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Transportation and Telecommunications Committee
September 18, 2009

[LR143 LR152]

The Committee on Transportation and Telecommunications met at 9 a.m. on Friday, September 18, 2009, at the Alliance Learning Center in Alliance, Nebraska, for the purpose of conducting a public hearing on LR152 and LR143. Senators present: Deb Fischer, Chairperson; and LeRoy Loudon. Senators absent: Arnie Stuthman, Vice Chairperson; Kathy Campbell; Tim Gay; Galen Hadley; Charlie Janssen; and Scott Lautenbaugh. [LR152]

SENATOR FISCHER: Good morning and welcome to an interim study hearing by the Transportation and Telecommunications Committee of the Nebraska Legislature. My name is Deb Fischer. I am the senator from the 43rd District. I'm from Valentine, Nebraska, and I am Chair of the committee. Today I am joined by your senator here in the 49th District, who is also a member of the committee, Senator LeRoy Loudon. We also have our committee counsel, Mr. Dustin Vaughan, with us today and our committee clerk, Laurie Vollertsen. We try and keep these interim study hearings somewhat informal, but we do have some rules to follow. First, I would ask that you turn off your cell phones so we don't have "Name that Tune" playing while we try to conduct the hearing. Next, we do have yellow sign-in sheets; they're back there by the door. And if you are going to testify, we ask that you fill out one of those sheets and bring it up here to our committee clerk before you sit down and start testifying, because we need to have the correct information on you for the record. When you begin your testimony, please state your name and spell it for us. And if you're representing a group, we would ask that you also say which group you are representing. I would like to thank Senator Loudon for making the arrangements to come here to Alliance and get the meeting room set up. And I'd like to thank the city of Alliance and the community for hosting this meeting. I think it's very important that state senators travel the state of Nebraska and we get out and we're accessible to people and we have a chance to listen to your concerns. And that's just what this hearing is about. We're here today on two resolutions. The first one is LR 153 (sic), which will examine the highway funding

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structure that we have in this state. And we are here to listen to your suggestions on how or if you think we need to provide more funding for the roads in the state of Nebraska. The second resolution we will be hearing is LR143, and that's to look at the statutes in regard to off-road vehicles. With that, a little housekeeping done, I will open the hearing on LR152, and I would ask Mr. Vaughan to please introduce the resolution. [LR152]

DUSTY VAUGHAN: Thank you, Senator Fischer and Senator Louden. For the record, my name is Dusty Vaughn, spelled V-a-u-g-h-a-n, and I am the legal counsel for the committee. LR152 is introduced to conduct a comprehensive exam of Nebraska's highway funding structure and to analyze any possible funding alternatives. I don't think there's any question that Nebraska is in a current crisis with how we fund our highways. I believe four main points need to be stressed to know exactly what we're talking about with the magnitude of the present situation. One, Nebraska has many capital expansion projects, and I'm sure we'll hear about a couple today. The cost of seven of the highest-priority state projects is roughly \$730 million. And every year that these projects are left off the construction program the cost goes up through inflation. Currently two of those projects are on the department's five-year plan, that being the interstate expansion between Omaha and Lincoln and the Wahoo bypass. Two, Nebraska is at the point where funding will be inadequate to even preserve the current highway system. The Department of Roads estimates that it takes \$286 million to preserve the current highway system every year, and that number does rise with inflation. Last year's construction program was \$317 million. Granted this year it is quite a bit higher, but that is due to the federal stimulus fund dollars that Nebraska received back in February. The department estimates that the number will be closer to \$300 million. So you can see that \$286 million to preserve the current system and a \$300 million construction program doesn't leave very much left for anything except to preserve the system. And eventually we will become inverted, where we won't even have enough money in the next couple of years to pay for the current system, to preserve it. Three, because Nebraska employs a revenue-sharing structure with the local governments, that they

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rely heavily upon, they are in the same predicament as the state and also are falling behind on their street and road maintenance and construction. We've talked about in other cities how some of our cities and counties rely exclusively on the highway allocation formula and those dollars that they receive. So as long as the state is in this predicament, these cities and counties will continue to fall farther behind, just like the state. And the last point I want to make is Nebraska's historic reliance on the gas tax is no longer feasible under the current economic situation. We've talked about how demand for gasoline has stagnated over the past few years. And increased consumption isn't happening anymore, which in the past allowed for revenues to increase. We know this is due to smaller, fuel-efficient vehicles as well as a decreased demand for gasoline. These smaller, fuel-efficient vehicles also bring in less gas tax revenue because they're cheaper, and they consume less gas because they are more fuel-efficient. I don't think this is going to change anytime soon. We saw the Obama administration in February pass a higher fuel-per-gallon (sic) standard for all vehicles. We're seeing major manufacturers come out with electric vehicles and other hybrids that I think is just going to continue to reduce the demand for gasoline, which is good for the environment, not so good for our state revenues. This is not meant to imply that the gas tax doesn't have a place in our funding structure. It's meant to simply state that we can no longer rely on the historic method of increasing our revenues through increased demand. With that, Senator Fischer, I'll turn it back to you. [LR152]

SENATOR FISCHER: Thank you, Mr. Vaughan. With that, I would invite the first testifier on LR152 to please feel free to step forward. At our interim study hearings we don't do a proponent or an opponent, because this is just a fact-finding mission that we're on today to listen to you. So please feel free to offer your suggestions to us. [LR152]

DAN KUSEK: Good morning, Senators. My name is Dan Kusek, K-u-s-e-k. I'm from Alliance. I am a member of the Alliance City Council. I want to thank you for holding this hearing today, and, Senator Fischer, I thank you for coming to western Nebraska. You've been a friend, coming out here, and thank you for that, and thank you for your

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work. I know Valentine is just, what, roughly three hours away. So if you want to share the state capital between Alliance and Valentine, we can work that out. LR152...I'm sure that you two senators have been working on this since you've been in the Legislature, and it seems like there's no light at the end of the tunnel, and all I'm going to do is maybe add more to your gray hairs. The first thing that I want to convey to you for what I hear from my constituents--and I'm sure you probably hear it from yours when you get around--that it's just too hard and costs too much to license a vehicle in this state. You know that most, if not all, of that money to license a vehicle goes for road construction. So if we reduce what a person pays to license their vehicles, that just adds to the nightmare of we don't have enough money to fund roads. But I think we need to throw that into the mix. I also think that...and I've always been an opponent of sales tax on food and on prescriptions. But some of our neighboring states who do that...and I guess if, you know, if you go there and you buy food, you're paying it, and for the most part you don't realize you're doing it. But I think perhaps we need to look at throwing into the mix perhaps a half-cent state sales tax on food, no more than that and not on top of the 7 cents--or 5.5 state and 1.5 city--just a flat half-cent on food that would be simply collected by the state, who would then apportion that between the state, the counties, and the cities on some kind of a formula that your committee would put together. And I say that with--adding another tax--kind of holding my nose, because I don't want to do that more than anyone else does. But we do have...and nobody knows the problem we have better than you do of trying to keep those 10,000 miles of roads in good repair and to add some new ones, including the Heartland Expressway, which is vitally important to us out here, with the 1.8 million people that we have to do that. And I haven't been able to figure out some way to market sand, as of yet, so--other than to feed cattle on it--so until we can do that. But I want to thank you for your work. I thought I'd throw those in. And we can contact the committee if any other ideas come up, but it is a big problem. [LR152]

SENATOR FISCHER: Thank you very much. [LR152]

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DAN KUSEK: And thank you for your work. [LR152]

SENATOR FISCHER: Are there any questions? We have a chance to ask you questions. [LR152]

DAN KUSEK: Okay. [LR152]

SENATOR LOUDEN: Yeah, we get to go after you a little bit. [LR152]

