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Transportation and Telecommunications Committee
February 15, 2011

[LB289 LB353 LB573 CONFIRMATION]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, February 15, 2011, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on gubernatorial appointments of Frank Landis, Ralph Holzfast, John Rebensdorf, and Gary Rasmussen to the Nebraska Railway Council, LB353, LB289, and LB573. Senators present: Deb Fischer, Chairperson; Galen Hadley, Vice Chairperson; Kathy Campbell; Annette Dubas; Charlie Janssen; Scott Lautenbaugh; LeRoy Loudon; and Scott Price. Senators absent: None.

SENATOR FISCHER: (Exhibits 1-4) Good afternoon and welcome to the Transportation and Telecommunications Committee. My name is Deb Fischer, I am Chair of the committee and I'm from Valentine, Nebraska, District 43. I'd like to introduce to you the members of the committee that are present at this time. On my far right is Senator Kathy Campbell from Lincoln. Next we have the Vice Chair of the committee, Senator Galen Hadley from Kearney. Next we have the committee counsel, Dusty Vaughan. To my immediate left is our committee clerk, Laurie Vollertsen. And on my far left is Senator LeRoy Loudon who is from Ellsworth, Nebraska. We will be having the other members join us and you might see members get up and leave. This is the time of year when all the committees are having their hearings. So I know we have a couple members right now introducing bills in another committee. I'd also like to introduce to you our pages this year in the committee...are Crystal Scholl from Lincoln, Nebraska, and Kyle Johnson, who is from Sutton. 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 can keep the hearing moving. I would ask that you please sign one of the yellow sign-in sheets at the on-deck table and have that ready to hand in to our committee clerk before you sit down to testify please. We do use a computerized transcription program and so it is very important that at the beginning of your testimony you say and spell your name for us please and also sign...or fill out everything on that yellow sign-in sheet so we have that information. I don't think we have too many people here today, but we do use a light system in the committee. You have three minutes to testify and then we open it up to the committee for any questions for you. If you do not want to testify, but you want to offer your support or opposition to a bill, you can indicate that at that on-deck table. There's a sheet provided there so please sign that. However, if you want to be listed on the committee statement, you need to come forward; you need to sit in the testifier's chair; state your name and state your position on the bill. Again, that is if you want to be included on that committee statement. The reason I always say that, that is important, because that is the statement that shows up for other senators, the rest of our colleagues to see if a bill is advanced to the floor. If you do not choose to testify, we do take comments, written comments, if you would like to turn those in. At this time I would ask that you please turn off your cell phones. We don't allow cell phones on in this committee; that means no texting. And I would also like to recognize that we have

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been joined by Senator Scott Lautenbaugh of Omaha. With that I will open up our gubernatorial appointments. We have those first. These are all members for the Nebraska Railway Council: Frank Landis, Ralph Holzfaster, John Rebensdorf, and Gary Rasmussen. We sent letters to all of the gentlemen. Since they were reappointments, I had them informed that they didn't need to come to the committee today. Some of them live quite a distance. But at this point I would open it up if we have any proponents for any of those four gentlemen to come forward today. Do we have any opponents for the nominations? Anyone in a neutral capacity? With that I will close the hearing on the gubernatorial appointments and I will open the hearing on LB353. Senator Lautenbaugh, if you would introduce your bill, please. Always a pleasure to see you in the chair here in front of us, Senator. [CONFIRMATION]

SENATOR LAUTENBAUGH: Always a pleasure to be here, Madam Chair Fischer, and members of the committee. I introduced LB353 to hopefully ameliorate and address a difficulty we've had with some instances involving towing. A little bit of background: In November, 2002, a tower in North Platte responded to a tractor-trailer accident at the entrance to the westbound scales. A Pepsi beverage truck had jackknifed, blocking both lanes, due to black ice. The tower hooked up the tractor-trailer and towed it to the Pepsi warehouse at Exit 177. When he pulled into the warehouse with the truck, a state trooper was behind him. The trooper was ticketing him for bypassing the 179 Exit and being over-length, which at the time was 95 feet and he was 108 feet. He was ticketed for \$280. This bill is based on a Missouri law that was created for the same purpose to prevent hindering the quick and safe removal of wrecked vehicles from the roadways. The bill is not an end-all, be-all. Both the Department of Roads and the State Patrol do have concerns and after speaking with all the parties, they are willing to come to the table through the committee to come to an acceptable compromise to both sides. Among the biggest concerns to be addressed, I've learned, is the definition of place of secure safekeeping; a more stringent definition of disabled and wrecked vehicle; clarification of single vehicle and combination of vehicles for towing purposes. I've asked the bill to be addressed by the committee and amended accordingly and advanced to the floor in the interest of business fairness, as well as public safety. This bill has...this law has existed in Missouri for a time and has apparently resulted in fewer vehicles left on the interstate and roadways for an extended period and no difficulties that I am aware of. Behind me are individuals from the towing industry. Some of whom you've seen this year already; some of whom you may not have been...or may not have seen. And then some individuals from the Department of Roads, I believe, as well, in opposition or neutral. But I'm sure they would be happy to take your questions, as would I, and hopefully we can come up with a workable solution that addresses the public safety concerns and the concerns of all the parties involved as well. I won't use the phrase "stakeholders" because I can't stand that word. I'd be happy to... [LB353]

SENATOR FISCHER: Thank you, Senator Lautenbaugh. Any questions? I see none. Thank you very much. [LB353]

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SENATOR LAUTENBAUGH: Thank you. [LB353]

SENATOR FISCHER: Could I have a show of hands please for the number of people that plan to testify on this bill? One, two, three, four, five. Okay, thank you. First proponent, please. Welcome. [LB353]

JOANNE HITZ: Welcome. Nice to see you guys again. [LB353]

SENATOR FISCHER: Nice to see you. [LB353]

JOANNE HITZ: I want to thank Senator Lautenbaugh for introducing this very important piece of law that I think is very needed for our industry. [LB353]

SENATOR FISCHER: I need you to say and spell your name please. [LB353]

JOANNE HITZ: My name is Joanne Hitz, J-o-a-n-n-e, Hitz, H-i-t-z. I own and operate Hitz Towing in York and I'm also the president of the Professional Towing Association for Nebraska. As we all know, towing is not cookie-cutter from our previous issues. When we get into the heavy-duty towing, there is, obviously, various types of trucks and equipment moving on all sorts of highways in the state of Nebraska. We are always called to remove and relocate the vehicles whether they're broke down or wrecked or arrested or for whatever means, these vehicles need to be moved to the appropriate place for them to either be repaired or picked up by the owners. I just want everybody to know that the problem seems to be is that not all vehicles that are run up and down the highway are divisible. By that, I mean a tractor-trailer combination is a divisible tow. I can separate that into two separate units and tow them individually. There are certain vehicles that are operated on the highway that are not divisible and by the laws that are in place I am not able to be compliant on length and weight. For example, school buses, motor homes, garbage trucks, rental trucks, delivery trucks, farm trucks, the list is endless. There are a lot of vehicles out there, when they are hooked to the back of a tow truck I am no longer compliant with the length and sometimes the weight depending on what it is that I'm towing. It is very difficult to get a permit per tow to do this considering that this business is 365...24/7, 365. And also by getting a permit to do these tows, when you have over-dimensional, you are restricted as to when you can move the vehicle. So for example, if somebody broke down at 2:00 in the morning and I can tow them, I believe, to the nearest place of safekeeping, which we'll get to that. Then at that point I have to permit that tow to become compliant on weight and length which is not...we are not able to do until you can call into the Department of Roads to the office to get that permit. So then the issue is, where do I place this vehicle? Where is considered safekeeping? And by the definition for the state, safekeeping, I believe, it is in this bill, and they did change it and modify it a little bit on page 2. It can either be towed to a place where it can be dismantled and rehooked to be compliant on weight

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and length, which that is the issue or it can be towed to a point of storage. That's line 17 through 23. [LB353]

SENATOR FISCHER: Are you finished? Any other comments? Go ahead. [LB353]

JOANNE HITZ: I just...the safekeeping, I think, is probably the biggest issue that we have. Is, you know, what is defined as safekeeping? I think there's a different translation depending on where you're at in the state and what highway you're on. [LB353]

SENATOR FISCHER: Okay. Thank you, Joanne. Any questions? Senator Hadley. [LB353]

SENATOR HADLEY: Senator Fischer, thank you. Joanne, the weight issue, how does...when you're towing, do they weigh it in the towing part of your vehicle so that it has the front part of one vehicle and the back of another? How does that...how do they determine the weighing? [LB353]

JOANNE HITZ: It is determined by...you can carry a certain...federal regulations are, you can carry a certain amount of weight on each axle of my truck plus the truck I'm towing. There's guidelines and you have to be at those rates. What's different about the wrecker is that we don't carry our load on top of our truck, like a tractor-trailer, it hooks onto the top of the truck and so the load is primarily on top of the road tractor and partially on it's trailer. We are hooked off the back of our truck. So really not much weight is taken, put back onto our truck, it is actually taken off of our truck. So it puts a lot more weight onto the rear of our wreckers which causes them to be a lot of times overweight on our axles. And another problem is, is that the vehicle that you're towing, say for example, a motor home, they're exempt from weight and length. Well, they're not exempt from length because they're prohibited...they have to be a maximum of 45 feet long. But they're exempt from weight. So once I hook onto it I'm a commercial vehicle. I have to meet weight and length. My truck is 40 foot long; the RV is 45 foot long; I can only be 65 feet. I can't cut that tow into the dimension that I need to be. And if that RV is over weight to begin with, I can't adjust his axle weight, the axle that is now right on the ground as it is in tow. I can't adjust his axle weight to meet the required weight, because that vehicle can only maintain a certain amount of weight on that axle. Therefore, I would need to obtain an overweight and a over-length permit to tow an RV. [LB353]

SENATOR HADLEY: Is this a federal requirement or a state requirement, the weight and length? [LB353]

JOANNE HITZ: I believe the state is based off the federal regulations. [LB353]

SENATOR HADLEY: But, so I just..so I get it straight, you can get dispensation, so to speak, a permit to do it, but that's normal working hours and such as that. [LB353]

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JOANNE HITZ: Correct. [LB353]

SENATOR HADLEY: And if you're out there 2:00 in the morning, technically, you might have to leave...would you have to leave the RV sitting there until you get that? [LB353]

JOANNE HITZ: Well they want it removed from their highway because it is a hazard. You have to remove it to that first place of safekeeping which is a little bit ambiguous. And then from that point you would have to get legal from that point to move the vehicle. And then the secondary tow, it...you know, that's the first tow because then once the customer is able to find a place to make repairs to that vehicle, then you're having to do a second tow on it. So from that point, I would have to obtain another permit to actually tow that vehicle to where it's going to be repaired. [LB353]

SENATOR HADLEY: Okay. Thank you. [LB353]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? Senator Campbell. [LB353]

