to put a...use that valuation book anymore... [LB49]

BEVERLY NETH: That's correct. [LB49]

SENATOR LOUDEN: ...in order to value any of these vehicles to get the...then how do they know, how do they know how to set a mill levy in the area if they...do they have access to that valuation? Because that would be a sizable number as far as your school districts or any of your smaller fire districts or anything for their total valuation for the amount of vehicles that are in the district, wouldn't it? [LB49]

BEVERLY NETH: Yeah, I'm not real sure how they use those numbers on a local level, how the commissioners would be using those or whether they even, those even come into play. I think on a county-by-county basis, certainly that information is available, what kind of revenue is generated through motor vehicle fees and taxes per county. But I don't have any real knowledge of how counties use that to set their property taxes. [LB49]

SENATOR LOUDEN: That's what I was wondering, if they use that registered vehicles

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in a school district or something anymore for part of their tax valuation base? [LB49]

BEVERLY NETH: I'm not sure. I'm not sure. Surely the tax money portion of it, a great portion of the tax money goes...does flow back to the schools, to the school district. [LB49]

SENATOR LOUDEN: Yeah, whatever that valuation is, yeah. [LB49]

BEVERLY NETH: Um-hum. [LB49]

SENATOR LOUDEN: Okay, well, thank you. [LB49]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? Director Neth, I just had a couple. On the fiscal note you mentioned that the counties, in a question to Senator Stuthman, that you didn't know what the counties would have to incur for expenses on this, and that's listed on the fiscal note. But also, I imagine you would like to note that there are no General Funds that are going to this change that we are seeing, and it comes out of your cash funds, is that correct? [LB49]

BEVERLY NETH: That is correct. We are a cash-funded agency and it would be used...there are some, as you look at the fiscal note, you see that there are some costs associated with the implementation of a one-stop because we do go out and train, and we send teams out to do that. So the first year the cost savings are a little less than they would be on an ongoing basis. [LB49]

SENATOR FISCHER: And also do you have a list of the counties that are currently one-stop counties that you could get us? [LB49]

BEVERLY NETH: Yes, I will forward that to you. [LB49]

SENATOR FISCHER: Okay. Maybe possibly today, yet? [LB49]

BEVERLY NETH: Absolutely. I'll get it over here. I'm sorry I didn't bring that. I should have done that. [LB49]

SENATOR FISCHER: Okay, that would be helpful. That would be helpful for our discussions, thank you. Other questions? I see none. Thank you very much. [LB49]

BEVERLY NETH: Thank you. [LB49]

SENATOR FISCHER: Are there other proponents for the bill? Good afternoon. [LB49]

LARRY DIX: Good afternoon, Senator Fischer, members of the committee. For the

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record, my name is Larry Dix, D-i-x. I am executive director of the Nebraska Association of County Officials. I am here today to testify in support of LB49. I would tell you I think it is about time our association is here in support of this bill. Historically, we have opposed the bill for a number of reasons, or bills similar to this. It sort of took me back in time a little bit when Director Neth was talking about when we started this. I was one of the people that was on the initial design of the VTR back in the '80s, and so it's progressed a lot, an awful lot over those years. And we've had a lot of changes, and I anticipate we're still going to have a lot of changes, and we're still probably going to be here every year talking about motor vehicles and enhancements to the system. One of the things that this bill does that I think everybody needs to be aware of, there is potentially some cost to the counties. Some of those costs are borne in the fact that you are taking a process out of one office and moving it into another office, and that cost may be some remodeling, some moving of some file cabinets, some incidental things like that. Depending on the actual layout of the courthouse, that cost could be, in some people's minds significant, in other's, very insignificant. I think at the end of the day, when we discuss it and we talked about those costs, we thought that when we look at it the benefit of the taxpayer to be able to come into a county office, go to one location and take care of the titling, the assessment, and the registration of a vehicle certainly will outweigh the costs that we will see in some of those counties. But I would tell you there is a cost there, you know, I can't sit here and say there wouldn't be. But regardless of that, the other thing that we certainly like about the bill, Director Neth made the comment of the "green screens," and if you can imagine...I doubt anybody sitting at home on their computer has a green screen anymore. But we actually were working with some of those pieces of equipment in the county clerk's office. They are still out there, and so we would certainly want to work together with Director Neth to continually update the equipment, and probably you'll hear from our organization. We will push to update that equipment more often than what we had because if you can imagine, some of that equipment has been out there almost since the inception of this program. And computers in this day and age, we've just got to move, we've got to update, do some of those updating in a much, much more efficient, timely fashion. We believe that it will be a more efficient process. We think it will, at the end of the day, certainly help our taxpayers. We certainly appreciate...our organization appreciates the partnership that we have with the Department of Motor Vehicles. We want to continue to work together on that partnership. There was a little mention of the on-line registration, and I think Director Neth had made mention that that could possibly create some efficiencies and save some money, and I would tell you it's been in place now about, and she can correct me if I'm wrong, maybe about 30 days. And so I think the jury may be still out on how much it's going to save, or I think there is still room for improvement in that process. Senator Loudon, you were talking about the data that goes to the counties for establishing levies and things like that. That information is built into the current VTR System. It will go through, it will produce reports that will generate valuation for any, each, and every taxing entity, that then that information can be taken by the treasurer's office, broken down so that they know within the taxing entity who the ESUs are, the

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NRDs, the school districts, all those things. So that really is part of the base system that is out there today and has been out there for a number of years. So with that, again, I think it is time that we move forward on this. I appreciate the opportunity to be here to testify. I'd be happy to answer any questions that you may have. [LB49]

SENATOR FISCHER: Thank you, Mr. Dix. Are there questions? Senator Gay. [LB49]

SENATOR GAY: Thank you, Senator Fischer. If I heard you right, did you...you had been opposed to this prior to this year? [LB49]

LARRY DIX: Historically, when this started, when we started talking about one-stop shopping, it's been a series of three or four years. When we initially started talking about that, we had opposed it. Some of it was the costs that I referred to, some of it was that we had to work out some of the processes within that software to make it more efficient in the counties. We are certainly at that point today, and I think we had good reason to oppose it in those early years before we were really, really, ready, and we could really see how it impacted all the counties. [LB49]

SENATOR GAY: And a follow-up question on that. If...so you had...the other question was going to be how long? This isn't like a new thing you just saw coming down the road. We've been going that direction. I'm familiar with how you support or oppose a bill but if 60 percent of the people were already doing this, I guess what were the key issues that said, this year we're going to go and support this bill? What...just give me a little glimpse of why you're here today. [LB49]

LARRY DIX: Sure. Well, one of the things, you know, early on, and I think with anyone change might be a little bit hard. You know, everybody probably will accept that statement. And early on, there was...we wanted to make sure that when we moved a process from the county clerk's office over to the county treasurer's office, you're really taking a set of titling laws and understanding the titling process and moving it from a knowledge, a base of folks in the county clerk's office over to the county treasurer's office. We wanted to make sure that we could move or we could transfer that information and that education, and do so, and allow it to do so where we wouldn't have to bring a staff member across. I think the Buffalo County...Senator Hadley is familiar with, the Buffalo County treasurer, and that was an example where the Buffalo County treasurer did not move existing staff but all of a sudden took on that exposure and that understanding. I would tell you, from a treasurer's point of view, they're going to say, there's a lot to understanding the proper way and to make sure all the I's are dotted, T's are crossed on a title, and so that was one of the early things. The other thing that really started to concern us throughout this process is that at some point in time revenue was an issue. We wanted to make sure that when we moved across we could take advantage of the bar coding, the new equipment, the thin clients that would do multiple features and functions and things like that. So we were somewhat of a stickler from a

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technology side, also, but I think that time has come. [LB49]

SENATOR GAY: Thank you. [LB49]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB49]

SENATOR STUTHMAN: Thank you, Senator Fischer. Larry, have you got any information as far as what counties incurred when they moved, of those number of counties that have moved to the one-stop already, of how much it costs a county to do that? [LB49]

LARRY DIX: I would tell you it would vary from county to county to county. You can make the argument that Sarpy County, when they added on to their administrative building, I mean they spent maybe, you know, hundreds and hundreds of thousands of dollars to create an area that would make it a virtual one-stop location. So in that situation, they actually added on to the building. But there were a lot of other reasons probably why Sarpy County was added on to the building. One, that the county was growing, and they needed a lot of other sizes. We have seen other situations in county court houses and, Senator Stuthman, I come to mind the traditional county courthouse you walk up a few set of steps. Along that main landing you had the clerk, assessor, treasurer, county board meets in-between those, and you had the clerk of the district court. We got a...yeah, we got a number of courthouses that look like that. We've had some of those counties that have actually taken the county boardroom out of that mix and maybe moved them to a new location and expanded the county treasurer's office into the boardroom. Or many of those counties you used to walk into the county treasurer's office to do the...to do your work. We've had some of those counties that have actually knocked a hole in the wall so that activity happens outside in the hallway. So some of those costs are significant, but it will vary from county to county. [LB49]

SENATOR STUTHMAN: Well, one of the things that I'm concerned with is the number one thing on people's mind is property tax--taxes. And what it seems like we're doing here, and I support it, but the fact that, you know, we're making it more convenient for the people to come in at the one-stop, but yet we're increasing their property tax a small amount. And that does concern me if the people, you know, are saying, yes, you know, they made it so convenient for me that I am just happy to pay my property taxes. That is a concern of mine. [LB49]

LARRY DIX: I would tell you of the... [LB49]

SENATOR STUTHMAN: But it's just part of moving ahead and technology and everything like that, the thing that I do support it. But I always keep in mind, you know, I am very careful to the fact that the county boards, you know, their number one thing is property taxes, and that is an issue there in the counties so. [LB49]

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LARRY DIX: And I certainly appreciate your comments. And I think, you know, of the 40, whatever the number is, 46 counties that are left to go, some of them will virtually incur hardly any cost. Some of the other ones, by the nature of the design of the building, there is going to be some costs. But some of those costs have been incurred every step of the way as we've started to take the old courthouses and rewire them so we can have this technology and restring cables. You know, we have recabled some of those courthouses two or three times as cabling technology has changed. So there has been sort of a continual cost factor involved with it, I think, over the years. [LB49]

SENATOR STUTHMAN: Thank you. [LB49]

SENATOR FISCHER: Other questions? Senator Hadley. [LB49]

SENATOR HADLEY: Thank you, Senator Fischer. Mr. Dix, I just want to commend you and the DMV for doing this because I think all of government, whether it's city, county, school systems, universities, the state, you know, we have got to think of the taxpayers as our customer. And, you know, the private sector, the companies that are getting ahead are trying to make it easier for their customer to do business with them, and I think it is important that we, as governmental agencies, do exactly the same thing to cut down on confusion, to make it easy. These are people who are working, who have jobs, who have to take time out from their job to go do this, so we want to make it as smooth as possible. So I commend your group for supporting it, and I really do support the idea of helping our citizens do it more efficiently, and I realize there are some costs and just like everything else we do, there's a cost-benefit, and that's part of our job is to weigh the cost-benefit. But eventually I think people are going...they're going to expect us, in government, to be more efficient and hopefully be less costly by becoming more efficient. [LB49]

LARRY DIX: And, Senator Hadley, I appreciate those comments. I would tell you, and some of the senators that have been here for a few years, from time to time will hear me talk about what we call restoring the partnership. And we think that there needs to be an effort to restore the partnership between state and county government, not that there's never been a partnership there to restore, but I would tell you that we need to continue that partnership for our citizens, for our taxpayers. And we need to take bills like this, step back, analyze them, and say, this is a tremendous partnership that we've had over a number of years, and it's great. [LB49]

SENATOR FISCHER: Other questions? I have a short question, want a short answer. We have 47 counties that are participating in this right now. I take it from your comments you feel that those are 47 success stories. Would you agree with that? [LB49]

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LARRY DIX: I think you would, if you would line those 47 up here they would say, you know, at first maybe we thought it was bad, it isn't. It's good, it's working. You asked for the list of the counties, I would tell you, when I look at it, it's sort of a checkerboard. Douglas County is on, and our smallest county, Arthur County, is a one-stop county. So it isn't that it's a slotted specific size, shape, or anything like that. [LB49]

SENATOR FISCHER: Okay. Thank you, Mr. Dix. [LB49]

LARRY DIX: Yep. [LB49]

SENATOR FISCHER: Any other person wishing to step forward and testify in favor of this bill? Good afternoon. [LB49]

GARY MERRITT: Good afternoon. My name is Gary Merritt, M-e-r-r-i-t-t. I am with the Nebraska Independent Auto Dealers Association. We're a trade organization of used car dealers. We have long been in favor of the one-stop licensing of vehicles. One of our biggest concerns is dealers work hard, we have a bad reputation but most of them really put a lot of effort into it. We have always felt a one-stop would eliminate a lot of ones...persons what we call curbstoners. They can go down to the treasurer, get the title to the car, never go to the county clerk, never pay the sales tax, never pay these, walk out, and he's selling the cars. Six months ago I'm at a hardware store and a guy is bragging how many cars he's buying and selling in his front driveway every...he's got...turns two or three cars a week because nobody is checking them because of the different areas that he is working. In the smaller towns, that's one of the big complaints we have with our board members because they are scattered throughout the state that...a one-stop would help making that because if they have to pay sales tax on that vehicle when they get the title and register it and everything, it's going to take the profit out for them to go in, buy a car at an auction, farm auction or something, go and pay \$15, get the title, go home, put an ad in the paper, put it on-line, sell it, transfer the vehicle, no sales tax is transferred. We have always felt that this would be one way to help eliminate this and address certain problems there. [LB49]

SENATOR FISCHER: (Exhibit 1) Thank you, Mr. Merritt. Are there questions? I see none. Thank you very much for coming today. Are there other proponents for the bill? Are there any opponents to the bill? Opponents? I would like to read into the record that I received an e-mail, committee members have a copy of it, from Sandra Stelling who is the Jefferson County Clerk/Register of Deeds/Election Commissioner, and cochair of that association's legislative committee, and she is in opposition to the bill. Anyone wishing to testify in a neutral capacity? I see none. With that I will close the hearing on LB49 and open the hearing... [LB49]

SENATOR HADLEY: Excuse me. [LB49]

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SENATOR FISCHER: I'm sorry? [LB49]

SENATOR HADLEY: Was she in opposition or in favor? [LB49]

SENATOR FISCHER: She was in opposition to the bill. No, I'm sorry. Thank you, Senator Hadley, I won't close the hearing yet. That's for a different bill, thank you. (Laughter) First hearing of the year and we're off to a great start, aren't we? [LB49]

SENATOR HADLEY: I corrected the chair. I'm dead now, right? (Laughter) [LB49]

SENATOR FISCHER: I know, you and I are going to have a talk. She's in opposition to another bill. Thank you, Mr. Vaughan, for giving me the proper one, here. Yes, Sandra Stelling is in support of LB49, we need to get that into the record. With that, I will close the hearing for LB49 and open the hearing for LB92. I see that Senator Howard is here. Good afternoon, Senator Howard. [LB49]

SENATOR HOWARD: Thank you. [LB92]

SENATOR FISCHER: Would you like to open on your bill, please? [LB49]

SENATOR HOWARD: Thank you, Chairperson Fischer, and members of the committee. [LB92]

SENATOR FISCHER: You better be careful. See, I'm off to a great start this year. [LB92]

SENATOR HOWARD: I see how it's going. Yeah, I don't want that negative which... [LB92]

SENATOR FISCHER: Good afternoon. [LB92]

SENATOR HOWARD: (Exhibits 3, 4 and 5) Thank you. Thank you, Chairperson Fischer and members of the Transportation Committee. For the record, I am Senator Gwen Howard and I represent District 9. Today I bring in LB92, the move over bill, for your consideration, and I have asked the page, actually my LA has the information, to hand out two things, or three actually, things to you: pictures of accidents involving law enforcement officers that have occurred on Nebraska roadways during routine traffic stops. The photos are not the best, some of them were taken from the cruiser and made into stills, which makes them a little blurry. The second is an updated map of the states that have adopted move over laws, and the third is a copy of a letter of support from the Nebraska Police Union. The purpose of this bill is to improve the safety of the general public and those authorized emergency and service personnel providing assistance on Nebraska's controlled roadways. LB92 would require motorists on Nebraska's controlled

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access highways with at least two available lanes traveling in the same direction to yield the right of way to a stopped, authorized emergency or road assistance vehicle. The authorized vehicle must be using proper audible or visual signatures. We all know that means flashing lights or sirens. Motorists would be required to move into a lane at least one lane apart from the stopped vehicle, unless otherwise directed by a peace officer or another authorized personnel. I recognize that moving over may not always be possible, subsequently, LB92 stipulates that if moving to another lane is not possible due to weather or road conditions, the approaching driver shall maintain a safe speed and proceed with caution. Or if the access control highway does not have two available lanes traveling in the same direction, the approaching driver shall maintain a safe speed and proceed with caution. Violators of this section would be guilty of a traffic infraction for first offense and a Class IIIA misdemeanor for the second and subsequent offenses. I want to be clear with you, however, that this bill is not intended to be a revenue generator for law enforcement. The purpose of the law is to heighten the awareness about the importance of yielding to emergency and road assistance workers in order to increase public safety. In the past, there have been two opposing arguments to move over laws in Nebraska. The first is enforcement. As I have testified in the past, ideally what we would like is to not have concerns about enforcement because people are following the law. However, my staff has confirmed that Nebraska state trooper vehicles are equipped with dash-mounted cameras. In fact some of the photos, as I explained to you earlier, have been taken using that equipment. This is to illustrate the potential dangers for these responders, and they've captured them by camera that are mounted in their law enforcement vehicles. And we know that other states, including our neighbors in Iowa, have successfully enforced move over laws. Additionally, my office has worked extensively with AAA Nebraska on this bill, and they have testified in the past that they received complaints from motorists who have been ticketed and fined. The second concern expressed is that this law may not be necessary because moving over is common sense driving strategy that all people should know and apply. In response, I would ask, where do we expect drivers to learn more information if no one is teaching this? Many people are simply not aware that they should move over to yield the right of way to emergency and assistant vehicles. Because we have no move over law in Nebraska law, there is not information included in the Nebraska driver's testing manual that details this procedure. We have discontinued providing drivers education in Nebraska schools and motorists have never been stopped on the side of the road and may not realize the potential for danger, so there is no reason to assume that moving over is common sense among Nebraska drivers. Information that is not common sense unless everybody is aware of it. These are all the reasons why I believe LB92 will make a difference. Posting illustrated road signs which inform drivers that moving over is the law, as provided in this bill, can educate drivers and improve our public safety. In September 2006, Inside Edition news reported that getting hit on the side of the road is the number one cause of on-the-job fatalities among law enforcement. In March 2008, MSNBC article featured a story about an Oregon police officer who survived a roadside accident. The article reported that during the last decade 167 police officers have been

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killed by other vehicles while making routine traffic stops. In 2005 alone, an estimated 390 highway workers were killed by motorists. To date, 43 states have responded to this danger by passing move over laws to protect these public servants. That makes Nebraska one of only seven states that do not have a move over law. According to the Nebraska State Patrol, between 2000 and 2007, there have been 20 accidents involving emergency responders on Nebraska's controlled access roadways, totalling nearly \$104,000 in damage costs and nine such accidents on uncontrolled access roadways totalling almost \$39,000 in damages. These costs are just the property damage expenses and not the human expenses that result from these roadside accidents. This bill has the potential to decrease unnecessary danger for those who risk their lives to help others every day. I would ask that you listen carefully to the testimony that follows mine, and I urge your favorable consideration of LB92. And I would ask, we've been down this road before, not to make a pun, last year we were able...you were able to advance the bill out of committee which I very much appreciate. We ran out of time on the floor due to it being a short session and some other circumstances, but I would like to defer any questions to following the testimony by the people that have come in, that have taken their time to be with us today to give testimony, and I really appreciate them coming out. There are many people here that would like to share their experiences with you. [LB92]

