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Transcriber's Office

Transportation and Telecommunications Committee  
February 22, 2011

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[LB35 LB102 LB104 LB420]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, February 22, 2011, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB35, LB104, LB102, and LB420. Senators present: Deb Fischer, Chairperson; Galen Hadley, Vice Chairperson; Kathy Campbell; Annette Dubas; Charlie Janssen; Scott Lautenbaugh; LeRoy Louden; and Scott Price. Senators absent: None.

SENATOR FISCHER: Welcome to the Transportation and Telecommunications Committee. My name is Deb Fischer, I am Chair of the committee and I represent the 43rd District here in the Nebraska Unicameral. I'd like to introduce to you our committee members who are present. On my right is Senator Galen Hadley who is Vice Chair of the committee; he is from Kearney. To my immediate right is our committee counsel, Dusty Vaughan. On my immediate left is our committee clerk, Laurie Vollertsen. Next we have Senator Scott Lautenbaugh from Omaha. Next is Senator Annette Dubas from Fullerton. And on my far left is Senator LeRoy Louden who is from Ellsworth. We do have three committee members who are not present right now. They're introducing bills in other committees. We will have members coming and going during the hearing; please don't be offended, we do have bills to introduce in other committees at this time. Our pages this year are Crystal Scholl who is from Lincoln and Kyle Johnson who is from Sutton, Nebraska. We will be hearing the bills in the order that they are listed on the agenda. I would ask that you be ready to testify as soon as someone finishes testifying in order to keep the hearing moving. We have yellow sign-in sheets that are at the on-deck table. Please fill those out completely, it's very important that you follow the directions on those sheets because we have a computerized transcription program. You will need to hand that sheet into our committee clerk before the committee hearing begins. I ask that you spell your name if you have a first name that can be spelled differently, please also spell your first and last name. If you don't want to testify, but you do want to voice your support or your opposition to a bill, you can indicate so at that on-deck table, there's a sheet provided there. This will be part of the official record of the hearing. If you want to be listed on the committee statement however, you do need to come forward, complete the sign-in sheet, and state your name and your position on the bill. You may submit written comments and those will become part of the official record. At this time I would ask that you please turn off your cell phones. We don't allow cell phones on in this committee and that means no texting. And with that I will open the hearing on LB35. And welcome, Senator Harms.

SENATOR HARMS: (Exhibit 1) Thank you, Senator Fischer. Senator Fischer, colleagues, my name is John N. Harms, H-a-r-m-s. I represent the 48th Legislative District. Senator Fischer, as always, thank you for giving me the opportunity to come and visit with you about LB35. This is a simple bill which would simply amend Section 60-6,298 of our statutes to extend the number of days from 120 to 200 that permits can

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be given for trucks which exceed the weight limit. This change was brought to my attention by the professional trucker drivers in western Nebraska; specifically those who haul sugar beets, as well as Western Sugar Cooperative. The beet harvesting season is longer now than 120 days and currently truckers must keep applying for the extension of permits in order to complete their harvest. This change would especially help the sugar industry. LB35 is an important bill for western Nebraska because the Western Sugar Cooperative employs a lot of people; 350 full-time employees, 322 seasonal employees, 390 additional harvest employees, and 175 contract employees from Aulick Leasing who do the hauling. They have a payroll of \$15.7 million, plus they pay the growers \$70.3 million, as well as spending another \$44.2 million in the region. The average sugar beet campaign over the past, or the last few years have been well over 120 days. Good harvest lengthens the campaign. For example, a 1-ton increase in yield per acre lengthens the campaign by one full week. The campaign days for the last seven years are as follow: 131 days in 2005; 158 days in 2006; 126 days in 2007; 147 days in 2009; and 136 days in 2010. Only the 2008 crop fell below 120, and that was 115. In the past, they've been given permission by the department of...Nebraska Department of Transportation permit office here in Lincoln to go over the 120-day limit, but they've been told that that is no longer going to be the case. It's become a pattern now, it's consistently over and so it's time to make a change or cut back in what we do in beet production. It's possible that the beet campaign could approach 200 days in the very near future. If Western Sugar is limited to 120-day campaign due to these permits, then it could eliminate the sugar production in counties outside of Scotts Bluff County and that would include Chase, Cheyenne, Deuel, Keith, Perkins, and Sheridan Counties. Keeping the limit at 120 days without at least providing an extension, no question would have huge economic impact on western Nebraska. I don't know if this is really the time for us to slow down the economic growth. It's probably the time for us to do whatever is necessary to encourage that growth. And our heart is agricultural, there's no question about that. That's what drives our economy. So, Senator Fischer, that completes my testimony. There are other people who will be here that will testify that probably can present to you more information and detail if you'd like. I'm not a beet grower, but I'd try to answer any questions that I can. I do have an amendment here for you, only for you to give some consideration to and that is if we have to decide to zero in on just beet growing that's done here, on the beet grower industry, I don't know, Senator Lathrop...or Senator Lautenbaugh could probably tell us whether that's class legislation, Freudian slip, sorry about that. But I don't know if it is class legislation, but it is prepared for your convenience. [LB35]

SENATOR FISCHER: Okay, thank you, Senator Harms. Are there questions? Senator Lautenbaugh. [LB35]

SENATOR LAUTENBAUGH: Thank you, Madam Chairman. This may surprise you, Senator Harms, but I'm not an expert on beet growing either, knowing me as you do, but was the 120 days set when traditionally the season was shorter? [LB35]

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SENATOR HARMS: I think so. And we didn't really have as much production beets at that time. Today they have larger beets and more people wanting to raise beets because the price is so good. And so they set it, I think, at that time. But I think probably someone who is coming up might have the full answer to that. But I believe that's the correct answer. [LB35]

SENATOR LAUTENBAUGH: And is 200 realistically going to be reached any time soon, or is 180 more realistic? [LB35]

SENATOR HARMS: I think it's probably, no I think probably 200 days is probably not too far out. Probably four or five years out. [LB35]

SENATOR LAUTENBAUGH: And this is just something that would be more efficient for the industry, I guess, rather than having to go back and get an extension on a permit which they may not be able to do anymore. [LB35]

SENATOR HARMS: They can't do it anymore. They're going to stop them after 120 days, they're done. They just said they can't do it. It's become, as I said, it's become a pattern and it's not just something they're going to have one good year and then not, this is pretty much consistent. And that's what they've got, they have a concern in the permit office that maybe it's time to change the law. [LB35]

SENATOR LAUTENBAUGH: Thank you. [LB35]

SENATOR FISCHER: Thank you, Senator Lautenbaugh. Other questions? I see none. Thank you, Senator Harms. [LB35]

SENATOR HARMS: Thank you, Senator Fischer. I would like the opportunity to close if I might. Thank you. [LB35]

SENATOR FISCHER: Okay, great. Could I have a show of hands of how many people are here to testify on this bill today? We have five, six. Okay. First proponent; do we have proponents to the bill? We will be using the light system, three minutes. And so when you see the yellow light come on, kind of wrap it up for us. Good afternoon. [LB35]

TERRY BUTCHER: (Exhibit 2) Good afternoon, Senator Fischer and committee members. My name is Terry Butcher, T-e-r-r-y B-u-t-c-h-e-r, employee of Western Sugar Cooperative for 15 years, here to show our support for the bill and the value that this would provide to us. I'll give you a little bit of background on Western Sugar Cooperative and that way...then everyone is an expert on growing beets. At the Scottsbluff...Western Sugar used to be Tate and Lyle owned by a British firm until 2002. In 2002, the growers formed a cooperative and bought the company, bought the assets.

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Prior to then, all profits basically went back to England. Now they're held at home, all paid back in the form of beet payments and dividend to the beet growers. We have processing plants in Scottsbluff, Nebraska; two of them in Wyoming at Torrington and Lovell; one at Fort Morgan, Colorado; and one at Billings, Montana. Throughout the 4-state area there is a thousand farmer/shareholders that grow 135,000 acres of sugar beets annually. Of the 135,000, 52,000 is grown in Nebraska. We have the largest acreage base of the four states. Just to reiterate what Senator Harms went over with the economic impact, and we do have the updated one out, so this is where my numbers may differ just a little bit from Senator Harms, because we just finished this up a week or so ago; and that is 298 full-time employees, this is just at the Scottsbluff facility; 376 seasonal employees; 390 in harvest employees that we get from the staffing services, Advanced Services; and 175 employees from Aulick Leasing, which is our rehaul contractor. Our payroll just for the Western employees is over \$17 million, and almost a million dollars...approaching a million dollars for Advanced Services payroll. Here again, this does not include Aulick Industries...Aulick Leasing employees. We have grower payments of \$70.3 million; this does not include the patronage; and purchases of \$51.5 million. Here again, these numbers are just for Scottsbluff factory alone. One thing I may mention, the Scottsbluff factory celebrated its 100th year in business last spring. A few other things I want to bring to the committee's attention is on this length of days, really our limiting factor is mother nature more than anything. We can only start harvesting beets so early. You get out much earlier than say the 10th or so of September and the tons aren't there, the sugar content is not there. The sugar content is not there, there isn't money in it for the growers; it's not feasible for the processing factory either. But on the other hand, beets that have stayed in the pile all winter long, you've frozen the rims, frozen in the pile during the winter and then this time of year things start to thaw out and you have 50-degree days with some wind, things start to thaw out and what we...we call it bleeding, or the beet starts to juice and deteriorate and it goes downhill fast. When it does that, it makes it very difficult to process. So you can see we're limited on the front end and the back end, anyway restricted by mother nature. Any profit for the year can be lost at the end of the campaign simply by having beets go bad in the pile. So we really work hard on what kind of acreage base we're going to let the growers grow from year to year to kind of...we estimate that so what we can...so we do not extend ourselves. I see the red light on, am I out of time? Okay. [LB35]

SENATOR FISCHER: Thank you very much. Are there questions? Senator Lautenbaugh. [LB35]

SENATOR LAUTENBAUGH: Thank you, Chairman Fischer. Thank you for coming today, sir. Same question I asked Senator Harms, do you know when the 200-day threshold is going to be met or is that just speculation because of the weather? [LB35]

TERRY BUTCHER: We're probably...we're probably five or six years away from

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meeting that. But a lot of it is hinged on weather. You have a spring where you have late freezes and we have to turn around and replant the crop, you're looking at a lighter crop. So weather plays a huge role in this, but our yields are increasing and better varieties, better disease packages in the variety, and so we're not...in Colorado, we're already getting 30 ton per acre down there. [LB35]

SENATOR LAUTENBAUGH: So if the weather were a constant, you would have no doubt that you would hit the 200 day? [LB35]

