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Transcriber's Office

Transportation and Telecommunications Committee
March 03, 2009

[LB200 LB368]

The Committee on Transportation met at 1:30 p.m. on Tuesday, March 3, 2009, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB368 and LB200. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Kathy Campbell; Tim Gay; Galen Hadley; Charlie Janssen; Scott Lautenbaugh; and LeRoy Louden. Senators absent: None. []

SENATOR FISCHER: Good afternoon and welcome to the Transportation and Telecommunications Committee. My name is Deb Fischer. I am the senator from the 43rd District. My home is Valentine, Nebraska, and I am Chair of the committee. At this time I would like to introduce you to the members of the committee and the staff that is present today. On my far right is Senator Charlie Janssen from Fremont; next to Senator Janssen is Senator Kathy Campbell from Lincoln; next we have the Vice Chair of the committee, Senator Arnie Stuthman from Platte Center. On my immediate right is our committee counsel, Mr. Dustin Vaughan. On my immediate left is our committee clerk, Ms. Laurie Vollertsen; next we have Senator Galen Hadley from Kearney; and on the end we have Senator LeRoy Louden from Ellsworth, Nebraska. Our pages today are Justin Escamilla from Scottsbluff and Rhianna Needham from Bellevue. If you need anything, please don't hesitate to ask, and the pages will certainly will help you if you would like to make copies of testimony or need a glass of water or anything like that. We're happy to help. We will be hearing the bills in the order that they are listed on the agenda. Those wishing to testify on a bill need to come to the front of the room and be ready to testify as soon as someone finishes testifying in order that we keep the hearing moving. I would ask that you complete a yellow sign-in sheet at the on-deck table which is right there and have that ready to hand in when you testify. We use a computerized transcription program and so it's very important that you follow the directions on that sign-in sheet, and you'll need to hand that to our committee clerk before you sit down to testify, please. 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 different ways. And I would ask also that you keep your testimony concise and try not to repeat what someone else has covered. If you don't want to testify but you want to voice your support or opposition to a bill, you can indicate so at the on-deck table on the sheet provided there. And this will be part of our official record of the hearing. If you want to be listed on the committee statement, however, as a testifier at this hearing, you have to commit that...we're playing with lights already...you need to complete that yellow sign-in sheet and actually come forward to testify even if you just come forward, state your name, and say if you are in support or opposition to a bill. And that way your name...you will be listed on the committee statement. If you don't choose to testify, you can submit written comments and those will be read into the official record. At this time, I would ask that you turn off your cell phones. This committee we don't allow cell phones on and that means no texting, please. I would like to note for the record that we have been joined by Senator Tim Gay from Papillion. And with that, I will open the hearing on LB368 and

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Senator Mello is here to testify. And welcome to the committee again. It's good to see you. []

SENATOR MELLO: (Exhibit 1) Good afternoon. Good afternoon, Chairwoman Fischer and members of the Transportation and Telecommunications Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District. I introduced LB368 on behalf of the city of Omaha to enhance the penalty and enforcement provisions for extreme speeding violations. LB368 would redefine willful reckless driving to include driving in excess of 100 miles per hour and would add penalties for persons convicted of driving a motor vehicle in excess of 100 miles per hour. The penalties would include mandatory jail time on a graduated basis depending upon the speed over 100 miles per hour and the number of convictions for the same offense. Speeds of over 100 miles per hour or more are incredibly dangerous to both the driver and other drivers on the road. One of the main culprits of this crime are drivers of high-speed motorcycles that drive recklessly, often weaving in and out of traffic at speeds over 100 miles per hour. The current penalties are not tough enough to serve as a detriment to drivers wishing to accelerate to these speeds. I've handed out a news story from just last week about a motorcyclist caught driving 145 miles per hour. This is the type of reckless driver that would face harsher penalties under LB368. The sentences under LB368 increase on a graduated basis dependent upon the speed over 100 miles per hour. For the first offense, a person convicted of driving between 100 and 120 miles per hour would be sentenced to one day in jail. A person convicted of driving between 120 and 150 miles per hour would be sentenced to three days in jail. And a person convicted of driving at 150 miles per hour or more would be sentenced to five days in jail. The amount of jail time would increase on the second and third offense. Persons driving at these high speeds, especially motorcyclists that have the ability to weave in and out of traffic, are aware that the current penalties are speeding, hit a barrier at 35 miles per hour over the speed limit. Currently, in an area with a 50-mile-per-hour limit, the penalty is the same for a person caught going 90 miles per hour and a person caught going 120 miles per hour. By stiffening the penalties for drivers going over 100 miles per hour, we will be able to crack down on these extreme speeders. Testifying after me are representatives from the city of Omaha and the city of Omaha's police department who can speak to the occurrence of the situation and the need for stricter penalties for this crime. I'd be happy to take any of the committee's questions. [LB368]

SENATOR FISCHER: Thank you, Senator Mello. Are there questions? Senator Campbell. [LB368]

SENATOR CAMPBELL: Thank you, Senator Fischer. Senator Mello, and I apologize that I did not look this up, but for going over the 35, is there any jail time? [LB368]

SENATOR MELLO: No. [LB368]

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SENATOR CAMPBELL: So you're introducing jail time. [LB368]

SENATOR MELLO: Yes. [LB368]

SENATOR CAMPBELL: Okay, thank you. [LB368]

SENATOR FISCHER: Other questions? Senator Gay. [LB368]

SENATOR GAY: Thank you, Senator Fischer. Senator Mello, I'm not 100 percent familiar with all the rules of the road on speeding, but I think in the last session we addressed high rates of speed and points. But I guess on to look at jail time, why not just say, hey, remove your license or points or I guess how did you arrive at jail? [LB368]

SENATOR MELLO: I, once again, I introduced this bill on behalf of the city of Omaha, and it's an issue that I know, at least in the Omaha area, the police department has been dealing with. I think the testifiers after me can explain more to the need of why the tougher penalties are needed, only because just for the example of the story I handed out. This is a prime example of beyond the fact a person was arrested for numerous other issues involving the miles per hour speed. That's actually the reason they were arrested, not because of the speed limit problem. So I think that probably that answer will be a better question to the testifiers from the city. [LB368]

SENATOR GAY: So in that case they would have let him go then, just written the ticket. [LB368]

SENATOR MELLO: He would have been ticketed, yes. [LB368]

SENATOR GAY: But since he had outstanding... [LB368]

SENATOR MELLO: Yes. [LB368]

SENATOR GAY: ...I kind of glanced at the article. Okay, so...all right. Thank you. [LB368]

SENATOR FISCHER: Other questions? Senator Louden. [LB368]

SENATOR LOUDEN: Yes. Thank you, Senator Fischer. As I look this bill over, Senator Mello, wouldn't willful reckless driving already cover this? [LB368]

SENATOR MELLO: Actually, the...simply because this deals with penalties, I believe that there are penalties set in place that do not meet these standards or these standards essentially were above what Senator Gay's question was which is last year I

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believe the Legislature increased those penalties, but these are a step further. [LB368]

SENATOR LOUDEN: Okay. In other words, now these penalties are...you set penalties for willful reckless driving. [LB368]

SENATOR MELLO: Yes. [LB368]

SENATOR LOUDEN: Okay. Then if...then that would be the charge. It doesn't matter if they're speeding or they're willful reckless driving then. Would that make a difference? Then these penalties would be in place for someone... [LB368]

SENATOR MELLO: Yes. [LB368]

SENATOR LOUDEN: ...for other kind of willful reckless driving... [LB368]

SENATOR MELLO: Yes. [LB368]

SENATOR LOUDEN: ...weaving around or something like that? Driving with too wide of a load or something like that down an interstate or something like that could be willful reckless driving or something? Then these penalties would come in place on that, wouldn't it? [LB368]

SENATOR MELLO: Well, I think LB368 would redefine it to include the speeds...it would redefine it to include the higher level of speeding. I don't know if it redefines the whole willful reckless driving. It just includes it in there. [LB368]

SENATOR LOUDEN: And I understand where your problem is; 100 mile an hour is a lot different than 100 mile an hour...or in Omaha is a lot different than 100 mile an hour where I live because I mean that...it isn't uncommon and I'd hate to see some of my neighbors have to go to jail for a day because they were driving 100 miles an hour because that's the same offense then if you get caught drunken driving. So how do you justify drunken driving and driving 100 miles an hour in the same classification? [LB368]

SENATOR MELLO: Well, I think, Senator Louden, if someone is driving 100 miles an hour, whether it's in Ellsworth or it's in south Omaha, I think they're still breaking the law. And I think the question goes to what kind of risks and dangers are they putting the rest of the people on the road by going that fast. And... [LB368]

SENATOR LOUDEN: Is it dangerous to drive 100 miles an hour? [LB368]

SENATOR MELLO: You know, I haven't done that so I would assume so. And, you know, a good personal example would be to talk to one of our colleagues, Senator Lathrop, who is an attorney, recently was dealing with a case where someone, a

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motorcyclist was driving at these extreme speeds, caused a massive accident and caused death to someone. [LB368]

SENATOR LOUDEN: And that was in a populated area where he was driving that motorcycle. Is that... [LB368]

SENATOR MELLO: I'm not for certain if it was in a populated area or a less populated area so you'd have to talk with him. [LB368]

SENATOR LOUDEN: Okay. Thank you. [LB368]

SENATOR FISCHER: Other questions? Senator Hadley. [LB368]

SENATOR HADLEY: Senator Fischer. Senator Mello, thank you for bringing this. I guess I only chuckle because your speeding cyclist can't outrun the law that if faced with five days in jail he probably wouldn't have done it. But he was driving under suspension of the license, willful reckless driving, no operator's license, no motorcycle endorsement, possession of marijuana. So the five days in jail would have probably slowed him down? [LB368]

SENATOR MELLO: Yeah. [LB368]

SENATOR HADLEY: Okay, thank you. (Laughter) [LB368]

SENATOR FISCHER: Said with authority. Other questions? Senator Janssen. [LB368]

SENATOR JANSSEN: Thank you, Senator Fischer. Senator Mello, I appreciate you bringing this bill. The one issue I kind of have is I agree with Senator Louden. Let me get this straight: 100 to 120 first offense it's set in stone, you're going to jail one day. [LB368]

SENATOR MELLO: Um-hum. [LB368]

SENATOR JANSSEN: Okay. [LB368]

SENATOR MELLO: Yes, Senator, just on... [LB368]

SENATOR JANSSEN: I appreciate that. I just wanted to clarify that. And I think that would be one...that would probably be my only issue with this would be the lack of I guess I haven't been up to 100 miles an hour recently, but going down a hill passing on a two-way highway and you need to pass in a hurry, which could be out in Ellsworth, could be out in Dodge County. You're hitting that hill, you're going to use that as an opportunity to get around that traffic as quickly as you possibly can. So that's where I

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would be concerned with necessarily sending, you know, my neighbors, whatever, and possibly me 100 miles an hour I could be attained a lot easier; 120, though, that is a whole different ball game once you get into that. [LB368]

SENATOR MELLO: I think your question goes to part of the root of the bill, too, which is that I would be negotiable with the committee on those penalties. I think it's more of the issue that the city brought up, too, which is we have people who are driving motorcycles traveling at extreme speeds where the penalties aren't fitting the crime. And I believe that the city would probably agree as well, which is jail time seems to be a deterrent, though, with some of the other problems that they deal with and that circumstances, and they felt that this was a good remedy so to speak. [LB368]

SENATOR JANSSEN: Thank you, Senator Mello. [LB368]

SENATOR FISCHER: Any questions? I just want to clarify that I don't know what it's like to go 100 miles an hour, whether I'm passing somebody or not. I see we have a lot of law enforcement in the room today. I wanted to clarify that. (Laughter) [LB368]

SENATOR HADLEY: Senator Fischer, you're going 100 miles an hour all the time. [LB368]

SENATOR FISCHER: Not necessarily in a vehicle though so. Thank you, Senator Mello, appreciate you being here. Did you waive closing? [LB368]

SENATOR MELLO: Waive closing. [LB368]

SENATOR FISCHER: Okay, thank you. With that, I'd like to ask how many people are here to testify on this bill today. We have three. Okay. We are using the lights so the first proponent, please. We're limiting testimony to three minutes. Good afternoon. [LB368]

ANTHONY GUTIERREZ: Good afternoon, everybody. My name is Sergeant Tony or Anthony, A-n-t-h-o-n-y Gutierrez, common spelling, G-u-t-i-e-r-r-e-z. I'm a member of the Omaha Police Department and I am a sergeant assigned to the traffic unit in Omaha, Nebraska. I've been a police officer for ten years. Prior to that I was a Nebraska State Trooper stationed here in Lincoln and in Omaha before I joined the Omaha Police Department. I got asked to talk a little bit about LB368 today and the need for stiffer penalties regarding operators that drive faster than 100 miles per hour. I can tell you I have driven 100 miles per hour and it is dangerous, in the performance of my duties I'll say, in police pursuits or such as expediting or running lights and sirens to help somebody. It is dangerous. Whether you're on a motorcycle or in a car, it is extremely dangerous. I can tell you as a trooper I've driven 125 miles an hour in the rural sections of the state. Again, it is dangerous. Even if there's no other cars around, you have the

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danger to yourself. And if you get a blowout at 125 miles an hour, it's ugly. I'm assigned right now currently to the accident investigation squad, and I deal with accidents involved with speeds over 100 miles per hour, and I can tell you it's ugly. Whether or not jail time for violators, it's a deterrent. That's why we have jail time, mandatory jail time. Would that guy have fled or 150 miles an hour in that article that was presented if he had known he was getting five days in jail? In my opinion, it's really irrelevant. The fact is we have to have the penalties out there for those that choose to do the crime. Now I also don't believe in just setting high penalties. I think there's a secondary issue that you have to educate the public. I'm also in a position, run a Project Night Life grant where I talk to teenage drivers between the ages of 16 to 19 years old and I talk to thousands of them yearly. I would be able to take that information on and present this to the potential violators that tend to drive a little faster than most people and tell them there's penalties that go along with this if you do it and get caught. It's really all I have this afternoon. [LB368]

SENATOR FISCHER: Thank you, Sgt. Gutierrez. Did I pronounce your name correctly? [LB368]

ANTHONY GUTIERREZ: Close enough. [LB368]

SENATOR FISCHER: Okay. Thank you. Any questions? Senator Hadley. [LB368]

SENATOR HADLEY: Senator Fischer. Thank you, Sgt. Gutierrez. Just do you think there would be any tendency on the legal system to charge a person with a lesser offense, a lower amount of speed if the judge and prosecuting attorney knew that they were going to be sending somebody to jail for five days? I mean, you know, I've heard of instances where a person is going 85 and he's charged for going 75 or something like that. [LB368]

ANTHONY GUTIERREZ: That is possible. Obviously, I'm not a city attorney or the city prosecutor. Plea bargains are made. I am witness to that. I've seen drunk driving cases pled down to reckless driving cases or careless driving if the BACs, blood alcohol contents, are really low. I guess my answer would be, yes, that potential is there that it could be pled down. [LB368]

SENATOR HADLEY: And secondly, I guess it's with any speeding offense, are the...you know, when we start talking about five days in jail theoretically being the difference between 99 and 100 miles an hour, is the equipment such that it's reliable enough that we can make that distinction? [LB368]

ANTHONY GUTIERREZ: Well, there's several ways they can track the speed. And I think I just want to correct you on I believe that would have to be a second or a third offense too get the five days. The initial offense first time is, I believe without looking at

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it, is one day. But the radars, our radars are accurate within plus or minus 1 mile an hour. So if it were 100, when that goes to court, that's probably going to get pled down because of the plus or minus 1 mile an hour. They always lean to the side of the violator so that would be a 99 which then wouldn't qualify for that LB368. [LB368]

SENATOR HADLEY: Okay, thank you. [LB368]

SENATOR FISCHER: Other questions? Senator Campbell. [LB368]

SENATOR CAMPBELL: Thank you, Senator Fischer. Sergeant, do you think it would be just as effective rather than jail time if you had a revocation of a license? [LB368]

ANTHONY GUTIERREZ: That depends in my opinion again. We stop thousands of violators driving on suspended license. A suspended license is merely, to some violators, nothing more than a piece of paper, just as one day in jail is nothing more than an overnight stay at somewhere. So I think you have to have some sort of stiffer penalty because otherwise people are going to just continue to drive on suspended licenses. [LB368]

SENATOR CAMPBELL: And I appreciate the severity of what you're trying to say to us. It's just that I know from my own home city and county of Lincoln here in Lancaster County that we are taking prisoners at this point to other jail facilities at a huge cost to the taxpayer because we are overcrowded. We don't have room. And so we do, I mean, that would be my concern that we try to get the message across without such a cost to the taxpayer if someone is just going to say, well, you know, I'll sit this out. Now they can buy themselves out of jail time and so sometimes they choose to do that. [LB368]

ANTHONY GUTIERREZ: I completely understand that. I mean that's going to happen. As far as the overcrowding, we have the situation in Omaha as well where they'll get a night in jail but then they'll get a PR bond, personal recognizance bond, and you're out because we don't have room for you. That's just the nature of the beast. [LB368]

SENATOR CAMPBELL: That's the only reason why my question. I was looking for something that would get their attention without that, but I understand your point. [LB368]

SENATOR FISCHER: Senator Stuthman. [LB368]

SENATOR STUTHMAN: Thank you, Senator Fischer. Sergeant, how many times do you find that people are going over 100 miles an hour? Is it once a week, daily, several times a day? [LB368]

ANTHONY GUTIERREZ: I don't think I'd be the one to ask that, although I am assigned

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to the traffic unit. I believe our statistics don't keep track of actual speeds of the citations that are issued. You know, you hear the cases and sometimes in the city of Omaha we're lucky if we can catch them when we see them going by us at 100 miles an hour without causing due regard to the safety of others that we just won't chase them because of that reason. If we can get a license plate and do a follow-up investigation later, that's what we're going to do because it is so dangerous to drive. If they're driving 100, we got to drive 125 to catch them because we're starting at 0. So a lot of times we just have to try to get close enough to get a plate and hope there's a witness. [LB368]