SENATOR FISCHER: Thank you, Senator Howard. [LB92]

SENATOR HOWARD: Thank you. [LB92]

SENATOR FISCHER: Are there questions? Thank you very much. Oh, Senator Lautenbaugh? [LB92]

SENATOR HOWARD: Reconsidered. [LB92]

SENATOR FISCHER: Reconsidered, yes. [LB92]

SENATOR HOWARD: Thank you. [LB92]

SENATOR FISCHER: Thank you, Senator Howard. At this time I would like to ask how many people are here to testify on this bill today? Eight, ten, okay, I would ask that you...we won't use the light system. I would ask that you try and keep your testimony to about five minutes, though. So welcome. [LB92]

DAVID ENGLER: Thank you. [LB92]

SENATOR FISCHER: Good afternoon. [LB92]

DAVID ENGLER: Good afternoon. My name is Dave Engler. I'm the president of the

Nebraska Professional Firefighters Association. We are in support of LB92 as it increases our safety as we operate at the various emergencies on Nebraska's roadways. Although nothing will ever prevent every accident from happening, this is a significant step forward in providing increased protection to Nebraska's emergency responders who are attending to the various emergencies that occur on the roadways. We employ numerous tactics to improve our safety as we're operating on these roadways. We're required to wear emergency high-visibility vests, position our apparatus in positions that increase our safety, and maintain situational awareness. Having traffic slow down and move over will significantly improve the safety of emergency responders, as well as to the patients and the bystanders that are stopped on the side of the road as we assist those injured people. It is difficult to determine how many firefighters have been killed or injured while working on the roadside because of the way that data has been entered and managed. But I can assure you that based on my experience and observations over 17 years of responding to emergencies as both a firefighter and a paramedic, working on the roadside with traffic moving, whether it be at the speed limit or most people travel faster than the speed limit, and in the lane right next to you continues to be a very dangerous situation. In the early 1990s, I was working at the scene of a car accident in the area of Northwest 48th and I-80 here in Lincoln, Nebraska. The accident had resulted in some minor traffic injuries, and all the cars were pulled over to the shoulder of the road. While I was working in this car, a van came along and struck the car that was parked on the shoulder of the road and injured a volunteer firefighter who was standing beside the car, and then the van veered off and continued and actually totalled out the fire truck that was parked there. I strongly believe that this accident would have been prevented had we had such a law, and so that is just one of many cases that we experience that actually ended in an injury, but there are many that are what we call near misses on a daily basis on the roadsides that thankfully, we are unable to need to report. So to assist the safety of our emergency responders here in Nebraska, I urge that the committee support this legislation, and I'll take any questions if you have some. [LB92]

SENATOR FISCHER: Thank you, Mr. Engler. Are there questions? Senator Louden. [LB92]

SENATOR LOUDEN: Thank you for your testimony. As I look this bill over, then, the emergency vehicles have to have some lights on flashing or something like that in order to trigger this set up where they have to move over. Is that correct? Yeah. [LB92]

DAVID ENGLER: Yes, sir. And in most agencies that would be protocol to use those. [LB92]

SENATOR LOUDEN: That accident that you talked about out there, did they have lights a'flashing and everything and they still...? [LB92]

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DAVID ENGLER: Lights were flashing and in fact, law enforcement officers were positioned probably about a half mile down the road to try to warn people about it. [LB92]

SENATOR LOUDEN: And he still plowed right in the back end of an outfit? I just question whether all the laws in the world would have helped or not, or what it would have done. But I mean there's a certain percentage of it that's going to slip through anyway, that people don't realize what's going on. Oh, I agree that most all the other states have move over laws, and where it's possible, usually people, for the most part, do it at the present time. I thank you for your testimony, and I just wanted to point out that they do have to have some lights or something going on in order to activate this law. [LB92]

DAVID ENGLER: Right, and I believe that if this vehicle had been operating in the outside lane, we would not have been hit but it continued to operate in the inside lane which was right next to us, and that's when we were struck. [LB92]

SENATOR LOUDEN: Okay, thank you. [LB92]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB92]

SENATOR STUTHMAN: Thank you, Senator Fischer. Dave, in the discussion you had with that vehicle that did strike them and did end up hitting and totalling out the fire truck, this individual that was driving that one, did that individual get fined, or because we don't have a law there was no fine or anything because we didn't have the law? [LB92]

DAVID ENGLER: I can't answer that. I do know that the individual did sustain a serious injury and so, whether they got fined or not, they definitely had some rehabilitation and hospital bills to cover as a result of that. [LB92]

SENATOR STUTHMAN: Yeah, the thing that I was concerned with is, you know, the fact that, you know, since we don't have the law, is there anything that would, you know, justify the fact that the patrolman would say, you know, you should have moved over and you weren't doing the right thing? And if we had a law, that could have fined him or could have taken him to court. [LB92]

DAVID ENGLER: I would have to defer that to my counterparts in law enforcement. They'd be better off to answer that. [LB92]

SENATOR STUTHMAN: Okay, thank you. [LB92]

DAVID ENGLER: You bet. [LB92]

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SENATOR FISCHER: Other questions? Senator Hadley. [LB92]

SENATOR HADLEY: Senator Fischer, thank you, and I guess this isn't a question so much for you but anybody else who is presenting, since we have this in 44 other states, is there data that shows there's been fewer roadside accidents because they have enacted move over laws? Any data that shows that we have, that the law has actually cut down on the number of roadside accidents? [LB92]

DAVID ENGLER: I wish I had that answer. I don't have any data and hopefully someone will. [LB92]

SENATOR HADLEY: Okay. I just thought I would throw that out if anybody does know that. [LB92]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Engler, for coming today. Next proponent please. Good afternoon. [LB92]

BRUCE BEINS: Good afternoon, Senator Fischer, members of the committee. My name is Bruce Beins, B-e-i-n-s. I am the chairman of the advocacy committee for the Nebraska Emergency Medical Services Association. We represent the first responders: EMTs, paramedics, so forth across the state. I'll be very brief, you're going to hear a lot of testimony today, and I don't want to repeat or take anybody else's thunder. When we respond, we take a certain amount of risk every time we respond. We, as Dave said, we do practice a lot, use a lot of policies and procedures to try to protect ourselves, try to watch each other's back while we're out there. But our focus is really on providing a service to the public, whether it is somebody that is injured or whatever has happened along the roadway. It would really be nice to have at least that education component to the public so it would ease our minds a little bit that people are aware. Sometimes we have to legislate for the 1 percent. The common sense says you slow down, you pull over, even without a law, but there's 1 percent out there probably that maybe lacks a little of that common sense, and I think that can be gained by the education component. A lot of these people like you say, aren't aware that they are supposed to do that or I'm afraid maybe that is getting worse because of the fact that we don't have the driver's education, so forth, anymore. So I encourage you to advance this law, it's high time that we had that. And we talk about risk benefit. You mention cost benefit, we talk about risk benefit. You know, well, even the potential cost to this, the benefit if it saves one life of our emergency responders along the highways, it's going to be well worth whatever cost the state has to put into it. [LB92]

SENATOR FISCHER: Thank you, Mr. Beins. Are there questions? I hope you know and everyone else knows today that we all appreciate your service to the state and to the people in this state in what you do as emergency responders. The questions we ask are

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basically to see if the law is necessary, if we're not doing this already. You mention the education component in it and the importance of that, and I would agree with you on that. I guess what I hear from you when you say that is, pass the law so we can get it in statute and then it'll be in the driver's manual? [LB92]

BRUCE BEINS: That would be a part of it. I think without the law there is no incentive for an education component to it. We don't have a drivers ed program that teaches the common sense side of things, so we have lost that part of it. Having it in the driver's manual would definitely, you know, be a benefit. Having it on roadside signs as you come into the state, as we see in our surrounding states, would be a reminder to people and an educational component of it. I think all of those things would be of benefit. [LB92]

SENATOR FISCHER: If you look at the fiscal note on the bill, which is for the signage, it would be \$86,000 from the Department of Roads to get up signs. They believe it would take 41 signs in the state at \$2,100 to get those signs up. I've heard from people, if we would put signs up for move over when you come into the state of Nebraska, and you see the signs up saying, you know, that we are a state that has a move over law, that...it's a rule of the road, the move over law, if it was passed would be a rule of the road. Shouldn't we have signs up saying that you can't, excuse me. Shouldn't we have signs up saying that, you know, you need to turn on your lights at dusk, things like that? We look at the map here, and we see that every state around Nebraska has a move over law, so obviously people that are traveling into Nebraska are leaving a state that has a move over law. Do you think they might assume that Nebraska would have one, too, or do you think they would need a sign up saying, Nebraska is a move over law state too? Your opinion. [LB92]

BRUCE BEINS: That's a good question. The cost of it is, you know, to me, very minimal. And when I first read the bill, my first thoughts were, is I don't care if they put up signs right away. We'll have a new Governor in a couple years, they're put up new signs then, let's put a little...stencil a little line on the bottom of that sign, you know, if the dollars are the important part of it. I think the more important part of it is the public awareness. [LB92]

SENATOR FISCHER: So you think like, excuse me, you think like "Welcome to Nebraska" and then you can put a sign on the bottom saying, "Move Over State." [LB92]

BRUCE BEINS: Please move over and slow down for accidents or please move over and slow down. Wear your seat belt. I mean, we've got other things that we are putting, you know, as we come into our state. [LB92]

SENATOR FISCHER: Spend money on your way through. [LB92]

BRUCE BEINS: Well, not spend money, save money by putting it all on one sign.

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[LB92]

SENATOR FISCHER: Oh, no, no, no, I'm just saying as people come into the state, leave a few dollars here for us, but okay. [LB92]

BRUCE BEINS: Yes, yes, yes. [LB92]

SENATOR FISCHER: Okay, but you think now that we probably need the signs or... [LB92]

BRUCE BEINS: I guess, again, I have no strong opinion on that. It's more important to me that we have the means to educate the public and to make what has been a common sense rule of the road, the rule of the state so that we can, you know, have the--what do I want to say--we can hold the stick over the people to make them learn this, make it part of our driver's test. Make it part of the manual, get them the education even if it's just that 1 percent that we're improving their common sense and rules of the road. It's so very important for the people that are out there responding. [LB92]

SENATOR FISCHER: Have you personally been a...have you personally had a close call? [LB92]

BRUCE BEINS: Yes, I have. [LB92]

SENATOR FISCHER: Were you able to see the license plate number? [LB92]

BRUCE BEINS: No, no. It happens... [LB92]

SENATOR FISCHER: How do we enforce this? [LB92]

BRUCE BEINS: It happens so fast. [LB92]

SENATOR FISCHER: You don't have a camera in your vehicle, do you? [LB92]

BRUCE BEINS: No. No, my ambulance does not have a camera. [LB92]

SENATOR FISCHER: So how do we enforce it? [LB92]

BRUCE BEINS: I don't know other than most of the time on a response scene in the rural area especially, as an ambulance, we may be the first person there. Law enforcement is en route, you know, fire department responds with us generally for vehicle accidents anyway. So there's more people there so you hope that somebody gets a description of it. Generally if something like that happens, we get right on a radio and, you know, respond that there is somebody that's went through our accident scene,

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you know, in a reckless fashion. So we hope that they can get stopped and warned or something, but our focus is on the reason we were called to start with, and that's to help somebody in need. [LB92]

SENATOR FISCHER: I drive 30,000-35,000 miles a year and, you know, I move over, it's just...I'm one of those old people, I know it's common sense so you move over. I did have a trucker, though, who was pulled over on the interstate gesture to me just recently because I didn't move over. (Laughter) And...but there was no way I could, you know, there was other traffic coming but that gentleman did not realize that I didn't feel it was safe for me to move over. How are you going to make that judgment call and can you do a citizen's arrest under this bill? I mean, I just have a lot of questions on it. I'm picking on you, I'm sorry. There's more of you coming up, I'll pick on you too. [LB92]

BRUCE BEINS: Yeah, I don't know about the citizen's arrest part, I suppose you probably could, but it's not going to be very feasible for us to jump on a fire truck or an ambulance and try to chase somebody down. And I understand that there is not always the opportunity to be able to move over, especially when we are talking about two-lane roads, but the fact that if they see... [LB92]

SENATOR FISCHER: Which this is only. Well, it's not for two-lane roads, this bill. [LB92]

BRUCE BEINS: Right. If we see...you see flashing lights, common sense tells us you slow down, you know, to such a speed that you could stop if you need be. But we still have a certain segment of the population that doesn't have that education, doesn't have that common sense to do that, and I think this law would help that. [LB92]

SENATOR FISCHER: Well, thank you. We all want to keep you safe. [LB92]

BRUCE BEINS: And I...we do understand that you appreciate what we do out there. A lot of people in the room here have heard it before, but it always feels good to hear it in a committee hearing. So thank you very much for that. [LB92]

SENATOR FISCHER: We want to keep you safe. Senator Lautenbaugh. [LB92]

SENATOR LAUTENBAUGH: Thank you, Madam Chair. And I'm sorry, sir, I feel like I'm belaboring a point that you may not have been...you may not have come up here prepared to answer. I think last year we put this out, we may have had a committee amendment that took out the funding for signage. Would that defeat the entire purpose of the bill or wouldn't it still have an educational component, get it in the driver's manual, still make it a rule of the road? [LB92]

BRUCE BEINS: While we would want the signage, I don't think it would defeat the

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purpose of the bill. This is me, personally, I think that's still a step in the right direction. We would have the educational component, maybe someday when the state is flush with money they would decide to add signs to the borders, you know, to go along with that. So to me it is still the public awareness that we're getting from testifying at a hearing like this and the news media and the possibility of getting it in a driver's test, driver's manual. I think that's the first step, the first part of it and the best part of it. [LB92]

SENATOR LAUTENBAUGH: No, I don't think we've set a date yet where we're going to be flush with money, but (laughter) as far as the other question goes, though, there is an enforceability problem but isn't that true of speeding as well? [LB92]

BRUCE BEINS: That's true of everything, yes. [LB92]

SENATOR LAUTENBAUGH: Okay. I don't have any more questions. [LB92]

SENATOR FISCHER: Thank you. Other questions? Senator Louden. You're just getting bombarded here. [LB92]

BRUCE BEINS: That's fine, I can take it. [LB92]

SENATOR LOUDEN: This doesn't have that much to do with the bill, but did I hear you correctly when you said, in a couple of years we would have a new Governor? (Laughter) And I was... [LB92]

BRUCE BEINS: I guess that was conjecture on my part. [LB92]

SENATOR LOUDEN: I was wondering on what you have based your reasoning on. (Laughter) Thank you. [LB92]

SENATOR FISCHER: Thank you. That was Senator Louden. (Laughter) Any other questions? Senator Stuthman. [LB92]

SENATOR STUTHMAN: Thank you, Senator Fischer. Isn't it already in the driver's manual or the driver's test that, you know, in case of an emergency vehicle, what to do A, B, C, D, slow down, move over, speed up, continue talking on your cell phone, try to get as close as you can to scare the crap out of them or there isn't anything? I'm sure it was when I took it, but that's been a long, long time ago. [LB92]

BRUCE BEINS: I would have to defer too. There's people behind me that probably can answer that question precisely, like I say generally most of those things are based on the laws in the statutes. I couldn't tell you whether there's any common sense stuff put in our driver's manuals. Again, it's been a long time since I had to study one. [LB92]

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SENATOR STUTHMAN: But I think, I mean, just out of common sense that should be one of the questions of the driver's test, in my opinion, and the driver's manual. [LB92]

BRUCE BEINS: Yes, it would. I would think if common sense prevailed you'd be correct. [LB92]

SENATOR STUTHMAN: Thank you. [LB92]

SENATOR FISCHER: Other questions? I see none. Thank you, sir, for being here today. [LB92]

BRUCE BEINS: Thank you. [LB92]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB92]

TOM BARTEK: Good afternoon. I'm Tom Bartek, T-o-m B-a-r-t-e-k. I'm representing Omaha Professional Firefighters. And basically I'm here today unfortunately because I was a victim of an accident that occurred on November 29, on the interstate, off the 42nd Street bridge. And it was directly resulting from a lack of common sense, as we've all heard, but also high speed, and also because the driver was in the right-hand lane and was not in the left-hand lane. We were off to the side of the road, my captain and I, we were both struck. It was a very icy night, we all realize that, but it's basically by the grace of God or good luck, I'm not sure, I'll take either one, that my captain and I were not killed. The vehicle was a Chevy Tahoe, it hit a light pole and...before it hit us. I sustained a concussion, I was thrown 50 feet. I'm not telling you any of this as a good story, but it's just the truth. I broke my right arm and a couple bones in my hand. I had a lacerated liver and there's no doubt in my mind that if this were law, that that injury would not have occurred, that accident would not have occurred. So I implore you guys to think about that and just help keep law enforcement and firefighters safe. Not only that, paramount to that is the public, the citizens we try to protect. So I think this is extremely important to accomplish that, and I have faith in all of you that you will use good judgment to see that this gets accomplished. [LB92]

SENATOR FISCHER: Thank you, Mr. Bartek. Are there questions? Senator Gay. [LB92]

SENATOR GAY: Thank you, Senator Fischer. Tom, I remember reading in the paper, I think, I saw that article in the news. Was that...what happened to the driver of that vehicle? [LB92]

TOM BARTEK: The driver of the vehicle, I don't believe he received a citation. He lost control of his vehicle, and I'm not sure if he actually did receive a citation for that. [LB92]

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SENATOR GAY: Was it, so it wasn't a... [LB92]

TOM BARTEK: From an insurance standpoint, that's what they're saying but from a legal standpoint... [LB92]

SENATOR GAY: But was it--and just refresh me with the story--was it an impaired driver or just somebody who was not paying attention in this case? [LB92]

TOM BARTEK: No, actually he was not. You know, luckily he was not. A lot of people assume that, you know, that there was alcohol involved or a... [LB92]

SENATOR GAY: So this was just a normal driver. [LB92]

TOM BARTEK: ...he was...the gentleman, you know, once they boarded and collared me, he felt terrible about it. He was just a normal citizen, apologized several times. It was a terrible accident, but I think he obviously realizes that if he was going slower and if he was pulled over and a little more aware of his surroundings he probably wouldn't have gotten in that accident. So he absolutely felt terrible about it. []

SENATOR GAY: So this is the case where absolutely just using the rules of the road, possibly could have got over and prevented a lot of terrible things happening to you. [LB92]

TOM BARTEK: You know, I would say that, but I think anytime you have a law it's going to help reduce that. When something is a law, there's no arguing about it. It's known to everybody and it's something that they can't avoid, they can't have an excuse or an explanation. So I firmly believe that if it were a law, it would not have happened. And, you know, also down the road, this is minor compared to what could have happened, or any of the other accidents that happened. I'm very blessed and very lucky to be alive, I realize that. There's a firefighter, Chief Wilcox (phonetic) in 1989, December 5, he was also at a scene of a fire. He was struck and unfortunately he did not make it, he was killed. So, you know, I obviously feel terrible for that family. It's another instance where somebody's life could have been saved had we had this law in place. And, you know... [LB92]

SENATOR GAY: Glad to have you here. [LB92]

TOM BARTEK: To be honest with you, it really is a life and death issue. [LB92]