DAN KUSEK: Okay, Senator. [LR152]

SENATOR FISCHER: Senator Louden. [LR152]

SENATOR LOUDEN: Okay. Well, thanks, Dan, for being here today, and thanks for your ideas, because that's what we're out here for...is we've had these hearings over the last five or six days, five hearings, whatever it's been. We've come up with bonding, increase in registration fees, an increase in gas tax, a tire tax, and, as you mentioned, a sales tax on food. All of them have probably, you know, been thought over and worked over, over a period of years. I would go...start with a sales tax on food, because that was one of the first bills I introduced in the Legislature when I went down there--that sales tax on food. And that was going to go...be earmarked to go into the state aid fund for education. And of course, that...I mean, there was a real fuss. That bill didn't get out of committee. I mean, they killed it before it got done testifying on it, probably. So if we did something on sales tax, I know there would be the squabble: Are we going to use it for roads, or are we going to use it for schools--and where we would direct it. As you know also, like in Fort Collins or in Colorado, why, you pay a sales tax on food, and the people seem to get along fine over there. When we talk about the increase in registration and, you know, and tax on motor vehicles, actually the state only has that, what, that \$15 is what they get for Department of Roads when you...on your registration, on your passenger cars. I think you've got a \$15, and then you pay another \$5.50 fee,

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and that \$5.50 fee that you pay on there, that goes to your...EMTs get 50 cents, Department of Motor Vehicles get \$1.50, and recreation roads get \$1.50 of that, and then the county gets \$1.50. So, really, when we're looking at tax on vehicles, it's only \$15 that goes to the state. The rest of it is local taxes, and your city and counties divide up that vehicle taxes that's on there. We've had quite a little bit of interest in raising the registration fee by 10 bucks--2.2 million vehicles, \$22 million; it would be easy to do. What's your thoughts on that \$10 for increasing the registration on a vehicle, because the rest of it is all local money that... [LR152]

DAN KUSEK: Right. And I wouldn't have a problem with the \$10 on the registration fee, but when Joe Public goes to the courthouse, as you do, to register that, you know, 2005 pickup that you use out there on the ranch, you're not paying \$15 to get your tags on that thing. You're probably paying \$400? [LR152]

SENATOR LOUDEN: Probably. [LR152]

DAN KUSEK: You know, and so when you're writing out that check, you're just...you're not thinking about: Okay, now \$15 of this actually goes to the state and the other \$375 goes to, you know, Box Butte County or... [LR152]

SENATOR LOUDEN: Schools. Schools get a portion of that. [LR152]

DAN KUSEK: ...the schools and like that, which it all does. But I...maybe it's the idea of that big shock value. It's the same way when you go in to pay your property taxes on your house or you go in to pay the property taxes on your ranch, and you don't have enough piece of paper on there to write out the whole number in there that you owe. And I'm sure that's a different committee, but maybe we need to look at, instead of paying those type of taxes, you know, you can pay twice a year, to pay those, you know, quarterly and by credit card, if you want, although that creates a whole lot of other problems for people who are then overextending themselves. But...and you know, and

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your committee, I think, was part of it...all the people that we had that registered their vehicles in South Dakota, and then they're living down here just simply because it's so much cheaper next door. And it's the property tax side of the registration. So for me personally, if I'm paying \$25, a flat \$25, to register my vehicle to the state, it's fine. But it's the whole, overall concept of that that I don't know what the answer to it is, but I know that if you have constituents that complain, it's...that's one of the big things that I get just on the local level. [LR152]

SENATOR LOUDEN: Now, on that...if you keep that 2005 vehicle till it's 14 years old, you know, you don't pay that \$400. [LR152]

DAN KUSEK: That's true. [LR152]

SENATOR LOUDEN: I mean, it gets lower all the time, because, as I always use the example, my mom's 1990 Oldsmobile. See, it's, what, \$20.50, or something like that, is all I pay on it. I drive it just the same as if I was driving my pickup or whatever. But nonetheless, we've had questions that ask that perhaps that should be adjusted so we don't have these vehicles more or less zero out. Well, now, at the time...this gets back to local revenue is what we're discussing; we're not talking about funding state roads. So it's kind of a puzzle on the registration fees and where we go. And I'm wondering if we need more public relations or education on where that funding goes on some of that. [LR152]

DAN KUSEK: Well...and I think to a certain extent we do, because part of that tax money also comes back. And the same way with the sales tax on a vehicle comes back to the local entities for street repairs. So I...we need to look at it in the mix, but, you know, you only register your vehicle once a year, so there's not a heck of a lot of ways you can go in there and cut down that big load of, you know...I would hate to go buy a new car now, and if you pay as much as what you paid for your house for a truck, you know, \$40,000 at 7 percent sales tax, that's \$2,800 there plus your fees. And you have

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a new pickup, but you're not a happy camper when you drive away from the courthouse.
[LR152]

SENATOR LOUDEN: Yeah, that's got to be figured in nowadays. We've also had quite a little interest in raising the gas tax. What's your thought on that since, you know, you're here in Alliance. I said when we left Lincoln the other day--last Friday we had a hearing in Lincoln--we left Lincoln on Wednesday, I guess it was. Gas was \$2.31 a gallon down there in Lincoln. Got to Scottsbluff, it's \$2.59. I went through one of these little towns here, and it was \$2.66. I see here in Alliance it's actually 2 cents cheaper than it is in Scottsbluff. And then if we talk about raising the gas tax, people--oh, they're really concerned about what we're talking about, anywhere from 25 cents to 30 cents difference in different areas around the state on the price of gas. [LR152]

DAN KUSEK: If you could explain that, it would be real nice too, Senator. (Laugh)
[LR152]

SENATOR LOUDEN: Well, I've wondered that, but I've never been able to get it explained. Do you have a problem with raising the gas tax? [LR152]

DAN KUSEK: You know, we all, last year or the year before, bit the bullet with the \$4-a-gallon gas, and we all paid it if we all went anywhere. And thankfully, you know, it went down by almost half. So I don't know what our state tax is...state tax on gas now. At 40 cents or 27 cents or...? [LR152]

SENATOR FISCHER: 26.4. [LR152]

DAN KUSEK: ...26. So, you know, if I'm paying \$2.59 a gallon and I'm going to get 20 gallons, another dollar, you know, a nickel a gallon, isn't going to hurt me. I don't want to pay it, but I also don't want to drive, you know, out in the fields. We've got good roads, you know, but, what, 10,000 miles, roughly, of roads in this state spread over a big

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state. What, your county, Cherry County is what, the size of Rhode Island? [LR152]

SENATOR FISCHER: Oh, no. That's my school district. (Laughter) [LR152]

DAN KUSEK: Your school district? See? So there's, you know, there's a lot more people in Rhode Island to pay for their roads, and they probably have less than 10,000 miles of it than what we do. So it's a big dilemma, and I know you've all been working on it. But I, like the next guy, don't want to pay any more taxes than I have to, but we need to maintain those roads-- from Valentine to Highway 2 to Grand Island to Lincoln, from here to Lincoln, the interstates, Highway 20, everywhere. I made my first trip in 35 years this summer. I drove to Ellsworth and drove up the highway up there to Gordon. You know, it...there's not a lot of traffic on there. But it's in pretty good shape, but we need to maintain that even though you don't have the volume that you have on I-80 between Omaha and Lincoln. But that's a vital road for people out there and the motorcyclists going to Sturgis. [LR152]

SENATOR LOUDEN: I like your point about if you put in 20 gallons, it would cost you another dollar. Larry Dix, who works for the county officials, pointed that out. He said: Well, if you're worried about it, just don't go in and buy a pop while you're gassing up. He said it'll be the same amount of money. Anyway, thank you, Dan, for your testimony. [LR152]