SENATOR STUTHMAN: Okay. Thank you. [LB368]

SENATOR FISCHER: Other questions? Senator Louden. [LB368]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Sergeant, when you mentioned here as I look this over, if you get...if you're driving 100 miles an hour, do you go, when the officer arrests you, do you go to jail then like you would if you were drunk driving? Or do you have to wait till you go through court and then serve a day's sentence? [LB368]

ANTHONY GUTIERREZ: My understanding, sir, is that it's upon conviction, which would mean when the judge finds you guilty, if they find you guilty. [LB368]

SENATOR LOUDEN: Then this isn't an offense where you would automatically get jerked out of your car and go to jail. [LB368]

ANTHONY GUTIERREZ: To the best of my knowledge, no, simply for drunk driving in Omaha, we don't have mandatory jail time as well. [LB368]

SENATOR LOUDEN: Yeah, but if you're drunk driving, you don't drive your car anymore. You get a free ride. [LB368]

ANTHONY GUTIERREZ: Right, you get a ride home either from the Omaha Police Department or a cab or something. [LB368]

SENATOR LOUDEN: Right. But on this I'm wondering how this works with this because now you're making it...to me, it looks like we're changing what willful reckless driving could be. We're starting to put some parameters in there what willful reckless driving is and I'm wondering how that's going to react if someone is weaving around or something like that, how that would... [LB368]

ANTHONY GUTIERREZ: To the best of my knowledge, you won't go immediately to jail. And I guess the city prosecutor, if they're here to testify after me, would be the one to respond to that, would dictate our policy. [LB368]

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SENATOR LOUDEN: Now you mentioned that it was dangerous to drive 100 miles an hour. Why is it more dangerous to drive 100 miles an hour out on some of the country where I live or down I-76 coming out of Denver to Ft. Morgan, you know, where the traffic runs at 85 there? Why is it more dangerous to speed in those places than it would be to, say, go, oh, 40 mile an hour down Dodge or someplace like that? I mean it all depends on the amount of traffic available and how the traffic is moving, doesn't it? That's what would decide reckless driving or dangerous driving. [LB368]

ANTHONY GUTIERREZ: Some...that could be possible, but out in the rural areas, the higher the speed the longer the reaction time, the longer the stopping time, the more distance you're going to travel in that reaction period. Say a reaction period is 1.5 seconds, that reaction period is 1.5 seconds whether you're in Omaha, Nebraska, or Scottsbluff, for example. [LB368]

SENATOR LOUDEN: Or...but if the conditions of the roads would decide... [LB368]

ANTHONY GUTIERREZ: Decide that as well. [LB368]

SENATOR LOUDEN: ...how many, how close the vegetation is to the edge of the road and all that sort of stuff. [LB368]

ANTHONY GUTIERREZ: Right, there's variables. [LB368]

SENATOR LOUDEN: I mean just because it's 100 miles an hour doesn't mean it's any more dangerous than going a slower speed someplace else. [LB368]

ANTHONY GUTIERREZ: That could be accurate, yes. [LB368]

SENATOR LOUDEN: Okay. [LB368]

ANTHONY GUTIERREZ: Throwing all the conditions in there--weather, road conditions, population, yes. [LB368]

SENATOR LOUDEN: Okay, thank you. [LB368]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB368]

ANTHONY GUTIERREZ: Thank you. [LB368]

SENATOR FISCHER: Next proponent, please. I would like to mention that we were joined earlier by Senator Scott Lautenbaugh from Omaha. [LB368]

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SENATOR LOUDEN: And he's gone again. [LB368]

SENATOR FISCHER: Good afternoon. [LB368]

MARTY CONBOY: (Exhibit 2) Good afternoon, Chairman, ladies and gentlemen of the committee. My name is Marty Conboy, C-o-n-b-o-y. I'm the city prosecutor in Omaha, here on behalf of the city of Omaha, and I would like to enter into the record the support of the Omaha City Council of this proposed bill and certainly address some of the issues that came up earlier and tell you my perspective on this. This is a bill that would affect I guess what we would call ultra speeding. We are all familiar with speeding and if you get out on a highway, it's not uncommon to see people go 85, especially if you get out in a rural area. In any area of the state, people anticipate that people will drive within a reasonable amount of the speed limit. They anticipate people going 85 when you get on and off the highway or you're passing one of the many trucks that go through the state. When somebody is coming by at 120 or 150 miles an hour and you're driving with the anticipation of other people staying within a reasonable parameter, the danger is tremendous. And we see these cases. Unfortunately, they're very difficult and dangerous to address in terms of law enforcement throughout the state, probably one of the most dangerous things that we'll see on the highway. The speed of 100 miles an hour was set as a threshold. Certainly this committee might consider what they would think would be just a ridiculous amount of speed. I would point out that there's a case that came out of Cass County several years ago in the state Supreme Court where the Supreme Court held that the way our statute is worded right now speeding is, in and of itself, regardless of the amount, even 150 miles an hour, not sufficient to be the only factor to find someone guilty of willful reckless driving. So this would change that to allow for some threshold of speed which could be considered willful reckless driving. It would certainly be up to the court if it were charged that way to decide if the person is guilty. And it would only be then that the penalties would enter into effect. A loss of license would be possible now. Whereas under our speeding ordinances and statutes, no matter how fast someone is going, even with the speed limit that was increased last year to increase the penalty of \$300, there's really no disincentive for the driver, other than that \$300 fine. There is no jail possible and there's no loss of license possible in Nebraska for any amount of speed, regardless of how...as I say, you can use the threshold of your imagination to figure out what that might be. But somebody going by you, and it's become more and more popular to buy cars, particularly motorcycles, that are equipped and specially set up to go that fast. And unfortunately, there are people who choose to do that. And that risk, even though it's not common, is so extraordinary a bill like this hopefully will act as a deterrent, but certainly give the courts own power to use those penalties--jail and license suspension--which they cannot do now. And with that, I would be glad to answer any questions as to how this was put together, why we support it. [LB368]

SENATOR FISCHER: Thank you, Mr. Conboy. Are there questions? Senator Hadley.

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[LB368]

SENATOR HADLEY: Thank you, Senator Fischer. Mr. Conboy, just from a practical standpoint, if a person was going 120 miles an hour and they went to court, I guess I'm asking if they're from out of state and leave, what kind of processes can you get them to come back, especially if they know they're looking at three or five days in jail if they come back? [LB368]

MARTY CONBOY: Well, it's interesting you mention that scenario, and I'll tell you a story, it's a true story. There was a car from Wisconsin that went through the state about three years ago. A state trooper stopped them going over 100 miles an hour near Omaha. They continued west and were stopped near Grand Island exceeding 100 miles an hour, and finally stopped out near Ogallala going over 120 miles an hour. And each time they were cited for speeding, but under Nebraska law, they can only issue a citation. They have to let them go, just turn them back loose on the road. Of course, in Wisconsin, they're not part of our compact so they don't have any way to suspend the license if they don't pay that ticket. Finally, the officer, in seeing this car going so fast and watched it pass some other vehicles, arrested the person for willful reckless driving. Unfortunately, they weren't able to charge that, but at least the officer was able to book him and impound the car and hold him on a bond for that offense. This would actually give the police the power to do that on those cases. So you brought up a good point that this bill would change. On a speeding ticket in Nebraska, because it does not empower a physical arrest or impoundment of the vehicle, it's only a citation, you have to hand it to them and say, please don't speed anymore. But you can't arrest them. This would give the police the actual authority to arrest to force them to post a bond to ensure their reappearance in the state. But right now we don't have that authority. And unfortunately, people from other states use our highways frequently and in some cases with impunity. [LB368]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB368]

MARTY CONBOY: Thank you. [LB368]

SENATOR FISCHER: Next proponent, please. Any other proponents? I see none. Anyone in opposition? Good afternoon. [LB368]

COLEEN NIELSEN: Good afternoon. Chairman Fischer, members of the committee, my name is Coleen Nielsen, that's spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I am the registered lobbyist for the Nebraska Criminal Defense Attorneys Association, testifying in opposition to LB368. And when my legislative committee discussed this particular bill, it's not that they believe that speeding isn't a serious crime, particularly in excess of 100 miles per hour or 120, but rather is asking this committee to consider the costs of imposing a mandatory jail sentence for this. Because anytime that a mandatory jail

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sentence is in statute, it would require the appointment of counsel if that person could not afford counsel for them. Now I didn't hear what the numbers would be in terms of these speeding cases and it may not have an impact, but it is something to consider. And with that, I'd be happy to answer any questions. [LB368]

SENATOR FISCHER: Thank you, Ms. Nielsen. Did I hear you correctly that whenever you have a mandatory jail sentence the court then has to require that counsel be found? [LB368]

COLEEN NIELSEN: Has to appoint counsel if the person is unable to afford counsel on their own, yes. [LB368]

SENATOR FISCHER: Did you hear the sergeant that was up earlier in his testimony and was talking about the overcrowding in Omaha jails? [LB368]

COLEEN NIELSEN: Yes, I did. [LB368]

SENATOR FISCHER: Do you see that as a problem across the state? [LB368]

COLEEN NIELSEN: I really couldn't testify to that. I don't know what that is. I do know that in Lancaster County it is a problem. [LB368]

SENATOR FISCHER: Other questions? Senator Louden. [LB368]

SENATOR LOUDEN: Yes. Then if say these people were caught in Grant County, then Grant County Attorney would be the one to prosecute the case and Grant County would be the one to pay for counsel if they claimed they couldn't afford it and Grant County would pay their own county attorney and the jury if they decide on a jury trial? That would all be on that county wherever this person was caught. Is that how it would work? [LB368]

COLEEN NIELSEN: Yeah, the county would pay for it, yes. [LB368]

SENATOR LOUDEN: Well, that poses a problem because right now there's some of those rural counties out there that you get a ticket there and take it to court they won't prosecute it because they can't afford it. And this is what I'm wondering a case like that would devastate the financial situation of some of those rural counties out there if that's what would happen. Will willful reckless driving cover what they're trying to do or do you know? The testifier before you said that it didn't, but where does willful reckless driving fit into this mix? [LB368]

COLEEN NIELSEN: Well, as the previous testifier testified, he says that there is a case out there that apparently speeding is not considered willful reckless. But I suppose in

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some fashion if you included that in the definition then speeding could be part of willful reckless driving. And then the possible penalties for willful reckless driving is for the first offense a Class III misdemeanor. Now that could require the appointment of counsel. Many times on these misdemeanor cases the prosecutor indicates to the judge that they don't believe jail time will be involved. And so then there isn't an appointment of counsel as a result of that. But when there's a mandatory jail sentence, there will have to be either waiver of counsel or an appointment of one if the person can't afford it. [LB368]

SENATOR LOUDEN: Well, I guess I just have a...I just wonder why this was...why willful reckless driving couldn't kind of cover this other than the fact that you've had a case out there that was I guess reversed. And was it presented right, has anybody ever tried it again? Because I'm thinking years ago I think I had a daughter that was driving 80 miles an hour in a little bitty car and I told her that was willful reckless driving and the judge agreed. So she had to pay the fine (laugh). And I'm wondering what's changed since then and why this couldn't be covered under willful reckless driving or something if there was some way or another to rewrite that or something rather than go to this jail sentence and do this whole deal. [LB368]

COLEEN NIELSEN: There may be, Senator, that it could be fixed. [LB368]

SENATOR LOUDEN: Okay. Thank you. [LB368]

SENATOR FISCHER: Other questions? Ms. Nielsen, the group you represent, do they have a problem that jail time would now be attached to a speeding violation? [LB368]

COLEEN NIELSEN: It's not really that. I think that generally my group doesn't take a position on penalties, hasn't in the past. But what they've been seeing is that it has become quite costly. We've had enhanced penalties over the years and, you know, jail time attached to some or mostly enhanced penalties from misdemeanors to felonies. And so they're beginning to take a position that we should come in and oppose these bills based on cost and ask the committee to consider that as they enhance penalties. [LB368]

SENATOR FISCHER: So it's not for the enhanced penalty. [LB368]

COLEEN NIELSEN: No, not...yes. [LB368]

SENATOR FISCHER: Okay. Thank you. Other questions? I see none. Thank you very much. Are there other opponents to the bill, please? Anyone in the neutral capacity? I see none. With that, Senator Mello had waived closing, so we will close the hearing on LB368, open the hearing on LB200. Senator Janssen. Good afternoon. [LB368]

SENATOR JANSSEN: (Exhibit 3) Good afternoon, Chairwoman Fischer, members of

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the Transportation and Telecommunications Committee. My name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent the 15th Legislative District in the Nebraska Unicameral. I appear before you today to introduce LB200. I would like to thank Senator Stuthman for also cosponsoring this bill as well as many other Senators. This proposal would repeal the motorcycle helmet mandate for riders who were 21 years of age or older. If a rider is between the ages of 21, they would be required to wear a helmet unless they successfully complete a motorcycle safety course under the Motorcycle Safety Education Act and carry proof of successful completion. All motorcycle riders would be required to wear eye protection under LB200. I bring this proposal to the committee for its consideration after being approached by several riders and Patriot Guard Riders who hoped that this proposal would be introduced during the 2009 session. I ran on a campaign platform of less government and lower taxes. I'm sure most of you did too. Our current helmet law is not less government. I also pledged to protect and defend personal freedoms. I see the helmet issue as a personal freedom issue and a personal choice decision. I trust Nebraskans to make the right decisions for themselves. Our government has become too responsive to trivial concerns often at the expense of more important concerns or an erosion of our liberty. We hope to reverse that trend here today. As a nation, we have lost our sense of tragedy, a recognition that bad things happen to good people. A people that expects the government to find some villain for every dramatic accident risks an even larger loss of life and liberty. I will concede the issue of safety to the opponents of this bill. I am sure we are all safer wearing a helmet than without one. However, this is not an issue of safety. It is an issue of personal freedom and choice. I fully expect that many of the arguments we will hear against LB200 today will include claims there are increased costs to the taxpayer or hospitals will see increased costs for the care of the helmetless rider. In other words, the two arguments that will be presented against the bill are safety and increased costs. Because we've conceded the safety issue, the only arguments that should be presented to the bill are increased costs. I think it is appropriate that we consider this afternoon whether or not we, as Nebraskans, are as responsible as the residents of 30 other states who are not mandated to wear motorcycle helmets when they ride. According to the Insurance Institute for Highway Safety, 20 states require mandatory helmet use. Of our neighboring states, only Missouri requires helmets for all riders. South Dakota, Iowa, Kansas, Colorado, and Wyoming do not mandate helmet usage for adults. Iowa and Illinois have no helmet laws whatsoever. LB200 is also appropriate to consider during this session because we are forfeiting significant state revenues by maintaining our helmet policy. It is important to remember that as a forecasting board, that as the forecasting board has revised our revenue status downward, and knowing that our preliminary budget recommendation is millions of dollars out of balance, LB200, if passed, would bring significant tax revenues to our state. The sales taxes, gas taxes, and lodging taxes that we forfeit on a yearly basis to our neighbors are staggering. The average motorcycle enthusiast spends nearly \$200 a day in purchases for food, fuel, and entertainment. I have heard countless anecdotal accounts of the number of riders who bypass Nebraska due to our helmet law and taking with them their tourist dollars.

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While the fiscal note of this bill shows initial cost of \$32,000 for reprogramming the computers and an ongoing cost of \$13,500 annually for the reimbursement of the rider safety course, the fiscal note does not take into account that these costs will be significantly offset and really removed by the additional tax revenues we will receive from the additional tourism. Please take a moment to scan the list of motorcycle events that take place across the nation that I had distributed prior to this. As you can see, many of the attendees could use Interstate 80 on their trips or the Sandhills. Numerous reports indicate that travelers do not because of the helmet law. I've seen handouts, people being recommended courses around our state. The attendance figures for some of these events are astounding. Sturgis welcomes 500,000 visitors to their rally in August each year. Biketoberfest in Daytona Beach, Florida, sees 175,000 riders. Many other events on the list consistently see tens of thousands of out-of-state visitors to their events. As these tours, as these tourists travel I-80 through communities such as North Platte, Kearney, Grand Island, they will bring their money with them. I hope that you share my trust in Nebraska riders to decide for themselves whether they should wear a helmet. A wise statesman once said, nothing is more difficult and therefore more precious than to be able to decide. Deciding upon our personal freedoms is important. Some have told me that we don't have time to debate this during this legislative session. We have bigger issues in front of us. Well, to them I say, the day we don't have time to debate personal freedoms in this body is a day that I hope none of us and our children will ever have to see. Thank you for your time this afternoon. I would be happy to entertain any questions. [LB200]

SENATOR FISCHER: Thank you, Senator Janssen. Are there questions? Senator Hadley. [LB200]

SENATOR HADLEY: Senator Fischer. Senator Janssen, I mentioned to you this morning when we chatted I was going to ask you a question, and I'll probably ask the same question to anybody who testifies. Where do you stand on seat belts as a primary or secondary or should there be no seat belt laws in cars? [LB200]

SENATOR JANSSEN: Geez, I don't know. Is that on Executive Session here today. I'm not certain. For me, whether primary, secondary, I'm in favor of the current secondary if I may go public on that. But as far as the seat belt law goes, I being one that has been protected by the seat belt before, you know, that's up to the individual. I choose to wear one. If you ride with me somewhere later this evening, I'm going to require that you wear one in my vehicle whether there's a law or not. So that's where I stand on that. I really would like to separate the issue here though. We're really not talking about seat belts. I ask people, I said, well, if seat belts are so great why don't we wear them on motorcycles. Well, that sounds ridiculous. And it most likely is. So the issue is not the same, I don't think. I don't think it's fair to debate seat belt versus helmet in that case. [LB200]

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SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB200]

SENATOR JANSSEN: Thank you. [LB200]

SENATOR FISCHER: At this time I'd like to ask how many people plan to testify on this bill today. If you'd raise your hands high. Two, four, six, eight, ten, twelve, maybe about fourteen. Okay. With that, I would ask the first proponent to come forward please. Good afternoon. [LB200]