SENATOR CAMPBELL: Thank you, Senator Fischer. Is the greater problem in the length or the weight? [LB353]

JOANNE HITZ: It's three issues. It's the weight; it's the length; it's the safekeeping. It depends on the vehicle. [LB353]

SENATOR CAMPBELL: It would just seem to me that you'd want to tow it all at once and take it to the place where, and you're smiling, am I saying that correctly? That you would want to take it to the place where it's going to be repaired and not just leave it to the next...if you're on the interstate and you take it to the next exit, would that be...would you leave it there then? [LB353]

JOANNE HITZ: Well, my definition of safekeeping is different than the state because when we talked last week, when I hook onto a vehicle, I take care-custody control of that vehicle. I can't take a vehicle to the exit ramp and deposit it to go get my permit at 2:00 in the morning because I know I'm not going to get it until daylight hours, what happens if that vehicle gets hit? What happens if that vehicle gets vandalized? I've moved that vehicle. I've taken care-custody control of that vehicle away from the owner of the vehicle. I become legally liable for that. My safekeeping is, if I'm responsible for it, I'm at least towing it back to my storage yard where I can secure it. That's my opinion. That's not what the translation is. [LB353]

SENATOR CAMPBELL: But the bill would clarify that. [LB353]

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JOANNE HITZ: There's a little...as I said, the safekeeping is still a little bit untidy.
[LB353]

SENATOR CAMPBELL: Thank you. [LB353]

SENATOR FISCHER: Thank you, Senator Campbell. Other questions? I see none.
Thank you for coming in today. [LB353]

JOANNE HITZ: Thank you. [LB353]

SENATOR FISCHER: Other proponents please. Good afternoon. [LB353]

WALTER H. YOUNG: Good afternoon. My name is Walter H. Young, W-a-l-t-e-r H. Y-o-u-n-g. I own Young Service, Inc. in Omaha and I'm also a member of the PTAN. In answer to Senator Campbell's problem here, a question I guess, one thing I would want to point out is our trucks that are being manufactured today, the newer trucks are getting a lot like Euro cars are. The average mechanic cannot work on them anymore, they have to go to a facility with a computer to be able to download what's wrong with the truck. And they can't afford these computers in many western...in the western part of the state or it's got to be a dealership that can afford that computer to be able to hook up to that unit to tell them what is wrong with it. It's got an injector out, but you've got to have that nice computer nowadays to be able to make it tell you that. So that...if that maybe would help on that. The other thing is that the state of Iowa, the state of Missouri, tow trucks are totally exempt and they've been doing...Missouri has been doing it for many years. I talked to a Missouri tower probably five years ago and he said the best example is to take the Department of Roads truck that they use for striping the roads, what happens when that truck breaks down and we have to tow it in? One, we're going to be overweight because of the design of that truck and what it is carrying, we cannot get to 34,000 on our drivers. We're also going to be over-length because our trucks...most of our trucks are pushing 40 feet. The purpose of that is, if you just take my arm here, when we load, we load like this. Well, the more we reach out, the more load we get here, the lighter we get the front ends. If we go back to third grade science, if we don't have that lever out there, we cannot control our truck. If we can't control our truck, we're a bigger menace than the fact of being over-length, overweight because somebody is going to get hurt. If we don't have weight on our front-ends to where we can turn a corner, steer, we're a hazard, a major hazard on the highway and you don't want that. I wouldn't want them meeting my family, you know, I mean that's just the truth of it. Most of us, when we build the truck, there is a safe towing formula that we use. And when you're putting a truck together, you've tried to figure all your weights and where you're going to be and come up with the safe towing formula. It's the front axle weight times our wheel base over the overhang, which the overhang is what we're reaching out to tow, divided by two and that's our safe towing capacity. And that's what we try to strive to, to be able to be safe when we're out there on the highway because

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we're after safety too. We don't want to be having any problems. Any questions?
[LB353]

SENATOR FISCHER: Thank you very much. Any questions? I see none. Thanks for coming in today. [LB353]

WALTER H. YOUNG: Thank you. [LB353]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB353]

GARY BEHLMANN: Hi. My name is Gary Behlmann, G-a-r-y B-e-h-l-m-a-n-n and I operate Kearney Towing out of Kearney and I'm also the vice president of our towing association in Nebraska. And I would like to say that I think LB353 is a no nonsense legislation that would resolve a lot of the...well with the safekeeping thing, there seems to be a lot of different opinions of where that is. And it's always up to discussion on the side of the highway with a trooper or with a Department of Roads guy that won't give you a permit for various reasons. The parameters that are in the current towing laws are so narrow and the towing services are so broad that you can't possibly get them to fit in those parameters and it's not really against my opinion to buy a permit, it just seems very difficult to get a permit when you need one and then again the permits there are certain parameters that the towing industry really doesn't fit into either, they are mostly set up for the trucking industry which is obviously different than ours. I would like to see the law passed because I think it would allow us to do our job without having to go through all this extra expense and time frame, but you know we're supposed to be a quick response. We can't possibly do that if we have to go get a permit. There seems to be differences if the State Patrol calls us to tow a truck, you know, they just want you to get it off the road. Once it's off the roadway then it's not their problem and they want to say well we don't care what you do with it after it's off the roadway, but you have to be legal. Well, that's not really fair either. If the customer calls us to tow the truck, why should that be different than if the State Patrol calls us to tow the truck, it's still the same truck. I think the biggest issue is if we don't tackle all three of the issues in the bill at the same time, we...you know, you asked...somebody asked if we...what was more the length or the weight, well if we tackle the length law, then the weight will become a problem. If we tackle one, then the other one is a problem and it...you don't know what the problem is until you get on the scene of the accident. It would just make more sense to me to tackle it all at one time and allow us to get the things off the roadway. A Volvo semi for instance, the only Volvo dealer in the state of Nebraska is in Omaha. If the truck is broke down in Kearney, it's going to have to be towed to Omaha. Well, they're the only people that are able to repair it. And your image in your head is that well, okay, you can take the trailer off and tow just the truck. Well maybe it's not that kind of a configuration. There's so many different vehicles on the road that if it was a garbage truck you're not going to be able to separate it and break it down any smaller. So, I mean you just got to live with what we're dealt when we go out to the side of the

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highway. I think this legislation would help prevent a lot of problems. Thank you.
[LB353]

SENATOR FISCHER: Thank you very much. Any questions? I see none. Thanks for coming in today, appreciate it. Next proponent, please. Any other proponents for the bill? Good afternoon. [LB353]

LOY TODD: Good afternoon, Senator Fischer, members of the committee. My name is Loy Todd, that's L-o-y T-o-d-d. I'm the president and legal counsel for the Nebraska New Car and Truck Dealers Association. I'll be very brief. This was brought to my attention by some of our truck members who sell these massive tow trucks to the towers. These are, I mean, these are terrifically large vehicles to do the job. These things can cost over \$100,000 and they're operated by true professionals. And I think this legislation does one very wise thing, that is, it limits it to professional towing, professional wreckers and professional tow trucks. We don't want...it's no place for amateurs. And so whether this specifically is the answer or not, I can't say. I can tell you that we tried to get the various interested people together, I did, early on. And we had, what I thought, was a terrific meeting with the State Patrol, roads, carrier enforcement, some of the towing people, some of my people, and I just failed miserably at finding a solution. And we'd still be willing to work with any groups. But I can tell you this, I learned from that, number one, towing is not inherently evil. Okay? It's a necessity, it's a very expensive necessity and people don't do it on a whim. And so people have a problem that needs to be solved. And I can tell you that this is one of those unique areas in the law where you can't do it legally now. You cannot do what you have to do legally now. And so this must be solved. This isn't, oh, Patrol doesn't like it, (Department of) Roads don't like it, truckers don't like it, nobody likes it. Okay? But it has to be solved. And so I really would urge this committee to assist, put the pressure where it needs to be, make people sit down and say what they really are concerned about. We have to address what is unsafe. We have to address what is wrong, what will hurt the roads, which will hurt bridges, but I'm telling you that all of my attempts were made to say, let's not exceed anything that's a safe weight. Let's limit it to that. Let's not exceed anything that's a safe length, let's limit it to that. And within those confines try to find an answer, haven't been able to do it yet. But there are perishable products. They have to be taken some place. There are risk products that have to be taken some place. It isn't just the safety of the traveling public, it's the safety of the products, it's the safety of the equipment. We've got to address all of that in this proposed legislation. And the other thing I just selfishly as a new car and trucker dealer spokesperson, much of these repairs necessary under warranty. And many manufacturers will not let somebody else do warranty work. It will have to go to someone who is qualified to do it. Why would we tow a vehicle twice? Why wouldn't we allow them to go to where it's necessary to make the repair? The owner is going to be wise enough to make that decision where it needs to go to get worked on. And it's just not...this is not a frivolous thing that happens. And so I pledge to you that I'll work with anybody that will help. But just say no is not the

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answer. Thank you. [LB353]

SENATOR FISCHER: Thank you, Mr. Todd. I can't believe with all of your talents and skills you couldn't get this accomplished for us. [LB353]

LOY TODD: Sorry, Senator. [LB353]

SENATOR FISCHER: I have a question for you on page 2, Mr. Todd, line 23 on the bill where it talks about a point of storage. What's the definition of a point of storage? We don't know? [LB353]

LOY TODD: You know I...it's just absolutely interpretation. One officer might think it's one thing, another might think it's another. I think it's load-dependent. If it's...if it were something very valuable, I would want it inside a fence, not just in a deeper ditch where nobody is going to hit it or on a gravel lot someplace. I think it ought to be towed to where it's secure and I think the owner ought to have one heck of a lot to say about where it's going to go. [LB353]

SENATOR FISCHER: So that would be one of the things we need to work on with this bill then, correct? [LB353]

LOY TODD: I believe so. [LB353]

SENATOR FISCHER: Okay. Any other questions? Senator Louden. [LB353]

SENATOR LOUDEN: Thank you, Senator Fischer. Well, Loy, when Senator Baker was here and Chairman of Transportation Committee, didn't we work on something like this then? What become of that or happened to that? [LB353]

LOY TODD: Senator, I believe you're remembering...I try not to take the historic approach on everything, although I've been around here a couple of years. There was a time...we came in on a bill because what was happening is my tow operators were being called out to hook up to a vehicle and immediately because you count the length of both attached vehicles, regarding length, the same people who called them out would then give them a ticket. So as soon as they hooked up to tow the truck off the interstate, they would also hand them a ticket for being over length. And so what we came in and we thought we had accomplished at that time, was the current law where we said, okay, in an emergency tow we take it over to a secure place and we failed miserably to define those things. And the other thing that we neglected to do, and it's become very glaring recently, is we talked about combination vehicles, and failed to address the portion in the statute that talks about straight trucks. Now until I started this project, I didn't know what a straight truck was. And it turns out while we failed to do that because now they tow, as one of the earlier testifiers said, they hook up a tow truck to a 45-foot long