SENATOR GAY: Thank you. [LB92]

TOM BARTEK: I think that's obvious. [LB92]

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SENATOR FISCHER: Senator Janssen. [LB92]

SENATOR JANSSEN: Thank you, Senator Fischer. Mr. Bartek, the...you said if the...and I'm glad to see you're on the mend, I appreciate the job you've done. Had this law been in place, though, the way it's written, it was an icy night as you had indicated, on that evening. This motor vehicle would not have been required necessarily to get over because weather conditions wouldn't have allowed for it, and that was an extremely icy night, was it...so, I guess I'm just curious, do you still think the way the...do you think the law is written correctly, when you reviewed it? Should people get over all the time, no matter what? In this case, you know, it was icy in your case--I wasn't there--so I'm just curious to see if you think it would have mattered that the law was in place, that this person would have shifted lanes because it's dangerous to shift lanes abruptly when it's icy out. [LB92]

TOM BARTEK: Yeah. No, I understand your point of view. I absolutely think that, yes, in hazardous conditions...the bridge was icy, none of the other roads were icy. I think that's where the problem stems from was that nobody knew how bad that, you know, the bridges were. So if somebody had advance notice, they could see our fire truck with the lights on, if the law was in place, they would have to move over, at least one or two lanes. So I absolutely believe that it could have been prevented even if it was an icy bridge. Before they got to that bridge, there was no ice. [LB92]

SENATOR JANSSEN: Was there a sign there that said 'Bridges May Be Icy'? [LB92]

TOM BARTEK: I would assume so. [LB92]

SENATOR JANSSEN: I guess that kind of gets back to the even if you do have a bunch of signs and whatnot... [LB92]

TOM BARTEK: Yeah. [LB92]

SENATOR JANSSEN: Which I struggle with, the signage issue of it. [LB92]

TOM BARTEK: No, I understand that. [LB92]

SENATOR JANSSEN: Because even though there's a sign there, this person clearly did not get over, even though we have warned them that the bridge may be icy. [LB92]

TOM BARTEK: You know, and I don't know if it's important to get hung up on these signs. I definitely believe that the signs would be good, and that if it saves one firefighter's life, if it saves one law enforcement personnel's life, then it's, by God it's worth it. I hear this \$86,000, and I think everybody in this room would say that we were

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all worth at least \$86,000. We are all very proud, law enforcement, firefighters, to have our jobs. We are honored to do our job, we love to serve and protect the public. But it's a dangerous job, we all know that. But if there is something that can be done to save people's lives and prevent injury, then I hope it will be done. [LB92]

SENATOR JANSSEN: Certainly that's our intention. We just want to make sure that we apply it the best possible way and make sure it's enforceable as well. Thank you. [LB92]

TOM BARTEK: In terms of enforcement, you know, there's a lot of times where we don't get a license plate on a vehicle, but we do get a make and model. So that's a significant way to identify a vehicle that has, you know, broken a law. So I would say...argue that that would be one way of, you know, enforcing that law. [LB92]

SENATOR FISCHER: Other questions? Thank you, sir, for coming, and we all appreciate your service. [LB92]

TOM BARTEK: Oh, thank you. [LB92]

SENATOR FISCHER: Thank you very much. Next proponent, please. Good afternoon. [LB92]

ROSE WHITE: (Exhibits 6, 7, and 8) Good afternoon. Thank you Madam Chairman Fischer and members of the distinguished committee. My name is Rose White, R-o-s-e W-h-i-t-e, and I am here today representing AAA Nebraska. And our organization does stand in strong support of LB92. To protect our emergency responders on high speed roadways, AAA Nebraska urges you to support this initiative. This legislation would require motorists simply to...traveling on high speed roadways, multilane roadways, to move over one lane when it is practical to do so or slow down when approaching stopped emergency vehicles with flashing lights. Doing so would help to protect law enforcement officers, volunteer and professional firefighters, emergency medical personnel, tow truck drivers, and motorist assist volunteers. Now most states recognize the highway safety dangers that are faced by emergency first responders and the need to provide them with a one lane safety cushion. In fact, motorists in 44 states are required to move over when they see the flashing lights. Now to view footage of a crash that demonstrates the need for the passage of this bill, you can simply log on to moveoveramerica.com. Now another matter to consider is the need for consistency of this law across the country. Without it, Nebraskans traveling through other states and unaware that such laws exist, they can be charged hefty fines if cited for failing to make a lane change. Now I would like to invite you at this time to view the colored map we've provided which shows that Nebraska is the only state in the continental U.S. west of New York that does not have a move over law. And New York is considering a law at this time, in fact, it's going to be in memory of two tow truck drivers who lost their lives in a certain situation. Now we should also keep in mind that some of the latest models of

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sport utility vehicles and pickup trucks are wider to help improve stability. Side view mirrors on some models extend nearly 2 feet from the body of the vehicle. And can you imagine the injuries that may result if a first responder or law enforcement officer is struck by a side view mirror of a vehicle traveling 65-75 miles per hour? The lanes of our highway and interstate system are 12 feet wide. With some pickup trucks and SUVs measuring 8 feet in width, including the side view mirrors, this leaves little margin for driver error. I'd also like to state that this law is simply just to change behavior, like many of our traffic safety laws. And it's through the law being passed and education that we can help change behavior. In fact, I talked to the director of the Department of Motor Vehicles earlier and asked if we passed this law, could we have maybe the back cover of the driver's manual to promote move over as one of our latest laws. But certainly it needs to be enforced, just like any other law that we have: speeding, littering, even with the gentlemen here in the room today with the fire department, pitching a lit cigarette out of a window. Yes, it's common sense we shouldn't do that, but we had to pass a law and enforce it and put a heavy fine tied to it to make people stop doing it. And so this is the same situation. We're just trying to protect the people who protect us. This is a simple act that we are asking motorists to do, and so we certainly hope that you will consider passing this out of committee and to the floor. Thank you very much. [LB92]

SENATOR FISCHER: Thank you, Ms. White. Are there questions? Senator Hadley. [LB92]

SENATOR HADLEY: Madam Chair. Ms. White, just so I understand this, and I'm glad you mention it. I want to make sure that emergency responders include tow truck drivers and motorist assist volunteers under this, the definitions we would be using in this law. [LB92]

ROSE WHITE: Yes, that is correct, Senator, and thank you for addressing that. In fact, the other information I provided to you is a listing of all of the states, and it shows with an icon those states that have a law just for fire rescue workers and other states that have it in a combination with tow truck drivers, and medical emergency personnel, and law enforcement officers. Those states that do not have that clause for tow truck drivers now are changing their laws, are working to change those laws to include that. We have to keep in mind that the tow truck professionals that are represented with the group here today, they often have that very dangerous duty of changing tires on the driver's side area where it is extremely dangerous for them to work. And so this law is to protect them as well. [LB92]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB92]

SENATOR STUTHMAN: Thank you, Senator Fischer. Rose, in this map Nebraska is the only one. So the signage issue, we really don't need any signs coming...for people coming into Nebraska because everybody knows that we have...I mean, everybody

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knows, you know, the move over law. But, you know, Nebraska doesn't have one, so, you know, the people traveling through the state of Nebraska should automatically move over. [LB92]

ROSE WHITE: They should and we still have 1.7 million Nebraskans that we need to educate, and so I think it would require a combination of the law and education, as well as enforcement as well as it can be done. Now realize that since the enforcement effort, like any other laws, it's going to be difficult to do. But the proper thing to do is with the strong education and AAA has made a commitment in other states to be involved in the education aspect by purchasing commercial spot airtime, by paying for advertisements, by providing fliers to the public, doing whatever we can to make sure everyone is well aware of the law. [LB92]

SENATOR STUTHMAN: Are you aware of our surrounding states as far as accidents that occur, you know, for the first responders or the emergency vehicles? [LB92]

ROSE WHITE: Yeah. [LB92]

SENATOR STUTHMAN: Do they have any? They shouldn't because they have a law. [LB92]

ROSE WHITE: They shouldn't, however, we found out though it is very difficult to gain information in this area. We don't know the near misses that are happening in Nebraska. We don't know the actual cases because that's not something that is asked on the accident report, so even gathering information in Nebraska, in a state that doesn't have the law, is extremely difficult. But what we do know is the stories that we hear from our tow truck drivers that say, I had a near miss today because someone was just within inches of hitting me in the head with their vehicle. And so we do know of those cases, and we do know and understand how dangerous it is in this profession. Again, when you only have 24 inches of air space, and that's if those larger vehicles are driving dead center of the lane, to many of these professionals in this room, that highway is their office and we feel an obligation that we need to provide them with the safest working surroundings that we possibly can. And by getting this bill through, that would certainly help us to accomplish that. [LB92]

SENATOR STUTHMAN: But you could get information from other states, from AAA as far as, you know, the tow trucks and... [LB92]

ROSE WHITE: We can on the tow trucks because that's our business, and we can from those that are employees of our business. But as far as a network of 4,500 separate independent contractors, they often don't provide us with information, oh, my employee got hit. And again, like says a lot of the statistics that you see, even from the law enforcement side, might be fatalities, but they're not the injuries. So we feel that the

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picture is probably a lot bigger than we really realize at this point. But here in Nebraska, as an example, we have and own two fleet operations but the rest are all independent contractors. So we know the situations with our employees, but we don't really with the independent contractors. [LB92]

SENATOR STUTHMAN: But there are fleet operators in other states, too, right? [LB92]

ROSE WHITE: There are, yes. Um-hum. And you can... [LB92]

SENATOR STUTHMAN: So you could communicate with them and find out if they have had near misses. [LB92]

ROSE WHITE: Yes. And we can tell you that in the latest statistics that I have that don't show 2008, but the numbers reported for it are 2002-2007, they indicated that we had 11 fatalities. [LB92]

SENATOR STUTHMAN: Okay. thank you. [LB92]

ROSE WHITE: So and again, unfortunately we don't have the injuries stats available but. [LB92]

SENATOR FISCHER: Thank you, Senator Stuthman. Senator Campbell. [LB92]

SENATOR CAMPBELL: Ms. White, has the AAA ever undertaken an education program on this issue in the state? [LB92]

ROSE WHITE: In Nebraska we are constantly involved in education through our public affairs department and also working with driver education instructors. And so at this point with this particular issue, it is just a plea. Please move over, realize the danger these people are involved in. And so that will reach some people but certainly a law would be much stronger, we feel would gain a much higher percentage of those who would actually engage in that type of operation. Just like safety belt use or anything else, you know, if you have a strong law, more people are going to do it so. [LB92]

SENATOR CAMPBELL: Thank you. [LB92]

SENATOR FISCHER: Other questions? Senator Gay. [LB92]

SENATOR GAY: Thank you, Senator Fischer. The question is, you spelled it out a little bit about authorized emergency vehicle is a tow truck, a firefighter, a police officer. Motorist assist, does that fall under the same? So... [LB92]

ROSE WHITE: Right, correct. Anyone who is considered a first responder providing aid.

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[LB92]

SENATOR GAY: Okay, not just flashers, obviously, but you'd have to have it on the roof or clearly marked on the vehicle. [LB92]

ROSE WHITE: That is correct. [LB92]

SENATOR GAY: That you can see from a certain distance. Because the enforcement issue still is, you know, after the fact, I suppose you could enforce it. But I guess that is the question I had. But that's what your intent is. Is that what most states are doing, then, because you said some states don't have a tow vehicle is not included in this? [LB92]

ROSE WHITE: That is correct, Senator. And the support material I passed out, which is the horizontal landscape of the various states, it will show you icons where it has a police unit and then also a tow truck. Those states that currently, and...but there is about half of them that don't have that tow truck element. They have realized the error of the law and they are going back now to change it to add the tow truck element. Since we don't have a law, we're trying to provide all of that information here in our first draft and get the bill through. [LB92]

SENATOR GAY: Okay, and then I have a follow-up question if I may, thank you. I asked legal counsel here, so the first offense is an infraction, which I assume losing points. And second offense, though, is Class IIIA misdemeanor, which is 7 days in prison, possibly up to 7 days in prison or \$500 fine or both. What do most states doing on infractions, is it just that the infraction is the first offense? Is that reasonable then, or is that what most states are doing, I guess? [LB92]

ROSE WHITE: Most states do have a heavy second fine incidence, and the reason for that is just to gain compliance of the law. They found out that in those states where it is a very weak fine, it's ignored. And so by having that heavy second fine implemented, they are realizing that they can heavily enforce it then. [LB92]

SENATOR GAY: Okay, thank you. [LB92]

SENATOR FISCHER: Other questions? Ms. White, in how many states...you just mentioned that those that have a weak fine the law is ignored. How many states would you say have a weak fine, and how do you know it's ignored in those states? Have they changed the law so that they have increased the fine, and then they see more compliance, or what? [LB92]

ROSE WHITE: I do know of a couple states where what they are trying to do is go back and increase the fine because they feel that people aren't being aware of the law. But

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that to me might even be an education issue, so I can't really speak for those states or what the percentage is or of what percentage is actually adhering to the law. And so but I know there are a few states that are going back to try to increase the fine implement of it. [LB92]

SENATOR FISCHER: Do you know, in the states, say just the states that are surrounding us, about how many prosecutions they have a year in dealing with people violating a move over law? [LB92]

ROSE WHITE: Unfortunately, I do not...that there's any information... [LB92]

SENATOR FISCHER: How do you...I guess I'm asking how do you base compliance then on the law, if, unless you know how many prosecutions there have been, how many...do you know how many tickets have been written? [LB92]

ROSE WHITE: Um-hum, yeah. Again, I don't know any particular states, I just know there are efforts being made to increase the fines in a few states, there are two of them that come to mind that I've read articles about where they are trying to increase the fine. [LB92]

SENATOR FISCHER: Could you maybe try and get some information to us... [LB92]

ROSE WHITE: Absolutely. [LB92]

SENATOR FISCHER: ...on how many, how many tickets have been written in surrounding states, how many prosecutions there have been? You know, I have passed a note to our legal counsel here, I'm just wondering can a fireman have like a citizen's arrest? You know, if you see a vehicle go by, can a tow truck driver or a fireman take note of the model, make and model of the car if he or she can't get the license plate number? How are they then able to see a citation issued? I just have some questions on that on what we're going to do on that. [LB92]

ROSE WHITE: I'll be happy to look into that for you. And on that... [LB92]

SENATOR FISCHER: You know, because I don't know if it is successful in surrounding states. I don't know if it is successful in the 40-some states that have it. [LB92]

ROSE WHITE: I know in Iowa just this past year they increased the entire education awareness program, trying to get a higher level of compliance. You know, and some of that might be because Nebraska, we have a lot of traffic going through there that we have uneducated drivers. And so but they launched a complete PR awareness program with that. Now on that sheet that I had handed out to you that lists the various states, there's also a link to that actual state law that I will be happy to go through there and

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see if I can find additional information plus follow-up with the tickets and prosecutions and how that's handled. [LB92]

SENATOR FISCHER: Okay, that would be really helpful. [LB92]

ROSE WHITE: Certainly. [LB92]

SENATOR FISCHER: Okay, thank you. Other questions? I see none. Thank you so much for being here today. [LB92]

ROSE WHITE: My pleasure, thank you. [LB92]

SENATOR FISCHER: Next proponent, please. Could I see a show of hands of those who are still waiting to testify on the bill? We have four or five. I'm going to...when you see me lean forward, that's the sign in this committee that you need to wrap it up. I don't want to hurry anyone, but, you know, unless you have some new information for us, so thank you. [LB92]

WILLIAM LUNDY: I appreciate your time, Senator, and the committee's very much. [LB92]

SENATOR FISCHER: Thank you. [LB92]

WILLIAM LUNDY: My name is William Lundy, L-u-n-d-y, and I go by Bill. I am a 34-year member of the York Volunteer Fire Department and currently serve as secretary/treasurer of the Nebraska State Volunteer Firefighters Association, where I represent 7,500 professional volunteer firefighter and rescue men and women serving the state of Nebraska. And on behalf of the association and on behalf of my fire department, we are strongly in support of LB92. I want to relate one personal experience. We were at a scene of a car accident where the car rolled over into the ditch. I was working with my fellow firefighters diligently trying to save the trapped person in the car, there was a toolbox sitting on the edge of the road, I reached into the toolbox to grab a tool to assist in this rescue operation, stood up and turned around, and a car drove over the toolbox. That's a close call, and I waved at that same person the way that truck driver waved at you, plus said some un-Christian things. [LB92]

SENATOR FISCHER: But I couldn't do anything about that, we need to clarify that. [LB92]

WILLIAM LUNDY: (Exhibit 9) And I appreciate that very much, but we keep talking about common sense, and any of you that have driven the interstate, I think that that is laxing. There are people that will run you over no matter how fast you are going. As personal experience, York, Nebraska, their fire district includes Interstate 80 as well as

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Highway 81. And we always say we have the right to run, jump, and hide when we are on the Interstate 80 because nobody slows down, not for red lights, not for emergency vehicles, not for tow trucks, not for accidents. You are at extreme risk out there. We put \$500,000 fire trucks in the lane of traffic to protect our firefighters so they don't get run over because we'd just as soon sacrifice that fire truck as one of our people. We are asking for your support, whether it is signage, I don't care. Get a law passed, put some meat into it, help us control these people that are trying to run us over. I would also like to ask this committee for consideration to amend this LB92 to include any four-lane highway, not just the interstate. We are at risk out there every time trying to do our jobs protecting people, and we are asking for your support and assistance in helping us so that I don't have to go to somebody's family and tell them that their husband, their daughter, their wife, their child was killed because somebody wasn't paying attention, somebody wouldn't heed the law, wouldn't recognize the risk and resulted in a severe injury or a death to a firefighter or a rescue personnel. Thank you for your time and any support that you can give to this legislation. I'd like to have the clerk proposing the amendment to include all four-lane highways, not just the interstate, which is currently in LB92. [LB92]

SENATOR FISCHER: Thank you, Mr. Lundy. Are there questions? Senator Gay. [LB92]

SENATOR GAY: Thank you, Senator Fischer. The question you brought up, and that is a close call when they...and I'm sure everybody in this room has had a close call probably because I know...the question is, on that case, after the fact, the driver is gone, how would that have been enforced? Because I still have issues on this enforcement. I think it's a great idea, and I'm for the signage, by the way, I think that if you don't have the signage (inaudible). How do you enforce that? [LB92]

WILLIAM LUNDY: I think, I think one of the ways that it could have been enforced, of course, at the time, at the point of that incident I was in such shock that the last thing I was thinking about was getting a license plate number. But you know the wonders of the speed of light and radio transmission and the identity of that vehicle and knowing where it was going and where you were at, that vehicle could have been stopped by law enforcement further down the intersection. If you are at mile marker 356, somebody tries to brush by you with the big mirrors, or whatever, forces you to take evasive action to get out of the way and the fire rescue emergency services get on the radio, I just got brushed back by a dually white pickup truck XYZ. It's easily identified because usually there is not that many in that close proximity. Are we going to catch everybody? No, but it is at least a tool that we can try to do that, and I think the education component, so that people will know that there are consequences for not doing that is going to be a real plus because right now, I don't believe, the only thing that is in the driver's manual, which is under state statutes, is you're supposed to yield right-of-way to an emergency vehicle that comes up behind you or you meet. There is nothing in the state statutes or in the driver's license manual that indicates that you have to do anything on an

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emergency vehicle stopped on the side of the road. [LB92]

SENATOR GAY: Thank you. [LB92]

SENATOR FISCHER: Other questions? Thank you, Mr. Lundy, for being here today. [LB92]