TERRY BUTCHER: We're going to (inaudible) pretty dang close, yep. [LB35]

SENATOR LAUTENBAUGH: Okay, thank you. [LB35]

SENATOR FISCHER: Other questions? Senator Dubas. [LB35]

SENATOR DUBAS: Thank you, Senator Fischer. Thank you, Mr. Butcher. What's the growing season for a sugar beet now? [LB35]

TERRY BUTCHER: We normally plant right the first of April and harvest, early harvest, we have an early harvest period that we let growers deliver a limited amount and we can get them processed because they will not store in warm weather. But we will start early harvest the middle of September and regular harvest, we call full harvest, usually starts the 6th of October. [LB35]

SENATOR DUBAS: So it's very similar to a corn crop then. [LB35]

TERRY BUTCHER: Yes. [LB35]

SENATOR DUBAS: Okay. Are there any value-added opportunities for sugar beets or is it strictly sugar? [LB35]

TERRY BUTCHER: Well, one thing we do there, just so you know, we take the process all the way clear to package process. Sell it to local grocery stores, General Mills, some of our customers. Some of the other products, there was a product called betaine that's used in animal feed. There's pressed pulp, that is the pulp for the...the dry matter product that is used for cattle feed at the local feedlots back there. And molasses, the state and there are several states starting to use some of our molasses as a road deicer. You don't have the corrosion like you do with salt. [LB35]

SENATOR DUBAS: So these numbers that you've given us, those are strictly related to the sugar that you produce, not these other by-products? [LB35]

TERRY BUTCHER: It is related to everything. [LB35]

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SENATOR DUBAS: Okay. [LB35]

TERRY BUTCHER: Because all the...any and all profit through the co-op gets funneled back to the grower either in a beet payment or a dividend, so that would include sales of all by-products. [LB35]

SENATOR DUBAS: And have the acres grown a lot for sugar beet production, or has it been pretty steady over the decades? [LB35]

TERRY BUTCHER: It...in the early '90s we ran into a lot of disease problems. And it took several years to tackle that and get resistant to the disease bred into the beets. So during those years we really lost a lot of acres. It is starting to come back more and we've grown acres the last several years, yes. [LB35]

SENATOR DUBAS: Thank you. [LB35]

SENATOR FISCHER: Other questions? Senator Hadley. [LB35]

SENATOR HADLEY: Senator Fischer, thank you. Mr. Butcher, thank you. Am I correct in saying that the sugar beets are only transported once though from the field to your factory, is that correct? [LB35]

TERRY BUTCHER: No, not totally. Some growers, depending on where they're located, will at harvest time deliver them directly to the factory. We have multiple...what we call beet pilers located there and receive the beets. A lot of growers are not set up; it would take a whole slew of trucks and so we have outside locations, receiving locations, to where we have scales and pilers and so the grower during harvest gets them to the station, because we have a limited number of days that we can harvest before the ground freezes up. And then all winter long we're rehauling out of those piles straight to the factory. [LB35]

SENATOR HADLEY: Would this be similar to the piles of corn I see out on Highway 30 in Shelton and places such as that, where the farmer has sold the corn to Cargill, or to whoever it be, and it's stored on the ground and eventually moved to another? [LB35]

TERRY BUTCHER: Yes, very similar. The only difference in this would be where it's a grower-owned co-op, the grower still owns those beets clear through the whole process. [LB35]

SENATOR HADLEY: Thank you. [LB35]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? Senator Loudon.

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[LB35]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well thank you for being here today, Terry. On this bill we're talking about the rehaul side of the beet business, the hauling from your stockpiles to the factories. [LB35]

TERRY BUTCHER: Exactly. [LB35]

SENATOR LOUDEN: There won't be much of this used for the farmers from their field to that beet stockpile, would there? [LB35]

TERRY BUTCHER: No, this is strictly the rehaul portion from the receiving station to the factory. [LB35]

SENATOR LOUDEN: Yeah. [LB35]

TERRY BUTCHER: These permits do not apply to the growers...they can't use trucks this long in the field, it isn't feasible. [LB35]

SENATOR LOUDEN: To get in and out of there. Now, for some of those people that aren't familiar with that, this rehaul deal is something that's come about in the last, what, 15 years, because it used to be all hauled on the railroad cars. And about what, 15 or 20 years ago when you started using rehaul trucks and now there's nothing brought into your beet factory on railroad cars anymore is there? [LB35]

TERRY BUTCHER: No, we're strictly trucks and have been for quite a while. [LB35]

SENATOR LOUDEN: It's all trucks now, everything comes in there on a rubber tire. [LB35]

TERRY BUTCHER: Now, when this goes way back in Great Western days, when they started getting away from the trains, you couldn't rely on them, you never knew when they were going to show up. And on warm days the beets would be sitting in the cars and warming up and when they'd show up to the factory there's juice running out the bottom. [LB35]

SENATOR LOUDEN: Yeah, and then these trucks, as I looked through here, stays the same, they can't have over 20,000 pounds on an axle and that part stays the same. Now if they got two tandem axles close together, they can still only put 38,000 pounds on the two axles together. [LB35]

TERRY BUTCHER: I believe you're correct. [LB35]

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SENATOR LOUDEN: Because it doesn't change your weight or anything, it just changes the length of time that these can be delivered. It gives you a little bit more length of time in the spring. Are you done with the beet harvest rehaul yet or are they still hauling? [LB35]

TERRY BUTCHER: We finished about ten days ago. [LB35]

SENATOR LOUDEN: I see, because I haven't been out there lately to see what was going on. [LB35]

TERRY BUTCHER: Okay. No, we finished about ten days ago. And what this permit is, is basically for the length of that because these are longer trailers. [LB35]

SENATOR LOUDEN: Yeah. Okay, thank you. [LB35]

SENATOR FISCHER: Thank you, Senator Louden. Senator Lautenbaugh. [LB35]

SENATOR LAUTENBAUGH: Thank you, Chairman Fischer. Sir, I just want to be clear, I managed to confuse my own self in my questioning. I meant to ask you about the 200-day threshold. I hope I said 200, not 120 days. Was that your understanding? [LB35]

TERRY BUTCHER: I think you said 200. That's the way I took it, yes. [LB35]

SENATOR LAUTENBAUGH: Okay, good, and that's what I meant to get at. Did you get any impression...I guess I'm asking you to speak for others that there is going to be opposition to this change. [LB35]

TERRY BUTCHER: No, I have not. Had, I guess, we did have one issue come up and when it was clarified that it was strictly for sugar beets in western Nebraska, then no, it was dropped. [LB35]

SENATOR LAUTENBAUGH: So is it safe to say that we're in a scenario that there's been waivers granted, possibly, in years gone by or extensions granted and now someone finally said, look, you should just go pursue a change in the law, is that safe to say? [LB35]

TERRY BUTCHER: Correct. Yep. [LB35]

SENATOR LAUTENBAUGH: Thank you. [LB35]

SENATOR FISCHER: Thank you, Senator Lautenbaugh. Other questions? I'd like to thank you for being here. Congratulations on your 100 years too. [LB35]

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TERRY BUTCHER: Thank you. [LB35]

SENATOR FISCHER: Could you clarify something for me, right now permits are granted, correct? [LB35]

TERRY BUTCHER: Um-hum. [LB35]

SENATOR FISCHER: The permit extension. Has there been a problem with that? Or is it just easier not to go get the permit and that's why you're asking for the change? [LB35]

TERRY BUTCHER: Well we have to...we have to get...we've always had to get a permit. It gets a little bit complicated in...where we start...where we start, say, first part of October and when you use your 120 days, you don't need them all that year, you need some in January and part of February the following year. And so then it gets a little bit complicated as far as which year was it. And then we also...it sounds like now what they would like to do when they issue it is just to issue it for a flat 120 days at the beginning of the year, well when we get that at the first of January, we really only need 45, 50 days, or 60 days, and then do not need to use the trucks, the combination trailers until the following October. [LB35]

SENATOR FISCHER: But would this bill help with that scenario you just described, carrying over into two years, if you're going by calendar years? I guess I don't know if this bill is even going to address that. If you put it to 200 days, you're going to still be using so many days in the fall and then you're going to have to go and get another permit to use so many days the next year, correct? [LB35]

TERRY BUTCHER: Correct, and that is not a problem getting multiple permits. We used to be able to get the permits for like 30 days at a time per truck. [LB35]

SENATOR FISCHER: What do you get them for now? Do you get them for 120 days now? [LB35]

TERRY BUTCHER: I may have to defer that to our contract rehauler who will testify next. [LB35]

SENATOR FISCHER: Oh, okay. Okay, I will check. I guess my whole question is, is this just a matter of convenience for you? Are we really solving a problem if it's based on calendar years? Would it solve the problem to leave it at 120 days and make it for, you know, from the first of September through, you know, run that as the year instead of a calendar year? I'm just thinking out loud, that might not even work. My committee counsel will probably tell me that. But I don't know what problem we're trying to solve

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with this bill. [LB35]

TERRY BUTCHER: What kind of...may be twofold, one of the problems is, we need to be slicing beets for more than the 120 days. [LB35]

SENATOR FISCHER: Over the hauling (inaudible)? [LB35]

TERRY BUTCHER: Over the course of the whole, what we call campaign. [LB35]

SENATOR FISCHER: Right, okay. [LB35]

TERRY BUTCHER: So, that is one of them. Whether or not we get our issued permits every 30 days or if it's one permit, that's, you know, that's not a problem. No, we're not doing this for a convenience factor. We're doing this for...as we see our yields increase, if we're limited to only being able to get these permits and run these trucks for 120 days out of a year, then we're really constricting our business. [LB35]

SENATOR FISCHER: Has the department ever limited you to just a 120 days, or do they give extensions? [LB35]

TERRY BUTCHER: They have given us extensions; they have worked with us in the past. I don't believe they have ever limited us. [LB35]

SENATOR FISCHER: So I'm back to my original question, what's the problem then? If extensions are given, you just have to go get an extension every year and you don't want to do that? [LB35]

TERRY BUTCHER: I think what it has been in the past is we've been getting it on a 30-day increment each time. And so then it hasn't been an issue; they've been maybe allowing us to maybe borrow from the year before if we don't need it, but we're, as you can see, with the numbers that Senator Harms gave that we're bumping...we're going past that almost every year. And I don't know if it was looked back, you know, in the fall, getting them October, November, December, on how many days we were actually using them the first part of the year to finish out the previous campaign. [LB35]

SENATOR FISCHER: Okay. [LB35]

TERRY BUTCHER: So this is an issue...before it becomes an issue we really need to get it changed so that we are running inside of the law. [LB35]