SENATOR FISCHER: Thank you very much. Appreciate you being here. Next testifier, please. Anyone else wishing to testify on this resolution? I believe you're at the wrong committee. [LR152]

LYNDON VOGT: (Laugh) I just missed you so much, Deb, I thought... [LR152]

SENATOR FISCHER: I know. Good morning. [LR152]

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LYNDON VOGT: Good morning. I am testifying on behalf of myself today. And I know both senators probably recognize me as...in a different hat than that. So, I would just like to say... [LR152]

SENATOR FISCHER: I need you to state your name and spell it, please. [LR152]

LYNDON VOGT: Sorry. My name is Lyndon Vogt, L-y-n-d-o-n; last name is Vogt, V-o-g-t, from Chadron. Do you need my address? Okay. I just had one quick comment I wanted to make on the transportation issue and on raising money. I think Nebraska needs to get more into a user-pay, not only on transportation but on a lot of issues. And therefore I would much rather see us have an increased gas tax than a tax on food to pay for our roads. I think that our tax system has got so confusing in Nebraska that we really don't know where our dollars are coming from. And I actually just learned where a lot of my dollars go to when I licensed my vehicle; I didn't realize that either. I actually was kind of shocked to hear the state only got \$15 of that. But I think, through vehicle registration and through gas tax, hopefully we could take care of the problems. And I know as our gas prices go up, use goes down. We're going to have to take that into consideration, and as we go into the future, our vehicles are going to continue to get more and more efficient. I mean, I have an '03 Chevy pickup that gets...on a good day it gets 14 miles to the gallon. And the 2007s, you know, are getting 21. I mean that's a third; that's a lot. That's a lot difference. And so I think, as we move forward, our gas tax...I know 26 cents sounds like a lot, to be honest with you, but when you're talking \$3 and \$4 gas, it's a pretty small percentage of the whole picture. And I think our sales tax on food is probably something we're going to have to look at, but there may be some other issues that are also going to need money in this state besides roads. So if our users of roads can pay for our roads, it would sure be nice. And living in western Nebraska--and my closest family is 200 miles away, either to the north or to the east--I put on a lot of miles in a year. But I do believe that that's who should pay for our roads. With that, that's all I have unless you guys have some questions. [LR152]

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SENATOR FISCHER: Thank you very much. Questions? Senator Louden. [LR152]

SENATOR LOUDEN: Thank you for being here, Lyndon. Yeah, we're usually after you on water here... [LR152]

LYNDON VOGT: (Laugh) I know. [LR152]

SENATOR LOUDEN: ...Now you're here testifying on gasoline, you know... [LR152]

LYNDON VOGT: This is a nice one. [LR152]

SENATOR FISCHER: Maybe. [LR152]

SENATOR LOUDEN: Yeah, you suppose you can turn that water into gas. We've had some discussion through these hearings on raising the price of gas or raising registration. Now one thing, with Interstate 80 and stuff, you raise the price of gas you're going to have people outside the state helping you pay for it. [LR152]

LYNDON VOGT: Absolutely. [LR152]

SENATOR LOUDEN: You raise your registration, that's local people going to pay for that. And so that enters into the mix on what to do and how far you want to go with it. I've always went for a user tax. As we talked about a use tax, we had one person testify: Well, raise the tax on tires, because if you drive, you're going to wear out tires. The more you drive, the more tires you wear out, which I don't know if it would increase that much revenue. We haven't looked it up yet to see what...how much money. I didn't think we got that much money on the tire tax we have now. And so I don't know if there's enough in there for it. But, yes, on...as you say, I don't know if you've checked in to see what your registration, your taxes...when you do buy your car, most people don't stop to figure out where that money goes. [LR152]

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LYNDON VOGT: Sure. [LR152]

SENATOR LOUDEN: And have you done that? [LR152]

LYNDON VOGT: I have not. I bought a car recently for my 17-year-old son, and I know what it cost me to license it, but I was actually surprised to hear you guys...with the last...Dan testifying here a second ago, I was surprised to hear where that registration goes to, I guess. I guess I'm fortunate enough to live outside of town so I don't have to pay a city sales tax, but still I'm paying the 5.5 percent tax, you know what I mean, for the state. [LR152]

SENATOR LOUDEN: Yeah, to...the purchase sales tax, yeah. [LR152]

LYNDON VOGT: Yes, yeah. But as far as the annual registration on the vehicles, I was not aware that the state only got \$15 of that until just a couple minutes ago. Yeah. [LR152]

SENATOR LOUDEN: \$15. Yeah. Yeah, \$15, because the other 5.5 that goes there is usually divided up amongst some of these other areas. Yeah, even on the sales tax, I think, what is it? Over 5 percent of it goes into the allocation trust fund, which the counties and cities decide. In other words, you pay 5.5 percent, but the Highway Trust Fund just gets 5, and it goes into the other the way it's divided up. It's very...to me, when you look at this, whoever sat down and figured it out, it isn't that bad of a formula. You hate to redo the whole thing, but I think there's places where we can probably add to it. And I've thought the guys that figured it out originally probably knew what they were doing, and it's worked quite well for a long time. [LR152]

LYNDON VOGT: Yeah. I do agree with the aspect of the sales tax is getting everyone coming through our state as well. I mean, we're...you don't fill up in Iowa and make it

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across Nebraska on a tank of gas, you know. So if you're traveling through the state, you're probably filling up with gas somewhere, and that is...I'd much rather see them folks pay for our road than a single mother that's trying to make a living, buying food for her kids, you know, and it's just... [LR152]

SENATOR LOUDEN: Okay, thank you, Lyndon. [LR152]

LYNDON VOGT: ...didn't want to let you guys off too easy this morning. Yeah. [LR152]

SENATOR FISCHER: Thank you for being here. Do you know what the gas tax was in January of '07? [LR152]

LYNDON VOGT: I do not. [LR152]

SENATOR FISCHER: It was 27 cents. And so two and a half years later our gas tax is less. Do you think very many people realize that? Do they know what the gas tax is? [LR152]

LYNDON VOGT: You know... [LR152]

SENATOR FISCHER: What's your opinion on that? [LR152]

LYNDON VOGT: The only reason I knew what it was, was because when I fill up at Big Bat's in Chadron, they have a sticker on their pump telling you what the gas tax is. And that's the only place, I think, that I see that. And I actually think their sticker does say 27 cents yet. (Laugh) So...but, you know, I...when you start talking about 5 cents on a gallon of gas, I don't think anybody realizes...I don't think people, most people, realize what they are paying in tax. I think most people think they're paying a lot more than they are. I think most people think they're paying closer to 45 or 50 cents than they are 26 or 27. [LR152]

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SENATOR FISCHER: With the federal gas tax in there--it's 18--and so, yes, they're paying more, but... [LR152]

LYNDON VOGT: Yeah. [LR152]

SENATOR FISCHER: ...the state...usually it evens out that the state gets back about what we send to the feds on that federal gas tax, which is good. But that can always change too. [LR152]

LYNDON VOGT: So is the federal gas tax paying for...I know you're supposed to be asking me questions not me asking you, sorry. [LR152]

SENATOR FISCHER: You can't ask me any questions. [LR152]

LYNDON VOGT: (Laugh) Does the federal gas tax pay for the maintenance on our interstates then? [LR152]

SENATOR FISCHER: You can't ask me any questions. (Laugh) [LR152]

LYNDON VOGT: Okay. [LR152]

SENATOR FISCHER: No, we'll visit about that. [LR152]

LYNDON VOGT: Okay. [LR152]

SENATOR FISCHER: But there are federal funds that go into that. [LR152]

LYNDON VOGT: All right. All right. Thank you. [LR152]