MARTY SHEPARD: Good afternoon, Senators. My name is Marty Shepard, S-h-e-p-a-r-d, M-a-r-t-y. I hope I done that in the right order. Thank you for your time. I'm here from last year. I was a first time comer last year on this, so I guess I got a little more guts than some of them. (Laughter) [LB200]

SENATOR FISCHER: Good for you. [LB200]

MARTY SHEPARD: The way I see on this helmet law is like the Senator was saying, the revenues that the state is missing out on are enormous. I know of two different rides that I get e-mails on that start in Los Angeles and one of them is called the Ride to the Wall. They had a dedication in Washington, D.C. on the Vietnam Veterans Wall and they had a southern route and a northern route. Well, the northern route was through Kansas and the reason why they done that was because of our helmet law. And they expected to have 10,000 riders when they come through Kansas on this. Well, if you consider 10,000 riders stopping we'll say twice in Nebraska to get gas, at say \$5.00, well at the time it might have been more like \$20 a tank, that's quite a bit of fuel tax that we could have received besides the food, the lodging. I know on the route they had, they would have had to stay in Nebraska if they would have come through on Interstate 80 up 76 and through on 80. And then the lodging of 10,000 people, that's not just, you know, chump change I guess you want to say. And then again it goes to, I know people in Missouri that go to Sturgis at either the week of, the week before, or the week after and yeah, they go up Interstate 29. Some of them wear their helmets the whole way. This law, I stress, is something that everybody...you know, if it passes, everybody is not going to take their helmet off and throw it in the road ditch. I mean, I like to wear my helmet after dark, if it's stormy weather, you know, I like...and I've been in accidents before so, you know, it's a matter of choice is what this is all about. And that's, I guess, all I have to say. [LB200]

SENATOR FISCHER: Thank you, Mr. Shepard. Are there questions? Senator Stuthman. [LB200]

SENATOR STUTHMAN: Thank you, Senator Fischer. Marty, do you wear your helmet most of the time? [LB200]

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MARTY SHEPARD: I'd say 50 percent of the time. [LB200]

SENATOR STUTHMAN: And it's a fact that, you know, you probably feel safer with a helmet on to a certain extent. [LB200]

MARTY SHEPARD: It depends on which helmet I'm riding. And I mean this might sound kind of funny, but I mean, we'll say I have my three-quarter helmet on. Okay, and it's like I'll tell anybody that rides a motorcycle, you got to be so much more of a defensive driver compared to when you're in a, we'll say a big truck, a car, pickup or whatever. I mean, when they peripheral vision, you got to see this at all times, you know, the whole scope. And with my three-quarter helmet on, I'm up to about here. And them full face helmets you're probably about up to here. And when...if you don't have a helmet on, yeah, I can see my fingers all the way out to here. And I mean you've got to be alert and on top of things. You know, if a...I have a dear friend of mine 20 years ago get killed on a motorcycle. A dog ran out in front of him. You know, yeah, I've heard horror stories of different ones that, okay, yeah, they had a few too many to drink and they hit the ditch. But of the people that I personally know that was in an accident that had a helmet on, it wouldn't have made any difference. [LB200]

SENATOR STUTHMAN: Would you say that, your know, people that feel that, you know, there is a need to have a helmet on but the fact of that's it mandatory, does that make a difference to you? [LB200]

MARTY SHEPARD: Yeah, we go riding in Iowa all the time. [LB200]

SENATOR STUTHMAN: And you ride in Iowa all the time. Okay. Thank you. [LB200]

SENATOR FISCHER: Other questions? Senator Louden. [LB200]

SENATOR LOUDEN: Yeah, you mentioned that one of the rides they start in California and ride to Washington, D.C. [LB200]

MARTY SHEPARD: Well, yeah, it's the once a year thing. [LB200]

SENATOR LOUDEN: And they...well, California and Nevada has helmet laws don't they? So they must put their helmets on to get out of there. And then when you get back east, most of those states along the eastern seaboard have helmets laws don't they? So they have to put them back on when they're there so I mean, why is Nebraska being exactly singled out. I mean other than they'd rather go down Interstate 70 then or do they swing clear south through Texas and go... [LB200]

MARTY SHEPARD: Well, they go through Texas too as the southern route. They...okay, they start in Los Angeles. Okay, then they get up to...I'm thinking it's

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Albuquerque, New Mexico, and then they split. And then it comes up through Denver and then across Texas, if I recall right. Oh, and it's just the way that the leaders of this...the people that are putting this on so they can get the more riders for when they end up at Washington, D.C. [LB200]

SENATOR LOUDEN: Well, I'm just curious that if with or without helmets if it would make any difference because they've got the helmets with them anyway. They had to have when they left and they have to have them when they get there so I'm curious if there's that much of a difference because Nebraska has a helmet law whether or not they go through Nebraska. [LB200]

MARTY SHEPARD: Well, to them it is the difference. [LB200]

SENATOR LOUDEN: Okay. Thank you. [LB200]

MARTY SHEPARD: Thank you. [LB200]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB200]

MARTY SHEPARD: Thank you, Senators. [LB200]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB200]

CHARLES THOMAS: (Exhibit 7) Good afternoon, Senator, and other Senators. My name is Charles Thomas, first name common, last name, T-h-o-m-a-s. I am here to represent myself and Abate of Nebraska. And I follow notes because I forgot things after a time, so. Like I said I'm here as a member of Abate of Nebraska and secondly, as a citizen of this state to support LB200. I represent the hopes of tens of thousands of Nebraska motorcyclists and the hundreds of thousands of motorcyclists from around the country who would love to visit this state when it becomes free. I'm also fighting for the right to have personal rights restored to Nebraskans that have slowly been eroded over the years. And the reason I say that is because I spent 20 years in the United States Navy defending the rights of people to have personal rights. I had more personal freedoms while on active duty than I do in this state right now. I am also a stay-at-home dad who believes that I have the right to make judgments on what is safe for me and what is not. Now, don't get me wrong, I'm not anti-helmet nor is Abate of Nebraska anti-helmet. We are about prochoice and many people will continue to wear the helmet when this bill is signed into law. They just want the right to decide for themselves. And like the person previous to me, I will wear my helmet on occasions due to weather or something like that also. People on the average that...I did a survey for the last couple of months. I got roughly 467 surveys back and what I asked was how much people spent on a day, daily basis on food, lodging, and gas, how many miles they rode during the year, how many people they rode with. And I had split it up between Nebraska and

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the rest of the country which is in this ring-binder I passed out. And on average, it's around \$170 a day per person just on food, lodging, and gas. Take that times the 7 percent sales tax in the state and it adds up really quick. It does not even take into account the incidental items like buying a t-shirt or cigarettes. I don't smoke but, you know, the stuff for sale that's legal or whatever business shops buying oil or parts for their motorcycles. The money that's being lost to this state, especially when the economy is going down the tubes right now, is astronomical. Places like Grand Island that have a restaurant and I believe they have a hotel tax right now to increase, to raise money to move the state fair there, would benefit from this. And I believe Kearney is also trying to institute a restaurant tax so they can buy the arena where their hockey team plays at and they're doing that based on sales taxes. People come from the east coast right now, Grand Island and Kearney area is a natural turnoff to head northwest to Sturgis. Right now they're being harassed when they come through the state. That is why people will not ride in this state. The state tourism director I talked to stated that he gets numerous phone calls a year wanting to know what the status of the helmet bill is so they can determine which route they're going. They avoid the state like the plague. People from other states make their plans and I'd venture to say that probably around 90 percent of the people who live within 50 miles of a Nebraska border head for the nearest exit out of the state to ride free, including myself. All I can say is, please pass this bill out of the floor so that we can get this bill signed by the Governor and start bringing more money into this state. Thank you. [LB200]

SENATOR FISCHER: Thank you, Mr. Thomas. Are there questions? Senator Stuthman. [LB200]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Thomas, since you ride a lot, at what speed does it make a difference if you have a helmet on or not as far as, you know, if you're going 80 miles an hour or 50 miles an hour or 30 miles an hour, if you have an accident or hit a deer, does it, you know, make a difference whether you have a helmet on or not? [LB200]

CHARLES THOMAS: Well, let me clarify from the last hearing for the last bill, I think the reason the guy was going that fast was probably was because he was on drugs. I don't like to wear a helmet because of the dangers it's inherent to myself, the spinal injury on my neck if I do get into an accident. The peripheral vision, the weight which causes me to get tired. I mean, it's all in this book here the stuff that they put out that's been cherry-picked over the years. I will...to me when I wear a helmet, it's because I don't know if you've ever been outside going 30 miles an hour in a hailstorm, hail hurts. I'll wear a helmet during a hailstorm or rain, something like that. Other than that, I don't choose to wear one. I find the nearest exit out of the state and I go. [LB200]

SENATOR STUTHMAN: Mr. Thomas, what weight are helmets? I have no idea. Are they five pounds, ten pounds, three pounds? [LB200]

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CHARLES THOMAS: Honestly, I couldn't really tell you for sure but I'd just guesstimate anywhere between ten to fifteen pounds, or three to fifteen pounds. [LB200]

SENATOR STUTHMAN: I think there's an individual who is going to testify behind you that will have some information. Thank you. [LB200]

SENATOR FISCHER: Other questions? Senator Hadley. [LB200]

SENATOR HADLEY: Senator Fischer. Mr. Thomas, I have to admit I'm very torn on this issue because I understand the personal freedoms and such as that. But I also have talked to a number of people who are concerned about the cost to the state of Nebraska because of long-term healthcare that people who get into motorcycle accidents. And I'd like your thoughts on that. Is that a myth that's out there? Is it...you know, I've heard anywhere up to, you know, five cases are costing the state taxpayers \$2 million a year now in long-term healthcare. [LB200]

CHARLES THOMAS: We've gotten a letter that was sent to Adrian Smith, I believe two years ago, showing how much Medicaid and Medicare was paid out to the state of Nebraska due to motorcycle accidents and it averaged \$20,000 a year. Compared to people in car accidents, that's in the millions. Long-term care, my personal belief is, I would gladly have it if you make everybody that breathes air in the state because there's more accidents of people that end up in long-term care due to falling off of ladders, tripping on a sidewalk, falling off a horse, you name it, that end up paying more out of pocket than you do on motorcycles. [LB200]

SENATOR FISCHER: Other questions? When you're wearing a helmet, can you see and hear? [LB200]

CHARLES THOMAS: I'm like the last guy, it depends on which helmet I'm wearing because if I've got the full helmet on, I can't see or hear nothing. [LB200]

SENATOR FISCHER: Yeah, I would agree with that. I live in Valentine so we get some of the Sturgis group going through but you know those helmet are huge and they come around and I've been told by riders, that they really can't...they aren't aware of their surroundings. They can't see well. They, of course, don't hear anything even when they're going through town, they can't hear anything. [LB200]

CHARLES THOMAS: Well, with a helmet like that I cannot hearing one thing and hearing is a big part. I'll hear people say, well, you can't hear nothing anyhow besides the motor or the wind, which is not true. I can hear birds. I can hear a bee buzzing by or a rock flying by my head or a car coming up on me just by listening. And seeing is very important because like in a car, I got a center mirror, or my side mirrors. I use my side

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mirrors more than I do my rear view mirror because I can see more with my side mirrors and I have to use those with a full face helmet because if I got that full face helmet on, my restriction (inaudible) I can't see. And you got a big helmet on like that you turn, the wind is going to pull on it. Where when I don't have that on, it's not so much of a pull and it's not dragging, stress on my neck. [LB200]

SENATOR FISCHER: Did I hear you say to Senator Hadley that the state Medicaid costs two years ago according to a letter that Senator Smith, or Congressman Smith had, it was \$20,000. [LB200]

CHARLES THOMAS: Yes, it was over a four-year period and averaged out to about \$20,000 a year for motorcycle accidents. [LB200]

SENATOR FISCHER: And that was for individuals that had been injured in motorcycle accidents. [LB200]

CHARLES THOMAS: Yes, Senator. [LB200]

SENATOR FISCHER: And how did that compare to automobile accidents? [LB200]

CHARLES THOMAS: I am currently a senior at Doane. I graduate in May and my senior seminar paper is particularly on this exact same issue and when I talked to the people in Nebraska Medical Association or Health and Human Services, they would not give me any information on where I could get this information or where they got their numbers at because I was trying to be fair on both sides for my paper. And they would not tell me anything and I finally talked to somebody here in town. I can't remember his name, Bob, something. He works for Nebraska Highways Safety, I believe. And I asked him why is it published on the web site that it costs on average around \$150,000 per accident on a motorcycle, including lost wages, time away from work, damage to vehicles or property damage, and he said that's because that's the big hot button issue. I said, well, what is it for cars? How come that's not on there? And he goes, well, it's the same cost. There's no difference. But yet there's more cars on the road in more accidents. And in kind of going back to your vision stuff, the reason we're defensive is because I spent 20 years in the Navy around the world driving and my opinion, Nebraska has one of the worst drivers in the country and around the world. They don't pay attention to what's going on when they're in a car. [LB200]

SENATOR FISCHER: On the motorcycle accident reports, does it, does it have a definition in there that says so many accidents occurred with helmets, so many without helmets, like they do with seat belts saying, you know, the driver was not wearing their seat belts, the passengers were not wearing seat belts or they were. I mean, every accident they always say that. I don't hear that on motorcycles. Do they do that? [LB200]

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CHARLES THOMAS: I think they used to with the newspapers and the TV used to state rider was wearing a helmet or was not but I think they've kind of gotten away from it because of backlash because it's focusing on that. But there is no... [LB200]

SENATOR FISCHER: Do you know how many accidents occur with a driver without a helmet? [LB200]

CHARLES THOMAS: Off the top of my head I don't. [LB200]

SENATOR FISCHER: I mean, it is the law. I would assume most of these accidents, motorcycle accidents they're occurring and the driver is wearing a helmet, wouldn't you think so? [LB200]

CHARLES THOMAS: I would think so. I believe part of the thing is the National Highway Safety thing which is also in this report here, they're supposed to be tracking numbers on motorcyclists. Nebraska does not do a very good job of that. Some states don't even bother tracking it because it affects their bottom line for money for tourism dollars like South Dakota. And it's all skewed. They don't focus on...and when they do report an accident they don't say the person died because of internal injuries or head or arm cut off and bled to death. It's because he wasn't wearing a helmet or was wearing a helmet, was in a motorcycle accident. There is nothing specifically saying why they died which I believe is not right. They should list the cause why this person died so they can do an actual reasonable study on it. [LB200]

SENATOR FISCHER: Do you know in automobile accidents how many people die due to head injuries? [LB200]

CHARLES THOMAS: That I do not know. It was kind of a...before I took the position I have with Abate right now, I was asked to look up the law for Nebraska about wearing a helmet inside a car because it was, I guess you'd call it an old wives tale or a myth that it was illegal to wear a helmet in a car. I could not find nothing on that at all. And I know anybody that has kids there's...and we called it missile hazards in the Navy so we tied everything down when we got under way. And there's numerous missile hazards in a car because if you've got any kids there's toys or whatever in there and I'm sure there's a lot more head injuries. And I have been involved in a motorcycle accident. I've been involved in vehicle accidents and the helmet wouldn't have helped me in either one of them, so. [LB200]

SENATOR FISCHER: Thank you. Senator Hadley. [LB200]

SENATOR HADLEY: As Senator Campbell would say, one short quick question. What would your position be on making the wearing of a helmet a secondary offense,

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meaning that you could not be stopped for not wearing the helmet, but if you were stopped for any other offense, which is again, Senator Janssen doesn't like me to use the analogy, but that is the way seat belts work right now, that you can't be stopped for not wearing one but it's a secondary offense. [LB200]

CHARLES THOMAS: I would have to defend to say that let the rider decide period. And going back to the secondary offense, I've talked to numerous police officers and state patrol officers and I've been pulled over for speeding myself in a car, not going 100 miles an hour but, you know, 5 or 10 miles over, because like everybody else, I get in a hurry and don't pay attention. And I've never been ticketed for a seat belt and I choose not to wear one because it's personal belief that I've seen too many people die wearing a seat belt that would have been saved if they weren't wearing it. Same thing with a helmet. A helmet... the studies show that the DOT testing that's supposed to be done by these companies that say they do it, is based on an impact of dropping from three feet on an anvil, which to me gets us, I believe at a 13 mile per hour impact. If I was to have a helmet and I take it right here and drop it on the floor, I, according to the instructions the DOT states inside that helmet, I must send it back to be reevaluated to make sure it's safe to wear again. And from there, I mean, my opinion, that's not going to do me any good if I'm doing 55 miles an hour down the road and hit a deer. [LB200]

SENATOR HADLEY: Thank you. [LB200]

SENATOR FISCHER: Other questions? Senator Gay. [LB200]

SENATOR GAY: Thank you, Senator Fischer. On states that don't have a helmet, mandatory helmet law, has there ever been studies about the participating, how many percent actually decided on their own I want to wear a helmet or I don't. Has there ever been a study like that that you know of? [LB200]

CHARLES THOMAS: There's been studies, I believe, it was Florida and another state that since they repealed their helmet law there's been shown a decrease of helmet usage, if that's what you're looking for. [LB200]

SENATOR GAY: Well, I was wondering like if you've ever seen a study that...what state doesn't have a mandatory? [LB200]

CHARLES THOMAS: South Dakota doesn't have one over 18. [LB200]

SENATOR GAY: Take South Dakota out because of Sturgis. [LB200]

CHARLES THOMAS: Iowa. [LB200]

SENATOR GAY: Okay. But what number of people in Iowa choose to wear a helmet, do

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they know? [LB200]

CHARLES THOMAS: That I don't know but just from my sights when I'm riding over there, I'd say it's probably a 50-50 split. You'll see 50 percent of the people wear them. Fifty percent don't. [LB200]

SENATOR GAY: The reason I asked that in the seat belt, and for to compare to seat belts or not, I think we're at 80 some percent voluntary participation on seat belts... [LB200]

CHARLES THOMAS: I believe it was a little bit higher than that. [LB200]

SENATOR GAY: ...so probably on motorcycles, yeah, might be...but on motorcycles it's around 50 you think. [LB200]