SENATOR FISCHER: Okay. And yes, you do want to run inside the law. So that's always good, that's always good. And I realize the importance of your industry, not just to the Panhandle and western Nebraska, but also to the state as a whole. So we'll see

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what we can do here. Thank you very much for coming in. [LB35]

TERRY BUTCHER: Okay. Thank you, Senator. Thank you, Committee. [LB35]

SENATOR FISCHER: You bet. I would like to note for the record, at this time we've been joined by Senator Charlie Janssen of Fremont and also Senator Scott Price from Bellevue. Next proponent please. Good afternoon. [LB35]

DANIEL TOMPKINS: (Exhibits 3, 4, and 5) Good afternoon, Madam Chairman and committee members. I'm Daniel Tompkins, D-a-n-i-e-l T-o-m-p-k-i-n-s. I'm the general manager of human resources and safety representing Aulick Leasing Corporation. Aulick Leasing is a Nebraska corporation doing business since 1978. One of our trucking division performs a sugar beet rehaul portion of Western Sugar's annual harvest. During our peak periods, we employ up to 400 people in the Nebraska Panhandle. Today I'm testifying in favor of the passage of LB35 based on the following facts. For those of you who are not familiar with the sugar beet harvest, I would like to briefly explain the process. Once the producers start harvest, they haul the sugar beets to rural piling grounds outside of Ogallala and Big Springs, as well as eight other locations in the Nebraska Panhandle. At these pile grounds, the sugar beets are unloaded onto a mechanical piler which then piles the sugar beets. After the sugar beets are piled, and upon instructions from Western Sugar, we send our fleet of trucks in, we load the beets and haul them to the factory in Scottsbluff, hence it is a rehaul. In the interest of time today, I'm just going to speak about the Big Springs and Ogallala pile grounds, as these are two of the ten locations that could be affected the most by not passing LB35. Over the past three campaigns, we've seen a significant increase in the sugar beet tonnages that were harvested and piled, not only in the Big Springs and Ogallala area, but also as the whole for the entire western Nebraska region. Please refer to the chart, Sugar Beets Tons, that's being handed out. And as you can see, during the 2008-2009 campaign, there were 40,706 tons harvested in Big Springs. This increased to 51,888 tons for 2009-2010 campaign. And for the 2010-2011 campaign, the harvest...amount harvested increased to 67,861 tons. During the 2008-2009 campaign, there were 26,354 tons harvested in Ogallala. This increased to 31,977 tons for the 2009-2010 campaign. And for the 2010-2011 campaign the amount harvest increased to 39,858 tons. On the positive side, this increase is great for the producers and the economic wellbeing of the area. But there is one area that gives me quite a bit of pause and concern and that has to do with the length of the current permit. If the tonnages continue to increase, it is not physically possible for our fleet to haul all the beets with our double trailer configurations. As the time of constraints of 120 days, we just physically cannot do it. It doesn't allow us enough time. Therefore, we would be forced to drop our second trailer and haul all of the loads with single trailers. What that would mean is our payload would drop from 34 tons in a double configuration to 24 tons with singles. And with that, would you please refer to the chart titled Loads Required 34 Ton versus 25 Ton. I'll refer to the 2010-2011 campaign. At 34 ton we could haul the

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piles in 3,168 loads; but at 25 ton, it would require us to haul 4,309 loads. Once again, this causes me a great concern as it has to do with safety. We've had a very successful campaign over the last three years in keeping our accident ratio under control. But even though we were successful, I do not feel that we need to take the unnecessary risk by hauling the extra loads when we have an opportunity to pass LB35 which would allow us to continue utilizing doubles. One other area, I see I'm getting out of time. One other area that it's going to affect, and I'm referring to Big Springs only, if we haul them at 34 tons, we have to run 445,088 miles just to get Big Springs hauled. If we have to go to a single, we're going to have to drop to 25 ton for a load; that means we have to run 605,320 miles which is an increase of 160,232 miles that are unneeded. We could do this with doubles and not add those extra miles. And another unintended...I'm sorry. [LB35]

SENATOR FISCHER: Please continue. [LB35]

DANIEL TOMPKINS: Okay. As you can see, an unintended consequence of not passing LB35 would be an unnecessary increase in the number of trucks on the road. And by adding more trucks, it would increase the cost to Western Sugar Cooperative and its growers, which in turn would make them less competitive in the world sugar market as other sugar beet producing states currently allow double trailers year-round. Some of the states are Wyoming, Montana, North Dakota, and Michigan. In addition, if Western Sugar and their growers and shareholders are limited to only 120 days of hauling at a competitive rate, the impact on the Nebraska economy could be the possible elimination of sugar beet production in Chase, Cheyenne, Deuel, Keith, Perkins, and Sheridan Counties. In closing I'd like to thank the committee for their attention and consideration of my concerns. Can I answer any questions? [LB35]

SENATOR FISCHER: Thank you, Mr. Tompkins. On one chart you passed out here, the loads required at 34 ton versus the 25 ton. [LB35]

DANIEL TOMPKINS: Yes. [LB35]

SENATOR FISCHER: We're not...I realize we're talking about 120 days for a rehaul; but that's because of the length and the over-length of the truck, and the overweight of the truck, correct? [LB35]

DANIEL TOMPKINS: Um-hum. [LB35]

SENATOR FISCHER: That 34 ton, is that 15 percent overweight on current statute? [LB35]

DANIEL TOMPKINS: I believe that's 25 percent. [LB35]

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SENATOR FISCHER: It's how much? [LB35]

DANIEL TOMPKINS: I believe it's 25 percent. And I'd like to answer that question just a little bit further. [LB35]

SENATOR FISCHER: I haven't gotten to my question yet. [LB35]

DANIEL TOMPKINS: Okay. Well, what you just stated to me... [LB35]

SENATOR FISCHER: Okay, I'll let you respond, then we'll keep going. [LB35]

DANIEL TOMPKINS: Okay. [LB35]

SENATOR FISCHER: Okay. [LB35]

DANIEL TOMPKINS: My colleague that's going to testify, he's the expert in the permits. [LB35]

SENATOR FISCHER: You guys are just calling the next one. [LB35]

DANIEL TOMPKINS: He's the expert in the permits. I'm sorry, he's way better at it than I am. [LB35]

SENATOR LAUTENBAUGH: We're going to forget the question pretty soon. [LB35]

SENATOR FISCHER: I know it, I know it. I'll depend on Senator Lautenbaugh to remind me what the question is then. How many more miles did you say would need to be traveled if you had to go back...if you had to just meet the 120 days? [LB35]

DANIEL TOMPKINS: With the Big Springs and the Ogallala. [LB35]

SENATOR FISCHER: Right. [LB35]

DANIEL TOMPKINS: If we have to drop to a single trailer, we're going to incur an additional 265,991 miles. [LB35]

SENATOR FISCHER: Is that for the total campaign or is...? [LB35]

DANIEL TOMPKINS: No, that's just the two pile grounds, that's just Big Springs and Ogallala. [LB35]

SENATOR FISCHER: No, no, but is that for the total 120-day campaign or just the 26 extra days, or whatever it is. [LB35]

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DANIEL TOMPKINS: Correct, that would be just the 26 extra days for those two pile grounds. [LB35]

SENATOR FISCHER: Okay, and that was how much again? [LB35]

DANIEL TOMPKINS: Two hundred sixty-five thousand, nine hundred and ninety-one miles. [LB35]

SENATOR FISCHER: Okay. Do you know the damage to roads by just travel on what we have allowed by statute for trucks and the damage done by overweight trucks? [LB35]

DANIEL TOMPKINS: No, ma'am, I'm afraid I can't answer that question. [LB35]

SENATOR FISCHER: Okay, thank you. Any other questions? Senator Price. [LB35]

SENATOR PRICE: Thank you, Chairman Fischer. And I apologize for not being in it at the front end and Senator Harms and other witnesses. But I have a question; we're going from 120 days to 200 days, yet we have a 30-day...I think what we talked about here was a 30-day increment. I don't know how 30 days goes into 200 really well, I'm not doing modern math yet, but I...my question is, how does this bill...how do you see this bill addressing a fee schedule when we have a 30-day increment and it looks like they were \$25 for 30 days and we don't have a whole one, is it prorated here or...did this question...if this question was already asked, then just say it's been asked and I'll look at the record, but otherwise, how do you see that we deal with changing the fee schedule and the calendar and the amount of time we're looking at here? [LB35]

DANIEL TOMPKINS: As far as addressing the fee schedule, I can't answer that question. I can answer the question on how the permits were issued in the past. We would go ahead and order up the permits and they are truck-specific. Okay. And when my permits...my operations manager would call the permit office; they would issue the permits out for 120-day period. And then we'd pay the fee on it. And unfortunately in the past, it's come to light that they probably weren't watching on the front end, we found out that we weren't operating within the law because we'd call and get a permit and they'd issue us another permit. [LB35]

SENATOR PRICE: Okay, well, if there are any other witnesses who come up afterwards, who can answer that question, I'll be waiting with baited breath. Thank you. [LB35]

SENATOR FISCHER: Other questions? I see none. Thank you very much for coming in today. [LB35]

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DANIEL TOMPKINS: Thank you. [LB35]

SENATOR FISCHER: Next proponent please. [LB35]

KEVIN FULK: Got any questions first? (Laughter) [LB35]

SENATOR FISCHER: Good afternoon and welcome and if you're the guy, this is going to be great. [LB35]

KEVIN FULK: Good afternoon, Madam Chairman and committee members. I am Kevin Fulk, K-e-v-i-n F-u-l-k. I'm the operations manager representing Aulick Leasing Corporation and I am testifying in favor of passage of LB35 based on the following facts. As Mr. Tompkins stated, over the past three campaigns we have seen a significant increase in the sugar beet tonnages that were harvested throughout the entire growing region. As with Mr. Tompkins, I'm concerned about the safety due to the increased amount of truck traffic it would take to haul the pile grounds at 25-ton loads versus 34-ton loads. Currently utilizing 34-ton loads and a fleet size of 37 trucks, that's what we do right now, currently, we are required to dispatch a truck every 3.5 minutes to meet the demands of the factory. At 25-ton loads, it would require a fleet of 48 trucks and we would need to dispatch one every 2.5 minutes. This equates to an unneeded 27 percent increase in truck traffic, and an additional 265,991 miles. In addition, currently, using double configuration, the weight per axle is 5 percent less than if we had to use single configuration trailers. I feel that the increased truck traffic is unneeded and we have an opportunity to pass LB35 and the benefits of extending the hauling season far outweigh any risk associated with keeping the bill as is and not extending the hauling season. As you can see, an unintended consequence of not passing LB35 would be an unnecessary increase in the number of trucks on the road and by adding more trucks it would increase the cost to Western Sugar Cooperative. And as a business partner involved in Western Sugar's production success, one can only imagine the financial impact of increasing the truck fleet size by 27 percent. In addition, if Western Sugar and their growers, shareholders are limited to only 120 days of hauling at a competitive rate, the impact to the Nebraska economy could be possible elimination of some of the sugar beet production throughout western Nebraska. In closing I would like to thank the committee for their attention and consideration of my concerns. [LB35]