WILLIAM LUNDY: Thank you for your time. [LB92]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB92]

BILL BOWES: Good afternoon. My name is Bill Bowes, B-i-l-l B-o-w-e-s, I am the chief of the Papillion Fire Department. Senator Fischer, thank you for this opportunity to speak, members of the committee, thank you for the work that you do for the citizens. Just very quickly, just wanted to voice my support on behalf of the Nebraska State Volunteer Firefighters Association as Mr. Lundy has, and for the Nebraska Municipal Fire Chiefs Association in support of this bill. Firefighter Bartek brought up a great point that I think has been just slightly overlooked during these hearings. The focus has been on law enforcement, firefighter, to some extent tow truck operator safety. Really the primary concern is of the citizen, that's who we're there to help and that's who ultimately we are there to protect, and that's a primary purpose of this bill, I believe. We're certainly going to reap the benefits of it, but I think the citizens will also. Also I'd like to say that anytime you can get law enforcement, volunteer firefighters, career firefighters, and the EMS community in line for the same bill, you've got something good going. And that's who you've got lined up for this one. So I would encourage you to give it some serious consideration. Mr. Lundy also pointed out the amendment. Nebraska Highway 370 goes through a good chunk of Papillion, and that's an improved four-lane highway and we would be very supportive of that. I know my firefighters would be much safer because of that. Thank you. [LB92]

SENATOR FISCHER: Thank you, Mr. Bowes. Were you saying that you guys don't usually get together and get along on bills? [LB92]

BILL BOWES: I don't know about usually. [LB92]

SENATOR FISCHER: You don't have to answer that. Are there questions? I see none. Thank you for being here today. [LB92]

BILL BOWES: Thank you very much. [LB92]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB92]

KORBY GILBERTSON: Good afternoon, Madam Chair, members of the committee. For

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the record, my name is Korby Gilbertson, K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the State Troopers Association of Nebraska in support of LB92. I had a trooper at my office at 12:50 this afternoon intending to testify. Unfortunately he serves on the SWAT team, and they were dispatched at 1:00. So he had to go back to work, so I'm going to testify in his stead today. Trooper Jason Prante was going to speak to you today. Trooper Prante has been hit twice, basically, just specifically because of the move over issue, and was on scene at a third accident, and so I had asked him to come talk to you about the importance of this legislation. I also wanted to talk about a few issues that occurred last year dealing with, first of all, the enforcement issue, and whether or not law enforcement officers could use proper judgment if there would be people sitting in the ditch on the interstate just waiting for people to violate this law and go after people. When I brought that up to the State Troopers Association, I got a loud laugh because they said, you know, there's one of us for how many miles, and do you think really we have nothing better to do with our time? And furthermore, they use judgment every day on writing tickets for all kinds of infractions, and so we would hope that you would trust them with the judgment on this. Another issue is with the signage, and we are very supportive of the signage. I think as was pointed out on the last bill that you heard, this is a cash fund transfer, it's not General Funds that are being asked for, this is cash funds. And I think as one of the firefighters spoke earlier, if one life isn't worth \$86,000, I don't know what is. I'm assuming we spend much more than that in a hospital bill for one trooper or other law enforcement officer who would get injured because of an accident like this. And I know that when I see signage, at least for me, for different things like double fines in construction areas, I actually look at my mileage and slow down a little bit. So hopefully people will do the same thing. I'd be happy to take any questions. [LB92]

SENATOR FISCHER: Thank you, Ms. Gilbertson. Are there questions? I see none, oh, Senator Lautenbaugh, you have to be quicker because I'm looking to the left today. (Laughter) Senator Lautenbaugh. [LB92]

SENATOR LAUTENBAUGH: I'll just clear my throat. Thank you, Madam Chair. Briefly, you indicated you spoke to the trooper earlier about whether or not this would be used as a pretext to pull people over. [LB92]

KORBY GILBERTSON: Right. [LB92]

SENATOR LAUTENBAUGH: And they didn't seem to think that was a very valid concern. [LB92]

KORBY GILBERTSON: They didn't. I mean, they literally laughed. They said, really, do they think we have nothing better to do than watch for people doing this? I think one of the biggest issues, and I even brought this up, is the driver feeling that they weren't safe to move over. Senator Fischer spoke about that earlier, that when she looked into the

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next lane she did not feel safe moving over to that lane. And they will have to make a judgment call, and hopefully it will be a good judgment call. I also wanted to let you know that I have the video that those pictures were taken from on my desk if anyone would like to see it, that were...that shows the actual accidents occurring so. [LB92]

SENATOR LAUTENBAUGH: So you're saying they would use judgment, though, on this infraction? [LB92]

KORBY GILBERTSON: Just as they do with a lot of other infractions they have to write. [LB92]

SENATOR LAUTENBAUGH: So one of things that was said against this bill last year was that they could use it as a pretext to pull someone over. [LB92]

KORBY GILBERTSON: That they would sit and watch for someone not to pull over (inaudible). [LB92]

SENATOR LAUTENBAUGH: Or that they could say, you didn't move over sufficiently or whatnot. It gave another excuse for a pull over. You may not be in the position to answer this, and I don't believe troopers have a mind to do this, but aren't there so many laws on the books now that involve judgment calls and a trooper could use to pull you over anyway? [LB92]

KORBY GILBERTSON: Yes, and that was their point. They use their judgment everyday, and hopefully we trust them to have good judgment on those things, we would trust them with this also. [LB92]

SENATOR LAUTENBAUGH: So this law, really, wouldn't increase the ability of the troopers if they were of a mind to pull someone over. [LB92]

KORBY GILBERTSON: No. [LB92]

SENATOR LAUTENBAUGH: As a matter of fact, I was ticketed once for improper lane use, and I don't know what that is. Do you know what that is? [LB92]

KORBY GILBERTSON: I've probably been ticketed for it too. [LB92]

SENATOR LAUTENBAUGH: But I got pulled over for it is my point. So this really would not lead to that kind of thing [LB92]

KORBY GILBERTSON: No. [LB92]

SENATOR LAUTENBAUGH: Thank you. [LB92]

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SENATOR FISCHER: Other questions? Thank you Ms. Gilbertson. [LB92]

KORBY GILBERTSON: Thank you. [LB92]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB92]

JACK CHELOHA: Good afternoon, Senator Fischer, members of the committee. My name is Jack Cheloha, C-h-e-l-o-h-a, I'm the registered lobbyist for the city of Omaha. I wanted to testify in favor of LB92. I testified in favor of this version of the bill last year. As the city of Omaha employs the largest law enforcement agency in the state, likewise, we have the largest professional firefighters agency, and in addition to that we have our public works trucks out and about, etcetera, I-80 runs right through the heart of Omaha, and for those reasons we support this. As one of the earlier chiefs pointed out that the volunteers, the professionals, etcetera, are all supportive, but what's even more unique is the fact that I represent management and we support it, and the unions support it, you know, the employees support it. And so ultimately, you know, I think that if...boy, wouldn't it if we find those kinds of bills where there are so many people that are in favor of it must be a good idea. So for those reasons we support it. [LB92]

SENATOR FISCHER: Thank you, Mr. Cheloha. So this like a lovefest going on today? [LB92]

JACK CHELOHA: Exactly. [LB92]

SENATOR FISCHER: I see, I see. Any questions? Senator Hadley. [LB92]

SENATOR HADLEY: Senator Fischer, thank you. Mr. Shelowha, Cheloha, I'm sorry I mispronounced it. Would you, under this current bill, would you see that the...your people who work for your traffic department who are out cleaning something up off the side of the road or such as that, would be covered under this bill? [LB92]

JACK CHELOHA: Well, I'm not certain on that, because I know we say: authorized emergency vehicle with the proper audible or visual signals. And so the question, I guess, is whether or not this is an emergency vehicle. Probably...the question would be, a public works truck picking up garbage or refuse may not be whereas a police cruiser, a fire truck, an ambulance, etcetera, would...I would think would fit under that definition. But we'd have to look at it maybe a little more to see. But ultimately we're interested in the safety of all our employees, yeah. [LB92]

SENATOR HADLEY: I guess that, to follow up that, I guess that was the point, is... [LB92]

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JACK CHELOHA: Right. [LB92]

SENATOR HADLEY: Does it make any difference if its a police officer who's lights are flashing was pulling somebody over... [LB92]

JACK CHELOHA: Right. [LB92]

SENATOR HADLEY: ...for a moving violation or someone who is trying to get a deer off the... [LB92]

JACK CHELOHA: Exactly. [LB92]

SENATOR HADLEY: ...side of the road. Are they fair game? Excuse the pun. (Laughter) [LB92]

JACK CHELOHA: Well, and that's a good point, and I have... [LB92]

SENATOR HADLEY: That got out before I...I'm sorry Madam Chairman, it got out before...I just want to be... [LB92]

JACK CHELOHA: Absolutely. [LB92]

SENATOR HADLEY: I think that's something we have to really look at what that definition of an emergency vehicle... [LB92]

JACK CHELOHA: Right. [LB92]

SENATOR HADLEY: ...is for stopping. And I guess I use... [LB92]

JACK CHELOHA: Exactly. [LB92]

SENATOR HADLEY: ...as an example if we say it is all right a tow truck who stopping to help somebody change a tire... [LB92]

JACK CHELOHA: Um-hum. [LB92]

SENATOR HADLEY: ...does that mean if I stop, I'm stopping to change my own tire because I have a darn flat tire on.. [LB92]

JACK CHELOHA: Right. [LB92]

SENATOR HADLEY: ...the highway, the trucks roar past me. You know, it's difficult... [LB92]

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JACK CHELOHA: Right. [LB92]

SENATOR HADLEY: ...for anybody, and if you have ever changed a tire on an interstate... [LB92]

JACK CHELOHA: That's scary. [LB92]

SENATOR HADLEY: ...and have an 18 wheeler come past you, it isn't fun. [LB92]

JACK CHELOHA: You're right, thank you, Senator. that's a good point. And we would appreciate any look by the committee to see what would be appropriate to protect all the workers and the citizens at large. [LB92]

SENATOR FISCHER: Other questions? Senator Janssen. [LB92]

SENATOR JANSSEN: Senator Fischer, Mr., do I say it right? Cheloha? [LB92]

JACK CHELOHA: Cheloha. It's like aloha with a 'ch'. [LB92]

SENATOR JANSSEN: See, that's a perfect way to pronounce it. Perfect. And that was an interesting point by Senator Hadley as well. But I had a different question and maybe you can answer this on behalf of Omaha, I don't know. It seems to me, have you talked to your insurance provider? Is there any insurance break for this if this type of law were to pass, that your workers' comp, for instance, would be lessened, or any type of insurance? Is there any savings, I guess, built in to this and that kind of came to my mind as a business owner, that if I am taking additional safety precautions, is there, maybe there's an insurance person in the room, I don't know. They're probably running out right now. [LB92]

JACK CHELOHA: That's a good point, Senator, and ultimately the companies, you know, through their actuarial departments would have to look at that. But the city of Omaha, itself, is self-insured, and so with that we can only hope that we would have, you know, less acts, less claims from our employees if this law came in to effect. [LB92]

SENATOR FISCHER: Other questions? I see none, thank you very much. [LB92]

JACK CHELOHA: Thank you. [LB92]

SENATOR FISCHER: Next proponent. After this gentleman, are there any other proponents? Oh, we still have two to go, okay. Good afternoon. [LB92]

RUSSELL TICE: Good afternoon, Madam Chairman. My name is Russell Tice, T-i-c-e.

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I'm a resident of Sarpy County. I'm one of 30 volunteer drivers in the metro area motorist assist program, and I thank you for letting me speak in support of LB92. Our program was...has aided over 70,000 motorists in the past 10 years. I believe one of the reasons that we have not had a serious incident is an ongoing safety program, a conscientious group of drivers, and a lot of luck. One of the major reasons the program was started was to decrease the amount of time that disabled vehicles remained on the shoulder of the interstate system, since these vehicles present a hazard to traffic. Often we are required to wait several minutes on the shoulder after completing our task for a break in the traffic that will allow us to get back in to the flow of traffic from the shoulder. The longer that we are on that shoulder, the greater the hazard. The program has had one accident since its inception. A motorist assist vehicle was trying to reenter traffic after a stop on I-80. The right-hand outside lane was open as the vehicle accelerated to enter with it's emergency lights on. However, at the same time a motorist did attempt to pass on the right of another vehicle, changed lanes into that outside lane and struck our motorist assist vehicle. We were very fortunate that no one was injured. LB92 would help us create a safer atmosphere for both the motorists that we assist and our vehicles to reenter traffic by requiring approaching drivers to yield the right of way and leave that change of lane open. Implementation of LB92 would lower the risk to our motorist assist drivers, while they perform such tasks as providing protection for motorists who are waiting for tow trucks and other aid. This task often requires us to be on the shoulder for extended periods of time, unfortunately. And also while changing tires, as just mentioned. There are tasks in this that requires us to even be on the ground in positions that prevent us from immediate response in case...to move to a safer position during this period. Many times our drivers are alone out there and they do not have someone to assist them as a flagman or provide an extra set of eyes for that approaching traffic. In closing, I believe the passage of the bill will aid in protecting the operators of emergency vehicles, but moreover it will help protect the drivers and passengers that these vehicles assist. I thank you for the opportunity to speak in support of the bill. [LB92]

SENATOR FISCHER: Thank you, Mr. Tice. Are there questions? I see none, thank you. Next proponent, please. Good afternoon. [LB92]

CHARLES GRAHAM: Good afternoon, Senator Fischer, and I thank you for allowing me to speak in support of LB92 this afternoon. My name is Charlie Graham, G-r-a-h-a-m, I'm a resident of Douglas County and I, too, am a motorist assist volunteer. I think you get the best insight, or at least an excellent insight of motorists in Nebraska on Interstate 480, near downtown during rush hour. When attending a disabled vehicle on the left-hand shoulder up against the inside barrier. This is a narrow shoulder and you've got to fix the barrier on one side and know where to go. Usually one of us will attend to the vehicle and one of us will go back and flag, trying to slow traffic down. You are literally within 5 or 10 feet of the face of the motorist as he passes by when you're the flagman. And you can clearly see his countenance, not only his body English, but

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the body English of the vehicle. You actually see care and concern on a lot of motorists. They will slow down, they will squeeze over in the traffic lane, usually there is not enough room to change lanes or they find it too fast and they can't get over, but they will at least "scotch" over a little bit. However, far too often you'll see a complete lack of awareness. There's no eye contact with you as a flagman. They don't seem to be cognizant of the disabled vehicle or even the roadside assist vehicle with it's lights on. And they don't adjust their lane position. And occasionally you'll get a glare, if not, I've even had a honk, because you're interfering with their daily life and they've got fish to fry and you're not helping them. This is extremely dangerous to us, especially when you're in the kill zone changing a flat tire on the traffic side; you're inches away. Every passing vehicle is a near miss. In summary, though, I'd like to say I believe that...well, first of all, my quick read, and I'm not an attorney, of the statute 60-6,151 finds that it defines the expectations of motorists when an emergency vehicle approaches them. However, it seems to be terribly and complete and void of any expectations for what a motorist is to do when he approaches an emergency vehicle that is stopped. In fact, in retrospect, it seems like a terrible oversight. I believe that we, as people, want to do what's expected of us. In fact, I know, personally, and I think most people are terribly uncomfortable when they are doing something that goes against society's expectations. And that leads me to believe that passage of this bill, and probably more importantly, promulgation of the new expectations that it would set will heighten the awareness to motorists as to the risk they present to sworn officers, firemen, tow truck employees, and us volunteers as we are stopped supporting disabled vehicles or other incidents. I believe it will incent motorists to act to mitigate the risks. They are just not aware of the safety factor or the risk mitigation issues involved, and I think this will raise their consciousness of them. And finally, I believe the bill provides a reasonable penalties for those motorists who are observed by law enforcement refusing to meet those new expectations. So thank you, again, for letting me speak, and I'll be glad to take any questions that you might have. [LB92]

SENATOR FISCHER: Thank you, Mr. Graham. Are there questions? Senator Hadley. [LB92]

SENATOR HADLEY: Yes, thank you, Senator Fischer. Mr. Graham, I guess one of the great things about these hearings, at least this is my first one, but it opens my eyes. Because in my whole thinking about this I had been thinking about people pulling over to the right-hand shoulder of an interstate and having enough space over there. But, in your experience, do you incur a lot of vehicles that are in the left-hand--I don't know, you can't call it shoulder or whatever you would call that--area that need assistance? [LB92]

CHARLES GRAHAM: We may have a unique situation there in Omaha because we do have the barriers and that system has been upgraded to newer standards with wider shoulders and wider lanes and we do have them there. I'm not sure if the rest of the state experiences that or has that. [LB92]

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SENATOR HADLEY: But you're personal experience is that you do have people who have, need assistance who are in that left-hand... [LB92]

CHARLES GRAHAM: Oh yes, yes and I am reasonably new at this but I am surprised at how many people wind up there. I tend to stay to the right and I tend to exit to the right. But no, we do have quite a few, and sometimes, you know, our capabilities are limited. We're not a tow truck. A lot of times that's all we will do, is transport someone out of that area from which they cannot walk off to a safe location. [LB92]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Graham. [LB92]

CHARLES GRAHAM: Thank you. [LB92]

SENATOR FISCHER: Last proponent, I believe. Good afternoon. [LB92]

JO ANNE HITZ: Good afternoon. My name is Jo Anne Hitz, H-i-t-z, I'm owner operator of Hitz Towing out of York, I'm also president of the Professional Towing Association of Nebraska. We are obviously in favor of this bill. We realize that it is not bullet proof because a lot of times when we respond to different incidences there is absolutely no law enforcement, we're just strictly by ourselves unless we are responding to some sort of an accident situation. Kind of wanted to address the signage. In our profession we see a lot of nationalities so I'm not sure how effective the signage might be because there are a lot of foreign speaking people in vehicles. And it might help for some of Nebraska but there are a lot of foreign truck drivers that don't speak English. Just wanted to let that be known. Yes, we're definitely in favor of this but realize it's not 100 percent. [LB92]

SENATOR FISCHER: Okay, thank you very much. Are there questions? I see none. Thank you. Any other proponents? Oh, one more. Are there any more after this? Okay, last proponent. Good afternoon. [LB92]

SUSAN JACOBUS: Good afternoon, Chairman Fischer, members of the committee. I am Susan Jacobus, J-a-c-o-b-u-s, and I represent NAEMT, our national organization for EMTs which has 30,000 members nationwide. I represent 16 of our states, all of which, except Nebraska, have a move over law in effect. I am also a volunteer firefighter in your state, and I am also an EMT, and am now in the throes of testing now for my paramedic. I respond to a lot of 1045s, or accidents with injuries on our highways. I live in Schuyler, Nebraska. I respond on a rig, and as such, during our icy roads...end of December we have a lot of accidents, and we had several near misses. We have several firefighters that are young. They're college students, and we also have a few cadets. We have a junior cadet program which would take young individuals in high school and we start training them to be firefighters. It's part of revitalizing our volunteer

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groups. And these young individuals learn how to be firefighters and can get their EMT certification by the time they are the age of 18. Because of these near misses, we now have to limit these young individuals to their responses on these calls. A recent one on Highway 30 found us with five accidents within an 1.5 hour stretch. We had two near misses, one of which included a semi who decided he ignored the flashing lights and the vehicles on the side of the road, and decided to plough through because he needed to get to ADM, a plant down the road, so he didn't have to wait all day to unload his grain. That's a big issue. I truly believe a move over law would help prevent those near misses and those catastrophic events when someone does get hit, and not just the rescue workers but also our patients, those who we're trying to help on the side of those roads. The states that do enact these, I don't have any statistics. I just know that from the safety standpoint, NAEMT is in strong support of anything that will insure safety not only of the first responder on that scene, whether it be law, fire, EMS, but also help insure the safety of every citizen. As part of uniformity of care that we are trying to push throughout the nation from east coast to west coast, north to south. You should be able to expect the same standard of care irregardless of the state that you reside in. You say about your signs coming in, yes the out-of-staters know to move over. Perhaps those signs should be on the way we go out to remind them to move over in those other states because they will get a ticket if they don't. I think it is very remiss of us not to have a law on the books to support that. Thank you. [LB92]

SENATOR FISCHER: Thank you very much. Are there questions? Senator Stuthman. [LB92]

SENATOR STUTHMAN: Thank you, Senator Fischer. [LB92]

SUSAN JACOBUS: Hello, Senator. [LB92]

SENATOR STUTHMAN: Susan, Susan... [LB92]

SUSAN JACOBUS: Yes, sir. [LB92]

SENATOR STUTHMAN: Since you deal with other states, can you get some information from other states as far as their near misses, the ones that have some laws? [LB92]

SUSAN JACOBUS: There is a group that was out in Baltimore, the Firehouse/EM Expo, and they are also in Las Vegas, Nevada, at our another conference that has 17,000 people attend. They are collecting data on that same thing. They are collecting stories and reports and it's something new. There are a lot of us that chat about it, but so few of us that actually document it. Some of us are so accustomed to being on those highways, we don't report them. We are one of the few fire department, we carry cameras on, and we take those photos, and we have had photos of vehicles passing by.