CHARLES THOMAS: That's just what, from my...what I see. [LB200]

SENATOR GAY: But there's never been a study that you've seen, though. [LB200]

CHARLES THOMAS: No, there hasn't really been a study on it at all. And I do know that the state, the top ten states that do not have helmet laws, or like what Senator Janssen proposing here safety courses first, eight of those top ten states have the lowest injury rate or fatality rate of people riding motorcycles, and the bottom ten states that are the worst for having accidents for motorcyclists and injuries all have helmet laws. [LB200]

SENATOR GAY: Thank you. [LB200]

SENATOR FISCHER: And how many states do not have a helmet law? [LB200]

CHARLES THOMAS: Complete, no helmet law whatsoever, I believe there's... [LB200]

SENATOR FISCHER: Or for under 21, say similar to this. [LB200]

CHARLES THOMAS: Oh, there's about, I believe there's 30 states. [LB200]

SENATOR FISCHER: Okay. Thank you. Other questions? I see none. Thank you very much for being here. [LB200]

CHARLES THOMAS: Thank you for your time. [LB200]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB200]

WILLIAM WITZEL: (Exhibit 8) Good afternoon. My name is Bill Witzel, common first

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name spelling, W-i-t-z-e-l, and I'm 51 years old, lived in Dwight, Nebraska, for over 25, grew up near Brainard. I've ridden motorcycles since the age of ten. I started riding on a little 90 Honda and worked my way up to what I currently ride, 1340cc's. The two bills I've been watching, one I guess ain't going to make it is for the slots at the horse track because that money was supposed to go to roads, but I've been watching the helmet law for quite a while. And there's a group of friends of mine that meet another friend once a year between Lincoln and Denver. The subject of lost revenue from not gambling and having the helmet law been brought up many times. Here's just a little example of what our group of 20 spends on a three-day weekend. Last year we had three classic cars, one chase pickup, nine motorcycles, 13 vehicles, round trip total 750 miles. Average gas consumption was about 356 gallons. At the time it was close to four bucks a gallon so you got the \$1,416 for gas. Two meals a day times three days, times 20 people, times five bucks a meal, \$600. Ten rooms times \$40, times two days, that's for ten people, or ten rooms for 20 people, \$800. Refreshments, entertainment \$40 a day times ten couples, times three days, \$1,200. Total for just 20 people in three days was \$4,016. That money was spent in the state of Kansas. The first direction we go is south to Kansas, no helmets and lots smoother roads. There are literally thousands of motorcyclists that may bypass Nebraska for the same reason. I still believe it should be the riders choice on the use of helmets. I would agree that personal health insurance would or should be required to make that choice. I would more wholeheartedly agree that new riders be required to take a motorcycle safety course as new riders today don't start with a 90cc bike but what their finance will allow, which puts new riders on 600 to 1,000cc bikes with no experience at all. In Nebraska in 2007 there were 2,148,061 registered vehicles, 43,387 of those being motorcycles. Roughly 2.1 million other vehicles besides motorcycles. According to the 2007 DMV statistics report there were 256 fatalities in the state with only 15 being motorcycle related. Out of those 15, nine were wearing helmets per chart that I included with the handout, and that comes right off of the Nebraska DMV web site, as to prove, helmets do not necessarily save lives. It would make more sense to require helmets in cars to prevent injuries. We are not considering a law to require helmets in cars because people would say they are too cumbersome and restrict their vision. The same is true on motorcycles. I would like this panel to consider that riders like I, who are adults with many years experience, with health insurance, have the opportunity to make a choice whether or not to wear a helmet. [LB200]

SENATOR FISCHER: Thank you very much. Any questions? I see none. Thank you very much. [LB200]

WILLIAM WITZEL: Thank you. [LB200]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB200]

MICHAEL THIESSEN: Hi, there. My name is Michael, common, T-h-i-e-s-s-en,

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Thiessen. I'm from Omaha. I want to start by saying I didn't know I was such a bad person for riding a motorcycle until I came down today. I wish this was a debate about personal freedoms. That would be a lot easier to decide. But we know that it's a debate about money. It's...who is going to take care of us if we get hurt without a motorcycle helmet. That's the bottom line. That's all that everyone is really concerned about and I can understand that. When we ride, we ride usually two weekends of the month all summer long over in Iowa. This is no different than anything else you've heard. We go over and we have a couple of beers, we have a dinner, buy gas, sometimes stay overnight. When we go to Iowa, I take my helmet off and put it in my saddlebag. My girlfriend keeps her helmet on. If it gets dark and there's a lot of traffic, then I'll stop and put my helmet on. I'm a pretty smart individual. The problem is, if I go down on a motorcycle in Iowa without a helmet, I'm still Nebraska's responsibility. If we go to South Carolina and ride our bikes around and get run over by a truck, I'm still Nebraska's responsibility. Now, I'm taking all my revenue out of state because I don't get to choose for myself as a responsible adult whether I have to wear a helmet or not, and they are cumbersome. They are impossible to hear out of. They're heavy. If you're asked today to put a helmet on, put it on. But then let me take you out on my bike on the back and turn your head sideways into the wind and feel the difference, so. I just ask that you keep in mind that underneath all the financial things, this still is a debate on personal freedoms. Thank you. [LB200]

SENATOR FISCHER: Thank you very much. Any questions? Senator Hadley. [LB200]

SENATOR HADLEY: Thank you, Senator Fischer. Thank you, sir. Just a quick question. There was a handout the last gentleman had and I just had to take a quick look at it. The fatalities with people with the M endorsement on motorcycle licenses are about half of the total fatalities, so that would tell me that about half the people do not have the M. Is the M required to ride your motorcycle? [LB200]

MICHAEL THIESSEN: The M is specifically a motorcycle endorsement. Something I found interesting, to ride a motorcycle you have to take two different tests or go to an approved safety course the last two days. When you take those two different tests, when you...if anyone of you would pick up your Nebraska DMV handbook that talks about what it takes to get a vehicle drivers license, a car drivers license and look through it, motorcycles are mentioned about this much. We're out there all over. Bicycles are mentioned more than motorcycles but yet we share the roadways in a common occurrence and we're not mentioned. Now, in the motorcycle handbook it's very, very detailed and very complete and there's a lot of things you have to do, so we end up taking two written tests and two drivers tests. Motorcyclists are more detail oriented, they're more aware, because if two cars bump together, you're going to hurt both cars but you probably not going to hurt both drivers. If a car bumps into a motorcycle, it's bad. I mean, it's...it can be very, very upsetting because you're going to fall down. You're going to get road rash. You're going to tear up your \$20,000

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motorcycle and nobody likes that. A motorcycle is kind of like a second wife. I mean, there very well cared for. So when you scratch one, (laughter) it's almost as bad as scratching your wife, so. (Laughter) But the point, sir, we are generally better drivers because we have to be more aware of our surroundings and that overflows to when we're in a car. We're constantly scanning all the directions around us. We use our mirrors more often. We're much more defensive in our operating techniques because we have to be on a motorcycle, so that transmits into better driving. Any of you would fare well from a motorcycle safety course. They're so great. You'd ride around on a little motorcycle. They teach you everything, they're awesome. But you become a better vehicle operator for it. [LB200]

SENATOR HADLEY: Well, I guess my point is if the people with the M endorsement is approximately half of those, you know, half of the people who are being killed do not have the endorsement, maybe we need to up the penalties for people riding without the endorsement. [LB200]

MICHAEL THIESSEN: Well, again, I'm very, very fond of less government, so upping the penalties might seem like an effective deterrent. Our bill that we have before us, we talk a lot about the motorcycle, of the helmet aspect of it, but it's really an education bill. What we should do is send every single person in the state of Nebraska to a very good defensive drivers course. That's an option. So when you're talking about the motorcycle endorsement, I thought you meant car drivers. [LB200]

SENATOR HADLEY: No, I, I, just...according to this, about half the, half the fatalities were people who did not have a M, did not have a motorcycle endorsement. [LB200]

MICHAEL THIESSEN: In a motorcycle fatality? Well, that's unexcusable. You should... [LB200]

SENATOR HADLEY: And my point would be, maybe we need to up the penalties for those people who are riding without motorcycle endorsements, because they obviously have done a better job. [LB200]

MICHAEL THIESSEN: Well, sir, I don't think upping...like the gentleman that was doing 145 miles on a motorcycle, he doesn't care about penalties. All these other things...he's riding around with dope in his pocket. He doesn't...what are penalties. We could have his head immediately being severed on finding that and he wouldn't care, he would still do that. Raising the penalties are only going to affect people that are already getting the motorcycle endorsement. When you make more laws, it doesn't affect criminals, in my opinion, sir. [LB200]

SENATOR FISCHER: Other questions? Senator Janssen. [LB200]

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SENATOR JANSSEN: Thank you, Senator Fischer. Mr. Thiessen, thanks for bringing that up. I should have talked to you before my opening but the analogy of, or actually going to a different state is still Nebraska's responsibility, which has been brought out. It's really not as significant as people like you, lead you to believe... [LB200]

MICHAEL THIESSEN: Exactly. [LB200]

SENATOR JANSSEN: ...in many cases, so I appreciate that. And the Class M license is a motorcycle license. And you're right, you do have to go through additional levels of training to get that. And so I appreciate you bringing that forth and calling this what it really is, an education bill. So that's more of...just a thank you than anything. [LB200]

MICHAEL THIESSEN: Thank you, sir. [LB200]

SENATOR FISCHER: Other questions? I, too, really appreciate the comment you made that if you're in an accident in another state, it's still Nebraska's responsibility. I've been involved with this debate for a few years now and I agree with you also, your right when you say it's about money. Because we have the hospital association coming forward telling us that, you know, it will cost more to the state. In fact, we have a letter from them here in opposition to the bill and they cite Pennsylvania and what has happened in Pennsylvania since they've repealed their mandatory helmet laws, and there's been an increase in death and injury. Do you know anything about states where it's been repealed? Do you have any information on any of that? [LB200]

MICHAEL THIESSEN: I don't have that with me, ma'am. Unfortunately, in today's age, if I wanted to prove to you that eggs were the cause of cancer I could go out and find a report that will prove that, conclusively. And I'm not trying to demean the people that will come after me. I appreciate their concern for the welfare of Nebraskans. But the bottom line is, we can argue numbers and we can find all these things to prove our point and they can prove their point, it's still once you eliminate the financial aspects of it, it's still a personal choice issue. All the states around us have that choice. We're going to go out and take our money to those other states. I wish I did have that information for you just so I could be more helpful. [LB200]

SENATOR FISCHER: You have been helpful, thank you very much. [LB200]

MICHAEL THIESSEN: Yes, ma'am. [LB200]

SENATOR FISCHER: Other questions? I see none. Thank you. [LB200]

MICHAEL THIESSEN: Thank you, ma'am. [LB200]

SENATOR FISCHER: Next proponent, please. Are there other proponents? Good

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afternoon. [LB200]

GREGORY JOY: Good afternoon. I have never done this before. (laugh) [LB200]

SENATOR FISCHER: Welcome. Welcome. We're okay, don't be nervous. [LB200]

GREGORY JOY: My name is Greg Joy, last name J-o-y, first name, G-r-e-g. I live in Bennet. I've been riding motorcycles since I was 15 years old, which has been a while. I'm 55 now, so. Last year my wife and I logged 20,000 miles on our motorcycle. We probably rode half those miles in Nebraska, the other half were outside the state. I, like a lot of other motorcycles, get out of state as quickly as I can. I did a ride with a group that I ride with here in Lincoln where it was five corners and a curb. We went all the way around the state of Nebraska in three days. We stopped at New Castle for the curve and Harrison and Henderson and the Panhandle for the, you know, for other corners and we stayed overnight in Chadron. We stayed overnight in McCook. I spent quite a bit of time riding in South Dakota, Wyoming, and Kansas, on that ride, because when you're going around the outskirts you can do it in the other states also. And Nebraska has a lot of really beautiful country that, you know, and I do ride in Nebraska too. Highway 12 up in the north by Niobrara and stuff is absolutely beautiful on a motorcycle. It is in a car too but if you haven't ridden a motorcycle and traveled on one, you don't know. You see so much more. It's an enjoyment that, you know, a lot of people get a lot of fond memories from. My wife had never...we'd been married five years and she had never ridden motorcycles until she met me. (Laugh) And for three years of our marriage I was unable to ride from neck injuries that had nothing to do with motorcycles. (Laugh) But after a couple of surgeries, I've been able to, you know, get back on the bike and ride. And she wears a helmet, she won't go without the helmet. She has for short distances when we were out of state and she thinks it's fun but she's still scared. And I ride without my helmet like a lot of other riders, when it's...you know, you see a storm coming, you stop, you put on your rain suits, you put on your helmets, you know, and it keeps you from...well, if you do go down in a rainstorm, you'll...and I can't argue the fact that the helmet is probably going to help save my head if I fall down. The best reason is to not fall down. You know, use, you know, your abilities and I still think that if everybody who gets a license to drive a motor vehicle had to ride a motorcycle for two years, they would be such better drivers. Because on a motorcycle you can't make all the mistakes you can make in a car, whether or not you wreck. If you, you know, space off and drive off the road in a car, you can probably correct from that. You might not a motorcycle. So, you know, you just have to be a better and more alert driver. You can't talk on a cell phone, you can't put on makeup, you can't do a lot of the things that people do that are truly unsafe behind the wheel of cars. And so, you know, I just think it should be our personal choice as to whether or not we wear the helmet, and the cost to the state of Nebraska is, I think, tremendous for riders that go around. I go to Sturgis. I've been to Sturgis eight times. And you know, all you've got to do is strike up a conversation with people up there and they all talk about how they, you know, go around Nebraska. And I

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say, well, there's a lot of really beautiful country to travel in Nebraska and I think we should promote that more. We should promote it before the Sturgis rally. And if they repealed the helmet law, I think you'd see a tremendous increase in traffic through the state. That's all. [LB200]

SENATOR FISCHER: Thank you, Mr. Joy. Are there questions? Senator Stuthman. [LB200]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Joy, do you wear a helmet very frequently, though? [LB200]

GREGORY JOY: I wear my helmet every time I'm on the motorcycle in Nebraska. (Laughter) [LB200]

SENATOR STUTHMAN: But I mean, would you, if we didn't have...(Laughter) [LB200]

GREGORY JOY: I would probably wear it maybe 50 percent of the time, if I didn't have to. [LB200]

SENATOR STUTHMAN: But, your personal choice would be that you would be wearing that helmet at a lot of the times. [LB200]

GREGORY JOY: I go to work at 5:30 in the morning and all summer long I ride my motorcycle and I would have my helmet on every morning when I go in because of deer, you know. You never know where they're going to come from. I've come close to hitting deer twice on my motorcycle. I don't like traveling in the dark in the morning. Going to work is the only time I do that and it's only 20 miles. My wife and I stop before it gets dark and, you know, stay overnight wherever we happen to be because to me, it's just a risk I don't need to take to travel in the darkness on a motorcycle at highway speeds. You know, you can slow down but it just takes you forever to get any place. Just as well, you know, chill out for the evening and get up and be fresh in the morning. And the more distance you travel the more tired you become and that becomes an issue on motorcycles also. My wife and I were headed for Las Vegas in November on the motorcycle, last, this past November. We got as far as the Grand Canyon and got called back for a family emergency. We rode 725 miles, two days in a row. Fourteen and a half hours the first day and ten and...or eleven and half the second day to get home for this emergency. I choose...you know, I don't like to have to travel like that but we really didn't have a choice, you know. It was unforeseen. We didn't know, you know, this was going to happen but...and, you know, 20,000 miles last year was completely accident free. The motorcycles never even fell over but that's because you have to pay attention. You just have to be a defensive driver on a motorcycle, tremendously more so than in a car. [LB200]

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SENATOR STUTHMAN: Thank you. [LB200]

SENATOR FISCHER: Senator Gay. [LB200]

SENATOR GAY: Thank you, Senator Fischer. You had mentioned that night, obviously, it's more dangerous and I'm assuming, just because of other cars running into you, but you're the second or third person now that said, well, I put this helmet on at night. I think Mr. Thiessen just said that too and maybe another one did, but at night you're more interested in cars probably not seeing you, right? [LB200]

GREGORY JOY: I'm worried about the animals. [LB200]

SENATOR GAY: Oh, it's not the other cars that maybe, I can pick up that biker. [LB200]

GREGORY JOY: I can see those cars just as good at night as I can see them in the daytime. [LB200]

SENATOR GAY: No, but is the risk of motor vehicles running into you, not seeing you or... [LB200]

GREGORY JOY: Actually, I don't think... [LB200]

SENATOR GAY: You said, I would put it on at night. Why is that? [LB200]

GREGORY JOY: Yeah, I don't think that risk at night for motorcycles is any higher due to cars than the daytime. Actually, it's probably less because our headlights show up better in the dark than they do in the daytime. I'm going to put a headlight flasher on my motorcycle so it flashes on and off in daylight hours, so hopefully you'll be able to see me better. [LB200]

SENATOR GAY: So you're worried about animals, deer, then? [LB200]

GREGORY JOY: I'm worried about cars in the daytime. [LB200]

SENATOR GAY: But at night. [LB200]

GREGORY JOY: At night, you won't have the flashlight flashing at night. [LB200]

SENATOR GAY: But, deer you're worried about. [LB200]

GREGORY JOY: The deer. That's the only animal that I've come close to hitting. But there's just an awful lot of deer. And so, like I say, I choose to travel at night the least amount possible. [LB200]

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SENATOR GAY: Okay. Thank you. [LB200]

SENATOR FISCHER: Senator Campbell. [LB200]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Joy, I appreciate you sending me an e-mail and one of the things you talked about in your e-mail was the difficulty on highway 2 with drivers, so I appreciate you clarifying that. [LB200]