SENATOR FISCHER: Thank you, Mr. Fulk. Are there questions? Senator Dubas. [LB35]

SENATOR DUBAS: Thank you, Senator Fischer. Mr. Fulk, could you repeat that configuration percentage again between the double trailer and the single trailer? [LB35]

KEVIN FULK: If at 25 ton on a single trailer, you have 5 percent more weight impact on

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the highway than you do with our double configurations. [LB35]

SENATOR DUBAS: So on a single trailer, you're going to have 5 percent more weight based on... [LB35]

KEVIN FULK: Yes, if you use a single trailer, it actually puts more stress on the highway than a set of doubles just because of the fact of more axles underneath carrying the weight. You have better braking power, and more tires holding the weight. [LB35]

SENATOR DUBAS: That's...someone pointed that out to me on grain, not on sugar beets, but that the more axles you have, I mean, I guess I know that just based on our own trucks. The more you can spread that out over axles, supposedly the better, that is for... [LB35]

KEVIN FULK: It is. [LB35]

SENATOR DUBAS: Okay. And then, I can't remember who said it, it might have been in Senator Harms' opening, are you being told that they're not going to give you extensions anymore past the 120-day permits, or they're just tired...they're saying it's time...if this is going to be an ongoing practice, we need to just look at... [LB35]

KEVIN FULK: Yes, here is what is happened over the years. We always used to get 30-day increment permits. You can buy a permit for 120 days. If you change your truck, trailer, if anything happens and you have to switch, you can amend that permit for \$10. That's why we got them in 30-day increments. This year, the permit office was so busy, and I mean busy, we couldn't even get a return phone call back. So when they decided to issue our permits, he said we're doing 120 days and this is the way we're going to do it and we're done. So that is the pressure we are getting from the permits office. They will not issue that permit for any more than 120 days. And so in the past years, I'm assuming what happened is you got it 30 days at a time so that we didn't have to amend our permits because if you had to change it, then you could change it and get another 30 days. Well this year they were just so busy that they wanted to do the whole 120 days and then that's all you got. So that's kind of where this whole thing come up. [LB35]

SENATOR DUBAS: Okay. Thank you. [LB35]

SENATOR FISCHER: Other questions? Senator Hadley. [LB35]

SENATOR HADLEY: Senator Fischer, thank you. Go back to the question that Senator Fischer asked earlier, if I counted right, September, October, November, December, 4 times 30, that's 120 days. So you get a permit for 120 days; then January 1 you can turn around and get another permit for 120 days, that takes care of that season and so the

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next September you get 120-day permit, and then January 1 you get another 120...is that? [LB35]

KEVIN FULK: Well, that's really been unclear of what the 120 day...depends on who you talk to, you know, whether it's 120 days in the calendar year or it's 120 days per season. [LB35]

SENATOR HADLEY: Okay, I guess that was going to be my next question. What is the hundred...is it, you know, can you get back-to-back 120-day permits? [LB35]

KEVIN FULK: This year, how they kind of done is, okay, you had 120 days in 2010. Then you start with 120 days in 2011. But where you got to get it in 30-day increments, you're going to run out eventually and you're not going to have enough permit...it would really be nice if it was just...that's why we went to the 200 days. I agree it does not match 30-day increments, but if you could actually do a permit for like the hauling season of 2010-2011. [LB35]

SENATOR HADLEY: Okay then, you know, I'm a real slow learner. So we get the days taken care of, then how does that then translate to the double units and single units, are you saying that in the 120 days you would have to use double units to get the job done? [LB35]

KEVIN FULK: Right now if they would limit us to 120 days and that's all we could truck, at 121 days we would have to unhook all of our double trailers and run singles because we could no longer get the overload permits. [LB35]

SENATOR HADLEY: Okay. [LB35]

KEVIN FULK That's where the 120 days comes in. [LB35]

SENATOR HADLEY Okay. Okay. It just takes me a while. [LB35]

KEVIN FULK: It's kind of confusing, the whole thing is kind of... [LB35]

SENATOR HADLEY: Born and raised in Lincoln, sometimes this...I always got the sugar from the grocery store, so I just didn't... [LB35]

SENATOR FISCHER: See what you learned. Thank you, Senator Hadley. Other questions? Senator Lautenbaugh. [LB35]

SENATOR LAUTENBAUGH: Thank you, Chairman Fischer. So for clarity sake, during the 120 days now you use the tandem, if you will. [LB35]

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KEVIN FULK: Right. [LB35]

SENATOR LAUTENBAUGH: If we took away that ability after 120 days, you'd have to use the smaller trucks you're talking about. [LB35]

KEVIN FULK: Yes. [LB35]

SENATOR LAUTENBAUGH: And that would necessitate more trips. [LB35]

KEVIN FULK: Basically, all we do is unhook the pup, and then just run the single front trailer and the tractor. [LB35]

SENATOR LAUTENBAUGH: Okay. Thank you. [LB35]

SENATOR FISCHER: If you didn't get an extension. [LB35]

KEVIN FULK: If we didn't get an extension. [LB35]

SENATOR FISCHER: Extensions are available. Other questions? I have a couple. Are your permits valid on county roads? [LB35]

KEVIN FULK: No, but all of our pile grounds are right off of the access of the state highway, basically. [LB35]

SENATOR FISCHER: So you're not...you're not traveling on any county roads when you're hauling the sugar beets, correct? [LB35]

KEVIN FULK: No, not that I'm aware of. We might turn in on a county road and then right there is the entrance to the pile ground. [LB35]

SENATOR FISCHER: Okay. If you looked at the agenda, you'll see that the four bills we have today deal with load limits and it's not just sugar beets that want an increase. We see bills every year like this. Currently sugar beets already have a little sweeter deal (chuckle) than...good...than other commodities, correct? Because you already have 25 percent above, correct? [LB35]

KEVIN FULK: That only includes the length of the trailer. It does not include anything with weight. We can run 25 percent of the lengths. [LB35]

SENATOR FISCHER: And what do you run on the weight then? Back to my question with the testifier before you when we looked at the 34 ton versus the 25 ton? [LB35]

KEVIN FULK: Well if you unhook the pup, that all goes back to 25 ton. That's the most

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you can haul on the state highway. [LB35]

SENATOR FISCHER: Right, but you're hauling 34 ton now? [LB35]

KEVIN FULK: Yes. [LB35]

SENATOR FISCHER: And what percentage is that above? [LB35]

KEVIN FULK: It's 15 percent above on weight. [LB35]

SENATOR FISCHER: That's what I thought. [LB35]

KEVIN FULK: Yeah, 15 percent on weight; 25 percent on length. [LB35]

SENATOR FISCHER: Okay. Do you know, maybe we need Mr. Johnson up here, I see him in the back; do you know the wear and tear on highways that overweight trucks cause? [LB35]

KEVIN FULK: Actually, that, as far as I'm concerned, that is untrue. On 34 ton, divide that by seven axles; on 25 ton divide that by 5 axles, you'll find out that the double trailers are actually putting less impact on the road than what the 25 ton. Pretty simple math to come up with that. It's 5 percent, it equates to 5 percent less weight per axle on the road. [LB35]

SENATOR FISCHER: Okay. I think I'll be asking that question then. Other questions? Senator Louden. [LB35]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well, as you talk about weight, that you can't have over 20,000 pounds on any one axle no matter where you are. [LB35]

KEVIN FULK: No, exactly. [LB35]

SENATOR LOUDEN: And that's if the axles are more than what, 15 feet apart or something like that. [LB35]

KEVIN FULK: Yeah. [LB35]

SENATOR LOUDEN: And if they're a tandem axle, where they're closer together, then you can only have 38,000 pounds on the two axles which is 19,000 pound on them and that's where you talk about the more wear on the road is because you're on your straight semi you're pulling your two axles closer together, but the 38,000 pounds where you've bridged farther with your, as we call them a pup, that you're pulling back there to

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get your...but you're allowed 20,000...not over 20,000 pounds on any single axle. [LB35]

KEVIN FULK: Yep. [LB35]

SENATOR LOUDEN: Okay. Thanks, thank you. [LB35]

KEVIN FULK: If you just...if you do do the math, it's 5,000 pounds per...5 ton per axle and if you stretch it out to...our 7 axles you drop it down to about 4.5 ton per axle. So it actually...the bridge actually...you get longer so you spread everything out over more axles when carrying... [LB35]

SENATOR LOUDEN: How much weight do you put in those trailers...in those pups back there that have just the two axles? [LB35]

KEVIN FULK: We run about 25 ton in the front and about 9 ton in the back. So you're running 9 ton on two axles and you're 25 ton on about 24...it can vary quite a bit. You can run 24; the max you can go is 26 and 8, I think, I believe. [LB35]

SENATOR LOUDEN: That's on that back trailer? [LB35]

KEVIN FULK: Yes. And you're legal on the back trailer to go up to 40,000 because you've got two axles back there, but we don't carry that much on that... [LB35]

SENATOR LOUDEN: Okay, that's what I was wondering. [LB35]

KEVIN FULK: Yep. [LB35]

SENATOR LOUDEN: Okay, thank you. [LB35]

SENATOR FISCHER: Other questions? I see none. Thank you very much for coming in today. [LB35]

KEVIN FULK: You bet. [LB35]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB35]

BRIAN SPECHT: (Exhibit 6) Senator Fischer, committee, my name is Brian Specht, B-r-i-a-n S-p-e-c-h-t. I represent the Nebraska Sugar Beet Growers Association and growers in our area. Most of the facts that we're kind of talking about have already been covered. I won't go into real big detail. I'll give you my perspective as a grower on what I see. Basically we need to be able to run these extra days to make up for our increased yields to get our product to the factories on time without the product spoiling. Basically, just the longer the beets sit there, just takes money out of our grower's pockets and we

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need to get them in a timely manner and the way to get this done is as efficiently as possible through the larger trucks and less trips. To go a little more onto the pup trailer issues, as a grower and a truck driver, being around them my whole life, the pup trailer is way easier on your highways than say our farm trucks or our tandem trucks, our smaller trucks. The pup trailers are just...the way the weight is distributed and spread out and just their turning ability where the front axle steers. Instead of just being drug around, they're way more easier on the state highways than what a standard truck would be. As far as that, I won't go into any of the other facts that have already been covered, if there's any other questions? [LB35]