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Our law enforcement personnel have cameras in their rigs, but often time they are busy assisting us and helping us control. And there was a comment made prior, there's one patrolman and many miles, and they are correct. So if the sheriff is on the north part of the county and our state patrolman is busy in another section, we have nobody to assist us but ourselves. So we need this law to help support us. You had commented before when I did stop by your room, Senator, how are you going to enforce it. And there's an analogy used this morning at a prior meeting, how do you enforce that stop sign on the county road? Just because it's there, does it mean that they're using it and is it enforceable? It's a mental thing. You put the law into the books and people know it's law and hopefully they do what's right. And that's all the best we can hope for, and hopefully it will save a life. [LB92]

SENATOR STUTHMAN: Yeah. The thing that I would be concerned with is, you know, if some individual, some of you that have testified, if you know of individuals, first responders or emergency teams in other states, that you can call them and say, you know, since you have the law already, are you immune to being hit or do you still have, you know, those occasions when (woosh) they go by and it's a near hit? [LB92]

SUSAN JACOBUS: It would be interesting to see if there is actual recording of those incidences. [LB92]

SENATOR STUTHMAN: And I'm sure that you could visit with, you could call South Dakota and talk to a volunteer group that does respond to this like we're talking about right here, and ask them, you know, since you have the law, you know, do you have that? [LB92]

SUSAN JACOBUS: Actually, what I'll do I'll get our NAEMT Web site for you, senator, and I will contact all of our states. There is representation in all of our states, and ask for that input and then I will get back to you on that. [LB92]

SENATOR STUTHMAN: Okay. I'd appreciate. Thank you. [LB92]

SUSAN JACOBUS: You're welcome. [LB92]

SENATOR FISCHER: Senator Janssen. [LB92]

SUSAN JACOBUS: Yes, sir. [LB92]

SENATOR JANSSEN: Thank you, Madam Chair. Is it Ms. Jacobus? [LB92]

SUSAN JACOBUS: Yes, sir. [LB92]

SENATOR JANSSEN: Sorry. I'm curious, as I listen to this it's great when we have

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these hearings because, again, I wasn't thinking in the scope of the...and I've been to Omaha during rush hour and it's tough to get over, and I wouldn't want to be on that side of the lane for sure. It's fair game, as Senator Hadley would call it, sometimes it seems that way. I'm just wondering...this morning I talked to my volunteer firefighters that were here and were nice enough to bring breakfast by my office and bend my ear a little bit about this. And you know, they were very in favor of that. I represent Fremont in Dodge County. Under this bill, I wonder if they are aware that they are not in the least bit affected by it because there is no interstate coming through Dodge County. I wonder if everybody is as on board or understanding to this, and if I were to go back to their fire meeting and say, you are not covered by this on the roads that you operate on in your jurisdiction, if everybody would be as on board with this. And then I just throw that out there. I don't know if you can answer that across the board. [LB92]

SUSAN JACOBUS: There was a proposal, prior, by our Nebraska State Volunteer Firefighter Association, to amend this to include four-lane highways. And as such, that would also include Dodge County. [LB92]

SENATOR JANSSEN: For the four-lane, four-lane rights. [LB92]

SUSAN JACOBUS: For the four-lane, and I think that would be very important to include and not just have a closed access, meaning interstate, but it should also encompass the four-lane. [LB92]

SENATOR JANSSEN: Thank you. [LB92]

SENATOR FISCHER: Other questions? Thank you very much for being here today. [LB92]

SUSAN JACOBUS: Thank you. [LB92]

SENATOR Fischer: Other proponents? I see none. Any opponents to the bill? Are there any opponents to the bill? Anyone wishing to testify in the neutral capacity? At this time I would ask if Senator Howard would like to close, and on behalf of the committee, as Senator Howard is coming forward, I would like to thank all of the proponents who spoke today, and as I mentioned to a few of you when you were speaking, everyone on this committee certainly appreciates your service to the citizens of this state. And we know the dangers that you face daily in the work that you do for us, so I do what to thank you all. Senator Howard. [LB92]

SENATOR HOWARD: Thank you. And I want to add to that, I really appreciate the people that have come in, have taken their time and taken time off their jobs to support this bill. We don't need to look far in to the past to find an example of the dangerous situation that may have been prevented by a move over law. Just this winter in

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November 30, 2008, two Omaha firefighters were struck by a sports utility vehicle while responding to an accident that occurred on Interstate 80 near 42nd Street. One firefighter was thrown more than 60 feet in that accident. We can and we should do a better job of protecting the men and women who serve us. No one should get a knock on their door at 3:00 AM and find officers who have come to inform them, as I experienced, that they've lost a loved one to the highways. If the move over bill can prevent one person from being killed or seriously injured on a Nebraska highway, then it's worth the time that we have invested here today. I urge you to pass this bill from committee and help me make Nebraska safer by advancing LB92. Thank you. [LB92]

SENATOR FISCHER: Thank you, Senator Howard, appreciate it. With that I will close the hearing on LB92 and open the hearing on LB6. I see that Senator Christensen is here. If you would like to pause while the room is clearing, we'll wait a minute. Good afternoon, Senator Christensen, I believe this is the first time you have been before the committee? [LB92]

SENATOR CHRISTENSEN: Yes. [LB6]

SENATOR FISCHER: Yes, well, welcome to the Transportation and Telecommunications Committee. [LB92]

SENATOR CHRISTENSEN: Thank you. Are you ready? [LB6]

SENATOR FISCHER: We are ready for you. [LB6]

SENATOR CHRISTENSEN: Thank you, Madam Chair and fellow senators. LB6 would allow teenagers with school permits to not only drive from home to school, but also to work. What the bill does is it requires that permit holders use the most direct route. It also allows for permit holders to transport only him or herself to work and no others. They must drive either from school or from their place of residence to work. I believe the reason we need this is that it removes many obstacles that we have for our young people to learn how to be productive citizens. Many chose to work, many would chose to work if they were given this opportunity. In many families, both parents work and cannot take a child to work after school. In most communities in Nebraska, you do not have available public transportation to overcome the situation in rural Nebraska. That is why I am asking your consideration on this bill and I gladly listen to any input that you have on this to allow young people to be able to go out and access that job whether it be out of town or on a farm or ranch or nearby to be able to...I believe as young people, they learn to work young. I think we need to encourage them to have that opportunity and it also, when kids are working and busy, they have less free time and time to get in trouble. Thank you. [LB6]

SENATOR FISCHER: Thank you, Senator Christensen. Are there questions? Senator

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Stuthman. [LB6]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Christensen, this...what your intent is that if a student has a job at a Hy-Vee or a McDonald's or something like that, and it starts at 3:00, they could get checked out of school and drive to the work place and then drive home. [LB6]

SENATOR CHRISTENSEN: Or after school, I don't know that they could get out of school unless that was waived by the school. But, yes, they could leave school or during the summer even, drive out to a farm or ranch and be able to work where...situation...I see many times in Imperial out there, a rancher may need help for four hours in the day. But if they live 30 miles from town, which happens a lot in western Nebraska, if you're going to drive an hour to go get the child, and an hour to return them home, and you only need them for three or four hours, it negates even the purpose of needing them. And so many kids miss the opportunity to go out and work and be productive because they don't have the transportation now with both parents working or find a farmer-rancher that needs them long enough to justify their time to come get them. [LB6]

SENATOR STUTHMAN: Are you aware of any other state that has a permit like this? [LB6]

SENATOR CHRISTENSEN: No. [LB6]

SENATOR STUTHMAN: Okay. Thank you. [LB6]

SENATOR FISCHER: Senator Hadley. [LB6]

SENATOR HADLEY: Senator Fischer, thank you. Senator Christensen, I understand the philosophy behind the school permit to do it. I guess I'm wondering about the work permit, how I would answer my neighbor in Kearney whose son or daughter works five miles away in Kearney at a Burger King, and we say, no, you...that child cannot drive to their job because they are within the corporate limits of Kearney. And I see my neighbor driving their child, now, to and from the job. I guess, what is the distinction between someone living in the country, a mile and a half outside the city, and the person living within the city when it comes to going to work? I understand the distinction when we talk about schools. But I...does that make sense to you? [LB6]

SENATOR CHRISTENSEN: Yes. I believe it's the same distinction because I guess I ask, why can't somebody that lives in town but a mile from school can't drive to school? Because that was the way the law was structured. And what I'm doing is just trying to open up an extra opportunity so if they are trained to drive to school they can also drive to work. I feel there is an equal correlation if you're good enough to drive to school

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you're good enough to drive to work. And if this committee would see fit to address it further, on a work permit to include additional, I don't have a problem with that, I'd love to work with you on that. But the situation I see was, it was simplest to bring this idea forth to the committee here and get your input on this to see the benefit that this could have for our communities. And that's why I brought this forth. I had some people ask for it, parents and kids alike, and at the same time I thought it was an interesting concept to see that if we couldn't get more kids to work, fill in them gaps where we have shortages, and develop some conversation amongst this committee that is there another need even beyond the scope that I have brought? [LB6]

SENATOR FISCHER: Other questions? Senator Louden. [LB6]

SENATOR LOUDEN: Yes, thank you, Madam Chairman and Senator Christensen. The way this bill is written, do I understand it correctly that the person would have to have a school permit before they could have this work permit? [LB6]

SENATOR CHRISTENSEN: Correct. So we're not bringing new, additional people right now in that aren't currently driving, that would be also driving. It also...if there is anyone concerned with people being 14 driving in the city of Omaha, they are not going to qualify. Be that right or wrong, I'm not addressing that issue. What I'm doing is just trying to address the issue out there in rural Nebraska where we have a lot of people that could use some additional help if we could get the help there. [LB6]

SENATOR LOUDEN: And then they would already have some type of liability insurance because they've got their school permit? It would work under that, and, right now, in order to have a school permit, you've got to be outside of a city of the metropolitan class and some other deals like that, right, or first class? [LB6]

SENATOR CHRISTENSEN: Correct. [LB6]

SENATOR LOUDEN: Okay, and this would be primarily for people that live out in rural areas for kids that can drive some place to work? [LB6]

SENATOR CHRISTENSEN: That's correct. [LB6]

SENATOR LOUDEN: Okay, thank you. [LB6]

SENATOR CHRISTENSEN: Thank you. [LB6]

SENATOR FISCHER: Other questions? Senator Gay. [LB6]

SENATOR GAY: Thank you, Senator Fischer. Senator Christensen, when I was looking at this, it has some merit what you're saying, and I understand that, but there are a few

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loopholes, I think, in the existing school permit. Because if you live in a county, SID in Sarpy County, a know a child who got a permit because he lived further than a mile from school, driving into downtown Omaha from Sarpy County. Sarpy County is quote...I guess that would be rural where he lives because I know they are in a rural area. So there is a few loopholes there. One thing if you're looking for discussion on these things, maybe it's a density question. If...or look at the hours, I'm just afraid of kids closing some place, and all of a sudden he's driving home late at night or decides to maybe swing by the friend's house on the way home from work. I think those are some issues if you're looking for something, that maybe we could tighten it down a little bit. So I guess I didn't have a question, just to throw that out there for your information because I know there is a loophole in this law already. [LB6]

SENATOR CHRISTENSEN: Can I address that? I guess what I would say there is the fact that if you wanted to put an hour restriction on this to address that or if you wanted to put a class designation, I think we could address the issues that I am looking at and still maybe you're concerns that you're looking at in the metropolitan area. And as I said, I am very open to working with the committee on this. [LB6]

SENATOR FISCHER: Thank you, Senator. Senator Campbell. [LB6]

SENATOR CAMPBELL: Thank you, Senator Fischer. Senator Christensen, I think most people would consider me a Lincoln Senator, yet I had a 14-year-old daughter who qualified on a school permit and drove in Lincoln, and there were times that I wondered about that. But in any case, one of the questions, as we look at this, are there any statistics in terms of the accidents that school permits...the number of people who have accidents or are there any other restrictions that we ought to look at when we look at school permits that you are aware of? [LB6]

SENATOR CHRISTENSEN: I'm not aware of any of the statistics on that. I understand your concern because I also know you could have the same exemption if somebody lived in the south part of Lincoln and wanted to go to Norris to school, they literally could qualify. And that's why I say, if this needs tightened up, I am more than willing to work with the committee on amending this to make it the best that we can have the bill and open up some opportunities. [LB6]

SENATOR FISCHER: Senator Janssen. [LB6]

SENATOR JANSSEN: Senator Fischer, Senator Christensen, I was kind of surprised actually when I saw the bill come forward. I guess I can disclose now that I must have broken that law when I had my school permit and so did a former Senator Janssen who employed me before I was 16, when I was driving from school to work there so... [LB6]

SENATOR CAMPBELL: I can identify with this. [LB6]

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SENATOR JANSSEN: So I think I always kind of assumed it was school-related and school activities so I think that's already being done. So I think there is a lot of merit to putting this on the books, and I don't have the same metro concerns but I think those are definitely...there would be some ways that they could loophole that around to a way that it is not supposed to be utilized. And I think it is great to involve the kids with driving at an early age, and possibly they're learn how to move over on their own some day, as well. So it's very good. That's my...I had no questions, more of a comment that I wanted to work with you to make sure that we could get something along these lines. [LB6]

SENATOR FISCHER: Other questions? I see none. Thank you, Senator Christensen. Are there proponents for the bill? Good afternoon. [LB6]

PETE MCCLYMONT: Good afternoon, Madam Chair, members of the committee. I'm Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t, I'm vice president for legislative affairs for Nebraska Cattlemen. Just here in support, obviously it's a very common sense issue to our membership, especially where you are from, Senator Fischer, or where Senator Louden's from. It would make sense. Even I grew up in Holdrege and there were kids that drove 15 miles one-way to school, so if they had a job along the way, it didn't make a lot of sense for them to find an alternative to get to a job. So I think there's been some good questions raised on how it would be affected in larger cities and what we would need to do to make it stronger in that regard. But from our membership standpoint, it's common sense, and if it makes their lives and their operations and obviously impress upon the youth jobs, responsibility, it's a good thing. So we would be in support of it. [LB6]

SENATOR FISCHER: Thank you, Mr. McClymont. Are there questions? I see none. Oh, Senator Hadley. [LB6]

SENATOR HADLEY: One quick question, Madam Chairman. Mr. McClymont, right now a child, I guess it is a child, what do we call them, teenager, working on a ranch or a farm, if they have a school permit, are they allowed to drive on the farm doing jobs on the farm or ranch? [LB6]

SENATOR FISCHER: Oh, Senator Hadley. Mr. McClymont, you go right ahead and address that one. [LB6]

PETE MCCLYMONT: I would assume, heavy on the assume, that if it's on the premises of the operation that's owned by the parents of the child in question, I would think that's probably something that's probably going on. Whether it's legal or not, I can't answer that. [LB6]

SENATOR HADLEY: I guess I just have a follow-up because it seems to me that the

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question would be, would that become legal under...you know, I'm thinking of the person whose father says, take the...you know, you've got this permit, now, take the grain truck to Holdrege and get it dumped, or something like that, in this kind of thing. [LB6]

PETE MCCLYMONT: I'm assuming in that scenario that would be illegal. [LB6]

SENATOR HADLEY: Yeah, I just want to be...sometimes you go places you shouldn't, so, okay. [LB6]

SENATOR FISCHER: Thank you, Senator Hadley. Senator Gay. [LB6]

SENATOR GAY: Thank you, Senator Fischer. That's the question I had too. The...legally, what is the work for younger kids? You're talking 14 to 16, and I'm sure, you know, Dad's making his son work. I think that's great and probably that's educational in my mind. What is the law, though? I mean, wouldn't we be...can a 14-year-old even be legally employed for how many hours and up to a certain point at night, and isn't there some strict requirements on labor? [LB6]

PETE MCCLYMONT: To that, Senator Gay, I can't tell you exactly what the law is, so I am not a good resource for that question. [LB6]

SENATOR GAY: Yeah, it's probably a bad question to give you Pete. But in the back of my mind, that probably is something to be concerned with because I don't know what those laws are, and maybe my son should start working, but I'd like to find out. [LB6]

SENATOR FISCHER: I think there's exceptions for agricultural workers when they can be younger but they do have to pass like tractor testing and courses in order to work for someone other than their family. Senator Hadley. [LB6]

SENATOR HADLEY: Just a comment, Senator Gay, on that is my neighbor's son happens to work at an Amigo's and before he can cook he has to be 16. But, you know, under this law he could legally drive to the job, but he couldn't cook because he wasn't old enough to do it. I think it is a good question of what...how does this fit in with the whole youth work (inaudible)? [LB6]

SENATOR FISCHER: Other questions for Mr. McClymont? I see none. Thank you very much. [LB6]

PETE MCCLYMONT: Thank you, Senator. [LB6]

SENATOR FISCHER: Are there other proponents for the bill? Any other proponents? Anyone in opposition to the bill? Anyone here in a neutral capacity? Senator Christensen, would you like to close, please? [LB6]

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SENATOR CHRISTENSEN: Unless there's questions, no, I'll waive. [LB6]

SENATOR FISCHER: Okay, Senator Christensen waives closing. Thank you very much for coming today. We will close the hearing on LB6, and I will open the hearing on LB108. I see Senator Carlson is in the room. And welcome Senator Carlson. I believe this is your first opportunity to come before the committee? [LB6]

SENATOR CARLSON: It is, and I'm trembling with fear. [LB108]

SENATOR FISCHER: We just want to welcome you. We are a friendly group here so welcome to our committee. [LB108]

SENATOR CARLSON: Good afternoon, Senator Fischer and members of the Transportation Committee. I am Tom Carlson representing District 38 here to introduce LB108. This bill has been of concern to all-terrain dealers, especially those bordering neighboring states. Current law states that anyone applying for a certificate of title must have the vehicle visually inspected, usually by the county sheriff. These vehicles are generally used and come with no title. Often the Vehicle Identification Number is scratched off due to the nature of their use. The dealer who asked me to introduce this legislation found that those selling or trading in the used vehicles simply put them on the internet or crossed the border. LB108 provides that a licensed dealer may obtain a signed affidavit from the seller, it should state that and it would state that the vehicle is not stolen, the seller has the authority to sell, and the name and the address of the seller. The dealer must obtain from the county sheriff a statement that the Vehicle ID Number has been checked with both the National Crime Information Center and the Nebraska Crime Information Service and that there is no reason to suspect the vehicle has been stolen. The sheriff is given the option of responding electronically or by written communication within five days of receiving the request. I believe this bill will make it easier for Nebraska dealers to deal with used ATVs that are offered for trade or in resale as used when they do not have a certificate of title. I look at this as a rural economic development bill. Now there are dollars leaving Nebraska, there are dollars that aren't coming into Nebraska that I believe would with the passage of this bill. And I would ask you to carefully consider this and then consider opposition that may be given. Is the opposition real? Is it more because of, perhaps, what would be looked at as a nuisance, but I would ask you not to put in the back of your minds the fact that this does offer the possibility for additional dollars to stay in the state and other dollars to come in from outside the state. Thank you. Are there questions? [LB108]

SENATOR FISCHER: Thank you, Senator Carlson. Are there any questions? I see none. [LB108]

SENATOR CARLSON: And I have another appointment, I won't be able to close.