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perfectly legal vehicle and now they're illegal again because it's not a combination vehicle. It's a straight truck. So, one more thing that needs to be fixed. [LB353]

SENATOR LOUDEN: Okay, this is what we worked on last six, seven years ago, I think it was, and this is where we're going to have to tune it up a little bit more then. [LB353]

LOY TODD: Yes, Senator, you failed miserably. [LB353]

SENATOR LOUDEN: Okay. Thank you. [LB353]

SENATOR FISCHER: Now Mr. Todd. (Laughter) Other questions? [LB353]

LOY TODD: For the record that was a joke. [LB353]

SENATOR FISCHER: Thank you for clarifying that. Other questions? I see none, thank you very much. [LB353]

LOY TODD: Thank you. [LB353]

SENATOR FISCHER: Other proponents please. Are there any other proponents to the bill? Are there any opponents to the bill? Any opponents? Good afternoon. [LB353]

GERALD KROLIKOWSKI: (Exhibit 5) Good afternoon. Chairperson Fischer and members of the Transportation and Telecommunications Committee, my name is Gerald, G-e-r-a-l-d, Krolikowski, K-r-o-l-i-k-o-w-s-k-i. As the commander of the Carrier Enforcement Division, I am here today on behalf of the Nebraska State Patrol and the Nebraska Department of Roads to testify in opposition to the green copy of LB353. I want to be clear this testimony addresses the introduced bill. Both the State Patrol and Department of Roads have met with Senator Lautenbaugh's office to share viewpoints and appreciate their willingness to have a candid conversation on this topic and look forward to cooperatively working together in the future. In 2005, Nebraska Revised Statute, Section 60-6,297 was amended which extended the overall length of wreckers towing disabled vehicles from 130 feet to 150 feet. Personnel from the Nebraska State Patrol and Department of Roads, along with Senator Baker and representatives of the professional wrecker association met regarding this change and the current language giving definition to a place of safekeeping. The State Patrol provided neutral testimony with its concern being the safety of towing such long combinations of vehicles. To my knowledge, since this change, any enforcement action taken by the State Patrol's personnel has been in those instances where vehicles are being transported beyond the nearest place of safekeeping. Keeping public safety in mind, the State Patrol and the Department of Roads certainly advocate removing disabled vehicles from the roadside as expeditiously as possible. Both agencies understand the need to get disabled vehicles off the roadway to the nearest place of safekeeping. The State Patrol and

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Department of Roads support the current language existing in (Section) 60-6,297 which not only extends the legal length limitations, but exempts such combinations from any of the legal weight limitations, as long as the move is only to the nearest place of safekeeping. A concern both agencies have is that LB353's definition of a place of secured safekeeping would allow the movement of disabled vehicles with no limitations on width, height, length, or weight for any distance, as long as the vehicle is being towed by a wrecker or tow truck. The proposed language will increase the potential for damage to the state's bridges and overhead structures. For example, if a vehicle is disabled on Interstate 80 and is moved to the nearest place of safekeeping, it may travel over one to three bridges, and possibly pass an overpass or two before getting to a location that would be safe for the disabled vehicle and the contents of the load. However, if the vehicle is towed from Seward to North Platte, it would pass over 40 to 50 bridges and under numerous overpasses with no regard to weight or height restrictions. A potential solution to this concern is the implementation of a statutory overweight and/or over-dimensional permitting system for vehicles being towed by a wrecker or tow truck administered by the Nebraska Department of Roads. This would allow for the analysis of the route with respect to height and length restrictions, analysis of the bridges the load will pass over and allow a determination to be made if escorts are needed for safety purposes. If LB353 is passed in its current form, enforcement of any of these limitations would be difficult when vehicles are moved by a wrecker or tow truck. Enforcement would be more uniform and achievable if a standard was established that determined when a vehicle meets the threshold of being disabled. Currently such moves to the nearest place of safekeeping are usually known by the officers working in a particular area. If there is no distance limitation, the likeliness of an officer knowing why the move is taking place becomes significantly diminished and a potential public safety concern may arise. I would like to note that under Federal Motor Carrier Safety Regulations, 49 CFR 390.23(a)(3), tow trucks are exempt when providing emergency moves of wrecked or disabled motor vehicles when it is through a request by a federal, state, or local police officer. Upon termination of such direct assistance, the motor carrier and/or driver are subject to all the federal safety regulations as contained in 49 CFR 390-399. In summary, it is the State Patrol's and Department of Roads' opinion that LB353, as introduced, would increase the potential for damage to the state's roadways and bridges if unpermitted overweight, over-dimensional vehicles are allowed to travel more than what is required to arrive at the first place of safekeeping, and would jeopardize the safety of the public as it is our opinion that wreckers and tow trucks are not designed nor meant to tow these types of combinations for extended distances. On behalf of Nebraska State Patrol and Department of Roads, I wish to thank you for allowing us to provide our perspective on LB353 and to reiterate our willingness to work on this issue. I will gladly answer any questions you may have. Thank you.
[LB353]

SENATOR FISCHER: Thank you very much. Are there any questions? Senator Campbell. [LB353]

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SENATOR CAMPBELL: Thank you, Chairman Fischer. I'm going to use an example, and probably just because I think it may help clarify. If our company, and our company has...is a nursery and garden center company, and we're expecting a very large semi of all kinds of houseplants, and unfortunately the Nebraska weather takes a turn for the worse and there's an accident, the jeopardy of those plants being left out in perhaps freezing weather then, is the state become liable because we haven't been able to move that product in a timely manner by just taking it to the next safekeeping rather than trying to find a spot that would protect that product? [LB353]

GERALD KROLIKOWSKI: My gut instinct is no, but I'm not a lawyer. That's best addressed with legal people. [LB353]

SENATOR CAMPBELL: Because that's part of my concern as I looked at the bill that there could be circumstances in which whatever is on that truck needs to be taken to some place other than the next secured storage just for its own protection and what the liability might be. [LB353]

GERALD KROLIKOWSKI: In essence, and hearing some of the past testimony, I don't think it is the habit of the State Patrol to take a vehicle that is loaded with a special commodity, whether it is a volatile chemical or livestock or something like that and say the next interchange is the first place of safekeeping. If we have officers out there taking that position, I would like to know about it. But it does depend upon the load itself. Now plant material, I...you know, whether the second town down the roadway there's a sufficient place for safekeeping, possibly, as opposed to towing it five towns down the road. It certainly causes a heartache for the carrier or the customer, but still we're after and concerned about highway safety. [LB353]

SENATOR CAMPBELL: Is it difficult, and I have to say, I'm not quite sure...is it difficult to get the permit? I mean, is it...it's on a case-by-case basis? [LB353]

GERALD KROLIKOWSKI: Typically yes, but since 2004, these permits have been able to be obtained 24/7 off the automated system. Now with that, a caveat is, is that while essence these vehicles, these combinations of vehicles that we're talking about, a wrecker pulling another vehicle legally doesn't fall within the confines of Section 60-6,290, the length limitations, and they're typically, actually considered a divisible load. So with that, if the Legislature so decides to allow them to get permits, that's one thing; but then the other concern is is the vehicle still loaded and causing the overweight factor and therefore a divisible load upon a divisible load, per se? But they can get them 24/7 off the automated system. [LB353]

SENATOR CAMPBELL: Thank you, sir. [LB353]

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SENATOR FISCHER: Thank you, Senator Campbell. Other questions? Senator Louden. [LB353]

SENATOR LOUDEN: Thank you, Senator Fischer. At the present time, the length can be up to 150 feet? [LB353]

GERALD KROLIKOWSKI: Correct. [LB353]

SENATOR LOUDEN: And how often do they run across something that's more than 150 feet long with the towing vehicle on there? I guess you're...what's the length for a semi and everything? [LB353]

GERALD KROLIKOWSKI: A typical semi nowadays with a single trailer is 53 feet on the trailer and then the tractor, the power unit, truck-tractor could be whatever length it wants to be. So there could be possibly times that the combination could be over 150 feet. [LB353]

SENATOR LOUDEN: Okay, if they had a long twin screw wrecker and stuff on there. [LB353]

GERALD KROLIKOWSKI: Sure, sure and I think in conversations with the Senator's office and others as well, with the towing association, they brought up an example of some of these windmill blades and so forth that are a hundred feet by themselves, so certainly there could be times that they exceed 150 feet. Now whether we have taken enforcement action on something like that or not, I'm not aware of that, sir, to the first place of safekeeping. [LB353]

SENATOR LOUDEN: Now in the way this bill is drafted, the way I understand it, it takes off those length restrictions because like I said, it won't apply and names those sections there. So they could be any length if you took those restrictions off. I didn't read that section back there that they apply. But they could be, you know, 300 feet long or something like that I guess if you can get it all strung out. Now, should...which if you were pulling a semi with one of those windmill blades probably would be. Should there be a length on here again only more than 150 feet in this bill? [LB353]

GERALD KROLIKOWSKI: My personal opinion, if you're looking at to change anything, the length limitation is a small part of our concern, and because we do have a lot of long vehicles out there. More importantly is the route that that vehicle is going to be taking with that being over-length. But also more importantly than that is the weight and the height and the width which this bill would now exempt for any move behind a wrecker. [LB353]

SENATOR LOUDEN: Okay and then you're all right with the part that doesn't...that can

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convey whatever length it takes necessary to move them then? [LB353]

GERALD KROLIKOWSKI: It would be more palatable if the limitation on length was the only thing removed. [LB353]

SENATOR LOUDEN: Okay, because I was wondering, because to me the height towing a vehicle, I don't know if the height ever runs into that much, because if you're on the interstate you're still going to have to be low enough to get under the underpasses when you load them or you're going to skin up some paint someplace. [LB353]

GERALD KROLIKOWSKI: We have had that happen, sir, and that's our concern. Not only the overpasses, but any other low structure. [LB353]

SENATOR LOUDEN: Okay, thank you. [LB353]

SENATOR FISCHER: Other questions? I see none. Thank you very much for coming in today. [LB353]

GERALD KROLIKOWSKI: Thank you. [LB353]

SENATOR FISCHER: Other opponents to the bill? Any other opponents? Anyone wishing to testify in the neutral capacity? I see none. Senator Lautenbaugh, would you like to close? [LB353]

SENATOR LAUTENBAUGH: Thank you, Chairman Fischer and remaining members of the committee. As I think you took from all the testifiers here, this is a vehicle by which we're trying to arrive at something that addresses the problem and works out the concerns of the parties involved. I appreciate the opponents for agreeing upon one testifier as I think the message was loud and clear that we have work to do on this bill still. And the proponents were suitably limited as well. And I think it's just clear that these discussions have to continue so I won't be asking that we exec on this tomorrow or anything like that, but I would be happy to take any questions you might have and point out that if... [LB353]