GREGORY JOY: Well, the driver that I came up behind that I was referring to on that, you know, was a couple of days before I wrote that letter. She was passing cars and I was behind her and I ride a big motorcycle, it's not invisible. And after she passed the cars, she chose to stay in the left-hand lane until I got beside her in the right-hand lane and then she decided to change lanes. She's talking on the cell phone, driving down the highway, and she just drove right into the side of me and I drove on to the breakdown lane and, you know, hit my brakes, and then passed her around the other way. But people driving cars, talking on cell phones, and doing all the other things that people do while they're driving, are dangerous, you know. And I just think that education, to educate the people who drive cars about motorcycles, needs to be addressed more, you know, in drivers education. And they took the drivers education out of our schools. And, you know, I truly believe that to educate people about motorcycles is really necessary to reduce the number of accidents, and to reduce the number of accidents is what we really need to do. You know, we can even put helmets on people, and seat belts on people, and suits of armor on them if you want to, and you're going to help protect them in the event of an accident. But if you can prevent the accident, you're going to have a better outcome. [LB200]

SENATOR CAMPBELL: Thank you. [LB200]

SENATOR FISCHER: Thank you. Other questions? I see none. Thank you very much. [LB200]

GREGORY JOY: Thank you. [LB200]

SENATOR FISCHER: Are there any other proponents to the bill? Any other proponents? I see none. With that, we will begin with the first opponent to the bill. And I would like to remind people where the page is standing there at the on-deck table, you can sign a sheet either in support or opposition if you choose not to come forward to testify. [LB200]

WILLIAM GOSSARD: (Exhibits 9 and 10) Good afternoon, Madam Chair, Senators, it's a pleasure to be here. My name is William Gossard, G-o-s-s-a-r-d, from the National Transportation Safety Board in Washington, D.C. I am the national program safety

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coordinator for motorcycles for the NTSB. It's a pleasure to be here in Nebraska, a wonderful trip, wonderful state, been here before and appreciate being here. But I'm sure you're probably familiar with what our organization is, but just briefly we are the national accident investigation agency for the federal government, primarily we do major airline crashes such as the Hudson River splash down recently, the Buffalo, New York, plane that fell out of the sky, and the Turkish airline 737 that crashed in Amsterdam just for some. But likewise, we address smaller issue areas such as motorcycle safety, recreational boating safety, what you would call the off areas where there are many lives lost. I'm going to try and be very short. This statement is very long, and in the interest of time, I'm going to really cut it down. Since 1997, the number of motorcycle fatalities in the nation have increased 141 percent. That's more than double all the number of deaths in each year from accidents in the other transportation modes of aviation, rail, marine, and pipeline combined. In 2007, we had 5,154 motorcyclists die in the nation. That was a 6.6 percent increase in fatalities from 2006 to 2007. Likewise, injuries increased 17 percent in one year. Motorcycle crashes and injuries are rising, and this is a very bad trend. Only recently the U.S. joint command of the military, the Navy, Marines, Army, and Air Force, became very concerned in the military services because they're losing so many well-trained combat troops because of motorcycle crashes. As a matter of fact, the Navy and Marines are reporting that we lost 100 motorcyclists in military service--that's more than all of Iran--from motorcycle crashes. They're so concerned that they've now called meetings with the motorcycle organizations to try and correct that problem. Part of it is they require helmets on military bases, but as soon as they leave a military base compound in a state without helmets, they go out and don't wear their helmets and they perish. So it's a very serious issue. The DOT-compliant helmets like you require in Nebraska are very important. Thirty-seven percent of all perhaps of fatalities in motorcycle would be negated by a helmet. Helmet laws do increase helmet use, and I have page 3, 4, and 5 of my statement if you're interested in states that have repealed helmet laws and then again put them back in place, you can read at your leisure what the results were in those states. The cost of motorcycle crashes are severe. There is research available if the committee would like to see that from Dr. Ted Miller, the director of Public Services Research Institute at the Pacific Institute for Research and Evaluation, that indicate that of 110,000 motorcyclist crashes cost about \$17.5 billion in the nation--40,000 of those were unhelmeted, 36 percent, and they accounted for \$12.2 billion of cost. The average cost crash for motorcyclists with a helmet is \$71,000; without a helmet is roughly \$310,000. Nebraska, like many states, has an excellent medical trauma centers that must be on duty 24/7 to receive head trauma accidents. Likewise, you have police and you have emergency medical helicopters and ambulances standing by 24/7 to respond to such crashes. These all do have costs. I don't know what they are in Nebraska, but it's a very serious cost that you have to look at. I can't address, of course, tourism increases, but I can tell you that motorcycle fatalities are a serious issue. If it continues this way, the National Transportation Safety Board will have to do more than just issue recommendations to the governors of the states that they implement universal helmet

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laws. We have done that. In Nebraska, fortunately, we did not have to write that letter. But the other states, there are 20 states and the District of Columbia and four territories that have helmet laws that are universal. Likewise, there are 27 states and 1 territory that do not, and there are 3 states that do not have helmet laws: that's Illinois, Iowa, and New Hampshire. You've heard about that. Believe it or not, if you look at their fatality rates over the past five years, those states have seen very high increases in the number of motorcyclists lost without helmet wear. [LB200]

SENATOR FISCHER: Thank you. [LB200]

WILLIAM GOSSARD: Thank you. I will answer any questions you may have. [LB200]

SENATOR FISCHER: Are there questions? Senator Gay. [LB200]

SENATOR GAY: Thank you, Senator Fischer. You had handed this out, it says, you know, motorcycle deaths are going up. But are injuries rising because of increasing numbers of motorcyclists starting to ride? I mean it has to be more with gas. [LB200]

WILLIAM GOSSARD: Well, yes, there is some increase in registration. Again, registrations in various states, as we have heard, is an art form, okay, but registrations are increasing in the number of motorcyclists, but not to the extent of the rise in fatalities and injuries. [LB200]

SENATOR GAY: So proportionately, though. [LB200]

WILLIAM GOSSARD: Proportionately, motorcyclists are higher than motor vehicles. [LB200]

SENATOR GAY: It would make sense. [LB200]

WILLIAM GOSSARD: As a matter of fact, motor vehicles are actually dropping down now. There used to be 42,000 roughly, now it's 40,000 fatalities in the highway area, but motorcyclists are going the other way. [LB200]

SENATOR GAY: Okay. And then can you, on this two-page handout you handed out--partial laws do not protect younger riders. Only universal helmet laws significantly reduce fatality rates for riders aged 15-20. Can you expand on that? I don't have time to read all this right now, but on that point. [LB200]

WILLIAM GOSSARD: Well, right. What we found is that youthful operators, that's under age 21, only 8 percent of the motorcycle fatalities in the last five years, the other 92 percent are 21 years and older. So youthful operators really are not the issue. It's older operators. [LB200]

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SENATOR GAY: All right, thank you. [LB200]

SENATOR FISCHER: Senator Stuthman. [LB200]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Gossard, in the states of Iowa where you said there's no helmet law, when you said the deaths or accident rates were...the deaths were extremely high, is that in comparison with the number of motorcyclists in the state, number of riders, number of motorcycles registered? I mean if they got twice as many motorcycles registered, there surely could be the possibility of twice as many accidents. [LB200]

WILLIAM GOSSARD: Well, I'll give you an...I'll give you some comparisons which I ran for this, okay. I can provide the information if you want the actual worksheets. But Nebraska's average fatalities for motorcycles in the past five years, 2003 to 2007, we did not do 2008 which you well know is now 20, it went up, but it's about 17 riders per year die. Iowa the average is about 50, but they've increased over the past five years. Nebraska has stayed pretty much static. In other words, your deaths on motorcycle accidents are pretty much the same. As to the number of registered motorcycles in Iowa, yes, it's 138,000 with endorsements, who knows? They have some numbers but you're never sure. They say 255,000. Nebraska does have endorsed reported about 89,000 so, yes, it's about 2 to 1 difference let's say or 2.5 to 1 so. Given that, probably Nebraska is doing much better than Iowa. Illinois has increased also, but they have many, many more riders. States that are more comparable with Nebraska that don't have helmet laws or very weak helmet laws are New Hampshire and Hawaii, and they lose about 25 fatalities per year in both of those states as compared to 17 in Nebraska. Vermont, which has a mandatory helmet law, which is also a favorable population to Nebraska, has 9 dead as an average. Your helmet states primarily are doing very well. They're staying very static. Your other states that have no helmet laws or have what we call a partial law, which is under age 21 with some kind of education component, are increasing. [LB200]

SENATOR STUTHMAN: Mr. Gossard, do you have any information as far as, you know, we're talking about deaths, as far as, you know, brain injury that, you know, they weren't killed because they had a helmet on, as compared... [LB200]

WILLIAM GOSSARD: Yes. I think you're going to have somebody actually testify to that following me. And likewise, I could tell you I was in Missouri where I also had to testify on a repeal bill, and, in fact, brain trauma, the association was there. Those accidents, of course, for folks who have to have rehabilitation over many, many years is extremely extensive. And the person that testified at that hearing, I did not know him, had \$9 million worth of medical costs, much of which was not covered by his insurance, not covered by Medicaid or Medicare, had to be covered by the state or federal system

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somehow, all right. And he did survive and he did become a productive lawyer. But it is quite expensive. The average cost is \$301,000 without a helmet and \$71,000 with a helmet, so you'd get some benefit there. But there is a person who was in an accident, and he can speak more clearly to some of the costs that he had. You can't put your finger on it because it varies, varying cost, but it is fairly substantive. The thing it does, it impacts your EMS system. You have to realize that EMS shock trauma facilities cost lots of money to maintain. I know that because Maryland has an extensive EMS helicopter shock trauma network. And when you have a crash of a motorcyclist without a helmet, it's akin to dropping an egg about 18 inches right to this table, and you know the result. All right? The motorcyclist has his helmet on at six feet, all right, and depending on the speed, the helmets are very effective--a 37 percent chance at any speed when you drop off a bike, okay, and the helmet hits the ground, it's at least going to give you a chance to survive. That's the best we can offer. It's the only protection we have for a motorcyclist, quite frankly. I mean cars, you know, we have the structure, we have air bags now, we have seat belts, and we're trying as best we can, you know, to provide protection there. A motorcyclist has no other protection. Whether you hit a bug in the head or you hit a deer or a car hits you or, you know, you run off the road, I mean the only protection you have is your helmet. That's the bottom line. [LB200]

SENATOR STUTHMAN: Okay, thank you. [LB200]

SENATOR FISCHER: Senator Hadley. [LB200]

SENATOR HADLEY: Thank you, Senator Fischer. Thank you for your testimony. Years ago, many years sooner than I want to remember, I took an insurance course and we talked about the type of, you know, young kids 22 years old and such as that, that the type of coverage we should be most worried about was not life insurance because if you die the cost to your family and such as that are done. But it was the long-term disability. And so what I see here, I guess that's my concern is that when we, you know, should I be concerned about motorcycle deaths because they, you know, the person chooses to drive without a helmet. And if they happen to be in a fatal accident, they made the choice. But I'm worried about the person like you said that suddenly runs up \$5 million in Medicaid bills that we as a state have to try and fund. So that is my primary concern. [LB200]

WILLIAM GOSSARD: That is an issue, and I can certainly understand your question. Of course, I look at this a little differently. I'm not a me-too person, okay. I'm a motorcyclist. I wear my helmet all the time. I'm concerned about my family--the fact that if I pass on, all right quite frankly, that leaves a whole network of people who are seriously, seriously damaged, and they're damaged forever. All right? And so there are different ways to look at that. I mean and so, you know, I understand your point but, you know, we at the Safety Board have to react to a number of different things. We're trying, quite frankly, to cut fatalities in the nation. This is one area where we're not cutting it. And some other

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steps are going to have to be taken if we cannot...are not successful in getting helmet laws universally applied to all the states. So that's our position and we're sticking to it. [LB200]

SENATOR FISCHER: Senator Gay, did you have another question? [LB200]

SENATOR GAY: Yeah, thank you, Senator Fischer. On the peripheral vision, experienced riders that came before here, and it sounds like they're pretty experienced, say they couldn't see as much on the side. Have you done studies just is it true, false, or? [LB200]

WILLIAM GOSSARD: I'll tell you, Senator, there are studies done on that. I didn't bring all that material with me. But you know what? When I get back to Washington, I'll be happy to provide you that information that deals with hearing and vision on motorcycles with or without. There is good information on that, and I will provide that to you as well as the study on costs nationally if you're interested, Dr. Ted Miller's information. All right? [LB200]

SENATOR GAY: All right, thank you. [LB200]

WILLIAM GOSSARD: I'll provide that to the committee if that's all right with you, Madam Chair. [LB200]

SENATOR FISCHER: That would be great. Other questions? Senator Campbell. [LB200]

SENATOR CAMPBELL: Thank you, Senator Fischer. In the studies that you have done, sir, would it be a safe assumption that most motorcyclists have private insurance? [LB200]

WILLIAM GOSSARD: Well, it depends. A lot of motorcyclists have policies that cover, obviously, might cover their motorcycle. If they're, you know, expensive cycle, they probably have home owner's kind of coverage to cover their motorcycle. Personal injury insurance seems to be a very difficult issue. And I'm probably not the person to speak on insurance issues because insurance to us doesn't matter one way or the other. We're trying to reduce fatalities. But we do know that many states have tried to have motorcyclists carry \$10,000 worth of insurance which is, obviously, nothing. All right? And in those states, they've had very little success in having motorcycles even carry \$10,000 in insurance, even if it's required. They just don't do it. Now when it comes to, you know, personal injury insurance, there is some personal injury insurance, and this may be addressed by the gentleman who will follow me because he actually had to go through all this, and I think he might be the best one to answer that from a real live, you know, personal situation. Quite frankly, judging from the information we have nationally,

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it looks like you should carry at least \$310,000 worth of personal injury insurance, whatever that may cost, even if there is any insurance available. I mean I understand some states have tried \$1 million, all right, which they probably couldn't even find an insurer that would take it. They understand the risk is very high for motorcyclists. And I doubt if there would be an insurer that would even take on that kind of coverage. But I'm not an expert in that area, so I apologize. But if you want, I will make some queries back when I get back, and we may well have some information on that. I just don't have it with me, I'm sorry. [LB200]

SENATOR CAMPBELL: Thank you. [LB200]

SENATOR FISCHER: Other questions? Senator Janssen. [LB200]

SENATOR JANSSEN: Thank you, Senator Fischer. I'm sorry I missed your last name. [LB200]

WILLIAM GOSSARD: Bill Gossard. [LB200]

SENATOR JANSSEN: Mr. Gossard, thank you for testifying. You just made mention that insurance should be \$310,000. Do you think people...and let me back up a little bit. I did ask an insurance agent in my district. He said he has never written a motorcycle policy without putting personal insurance on that. I don't know what level, but I did just speak to him. But why \$310,000 for a motorcycle rider? Would we not expect a car or motorist perhaps traveling without a seat belt on to have that same, I mean if we were... [LB200]

WILLIAM GOSSARD: Yeah, well, I mean most car insurance, I don't know what folks carry. I mean I carry probably \$300,000/\$500,000,\$1 million, all right, on mine, you know, my car. And I'm just not an expert in that. If he writes insurance for motorcyclists, he ought to just give you what the number is. If it's State Farm or Aetna or one of the good insurance companies, I'm sure they must have some numbers on that. I just am not an expert in insurance. [LB200]

SENATOR JANSSEN: Are you an expert in motorcycle insurance? [LB200]

WILLIAM GOSSARD: No, no, I'm not. [LB200]

SENATOR JANSSEN: So how do you base the \$310,000? [LB200]

WILLIAM GOSSARD: Well, it's just based on a national, you know, high average would be \$300,000. [LB200]

SENATOR JANSSEN: Okay, all right, thank you. [LB200]

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WILLIAM GOSSARD: The other would be \$71,000. That would be even less. [LB200]

SENATOR JANSSEN: Okay, thank you. [LB200]

SENATOR FISCHER: Other questions? I just had a couple for you, Mr. Gossard. First, welcome to Nebraska. [LB200]

WILLIAM GOSSARD: Thank you very much. [LB200]

SENATOR FISCHER: Glad you could be here today. You had a discussion on this earlier on your handout the first bullet point under the problem where it says that motorcycle crashes have more than doubled in the past decade. Do you know if there's any studies out there that show the increase in usage of motorcycles to...have you ever looked at registrations across the states... [LB200]

WILLIAM GOSSARD: Yes, we did. [LB200]

SENATOR FISCHER: ...and shown, excuse me... [LB200]

WILLIAM GOSSARD: Yeah, I'm sorry. [LB200]

SENATOR FISCHER: ...and shown a correlation with the registrations in regard to the increase in crashes? [LB200]

WILLIAM GOSSARD: Yeah. The information we have is that the registrations have increased, but the fatality rates of motorcyclists have outpaced increases in registration, vehicle miles traveled, which are the common two measures we use. All right? If you want those specific rates, I will get those for you and provide it to you. But basically what we have said is that they've just outpaced, all right, the number of motorcyclists. [LB200]

SENATOR FISCHER: You know, in Nebraska the motorcycle helmet law went into effect in 1989. I have a chart here from AAA. All of a sudden in 2001, we had an increase in accidents and really not a corresponding increase in registrations. And then we had registrations have almost doubled since then, but the accident rate hasn't doubled. I mean for me it's hard to look at numbers and just pick and choose, you know, what we want to get out of it because you would think in 2000 here in Nebraska we had three fatalities. In 2001, we had 12. You know, what happened between 2000 or what happened in 2001 that we had this increase? I'm leery of numbers when we do that. So anything that would help to explain those would be beneficial. [LB200]

WILLIAM GOSSARD: It would probably be best to ask perhaps the highway director of

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Nebraska to see if he has anything to add. Obviously, Nebraska looks pretty baseline for the past five years, maybe even six now, maybe even before that it was fairly baseline. It looks to me like your helmet law and your education initiatives, which are very good, I'm familiar with the Harley program, the Motorcycle Safety Foundation programs. Those have had a tremendous, I think, beneficial effect in Nebraska, because most of the people taking those courses are older than 21. All right? And that's the age group that we need to impact that we're not finding many young motorcycle riders because, quite frankly, they can't afford motorcycles. They're very expensive, nice motorcycles. Now you can get a 125cc or maybe a 250, but who wants to ride a 125 or a 250? They're good for training, but not good for riding. So they have to wait and they have to, you know, be really of a financial age that they can afford the bigger bikes or the sport bikes as we call them. The military, of course, is finding a problem with the sports bikes right now. That's why they're really on this issue in terms of training. They're very, you know, concerned about this so we do see that. But I think overall, I mean when you look at the nation, looking at all these states, and that's what I have to do, it is hard to compare apples and oranges. I understand that and years versus different years, but we try to trim this stuff out. Nebraska looks really good, all right, in terms of... [LB200]