SENATOR FISCHER: Thank you very much. Any questions? Senator Dubas. [LB35]

SENATOR DUBAS: Thank you, Senator Fischer. Thank you, Mr. Specht. There's no other way to store sugar beets except to pile them on the ground? I mean, as a corn farmer I can put it in the bin and put some air on it. [LB35]

BRIAN SPECHT: Nope, we're kind of limited, that's about our only option. We're looking at it different ways of lengthening the storage with aeration and different things like that. But we haven't found anything really feasible yet. [LB35]

SENATOR DUBAS: So you really are...you really are limited then as to what... [LB35]

BRIAN SPECHT: Yep, and our slicing capacities right now we're pretty much butting right up against what our factories can handle. We can't really get much bigger, so we have to...we're basically limited on how much we can store...I mean, we need to get them there as quick as possible. Our campaigns are limited out right now, basically. [LB35]

SENATOR DUBAS: Okay. Now like for corn we have shrink, do you have shrink? [LB35]

BRIAN SPECHT: Yeah, there's a pile loss if they call it, yep. And that is something we have to pay for, yeah. [LB35]

SENATOR DUBAS: All right, thank you. [LB35]

SENATOR FISCHER: Other questions? Senator Janssen. [LB35]

SENATOR JANSSEN: Thank you, Chairman Fischer. Thank you for coming today. I was reading this bullet point here, it says the state of Nebraska will be receiving additional tax revenue off the diesel to run these additional days. This comes when funding for Nebraska's highway systems is hitting historically crisis levels. I agree with that, but is that a round about way of saying that you're in favor of higher fuel taxes?

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[LB35]

BRIAN SPECHT: No, I'm just saying that we're going to be...the money that we pay on taxes on the fuel is benefitting, I mean, so the extra 200 days, you know, the extra time, the fuel we're going to spend is going to be benefitting the highways too, so. [LB35]

SENATOR JANSSEN: So that will make up for the additional wear and tear. [LB35]

BRIAN SPECHT: No, not necessarily, I wouldn't say that, no. [LB35]

SENATOR JANSSEN: Okay, thank you. [LB35]

SENATOR FISCHER: Other questions? Sir, I'm going to ask you a question that I asked earlier. What's the problem? Can you go and get extensions now from your 120 days and still move your product as needed? [LB35]

BRIAN SPECHT: I have no part of the permit process...I'm a grower representing the growers, as far as their permit process, I know they've run into trouble getting their extensions and that's...basically, the way I see it, the way I understand, that they don't feel like they're going to be able to get the extensions any more; that they're going to get their 120 days and they're not going to allow them to have the extra extensions and that is what their biggest concern is at this point. [LB35]

SENATOR FISCHER: Okay. Other questions? Thank you very much for coming in today. Next proponent please. Good afternoon. [LB35]

DARBY JESPERSEN: (Exhibit 7) Good afternoon, Senator Fischer and committee members. My name is Darby, D-a-r-b-y, Jespersen, J-e-s-p-e-r-s-e-n and I'm president of the Nebraska Sugar Beet Growers Association. I guess we're here this afternoon...there's some factors that would have an impact on the length of days that we need to run each year. One thing is crop size and that varies from year to year due to weather factors. Weather factors is probably the main variable in our growing of sugar beets. And the example that the senator gave earlier is a one-ton increase in yield per acre will lengthen the slicing campaign by one full week. And as a grower from year to year, that can change, I mean my average yield can change five ton, you know, we can go...we can be five ton higher or lower from year to year. And then another thing that affects that is factory performance from year to year. Sometimes, as an example, we'll have loss of power from our power provider and that could be a multi-day delay; or if we have breakdowns in our factories, that is a huge deal because we have kind of older factories and to get parts shipped in sometimes takes a long amount of time. And as the senator said earlier, our campaign lengths over the last seven years have been...in 2005 we had 131 days, 2006 158 days, 2007 we had 126 days, 2008 we had 115 days, 2009 was 147 days, and then 2010 was 136 days. And the main impact, Western Sugar

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and Western's shareholders, such as me, if limited to 120 days there is a possibility that if we have to extend the campaigns...or we can't haul the beets in at that, we'll have to eliminate some sugar beet production in the outlying areas such as Chase, Cheyenne, Deuel, Keith, Perkins, or Sheridan Counties. One thing we could do is increase factory slice, but this would cost us as growers and owners of the factories tens of millions of dollars to do this. If the daily slice is increased, we would need to...and if we do this, if we increase the daily slice, then we have to run...pay all...if the daily slice is increased, we would need to run even more trucks to keep up with larger factories. A rehaul contractor wouldn't be as efficient running more equipment for fewer days, therefore the trucking rates would have to increase. Us, as Western Sugar, we're not looking to expand our growing area, we just need to ensure that we can run more days for us as growers have higher yields. And on behalf of the Nebraska Sugar Beet Grower Association and all the sugar beet growers in the western Nebraska Panhandle, we'd like to say thank you for your consideration of my remarks and the attention this afternoon. Appreciate it. [LB35]

SENATOR FISCHER: Thank you, Mr. Jespersen. And I'd like to thank you and your colleagues that drove all the way here today too. Thank you. [LB35]

DARBY JESPERSEN: Thank you, appreciate that. [LB35]

SENATOR FISCHER: Senator Price. [LB35]

SENATOR PRICE: Thank you, Senator Fischer. Thank you for testifying today, Mr. Jespersen. I'm looking at your numbers here and I see the increase...the largest...the longest year you had a campaign was 158 days which is 42 days, you know, you have 42 more days till you get to 200. So you're asking for a 30 percent cushion over the existing already and you're already taking...I'm just wondering how the number 200 came up, because I look at the growing cycle of the sugar beet and when you can do it, I mean, even if you have more areas, and you have the shrinkage of the pile, I mean, there's got to be a point where you can't have any more days because if the crop comes in at a certain time, it can only be kept in the pile for a certain amount of time, is that what drove 200 days, you can keep a beet on the ground for 200 days in a pile, or you can go so many days after the growing season? I mean, I'm trying to get my head...wrap my head around why 200 days was selected. [LB35]

DARBY JESPERSEN: Well, I mean, I think the way I look at it is, is if we do 200 days, I mean realistically, we probably need 180. I think the extra 20 days will give us a cushion if we go January and February, and then if we have all of September, October, November and December, you know, that basically gives us 180 days. So I mean, that 20 days will give us a little bit of cushion if we happen to go into March or something like that and need a little bit there. The thing is, all of our colleagues, as Terry alluded to earlier, in Colorado and Montana and northern Wyoming, they're average yields are

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close to 30 to 31 ton an acre; and ours this year was 26. So if we add six ton...if we would get close to theirs and add 6 ton onto our yield on 52,000 acres, then we're running into a big problem. [LB35]

SENATOR PRICE: Right, and I understand what you're saying, but help me out, please endure me for a moment. [LB35]

DARBY JESPERSEN: Yep, no, you're fine. [LB35]

SENATOR PRICE: When we pull a beet out of the ground... [LB35]

DARBY JESPERSEN: Yep. [LB35]

SENATOR PRICE: ...what's the latest day you're pulling a beet of the ground versus this 200 window. See, what you're talking about in production management is, what we said before, more slicing, more capacity for hauling, because you have a finite time that you can leave a beet unattended in a pile. [LB35]

DARBY JESPERSEN: Right, yeah, I understand that. And as Brian alluded to just now that we're looking into things as aeration and ventilation for storing beets longer and we've used the big square bales, I'm sure you guys have all see them, and we stack them around the piles to insulate them so they don't freeze and thaw and then they'll juice is what we're doing. But to answer your...you know, kind of answer your question, well as a grower, we'll start pulling beets out of the ground about the 15th of September is when our first date is our early harvest is going to be. And, I mean, like us...me myself, last year we dug 3,000 acres and it took us 55 days. So, you know, we're going to need that amount of time and if I would run into...and that was on, you know, just an average crop of 22 tons, if we would have to do something like that and we ended up with a 30 ton crop, you know, it's going to take us...it might take us longer to do it because we got to haul more tons out of the field, haul them to the pile grounds. So I mean, it kind of varies from year to year. But, you know, the set amount of days, it kind of depends on what the weather, I mean, the weather is such a huge factor in growing sugar beets, you know, like you say, with freezing the ground and as we can pull them out, because not in 2010, but in 2009, we started our sugar beet harvest and we got a snow the 8th of October and we was out of the field for a week. And the snow melted off and we ran for about four days and we got another big snow and we were out of the field for a week and a half. And we was just fortunate after that that, you know, the weather turned out good and then we dug clear into...it was about the 17th of November when we finally got done. [LB35]

SENATOR PRICE: All right, thank you very much. Appreciate that. [LB35]

SENATOR FISCHER: Thank you, Senator Price. Senator Janssen. [LB35]

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SENATOR JANSSEN: Thank you, Chairman Fischer. Thank you, Mr. Jespersen. [LB35]

DARBY JESPERSEN: Yep. [LB35]

SENATOR JANSSEN: Thanks for coming today. I, too, appreciate you coming so far to do this. [LB35]

DARBY JESPERSEN: Thank you. [LB35]

SENATOR JANSSEN: I kind of got...I've got...first off a confession, I've never seen a sugar beet until I went to the State Fair several years ago, not even that long ago, so it's kind of intriguing to me, but I...to me...this is only the third year I've been on this committee, but I've always wanted to say yes, let's...production, that's a great problem to have, increased production, that's a great problem. But now I've almost become, not quite to Chairman Fischer's level, but I'm like a steward of the roads and I'm like well how do we pay for this? I think last year I was here with a bill for fire trucks and overweight fire trucks to get out. But I had to be conscious of what are we doing to our roads? There's only so much money to go around. And that's why I asked the question about the gas tax earlier and I'm not sitting here advocating for that. I'm looking for ways...has your group or you, I know you put the...a modest fee increase in there, is there...would there be a higher fee increase that you would see, that you would be willing to pay to have this type of extension or is that the maximum amount? Was there any thought process? I'm sure there was, but what was the thought process? [LB35]

DARBY JESPERSEN: Yeah, and that's...it's kind of hard for me to answer that. Well, I guess I can, because it cost us...you know, as mass producers in the long run it does, but, you know, I kind of agree with Brian that maybe the fewer trips we take across the highways, the less miles we're putting underneath them trucks, the better off we are on the highways. I mean, we're not sure...like I say, sure, the weight is there, but as it's bridged-out, it's spread out over a wider area and the less the miles we got to put underneath the trucks every time I think we're not affecting the highways that much. So that's just my personal opinion. [LB35]