SENATOR FISCHER: Thank you, Senator. Any questions? I see none. Thank you very much. [LB353]

SENATOR LAUTENBAUGH: If you let me go, you have Senator Mello coming so are you sure? (Laughter) [LB353]

SENATOR FISCHER: Any questions for Senator Lautenbaugh? Thank you, Senator Lautenbaugh. With that I will close the hearing on LB353 and open the hearing on LB289 and welcome, Senator Mello. Nice to see you at the Transportation and

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Telecommunications Committee. [LB353]

SENATOR MELLO: (Exhibit 6) Thank you. 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 which includes south Omaha and Bellevue. LB289 is a similar to bills introduced by Senator Louden, myself last session and would allow for the operation of low-speed vehicles on Nebraska roads and highways with the speed limit under 35 miles per hour. The bill builds on legislation passed last year that allowed for the operation of mini trucks and UTVs and opens up the market for Nebraskans to take advantage of low-speed electric vehicles, also known as neighborhood electric vehicles, NEVs. Under LB289 any person operating a low-speed vehicle would be required to carry liability insurance coverage and possess a valid Class O operator's license and vehicle registration. All low-speed vehicles purchased on or after January 1, 2012, would be required to have a certificate of title. The registration fee for a low-speed vehicle would be \$15 which is the same as the registration fee for most other vehicles. Committee members should have received a copy of AM359 which clarifies two issues. One, that the uninsured motorist and underinsured motorist coverage provisions apply to low-speed vehicles, but do not apply to other off-road vehicle types such as ATVs. And two, provides for transition of existing security interests in low-speed vehicles that are currently not required to have a certificate of title similar to the process utilized when motorboats, ATVs, UTVs, and minibikes were converted from noncertificate of title status to certificate of title status. As fuel prices continue to rise and Nebraska families and businesses look to save money, NEVs represent an alternative mode of transportation that has many potential uses. Already allowed in at least 35 states, NEVs are driven in planned communities, on university industrial campuses, by security personnel and at airports. In addition, NEVs encourage walkable communities and promote positive urban design. LB289 also repeals the alternative fuel tax act and replaces it with an alternative fuel fee. A relatively obscure provision of state statute, the Alternative Fuel Tax Act, requires that every person registering a motor vehicle designed or modified to be propelled in whole by alternative fuel must obtain an alternative fuel permit from the Nebraska Department of Revenue. Under LB289 the fee for alternative fuel vehicles would instead be collected at the point of registration reducing the burden on owners of alternative fuel vehicles. Any fees collected would continue to flow into the Highway Trust Fund and the fee would remain at \$75 which is the amount of the current alternative fuel tax. According to the Department of Motor Fuels Division, there were only six vehicles that fell under the Alternative Fuel Tax Act in 2009. With the advent of the Chevy Volt and the Nissan Leaf, and with hopefully more electric vehicles yet to come, we can only expect this market to continue to grow. Low-speed electric vehicles are just another step in that direction and I look forward to working with the committee so Nebraskans can continue to take advantage of the alternative methods of transportation available to them. Thank you for your time and I would be happy to answer any questions. [LB289]

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SENATOR FISCHER: Thank you, Senator Mello. Are there any questions? Senator Campbell. [LB289]

SENATOR CAMPBELL: Thank you, Senator Fischer. Senator Mello, on...do you have a copy of the bill, a green copy? [LB289]

SENATOR MELLO: I do not. [LB289]

SENATOR CAMPBELL: I'm going to refer to a page because I just want to make sure...because we have spent so much time talking about different vehicles. But on page 23, and it is Section 26, 60-471, you list vehicles that would not come under this. Am I reading this correctly? [LB289]

SENATOR MELLO: Correct. [LB289]

SENATOR CAMPBELL: And so golf carts, go-carts, riding lawn mowers, garden tractors, all-terrain vehicles, utility-type vehicles, minibikes, snowmobiles, would not come under this. [LB289]

SENATOR MELLO: Yes, that would be correct. [LB289]

SENATOR CAMPBELL: Okay, and so the amendment does not change any of the exceptions to that? [LB289]

SENATOR MELLO: No, those would stay the same. [LB289]

SENATOR CAMPBELL: Okay. Because we had, as you can well imagine, a lot of discussion here. In what way is your bill different this year than last year? And I didn't dig out last year's bill, so I apologize. [LB289]

SENATOR MELLO: Well, a couple of changes we made were on the two provisions that you currently see in the amendment, AM359, that was brought forward and I would be remiss to not thank Senator Fischer as the Chairwoman of this committee and her legal counsel for helping us in clarifying some of these issues. One deals with the uninsured motorist provisions and coverage provisions. And then the second component deals with certificate of title. The other main component different from last year's bill is the financing of it, I'd say the fee. We, and I believe there will be some people who will probably speak on that issue as well, that we repeal the alternative fuel tax issue in the sense of trying to make sure that we, I would say, codify more streamline process of how people who do have alternative fuel vehicles, how they ultimately pay for these fees. And I know it was a point of contention in some of the conversations we've had with some in regards to what that fee should be. But I think at this point in time it was our interest of trying to keep that fee the same. And if this is an issue that the committee

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so deems that we can move forward on LB289, it might be an issue that we look to deal with maybe sometime in the future, but I think first and foremost was to lay the groundwork for low-speed vehicles first. [LB289]

SENATOR CAMPBELL: Thank you, Senator Mello. [LB289]

SENATOR FISCHER: Thank you, Senator Campbell. Other questions? I see none. Thank you very much. [LB289]

SENATOR MELLO: Thank you, Chairwoman. [LB289]

SENATOR FISCHER: First proponent for the bill please. Are there proponents? Please come forward. Good afternoon. [LB289]

BILL MOORE: Good afternoon, Madam Chairman, and committee members. My name is Bill Moore, B-i-l-l M-o-o-r-e. I am the founder and publisher of EVWorld.com which is a Web-based publication covering sustainable mobility since 1998. I live in Papillion, Nebraska, and I have no financial interest in the passage of this bill. That being said, I would like to thank you for, again, allowing me to be here and to talk to you about LB289. Senator Mello has, of course, given the broad perspective on the bill, so I won't go back over those particular items. I come to you today to basically talk about the fee that is being suggested here that Senator Mello talked about. The one thing that I want to stress and get across is that I obviously believe that alternative fuel vehicles like the Prius, like the Volt coming out, like the Nissan Leaf, all the people that have those vehicles, I think all of us do feel that we have a need and a responsibility to help maintain the roads on which, obviously, we drive. And of course the state derives a great deal of its income for that purpose from charging at 26.8, I think it is, cents tax on those fuels. The challenge that is facing this committee is that many of these vehicles now coming in either use little gasoline, or in the case of the Nissan Leaf, no gasoline. So I think those are some challenges that are going to be presented to the state, but the problem extends, actually, beyond that. While the average automobile, according to the EPA and the Department of Transportation does...gets, they figure, about 22 miles per gallon, we're starting to see a whole new line of vehicles that aren't even hybrids that are getting fuel economies comparable to a hybrid vehicle. For example, a new Chevrolet Leaf gets...estimated to get, according to the EPA, 42 miles per gallon. Now the purchaser of a Chevy Cruze, I should say a Chevy Cruze vehicle, is obviously going to have to drive twice as many miles as he did in his 22 mile per gallon car to pay the same amount of tax, or is going to end up, actually, paying less tax, which of course then that begins to impact revenues for maintaining roads, things of that nature. So obviously, I think we all understand that we need to be paying our fair share on this. But my concern is, is that by charging a \$75 fee, broadly understood, at least my understanding is, across the spectrum of alternative fuel vehicles, we're placing an undue burden on those people who might want to take and purchase a low-speed

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electric vehicle. And allow me to illustrate the math on that. I talked to the people at GEM Cars up in South Dakota which makes the most popular of this particular brand of car and I asked them how many miles does a typical owner of one of these vehicles drive? And their answer was, generally, the private owner, the person that has a residence, lives in a gated community, whatever, drives it about 1,200 to 1,500 miles a year. People that use them in more commercial operations where they are used as campus security or they're used as vehicles doing vending with a little vender box on the back and they sell tacos out of it or whatever, typically about 5,000 miles. So trying to apply \$75 fee to those particular vehicles actually ends up being five times the rate that the normal automotive person owning a car typically pays. The average person with a 22 mile per gallon car driving 12,000 miles a year pays about \$146 in highway gasoline taxes to the state of Nebraska. If you drive an F-150 pickup truck, because it gets 17 to 18 miles per gallon, you're obviously going to pay more and I estimated that at \$180. So the challenge for the committee and for the state is how do we then take and apply this so that we collect enough revenues to keep our roads intact when the general trend of the vehicles is to get much more efficient. So what I would like to do is to suggest to the committee that if you do decide to enact a fee on these vehicles that you do make it imparity with these other vehicles. The state of Oregon is charging 1.2 cents per mile for these vehicles which works out to be essentially comparable to about 150 miles in taxes. If we do that in the case of a neighborhood electric vehicle, that turns out to be an alternative fuel tax, if you will, or a fee of only \$15. And I think that's commensurate and fair with the usage of those particular vehicles. So thank you. If you have any questions, I'd be happy to take them. [LB289]

SENATOR FISCHER: Thank you, Mr. Moore. With Oregon, you said they charge that 1.2 cents a mile, how do they collect that? [LB289]

BILL MOORE: Well this is a proposed bill. There is actually...the state of Washington is proposing a flat \$100 fee because those are the first...among the first several numbers of states that are getting these vehicles. So the state of Oregon has a current bill in the works right now for a flat \$100 fee and the state of Oregon is deciding instead to look at the 1.2 cents fee which would require some type of reporting mechanism. And what they're talking about doing is some type of a GPS-type thing that registers the amount of miles you drive in a year. And I think that, in my mind... [LB289]

SENATOR FISCHER: So it would be like a VMT that Oregon has had the study in the past. [LB289]

BILL MOORE: Yeah, it would be like a VMT-type approach, right. And I think that certainly presents both technical challenges and possible privacy challenges and things, so we need...I think we need, you know, to understand that. A \$75 fee collected here in Nebraska basically makes up the difference between what someone driving a Cruze or a Prius pays typically in a year and what they end up then paying for in their gasoline

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taxes, because their cars are about twice as efficient. So I don't have an issue with that. And it sounds kind of strange that I'm saying, well, go ahead and tax me, but I also understand that I like to have a nice road that's not full of chuckholes and I like to have stop lights that work, and all that infrastructure in place so I think we all need to understand that we have that responsibility to share, I just want to make sure that we're sharing that burden responsibly. And it's a challenge I know that the state is going to have to deal with. [LB289]

SENATOR FISCHER: Okay. Thank you. Other questions? Senator Louden. [LB289]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well, that fee isn't nothing new in the state of Nebraska,... [LB289]

BILL MOORE: Right. [LB289]