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SENATOR FISCHER: But, yeah, the problem we're facing is, when you're looking at \$286 million just to preserve the system we have, which is an investment for the state...It's over a \$7 billion investment that the state has in the roads that we currently are enjoying and travel on safely. That's a priority, is to maintain that. [LR152]

LYNDON VOGT: Right. [LR152]

SENATOR FISCHER: So that makes it difficult to get any new construction done. [LR152]

LYNDON VOGT: Sure. And we sure want some new construction in western Nebraska for a four-lane highway out here. [LR152]

SENATOR FISCHER: I have heard that, yes. [LR152]

LYNDON VOGT: Yeah. [LR152]

SENATOR FISCHER: Thank you very much. [LR152]

LYNDON VOGT: Thank you, Senators. [LR152]

SENATOR FISCHER: Anyone else wishing to come forward to testify? Good morning. [LR152]

JAMES JELINEK: Hello. My name is James Jelinek. [LR152]

SENATOR FISCHER: Oh, excuse me. I need to have you fill out a yellow sheet, too. Not... [LR152]

JAMES JELINEK: Oh, okay. [LR152]

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SENATOR FISCHER: ...You don't have to do it right now, but before you leave we need to have that for the record. [LR152]

JAMES JELINEK: Okay, I will. [LR152]

SENATOR FISCHER: So thank you. [LR152]

JAMES JELINEK: Okay. My name is James Jelinek, J-e-l-i-n-e-k. [LR152]

SENATOR FISCHER: And what do you have to tell us today? [LR152]

JAMES JELINEK: Well, over the course of looking at these different issues here, everybody keeps kind of talking about taxes and raising and raising. And I farm west of Alliance. I raise sugar beets, corn, wheat. And, you know, if I have to...I think the fuel tax is probably where you have to go. If I were raising sugar beets and I take 110 loads of beets off that field and I'm ruining the highways, I don't mind paying an additional nickel or whatever I've got to pay. But in return I expect the state to do the same. If you go to South Dakota, up here, you go to Oelrichs, all of their equipment is from the '70s--all of their mowers, all of their tractors. In 2004-2005, the state had all John Deere new tractors, all John Deere mowers. And every one of them mowers is \$15,000 to \$20,000. And you start going up and down Highway 2 and 92 and down the interstate, and they have all these new John Deere tractors and all these new mowers. Well, in 2008 they went to all new Ford tractors and new mowers. There's an additional expense. So if you want to tax me and increase my taxes and want me to help out, I expect you to do the same. So that's my biggest issue. I mean, when you go into South Dakota, a lot of their equipment is from the '70s and '80s, and I just think that the state needs to be aware that it looks like they're, you know, they're going through a lot of equipment, new expenditures and purchases. And I just think the tax needs to come in to fuel, if they're going to do it; it's either got to be on tires or diesel or gas. So I don't mind paying a little

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more just as long as I get...you do your share. [LR152]

SENATOR FISCHER: Thank you. [LR152]

JAMES JELINEK: Thank you. [LR152]

SENATOR FISCHER: Questions? Senator Louden. [LR152]

SENATOR LOUDEN: Yeah. Well, in defense of the Department of Roads, Jim, I'll have to say this. A few years ago, those new tractors that you see mowing along the highway are rentals. And a few years ago they contracted that out, and people did the...you know, they contracted people to run them and do the mowing; and I've talked to, I don't remember if it was Craig Lind, or I think it was the other guy down there. And here, about two years ago, they started operating them themselves; those are operated by state employees now. But those tractors are rented. You can go over and see Tim Garwood and buy one of them a little bit cheaper here later on in the fall. He's smiling about it there, but, yes, that's what they've done. And they were telling me how much money they saved by renting them rather than owning that equipment. So on that part...Now, the other equipment that they have, whether it's new or whatever, I'm sure they have a program that they probably...I think they've been quite conservative, because if you ever go to their used sale down there, why, you better be paying attention to what you bid on, because... [LR152]

JAMES JELINEK: Well, to us it just looks a little bit bad. I mean, when you're going down the road and they're working on the roads, I mean, they have all brand-new crew cab Chevy pickups. Why didn't they just go to the two-door Chevy pickup? I mean, you know, it's just a concept. I mean, you know, we know the roads got to be maintained, they've got to be taken care of, and we've got to have them. And it's going to take a little bit...it's going to take help on everybody's part. But if we're going to have to step up--because agriculture is going to get a very big ding--I mean, you know, we're buying,

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you know, they're large...using a lot of diesel fuel. And we got to get those crops to Scottsbluff and keep the whole economy going and the factories going, and if we got to go a little bit more...but to us, you know, when you go over there and there's a brand-new crew cab Chevy pickup. And that's the way it looks to us. [LR152]

SENATOR LOUDEN: That part on the pickups and the cars, we've had some discussion about that before. Even the state of Nebraska with their fleet of cars... [LR152]

JAMES JELINEK: Yeah. [LR152]

SENATOR LOUDEN: ...it's...your staff people get real upset when you call in and say: Well, check out this state license plate number. How come these people are driving over here with this state car? This does happen, you know... [LR152]

JAMES JELINEK: Yeah. [LR152]

SENATOR LOUDEN: ...and the staff people down there think sometimes they're spending more time running down those license plate numbers. But, yeah, you're right. We have to watch that, some of that stuff. [LR152]

JAMES JELINEK: Okay. Thank you. [LR152]

SENATOR FISCHER: You bet. Thank you. Next testifier, please. Anyone else wishing to testify on this resolution? [LR152]

RYAN REIBER: My name is Ryan Reiber. Last name is R-e-i-b-e-r. I'm representing myself. [LR152]

SENATOR FISCHER: Go ahead. [LR152]

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RYAN REIBER: Okay. Maybe along the lines of cost cutting or long-term planning, knowing how important the roads are and how few people there are relative to other states, it's the perception of myself and perception of some that I'm associated with that the...when we redo roads, for instance, going north out of Alliance, it appears that we take off about 2 inches or so, I'm not sure on that. And then after about, oh, five years, the cracks that are kind of, almost seem like they're spaced the same amount--I know they're not--come back. And then we're redoing it again, and there's examples, around our region anyway, of how often that has to be done. Now I don't know if there's a cost-benefit analysis done that says: I can do 2 inches cheaper than I can do 6 and not do it as much. But talking to folks that work in this industry and knowing folks that have...know people in, say, in South Dakota, their opinion is that the most cost-effective way is to go the 4 or the 6 inches and not have to come back in five years. And so I would throw that out that it is a perception that maybe long term--that's not going to help the short-term problem that we have that's obvious, it's a short-term problem--but maybe if we can get into a cycle of not coming back so often that maybe our budget could be helped some. That's all I have. [LR152]

SENATOR FISCHER: Okay. Thank you. Any questions? Senator Louden. [LR152]

SENATOR LOUDEN: I might make a comment, Ryan. And what I'm familiar with, if you went Highway 27...you know, over the years, I mean, there was a crack and you could run your hand clear to the bottom of the highway. And every time they run an overlay, why, like you say, it was right back there. And here, oh, I suppose now it's getting three years ago or so, but they put the plant site on our land out there, and they come up with this different mix that, I don't know whether they put rubber in it or what, but they put...they ground that highway off pretty near clear through to the sand, and then they put this mix on there. And that hasn't cracked since then. The reason I'm watching it close is because they also put that road in to my son's house with the same stuff. And that hasn't cracked then. So they do try to figure out ways, you know, to improve it. And

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I haven't talked to any of the, you know, department engineers to see if this is something that they were going to do in other places. But I know that instance, because, as you say, that crack deal...and that's the way that worked. As long as that crack was in that road on that base, you put another one over it, why it came right back through. It was...that's very correct. But I know they have done that on Highway 27 just out of Ellsworth there, that first, oh, 15 or 20 miles or whatever it is, that and the road down to my son's house has the same material. [LR152]