SENATOR FISCHER: I have another question on your sheet. And I'm sorry I don't have time to read all through it now. But under the headline, "Helmets save lives" and you talk about the Department of Transportation-compliant helmets. What are those exactly? If they're compliant, does that mean they've been tested? Do you have a little sticker on them then? Is that what people have to buy? [LB200]

WILLIAM GOSSARD: Yes, that is absolutely correct. The DOT-compliant, which is the FMVSS 218 etcetera, etcetera, etcetera, DOT-compliant helmet has been tested. All right? We use a variety of drop tests, all right, and other kind of pressure tests. And they are fully protected in the interior so the thing does not crack when you fall this distance because the impact you're measuring is from the height of the rider to the ground. That's the initial strike, much like if an egg drops from this table, which I would have brought. It would have been very entertaining because... [LB200]

SENATOR FISCHER: No, you can't bring props. [LB200]

WILLIAM GOSSARD: But we can't bring props so I knew that. We didn't want to have a bunch of egg on the table. But if you drop your head with no helmet, the distance, and you hit the ground, there's a good chance you're going to be brain injured or dead, you know, basically option A or B. If you're lucky enough to try and skid off, which many good motorcycle riders can do and I've done myself, one of the reasons why I haven't ridden lately, because you slide for great distance and your head does bounce around, if you have a helmet, that helmet cushions the bouncing impacts. Okay? And so these helmets are tested, all right, to try and give you some protection from that impact. And

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then as you bounce around and you might hit a, hopefully God forbid a car or something underneath, the carriage or bounce off a guardrail or hit a rock as you're bouncing through the weeds and side of the road, then it gives you some protection. And it does give you that protection. I know they're not comfortable. I know sometimes there's some, you know, vision arguments and the hearing arguments, but I will provide you information on that. They do, in fact, save your life. [LB200]

SENATOR FISCHER: Do you know if Nebraska law requires that our riders here wear a DOT-compliant helmet? [LB200]

WILLIAM GOSSARD: I'll have to ask...there they are...yes, these are the motorcycle safety people. I was pretty sure you did because I don't see a check mark next to you that you do not so I'm sure you do. [LB200]

SENATOR FISCHER: Okay. Last question then has two parts I guess. The National Transportation Safety Board, are your members appointed by the President? How are you set up? Short answer. [LB200]

WILLIAM GOSSARD: Yes, yeah, I'm sorry, I was going to go through that but... [LB200]

SENATOR FISCHER: Just a short answer. [LB200]

WILLIAM GOSSARD: ...because of shortness of time, real short, I know I like to talk, five presidential board members, currently three Republicans, two Democrats, soon to change. Okay? And besides that we have a staff underneath. Everything we do is open. We have no secrets. We try to tell no stories. We try to only present facts as best they can be presented. And obviously there are sometimes arguments over facts, but, you know, as best we can determine. We have a research and engineering staff that looks through every study that we cite, every piece of work that we look at. We don't try to, you know, put stuff in there that's not going to help us make a good, sound decision that's open to the public. And so that's how we operate. [LB200]

SENATOR FISCHER: Okay. And then a couple of comments you made disturbed me. And I'm curious on what the NTSB's power is because once you said that your board would have to do more than just issue recommendations. And in answer to a question, you said with regard to repealing of helmets, that then other steps would have to be taken. Are you saying your board has power over what the state of Nebraska decides to do in this? [LB200]

WILLIAM GOSSARD: Oh, no, no, no, no, no. No, we'd have to make further recommendations. No, we have no other power but recommendations. [LB200]

SENATOR FISCHER: Okay. [LB200]

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WILLIAM GOSSARD: No, we don't...we wouldn't...the board would then have to make a decision whether it needs to issue other recommendations to other bodies. Nebraska we never made a recommendation. We were very pleased not to have to do that. Okay? [LB200]

SENATOR FISCHER: Okay. I just wanted to clarify that. [LB200]

WILLIAM GOSSARD: That's, you're exactly right, Madam Chair. [LB200]

SENATOR FISCHER: So thank you very much. [LB200]

WILLIAM GOSSARD: We certainly wasn't going to tell Nebraska what to do nor this committee. [LB200]

SENATOR FISCHER: Oh, no, you don't want to do that. [LB200]

WILLIAM GOSSARD: Nor this committee, I can assure you. [LB200]

SENATOR FISCHER: Senator Hadley has one more short question. [LB200]

SENATOR HADLEY: Yeah, one more short follow-up question. Your analogy of dropping the egg and such as that, it seems to me I was doing some reading on this, some research on it that basically the helmet basically helps the lower the speed, the motorcycle is going that the higher the speed that the use of a helmet does not have a great deal of... [LB200]

WILLIAM GOSSARD: No, no, it will. It does. Yeah. [LB200]

SENATOR HADLEY: Even 75 miles an hour and I get in an accident. [LB200]

WILLIAM GOSSARD: Yeah, yeah, it's that initial drop in your head and then you might roll like I did at high speed for a good number of yards...I...many motorcyclists can tell you the distance they traveled on the ground, all right. It can be quite spectacular. But it does, in fact, protect you at high speeds or lower speeds, which is a phenomena that, you know, is very interesting but that's how it works. [LB200]

SENATOR FISCHER: Thank you very much. Next opponent, please. Good afternoon. [LB200]

GARY HAUSMANN: (Exhibit 11) Good afternoon, Senator Fischer, Senators of the committee. Ladies and gentlemen, I've got to tell you this has been interesting. I'm a little emotional about this whole thing but... [LB200]

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SENATOR FISCHER: You can't have props. [LB200]

GARY HAUSMANN: I'm sorry, say again. [LB200]

SENATOR FISCHER: I'm sorry you can't have the prop. [LB200]

GARY HAUSMANN: Okay, no, that's fine. [LB200]

SENATOR FISCHER: Okay. [LB200]

GARY HAUSMANN: If somebody wants to see it... [LB200]

SENATOR FISCHER: That's good. [LB200]

GARY HAUSMANN: Okay. [LB200]

SENATOR FISCHER: Thank you very much. [LB200]

GARY HAUSMANN: My name is Gary Hausmann, H-a-u-s-m-a-n-n. Before I start, I would just like to tell you that this has been extremely entertaining for me. But I want to tell you from the bottom of my heart I haven't heard one argument yet that says I should not have worn a helmet, not one. And I'll get to that in a second. My name is Gary Hausmann. I reside in Blair, Nebraska. I am representing myself. I am chief pilot for a large corporation that is headquartered in Omaha, Nebraska. I was severely injured in a motorcycle-car-SUV accident that was in no way a fault of my own. I was the motorcycle operator. On Friday, September 1, 2006, at 2:30 p.m. on my route home from work after flying a corporate jet, I was involved in a very serious traffic accident of which I have no recollection. As told by five adult witnesses who saw the accident, I was northbound on Nebraska State Highway 75 riding my 2004 Honda Gold Wing motorcycle. About six miles north of the Omaha city limit, traveling at 55 miles per hour, which incidentally is 5 miles per hour under the posted speed limit, I was meeting a car that was traveling in the opposite direction. She was transporting an 18-month-old infant. Unfortunately, an SUV traveling in the same direction as the stopped car had a rear-end collision with her while traveling at 60 miles per hour. The impact pushed her vehicle towards me and into my lane of traffic. According to the witnesses, I immediately applied my brakes, laid the motorcycle on its side, then jumped backwards off of the bike. Unable to get my body stopped, I continued to slide under the rear of the auto. I sustained a shattered sternum, four broken ribs, a punctured and collapsed right lung, a dislocated right shoulder, and I broke my neck in two places. However, my most serious trauma was a closed head injury known as diffuse axonal injury. I was life-flighted to Omaha and placed in a medically induced coma for five days. I was a patient of the Nebraska Medical Center for 15 days total, then transported to the Madonna Rehabilitation Hospital here in

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Lincoln, Nebraska. I was in their care for 3.5 weeks, after which time I returned home to continue my recovery. As a result of my accident, even the most basic, everyday functions were initially affected. My wife taught me to walk again. Family and friends asked me the most basic questions they could think of in an effort to help stimulate my brain. Madonna Rehabilitation initially helped by showing me elementary books and asking me to identify simple pictures such as baseball, horse, balloon, bike, and apple. Eventually through hours of therapy and patience, it all came back. And that was my condition after a motorcycle accident while wearing a helmet. Imagine if I had not been wearing one. Medically speaking, the chances of surviving from my type of head injury is only 9 percent. And if you do survive, you have a 92 percent chance of never getting back to normal and testifying to the senators. Please consider those statistics. I attribute my excellent recovery to the following: close proximity to a large city and excellent healthcare; quick response by paramedic, life support, and hospital staff; unbelievable care and attention from the staff at Madonna Hospital; and most importantly, I owned and was wearing a very good quality DOT approved motorcycle helmet. And that was the prop I had here. That was the actual helmet that I was wearing that day. Sorry about the confusion. [LB200]

SENATOR FISCHER: No problem. [LB200]

GARY HAUSMANN: I have not met one person that truly believes they would have even survived my accident without wearing a helmet. We do all want to survive if we are faced with an accident, don't we? I also have yet to meet anyone who has been involved in a head injury motorcycle accident or knows of someone who has been involved in one that thinks that helmets are not a necessity. And remember, a motorcycle accident in Nebraska that involves a head injury reportedly equates to nearly \$1.4 million in medical and disability expenses alone. Is riding without a helmet really worth it? The decision to not wear a helmet while riding a motorcycle really could be considered a no-brainer, couldn't it? Thank you for your attention. Any questions? And I apologize for choking up a little bit. You can ask me anything you want. I'm used to it. [LB200]

SENATOR FISCHER: Thank you, Mr. Hausmann, and I'm glad you're here today. [LB200]

GARY HAUSMANN: Thank you. [LB200]

SENATOR FISCHER: Thank you very much. Are there any questions? Senator Hadley. [LB200]

SENATOR HADLEY: Thank you, Mr. Hausmann. I, too, am glad you're here today. If you wouldn't mind telling us, could you estimate the total costs of your rehabilitation. [LB200]

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GARY HAUSMANN: I can tell you to a penny, excuse me, I didn't mean to interrupt you. My bills, my medical bills the afternoon I was released from Madonna Hospital here in Lincoln, and that included the life-flight helicopter which, by the way, was \$9,647; Med Center/Madonna bills to the day I was released was \$383,000. And the head of neurology, Dr. Follett, at the Med Center in Nebraska, University of Nebraska, can't believe it was that cheap. He can't believe I recovered that well. And I'm bragging, okay. So Dr. Noble from Bryan West here is where I got the one point...it's actually \$1.41 million, that's where I got that figure. That's what the average cost of a motorcycle accident that does involve head injuries costs according to him. So mine was \$383,000. That does include the follow-up consultation and visits to the doctor, and I also did rehabilitation for 4.5 months in Omaha at Quality Living. And it was all covered by insurance fortunately. There was only a \$100,000 liability from the person that caused the wreck, but through my insurance, the company I work for, it was all paid for other than the deductibles which I paid out of my pocket. [LB200]

SENATOR FISCHER: Thank you. Senator Gay. [LB200]

SENATOR GAY: Thank you, Senator Fischer. It sounds like your accident was unavoidable on your part. [LB200]

GARY HAUSMANN: It was. [LB200]

SENATOR GAY: How much experience did you have as a rider prior to that? [LB200]

GARY HAUSMANN: I grew up on a ranch in north central Nebraska not far from where Senator Fischer grew up or is from, I'm sorry. I rode motorcycles since I was eight or nine years old. And I hadn't...I had kind of not rode a motorcycle for three or four years prior to getting my Honda Gold Wing, but I guess I would have to term myself experienced. And just...the experience level, it probably wouldn't have mattered. From these five adults that saw the accident, they all said that there wasn't anyplace for me to turn to. The car that rear-ended...the SUV that rear-ended the car was in her original lane of traffic. A UPS truck was pulling on where the car was going to turn off to and they say there was absolutely not one spot for me to go. [LB200]

SENATOR FISCHER: Other questions? Senator Campbell. [LB200]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Hausmann, we appreciate your testimony. I'm sure it's not easy to keep telling the story over and over and over again. [LB200]

GARY HAUSMANN: Well, it is and it isn't. [LB200]

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SENATOR CAMPBELL: My question has to do, did you always wear a helmet? [LB200]

GARY HAUSMANN: Absolutely, positively. Wouldn't have considered not wearing a helmet. [LB200]

SENATOR CAMPBELL: Even when you were a kid. [LB200]

GARY HAUSMANN: Oh, never, always, always. But I will tell you on my acreage over by Blair I do have a four-wheeler and I will occasionally go down and get the mail on the four-wheeler without a helmet on. So, you know, I'm just being honest with you. But, yeah, I've always believed in helmets, and I had a very good quality helmet on. [LB200]

SENATOR FISCHER: Senator Stuthman. [LB200]

SENATOR STUTHMAN: Thank you, Senator Fischer, and thank you for your testimony. I really appreciate that and we're glad to have you here today. The fact is the question that Senator Campbell asked about that you always wear a helmet, and you're responsible enough of a person to do that. The issue that I have is why does the state have to mandate, you know, the fact that you have to wear a helmet where when you're, you know, on a motorcycle you should be wearing a helmet? And you were responsible enough to do it. I think immaterial of the law you would have been wearing it. Correct? [LB200]

GARY HAUSMANN: Absolutely. [LB200]

SENATOR STUTHMAN: And that's the issue that I have, you know, why... [LB200]

GARY HAUSMANN: Yeah, that's a good... [LB200]

SENATOR STUTHMAN: ...I respect you for doing that and I give, you know, the majority of the people the respect that they should... [LB200]

GARY HAUSMANN: I understand what a lot of these people are saying that they want the freedom, but I can't imagine an educated person not putting a helmet on their head before...I swear I would not even ride across my yard to wash my truck, or I'm sorry, my motorcycle without sliding my helmet on. Now I didn't necessarily fashion the chin strap like you should, but I just can't imagine it. These same people are not arguing about child restraint laws, seat belts. They don't want steel bashes (phonetic) back in their cars, do they, or nonshatterproof, you know, the shatterproof glass or whatever? I just...it's just hard for me to understand. [LB200]

SENATOR STUTHMAN: Okay, thank you. [LB200]

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GARY HAUSMANN: Well, thank you. [LB200]

SENATOR FISCHER: Senator Janssen. [LB200]

SENATOR JANSSEN: Senator Fischer. I'm sorry, I'm taking notes here, I missed your name. [LB200]

GARY HAUSMANN: No, Gary Hausmann. [LB200]

SENATOR JANSSEN: Mr. Hausmann. [LB200]

GARY HAUSMANN: Sure. [LB200]

SENATOR JANSSEN: Thank you for giving the testimony, very riveting. You and I share a similar story and you guys are probably getting tired of hearing about it, but I also was hit head-on by a drunk driver. The pictures you have here, I have those pictures too, probably not as clear. And I think I recovered very well too. I was young, in the military at the time. Different... [LB200]

GARY HAUSMANN: I wasn't so young, but anyway. [LB200]

SENATOR JANSSEN: You recovered well... [LB200]

GARY HAUSMANN: Yeah, thank you. [LB200]

SENATOR JANSSEN: ...so we're fellow recovered there but. There's no positive side to it other than the fact I lived in Florida at the time. I was stationed there in the Navy, and I had my seat belt on. I don't think it was the law in Florida. It could have been. I don't know. I had my seat belt on. And whether or not there was a law even today in Nebraska, there is a law, it doesn't matter to me. A lot of people, as they admitted, don't pay attention to that law. I always wear my seat belt just like I assume and you just said you would always wear your helmet. I just think...but you also mentioned that you were scared to even ride without it, but then you also mentioned...you admitted you take your four-wheeler down without it. [LB200]

GARY HAUSMANN: Occasionally I do. [LB200]

SENATOR JANSSEN: And see, that's where I kind of decided to ask a question because it seems a little bit... [LB200]

GARY HAUSMANN: Sure, sure, well, I admitted that, yeah. [LB200]

SENATOR JANSSEN: Right, and then you said you're nervous, and I'm the same way.

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[LB200]

GARY HAUSMANN: But I'm not really nervous. I'm just embarrassed to tell you that I do that, and I've got a paved driveway and it's 565 feet to be exact. And I do ride down to get the mail occasionally, not very often. [LB200]

SENATOR JANSSEN: Gosh, and I recall actually it was over in Washington County, I think a young lady actually passed away in a motor...she was a foreign exchange student. It may not have been in Washington County, but going down on a four-wheeler, ATV... [LB200]

GARY HAUSMANN: It was. It was. It was west of Blair I think. [LB200]

SENATOR JANSSEN: Something like that came so that is, I mean, I could see both sides of that. I guess I'm kind of sharing a story. I share the fear. I always put my seat belt on, whether it's mandated or not. I can't go put campaign signs out without going ten yards without putting it up for that fear I have. [LB200]

GARY HAUSMANN: It's not fear, it's respect. [LB200]

SENATOR JANSSEN: But again, I don't want to...and it could be...and I don't want to go against my own bill here, but I understand where you're coming from. And I also understand where everybody else is coming from, that in some cases it's their freedom of choice as well. So, okay, thank you very much. [LB200]

GARY HAUSMANN: Sure, sure. I would like to comment just real quickly a gentleman was commenting earlier about the peripheral vision. I've had my helmet on twice since my accident, and I can put it on and show you, but your peripheral vision is not affected. Your orbital bone, which is the edge of your eye, is further ahead than that helmet. Now if he's got a helmet that does restrict his vision, he just needs to spend some money and get a better helmet because the peripheral vision is not affected by the helmet. And another thing, Dr. Follett at the Med Center in Omaha told me I'm lucky I was wearing a good helmet because helmets keep, not necessarily from breaking the neck, but from severing the spinal cord because it stops the movement of the skull. So just a gee whiz. [LB200]

SENATOR FISCHER: Okay, thank you. [LB200]

GARY HAUSMANN: Thank you. [LB200]

SENATOR FISCHER: Other questions? I see none. Thank you very much for being here today. Next opponent, please. And could I have a show of hands of how many yet wish to testify on this bill. Oh, we've gained some, six more. Okay. Good afternoon.