SENATOR LOUDEN: ...because when we had these diesel cars back there in the '80s and you had on-farm storage before they had dyed diesel fuel why we were...we paid, and I can't remember what the number was for sure, whether it was \$75 or what it was, but it was a fee that we paid when we got our driver's license because they thought we could, perhaps, be using diesel fuel off of the farm that the taxes weren't paid on. [LB289]

BILL MOORE: Right. [LB289]

SENATOR LOUDEN: And consequently I said, well then if that's the case I am going to fill up on the farm if I have to pay that fee because that was calculated the same way on how many miles. [LB289]

BILL MOORE: Right. Right. Yeah. See if...when we charge the tax at the pump, why it's sort of invisible, I mean we all understand, we sort of understand it's there, but when I walk into the county assessor's office and they itemize my bill for...you know, my license and my state tax, and oh, by the way, you have an additional tax on here, that's harder for us to appreciate. At some point I think with these vehicles, and I have a copy which I'd be happy to share with you, these are the sticker...the new EPA stickers off both the Leaf and the Volt. And you'll notice on there that in the Leaf's case there is no gasoline provision on it. I mean, it just doesn't do it. So how do we...we're not talking...we're only talking...as a matter of fact, the Center for Automotive Research just today came out with an estimate of how many vehicles are going to be deployed across the United States and the estimate for Nebraska is going to be a little over 1,500 vehicles of this type by 2015. So it's compared to the 2.2 million vehicles that we have in the state, it's nothing. And I don't think it's something we have to worry about for some time yet, but I think we need to start thinking about it because there's probably going to be a lot more Chevy Cruzes getting 42 miles per gallon sold in the state than there are Chevy Volts

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that get 37, if they're running in hybrid mode. So these are things that I think that we have to understand. So I'm not saying don't charge us, I'm just saying that if we're going to charge, let's try to find...come up with a mechanism that allows that to be shared equitably, even among the people driving the little neighborhood electric vehicles. Because I don't think anybody would mind a \$15 fee to make sure that they have a nice, you know, road to drive on. But when we start asking them to pay \$75 to drive 1,500 miles I think that becomes a bit onerous, so. [LB289]

SENATOR FISCHER: Thank you. Other questions? I see none. Thank you very much. [LB289]

BILL MOORE: Thank you. [LB289]

SENATOR FISCHER: Next proponent, please. Are there other proponents for the bill? Are there opponents to the bill? Please come. Are you a supporter of the bill, sir? [LB289]

JOE MASEK: I am, proponent. [LB289]

SENATOR FISCHER: Okay. Thank you. Your name? [LB289]

JOE MASEK: Joe, J-o-e, Masek, M-a-s-e-k. [LB289]

SENATOR FISCHER: Thank you. [LB289]

JOE MASEK: (Exhibit 8) I am president of Masek Golf Cart Company in Gering, Nebraska. We lay claim to the title of the United State's largest golf cart distributor. And then we clarify that with a clear of the throat, in terms of square miles. We handle all of Montana, Wyoming, Colorado, most of Nebraska, Kansas, western Missouri. I'm here simply as a proponent of LB289. I think it's a good bill. It's clean, it addresses the things that need to be addressed and I hope we can move it out of committee and onto the floor of the Legislature and get it passed. I'm here as much as a resource for the committee as anything. If you have any questions on what we're talking about here. We represent Tomberlin which is one of the leading manufacturers of LSVs and the red brochure is a brochure of LSVs; it gives you some idea of what those look like, what they are. And as one who hopes to sell some of these in the state of Nebraska and generates some sales tax for the state, as well as our local entities, I hope we can get this bill passed because there are a number of people that would buy them and would use them and it will be good for the state. Any questions on the Tomberlin? [LB289]

SENATOR FISCHER: Thank you, Mr. Masek? Are there questions? Senator Dubas. [LB289]

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SENATOR DUBAS: Thank you, Senator Fischer. These aren't your typical golf carts, are they? These are very... [LB289]

JOE MASEK: (Exhibit 7) No, they...golf cart is a different classification. I brought along the photograph that was taken about 3:30 Mountain time yesterday afternoon in front of our location in Gering. There are three vehicles lined up there. The orange one is a LSV that we're talking about. The yellow one in the middle is actually a smart car that is wrapped to look like a golf car that Laurie (phonetic) and I drove to Lincoln to attend this hearing. And the one in front is a golf car. And so they are three different categories. They are about the same size is the reason I brought the picture. Okay, they just have different capabilities. The Smart Car will run a hundred miles an hour, I suspect. It certainly keeps up with traffic on the interstate. The LSV, the orange one, will run only 25 miles an hour. The golf car runs about 12 miles an hour. [LB289]

SENATOR DUBAS: So what differentiates these from like the John Deere Mules and some of the 4-wheel equipment that we use on the farm? [LB289]

JOE MASEK: A lot of things, primarily they are all electrically powered. Neighborhood Electric Vehicles, LSVs have to maintain a certain speed and it's very limited between 20 and 25 miles an hour. And the only way to do that consistently is with electric power. So most of the John Deere ATVs and UTVs they use on the farm are gasoline powered and they're designed for utility use. These are designed to travel short distances in neighborhoods and get people back and forth to the post office and... [LB289]

SENATOR DUBAS: So these wouldn't have the sturdiness that they would need to have to be operated in an agricultural setting? [LB289]

JOE MASEK: There are lots of uses for them, they are not 4-wheel drive and other things; so they are different animals. [LB289]

SENATOR DUBAS: All right. Thank you. [LB289]

SENATOR FISCHER: Other questions? Mr. Masek, you made the comment that these are designed to...the golf cart and I think you were talking about the LSV too, that they're designed to go around in neighborhoods, should they be allowed on the streets? Should they be allowed on roadways if they can go 25 miles an hour? Do we want them on our roads? [LB289]

JOE MASEK: Certainly. I think the restrictions that are in LB289 are exactly appropriate and are what's enacted in other places around the country. We don't want them on the interstate. We don't want them on the Scottsbluff-Gering Highway because it's highly traveled; people are zipping around there. But around town in Gering and Scottsbluff and the areas in where appropriate, in the larger cities where the speed limits are 35

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miles an hour, that's a neighborhood in Gering and they're very appropriate for that. [LB289]

SENATOR FISCHER: Would you want them outside of city limits? [LB289]

JOE MASEK: In the way the bill is written, that's generally not possible, because those speed limits are higher than 35. [LB289]

SENATOR FISCHER: I'm just asking for your opinion. They may be higher than 35, but there is not a low speed limit on it though, but I'm just asking your opinion. Are they safe to be on our highways? I mean, I've seen Smart Cars. I can't believe you came down in one on the interstate. There's pretty big trucks on that interstate. [LB289]

JOE MASEK: Actually quite an interesting vehicle. [LB289]

SENATOR FISCHER: I don't know if I would...if I would feel very safe and secure in a vehicle that I can span. I don't know about that. But I'm just concerned about safety with these vehicles and they're open vehicles, you know, we had a helmet law yesterday that we talked about, you know, I'm looking at these thinking, you know, how safe are they? Should we allow them? [LB289]

JOE MASEK: In my opinion, absolutely, because in my opinion they...LSV is the second safest vehicle that you could possibly put on a street or roadway. And it's the second safest because it will only go 25 miles an hour and speed is really where the problem is. LSVs do have to be equipped with 3-point seat belts, DOT windshields, they have 4-wheel brakes, and that sort of thing. So they're much safer than a bicycle, much safer than an ATV, much safer than a UTV, much safer than a mini truck. But, yeah, to answer your question about on county roads, I live eight miles south of Gering, no I wouldn't want to commute that far at 25 miles an hour. But it's not a safety issue, it's simply a time issue. [LB289]

SENATOR FISCHER: Okay. Thank you. Other questions? I see none. Thank you very much for coming in. Are there other proponents for the bill? Please come forward. Good afternoon. [LB289]

LAURA GOSS: Good afternoon. Thank you, Senator Fischer and committee. My name is Laura Goss, L-a-u-r-a, last name is G-o-s-s. And I'm here to remind you to have fun. That's what these vehicles are. I live on an acreage which is my own private land where I use it legally now because I'm on my own land. But you just sit in them, put your foot on the pedal and off you go. The minute you let up on the pedal, you stop. You take your dog with you; you haul whatever you want with you; you really enjoy it. You smell the roses, you smell the flowers as you go by, you enjoy that. I would like to see that brought into a community area where you could get on it run down to the post office,

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drop off some mail, maybe pick up a gallon of milk, go home, you know. Just really slow down, take enjoyment; say hi to your friends and your neighbors as you go by and stuff like that. That's what this is meant for to enjoy and slow down a little bit in life and have fun. That's all I needed to bring to you today. Thank you. [LB289]

SENATOR FISCHER: Thank you very much. Any questions? I see none. Thanks for coming down today. [LB289]

LAURA GOSS: Thank you. [LB289]

SENATOR FISCHER: Appreciate it. Anyone else wishing to testify in support of the bill? Any more proponents? Any opponents to the bill? Any opponents? Anyone in neutral capacity? Good afternoon. [LB289]

ROBERT J. HALLSTROM: Good afternoon, Madam Chairman, members of the committee. My name is Robert J. Hallstrom. I appear before you today as registered lobbyist for the Nebraska Bankers Association in a neutral capacity on LB289. For the record that's H-a-l-l-s-t-r-o-m. We do not have a position on the bill itself, but since the bill proposes to require the low-speed vehicles to have certificates of title, if that were to happen, we do have an interest in the amendment that Senator Mello has submitted to the committee for consideration. It is identical and opens up statutes that we have amended in the past when noncertificated vehicles, motor boats, ATVs, minibikes, utility-type vehicles have been switched over to certificate of title status simply to provide some transition rules for lenders. When you're not a certificate of title status, you perfect your security interest by filing a financing statement under UCC Article 9, based on the time of filing establishes your priority. When you switch over to a certificate of title, you must have your lien noted on the certificate of title. The transition rules embodied in the amendment simply recognizes the continued validity of the UCC Article 9 security interest until such time as that would otherwise lapse giving that lender an opportunity to get in, get their lien noted on their certificate of title. Kind of creates a bifurcated system for a short period of time, but we will alert and educate our bankers to what they need to do if this becomes law. And we would ask that the amendment be adopted. Thank you. [LB289]

SENATOR FISCHER: Thank you, Mr. Hallstrom. Any questions? I see none. [LB289]

ROBERT J. HALLSTROM: Thank you. [LB289]

SENATOR FISCHER: Thanks. Anyone else in neutral capacity? Good afternoon. [LB289]

LOY TODD: Senator Fischer, members of the committee, my name is Loy Todd, L-o-y T-o-d-d. I'm the president and legal counsel for the Nebraska New Car and Truck