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[LB108]

SENATOR FISCHER: You waive closing? [LB108]

SENATOR CARLSON: I waive closing. Thank you. [LB108]

SENATOR FISCHER: Thank you. Thank you for joining us today. Are there proponents for the bill? If you would like to step forward. We'll have the page take those. Good afternoon. [LB108]

ARLEN MICKELSEN: Thank you for having me. [LB108]

SENATOR FISCHER: Thank you for coming. [LB108]

ARLEN MICKELSEN: I'd like to thank Mr. Carlson for...he's put a lot of time into this. It's been a big, it's been a serious problem for us. [LB108]

SENATOR FISCHER: I need you to state your name and spell it, please. [LB108]

ARLEN MICKELSEN: Arlen Mickelsen, first name, A-r-l-e-n, last name, M-i-c-k-e-l-s-e-n. [LB108]

SENATOR FISCHER: Thank you. [LB108]

ARLEN MICKELSEN: Ready. [LB108]

SENATOR FISCHER: Ready. [LB108]

ARLEN MICKELSEN: (Exhibit 11) Okay. I probably will just go through this, and I'll just go ahead, and I am going to kind of thumb through some of these pages as I go along. But, my name is Arlen Mickelsen from Superior Outdoor Power in Superior, Nebraska. Since the ATV titling law passed in Nebraska on January 1, 2004, we have had serious problems trying to get the machines titled when traded in or sold to a second party. Over 90 percent of the trade-ins come in with no titles, which now require a Vehicle Inspection Certificate. When farmers drive the ATVs through cornstalks or grass, it rubs the VIN numbers off the frame, and the sheriff's department won't give us a Vehicle Inspection Certificate without a full visual of the VIN number. The sheriff's department, DMV, and Attorney General's office say there is no way to legally sell these ATVs in Nebraska, even though we have proof of ownership. For us to abide by this law with the VIN numbers that are legible, we would need to hire a full-time employee just to haul ATVs around trying to find the sheriff for inspection. Also there is no way to enforce this law other than at the dealer level. I did a second paragraph here, this is just some suggestions we...I think we should look at. By passing this bill, it will be a step in the

right direction. With the buyers refusing to title their ATVs and no way to enforce it, the ultimate goal, in my opinion, would be to make titling voluntary not mandatory, similar to trailers. Basically because as of right now, the farmers don't have to title their tractors for farm use, they don't have to title their combines for farm use, but they're asking the ATVs to be titled. Or simplify the whole system, similar to the state of Colorado with it's registration sticker for any off-road vehicles that drive on approved roads or trails. If we go back to...I'm going to give you an example. Go to the first page, I guess the second page, sorry about that, I know these are poor pictures I apologize for, but the second page you can see how the frame, after they go through the cornstalks and the milo stalks and the fields, they rub the numbers off, and there are no numbers visible. If you go to the third page, this is a new machine, and you can visually see the numbers. Okay, if you go to the fourth page on here, this is what we are required to fill out for an affidavit, and down on the bottom what the dealers have been doing in Nebraska, is filling out this paper, and then going to the courthouse and they would go ahead and issue us the rights to get a title for this. What's happening in our county, is our county treasurer has recognized the bottom paragraph that says: "this affidavit is required to be submitted along with the Application for Certificate of Title and Vehicle Inspection Certificate for an ATV or Minibike that has not previously has been titled." What they are saying is, that we have to have a Vehicle Inspection Certificate. We were able to obtain that up to the point when our treasurer said no, we want the sheriff to visually see these numbers before we will allow the certificate to be signed. That's when our nightmare came in, and our problem right now is we have so many machines out there with this problem. If we go to the next page, this is an affidavit that I use when we go into Kansas. Kansas does not require the VIN numbers to be...you don't have to have the VIN numbers visual. But down on the bottom, if you see it says Affiance Certification. When we sign that, we must sign that knowingly that that machine is not stolen, or to the best of our ability it is not because if we do sign that, that means we're responsible for that machine, and perjury could come into effect if we knowingly sign that as being a stolen vehicle or whatever. And that's the way Kansas has done it. The last page is basically where we are up against, as far as the Certificate of Title on ATVs. Utility vehicles are another, I guess I would call an ATV that's operating in the state of Nebraska, they don't require titling or anything, it's just the ATVs. And I know the issue will come up here because of the possibility of an ATV being stolen, we have some way to identify it. What we found out, if you go on the dealer hot list line, and you call your county sheriff, and we call the bordering county sheriffs, we're able to acquire this machine back a lot faster than if we wait for DMV to inspect this machine and find out yeah, it is stolen, this is it. It's kind of where we are at right now. [LB108]

SENATOR FISCHER: Thank you, Mr. Mickelsen. [LB108]

ARLEN MICKELSEN: The other...I guess there's...sorry about that, I've got one other thing. Colorado, let me go back to what Colorado is using right now, Colorado had the same similar problems as Nebraska. The law got so complicated and there were so

many types of off-road vehicles, we were dealing with off-road trucks, off-road ATVs, off-road utility vehicles, and there were so many laws trying to define weight, size, length, width, and it was a serious problem for Colorado. Colorado finally said, let's just fix this whole problem. What they did was say, here, here is an off-road permit that you'll stick this on the fender, you're done, here's your proof underneath here that you've done it. At this point all off-road vehicles follow all the same rules and regulations, is what it is. That's all it is, Colorado has taken care of it. They charge...they were charging \$17 for that, they now charge \$25. The reason they went to \$25 was they also do trails maintenance. But that qualifies them to ride that ATV or utility vehicle or off-road vehicle on any roads that are approved or trails. That's what it does. And I am just using two of the examples that we're up against as far as our bordering states, that's what we're doing. This has been a serious problem for us since 2004, and I don't have an answer. I guess I am throwing out some suggestions that I would like to see us look at, because it is a serious problem for us dealers. [LB108]

SENATOR FISCHER: Okay, thank you very much. Are there questions? Senator Stuthman. [LB108]

SENATOR STUTHMAN: Thank you, Senator Fischer. Arlen, in 2004, you know, we passed the bill with the numbers on and the identification, and I was on this committee at that time and there's no returning one's from that time here now. I think at that time the reason we did that is because of the stolen vehicles, that people could get that vehicle back by proof of that number. [LB108]

ARLEN MICKELSEN: Correct. [LB108]

SENATOR STUTHMAN: And that was the reason for it, and that's what I truly supported at that time. Because, you know, we had, in Platte County we had four-wheelers that were found in the bottom of the sand pits, and we would pull them out of there and then we wouldn't know who they would belong to and if they were stolen or what. And the reason we went to it at that time was for that. So since we have gone to that, now that was the wrong direction to go, right? [LB108]

ARLEN MICKELSEN: Yeah, the problem the dealers ran in to, we weren't aware you were trying to pass this. We could have...we would like to have brought some of this up to the committee so you could recognize our problems we would be facing in this, and it was passed before we knew what happened. And these vehicles, as you find them, you won't be able to identify these machines anyway, because the VIN numbers are rubbed off, so there is no way to identify the machines to begin with. [LB108]

SENATOR STUTHMAN: Now I...you know, we've got several four-wheelers on our farm [LB108]

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ARLEN MICKELSEN: Um-hum. [LB108]

SENATOR STUTHMAN: And I'm not aware of where the VIN numbers are. Are they stamped in the steel? [LB108]

ARLEN MICKELSEN: If you...they're down along the bottom side of the frame. The DOT, Department of Transportation, and the CPSC, they go through an extensive research to find out where they would like to have the numbers on there. I did speak to one manufacturer about this, and I said, could you relocate these to a different area? And they said, it takes so long to get clearance to be able to put these VIN numbers on, that they hate to even go to the Department of Transportation with this issue because it takes so long and a lot of money to go back and get this changed. The second problem we have is, as these ATVs come in, there's no way for...there's no way to enforce this law, is our problem. And the problem has been thrown on the dealers' back to take care of this problem, it isn't the end user, it isn't...the farmer's not titling, the recreation rider's not titling these machines, and all...everything has been thrown on our back to say, here, you go out and make this thing work, we're not going to because we know there's no way to legally enforce this thing, and nobody wants to title them. So we're stuck in the middle of this thing and all these machines come in, and the sheriff's department doesn't want to deal with it, they're saying, no, you're on your own on this thing. We don't know which way to go, and what we got a problem with is, the person that we finally say no, you've got to do this, this, and this, we've got to have a title, they're saying, you know, I don't have to deal with you. I'll just call a Colorado dealer. I'm going to have one shipped into Grand Island, Nebraska, I'll go pick it up there. I can avoid all the taxes, everything, I can walk away scot-free in this thing because the other states don't require this stuff. And we're kind of caught in the middle of this thing. And I think, if anything, the dealers need a fair advantage against the other states. And what's happened is Kansas has passed us where they don't have to have any kind of VIN number or anything, and of course, Colorado isn't using anything. And as far as us, the 26 years we have been in business, out of all the ATVs that we have seen stolen or relocated or whatever, I can't remember losing more than one out of all of them that we've ever seen stolen, and I can't see where the VIN number would have really protected that one that lost...it never did help so. [LB108]

SENATOR STUTHMAN: So in other words, of the ones that are traded in and you are trying to resell or anything like that, very few would have been stolen to trade in to get a better... [LB108]

ARLEN MICKELSEN: We've never had a person try to trade in a stolen unit with us ever in history, ever. [LB108]

SENATOR STUTHMAN: And I think that was kind of the reason that we passed that bill that time, was to locate them stolen all-terrain vehicles. [LB108]

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ARLEN MICKELSEN: We really don't have that many ATVs stolen in Nebraska that don't get recovered. What has happened is the few that did, there was enough noise made...I would rather the manufacturers, the dealers, and the local sheriffs handle this problem because there is no way to enforce this law. That's our problem is it isn't just this bill we've introduced, there's a whole lot more to it than that, that we have no way to enforce this thing other than through the dealers. And I don't know how else to handle it other than to say it that way. And the dealers can't do a good job of enforcing it, we can't, and we've just been...the legal aspect of it, we've just been shut down and saying, no, we're not going to deal with it, it's your problem. And all of a sudden here's all these dealers with all these machines out there we can't get titles for. What if the state of Nebraska ever puts heat on us, saying you go take care of this problem, you created it, where we going to...these thousands of machines that are out there with no titles, what are we going to do? I mean, we don't understand what to do right now. [LB108]

SENATOR STUTHMAN: Okay, thank you for your information. [LB108]

SENATOR FISCHER: Thank you, Senator Stuthman, Other questions? Senator Hadley. [LB108]

SENATOR HADLEY: Senator Fischer, Mr. Mickelsen, just so in my kind of slow way, basically what you're saying is that if this VIN number has been wiped off through just normal use, basically the person who has that has no ability to sell that or to get rid of that particular item in Nebraska, or particular ATV. Is that... [LB108]

ARLEN MICKELSEN: Not legally. [LB108]

SENATOR HADLEY: Not legally, to do that. [LB108]

ARLEN MICKELSEN: Um-hum. There's no legal way to do it. [LB108]

SENATOR HADLEY: I can see where you have...there's probably a lot of them on Senator Stuthman's farm and other places that don't have the VIN number, so that... [LB108]

ARLEN MICKELSEN: I'm being very lenient saying 90 percent do not title. It probably would be pushing closer to the 93-97 percent. And we sit here trying to deal with the problem, and if we could get DMV to give us a solution to this problem...you know they turn their back on us, the sheriff's department turns their back on us, the Attorney General turns their back on us, we don't have any place to go, and we don't have any way to deal with this issue. And I think that this...again, I reemphasize this is one step in the right direction. But it...that's kind of where we are at right now. [LB108]

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SENATOR FISCHER: Other questions? Senator Campbell. [LB108]

SENATOR CAMPBELL: I just want to make sure that...thank you, Senator Fischer. I just want to make sure that the way the bill is worded right now, in terms of contacting the sheriff, is the most, is the best way to do this. You're just trying to have them check whether it was ever stolen to the best of what they can identify it. Is that correct? [LB108]

ARLEN MICKELSEN: Correct, yes, correct. I think probably the local sheriff is going to be the...I think they're going to...yes, I feel it's the best way. I do. I think with the county involved, locally with the sale happening, I think that's the most reliable way to do it. [LB108]

SENATOR CAMPBELL: Okay, thank you, sir. [LB108]

SENATOR FISCHER: Other questions? I see none. Thank you very much for coming today. [LB108]

ARLEN MICKELSEN: Thank you. [LB108]

SENATOR FISCHER: Are there other proponents for the bill? Good afternoon. [LB108]

LOY TODD: Good afternoon, Senator Fischer, members of the committee. My name is Loy Todd, L-o-y T-o-d-d, I'm the president and legal counsel for the Nebraska New Car and Truck Dealers Association. We have several members...there used to be a motorcycle dealer's association several years ago. I don't know if they still exist or not, but several motorcycle dealers and some ATV dealers have joined our association in the last year, and so we became somewhat interested in this issue. I want to thank Senator Carlson for attempting to solve part of the problem, and that's all this bill does, is a very partial solution and it's meant to address that situation, where, as Arlen testified, 90 percent of these ATVs that are being traded in don't have titles. And the title law was certainly passed in order to try to identify stolen vehicles and track them in a good faith attempt to do that. And what we...and so I worked with Senator Carlson on this particular legislation to do really one thing, and that is to try to solve as much of it as we could as simply as possible. Because what happens is, someone comes in to a dealer to trade in a used vehicle, and it may or may not have a visible VIN or one you can determine, but in those circumstances where it does have a visible VIN, people come in to trade it in, and at that point our dealer because Nebraska law requires that dealer to convey it through the use of a title to obtain a title somehow and so they turn to the customer and say please go chase down the sheriff, get it inspected, apply for a title, get a title, bring it back to us, and then we'll take your vehicle in trade. At which point, most of the trade-in customers go away and don't come back. They either trade it in Kansas...we see this a lot more on the border, I don't hear any of these kind of

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complaints in the central part of the state. But it's mostly on the border states where they can go to Colorado, they can go someplace else or just get rid of it themselves, sell it to...at a garage sale, do whatever they want to do. So what we try to do, in very limited fashion with this bill, is to take those circumstances where there is a visible VIN and to then have the dealer obtain a certificate or an affidavit from the trade-in customer verifying that it's not stolen. You've got their name, their address, their identification, so now you've got your customer who has identified themselves and who you can now chase down if law enforcement decides they need to if it turns out to be stolen. The trade-in can happen, the dealer, and this is limited to dealers because they are licensed, regulated by the state, bonded, they are responsible for this. The dealer can then contact the sheriff, give them that visible VIN number, that identifiable VIN number. The sheriff will check it against the two law enforcement opportunities that there are, and that is the state computer and the national computer, and within five days, respond to the dealer and say, this is a clean vehicle. We have no reason to assume it's been stolen or that there is anything wrong. At that point the dealer can then go and obtain a title, finish the deal, and then reconvey the vehicle. And the great thing is, when it's a dealer, the sales tax gets paid, no place else does the sales tax ever get collected on these vehicles. And that is the limited area that this is going to fix. And so, I will say this, I need to clarify one thing. There is a procedure under Nebraska law, if that VIN is gone, to get a title for that vehicle, it's not any fun, it's not very workable, but what you do is you then go to the state patrol and apply for a Nebraska VIN and have all this procedure done, and there is a methodology under the current law to get this done. And I can pretty much assure you nobody's going to do it. But this will solve a pretty big chunk of the problem from our observation, you know, this may be a 70-plus percent solution. I'd be absolutely lying to you if I told you this was a cure-all, or this was a fix-all, but it will make some parts better. I'll take any questions. [LB108]

SENATOR FISCHER: Thank you, Mr. Todd. Are there questions? Senator Louden. [LB108]

SENATOR LOUDEN: Yeah, thank you for testifying here, Loy. Then you're telling me that if that VIN number isn't there, that this law won't necessarily apply to it, that VIN number has been rubbed clear off, is that what you... [LB108]

LOY TODD: That's correct, Senator. [LB108]

SENATOR LOUDEN: This is just if there is a VIN number there and they don't have a title. [LB108]

LOY TODD: Yes. [LB108]

SENATOR LOUDEN: Okay. Then what do you do about those that have the number all rubbed off? [LB108]

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LOY TODD: You go through a process with the Department of Motor Vehicles where you have it inspected by the state patrol and they do some other things, and then a Nebraska VIN can be issued by the DMV. And I assume Ms. Neth is going to be testifying after me. She can probably tell you the details of that but we've never seen...I never seen it used so I...you're beyond my expertise. [LB108]

SENATOR LOUDEN: But this does not address that problem? [LB108]

LOY TODD: This does not at all address that problem. [LB108]

SENATOR LOUDEN: Okay, thank you. [LB108]

SENATOR FISCHER: Are there other questions? I see none. Thank you very much. Are there other proponents for the bill? Any other proponents? Are there opponents to the legislation? Good afternoon. [LB108]

BEVERLY NETH: (Exhibit 12) Good afternoon, Chairwoman Fischer, members of the committee. I'm Beverly Neth, B-e-v-e-r-l-y N-e-t-h, director of the Department of Motor Vehicles appearing today to offer testimony in opposition to LB108. Pretty much you now have the history. My written testimony is about the history, and I thought it was important for the committee to have that history. This bill was introduced by Senator Burling, 2003, and he stated at the time that the reason for creating a title law for ATVs was to deter theft of vehicles and to provide for proof of ownership if theft occurred. Under Nebraska's titling scheme, visual inspection of the VIN is the critical element in stopping stolen vehicles from being brought in to this state. In this ATV law that is in place, is exactly the same type of inspection that takes place with other vehicles that are brought into Nebraska. What we attempt to do is treat all vehicles equally for the purposes of titling. So if you have a 1992 Mitsubishi something or the other, vehicle you bring in from Kansas, before you can receive a Nebraska title, you have to have that inspected by the sheriff or state patrol. They inspect the VIN, they run it through their checks, and determine whether or not the vehicle has been stolen and then give you an inspection document that you then take to the county clerk or county treasurer, whichever it may be, and have the title issued for that vehicle. With ATVs, it's similar. Not all ATVs are subject to inspection. I think the statement earlier was that they are, that's not the case. When we develop the rules for titling ATVs, we recognize that these...because they had never been titled before in Nebraska, there was, in all likelihood, going to be many vehicles where no one had any ownership paperwork associated with them. Because people had owned them for years and didn't save the MSOs or whatever the case may be. So we developed a process that we thought was going to be user-friendly for the individual who had a vehicle, an ATV, that didn't have a title to it that ultimately they would want to convey to sell that vehicle. What they do, is they can fill out an affidavit, and I think that Mr. Mickelsen referred to that affidavit, you