SENATOR JANSSEN: Yeah. There's probably differing opinions on that, I admit, about how much damage is done. [LB35]

DARBY JESPERSEN: Yeah. Um-hum. [LB35]

SENATOR JANSSEN: I guess what created my question here is when you mentioned that tens of millions of dollars would have to be spent if you increased your slice... [LB35]

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DARBY JESPERSEN: Right. [LB35]

SENATOR JANSSEN: ...or what not and that burden would fall on the growers or...as opposed to if we don't do it, would that tens of millions falls on all taxpayers and then for the roads... [LB35]

DARBY JESPERSEN: Yeah, no I know. [LB35]

SENATOR JANSSEN: ...and are we shifting dollars, trading, don't get me wrong, I'm looking for the magic bullet. I think Senator Fischer is looking for the magic bullet. It's about the roads and about us both meeting each other's needs so. I'm kind of brainstorming, I appreciate you engaging me on this. [LB35]

DARBY JESPERSEN: Yeah. No, I understand that. I probably can't answer your question probably fully the way you would like it, I guess, for sure, I'm just a sugar beet grower, so. [LB35]

SENATOR JANSSEN: If you could, I'd give you a hug. So, it would be great. Thank you. [LB35]

SENATOR FISCHER: Other questions? Senator Louden. [LB35]

SENATOR LOUDEN: Yeah, thank you Senator Fischer. Well, thanks for coming down here, Darby. [LB35]

DARBY JESPERSEN: Thank you, LeRoy. [LB35]

SENATOR LOUDEN: I don't know if we've ever met you. I was acquainted with some of your folks, Darwin, and those folks there, that lived out there west of Hemingford, or southwest. When I look at your campaign, that 147 days in 2009, that's when Scottsbluff got that 26 inches of snow or something, and that put the kibosh to the whole thing over there because there was problems with mud and everything else, because I think Senator Harms and myself went down there and refereed between the Department of Roads and the sugar beet growers and the patrol and we finally got it all settled. [LB35]

DARBY JESPERSEN: Yes, yeah. [LB35]

SENATOR LOUDEN: But as we look at these days of campaign, there's been some times when that 2006 and 2007 has been some fairly dry years to get your campaigns done and I understand, I guess, if you start growing more beets in order to make it more efficient with your factory over there, you're just going to have to run your campaign longer to do slicing. Now, are you still processing beets over there? [LB35]

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DARBY JESPERSEN: No, they are...I mean for last year's campaign they got done about 10 days ago, they're done slicing. [LB35]

SENATOR LOUDEN: The processing of the beets, yeah. And then your rehaul got done about the same time then? [LB35]

DARBY JESPERSEN: Yes, that's right, yep, uh-huh, yep. [LB35]

SENATOR LOUDEN: I see and you finished up, so. And this year then, this is the year you got 136-day campaign, is that what that 2010 is? [LB35]

DARBY JESPERSEN: Yep, yep, yeah, that's right. [LB35]

SENATOR LOUDEN: Okay. [LB35]

DARBY JESPERSEN: And with that, like I say, last year we had lots of adverse weather in western Nebraska; I mean, at my place I farm 34 pivots and of them we had a pivot and a half that didn't get hail on it. And our yield was down tremendously from what it was the year before. In 2009, my average, as myself, was 26 ton per acre and last year was 21. We dropped 4 ton just from the hail conditions and short season in the spring with all the rains too. [LB35]

SENATOR LOUDEN: Well I know that 2009, that's...we had...the Revenue Committee had a hearing about the 5th or 6th of October and I was over there in that thing and they said it snowed 26 inches and I'll believe every inch of it, that's for sure. And I know nothing got happened. So if we run into something like that, you could easily get another 10 or 15 days onto the late campaign. And then if you had more crop to process that's what is getting you tightened up. [LB35]

DARBY JESPERSEN: And that's probably our main concern is we're...I mean, we're...I may be just speaking for myself, but as for myself, our yields the last three years haven't been what we thought they should have been, because we've had some adverse weather. And I mean that's a huge, probably the biggest factor in this is the weather. And I mean if there was some way that you as senators could control the weather, we'd sure like it. So, you know, that would make things a lot easier for us. But that has a major factor into it. That's just, you know, a couple weeks being out of there and adding another 14 days on to, you know, and increasing on the yield, there's a possibility that we're going to be bumping up against 200 days. That's where we're going to get close to it where we need at least 180 days and then a little bit of leeway on either side. [LB35]

SENATOR LOUDEN: Have you had to pick beets out of frozen ground yet? [LB35]

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DARBY JESPERSEN: Yeah, we've done that. We done that last year. And I think in 2006 when we were 158 days, our yield was really high that year and we came down to the end and we was pulling beets out of the field and they looked like...oh what do they call it...like cookie dough ice cream almost, because you had big chunks of dirt and white sugar beets then throughout there. So, I mean, you get kind of close sometimes. [LB35]

SENATOR LOUDEN: Okay, thank you. [LB35]

DARBY JESPERSEN: Thank you. [LB35]

SENATOR FISCHER: Thank you, Senator Louden. I don't know if I can help you with the weather, I went home this weekend and we had baby calves, ice, snow and cold. [LB35]

DARBY JESPERSEN: Yep, yeah, that's right. [LB35]

SENATOR FISCHER: I don't think I can help you there. When you talk about the length of a campaign, when you answered Senator Louden, the length of a campaign, that's the harvest and the rehauling, is that what the campaign is? So when you can't get in a field for ten days, that's not part of that 120 days is it? [LB35]

DARBY JESPERSEN: No, it don't...I mean, it don't figure in as much. It would for early harvest sometimes if... [LB35]

SENATOR FISCHER: But the hauling days on your permit, that 120 days, that's actual rehauling days, correct? [LB35]

DARBY JESPERSEN: Right. If we...if our projections would show... [LB35]

SENATOR FISCHER: No, they're shaking their heads no. We'll check on it later. [LB35]

DARBY JESPERSEN: Okay. I'll let them answer that; I'm not the expert. I'm just a farmer. [LB35]

SENATOR FISCHER: I'm just a rancher. Here we are. Any other questions? I see none. Thank you so much for coming in today. [LB35]

DARBY JESPERSEN: Thank you, appreciate it. Thank you for your time. [LB35]

SENATOR FISCHER: Next proponent please. Are there other proponents to the bill? Any opponents to the bill? Anyone wishing to testify in a neutral capacity? [LB35]

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LARRY DIX: Good afternoon, Senator Fischer and the Transportation Committee.  
[LB35]

SENATOR FISCHER: Good afternoon. [LB35]

LARRY DIX: My name is Larry Dix, L-a-r-r-y D-i-x. I'm executive director of Nebraska Association of County Officials appearing today in neutral on LB35. Certainly we want to thank Senator Harms. We did have many questions when we started, or when LB35 came out and I want to thank Senator Harms for trying to address those. This has been a very, very interesting hearing and I learned a lot of things, many, many, many more things than what I thought I knew. One of the reasons for our neutral position, certainly as we understand it, the weight and the hauling is not happening on county roads. And also, the bill is not asking for any additional weight or any additional capacity so we feel comfortable being in that position. One of the things I do look at when I look at the bill and when we discussed this in our legislative hearing and we talked about the 30-day permits, one of the things I think the committee may want to look at, and I think Senator Price may have alluded to it, is how do I divide 30 into the 200. And I think as the permits are issued, they're issued for 30 or 60 and then they're renewable for another 30 or another 60 and so I think you probably should stay incrementally so that when those permits are renewed they stay within that 30 or 60 time frame. But from hearing the testimony here today, I think that probably would be doable based on what we heard today. And so in light of that and in light of those, certainly we're not here to harm anything in LB35. We think the economy, we think it's important in that part of the state, the economy in that part of the state is very viable, we think it's important that we can come to some resolution on this to help these folks. And with that, I'd be happy to answer any questions that you might have. [LB35]

SENATOR FISCHER: Thank you, Mr. Dix. Questions? Senator Hadley. [LB35]

SENATOR HADLEY: Senator Fischer, thank you. Mr. Dix, maybe you can't answer this. Is it your assumption that the 120 days, is that a calendar year? Or can it be 120 days at the beginning of the year and 120 days at the end of the year? [LB35]

LARRY DIX: You know, I could give you an answer, but I would be the first to tell you I'm not an authority on it and someone would probably say, Larry, you don't really know what you're talking about and I probably would have to agree. [LB35]

SENATOR HADLEY: Okay. I just thought you were the smartest man I've ever met so I just... [LB35]

LARRY DIX: Yeah, not today. [LB35]

SENATOR FISCHER: I guess we have no other questions for you then. Thank you.

[LB35]

LARRY DIX: Thank you. [LB35]

SENATOR FISCHER: Thank you. Anyone else in the neutral capacity? Good afternoon. [LB35]

LARRY JOHNSON: Good afternoon, Chairman Fischer and the committee...members of the committee. It's a complex issue, isn't it? But my name is Larry Johnson and I'm the president of Nebraska Trucking Association and I'm here to provide neutral testimony on not only LB35, but the other bills afterwards. I'm here because I'd like to include our comments for the record that each one of these bills in one form or another changes the way the load or axle limits on cargo-carrying vehicles operate on the state highways or interstate system. The commercial trucking industry's interest in these bills is one of concern over what seems to be an increasing desire to deviate from our current statutes that dictate the length, width, weight, or height of the loads carried on our roads. While each of the proponents of these bills will more than likely, and they have this afternoon on LB35, testify that increases are necessary for productivity, efficiency, cost-savings, or convenience, my members would like to remind the committee, as they've all said in asking the right questions, that these are difficult decisions and should be based on sound engineering standards for road preservation and safety. As our industry and state desperately searches for additional resources to find road improve...or fund road improvements, it's imperative that we use caution, as I said, in granting these, but we also have to make sure that it is from preserving the highways and also making sure that they are safe changes. So, as a representative of the industry that's currently discussing this very topic on a national level, where most of our road's standards and laws governing the Rules of the Road originate, I know first hand that well-thought-out statistics and engineering based changes are well overdue. The trucks and many of our roads and bridges of today are designed much better than some of the limits and older standards that we currently operate under. These are...there are many commercial operators in the industry that will argue that increased productivity is a way to save fuel and relieve congestion. There are currently pilot programs in certain sectors of our industry, in segments of the country, that will require or quite possibly prove that there will be no harm in increasing sizes and weights. However, the fact remains that the current weight and size limits for commercial vehicles in all states were frozen on the federal level back in June of 1991. This created a patchwork of sizes and weights that not only confuse our industry, the law enforcement, the Department of Roads engineering, but also our shippers, much like the beet industry. So many times it also creates a competitive advantage for carriers that operate along multi-state borders that have different load limits, as they mentioned in the beet limit...or the beet industry, Montana and these other states have no restrictions on their roads. Efforts to change our state sizes and weights only perpetuate this confusion. It has been our industry's hopes since 1991 that this discussion would