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[LB200]

JOSEPH STOTHERT: (Exhibit 12) Good afternoon. I've been here many times. My name is... [LB200]

SENATOR FISCHER: I'm going to time you since our timer took a break so. [LB200]

JOSEPH STOTHERT: Okay. I'll be quick. I'm not going to reiterate a lot of what everybody said. [LB200]

SENATOR FISCHER: Thank you. [LB200]

JOSEPH STOTHERT: My name is Dr. Joseph Stothert. I actually took care of Mr. Hausmann when he came in and saw him in follow-up. [LB200]

SENATOR FISCHER: Could you spell your last name. [LB200]

JOSEPH STOTHERT: Dr. Joseph Stothert, S-t-o-t-h-e-r-t. I'm medical director of trauma for the state of Nebraska. I'm the medical director of the trauma center at the University of Nebraska Medical Center. I'm also medical director of the Omaha Fire Department, which is the primary response agency in that area, and also medical director of 911 in Douglas County. I've been taking care of patients for 30 years. And I'm not going to go through what everybody else has just gone through. I'd just like to read a few statistics. States that have repealed or weakened universal helmet laws have seen a decrease in helmet use by 50 percent--that was asked earlier--and a significant rise in deaths. Arkansas has seen a 21 percent increase in death. Texas has seen a 31 percent increase in death. Kentucky has seen a 50 percent increase in death. Florida has seen a 71 percent increase in death. Louisiana has seen a 100 percent increase in death and has reenacted universal helmet law in 2004 due to the significant mayhem that was resulting from repeal of that law. As a surgeon, as a trauma surgeon, I urge every one of you senators to think about what your job is. It's to protect the citizens of the state of Nebraska. This is one way to do it. This is a safety issue. It's just like wearing eye protection, okay? It's just like wearing a seat belt. It's just like engineering cars to be safer. This is a safety issue. It prevents death and disability, and I urge you to vote on the side of life. Thank you. [LB200]

SENATOR FISCHER: Thank you, Doctor. Are there questions? Senator Hadley. [LB200]

SENATOR HADLEY: Thank you, Doctor. Your testimony on the last page you have UNMC motorcycle data. Am I correct in seeing that without a helmet that the hospital charges average one point...or that was the total charges. [LB200]

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JOSEPH STOTHERT: Total. [LB200]

SENATOR HADLEY: Yeah, but it's about \$12,000 more per case in Iowa without... [LB200]

JOSEPH STOTHERT: The helmet, yes. [LB200]

SENATOR HADLEY: ...because of the helmet law. [LB200]

SENATOR FISCHER: Senator Stuthman. [LB200]

SENATOR STUTHMAN: Thank you, Senator Fischer. Doctor, yes, I do believe the testimony that you gave here, but I think there's one component that isn't in here, you know, the states that repealed the helmet law and there's been like, say, Florida, 71 percent increase in deaths. But I would like to know how many accidents did it increase? I mean, yes, there's more deaths because they possibly weren't wearing a helmet. But, you know, has there been more accidents? Were there 50 percent more accidents? Were the accident rates the same as the year before? [LB200]

JOSEPH STOTHERT: Yeah, you could go through those statistics, and I think this was previously testified by the NHTSA representative, that it is...the death rate is going up out of proportion to the number of registrations in all of these states. [LB200]

SENATOR STUTHMAN: But taking into consideration how many accidents did happen, you know, that's what I'd like. [LB200]

JOSEPH STOTHERT: It varies from state to state. [LB200]

SENATOR STUTHMAN: Yeah, but I mean, yes, the death rate has gone up. [LB200]

JOSEPH STOTHERT: Yeah, and the percentage of registrations hasn't gone up to the same degree. In other words, let's say we had 20 deaths in Nebraska and 100,000 registered individuals. Now if you believe statistics and you double the registration, you'd expect the death rate to go up to 40. And in fact, when you double the registration, the death rate is even higher than that in these states. And so it's going...the death rate is going up out of proportion to the statistical increase in the number of registrations. [LB200]

SENATOR STUTHMAN: And, Doctor, do you have any information as far as at what speed does it make any difference if you have the helmet on or not? [LB200]

JOSEPH STOTHERT: Most certainly any protection is better than no protection. But the higher the speed, especially above 100 miles an hour, the chances of you surviving are

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a lot less. [LB200]

SENATOR STUTHMAN: Okay, thank you. [LB200]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB200]

JOSEPH STOTHERT: Thank you. [LB200]

SENATOR FISCHER: Next opponent, please. Good afternoon. [LB200]

DAVID HALEN: (Exhibits 13, 14, 15) We meet again. My name is David Halen, first name D-a-v-i-d, last name H-a-l-e-n. I'm a mechanical engineer and a motorcycle safety instructor. I've been in the motorcycle safety instruction business since 1992 in California, Alabama, Pennsylvania, and currently in Nebraska and Iowa. I actually train the instructors who teach the classes in both of these states. I've been riding for 40 years, been licensed for 40 years. I rode as a youth prior to becoming licensed, and I view this strictly as a public safety and taxpayer issue like the last testifier. I wanted to comment on some things I'd heard so far. The peripheral vision issue--that is a federal requirement that you not obstruct your peripheral vision. It is built into the number soup that the guy from NTSB gave you. The proposed legislation change for people under 21 is effectively not all that important in that 1.5 to 2 percent of the riders in the state of Nebraska are in that age group, so effectively 98 percent of the people that are currently required to wear a helmet would no longer be required to wear a helmet. So I would argue the language does not really matter. Also want to make sure you understand that not all motorcyclists are in favor of repeal of the current helmet law. As I said, I'm a motorcycle safety person in my other life when I'm not designing products. And there are a lot of people like me, and I believe the general populace also likes to see that we're concerned about the safety of people who are using our public highways. And something that the NTSB gentleman commented on, and we should be very proud of and I am personally because I work at it every day of my being, that we have one of the lowest fatality rates in this country. And I can't imagine why you folks or the rest of the senators in the Unicameral would want to change that by relaxing our current helmet law. Do you have any questions? [LB200]

SENATOR FISCHER: Thank you very much. Are there any questions? I see none. Thank you very much. [LB200]

DAVID HALEN: You're welcome. [LB200]

SENATOR FISCHER: Next opponent, please. Good afternoon. [LB200]

PEGGY REISHER: (Exhibits 16, 17, 18, 19) Good afternoon. My name is Peggy Reisher, Peggy is spelled P-e-g-g-y, Reisher, R-e-i-s-h-e-r. I'm here today on behalf of

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the Nebraska Hospital Association as well as Madonna Rehabilitation Hospital. I have been a social worker at Madonna Rehab Hospital for the last 12 years. We worked with hundreds of patients and their families dealing with the tragedy of brain injury. Our team of therapists, doctors, and nurses are responsible for preparing families as they go through the recovery, which is oftentimes best compared to the marathon, not the sprint. The average length of time a patient stays in our acute rehab unit is 23 days, although 23 days at Madonna is not anything compared to the months and years it can often take. Gary was one of my patients whose 3.5 weeks was pretty typical. However, as he can attest, he also did many months of outpatient therapy. So a lot of our folks need not only inpatient stay, a lot of outpatient therapy. For those more severe, also need ongoing skilled care. Oftentimes families are emotionally riding on a roller coaster. They're thankful their loved one survived the accident, but they're terrified about the outcomes and what's going to be the actual outcome of their recovery. The only guarantee is that things are going to be different. While in rehab, we began preparing families for the financial effects of brain injury. According to the Brain Injury Association of America, almost half of all motorcycle crash victims do not have private health insurance. A significant portion of the medical costs resulting from injuries have been paid for by Medicare and Medicaid. Even if a person has health insurance, it's not a guarantee the insurance will cover their entire costs of recovery from a brain injury. One of the very first conversations I have with almost all of my patients after having a brain injury is starting to talk with them about applying for Social Security disability benefits as well as Nebraska Medicaid. As a social worker, we work with the insurance companies throughout their acute rehab stay, but we find that a lot of times that insurance does not cover their entire stay. So again we begin talking with them about applying for Medicaid and Social Security disability benefits. The one thing...if I could just make one recommendation if we're really going to repeal this helmet law, people also need to be looking at the possibility of getting long-term care insurance because even Medicaid isn't going to cover all of those costs. If a person just simply needs supervision, Medicaid doesn't always cover the costs of that. So applying for long-term care insurance is a key thing. And there's very few people in this world that have that. We have worked with a lot of family members who wish there was something they could have done to prevent a brain injury. Although accidents are often nonpreventable, there are things that can be done to reduce the severity of a brain injury. Helmets are just one of those tools to help prevent brain injuries. And on behalf of those families that we work with, the Hospital Association and Madonna would urge you to vote no on LB200.
[LB200]

SENATOR FISCHER: Thank you very much. Are there questions? Senator Stuthman.
[LB200]

SENATOR STUTHMAN: Thank you, Senator Fischer. Peggy, do you see a lot of brain injury with automobile accidents also? [LB200]

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PEGGY REISHER: Absolutely. [LB200]

SENATOR STUTHMAN: On a pretty regular basis? [LB200]

PEGGY REISHER: That's what I do, yes. [LB200]

SENATOR STUTHMAN: So maybe we should have helmets in the cars. [LB200]

PEGGY REISHER: Seat belts are good. [LB200]

SENATOR STUTHMAN: Seat belts would be good enough. [LB200]

PEGGY REISHER: You know, whether or not people need helmets in cars I think we'd all probably feel really rather goofy on it. But I don't think we'd probably ever get that passed. I'm not saying it's a bad idea, but I don't think we'd ever get it passed. [LB200]

SENATOR STUTHMAN: Okay, thank you. [LB200]

SENATOR FISCHER: Other questions? I don't want this to sound crass, but it might. Are your patients involved...are the patients you see that are involved in these accidents and have the brain injuries and the trauma, are they the ones wearing the helmets or are they the ones not wearing the helmets? [LB200]

PEGGY REISHER: Well, if they're in Nebraska they're usually wearing the helmets. If they're from Kansas, they're usually not wearing the helmets. We get a lot of patients regionally throughout...we get Iowa... [LB200]

SENATOR FISCHER: But if the accident happens in Nebraska, the people you're seeing with these brain injuries did wear a helmet in the accident. [LB200]

PEGGY REISHER: Yes. Gary is an example, yes. [LB200]

SENATOR FISCHER: Okay, thank you. Other questions? [LB200]

PEGGY REISHER: I think the big thing is just the severity in which a person has...Gary's short length of stay of 3.5 weeks is very short compared... [LB200]

SENATOR FISCHER: It's amazing. [LB200]

PEGGY REISHER: Amazing. He's a walking miracle in our world. But those with more severe brain injuries were usually not wearing the helmets. [LB200]

SENATOR FISCHER: Okay. Thank you very much. Next opponent, please. [LB200]

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LYNNE ANDERSON: (Exhibits 20 and 21) I feel like a school teacher. We got handouts. [LB200]

SENATOR FISCHER: We like visual aids. That's always good. [LB200]

LYNNE ANDERSON: And I have more if you'd like them after. Good afternoon, my name is Lynne, L-y-n-n-e, last name Anderson, A-n-d-e-r-s-o-n. I am here representing Nebraska Nurses Association and in particular the Nebraska emergency room nurses. I'm a long-time advance practice nurse and have also served on the executive board of the National Safety Council for many years. Some of this I will kind of come down to and perhaps, Senator Stuthman, I have some data on some of the questions you asked. And before I begin this, the data that I am presenting comes from the Department of Transportation and more locally, the Nebraska Office for Highway Safety. The Department of Transportation report dated January 2008 states that head injury is the leading cause of death in motorcycle crashes. I know that does not come as a surprise to you. It also states that unhelmeted motorcyclists were three times more likely to suffer brain injuries compared to those wearing a helmet. Safety programs are an important factor as is the use of alcohol. However, a study from the University of Southern California concluded that the single most important factor for surviving a motorcycle crash was whether the rider was wearing a helmet. After the first year of the requirement of wearing a helmet, fatalities were reduced 15 percent in California and were reduced 33 percent in Oregon. Nebraska fatalities decreased 32 percent in the same time period. And I do have that I sent around showing the registrations compared to injuries and fatalities. Conversely, which occurred in states that repealed the law, fatality rates, and these are rates, not the number of fatalities, increased by 21 percent in Arkansas and 31 percent in Texas. In Florida, you had asked about the rate, not the number, Senator Stuthman, death increased by 24 percent of what was expected from the increased registration after repeal of the all rider motorcycle helmet law. Also in Florida the hospitalization rate from motorcycle crashes increased by 40 percent. So those would be expected to be people that you have expense for, but many will survive. Although none of us likes to be told what to do, wearing of a helmet while riding a motorcycle is in the best interest of families, communities, and all Nebraska taxpayers. In the event of a motorcycle crash, the first medical responders are not going to drive away and leave the nonhelmeted rider to fend for himself. When we say that people have a choice to make, they have a choice but then they need to also assume the responsibility. We oppose, we the Nurses Association, oppose the lifting the requirement for helmet use while riding a motorcycle. [LB200]

SENATOR FISCHER: Thank you very much. [LB200]

LYNNE ANDERSON: Thank you. [LB200]

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SENATOR FISCHER: Any questions? I see none. Thank you very much. Next opponent, please. Good afternoon. [LB200]

WILLIAM MULHERIN: (Exhibit 22) Good afternoon. Madam Chair, members of the committee, my name is Bill Mulherin, M-u-l-h-e-r-i-n, and I'm representing the National Safety Council, Greater Omaha Chapter out of Omaha. And just briefly, we're a private not-for-profit organization dedicated to helping reduce the toll of unintentional injuries in our society starting in the workplace. Our purpose here testifying today is not to espouse some ulterior motive or try to enlarge the nanny state or attempt to curtail others' freedom. We're simply here to relate the facts as they are so you can make the decision you need to make. We're not paid lobbyists and we're not going to profit no matter which way you decide. We're testifying in opposition. And, Senator Janssen, since you conceded the issue of safety in your opening statement, we'll skip that. We'll get straight to the economic and other arguments that were brought up. Quite simply, the stats are clear on safety. Every state that has repealed their law has seen injuries and fatalities go up. Every state that has enacted a law has seen them go down. Proponents of repeal bring a good game. They bring lobbyists, they bring loud voices, they cite studies and conjecture to support their position. But quite simply, their studies have been more than refuted by scientists and mathematicians, not to mention the body count. Their real and primary arguments are freedom of choice, followed by economic impact, and they are compelling arguments. Freedom is a strong argument that as an individual who personally favors personal responsibility and less government it's an argument I respect. But in this case, it's an illusory argument. Under the U.S. Constitution, the states are left to decide the best way to protect the citizenry of those states. The statutes of this state and every other state are replete with examples of actions taken by state legislatures that do just that--from seat belt laws and other automobile laws and food safety laws and on and on and on. These laws protect the majority with a minimum intrusion on the rights and the freedoms of the minority. They protect the weak, the uninformed, and the uneducated. They protect those individuals who cannot or will not take a realistic view of the risks that they are exposing themselves and others to when they engage in their particular activity. The helmet law we have is a shining example of that legislative duty and action. I can't think of a better example of a law that we have here in Nebraska having such a minimal negative impact on individuals while bringing about such a massive, positive outcome to all the citizens of the state with no dollar cost to government. Similarly, the economic impact law has no argument, no merit. If you lay out the balance sheets, the liabilities far outweigh the assets. We've seen the medical costs and everything else. Let's just talk about geography for a moment. In the packets I've given you, you'll find several MapQuest studies pulling the travel routes from various cities around the country to Sturgis. I looked at Ottawa, Ontario; Orlando, Florida; Albuquerque, New Mexico; Kansas City, they all send riders around Nebraska. That's just the way it's going to be. For those who can still afford to go to Sturgis, they just want to get there. And when they're done, they just want to get home. We have solid, proven legislation. We are facing the most

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serious budget deficits in years, and yet we propose bloating our Medicaid bills. We're choosing to ignore the fact that those of us who can still afford Sturgis want to get there. We can, however, predict what will happen upon repeal of our law. As sure as we can predict the time the sun is going to rise over our ranch outside of Broken Bow or Columbus, we can predict the economic impact on Alliance, Chadron, and Blair. We can predict the uninsured cost of hospitalization in Kearney, Fremont, or Scottsbluff. We can predict the pain and suffering across our state, the blood left on our highways, and the broken bones, dreams, and families on our citizens. It's easily avoidable. Please do the right thing when it comes to this bill and leave it here in committee. Protect all our roadway users, not just the minority. Thank you. [LB200]

SENATOR FISCHER: Thank you very much. You're with the National Safety Council, Greater Omaha Chapter. [LB200]

WILLIAM MULHERIN: Yes. [LB200]

SENATOR FISCHER: So are you affiliated with the gentleman that was here from Washington, D.C., with the National Transportation Board? [LB200]

WILLIAM MULHERIN: No, we're not government. We're a private not-for-profit. [LB200]

SENATOR FISCHER: How are you funded? [LB200]

WILLIAM MULHERIN: We are funded through consulting that we perform, through classes that we sell. I am a motorcycle rider. We have one of the approved motorcycle safety programs. We generate revenue that way. And we're also a membership organization so businesses join us. [LB200]

SENATOR FISCHER: You receive no money from government or law enforcement or firefighters that you have listed here? [LB200]

WILLIAM MULHERIN: Other than grants that we apply for...no. Other than grants we apply for like anybody else is eligible for, no. [LB200]

SENATOR FISCHER: Okay. Are there any questions? Senator Louden. [LB200]

SENATOR LOUDEN: Are you familiar with...what does Canada do? What kind of laws do they have in Canada or some of these other countries? [LB200]

WILLIAM MULHERIN: You know, that's a great question. A lot of the industrialized nations outside of the U.S., both Canada and in Europe, have mandatory motorcycle helmet laws. [LB200]

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SENATOR LOUDEN: And what do you...can you get by with these, what (inaudible) type helmets or something like that or do you have to have a bona fide helmet? [LB200]

WILLIAM MULHERIN: Well, there's several different types of helmets that are in this country DOT approved. There's your... [LB200]

SENATOR LOUDEN: But I mean in the other countries though. [LB200]

WILLIAM MULHERIN: Well, in the other countries it is going to depend on their law. And quite honestly, I'm not exactly sure what their laws require. But I would imagine that they're similar to our DOT regulations and that they provide a good amount of choice to the riders. [LB200]

SENATOR LOUDEN: Okay. Thank you. [LB200]

SENATOR FISCHER: Any other questions? Senator Stuthman. [LB200]

SENATOR STUTHMAN: Thank you, Senator Fischer. Thank you for your testimony, Bill. The question that I am not getting an answer for is the fact that, you know, states that have repealed they say, you know, the deaths have increased 20 percent or 50 percent or anything like that. What I want to know is how many accidents were there that year when it was repealed compared to the other year? You know, they say, well, there's been 50 more fatalities as compared to when they had the helmet law. What I want to know is how many accidents did they have, how many fatalities they had, how many less were or more were in long-term care. That's...I mean I'm only getting part of the picture. [LB200]

WILLIAM MULHERIN: Right. [LB200]

SENATOR STUTHMAN: I mean I'm getting the side of the picture that is what you're trying to tell the people. [LB200]

WILLIAM MULHERIN: Right. [LB200]

SENATOR STUTHMAN: You know, there's being more deaths. But, well, I want to know how many more deaths, but those 50 percent, are those the...well, let's just say 20 percent more fatalities. But were there the same amount of accidents, same amount of injuries? Is that 20 percent in long-term care where they would have been...they're a fatality now? [LB200]

WILLIAM MULHERIN: I understand where you're trying to go with that and, you know, it's an excellent question to ask. I don't know that there is an answer out there to that since...because our reporting systems are so focused on fatalities and fatality counts.