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give all the vehicle information. You then take the vehicle to the sheriff, have the vehicle, the VIN inspected, they run it to make sure it's not stolen. You then apply for a title with the affidavit and the sheriff's inspection document, saying that they have inspected it, it's not stolen. We also accept, if you are bringing the vehicle in from out of state, we accept your registration or any evidence of ownership from that other state and an affidavit, once again, an inspection. If you are purchasing a new ATV, you can get a title with the MSO, the Manufacturer's Certificate of Origin, you don't have to have it inspected. If you have a title, titled ATV, you don't have to have it inspected so not all vehicle ATVs are subject to inspection. Probably a good portion of them are, though, because we do recognize that there is a lot of them out there without any ownership documents. If we take this piece of it, and I appreciate the comments of Mr. Todd, about that this isn't really a fix across the board. In my mind it sort of begs the question, which is, if it's a bad law, then let's not try to make it better or worse, let's simply not title ATVs in Nebraska. We...if we don't care that they're stolen or if stolen ATVs isn't an issue in Nebraska then developing a bureaucratic process to take care of a problem that isn't real, I'm not sure that is good public policy. I think that earlier there was a reference to the DMV, I think, turning their back on someone, Mr. Mickelsen maybe said it. The DMV doesn't turn its back on people. The DMV has to follow the laws of the state of Nebraska. Currently this is the law of the state of Nebraska. There is not a solution for Mr. Mickelsen other than to take these vehicles, have them inspected, and go through the inspection process. Or for those vehicles, and I don't know how broad the problem is of VINs being rubbed off, for those vehicles, then, there is the issue of having a VIN assigned to them. So I guess...the DMV is not...if we have developed a process that doesn't work well, then we're certainly willing to try to figure out how to make it better for people. At the time, our process were developed...I think we developed rules and regs for them so we would have had a public hearing. I'm not sure that we heard from anyone on those. So, you know, we are certainly willing to work with people within the parameters of the law, but right now, this is the law, and so we are trying to follow it the best we can. But if titling them doesn't make sense, then excepting them from inspection doesn't make sense either. So with that I'll close and take any questions. [LB108]

SENATOR FISCHER: Thank you, Director. You're speaking in opposition, correct? [LB108]

BEVERLY NETH: I am. [LB108]

SENATOR FISCHER: Are you in opposition, obviously, to this bill because it's bad policy in trying to fix the current law or are you speaking in opposition because you want us to get rid of the current law or are you speaking in opposition because you think we should leave things like they are? [LB108]

BEVERLY NETH: I'm speaking in opposition to this bill because I think it's a bad way to

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fix the existing law. I'm not sure that there is a problem with the existing law. We have tried to bring the inspection process equally to all vehicles that we title in Nebraska, and ATVs are a vehicle that we currently title in Nebraska. So taking ATVs and developing some kind of different inspection process or...there's not really an inspection process, what you're doing is asking the person to say, yep, here's the VIN, go run it for me. Visual inspection of the VIN is pretty critical. I think law enforcement would tell you that seeing the VIN, having a law enforcement officer see it, visually inspect it, that that is the VIN that belongs to that vehicle is the way that you deter theft. I'm not making judgments on anyone's credibility or their truthfulness or honesty, but having someone fill out the affidavit that says, here it is now, go take this as a VIN number, I'm not sure that really get's to the level of deterring theft that we have tried to bring to titling of all vehicles in Nebraska. [LB108]

SENATOR FISCHER: Is theft a problem of ATVs in Nebraska? [LB108]

BEVERLY NETH: I don't have any numbers on it, I really don't know. [LB108]

SENATOR FISCHER: Do we need to title ATVs in Nebraska? [LB108]

BEVERLY NETH: I'm not sure. I don't know that we have a widespread...I haven't heard that there is a widespread problem with the process that we have developed. Yeah, I do know that this has been an issue for some of the border counties along the border. I would not diminish the fact that that probably is true, that if you're going to put me through a process that appears to be onerous for me, I might just go sell that ATV somewhere else, that's probably very real. But I don't know, I don't know that if we have a theft problem and I don't know that titling them is a problem or isn't a problem, or really whether it's good public policy at this point. [LB108]

SENATOR FISCHER: I represent a number of counties along the South Dakota border, and I have not heard any problems from my dealers up there. Do we need the law the way it is, in your opinion? [LB108]

BEVERLY NETH: I think the law as... [LB108]

SENATOR FISCHER: You mentioned getting rid of it. Should we get rid of it or do we need it? [LB108]

BEVERLY NETH: I think the law as written works very well. I think it has brought the level of quality across the board to the inspection process for all vehicles that we title. I'm not advocating for getting rid of it, I'm just saying, if we're going to take out...if we're going to undo the very reason why it was put into public...put into statute, then maybe that's the question the committee needs to ask, is are we undoing the reason it was put in place and is it still valid as a law in the state of Nebraska? [LB108]

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SENATOR FISCHER: Earlier we were shown how Colorado does it and the permits that they use. Are you familiar with what Colorado does? [LB108]

BEVERLY NETH: I've seen those before, and I know they do that for their trails and for purposes of how they regulate where those vehicles can go in Colorado, that is my understanding of it. [LB108]

SENATOR FISCHER: Perhaps we could have a conversation on that in the future on how Colorado does it and look into that. In fact, I'm asking, maybe you could look into that and see if that's a possibility for how we handle things here in Nebraska? [LB108]

BEVERLY NETH: I can look into that. I'm not so certain that those issues in Colorado aren't issued by their game and parks. [LB108]

SENATOR FISCHER: And it's just for trails of a certain area and not for... [LB108]

BEVERLY NETH: I think it's more trails than it is for the vehicles. I will look into it, and I will get you additional information on that, Senator. [LB108]

SENATOR FISCHER: Okay, okay. I would appreciate that. Questions from other senators? Senator Louden. [LB108]

SENATOR LOUDEN: Thank you, Director Neth, for being here. What happens if you have one of these Japanese quarter horses and it has all the numbers rubbed off? How do you get a title for it? I mean, it's like a horse, it can't talk. [LB108]

BEVERLY NETH: What you do, then, is you take it with any ownership documents you may have and you apply for an assigned VIN for that vehicle. We have a process set forth in statute and in our policies how we handle that. We accept specific information so that we can...assure that the vehicle isn't stolen, the vehicle does belong to you, and then a VIN is assigned to that. We make the VIN plate that you can affix to the vehicle. [LB108]

SENATOR LOUDEN: Okay, now you're getting ahead a little bit because say, I buy one, and yeah, I've got the paperwork that shows I bought this Honda or whatever it is, but then the paperwork I have has the number but the machine doesn't have a number on it. What makes you think that the numbers I have in this hand belong to the machine that I have over here because I've got a couple of them and they're all about the same. I'm wondering how do you sort that out? [LB108]

BEVERLY NETH: Well, I think law...that's up to law enforcement to sort out. They've got to do some visual inspection of the vehicle itself to make sure that it matches make,

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model, those kinds of things. And then go through the process of making sure that vehicle appears to be what you have the paperwork for. If you've got the paperwork for the vehicle, I'm thinking it's probably not that old and in all likelihood the VIN...and honestly, I... [LB108]

SENATOR LOUDEN: Well, you get a slip of paper. I mean, you go down and buy something at Wal-Mart you get a piece of paper, you know. If you buy on a credit card or something you get...that's sometimes all you have is just a bill of, not exactly bill of sale, it's just an invoice type deal, that's what I'm wondering. [LB108]

BEVERLY NETH: Yeah, with most vehicles, and I believe it is true for ATVs as well, is vehicles have what is called a Manufacturer's Statement of Origin. It is the ownership or the birth certificate if you will, of a vehicle. That as a rule travels...with the first time the vehicle is sold, that is the document that you could take to get the title issued from that document, and generally dealers are executing that document. Once that initial title is issued, the state of Nebraska title or whatever it may be, that Manufacturer's Certificate of Origin is then stored in the paperwork that the treasurer or the clerk would have. So you could have that or you could have something like what Colorado issues, which is the registration slip or a bill of sale from the person you are purchasing it from. [LB108]

SENATOR LOUDEN: Now on these ATV's, I mean, like a car, there is a couple to three different places where that VIN number is on your car. I mean, you not only have it up by the windshield but it's usually stamped on the body someplace, and my understanding it used to be hammered in cast iron on the engine someplace. Now on these ATVs, are they...is there just one spot that the VIN number is? [LB108]

BEVERLY NETH: You know, Senator, I don't know. I honestly don't know where the VIN is. You're right about vehicles. It is in multiple locations but I don't know where it is on ATVs. [LB108]

SENATOR LOUDEN: Now what would...is...are they...what would be the difference if I bought a bicycle? There isn't a VIN number on a bicycle. [LB108]

BEVERLY NETH: We don't title those in the state of Nebraska. [LB108]

SENATOR LOUDEN: Well, I know, that's the reason I'm wondering why are we titling these ATVs? [LB108]

BEVERLY NETH: Well, some bicycles are probably sold for more than what ATVs are, and they certainly are subject to being stolen as well, but currently a bicycle is not considered a vehicle in the state of Nebraska so it doesn't really, truly fall under the purview of the state...of the Department of Motor Vehicles and our titling laws and our registration laws. [LB108]

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SENATOR LOUDEN: Okay, well thank you. [LB108]

BEVERLY NETH: Thank you. [LB108]

SENATOR STUTHMAN: Thank you Senator Louden and Director Neth. Any more questions for Director Neth? Seeing none, thank you. [LB108]

BEVERLY NETH: Thank you very much. [LB108]

SENATOR STUTHMAN: I'll turn it back over. [LB108]

SENATOR FISCHER: Thank you, Senator Stuthman. Are there other opponents to the bill? Good afternoon. [LB108]

LARRY DIX: Good afternoon, Senator Fischer, members of the committee. My name is Larry Dix, D-i-x, I'm executive director of the Nebraska Association of County Officials here today to testify in opposition of LB108. I think for the most part, Director Neth covered a lot of the issues that counties have with...I think fundamentally it's probably more of a policy question. Some of the things when we were looking through the bill, when it comes to the county side, it ends up being more of a process and it is certainly whatever you want to do with the policy is what you'll do, but when we went through and looked at it, one of the first things that was, has previously been stated, is that there is a process today that you can go through to obtain a title for these vehicles. One of the things when we looked at the bill and you look on page 5, it talks about all of this coming from a county sheriff, and certainly in some counties we actually have county treasurers who are actually also doing this VIN inspection as far as running the numbers and actually going out and verifying that the VIN number is there. So at a minimum, I would think we would look at that language because right now it is pretty narrow in the fact that it does just state that it is a county sheriff. It seems like what we are doing here, and I think it has been confirmed in the testifying, is that we're identifying a partial process, we're identifying okay, from a county official will now...some of the VINs go through process A and you have to go get the affidavit signed and go through it, and then some of the other ones go through a separate process. And so when we talk about it, we like to have that narrow so that when you go through it you know the process that you are working on. The other point that I want to make sure and I think I heard it was clarified that on page 5, line 6, is that the county sheriff shall respond by e-mail or fax. My assumption is that they shall respond to the dealer. I want to make sure that nobody is under the assumption that the sheriff is going to send an e-mail to a county treasurer and then the county treasurer is expected to sort of hold on to this e-mail thinking that someday somebody may come in with this documentation. I think that would probably be a clarification that might make sense so that is crystal clear in there. But bottom line I think it really comes down to a policy decision, either we title them all, we title none of

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them, that's for the most part...those are the summary of our opposition to the bill.
[LB108]

SENATOR FISCHER: Thank you, Mr. Dix. Are there questions? I see none. Thank you very much. Are there any other opponents to the bill? Any other opponents? I do have an e-mail which I tried to enter earlier. This is in opposition to LB108. It is from Sandra Stelling who is the Jefferson County clerk/register of deeds/election commissioner and co-chair of her association and she is expressing opposition to the bill. I believe that all committee members have a copy of that. Anyone wishing to testify in the neutral capacity? I see none. Senator Carlson did waive closing so I will close the hearing on LB108 and I will open the hearing on LB50. [LB108]

DUSTY VAUGHAN: Good afternoon, again, Senator Fischer and members of the Transportation and Telecommunications Committee. For the record, my name is Dusty Vaughan, V-a-u-g-h-a-n, and I am the legal counsel for the committee. LB50 is a simple bill that adds to the definition of motor vehicle in the motor vehicle industry licensing statutes. The bill changes the definition found in 60-1401.02 to include an engine, transmission, or rear axel that is manufactured for installation in a motor vehicle with a gross weight rating of more than 16,000 pounds. So essentially we are talking about engines for large trucks. Historically, motor vehicle dealers have operated within a franchise system and it has been the intent of the Legislature, for the parties within that system, to interact under a fair and equitable balance. Under the current law, an engine manufacturer is not subject to the franchise laws that motor vehicle dealers are regulated by. What this additional language does, is allow these motor vehicle manufacturers who enter into separate agreements with franchise dealers, to be governed by the same franchise laws and come under the jurisdiction of the Motor Vehicle Industry Licensing Board. This will ensure that any problems that occur between the parties will be brought to the proper forum through the board. If there are any questions, I will try to answer them. [LB50]

SENATOR FISCHER: Thank you, Mr. Vaughan. Are there questions? Senator Louden.
[LB50]

SENATOR LOUDEN: Yes, I guess I'm trying to wonder what's trying to happen with this bill. Is this when you take a, rebuild a truck, you might say, and you put a different motor in the truck and different transmission? Is that what this is all about? [LB50]

DUSTY VAUGHAN: Senator, Loy Todd from the New Car and Truck Dealers Association behind me can probably answer it better, but I believe these engines are already put in the truck. There is, and this is how Loy explained it to me, if you have a Volvo engine that you want in a Mack truck, that Volvo engine manufacturer can sell to the Mack truck dealer. And then he can install those trucks and sell it to a consumer. That's what we're talking about. [LB50]

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SENATOR LOUDEN: Okay. There will be somebody around here that can explain this to us? [LB50]

DUSTY VAUGHAN: I hope so. [LB50]

SENATOR LOUDEN: Okay, well thanks. [LB50]

DUSTY VAUGHAN: If not, you come see me afterwards. [LB50]

SENATOR LOUDEN: I didn't see very many sitting around here, and I'm beginning to wonder. Okay, thank you. [LB50]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? I see none. Thank you, Mr. Vaughan. Are there proponents for the bill? Good afternoon. [LB50]

JEFFREY HOEFER: Good afternoon. My name is Jeff Hoefer. I'm director of parts and service for Nebraska Truck Center, Grand Island, Nebraska. We have locations... [LB50]

SENATOR FISCHER: Could you spell your last name? [LB50]

JEFFREY HOEFER: Yes, I'm sorry. H-o-e-f-e-r, first name J-e-f-f-r-e-y. We have locations also in North Platte and Hastings and a warehouse location in O'Neill. To kind of summarize the bill, when you buy an automobile and you go to your dealer and you buy a new automobile, if you have problems with that automobile you would take it back, a lot of times especially if it's under warranty, back to that dealer. It wouldn't matter if it was the headlight switch or problem with the arm rest or whatever, or if you had a problem with the engine you would go back to the dealer. Imagine if you might a heavy truck or a medium truck where when we sell a Freightliner truck to a customer, it may come with a Cummins engine, it may come with a Caterpillar engine, it might come with a Detroit engine, as examples. But they are made brand new with those engines in them. We have to sign contracts with those engine manufacturers that would enable us to then service those engines, transmissions, rear axles. The problem is, is as you have been getting renewed contracts which, as an example, Cummins here last spring we just had a renewed contract. Since it doesn't fall under the current motor vehicle definition, it goes outside of the licensing and we are left alone then kind of on an island if...if they decide to terminate our contract they can do so in their latest contract, without cause. Now when we go through selling a vehicle that has a Cummins, Cat, whatever, we then spend tens, hundreds of thousands of dollars then to train our technicians, parts, signage for the Cummins, for the Cat. And then we go through the process that enables us then to be authorized then to perform warranty on those components. All we are simply asking is that we have the same protection under the laws of the motor

vehicle and the definition of the motor vehicle that they cannot just capriciously or arbitrarily come and say we don't like you anymore. That \$100,000, that \$200,000 you've invested over the last ten years for our engine families that are being sold in the vehicles we are franchised to sell, you will no longer be authorized then to take care of your customers. And all we are asking for is the same rights and protections that we would have under the motor vehicle itself. So in answer to your question, Senator Loudon, that you asked, it does differ. These...we're not installing this engine after the fact. They're coming brand new in the truck and we're...that customer takes that vehicle and he's getting it titled and licensed like you would any other vehicle. So imagine, if you would, the next time the customer came back and six months later I'm having a problem with my engine, I need you to fix it. It's still under warranty. Sorry we can't because Cummins decided they didn't like us anymore. And we had no recourse. We had nobody to state our case to. We did everything we were supposed to--invested in parts, invested in tooling, training for the techs, facilities to take care of the customers, and now we are just out on an island. So that's all we are asking is just the amended portion of the definition of the vehicle to include those components, and some of you may be familiar with trucks and how they work, I'm sure, you understand where I'm coming from. So when you're dealing with GM or a Chevy, you go to the Chevy dealer and it's handled. There is no...we actually filed a warranty on a new Freightliner when it's related to a Cummins engine, we file that warranty through Cummins. That's where it goes. We file the warranty for the Cat engine through Cat. That's where it goes. An Allison transmission, we file that through Allison. That's where it goes. We don't file it through Freightliner. If it's a headlight, we file it through Freightliner. But for the components, it's not. So I guess to summarize, that's where we're coming from. We've invested a lot of money, and now we're left out to dry because they are making contracts that are, in my opinion, onerous in nature and arbitrary. [LB50]

SENATOR FISCHER: Thank you. Could this, could this work the other way, too, where you said they can cut you off on a contract because when somebody orders a truck they can say to you, I want a Cummins engine? [LB50]

JEFFREY HOEFER: Correct. [LB50]

SENATOR FISCHER: What if, if you have contracts with all of them now but maybe Caterpillar says...Caterpillar makes engines? [LB50]

JEFFREY HOEFER: Yes, correct. Currently they are getting out of the truck engine, by the way, but that's neither here nor there so. [LB50]

SENATOR FISCHER: Oh, okay. But what if they would say, you could only put Cat engines in these? Can you...do they penalize you that way or you're more concerned that they would pull a contract? [LB50]

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JEFFREY HOEFER: Pull a contract where they would just eliminate us from being able to service our customer totally. Really in answer to your...I'll just give you an example. When I...we're dealing with Cummins. Right now we're in the process of getting certified for what they call their ISX07. Now the '07 means that's the latest EPA mandate that says you have to clean up your NOx that you're putting out of the stack. Now that ISX family has been around since the late '90s. Then they added EGR, exhaust gas recirculation, that was the first mandate by Uncle Sam. Then now we're up to the after treatment devices. And so now we are selling that ISX engine starting, as a matter of fact, this month again in the Freightliner trucks. We have yet to sell one, and we have already been given the list for the tooling, the training, the parts that we will have to go through. And when we're all said and done, we'll have well over \$25,000, \$30,000 invested and we haven't sold a single engine yet. And now we hope and we intend to do that if our customer says I'd like to have the Cummins ISX. It's no different if you go to a car dealer. I don't want the 4-cylinder, I want the 6-cylinder. You have choices and our customers do, too, you know. That's what America is about really is being able...they call it spec'ing out a truck. And they may have different transmissions, Eaton, Meritor, Allison, you know, so...but our basic concern is we're investing this, but those components do not fall under the current laws. [LB50]