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take place on a national level using research data based on current equipment, bridge and road construction and engineering standards. Currently there are a number of different segments of the trucking industry that have approached us for similar changes that you'll be evaluating today. Each one of them from milk haulers, commercial grain harvesters, road construction vehicles, and just recently the towers, do deserve a closer look. The interest in change, again, is typically due to positive changes like increases in production...and should I stop? [LB35]

SENATOR FISCHER: Keep going. [LB35]

LARRY JOHNSON: Okay...increases in production or unintended consequences like EPA demands on improving our emissions that require more space for additional equipment on a truck's frame that then forces a decrease in payload or fuel capacity that would require greater length to meet the axle bridge limits. One thing is certain, a one-size-fits-all solution will not satisfy every geographic area we serve or commodity that we carry. Until such a time that these complex issues are addressed on the national level and introduced in a future federal highway reauthorization bill, it will take a cooperative effort of each segment of the industries in our state that rely on trucks, combined with our Department of Roads engineers, and Carrier Enforcement Division of the State Patrol to provide you, our lawmakers, with the information necessary to make sure that any changes that are presented to you are not at the expense of road preservation or safety. It is with this in mind that I would offer my association's expertise and assistance to serve on a potential task force of interested parties that might include the input and assistance of the University of Nebraska's transportation research center located here in Lincoln. So, questions? [LB35]

SENATOR FISCHER: Thank you, Mr. Johnson. Are there questions? I see none. Thank you for coming in. [LB35]

LARRY JOHNSON: Thank you. Thank you. [LB35]

SENATOR FISCHER: I'd like to note for the record that we've been joined by Senator Kathy Campbell from Lincoln. Anyone else wishing to testify in the neutral capacity? I see none. Senator Harms, would you like to close, please. [LB35]

SENATOR HARMS: Senator Fischer, thank you very much for giving me the opportunity to bring this forward. It's a simple bill, but it's a complicated issue. And what I will do, Senator Hadley, I'll get you clarification of the days and how that works and the extension of that. As I understand it, it is 120 days and they need to be able to extend beyond that. But we'll clarify that for you. Senator Fischer, if you can find a better way to do this, please do so. If you can find a solution to this and you want to amend this bill, please do so. If we don't even have to introduce the bill and you want to pull that bill, you can get the solution done; the important thing is for the farmers and the people to

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get the product as quickly to market and weather does have an impact on it. And they really gamble when they raise the beets and they're hoping that they can finish out the season before the snow comes and all those sorts of thing, it's just the way it is. Senator Janssen, if you want a solution to the bill of funding, support her bill, because that is a solution to part of the problem that we have is getting a source of revenue to fix those roads. And it's the only one that I've seen so far that at least brings it forward and says that we are going to address the issue and Senator Fischer has it broken down appropriately. [LB35]

SENATOR FISCHER: I think you're sweet talking me now. [LB35]

SENATOR HARMS: No, I'm not either. I found that I couldn't do that with you. Well he asked the question. I'm just saying that's a solution to part of the problem. So, thank you very much. But again, if you can find another solution to this, please feel free to do so, but because it is important for our industry there. [LB35]

SENATOR FISCHER: Thank you, Senator Harms. [LB35]

SENATOR HARMS: Thank you. [LB35]

SENATOR FISCHER: Always appreciate you coming before the committee. And I always know you have the interests of your constituents in the state as a whole. [LB35]

SENATOR HARMS: Thank you very much. [LB35]

SENATOR FISCHER: Thank you. With that I will close the hearing on LB35. We'll open the hearing on LB104. I see Senator Schilz is here. Good afternoon, Senator Schilz. You have a hard act to follow now. [LB35]

SENATOR SCHILZ: There you go. And I was just going to say, if..what was the comment? Kissing up, or buttering up, if it works, I'm all in. Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. For the record my name is Ken Schilz, it's spelled K-e-n S-c-h-i-l-z and I represent Legislative District 47. I bring LB104 before you today on behalf of constituents who haul ag commodities from Colorado and Wyoming to and through Nebraska. Unfortunately, it's quite a drive from western Nebraska so no one was able to make...drive today to testify. And Colorado and Wyoming today allow a maximum of 36,000 per tandem axle or higher, but as soon as they cross over the state line into Nebraska which happens quite frequently, they are in violation because we only allow a maximum weight of 34,000 pounds per tandem or axle or higher. I've subsequently become aware that the federal government put a freeze on the state's ability to increase their weight limits, however, agriculture is our number one industry and I wanted to raise the awareness on this issue so that our farmers and haulers...so that we understand

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that our farmers and haulers are facing inconsistencies that put them at a disadvantage. Thank you for your time and I'd be happy to answer any questions you may have. [LB104]

SENATOR FISCHER: Thank you, Senator Schilz. Yes, we need to make some changes at the federal level on this before we can do it here. But always appreciate you taking care of ag. Any questions? I see none. Thank you very much. [LB104]

SENATOR SCHILZ: Thanks. [LB104]

SENATOR FISCHER: Are there any proponents for the bill? Any proponents? Good afternoon. [LB104]

DARREN NELSON: Good afternoon, Senator Fischer, and the Transportation Committee. I am Darren Nelson, D-a-r-r-e-n N-e-l-s-o-n of St. Edward. I have been driving truck over the road for 14 years through Nebraska and the five surrounding states. I also am a farmer using the trucking side of things to support my farming hobby I guess. In that amount of time I've loaded a lot of grain and livestock off of the farm. And it's always been in my mind, it's been an unwritten rule that off the farm you kind of have a thousand pounds on a set of tandem's leeway. One way or the other, as long as you're not over gross. Well in this past month of January, I've had the opportunity to speak with Nebraska State Patrol Carrier Enforcement four different occasions on which no tickets were written, but they threatened to fine me because I was over 200 pounds on a group of tandems. And loading off the farm, loading grain, how grain varies in density and test weight and moisture really is very hard to get accurate every time, especially when there's not a scale. In my mind, seeing this where you can go to 36,000 on a group of tandems would really make our jobs a lot easier. It's just one of the things, that commonsense kind of approach, to the transportation side of this for agriculture. On the farming side of things, we're seeing more and more production all the time, and if where we can carry go right to our legal limits without having to worry about paying a fine or being a safety hazard on the road, it gets to be more and more of a concern. We just recently...we removed our prorated tags and went to farm plates. Prior to removing our prorated tags, I've run numerous miles over the state highways and never once pulled over and weighed on the side of the road. Since removing our prorated tags and going to farm plates, we've been pulled over four times which still there's been no violations, it's just a matter of having a hassle of...or the time constraint of getting pulled over. It's the Nebraska State Patrol Carrier Enforcement has done a wonderful job and I've seen, you know, over the number of years seen the results of their being out there. But I just...I didn't know since we went to farm plates if it's the farm plate at the end of that as why we're getting kind of a little more attention or what that is. And also another fact to bring into this, is when you're looking at the carrier enforcement side of things, there's sometimes I think they're using profiling on agriculture and grain haulers because it is a clean easy truck to pull over and possibly give an easy ticket to. And

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when I was hauling livestock, something to really take into account, when you're looking at the weight on a group of axles is if you load livestock if you get in and go to the scale and you have one too many up front, you're not going to unload that whole trailer to just remove one animal; you're going to load and go, so to speak, just because it's easier on your load, or easier on the animals, the less time you handle them. And you're not...as long as you're under gross, you know, you feel like you're fine to go. The state of Nebraska, right now, allows a 15 percent shift rule. So if you have...you can be 15 percent over on a group of tandems, as long as you're under gross, but you can move it. So with grain, I guess that involves a scoop shovel I've been informed, to move your weight off of one set of tandems to the other. And I just feel that if we could get it to 36,000 to be like the other surrounding states on a group of tandems would be a lot easier and beneficial for the whole industry. Thank you. [LB104]

SENATOR FISCHER: Thank you, Mr. Nelson. Are there questions? Senator Hadley. [LB104]

SENATOR HADLEY: Senator Fischer, thank you. Mr. Nelson, if you're...am I correct that if you're on the interstate highway, you can't run 36,000 pounds in Colorado or South Dakota or Kansas because isn't that the federal limit? [LB104]

DARREN NELSON: The federal is 34,000. [LB104]

SENATOR HADLEY: Thirty-four thousand. So what we're talking about in this bill would be for on state highways and county? [LB104]

DARREN NELSON: Yes. I believe... [LB104]

SENATOR HADLEY: Because if you're on the interstate and you're coming from Colorado to Nebraska. [LB104]

DARREN NELSON: In Nebraska I know you can buy an overweight permit for the interstate which is \$10 which if you have a triple axle setup, well, permits you to run over the 80,000. [LB104]

SENATOR HADLEY: Okay. Thank you, Senator Fischer. [LB104]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thanks for coming in today. [LB104]

DARREN NELSON: Thank you. [LB104]

SENATOR FISCHER: Next proponent, please. Are there other proponents for the bill? Are there any opponents to the bill? Good afternoon, Director. [LB104]

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MONTY FREDRICKSON: (Exhibit 8) Good afternoon, Chairwoman Fischer, members of the Transportation and Telecommunications Committee. My name is Monty Fredrickson, M-o-n-t-y F-r-e-d-r-i-c-k-s-o-n. I am the director, state engineer, for the Department of Roads. I am providing testimony in opposition to LB104. LB104 changes the current federal bridge formula in Statute 60-6,294 that defines axle loads on various axle combinations and axle spacing. Specifically, LB104 changes the allowable tandem axle weight from 34,000 pounds to 36,000 pounds. Federal statutes do not allow this change to be made for the National System of Interstate and Defense Highways. Title 23 of the United States Code, Section 127(2) provides that for the National System of Interstate and Defense Highways, the federal bridge formula must be used to determine the overall gross weight of a vehicle. The federal statute also specifies that no individual axle may be over 20,000 pounds and no tandem axle be over 34,000. The state of Nebraska uses the federal bridge formula for bridge analysis for loads going over all of our bridges on the state highway system. Passage of LB104 would put the state of Nebraska in noncompliance with federal law and could jeopardize 10 percent of our national highway system funding each year. Currently, that would be approximately \$8.5 million loss of federal funds per year. Thank you for the opportunity to testify. Be happy to answer any questions. [LB104]