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Now I do know that the Nebraska Department of Roads, for example, tallies every year in a document called Traffic Accident Facts, which is available on line, the sheer numbers of collisions and the type of vehicle involved. But I don't know that even they have any correlation between how many resulted in hospitalization, how many resulted in, you know, obviously fatalities we can pick out and the types of injuries. I think we just have the number of accidents by body style, by vehicle style, and the number of fatalities. So you could probably or we could probably generate some, and I'll do a little research on this and send you an e-mail, some probabilities there, but I don't know that there's any correlation that's been done on the recordkeeping system. It could probably be done by the states, but it would take a little bit of time. And NTSB may have done it and, again, I think we can probably find that. [LB200]

SENATOR STUTHMAN: And what I'm interested in finding out, you know, yes, there's been 20 more deaths, but the year before they weren't a fatality... [LB200]

WILLIAM MULHERIN: Right, they were just an injury. [LB200]

SENATOR STUTHMAN: ...but they're in long-term care. [LB200]

WILLIAM MULHERIN: Correct. [LB200]

SENATOR STUTHMAN: But that same number might be in long-term care, you know. [LB200]

WILLIAM MULHERIN: Right. And, you know, one of the previous testifiers on the other side was correct that, you know, if they live in Nebraska and they get an accident out of state, Nebraska still pays for the long-term care. But as we've also seen testifying here, there is incredible cost involved in the actual accident scene itself--fire, rescue, EMS, life-flight, and everything else--what some previous people testified to in prior years was here in Lincoln, and I'd have to go back and look through the transcripts of the prior hearings, but here in Lincoln when they changed the law back in '89 and required helmets, they saw the number of reported accidents on motorcycles drop because the riders were uninjured, were able to pick themselves up and get out of there before the police were called, which there's a huge incentive to do that. You avoid the ticket and the embarrassment and everything else. And so I don't, you know, I think you can look for some corollaries that we probably can do some research and see if we can find that testimony going back several years because this bill comes up every year unfortunately. [LB200]

SENATOR STUTHMAN: Thank you. [LB200]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB200]

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WILLIAM MULHERIN: Thank you. [LB200]

SENATOR FISCHER: Next opponent, please. Good afternoon. [LB200]

MITCH BEAUMONT: Good afternoon. Senator Fischer, members of the Transportation Committee, my name is Mitch Beaumont, M-i-t-c-h B-e-a-u-m-o-n-t. I'm a public affairs specialist for AAA Nebraska. Thank you for the opportunity to testify. I did deliver information packets to each of your offices yesterday, so if I don't get through my testimony, you have the rest of it there. AAA Nebraska stands strongly opposed to LB200 or any effort to weaken our all-rider helmet law. According to statistics from the Nebraska Office of Highway Safety, the average age of those killed in motorcycle accidents in 2008 are much older than age 21. Of the 20 motorcyclists killed in 2008, only 2 were 21 or younger. Also riders age 21 and older represent 98 percent of the registered motorcyclists in Nebraska. By requiring helmets for only riders under age 21, this bill would be ignoring the safety of those who represent the majority of motorcycle fatalities in Nebraska. I'd also like to address some of the travel and tourism aspects of this debate. Supporters of this bill do claim that riders avoid Nebraska on their way to Sturgis because we do require helmets. Some also claim that we are missing out on thousands or millions of dollars of tourism dollars because we have an all-rider helmet law. You have in your packets I delivered yesterday two maps. The first shows the states with all-rider laws, those with provisions for riders under a certain age, and those with no law at all. And I do apologize, I'm repeating a little bit of what Bill said just a minute ago. The second map does show major cities in nearly every state in the country, according to MapQuest routes, from those cities to Sturgis do not take you through Nebraska, but rather around it. That is because we...and that is not because we have a helmet law. It is because the interstate and highway routes they are suggesting are the safest and quickest routes to get from point A to point B. Interstate routes are safer because traffic is moving in the same direction with medians to safely divide traffic moving in opposite directions. In fact, even if you were to leave from Omaha and Lincoln, the MapQuest route takes you north on Interstate 29 to Sioux Falls and west on Interstate 90. Although we would love to see more visitors in our state, removing our helmet law requirement would likely have very little impact on those heading to Sturgis. Of course, removing our requirement would not impact those heading to Sturgis who already wear their helmet or who trailer their bikes on the back of an RV. Given today's difficult economic conditions, higher unemployment rates, rising healthcare costs, we do need to take steps to curb wasteful spending. Prevention of serious and costly injuries must be considered. Retaining our helmet law is one step we can take toward this effort. In closing, I would like to thank the committee for its hard work over the years and protecting motorists and motorcyclists in Nebraska. This state is in an enviable position of low fatality rates which have been dipping before fuel prices climbed to record highs this last summer. And that is because the Transportation Committee and the Legislature as a whole have been dedicated to keeping the laws that protect Nebraskans. Thank you for your time. [LB200]

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SENATOR FISCHER: Are there questions? Senator Janssen. [LB200]

SENATOR JANSSEN: I just want to...thank you, Senator Fischer. Just one quick clarification. You had mentioned the routes being safer and quicker. That's why they're not going through Nebraska on the helmet law. So for the record you just said it's safer to travel in states without the helmet law. [LB200]

MITCH BEAUMONT: In some instances if... [LB200]

SENATOR JANSSEN: In the instance you used. [LB200]

MITCH BEAUMONT: I'm sorry. [LB200]

SENATOR JANSSEN: In the instance you used going to Sturgis, AAA's position is it's safer to travel through the states that do not have a helmet law than Nebraska, which does. [LB200]

MITCH BEAUMONT: Well, if you consider the state of Missouri, if you're going to travel from somewhere south of Nebraska and Missouri, you can't avoid...it's hard to avoid a state, you know, with a helmet law because both Missouri and Nebraska have helmet laws. [LB200]

SENATOR JANSSEN: Right. But Iowa doesn't and that's one of the recommended routes which AAA Nebraska's position would be it is safer and quicker to go through Iowa which does not have the helmet law than Nebraska. [LB200]

MITCH BEAUMONT: Our position is that interstates are safer than two-lane highways. And those riders are even safer if they...I'll stop there. [LB200]

SENATOR JANSSEN: Okay, thank you. [LB200]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB200]

MITCH BEAUMONT: Thanks. [LB200]

SENATOR FISCHER: Next opponent, please. Good afternoon. [LB200]

LAURIE KLOSTERBOER: Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. My name is Laurie Klosterboer, L-a-u-r-i-e K-l-o-s-t-e-r-b-o-e-r. I'm the executive director for the Nebraska Safety Council. We are a private not-for-profit organization. We're also a chapter of the National Safety Council and so we do training on safety and health information, both for

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in the workplace, on our roads, which would be such as today, and also in our home and community. We're opposed to this bill because in looking at our literature and the studies that have been done from NHTSA and the Insurance Institute for Highway Safety we feel that we've got a solid law here in Nebraska. We would like to see that that law is retained--the importance of making sure that we have a universal law for helmets. One of the things that I didn't hear coming out of all the testimony today was about the public support for a motorcycle helmet law. I think NHTSA, who has back in 2000 had done a motor vehicle occupant survey found that four out of five did support helmet laws in Nebraska. As well in March of 2004 there was another survey done by the Office of Highway Safety, 79 percent of those that were surveyed did support maintaining the current helmet law. And then AAA of Nebraska had also conducted a poll and reported in their 2004 November-December issue of Home and Away that 87 percent of those polled thought that the law should continue as is. I'm not going to go over all of the other states that have seen that with the repeal of the law they've seen injuries and fatalities go up. I can't answer your question, Senator Stuthman, so I'll just get that out of the way. And I don't know, quite frankly, if the statistics if they keep them that well to be able to determine of those accidents if they can chart who is on long-term or not. But I wanted to let you know that. One thing that I did notice that came out of the testimony, one of your questions was in asking folks that were proponents of the repeal was if they would wear their helmet without a law. And I think in the literature that we have reviewed and it has been reported in other states that those folks don't return, don't go back to wearing helmets once it's repealed. We've seen that in other states and I think just anecdotally we've heard that today that folks would say as well that, no, they wouldn't be wearing their helmet, which I think is...we're going to see less helmet wearing and then we're going to see the injuries and the fatalities go up. So with that, I would answer any questions that you might have. [LB200]

SENATOR FISCHER: Thank you, Laurie. Did you say you're with the National Safety Council? [LB200]

LAURIE KLOSTERBOER: We are a chapter of the National Safety Council and so Omaha... [LB200]

SENATOR FISCHER: The same as the other gentleman who came up? [LB200]

LAURIE KLOSTERBOER: Yes. That is a counterpart. We're two separate councils in Nebraska, but we're both chapters of the National Safety Council. [LB200]

SENATOR FISCHER: Where are you headquartered from then? [LB200]

LAURIE KLOSTERBOER: We are in Lincoln and then our service area is 89 counties. We exclude Douglas, Cass, Sarpy, and Washington, which is taken care of by that chapter in Omaha. [LB200]

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SENATOR FISCHER: Okay. Could you tell me on your polls questions that you were giving us the numbers on, do you have the wording of the question? [LB200]

LAURIE KLOSTERBOER: I don't. I can get that for you, though. [LB200]

SENATOR FISCHER: That would be interesting. Thank you. [LB200]

LAURIE KLOSTERBOER: Okay. [LB200]

SENATOR FISCHER: Any other questions? I see none. Thank you very much. [LB200]

LAURIE KLOSTERBOER: Thank you. [LB200]

SENATOR FISCHER: (Exhibits 4 and 5) Next opponent, please. Any other opponents? I see none. Anyone in the neutral capacity? I see none. Senator Janssen, you may close. Oh, excuse me, go ahead and sit down. I have letters from...in opposition from Jerry Stilmock. This is with the Nebraska State Volunteer Firefighters Association in opposition to LB200 and also from Jim Dobler, president of the Nebraska Insurance Information Service, and those are in opposition. Go ahead, Senator Janssen. [LB200]

SENATOR JANSSEN: Thank you, Senator Fischer, members of the committee. It's a long debate. It was, I think, and I know you've been through it before many of you, I think it was a very important debate for both sides. I certainly learned a lot on both sides of this issue from sitting through the debate. And as most of you on this committee know, I usually don't stay that long for this much of the debate so... [LB200]

SENATOR FISCHER: Good job. [LB200]

SENATOR JANSSEN: ...it was very, very interesting. As we expected, the two arguments we heard throughout the hearing were safety and increased cost. What should we think about before we decide what to do with this legislation? I'll give you one thing to think about--there are many things--one thing is the fact that everybody came up with their own facts and figures. Everybody came up, I heard from \$20,000 impact on the Medicaid or taxpayer in very few cases all the way up to just some astronomical numbers. I think the only thing we can agree on is both sides have their numbers, and they work their numbers to their benefit to their story. Possibly somewhere in the middle of there lies the truth. That's what we're elected to do. A lot of times our issues are not black and white. As we all know, they're very gray. And that's an issue that we'll deal with when we deal with this in committee. If the concern is truly safety, which I conceded early on, but we still had much, much testimony along those lines. And that's fine because that's really at the heart of this. But if it is truly, why don't we require drivers to wear helmets, which came up? Obviously, NASCAR has determined that it is

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much safer to wear a helmet than to go without. If our concern is safety, why don't we require a five-point harness instead of a lap and shoulder belt in our automobiles? It obviously makes more sense to be securely strapped in it at five points instead of three. If our concern is truly safety, why don't we pass legislation to make it illegal to use cell phones, drink a soda, or eat a Happy Meal while we drive? And I hope I'm not giving any ideas to my fellow senators. Or why don't we go out and shoot every single deer along the roadsides and eradicate them from the state of Nebraska? If our concern is increased cost to the Nebraska taxpayer, then why did the Unicameral pass a clean air bill that prohibits smoking in public? Wouldn't it make more sense to ban the use of tobacco everywhere? After all, it is a known carcinogen and has been proven to result in increased healthcare costs for those that not only use tobacco but also those who are exposed to secondhand smoke. Yet we go ahead and allow it. If our concern is about increased health costs, which I've heard over and over today, why haven't we put legislation in place that bans obesity, requires citizens to exercise three times a week or requires people to drive with their headlights on all the time? Better yet, why don't we tell every chef and short-order cook in the state of Nebraska that we can no longer...that they can no longer use trans fat to cook with? We don't do it because we recognize that those things infringe upon our personal freedoms. Sometimes personal freedoms come with a price. We don't do these things because we recognize that it ought to be okay for an adult to walk into a cigar bar and understand that he is going to be exposed to smoke. We shouldn't be regulating things that are legal. We don't ban obese people from attending all-you-can-eat buffet lines because what they want to eat is a personal choice. We don't require people to exercise three times a week because their health is a personal choice. We don't prohibit chefs from using trans fats because what they put into their recipes is a personal choice. But if we did all these things, we would be able to reduce healthcare costs for Nebraska taxpayers which everybody seems to be so concerned about here today. I took down some notes during...I did enjoy...actually I'm sorry to keep you here so long, but I did enjoy listening to the debate today. And taking some of the thoughts I gathered while watching the debate, both opposition and for this, you know, people that spoke out for this it's refreshing for me to come here and see what I call real Nebraskans come forward. We have Larry, Charles, Bill, Michael, Jerry come forward. These are not people like us in the fact that they're not down here because they have to be. They're not here because they're being employed by somebody, or I shouldn't say have to be. We campaigned to be here. But it's better that we be here for our constituents today. They came down here because they wanted to be here and they wanted to participate in the Nebraska Unicameral system. I took great pleasure watching one of the testifiers get done testifying, go back and give a high five to one of his friends in the back row. To me, that brings me back to a little bit of the city council days, and I don't know how they did it on the SID boards for Senator Lautenbaugh there. So I think, you know, when I looked at those people I really felt better about LB200. I looked at the people sitting out there, and some are still here. They've endured with us. You know, those are the people that if we walked into a watering hole in, and I'll use Ellsworth, Fremont, Valentine, Platte Center, Papillion,

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those would be the people that we would look awkward walking in there right now. Those are the people that we represent down here, and those are the people that came here today to testify in support of this. I did not include Lincoln in that because I figured if we all go to Billy's we look like this anyway so I'm sure they are... [LB200]

SENATOR CAMPBELL: But not every place in Lincoln is Billy's. [LB200]

SENATOR JANSSEN: I'm sure, I'm sure so I did not include that, but I'm sure there are other places along those lines. And the opposition, also Nebraskans, most of them, some from Washington, D.C. I never realized how many different chapters of Safety Councils we've had. I've got stuff from all of them now, but you've got the Nebraska Advocacy Services, Nebraska emergency room nurses. I'm not saying anything (inaudible). They testify in front of us many times. Hopefully some day I'll have a bill that they're in favor of; National Transportation Safety Board; Nebraska Hospital Association, these are things we expected to see today. And these are from organizations and they're necessary down here--Nebraska Insurance Information Service--those are very necessary organizations. And I take a lot of what they say and I listen to a lot of what they say. But it reminds me of a friend I have that lobbies down here and we're friends on Facebook and his political views simply state: whoever is paying me. And that's something to keep in mind when we're going through what people had to say today. So in closing, I'm going to remind people of something I say often is, as Abraham Lincoln said, those who deny freedoms to others deserve it not for themselves. This law doesn't ban the use of wearing a helmet because whether or not you wear one should be a personal choice. I am not willing to deny this freedom to others. Thank you. I'll answer questions. [LB200]

SENATOR FISCHER: Thank you, Senator Janssen. With that, I will close the hearing on LB200 and close the hearings for the day. (See also Exhibits 6 and 23-27) Thank you very much. [LB200]

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Disposition of Bills:

LB200 - Held in committee.

LB368 - Indefinitely postponed.

Chairperson

Committee Clerk