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Dealers Association. Not to be redundant as to the other items previously discussed, I will tell you that we don't normally take a position about what vehicles the Legislature decides they want to allow on the road in the mixes of traffic. We would defer to your judgment in that regard. I just wanted to mention that we really appreciate the fact that this legislation addresses the concerns about vehicles being insured and registered so that there is a contribution to the various road funds that exist and also that if vehicles are going to be out there and operate on the roadways, that there is some way to address the liability issue because, you know, anything you put out there eventually is going to have some kind of consequence. So in that regard we really appreciate the fact that the bill does address those issues as did last year's legislation ultimately. So, that would conclude my testimony. [LB289]

SENATOR FISCHER: Thank you, Mr. Todd. Any questions? I see none. Thanks. [LB289]

LOY TODD: Thank you. [LB289]

SENATOR FISCHER: Anybody else in the neutral capacity? I see none. Senator Mello, would you like to close? [LB289]

SENATOR MELLO: Once again, thank you, Chairwoman Fischer, members of the Transportation and Telecommunications Committee. If there are other suggested changes as the committee reviews LB289 I would be more than willing to work with the committee to make those changes apply with the intent of LB289. I would also be remiss again to not acknowledge the assistance that the legal counsel of this committee, as well as the Chairwoman of this committee provided us over the interim in regards to dotting some i's and crossing some t's and finding a solution to some of the financing problems that we experienced in last year's bill. With that, thank you, Chairwoman. [LB289]

SENATOR FISCHER: Thank you, Senator Mello. With that I will close the hearing on LB289 and open the hearing on LB573. Good afternoon, Senator Price. [LB573]

SENATOR PRICE: Chairman Fischer, good afternoon. Apologize for my in and out. I'm only trying to rewrite the tractor lab bill in Ag. [LB573]

SENATOR FISCHER: Do you have another bill up right now? [LB573]

SENATOR PRICE: I'm going to do this and then I'll waive closing and return to that. Are we ready now? [LB573]

SENATOR FISCHER: Thank you, you bet. [LB573]

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SENATOR PRICE: (Exhibit 13) Thank you very much, Chairman Fischer, members of the Transportation and Telecommunications Committee. It's a pleasure to appear before you, not only that, to be a member of this very same committee. My name is Scott Price, S-c-o-t-t P-r-i-c-e and I represent Nebraska's 3rd Legislative District and I'm here today as primary introducer of LB573. LB573 authorizes storm spotters to use flashing or rotating amber lights when activated by local emergency management personnel. It also creates a definition for storm spotters as an individual who performs weather-spotting services as an employee or a volunteer of a local emergency management organization and who has been credentialed by NEMA. LB573 also authorizes NEMA to develop training, identification, credentialing standards for these storm spotters. Now there is an amendment that I would like to hand out as we have...I don't know if you already have the amendment. Probably not, but as you have time, if they would hand that out. And what happens is it's going to remove some language regarding the use of the amber light when the spotter is within 500 feet of the storm since a good spotter is mobile, it is felt that this language should be removed. The amendment will also give NEMA a more exclusive authority to standardize training, identification and credentialing standards for both storm spotters and emergency management workers. The act as currently written implied NEMA's ability to do this is...NEMA currently has the ability to do this, but it is not explicit. They are already working to attain these standards, but do not have the authority. This would allow them the ability to integrate the Federal National Incident Management System Standards into the state and local programs and have a statewide uniform program. For a fiscal note, there's not a cost at the state level and could be located at and could be implemented at the local level as part of their current programs that are federally funded. Let me tell you more about this now. That was the introduction statement and I'd just like to share with you a little bit why I'm interested in this. Many of you may know, but my background in the Air Force was a weather forecaster. In my job we would do a lot of what we're talking about here. Fortunately I was on an air base or I was on a fire base or wherever I happened to be in performance of my military duty and we didn't really want to have flashing yellow lights on us at that time. However, when we talk about it out here in the community, what we see are these people who run around, they try to help us out and their vehicles and themselves could be in harm for the want of a light to let people know what's going on. There could be torrential rainfall, wind, it could dark, so this just makes good common sense. I would also note that I'm an amateur radio operator, KC5AYS, and so I do some of this at times when I have the opportunity to, you know, nowadays I don't have that much time. But this is the bill before you today and I would be pleased to answer any questions, but I would assure you there are those behind me who are much more suited to answer your questions. [LB573]

SENATOR FISCHER: Thank you, Senator Price. Any questions? Senator Dubas. [LB573]

SENATOR DUBAS: Thank you, Senator Fischer. Thank you, Senator Price. Are there

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currently any kind of standards or credentialing that apply to these types of workers?
[LB573]

SENATOR PRICE: You know, there is some storm spotter training that is done by NOAH and I know that there are local amateur radio groups and some emergency management organizations that do some of this training right now. [LB573]

SENATOR DUBAS: Okay. Thank you. [LB573]

SENATOR FISCHER: Other questions? I see none. Thank you, Senator Price. [LB573]

SENATOR PRICE: Thank you very much, Senator Fischer. [LB573]

SENATOR FISCHER: Good luck on your other bill. [LB573]

SENATOR PRICE: I'll need it. [LB573]

SENATOR FISCHER: With that I would ask for a show of hands of how many people here are to speak in favor of the bill? Three. How many opposed? None. Okay, first proponent, please. Good afternoon. [LB573]

ARTHUR ZYGIELBAUM: Good afternoon, Senator Fischer and the committee. My name is Arthur Zygielbaum, Z-y-g-i-e-l-b-a-u-m. I'm a resident of Nebraska. I'm semiretired; I'm an adjunct associate professor at the university in the school of natural resources. I'm an active amateur radio operator. And I'm the Nebraska section manager for the national radio amateur organization, the American Radio Relay League. By virtue of that election, I'm responsible for the amateur radio emergency service which encompasses many of the storm spotters. My testimony reflects my personal opinions and not necessarily those of any organization I belong to. I work with Senator Avery's staff and then Senator Price's staff in developing LB573. I especially want to acknowledge the caring and competent support of Kurt Bulgrin, Senator Price's legislative aide. Several amateur radio operators, or hams, contacted me after the Nebraska Statute was changed to disallow use of flashing yellow lights by storm spotters. Hams are volunteers. They may not receive any remuneration under International Treaty and thereby under FCC regulation. When these individuals are deployed by the National Weather Service under the National Weather Services' SKYWARN Program as storm spotters they do so at their own risk and at their own expense. I must distinguish storm spotter from storm chaser. A storm chaser does just that. He or she chases storms typically to capture video for personal or commercial benefit. They are not normally part of SKYWARN. I'm a trained storm spotter. Like my colleagues, I'm deployed to locations that are typically in a rural setting at a high point to watch for dangerous storms and tornadoes. Storm spotters, especially in the middle and western part of Nebraska wrote to me asking for help. While they cannot ask for

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protection from serious weather, they are asking for protection from collision by making their cars very visible to motorists on lonely country roads. So I'm very much in support of LB573. It does provide storm spotters an opportunity to use amber flashing lights during conditions of activation by local emergency management. It does not mandate the use of the lights. As the bill is written and the new proposed amendment do have some provisions I have some concerns about. I want to mention those. Now Kurt Bulgrin and I talked about these this morning and he's aware of my concerns. I do want to say that in any form I'm very much for this bill. These are now concerns for your consideration. The bill defines storm spotters in Section 3, paragraph 2, storm spotters are already defined as part of the National Weather Service SKYWARN program. Having duplicate definitions could cause confusion. Section 3, paragraph 2 also says the storm spotters can be individuals who are employees or volunteers. As we use the term, spotters are amateur radio operators. Amateur radio operators may not, except under some very restrictive conditions, use amateur radio as part of their employment. In any case, an employee can be a volunteer so the inclusion of employee may be unnecessary. Current training and credentialing are typically performed by county emergency managers and the National Weather Service. Section 3, paragraph 1 says the standards for training, identification, and credentialing should be developed by NEMA. Section 3, paragraph 2 says the storm spotters are credentialed by NEMA. This takes away a currently effective program...could take away a currently effective program where these IDs and credentialing are issued by county emergency managers and the National Weather Service. However, having NEMA set of standard for identification would allow each county, or NEMA for that matter, to issue identification in a form that is readily recognizable via by law enforcement anywhere in the state so I do very much support the standardized identifications. I would suggest that paragraph 3...Section 3, paragraph 1, delete references to training credentialing because of this...it's currently handled locally and for Section 3, paragraph 2, I suggest it be changed to read: for the purposes of this section, storm spotter means an individual who performs weather spotting as a volunteer under the National Weather Service SKYWARN program and who possesses identification issued by NEMA or local emergency management pursuant to the standard indicated in Section 3, paragraph 1. The issue of the 500 feet was of concern when we did the original language on the bill. The reason was to distinguish storm chasers and storm spotters. As I gathered information for the bill, there was a lot of concern by some county emergency managers about storm chasers who have flashing lights who go roaring through town ignoring speed limits and flashing red lights. Again, I would very much like to thank Kurt Bulgrin for his help. And would like to thank the committee for the opportunity to testify. And I would be happy to answer any questions. [LB573]

SENATOR FISCHER: Thank you very much. Could you please give your suggestions to the committee counsel. [LB573]

ARTHUR ZYGIELBAUM: I gave my...this whole testimony to Kurt Bulgrin. If that's good

enough for you, I can give you this copy. [LB573]

SENATOR FISCHER: Okay. Thank you. Senator Hadley, question? [LB573]

SENATOR HADLEY: Yes, Senator Fischer. When it boils down, we try to change statutes to either negate a potential problem or a wrong. What problem are we negating by giving...by allowing you to have an amber light flashing on your car? [LB573]

ARTHUR ZYGIELBAUM: The...when the law was changed...in the past storm spotters out in remote areas could turn on flashing lights to warn other motorists as they positioned or as they were parked in a, as a I said, a (inaudible) location. When the law was changed, which I believe was maybe three years ago, it did not include storm spotters as one of the allowed set of people who could use those lights. So this bill is set up to reinstate that ability. [LB573]

SENATOR HADLEY: Why do you need that? I guess my question is, why do you need the flashing light? [LB573]

ARTHUR ZYGIELBAUM: I understand. The concern is that on a lot of country roads...I get this from a lot of people who wrote me from out west that their...people travel at fairly high speeds on these country roads and typically you're up maybe on a hill where you may not be seen until the last minute and they're worried about being parked, you know, in bad weather conditions up in areas of fairly low visibility without some way of being identified. [LB573]

SENATOR HADLEY: Okay. Thank you. [LB573]

ARTHUR ZYGIELBAUM: You know, these are volunteers and if damage occurs, it's on them. [LB573]

SENATOR FISCHER: Other questions? Senator Dubas. [LB573]