SENATOR FISCHER: I know that's a problem, Ryan. You highlighted that, and I just want to highlight it too. That's the major problem that we're facing is with the maintenance. And the...we have a limited budget; the majority of it goes for maintenance, but maintenance doesn't solve the problem. If you truly want to take care of that road, you have to pull it all up and put a new road down. I mean, we all know that it's hard to fill those cracks and have them stay stable then. Potholes, yeah, you can patch them, but you're going to come back the next year and patch them again. So that's what we're facing in the state is just the maintenance, trying to preserve what we have and keep those roads safe to drive on and hopefully not bang our vehicles around too much when we hit that stuff. But do you want to pay an increase in a tax or a fee? In my opinion, a fee is a tax, so do you want to pay an increase in that in order to rip up that road and build a new one so you don't have to keep patching it? [LR152]

RYAN REIBER: Well, like anybody else, you don't want to pay any more than you have to. But I was coming from the angle that is there...has there been enough study done? It appears in other states that they do go to this getting rid of the crack totally. Does that have a long-term cost-benefit that...yeah, in the short term it costs more, but in the long run does it cost more? And that was the angle I was taking. Has that been studied out? Driving from here to New Orleans on my motorcycle I noticed those cracks a lot more and those potholes, and so it appeared that Nebraska struggles more than any state. The weather is an issue, but you have South Dakota that doesn't appear to have that same issue--sparsely populated, same weather. You know, it's just maybe a mind-set

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change. And I know it would be a lot of dollars to get out of the shorter-term fixes and go into longer-term. And that would be a short-term hit on the budget, and then maybe if truly it is a cost-benefit to go with the more, you know, serious or the total redo of a road, then...but that was the angle I was coming from, Senator. [LR152]

SENATOR FISCHER: Okay, we'll look into that. Thank you. [LR152]

RYAN REIBER: Thanks. Thanks for hearing me out. [LR152]

SENATOR FISCHER: You bet. Thank you for coming. Next testifier, please. And if you would fill out a yellow sheet, please. Ryan, if you'd fill out a yellow sheet, too. Thank you. Thank you. Good morning. [LR152]

TIM GARWOOD: Good morning. Tim Garwood, G-a-r-w-o-o-d. As Ryan said, I guess I would consider I'm representing myself--a business owner, but I'm representing myself. Two things. Number one, I guess the purpose of the hearing on the first bill is twofold. Is it to, and this is a question I guess I'm asking is that: Do the people want to spend more money to increase roads, and, if so, how do you pay for it? Okay. Personally, my opinion, I'm a very strong proponent of Heartland Express, so obviously my idea is in favor of proceeding, because I think it's got a lot of potential and we have a lot of drawbacks if Nebraska doesn't proceed one way or the other with the Heartland Expressway. As far as the funding for it, and I understand that the state has reached a point where they're running out of funds for new expansion. The gas tax is basically a user tax, and that's got to be one of the strongest things as far as what people...if you're going to use it, you've got to pay for it. No, I'm not in favor of it, but I understand when your hands are tied, they are tied. And then the last point I wanted to mention, and Jim and I need to get together on the side, but on the mowing of the highways, like Senator Loudon said, I do know from our standpoint that it is a less expensive way to go than what they approached in the past. And it's truly the manufacturers of those tractors and/or mowers that take the big discount down because they want the exposure out

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there. So there's a tremendous discount from the manufacturers' side to the state. And once the state leases them for a year, then they discount them to the dealer, and we turn around and then it's a great avenue for us to have a one-year-old tractor for sale. So just a point of interest on that end of things. So that's all I have to say. [LR152]

SENATOR FISCHER: Thank you. Questions? Senator Louden. [LR152]

SENATOR LOUDEN: Well, thanks, Tim, that you clarified that. But, yeah, I've talked to dealers, and they're quite pleased to be able to get some of those tractors in... [LR152]

TIM GARWOOD: You bet. [LR152]

SENATOR LOUDEN: ...and it is a savings for someone wanting to buy those tractors. [LR152]

TIM GARWOOD: Right. [LR152]

SENATOR LOUDEN: They're all large tractors, what I call large. Now... [LR152]

TIM GARWOOD: You need to be in the market for one of these here... [LR152]

SENATOR LOUDEN: Yeah, I suppose. [LR152]

TIM GARWOOD: ...because we're going to be talking to you. (Laugh) [LR152]

SENATOR LOUDEN: Yeah, that isn't part of the hearing today. [LR152]

TIM GARWOOD: Oh, okay, all right. [LR152]

SENATOR LOUDEN: Thanks, Tim, for your comments. [LR152]

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TIM GARWOOD: Okay, thank you. [LR152]

SENATOR FISCHER: Thank you. Anyone else wishing to testify on this resolution?
Thank you. [LR152]

JIM MORAVEK: (Exhibit 1) Jim Moravek is my name, M-o-r-a-v-e-k, and I tried to wait till the end because I have no ideas on how you guys are going to finance your way out of these problems. I'm here to visit with you a little bit about the priority funding system that you're talking about and how the local governments have fared under the existing revenue structure. We've had comments today about the Heartland Expressway, near and dear to all of our hearts out here; we think it's a huge economic development need. You can tell from the letter that I have handed each one of you that we have not had much response out here. And my suggestion to solve that would be to change the law and allow the highway commissioners to be elected by the citizens and voters of each of the highway districts. What we've got right now is we have highway commissioners appointed by the Governor, and we've got the Governor appointing the director-engineer of the highway department, who kind of runs the department like a dictatorship, in my opinion. I believe that the State Board of Education is elected out of their eight districts. I see no reason why we couldn't follow the same thing. What that would do, it would give us voters in each district a little bit of power and control over what's happening with our highway funds. If Joe Blow doesn't do what we want him to do, we vote him out and put somebody else in. So I think from a responsive-to-the-voter issue, I think that would solve it. I think another by-product to the senators would be the fact that you have somebody you can send me to, to complain about my roads; you don't have to listen to me. And I don't know how much time you folks spend handling voter complaints, but I'm sure it's a substantial amount of your time. And if you could say: Jim, you have to go talk to Joe, who is the highway district commissioner for your district, that's going to sidestep a lot of your problems. I think it's going to give me more power over what is going on in the Legislature and how that money is being spent

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through the Department of Roads. Just as a backdrop on this thing, I have enclosed on my letter a bunch of Xerox copies out of the Scottsbluff Star-Herald and the Omaha World-Herald delineating a few of the problems we've had on the Heartland Expressway, on the money that'll be allocated. We never see anything done with it. So that'll just give you a little bit of background and some of the history of the thing. And so my position here is I'd like to see that law changed so that we can elect our own highway commissioners and have them be more responsive to our needs in outstate Nebraska. Thank you. [LR152]

SENATOR FISCHER: Okay, thank you. Questions? I see none. Thank you very much. Anyone else wishing to testify on this resolution? Is there anyone else wishing to testify? I see none. I will close the hearing on LR152 and open the hearing on LR143. And Mr. Vaughan, would you give the opening, please. [LR152]

DUSTY VAUGHAN: Thank you, Senator Fischer and Senator Louden. For the record again, my name is Dusty Vaughan, spelled V-a-u-g-h-a-n, and I'm the legal counsel for the committee. Highway funding is always a big issue for our committee but I believe this one is probably the one that we received the most calls on in our office and from other senators' offices. Right now we have three bills introduced in our committee that deal with this and we're talking about off-road vehicles. Senator Louden, you introduced one and then Senator Christensen and Senator Rogert introduced a couple. I believe when the committee discussed them they didn't feel comfortable yet since we had four new members on the committee sending something out, so we decided to do this study. I had previously given you memos on what I had found out from other states and what our statutes currently hold on this issue. We really don't have a lot in statute right now. We have conflicting statutes that state that the Legislature intends to keep these vehicles off the road. And then we have another statute that says the state and any political subdivision can regulate these roads within their jurisdiction. A lot of these vehicles are not eligible for title and registration purposes and an argument has been made that that should keep them off the roads regardless of what any political