SENATOR FISCHER: Do you see some of these companies pulling contracts? [LB50]

JEFFREY HOEFER: Well, to tell you, yes. They can... [LB50]

SENATOR FISCHER: Why would they pull the contracts? [LB50]

JEFFREY HOEFER: Yes... [LB50]

SENATOR FISCHER: Why? [LB50]

JEFFREY HOEFER: Herein lies the question. I can't answer that. [LB50]

SENATOR FISCHER: Oh, okay. [LB50]

JEFFREY HOEFER: It could be something as simple as a disagreement. [LB50]

SENATOR FISCHER: But basically you're asking here for protections that car dealers have right now. [LB50]

JEFFREY HOEFER: Right. And, of course, we're already covered under those same laws when we are dealing with the vehicle itself. [LB50]

SENATOR FISCHER: Just not the engine. [LB50]

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JEFFREY HOEFER: Right. In other words, if somebody wanted to say, if Freightliner came in and say, we don't like you, you're no longer a Freightliner dealer. No, I mean... [LB50]

SENATOR FISCHER: You're protected by Nebraska law. [LB50]

JEFFREY HOEFER: ...we've got a \$3 million building that we built out there, so we're protected by the current laws. But we don't have that same protection when it comes to the componentry. [LB50]

SENATOR FISCHER: Okay. [LB50]

JEFFREY HOEFER: And since these contracts they've recently sent...and by the way the last Cummins contract, because we do look when we get a new one. We go to compare what have they changed because you're always trying to see the gotchas. And the last one we had was '87. And, of course, I don't need to tell you the gotchas that happens from '87. [LB50]

SENATOR FISCHER: Yeah. [LB50]

JEFFREY HOEFER: You know you used to do a lot of business more on trust and handshakes and, you know, hey, just take care of the customer and everything is fine. [LB50]

SENATOR FISCHER: Okay, okay. Thank you. Other questions? Senator Gay. [LB50]

SENATOR GAY: Thank you, Senator Fischer. You did a good job explaining kind of how the process works, but I guess, are there other states doing this? Or... [LB50]

JEFFREY HOEFER: Yes. Now to tell you all of the other states that have incorporated componentry, the drive train, into the truck franchise laws, do I have the list with me? No, I could probably get that through our dealer counsel, Loy Todd, who is also here to speak in favor, may have that with him. So, in fact, the language that you see there is, already exists in other states and that's where we've got it. It's pretty straightforward. There's no hidden gotchas to it, so. [LB50]

SENATOR GAY: Well, and I am new to the committee as you heard today so this is all new to me. But I guess wouldn't it be a contract? Isn't this a contract question between you and your...when you sign the contract it's a business thing. You could decide to do it or not. Why don't you just say, you know, why don't we spend...I think, like you said earlier, that's a good faith thing but under law you want to... [LB50]

JEFFREY HOEFER: Well, it comes to the point where...and these things come down

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the pike by gee, why haven't you signed work? What's going on? And, of course, our dealer counsel from the Freightliner Dealer Association thought it was arbitrary and capricious and fought for a long, long time. Some changes were made. They changed the being able to terminate without cause from 60 days to 6 months. Well, but the end result is still the same. We still can't take care of our customer. So what do we do if we sell the vehicle and the vehicle has the Cummins engine in it? We want to support our customers. We want to have the ability when we sell that vehicle to be able to take care of our customers. It's just good business. We don't want to have to say, look we can sell you this truck with the Cummins engine, but gee, if you have a problem with the engine, sorry. [LB50]

SENATOR GAY: Under warranty. If it's the warranty's out, why couldn't you take it anywhere else? [LB50]

JEFFREY HOEFER: But understand, understand that we're dealing with, probably in most cases, especially with engines and drive trains, you're dealing with extended warranties that are standard. I mean we're dealing with this customer for the next, in most cases, three years and up to five years it's going to be covered under warranty. So we're turning our back on our customers and not able to service them. And all this simply does is say, all we're looking for is, look, if you think you need to terminate us that's fine, but show just cause. Go in front of our board and say what did we do wrong that is causing you to say, gee, you no longer have our contract. You're not authorized to repair our engines anymore. That's all we're asking. [LB50]

SENATOR GAY: Thank you. [LB50]

SENATOR FISCHER: Other questions? Senator Hadley. [LB50]

SENATOR HADLEY: Just one quick question. Since I am new to the Legislature,... [LB50]

JEFFREY HOEFER: Uh-huh. [LB50]

SENATOR HADLEY: ...new car dealer, you say that they have a protection for the... [LB50]

JEFFREY HOEFER: We do also. [LB50]

SENATOR HADLEY: Just in 30 seconds, could you kind of just give me an overview of what that protection... [LB50]

JEFFREY HOEFER: Yeah, and you might be hearing a lot about it from an automotive site here of late, with most all the states have strong franchise laws. And what it's

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designed to do is protect dealerships, both us as a medium and heavy duty truck dealership and also automobile dealerships, from having the manufacturer that they represent come in and just willy-nilly without cause saying, you are no longer a dealer for Chevy. GM comes in, we don't like you anymore, we are terminating your contract to sell Chevy vehicles. There is protections for that. There is many reasons for those protections and most of which is if you think about the investment that those business owners have made to become a dealership, when you look at some of the facilities they have to build. Rightfully so the state stepped in and say, no, we have a board that will hear you out as to why you think this business owner no longer is going to represent your company. I mean...but that's basically what those laws are designed to do. Now understand the other part of the licensing laws that are in existence are also there to protect the customer, the consumer, you know, from, I mean, we have a lot of regulations as dealers that we have to abide by to make sure that we try to protect...and you know, of course, I don't think here, for the most part where we live in the state of Nebraska, I think there is a lot of integrity with most dealerships. I think they want to do business right. [LB50]

SENATOR HADLEY: And then, just one quick follow-up. So basically what you're saying is that you want, since you basically sell a truck that possibly has a different manufacturer, a Freightliner, for the body of the truck and the cab and everything else, and a different engine, you want the same protection as the engine as a separate component from the body. [LB50]

JEFFREY HOEFER: Yes. [LB50]

SENATOR HADLEY: You want the same protection for the body, or the engine than you have for the body. [LB50]

JEFFREY HOEFER: And understand that separate component comes on it when it's delivered to us brand new. And it's by a different manufacturer other than Freightliner, who we are a franchised dealers and protected under laws that are there now. And so when that separate engine Cummins comes in there now, we have to get...we have a contract that we have to sign with them to be able to then service our customer, and we have to abide by training and all kinds of other things that we have to do to be able to be...hang the shingle that says we can take care of your Cummins engine that's in our truck. [LB50]

SENATOR FISCHER: Thank you. Senator Louden. [LB50]

SENATOR LOUDEN: Well, I have a...I still have a problem understanding this because it says a motor vehicle means any engine, transmission or rear axle regardless of whether attached to a vehicle chassis. Now, how do you, I guess how do you explain that? I mean if you're not going to have it attached to a vehicle chassis when you buy

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the thing, how do you...I guess I'm wondering what this is all about because I guess it's hard for me to understand that when you, as a Freightliner dealer, and you sell that new truck, why you don't already have some type of a contract or something to take care of that engine or your Allison transmission or whatever you have in there, your rear end or whatever. And you just want these three components in it, because there's other components that you put different parts in a truck. You'll have a different kind of front wheel steering and all that in there, won't you? [LB50]

JEFFREY HOEFER: Yes, that's correct but many of the other components are actually what's considered proprietary in nature. The warranty would be handled through Freightliner. [LB50]

SENATOR LOUDEN: What kind of engine does Freightliner usually put in their truck? [LB50]

JEFFREY HOEFER: Well, if you're talking percentages right now, Detroit Diesel. [LB50]

SENATOR LOUDEN: Okay, they put in Detroit's. Now, but they also...you can order them with Cummins or you can order them with Cats or whatever? [LB50]

JEFFREY HOEFER: That's correct. [LB50]

SENATOR LOUDEN: And then why would the guarantee be any different if they were coming out with a Detroit than they would be coming out with a, well hell, a Perkins or anything else for that matter that somebody may choose? Why would there be any difference in whether they... [LB50]

JEFFREY HOEFER: I'm familiar with Perkins also. [LB50]

SENATOR LOUDEN: Why would there be any difference? You know, I mean if they are selling that truck...and that motor was put in at the factory, wasn't it? [LB50]

JEFFREY HOEFER: That is correct. [LB50]

SENATOR LOUDEN: And so was your transmission when you ordered it out. [LB50]

JEFFREY HOEFER: That is correct. [LB50]

SENATOR LOUDEN: Okay, because I understand out in Scottsbluff, what's his name out there, you know. You go buy a truck from him and, hell, all you got is the cab because they tell you, you know, a used one, they'll ask you what kind of engine you want. Well, they'll put that engine in. If you want an Allison transmission, they'll put that in. If you want a little longer wheel base, they cut it in two, you know, and they put

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it...they got sets of tandem axles sitting out there that they can wheel in. [LB50]

JEFFREY HOEFER: Well, that sounds to me like you're referring to a Glider Kit where you, in fact...and we have those available also. Where we can order the cab, the chassis, without components. [LB50]

SENATOR LOUDEN: Yeah, and I can understand where something like that would be for this, but when you're ordering that ready-made from the factory, I guess I have a big problem wondering why your warranty isn't any good? [LB50]

JEFFREY HOEFER: Well, understand that when we're ordering it from the factory through Freightliner, although the Kit Cummins engine is put in there, Freightliner has chosen to allow those vendors to handle the warranty direct with the dealer. I guess, let me kind of liken it a little bit where if you're dealing with a Dodge pickup and you're familiar, you can get a Cummins engine in a Dodge pickup. In those particular cases, Chrysler and Cummins negotiated the contract where the dealer then deals with the warranty direct through Chrysler. That's not the case when we buy the Freightliner truck. Although the new engine comes in there, when we go to file warranty on the engine, we have to file it through the engine manufacturer. The contract that we currently have is through the engine manufacturer, not through Freightliner. Now that sounds totally hard to conceive, but that's how it works in the truck business. And it's been that way...I've been 32 years in it, and it hasn't changed one iota in the time I've been here. Now, do I have all the answers why that happens? No. But the bottom line is we have a separate contract and the problem is, is that separate contract does not follow under the current franchise laws and motor vehicle laws. And that's all we're trying to do is get it under that same set of laws. So when they decide to just capriciously or arbitrarily say, you are no longer allowed to work on the engine, that it has to go in front of the same board. [LB50]

SENATOR LOUDEN: Okay, thank you. [LB50]

SENATOR FISCHER: Other questions. I see none, thank you very much for coming today. [LB50]

JEFFREY HOEFER: Thank you, Senator. [LB50]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB50]

LOY TODD: Good afternoon. Senator Fischer, members of the committee, my name is Loy Todd, L-o-y T-o-d-d. I am president and legal counsel to Nebraska New Car and Truck Dealers Association. I appreciate your long day today. I'll be very brief. [LB50]

SENATOR FISCHER: Thank you. [LB50]

LOY TODD: All 50 states have a motor vehicle franchise law. The distribution of motor vehicles is accomplished in every state the same way, and that is through a process where the manufacturer is licensed in the state and the dealers are licensed in the state. And they are all regulated by the Motor Vehicle Industry Licensing Board in Nebraska, appointed by the Governor and with a lot of requirements as to who can be on the board, those kinds of things. These laws were passed in every state as the result of manufacturer abuses of dealers and for the protection of the public. Because, quite frankly, in this day and age, if we didn't have franchise laws protecting the dealers from the manufacturers, there would be about three towns in the state of Nebraska that would have dealers of any kind and every place else would be gone. Because one year they want you to build a new building for them, and then another year they want you to all consolidate and move it to another location. And the next year they want you to all spread apart. An, if the dealers were yanked around like that, you can imagine the chaos that would result in the industry. And we're not like hamburger stands. There's only one manufacturer of certain motor vehicles. You can't just switch from being a Chevy dealer to being a Ford dealer. And so those protections are in there. And I've been doing this 20 years, and I can tell you that every single law we passed was a direct result of a manufacturer abuse, not the result of some clever idea we had to get advantage over someone--simply unbelievable abuse by a manufacturer to not only the dealer but to the public. And so that's why we have these laws. What we're doing now is what's being done in many, many states because the industry is evolving and one of the things that we've learned is that in the heavy truck industry, the manufacturers of engines, transmissions, and rear axles are entering into separate agreements with these dealers. On the overall franchise agreement, as they indicated with the truck manufacturer, with Ford or whoever, that is covered under current law. And so if the manufacturer wants to terminate a dealer for whatever reason, they are required to either negotiate that termination or go before the licensing board for a hearing to establish good cause, because they can arbitrarily do those kinds of things. In fact, they do it. And so we have these protections. What we are doing nationally, not just in Nebraska, the same language was adopted in many other states. I can't give you the list yet, but I can give it to you. In fact, I just passed it on to Utah this afternoon. They are going to do the same thing. And what that does is simply say that the manufacturer of the engine will stay under the same franchise law as the manufacturer of the vehicle itself. So that if they decide to try to terminate someone, they go before this board and say, here's why we want to terminate this dealer, there is good reason for it. They are failing to represent the product, they're not selling it, they're not doing the proper warranty work, they're not doing training. There's lots of reasons to get rid of a dealer. And they can do it, but they have to have a reason. Because if they don't, then the public, the purchaser of the truck with the engine that's subject to a separate contract, can be left out in the cold, in effect. And, interestingly enough, under Nebraska law, in order to terminate someone, one of the things that comes up, one of the issues that has to be decided by the board is, will there be someone left to service that vehicle? And so

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that is a major part of their decision-making process on deciding termination is, who is going to take care of the customer? Which, I need to address one thing, and I really thank legal counsel and the Senator for sharing. There was an inquiry by the city of Lincoln in asking this committee to take a good hard look at this because there was some concern that they thought this may limit the city's ability to get product. It will do just the opposite. It's there to protect and preserve the dealers and the warranties and the manufacturers. It is intended to keep them here, not have them arbitrarily leave. So and I appreciate the fact that they didn't write in opposition, they asked you just to be careful. And what I'm telling you, is, this bill does exactly what they are hoping it will do, that is to keep parts and service and warranty work and availability here. And so that's our only goal. It's not to take advantage of anybody, it's to respond to a change in the industry. Thank you. [LB50]

SENATOR FISCHER: Thank you, Mr. Todd. Are there questions? Senator Stuthman. [LB50]

SENATOR STUTHMAN: Thank you, Senator Fischer. Thank you, Loy, for your testimony. In listening to the discussion, you know, years and years ago, you know, when you bought a Ford it had a Ford engine, Ford transmission, Ford rear end. It was a Ford. You took it back to the Ford dealer, you know, and as manufacturers have specialized in certain component things, that's when it happened. And I am aware of, you know, like a Freightliner may have a certain engine for awhile and there may be a time when it changes and puts a different engine in or a different transmission or a different rear end, you know, depending upon how they can work with those dealers. And I think, you know, it's not the responsibility of, you know, Freightliner to be responsible for all of those. I think it is each individual component and the contract has to be with that component is the way I feel. Because, you know, when I was on the county board and we got, you know, gravel trucks, some of them would be, would have certain engines in and others would have different engines in. So, so I will agree with this. So, thank you. [LB50]

LOY TODD: Thank you. [LB50]

SENATOR FISCHER: Senator Hadley. [LB50]

SENATOR HADLEY: Senator Fischer. Mr. Todd, if...I have been, you know, just reading the national news and such as that, they...some of the woes of Detroit they feel might be the dealership network. And I even read an article recently, I can't tell you where, talked about the state laws, the very ones that you say protect, you know, and such as that. That the different slant was, this is also of an impediment for the big three to change how they do business and such as that. I guess the only concern I have here, are we somehow going to be approving a law that a few years from now becomes an impediment for Cummins or somebody else to change the modality of their doing

business? Could we hear the same arguments that we're hearing with the big three now and their dealership networks? [LB50]

LOY TODD: You may hear some of the same discussions. However, first of all, the intent of this law and any of these laws, is to continue for the public the access to that product. And the discussion, to address your...what you're talking about as far as what you're hearing from manufacturers, it's kind of a funny thing to us out in this part of the country. Because what we hear from them is somehow the manufacturers, the big three say, one of the problems is there's too many dealers. It's so silly to us because, I mean, if you were going into the widget business tomorrow, it would be very difficult to convince you that one of your difficulties you would have is there will be too many people selling your widgets. And that's what's happening. I mean, we have all these dealers across the country selling a product that costs the manufacturer nothing. My dealers purchase that vehicle, FOB Detroit, and pay for it on the spot before they get the vehicle. They own it. The manufacturer doesn't have ten cents invested. My dealers pay for the signs, they rent them from the manufacturers, they pay for the vehicles, they floor plan them themselves. They finance the purchases. They do everything. They do the warranty work, they stock the parts that they buy from the manufacturers. It is utter nonsense for the manufacturer to say that the dealer body is a burden on them. What they can justifiably say, and the basis for their discussion is that they say, in some major cities, in older areas of major cities, there may be too many dealers to be, for those dealers to be competitive very well against each other. And that the market may be efficient, more efficient as some of them leave the market. But we say, let the market take care of that. Don't let the manufacturer ever come in and say we like Senator Hadley but we don't like Senator Louden, because they're still human beings, and they still have those prejudices. And so, we say, leave them alone. And that's what our laws are about, saying let the market decide. And we just level the playing field of Nebraska, that's...and 50 other states. So thank you for your question, Senator. [LB50]

SENATOR FISCHER: Other questions? Senator Louden. [LB50]

SENATOR LOUDEN: Yeah, I have one. You alluded there something about what all you were trying to do was to set it up so that the components of a truck have the same warranty as the, as the whole truck, I guess. Is that what you're trying to say? [LB50]

LOY TODD: I think, more accurately, Senator, what we are doing is making sure that the contract between the dealer and the manufacturer of the component part is the same as the contract between the dealer and the vehicle itself, not so much that the warranties are identical in any way. They can give their own. [LB50]

SENATOR LOUDEN: Does that, does that say that here? [LB50]

LOY TODD: Yes, it does. Surprisingly enough, it does. [LB50]

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SENATOR LOUDEN: You could have fooled me. [LB50]

LOY TODD: I know. That's the wonderful thing about the law. That's why they sent me to law school. [LB50]

SENATOR LOUDEN: Okay, thank you. (Laughter) [LB50]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Todd. [LB50]

LOY TODD: Thank you for your patience. [LB50]

SENATOR FISCHER: (Exhibit 13) Any other proponents for the bill? Are there opponents to the bill? Any opponents? Anyone in a neutral capacity? We did receive a letter from the finance department, city of Lincoln, Don Herz, H-e-r-z, director. From the content of this letter, I am going to enter this into the neutral capacity, since it doesn't say if it is pro or con and I am assuming it is neutral. Anything else? We will waive closing and, with that, I will close the hearing on LB50, and I will close the hearings for today. Thank you for coming. [LB50]

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Disposition of Bills:

LB6 - Held in committee.
LB49 - Placed on General File.
LB50 - Placed on General File.
LB92 - Placed on General File with amendments.
LB108 - Indefinitely postponed.

Chairperson

Committee Clerk