SENATOR DUBAS: Thank you, Senator Fischer. I have a lot of questions about these bills, but I think they're somewhat in line with what Senator Hadley asked you, but probably the main question I have is when we're talking about credentialing or training. And I know out in my area which is very rural, many of the people that are doing the storm spotting are also my local volunteer fire department members, people who are already involved in law enforcement. And I know we're already putting a lot of obligations on them as far as training to do their fire work and emergency EMS work too. Is this going to put another training requirement on those same people to get this kind of training? [LB573]

ARTHUR ZYGIELBAUM: I think it's probably appropriate. The training we go through is

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specifically directed at the weather to recognize weather systems, you know, shelf clouds and the low rains and things like that, it's very important when you report something out there that I see a low rain that has some meaning and that's the kind of training these people would get. I don't think it's an over-burdensome requirement. The other problem which was mentioned by Senator Price was that we were already...I am working with a group of people to restructure the way we handle these volunteers and it will include better training in terms of fitting into the so called ICS structure, the Incident Command Structure that the emergency operators are using now. The specific training that an EMT, for example, would get to be a storm spotter is four or five hours in an afternoon to recognize weather systems. So overall I think it is a good thing. [LB573]

SENATOR DUBAS: Well I would agree we would want them to know what they're looking for, but when you talk about four or five hours and you talk about all of the other, I mean, these are people who have a regular 9 to 5 job most of the time and then we have the training for...oftentimes these are the same people who are doing multiple jobs and so, you know, any time we add another few hours here or a few hours there, it just makes it...we're already struggling to retain and recruit people for our local fire departments and our EMT services. And so I would be very cautious about asking these same people, very likely, to take on some additional type training. [LB573]

ARTHUR ZYGIELBAUM: I understand that. All my activity, including my organizational activities are all volunteer and so on, I have research and school work to do too. Most of these people to be storm spotters are already undergoing this training within their county. So I don't think anybody is suggesting any change to that. We do it here at the university, we'll have another one sometime in April where hams come out and they sit through sessions, get trained, get their picture taken and all that. [LB573]

SENATOR DUBAS: Thank you. [LB573]

SENATOR FISCHER: Thank you. Other questions? Senator Campbell, please. [LB573]

SENATOR CAMPBELL: Thank you, Senator Fischer. Just a comment for my colleagues; when I was on the county board I went to the training and it was just really interesting. I mean I think it wouldn't be onerous in the sense that you learn a lot about and particularly in Lancaster, we just have a lot of spotters. We rely on them so much. And if it could protect them from a vehicle coming up and hitting them, that's really what has been needed at least here for the people. But it was a great training. I didn't get certified though, I did not. [LB573]

SENATOR FISCHER: Thank you, Senator Campbell. I forgot to note earlier, we've been joined by Senator Janssen from Fremont. Other questions? Senator Louden. [LB573]

SENATOR LOUDEN: Thank you, Senator Fischer. Well at the present time, who

teaches these storm spotters and how much do they have to be taught to be a storm spotter and also while you're answering, who do they report to? [LB573]

ARTHUR ZYGIELBAUM: The storm spotters, the way it is set up now, are typically trained as part of emergency...by emergency management with the National Weather Service. Here in Lancaster County we have the chief forecaster come down and some other weather people and they go through a presentation on storms; what they look like, a lot of visuals on here's a storm, here is how it develops, here's the dangerous parts, this is what you want to watch out for, this is what you ought to do if one is coming towards you. Also, on how to report. In other words, you don't want to say I see a very bad storm coming on the left side because nobody knows what that means. So you say it's northwest about three miles and so there's training like that. It's...we also at UNL are lucky because we have Ken Dewey who is professor of meteorology. So he presents a lot of the course here to give it some academic grounding. Does that answer all your questions? I lost track. [LB573]

SENATOR LOUDEN: Well I was wondering who they report to. [LB573]

ARTHUR ZYGIELBAUM: Oh, who they report to. Typically in their capacities, they report to the emergency manager in the county. [LB573]

SENATOR LOUDEN: Because I was going to say, I have been keeping track of the weather for over 40 years and I got a 800-number that I call the weather bureau and that's what they do for me and there wasn't any training required or anything and that's the reason I'm wondering. This bill we started out about flashing yellow lights or something and now we're more concerned about certifying a storm spotter and I was wondering, you know, how much of that has to, as Senator Dubas mentioned, how much training does someone have to have to be the storm spotter. And then do they have to have this training in order to drive out there with and park on a hill some place with their...most of them have their flashers on or something like that nowadays. And I'm wondering... [LB573]

ARTHUR ZYGIELBAUM: Flashers, I'm told the flashers are hard to see in these circumstances and the amber lights do much better. So that's what people wrote me about. Yeah, there have been changes to this from what we originally suggested which is aimed at the flashing lights. However, the whole issue of IDing when a police officer comes up on somebody who is running these lights and says do you have the authority to use that? Or he is concerned about he could look at a standardized ID and say, oh, you're a storm spotter, it's okay. And I think that's what's behind that. As far as the 800-number, yeah, there are a lot of reports that come that way, but when you hear on the radio that we have a vortex that has touched down, a tornado on the ground outside of York that's been seen by a trained storm spotter, that has real meaning. [LB573]

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SENATOR LOUDEN: Usually in our country, it says as seen by the public. And otherwise they pick it up on the radar. But I'm wondering. [LB573]

ARTHUR ZYGIELBAUM: And there's some of that. [LB573]

SENATOR LOUDEN: Out there I've never talked to any of these people that, as far as I know, had much training of anything. They are usually local firemen or somebody like that and went out and with somebody and probably been looking at clouds all their life so I'm wondering if we're getting into something here where all of a sudden in order to do this, you have to be certified and regulated and so you don't get the volunteers that you ordinarily would. [LB573]

ARTHUR ZYGIELBAUM: Well I think it's up to...that's another reason I'm concerned that it would be part of the county management responsibility because they know what they need to do within their counties. [LB573]

SENATOR LOUDEN: Now I guess my last question is, if we took everything out of here on storm spotters and just put a flashing yellow light for someone out there spotting storms, would you approve of the bill that way? Or do you have to have the storm spotter language in there? [LB573]

ARTHUR ZYGIELBAUM: I'd like the standardized ID. If I was left with a flashing light and the standardized ID I think I'd be comfortable. [LB573]

SENATOR LOUDEN: Because I mean, we put flashing yellow lights on railroad taxis and that...before without that much trouble, but we didn't say we had to certify the driver or anything. And I'm wondering if we're getting two different bills here and when we get into certifying these storm spotters and what the emergency management has to do, somebody is going to want some money out of it. [LB573]

ARTHUR ZYGIELBAUM: I understand what you're saying. [LB573]

SENATOR LOUDEN: Okay, thank you. [LB573]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? I see none. Thank you very much for coming in today. [LB573]

ARTHUR ZYGIELBAUM: Thank you. [LB573]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB573]

PATRICK GERDES: (Exhibit 17) Good afternoon. Madam Chairperson, the committee, my name is Patrick Gerdes, P-a-t-r-i-c-k Gerdes, G-e-r-d-e-s. I am the director for

Region 15 Emergency Management out of Holdrege. I also am the legislative committee chair for the Nebraska Association of Emergency Management. And I'm here to represent them today. The pages are handing out kind of a brief thing as to what I was actually looking at with this bill, some changes, and some of them have been brought forward already. I was here in front of this committee a year ago on behalf of LB719 with Senator Avery. We went after this same topic. And it did not come out of committee as you recall and I believe a couple of the items that came out of it was there was no clear definition of what a storm spotter was. We had concerns about chasers at that time because they do not follow all Rules of the Road and they run orange flashing lights and tend to pass at high rates of speeds and different things like that. And the second issue from last year was that there was no real clear-cut answer as to whether or not there was a reason why we couldn't run orange lights as volunteer weather spotters. And in the state statutes I think under 60-6,230 it actually does specify right in there that no vehicle in the state of Nebraska will operate a flashing light unless it falls under certain circumstances which refers to 231-233, I believe it is. So we are, as an association of emergency management, we are conditionally a large proponent of this project. We want to see this thing go forward. There is some changes in verbiage which the first one I found out 15 minutes before the meeting was actually called kind of null and void because the distance the 500 foot had already been removed. So that is basically added there. A couple of the other things that we did throw in there that we did have some interest across the state was adding amateur radio operator along with weather spotter to use the amber light and there was two reasons...basically one reason for two different jurisdictions. Hall County and Buffalo County in south-central Nebraska law enforcement both uses the volunteer amateur radio operators to conduct traffic controls during like 5K runs, the Band Day, the Harvest of Harmony Parade, those kinds of things. They wouldn't unless they're not involved with an emergency management group per the credentialing part of this bill, then they would be out there running those orange lights based on law enforcement asking them, not through the emergency management program as written into this particular bill. So we did put that in there as a change in some verbiage that we thought might be important to emergency managers at least in two of the counties in the state. The other thing was on the...along with the credentialing and whether or not this can be worked in, somehow we felt that the way this was written it almost mandated from the state level that we, at the local level, were going to train our people the way NEMA, the Nebraska Emergency Management Agency said they...we were going to do it. We would like to have collaborative effort here between the state agency and our association to set those parameters for what kind of training these people are going to get and what kind of credentialing they're going to get. And I think that's a workable. Now whether or not it's this association because, you know, this association may not be here in five years or whatever. There's a lot of questions that came out that I can answer a little bit more when we get to that point. That's kind of where we're at here. We are behind this. We have also discussed this with the Nebraska Association of Volunteer Firefighters and they were behind this with us as well, they were in support of it. That was the only other group, I guess, that

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we really entertained this bill with as far as moving forward. I guess at that point I'd take any questions, or I could answer any of yours that popped up because I think there was maybe some areas there that could still be touched on. So if you weren't clear. [LB573]

SENATOR FISCHER: Thank you. Are there questions? Senator Dubas. [LB573]

SENATOR DUBAS: Thank you, Senator Fischer. I would like to...my concern regarding the volunteer firefighters and putting any extra requirements on their work. [LB573]

PATRICK GERDES: Most of the extra requirements that we're going to be looking at have to deal with the federal standard of the National Incident Management System or the incident command as, basically, what the old term was for it. As the Homeland Security grants moved forward back in 2003-2004 from the Department of Justice grants, that was one of the mandates that was put on responders at that time as these people needed to have a minimum standard of NIMS-related training. And that would be part of the credentialing process. So if the volunteer fire folks out there and EMS don't have that already, they should not be receiving any grant funding. So chances are, they have it in place because we as emergency managers and...went to our county boards back in, I believe, 2006 and we had to sign and send a letter to Lieutenant Governor stating that we were NIMS compliant in our counties. So most all of those emergency responders already have that training in place. They also are going to get the...dependent on the jurisdiction, my personal jurisdiction, the question came up, I think you have a policy maybe. I have a policy in place that none of my people are trained as spotters, turned loose on their own until they have completed the NIMS training. They complete the National Weather Service training every single year. If they don't have that in place, they don't get permission...they can go out with a trained spotter, but they do not go anywhere on their own until they meet those standards. And they signed off on a policy and procedure stating as such. Maybe not all jurisdictions do that, but by doing a credentialing standard and putting that out there, that's what we're aiming to do is get everybody on the same page, doing the same thing statewide. An incident that came up, maybe Senator Hadley brought it up about why we would need an amber light. An incident happened in Gosper County just last summer where there was some severe weather that had come in. There was a two-family carloads coming from Johnson Lake heading towards Holdrege. They were still in the Gosper County area and there was a volunteer fire department who had been out doing the weather spotting in that particular county and they have their fire trucks sitting at an intersection because it's only a very 2-lane highway. They were actually on the roadway. The visibility was bad due to the storm. They couldn't turn...really, they had no right to turn their red lights on because this was not an emergency, they were out spotting. They had no other form distracting the public. The first vehicle came kind of over a hill, by the time they saw the taillights of the fire truck it was too late. They hit their brakes, the other car hit smacked them right in the rear of the car. We end up with nine patients going to the hospital. All could have been avoided had somebody just used a little common sense.