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subdivision does on it anyway. Right now we have four terms in the statutes that cover these off-road vehicles and they're very narrow. We have the all-terrain vehicle. That is a very narrow definition. It does not cover these new side-by-side ATVs or UTVs that we see out there. Under our definition, the seat has to be straddled. So it basically limits it to the traditional four-wheelers that we see out there. We have the Moped, which is quite a rare vehicle now. It requires bicycle pedals along with a motor so I think traditionally now we see more of what's considered a scooter with hand propulsion. We have the minibike which is also known as a dirt bike to the lay person. The off-road vehicle industry doesn't even really use that term, minibike. So in addition many of the bikes that we see today have a bigger wheel diameter than is allowed in the statutes, so it really doesn't fit with what's out there. And then we have the lower speed vehicle and that term was introduced a couple of years ago to basically exclude them from title and registering privileges. I think the three main vehicles that we're talking about today and that we've heard the most from constituents on is the minitruck, the Japanese minitruck, the side-by-side ATV or UTV, and the neighborhood electric vehicles. I gave you descriptions of those in the memo and I think most people here know what we're talking about with those. And I also in that memo gave you kind of what other states are doing. The minitrucks are becoming more prevalent in states right now. I think we found 14 states that allow them in some facet on the highways. None of them allow them on the interstates. Some of them allow them on high-speed roads of 65 or 55 miles an hour and some only allow them in cities if the cities authorize them by ordinance. The neighborhood electric vehicles are actually very prevalent in other states. I think we're one of only five states that doesn't allow them on low speed limit roads of 35 miles per hour or 25 or 20. And then the UTVs, the side-by-sides, I know of at least seven or eight that do allow them. I didn't have the chance to go and look through every state because I believe a lot of states treat them as ATVs and so we'll have to check that out. I did give you recommendations on how these vehicles should be treated, if the committee does choose to send something out. I believe we heard from testimony from the director of DMV and also State Patrol. They're willing to work with us on the minitruck issue, but they would like to see something, some kind of working group on the other vehicles. So

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I think we have a chance to do something in the upcoming session in January. My recommendations that I gave you were not meant to imply that these vehicles, or advocated these vehicles need to be on the road. But this, from analyzing other states and just by what I've seen in our statutes and the capabilities of these vehicles, I believe that is the best method if you choose to go for it. With that, I will turn it back to you, Senator Fischer. [LR143]

SENATOR FISCHER: Thank you, Dusty. Is there anyone wishing to testify on this resolution? Please come forward if you're here to testify on the resolution. You will have to fill out another yellow sheet for us though, so. Good morning. [LR143]

DAN KUSEK: Okay. Dan Kusek, K-u-s-e-k, resident of Alliance here, and a member of the Alliance City Council. With regards to this resolution, after the Legislature had changed the law to allow the ATVs, Alliance was one of the first communities to pass ordinances to allow them on city streets. I don't believe to this date that we've had an accident yet with regards to one of these vehicles on the streets. We were pretty liberal with how we allowed those, where they went. We do not allow them on Third Street here in Alliance except to cross Third Street, which is also Highway 2. You can go across there but you can't go down that street, and there's pros and cons for both of that. There aren't as many users of those now, now that the novelty has worn off, and the price of gas is no longer \$4 a gallon. But we do have quite a few people in this community who work night shifts and when the weather is nice, they have approached us about, can we...you know, why can't we use these at night if we have the headlights, taillights, brake lights, and all that. And I said, well, that's a matter for the Legislature that they right now only allow them during daylight hours, so. I would ask that the committee to look at that. We require that someone with an ATV that they want to use in the city they have to report to the Alliance Police Department with that vehicle, they have to bring proof of insurance on the vehicle. It's inspected by the city of Alliance. They pay a \$25 fee for that inspection and a sticker is put on there that the Police Department knows that that has been inspected. We require that if they're going to carry

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anything on the vehicle, for instance, if they're going to the grocery store to get a bag of milk, they have to have a luggage carrier firmly attached to the vehicle so that they're not carrying anything in their hands. We did go back and revisit this ordinance several times. Once to look at whether or not we allow passengers or not and the majority of the council so far has said no. We also looked at requiring helmets or not and so far we do not require helmets in the city of Alliance, although I only half-jokingly said that perhaps we need to require everyone that rides these to have a donor card filled out. But I think with our railroad and some of our other, you know, three shift people would use these to take them to work and come back if they knew that they could ride them legally. With regards to utility vehicles, the side-by-sides. I think we really need to look at that because there are more and more communities like us who have a side-by-side John Deere that they use in their parts department, things like that, which I would say was technically they're not legal to be on the street, and yet they're the most economical and cost-effective piece of equipment to use, you know, in your parts department, things like that, so. I would like to see the committee look at that as far as adding those to the list of allowable vehicles. I would answer your questions. [LR143]

SENATOR FISCHER: Thank you. Questions? Senator Louden. [LR143]

SENATOR LOUDEN: Yeah, well, thanks, Dan. And, yeah, I know Alliance is, oh, what would I say, kind of lead the pack a little bit on it. Do you think the side-by-sides, and that's kind of what we're up against now is because we have these side-by-sides, could you just say, open that statute up for ATVs and add side-by-sides in there. I mean, is your ordinances all in order that it could take care of the side-by-sides just... [LR143]

DAN KUSEK: I think our ordinance probably could. Our City Attorney is here. I don't know. He's smiling, so...I don't know that much about these vehicles. I know that they have very good use, you know, for us in the city, for agriculture. I know that they're dangerous, just like everything else. I think we lost a young girl up in the Chadron area...well, no, that was a vehicle, I guess. But we have had fatalities on our

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four-wheelers so, you know, they're dangerous. And the wheelbase, I guess, on a side-by-side, you know, and what we use here is a side-by-side that's a John Deere that I'm not sure what they call them. They're a little wider wheelbase so they're less prone to tipping over, so maybe some study needs to be done on, you know, a small wheelbase side-by-side might not be appropriate or might be considered dangerous like the Jeeps, you know, were ten years or so ago when the Highway Department, you know, in Washington said that the wheelbase is too narrow and they're too prone to tipping over and like that. What we use is a wider wheelbase to carry, you know, everything you do in your parts departments. [LR143]

SENATOR LOUDEN: What about the minitruck? That's been...that's another vehicle and another step up and this is where we're getting a lot of, we get a lot of testimony in Lincoln on minitrucks. [LR143]

DAN KUSEK: I don't know anything about them. I have seen, I think, they used to have some down at Hyannis, perhaps over there. I guess it's more, you know, what do the studies say if they're safe, if they have all, you know, everything that's, the headlights, you know, taillights, brake lights, everything else. You know, is there much different if they have those? You know, if they don't have turn signals and they don't tip over that much, is there that much difference from that then driving, you know, Grandpa's Model A around town, you know, that doesn't have turn signals and has very antiquated light system and things like that. But I have not had anybody approach me saying, well, you need to do something to get these, you know. [LR143]

SENATOR LOUDEN: What we have on the minitrucks is probably the question of like 30 mile an hour on these ATVs, I think it is, whatever. And these minitrucks will go 65 or whatever and they...the problem is they're imported as used vehicles from Japan and VINs aren't on them like they should be and a few things like that. Where we have people in Lincoln that have testified, they're using them for, oh, like your extra pickup to haul material around, to haul sprayers around, to check...one person had a, he run an