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But that was one of those cases where had they had something in place and why we're asking to protect our volunteers at the county level. In the Emergency Management Act, and it talks about it in here, how that this refers to the Emergency Management Act when those spotters work for us as emergency managers as volunteers when we deploy them they become, basically, the responsibility of the county. And so I'm ultimately responsible for maybe 20 or so people out there and I want to protect them the best that I can. I offer them protective clothing, reflective vests, all that kind of stuff. I used to offer them the orange lights, I put them away when the law changed about three years ago and made...actually put...actual specifics as to who could operate an orange light. I pulled those lights back in and here I am again today asking for this to move forward because I think we're finally on the right track. I think this bill covers a lot of what we're trying to do. [LB573]

SENATOR FISCHER: Thank you, Senator Dubas. Mr. Gerdes, when you talk about your volunteers and you said they're covered by the county, so if they are speeding to do storm watching which I would think they would be out there already and they wouldn't need lights to speed out. But say they're out and they're covered by the county, so in your situation, is the county liability for everything that these volunteers do? [LB573]

PATRICK GERDES: If I deploy them, they fall under me and the county at that point. They are not allowed by my protocol they cannot just drive around with their light on. They have to get to their stationary... [LB573]

SENATOR FISCHER: So they're covered under the county liability insurance then. [LB573]

PATRICK GERDES: For workmen's comp they would be, yes. If they were to get hurt or the liability if they damage their car. [LB573]

SENATOR FISCHER: Or if they cause an accident. If they cause an accident? [LB573]

PATRICK GERDES: They're going to fall under the county's liability. [LB573]

SENATOR FISCHER: Okay, you said the training...you didn't know if you liked it mandated by the state. You wanted the locals involved and you wanted the locals to set the parameters. Is there any consistency then if you have local governments do this? [LB573]

PATRICK GERDES: We want to work with the state. We want to work with the state so we come to a common agreement. [LB573]

SENATOR FISCHER: But would you have consistency between counties or local

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political subdivisions if you're all working with the state individually then? [LB573]

PATRICK GERDES: We would work as an association with the state. [LB573]

SENATOR FISCHER: What if I don't like your association? What if I'm not a member of your association and I'm a political subdivision that employs storm spotters or does that happen? [LB573]

PATRICK GERDES: Not...I guess not, I wouldn't think we've got any jurisdictions that are doing that. They're either volunteer firemen, firefighters, or they're volunteer spotters. I don't know that anyone is hiring them. I see where you're coming from there. We just want a standardized method of training; identify what a storm spotter is in the state of Nebraska. Each jurisdiction may have a different thought process as to what they think is a storm spotter. But the bare minimums, I think that's what we want to see, is a bare minimum training. If other jurisdictions want to go over and above; I mean even if it's just the NIMS training and some management training and spotter training and possibly an emergency vehicle operations course so they know how to drive in the event of inclement weather, if that's the three things that we want to set as a minimum. The way this read, it just looked like the state was coming down hard on the locals and I don't have a problem with this. But you know as well as everybody in the room that deals with local officials, somebody is going to have heartache with it. So that's what we wanted to see somewhere where we had a collaboration with... [LB573]

SENATOR FISCHER: You brought up in Hall and Buffalo County on...I didn't quite catch who is doing the parades and the traffic control? [LB573]

PATRICK GERDES: The amateur radio operators. Because there's... [LB573]

SENATOR FISCHER: Do they need amber lights and training in order to help you with...or to help in Hall and Buffalo County with parades and traffic control? [LB573]

PATRICK GERDES: They do...I don't know if that's a...if they require it, they use amber lights because they block off main intersections like out by Stuhr Museum. That's a checkpoint where they block that off and they usually have one law enforcement officer there and then a couple amateur radio at those major intersections. And they're running orange lights because they have their vehicles out there and they're helping direct traffic and keep the runners moving. So those are the kinds of things that... [LB573]

SENATOR FISCHER: But they already have amber lights when they're doing that? [LB573]

PATRICK GERDES: Yes. [LB573]

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SENATOR FISCHER: So this bill wouldn't affect them at all. [LB573]

PATRICK GERDES: Other than it actually would give them the right to do it. Right now, I mean, there's nothing that says that they can be doing that. They're just going off of a sheriff or a police chief saying, here, run this amber light and direct traffic for us. They're doing it on their own. There's nothing that says...that's why we're suggesting that we add that. [LB573]

SENATOR FISCHER: But law enforcement is giving them that light in order to use it? [LB573]

PATRICK GERDES: They are giving the authorization to use it, not necessarily giving them the light. [LB573]

SENATOR FISCHER: Okay, giving them the authorization. So that maybe is already covered? [LB573]

PATRICK GERDES: And that's a possibility that it, I mean... [LB573]

SENATOR FISCHER: Okay. We'll have to check on that. [LB573]

PATRICK GERDES: ...it's really not labeled then under Article 231-233. It doesn't really say that in there, because it used to be that was kind like anybody could use it, and then when, I think it was Senator Schimek, had the bill, I think, three years ago, or something, then it added like military transports and overweight and oversized vehicles and a lot of other things. [LB573]

SENATOR FISCHER: We were giving everybody lights a couple years ago. [LB573]

PATRICK GERDES: Yeah. And it used to be that orange light was not that big of a deal because it meant caution and now it's like a, you know, we can't have it. We've taken the candy away. [LB573]

SENATOR FISCHER: Okay. Thank you. Senator Hadley. [LB573]

SENATOR HADLEY: Senator Fischer, thank you. Mr. Gerdes, the question I have, does this mean that basically a storm spotter could get a call at home, go into the garage put that amber light on there on top of their car turn it on and drive 10 miles out in the country to get to the place that they're supposed to be? [LB573]

PATRICK GERDES: They could. That's not my intent from my side, but it could. [LB573]

SENATOR HADLEY: Okay. I understand, but I think the way this is written, because I

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go back the second section where it says: any motor vehicle being operated by a public utility, blah, blah, blah, and then it says, while performing it's duties on or near any highway. So I'm wondering if that isn't something if we do pass this out that we look at...I have a problem with them driving 10 miles from home, yeah, you know. [LB573]

PATRICK GERDES: Right. [LB573]

SENATOR HADLEY: I understand if they're sitting out on a hill the lights from a safety standpoint so they don't get hit and such as that, but I might have a problem driving 10 miles with amber lights flashing. [LB573]

PATRICK GERDES: Yeah. And we have troubles all across the state in jurisdictions of...right now our volunteer fire fighters say they want to run a red light on their truck, they have to go to the county sheriff and get a permit. So now the sheriff is responsible if they're racing around doing that. That gives them the right to ask for the right-of-way, but it really doesn't give them the right to speed or anything like that. Does it happen? Sure. Do county sheriffs deal with it? Sure. And right now, I mean, yeah, I could throw an orange light on and run all over the place, but unless a state trooper, being that they're probably going to know the law more than the local law enforcement, the state trooper might read that and say, well this doesn't fit, we're going to go get you a \$50 misdemeanor and take you to court over this thing. And that's why we pulled them in. We didn't want our volunteers, jeez, they're giving up time, we didn't want to get them arrested because they were running the light, for gosh sakes, to save their lives, you know, possibly, and so. [LB573]

SENATOR FISCHER: Would they be covered under your liability if they were arrested? That's a joke. (Laughter) [LB573]

PATRICK GERDES: I was like, I don't think so. But we got a really nice jail we could put them in. [LB573]

SENATOR HADLEY: What would you think of a purple light for senators to let law enforcement would know exactly who we are going to and from our duties? (Laughter) [LB573]

SENATOR FISCHER: Thank you, Senator Hadley. Okay. [LB573]

PATRICK GERDES: You know, and Senator Louden had asked about the tail lights and stuff. And I had done some research on this. The U.S. Fire Administration actually had done a study, I think in 2004, regarding lights and the safety of them. White light, obviously, being clear was going to be the best method, but it was blinding. Amber was the next best as far as not blinding anybody coming upon that light. Whereas red, the red lens actually filtered out 75 percent of the light being emitted off of the bulb. So it

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went from 25 percent being filtered to 75 percent by a red. So that's why the amber, I think, our best method and we'd like to see it move forward obviously. [LB573]

SENATOR FISCHER: Okay. Thank you. Thank you. Other questions? I see none. Thanks for coming in today. [LB573]

PATRICK GERDES: Thank you. [LB573]

SENATOR FISCHER: Next proponent please. Good afternoon, Mr. Edwards, and welcome. [LB573]

JON EDWARDS: Good afternoon, Senator Fischer, members of the committee. My name is Jon Edwards, J-o-n E-d-w-a-r-d-s. I'm here today representing Nebraska Association of County Officials in support of LB573. I won't take any unnecessary time. I think you've heard a lot of the...it's been a good discussion about this issue. Certainly, I think, from our association's point of view we feel like this is a safety issue and believe that this amber light provision within the list of entities to include storm spotters, emergency managers, could help to mitigate some of those concerns. And when you think about those situations they are in, I think you can see in your mind, as we've all be in the middle of storms here in Nebraska, that that can certainly help to mitigate some of those issues when a vehicle is sitting out there watching the weather and being noticed. So with that I'll conclude my testimony. [LB573]

SENATOR FISCHER: Thank you, Mr. Edwards. Questions? I see none. Thank you very much. [LB573]

JON EDWARDS: Thank you. [LB573]

SENATOR FISCHER: Other proponents please. Any other proponents? Any opponents to the bill? Any opponents? Anyone in the neutral capacity? I see none. With that I will close the hearing on LB573; close the hearings for the day. Thank you. (See also Exhibit 9-James Peterson; Exhibit 10-Jon Hoffman; Exhibit 11-James Harper; Exhibit 12-Bill Duffy; Exhibit 14-Matthew Anderson; Exhibit 15-George Bellairs; Exhibit 16-William Jackson) [LB573]