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area where he would check people's summer homes and he couldn't drive that minitruck over to those summer homes because he had to go down a state highway a mile or two. Once he got there, then he could use it to run all over, which was a lot cheaper. And that's where part of this hearing, or LR study is come from, is where do we fit minitrucks in with the side-by-sides and the ATVs. Are we going to... [LR143]

DAN KUSEK: The way you've described it to me, Senator, I would consider it a small motor vehicle, like, you know, a smaller Ford Ranger pickup or a small Chevy Luv pickup and like that that they have to meet, you know, certain safety standards and they have to be licensed, and somehow you're going to have to stamp a vehicle number on there. It sounds like they're in a different class, but the ones I see on the highway at Hyannis, they don't look like they're that much different in size than some of those older, smaller, you know, two-wheel drive pickups we used to have and then some people still have them around. [LR143]

SENATOR LOUDEN: They look about like, you remember when Willys Overland come out with that cab over the Jeep? You know they had a cab over pickup and they had cab over Jeep and I suppose there was probably 27 of them sold in the United States, you know. (Laughter) And, but these got popular, many of the ranchers are using them around, especially when the guy down there at Hyannis sold them all, so. Thank you. [LR143]

SENATOR FISCHER: Thank you. Next testifier, please. Is there anyone else wishing to testify on this resolution? Good morning. [LR143]

LARRY MILLER: Good morning. Thank you, Senators, and thank you for coming to western Nebraska. My name is Larry Miller. I am the attorney for the city of Alliance. Actually I wear two hats which are interesting on this issue because I am the city attorney, I'm also the risk management. So on the one side I issue, deal with liability, and on the other on giving people, trying to meet the needs. And this kind of comes into

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both sides. One of the issues about these smaller vehicles, of course, is the danger of them being struck by, you know, a car of three or four, five times probably or more their size and weight. And so that's an issue. One of the issues that I raised with my council members was the whole idea of, you have one of those and then someone gets hurt or worse, there's a lawsuit filed, are they going to say, you know, well, it's the ATVs fault, and the ATV is going to say, we said they're not for on road use. And so then they go to the state to say, well, state, you authorized it. And the state says, yeah, it was the city's choice to put them on or not, and where is that liability going to fall? And I think that's an issue that concerns me on the risk management side. The other side of this is just a whole issue of fairness. It's really hard when I receive phone calls saying, how come the ATV as we've defined it, that you straddle, can be on the street, but a UTV with roll bars, seat belts, steering wheel, those kind of things, can't be on the street. And, you know, it's like, well, because that's what the state said. You know, that's all we can do. We operate in a Dillon's Rule which means we only have the power that you grant us, and they didn't grant us that authority. The issue becomes even greater when I receive the phone calls from people who were selling the minitrucks here in town. Why is an ATV without a cab, without seat belts, without roll bars, you know, without turn signals, all those kind of things, can be on the street but this little minipickup can't? And so...in the issue of, I mean, I think you have to look at safety but it makes no sense in fairness to say, you can have the ATV but you can't have the other two. Now, when you get there, because I've done the research as well, I was directed to draft proposed legislation which we sent and it went nowhere. When you go start looking at that, when you look at many vehicles you find go-carts, and all sorts of things, with little pickup bodies and that kind of stuff. You have golf carts, you have lots of issues that, you know, that's going to have to be defined very, very carefully, because otherwise, you know, anything can be out there. And certainly the risk of, you know, something small and light running into a big four-wheel drive pickup is, the pickup is going to win. And so we have to take that into consideration. The...I think also, as I understood it from the research, the minipickups had to be manufactured before 1985 because otherwise they had to meet certain regulations that they didn't meet. Now, I'm not sure that that's absolutely correct

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but that was as I understood it, and it's been, oh, almost probably a year and a half ago that I did this research, and that may have changed. I don't know. So and then also if you look at the size with regard to, like a Mini Cooper, you know, I think, and I haven't seen them side by side, but I think the minipickup is probably bigger than a Mini Cooper which is authorized on the road. So I guess the two issues that I just kind of wanted to address. One is the whole issue of liability and safety. I think that's something we've got to take into consideration, but if you're going to allow for one, it's really hard. It reminds me of when I was in law school was asked, how come blind people get two exemptions on federal estate tax but a paraplegic only gets one? It's because they had a better lobbyist. You know? (Laughter) There isn't anything fair about it, it's just a better lobbyist. And so I think as you look at this issue, we need to deal with safety and we need to deal with fairness. With that, I'll turn it back to you for questions. [LR143]

SENATOR FISCHER: Thank you, Mr. Miller. Are there questions? I have a couple here for you. The problem we're facing on this, in statute we already had a definition for ATVs. Now we're seeing all sorts of vehicles being manufactured, being imported, sold to people and our definitions aren't keeping up. And with the minitrucks, I think it was stated earlier, when we import those, they don't have that VIN number. And the Japanese have a law that they can only keep trucks so long and they have to have new ones and so they're sending their minitrucks over here. Since they don't have a VIN number, we don't require registration and licensing right now, which means they can't be on the roads. So would you think that the minitrucks need to be licensed and registered? Is that a first step? [LR143]

LARRY MILLER: I guess I would think...I mean, to me, for the minitruck it makes sense. If you compare it to the Mini Cooper personally, I don't know that that's the city's position, but personally I would think that if it's going to be on the road, especially you can run 60 miles an hour, those kind of things, that I wouldn't see why the state wouldn't say, we're going to license and tag these like anything else. We're going to make you proof insurance, that kind of thing. And so, personally I would think that they are most

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like a regular car and would be treated like a regular car. I guess my struggle was, how do you say to something that's that close to a regular car, you can't be on the street, but a ATV that you straddle, you know, and has all these specific rules, it can be. [LR143]

SENATOR FISCHER: I've pulled up next to Mini Coopers and they're very small.
[LR143]

LARRY MILLER: And I don't know whether they have more safety features. In other words, do they have air bags, do they have all those kind of things, and frankly, I don't know. The Midget...who made that, can't remember. Anyway I know they're still around, the MG Midget. They don't, you know, so. [LR143]

SENATOR FISCHER: Where would you stop then? If you're going to register, require licensing for a minitruck and allow them to be on, I would think just certain state highways, and I'm thinking we'd have to put some kind of speed limit on them in order to limit them to certain state roads. On the ATVs that cities now can allow within their city limits, do those need to be licensed and registered? Should we have the side-by-sides, should those be licensed and registered before a city could allow their use? [LR143]

LARRY MILLER: I think that's a very good question that you Senators can decide.
(Laughter) [LR143]

SENATOR FISCHER: I'm here to get opinions on things. You know I don't think state senators should be out there deciding anything without input from the people. [LR143]

LARRY MILLER: You know I don't know that I have a firm opinion either way. I mean, I understand it's on the road then it ought to have a plate and a...you know. On the other hand, you know, we used to have the little trailer tags and now you got great big tags and trying to find a place for that on a mini ATV or whatever could be...ATV, UTV, golf cart, whatever, could be really interesting to mount those and that kind of thing. I mean,

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so there's a unique set of problems dealing with the issue you just had testimony about, you know, the answer would be, absolutely. It's a user tax. They all need to pay and everybody who is on it, no matter how much they use or abuse it, should pay something. You could certainly support it that way. For whatever reason they didn't decide to do that with regard to the ATVs seems to be working. I don't know how much or how great or whatever that is. I think we need to be really careful not to make it so restrictive that people...you know, they look at it as being too costly to license them so instead they just drive them illegally. You know, I mean, it should be some sort of fairness there. But I don't personally have an opinion, real strong one way or the other on those. I mean, I could see it both ways. [LR143]

SENATOR FISCHER: Should the state require licensing of those vehicles or should we leave it up to the cities that allow them within their jurisdictions to charge a fee or license them in some way, register them in some way? [LR143]

LARRY MILLER: When this issue was before council, one of the reasons that we did it is, we wanted to make sure that they had the flag, they had the lights, they had the insurance. You know, that they...and then the other thing that we were concerned about is, if you don't have some way to know that this vehicle has been to the, you know, somebody and has been approved for the year, every time you see the vehicle moving you could stop it and say, I need to see your proof of insurance. So we didn't want to hassle people in, you know, randomly stopping every vehicle because, you know, how do you identify...it's not like you're going to see that ATV with the same person driving it most likely so that every officer knows, oh, yeah, I've checked him, he's got insurance, you know. And so I think it does make sense for that to be done at one level or the other. Certainly the city has expense, county would have expense, whatever, in watching those, maintaining them, you know, doing whatever. I know that we did have an accident up in Chadron with regard to an ATV, but it didn't seem to be serious. We have had accidents though where people died. Usually those have been outside but certainly it can happen very easily. So I think it's appropriate for them to pay some

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reasonable fee to use it. I don't know, and I think that, you know, if the state charges, then the cities or municipalities should have received some benefit from that. If we're not actually doing the inspections and those kind of things, you know, then we probably shouldn't receive all of it. And so I think there...personally, I would say that I don't see a problem with some sort of a fee to have the privilege of using that. I mean, if you think about it as a user tax, if you're driving a tractor, you don't pay the gas tax, you know, if it's in the field, but if you're in your pickup and you're on the road, then you do. You know, so, I don't know that that shouldn't follow with an ATV or UTV, whatever, that if you're using it totally off road, that you don't have to license and tag it, but if you put it on the road, then you pay some reasonable fee to do that. [LR143]

SENATOR FISCHER: Here in Alliance you do inspections now, did you say that?
[LR143]

LARRY MILLER: We do. [LR143]

SENATOR FISCHER: Do you charge for the inspections now? [LR143]

LARRY MILLER: Well, what we do is we charge an annual fee and so before...they come to the Police Department, bring their ATV to the Police Department. It's inspected to make sure it meets all of the requirements by statute and then we affix a sticker to it so that that...with the year, so that tells everybody that that particular vehicle has been inspected this year, it had insurance, it passed, those kind of things. [LR143]

SENATOR FISCHER: Do you know how many other communities do that? [LR143]

LARRY MILLER: I do not. [LR143]

SENATOR FISCHER: Do you know of any other communities that do that? [LR143]

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LARRY MILLER: Well, we've sent our...the legislation that we passed to several communities and I think others did, but I...to know how many did and I do not know. I think maybe Sidney did. I'm not sure whether Scottsbluff did or didn't. Chadron, I think, might have as well. [LR143]

SENATOR FISCHER: Okay. Do you have individuals in town who either drive golf carts around or want to drive a golf cart around to get their mail, or go to the grocery store? Have you seen that in this area? [LR143]

LARRY MILLER: I don't think that I have. I have been approached with the UTVs. I've been approached with the minivehicles. I don't think I've had anybody...I can't remember anybody coming to me with regard to the golf carts. Now, I've had discussion with people because I think in Arizona or something they were picking up a golf cart from somebody and there's another little, there's a little switch on the pedal when you step on it and they couldn't figure out what it was. It's the brake light that they had to install so that they could drive it on the roads. I think there may be some interest in it. I'm not sure. One of the things that we talked about when...because Chadron and Alliance were responsible and collaborating to draft the proposed legislation we sent to the League of Municipalities. We talked about that and then there's people who are...you know, because typically they don't go very fast and then there's people are putting bigger wheels and they can go a lot faster and those kind of things. And so, I mean, there's lots of intricate issues there, you know. I mean, I think it's kind of a man's...if it moves, we can make it go faster kind of thing. (Laugh) [LR143]

SENATOR FISCHER: I know in our area I had introduced legislation on ATVs and we incorporated into the bill that was passed and it was because I had a couple of counties, one being McPherson County where Stapleton city, the only vehicle they had was an ATV. And they would drive it up and down alleys and spray weeds and things with it, but they couldn't cross the highway. The State Patrol was not pleased with that and so that sparked my interest in it and then as we got started looking into it, it just seems to be

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engulfing us in a number of questions. So hopefully, we'll find some answers here. As Mr. Vaughan said in his opening that though there's...we have a number of statutes that deal with it somewhat, as you found in your research that deal with it somewhat, and definitions are hard to come by. So we're going to try and tackle that. I don't know if we'll have a big bill on it this year but one of my goals is to get that done. [LR143]

LARRY MILLER: Well, I know that for the city of Alliance we have looked at the idea of both the UTVs and the minipickups to transport parks department people with their mowers, and weed eaters, and those kind of things. It would be a whole lot more fuel efficient. It would be a lot less expensive to purchase vehicles. It would be...you know, and yet most of the time we don't...I mean, we'd need some, but we wouldn't need the number of larger vehicles that we need to transport people, you know, to the different parks and wherever. And so, and I know like in Gering, that what they have UTVs but they put them on trailers and haul the trailers from one place to another for that very purpose. And so, I do think it makes some sense to look at some ability to use those. [LR143]

SENATOR FISCHER: Right. We're, of course, we're working with State Patrol on this and the DMV and a major concern, of course, is the safety of the vehicles, not just for the operators themselves but for other users on our streets and roads. So we are hoping to make sure that that will be foremost in our minds when we address the issue. But I appreciate you coming today. Thank you. [LR143]

LARRY MILLER: Thank you. [LR143]

SENATOR FISCHER: Any other testifiers on this issue? Any other testifiers? Please come up. You'll have to fill out a yellow page and make sure we get that later. But, good morning. [LR143]

DOUG OLSON: Good morning. I'm Doug Olson, O-I-s-o-n and I thought I would make a

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comment on some of these questions, or maybe one or two of them. The...as a driver that is out, you know, dealing with the issues of other motorists and dealing with state highway issues versus city issues, some of these vehicles, I certainly believe, ought to be restricted in speed as to which roads they're allowed to drive on and their legal speed limits on those roads. This State Patrol issue that you addressed, as a driver on a highway, I don't expect to see an underpowered, overly small vehicle pull out in front of me when I'm traveling at highway speeds. So I certainly agree that on an uncontrolled intersection especially that there ought to be restrictions and...but on a controlled intersection, especially four-way stops, traffic lights, where I'm stopping and I have the law preventing me from just speeding through, and I'm paying attention at that intersection, I believe that there should be allowances made for vehicles like that. And certainly in a city that, you know, a little one-horse town without stop lights, a four-way stop is not that big of an issue to allow vehicles to cross a highway, for instance. Many small communities are built on highways and you have operations on two sides of that highway and some highways, you know, have one car every three minutes and it's not highly traveled so you know you could safely get across many times. On the issues of the minitrucks and the different side-by-side vehicles, I agree with the issues that have been brought forth where the opinion would be that a minitruck seems to be a profitable way of doing commerce for many businesses and should...but it seems logical to allow them because we have had many vehicles allowed. There seems to be no restriction on horse power, there's no restriction on many issues other than safety issues, but if you're going to allow them on a public road, then I do believe they need to be licensed because they need to be paying their share of the expenses and the state, the city needs to be able to control who is on their roads. That's pretty much my opinion.

[LR143]

SENATOR FISCHER: Okay. Thank you. Any questions? I see none, thank you, Mr. Olson. Is there anyone else wishing to testify on LR143? Anyone else wishing to testify on this resolution? I see none. I would remind everyone who did come up and testify without your yellow sheet, to please bring that up to our committee clerk after the

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hearing. And with that, I would once again like to thank Senator Loudon. I would like to thank the city of Alliance for hosting us and I would especially like to thank all of you for coming to this hearing and I will close the hearing on LR143 and I will close the hearings for the day. Thank you very much. [LR143]