SENATOR FISCHER: Thank you, Director. Are there questions? Senator Campbell. [LB104]

SENATOR CAMPBELL: Thank you, Senator Fischer. Director Fredrickson, are the feds looking at any change? I mean has anything been proposed in Congress? [LB104]

MONTY FREDRICKSON: I do not know. This is a complicated area, as you've already heard today and not all states are the same. So, it is what it is and our federal law was frozen at the 34,000 for a tandem axle and that's what we have to live with. [LB104]

SENATOR CAMPBELL: Okay. Thank you. [LB104]

SENATOR FISCHER: Thank you, Senator Campbell. Senator Hadley. [LB104]

SENATOR HADLEY: Senator Fischer, thank you. Director Fredrickson, when the comment was made about Colorado vis-a-vis Nebraska, 36,000 in Colorado versus 34,000 in Nebraska, this would be running on state highways versus interstates and defense highways, would that...does Colorado allow a higher weight limit than we do? [LB104]

MONTY FREDRICKSON: They may have been at 36,000 prior to 1991 and certain states were allowed to be grandfathered in. And I'd have to check on that, but they may be already at 36,000 and we weren't, we were at 34,000. So there's a discontinuity

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there that we've been living with. Yes, the 34,000 only applies to the interstate. However, if you would allow more than that on the primary highway system and the local road system, then we've got issues with all those bridges that are designed and posted under the 34,000 formula would have to be reevaluated and potentially reposted. You've got a potential enforcement issue of what's to stop the truck with the 36,000 from entering the interstate and how does carrier enforcement know who came from where, so when you mix up the system, it's about like mixing up the laws in the states. [LB104]

SENATOR HADLEY: Okay. [LB104]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thank you very much, Director. [LB104]

MONTY FREDRICKSON: Thank you. [LB104]

SENATOR FISCHER: Are there other opponents to the bill? Any other opponents? Anyone wishing to testify in neutral capacity? I see none. Senator Schilz, would you like to close? [LB104]

SENATOR SCHILZ: Real quick and I'll be brief and I think this is the way it is, I know in my operation that when we send...cattle are going to Colorado, the Colorado truckers can haul more down the interstate than we can. So I think it is the case that Colorado and Wyoming had this level in place before, and when it was froze, we were 2,000 pounds less. And so I guess you can look at that however you want. Either we like to maintain our roads a little differently than they do or we just missed the boat and didn't take advantage of an opportunity there. Either way, I guess where we're at today is that it's in the federal government's court and if you think this is an issue that needs to be addressed, I would love to have your support in talking with the federal government to make some changes there. So I guess with that I would appreciate your support in moving forward with something such as that and contacting our federal delegation in doing that. So thank you very much. [LB104]

SENATOR FISCHER: Thank you, Senator Schilz. With that I'll close the hearing on LB104. And we will open the hearing on LB102. And good afternoon, Senator Schilz. [LB104]

SENATOR SCHILZ: Thanks for having me back. Good afternoon, Senator Fischer, and members of the Transportation and Telecommunications Committee. For the record my name is Ken Schilz, spelled Ken, K-e-n S-c-h-i-l-z, jeez, you got me all nervous up here for some reason, and I represent Legislative District 47. I'm introducing LB102 today for some constituents across the state of Nebraska and especially in my district in western Nebraska Panhandle. In the past, farmers delivered their crops to local elevators or feedlots or stockpiles during the harvest season. As we know with all things, times

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change and that farmers have realized that it's much more efficient to harvest the grain as quickly as possible. For this reason they are building grain storage closer to the fields where they are harvested. When the grain is stored in the field, or in storage there, there is usually not a scale to weigh every load as there would be if the grain was stored at the elevator as they used to do. Once the grain is stored in field bins, which is how they mostly are stored these days because we have figured out that putting it on the ground doesn't make a whole lot of sense economically. The farmer can then wait until the off season to deliver the grain to town. Here is the reason for the bill, to adapt to changing times and give farmers a reasonable opportunity to comply with the law and this would give the state the opportunity to keep up with our changing times and to treat farmers fairly as they move their product to market. The big thing is that if you have grain bins that are near the field, we don't have a way to weigh those trucks as they're being loaded to get them to market where there is a scale. And you're seeing a lot more areas where grain bins are being built right at the field and then some of the farmers...some folks are having troubles as they try to move that to market with carrier enforcement. And so that is the reason for the bill. And with that I'd be happy to answer any questions you might have. [LB102]

SENATOR FISCHER: (Exhibit 9) Thank you, Senator Schilz. Are there questions? I see none, thank you very much. First proponent for the bill please. Are there proponents for the bill? Anyone wishing to speak in favor of the bill? I see none. Any opponents to the bill? I see none. Anyone wishing to testify in the neutral capacity? Senator Schilz, would you like to close? Senator Schilz waives closing and I think we set a record for the shortest hearing on a bill on LB102. Thank you very much, Senator Schilz. I will close the hearing on LB102, open the hearing on LB420. Senator Dubas, good afternoon. [LB102]

SENATOR DUBAS: Good afternoon, Madam Chair, members of the Transportation and Telecommunications Committee. My name is Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s and I represent Legislative District 34. LB420 is not a bill I intended to introduce for all of the reasons that have been stated this afternoon. And I have constituents who stand on both sides of this issue. The sole purpose for this legislation is simply to begin a discussion which I think has already begun. Just as our farming practices have changed over the years, so has the equipment that we use. Where once we used straight trucks that hauled at the most a few hundred bushels, we now use semi trucks with large grain trailers. The wagons of the past were small side dump or gravity-flow wagons and now we have much larger wagons that can carry well over 600 bushels, over 16 feet long and 9 feet wide. This is an issue that generates opinions both pro and con. Licensing, weight limits, safety, wear and tear on the roads are just some of the views that have been brought to my attention. Our infrastructure is struggling to keep up with our changing farming and equipment needs. I'm asking the committee to hold this bill. I'm looking forward to the testimony that will be presented today. Then I think we can determine what, if any changes may need to be made to existing statutes as far as load

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limits, weight limits, lengths, etcetera. I brought this bill at the request of Farm Bureau and I'm willing to work with them over the interim should we decide that any statute changes require updating or changes. I'd be happy to entertain any questions. [LB420]

SENATOR FISCHER: Thank you, Senator Dubas. Are there questions? Senator Louden. [LB420]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. As I read this, Senator Dubas, what kind of wagon are you talking about, a 2-wheel wagon, a 4...a wagon that's got two axles, 4 wheels and a tongue in it or what kind of wagon? [LB420]

SENATOR DUBAS: Well I think that goes to the fact of what kind of wagons are we really talking about. The 2-axle with the four wheels are quite often ones that are used, but there are some of the really big gravity-flow ones, I believe. [LB420]

SENATOR LOUDEN: Then these grain carts, this wouldn't include these grain carts? [LB420]

SENATOR DUBAS: That wouldn't be my understanding, no. But again, I think it's been pointed out earlier with some of the discussions we've had there's confusion as to what constitutes a grain wagon, a grain cart, is an auger wagon, is it simply used for transport? So, it's obvious that we need to maybe have some clarification as to the types of equipment that's allowed on the roads versus what's just used in the fields. [LB420]

SENATOR LOUDEN: Well, that's what I was wondering because it said no part of the wagon rests upon the farm tractor, so that does away with them 2-wheel grain carts. [LB420]

SENATOR DUBAS: Exactly. [LB420]

SENATOR LOUDEN: And then when you get to the 4-wheel wagons, now are we talking about braking system on them? And that's where I wondered where we were at on that. [LB420]

SENATOR DUBAS: And that's, as I said, I've had constituents who have come in with questions, just like you're asking me now, and where do they fall and should they be used, should there be licensing, should there permit...there's just been a lot of questions raised. And so that's why I've hesitated to bring anything forward in the past, but by the same token these are questions we need to make sure our statutes are clear and we need to determine what we feel as a state we can live with and not live with. [LB420]

SENATOR LOUDEN: Okay, thank you. [LB420]

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SENATOR FISCHER: Thank you, Senator Louden. Other questions? I see none. Thank you, Senator. First proponent for the bill please. And could I have a show of hands of the proponents? Two. Any opponents? No, okay. Good afternoon. [LB420]

CRAIG HEAD: Good afternoon, Senator Fischer, members of the Transportation Committee. My name is Craig Head, that's C-r-a-i-g H-e-a-d and I'm the state director of government relations for the Nebraska Farm Bureau Federation and here on behalf of the organization in support of LB420. I just want to start by thanking Senator Dubas for introducing this legislation. We brought this to her over some concerns that we've been hearing over the last several years from our members about transportation issues in general, but specifically the issue of farmers hauling agricultural commodities using a tractor pulling a wagon down county roads and being ticketed and then fined for being overweight. When we did some investigation on this and conversation with our members, I think there's a general lack of understanding out there, I think right now, within the agriculture community because tractors and wagons are not motor vehicles; they are not semitrailers; they are implements of husbandry. We currently have an overweight permit exemption that trucks, semitrailers can apply for during seasonal harvest permit. So when during the harvest season they get 15 percent overweight for hauling their commodities. When we looked into it, we figured out that tractors and wagons don't qualify because they're implements of husbandry. What this bill does, and if you'll look on page 4 of the bill, subsection 5, starting on line 15, you'll see the equipment that currently can qualify for this 15 percent overweight exemption. What this bill would simply do is allow farm tractors pulling wagons to do that. In reference to Senator Louden's question about whether or not it applies to grain carts, the way the definition is structured in the bill, it would not allow...Senator Dubas is correct, it would not allow grain carts with simple 2-axle gravity-flow wagons. We bring this bill simply because we've got a number of members who have had concerns. And there's going to be a gentleman who is going to follow me who will explain his personal situation dealing with this. We've had a number of them. Maybe on a bigger topic, the one thing I do want to talk to the committee about a little bit this afternoon is our strong interest in working with the committee, working with Senator Dubas and working with others to address this issue of larger farm equipment on the roads. We certainly understand there are changes in agriculture that continue to change. We're dealing with larger equipment. I think it was surprising to a lot of our members when we looked into it that there is no ag exemption for animals of husbandry. Right now farmers who pull a combine out onto a county road, technically could be overweight with a 20,000 pound threshold that we currently have. And that's a point of concern for them as we look at these issues. So this bill was discussed, was brought mainly to start that conversation. We would like to look into more of these issues. It wasn't just the overweight issue on the tractors and wagons, it was brought up at our annual meeting we had when we talked about this issue it led into a number of other issues that were raised by our members about how Nebraska stacks up against other states in terms of being friendly to agriculture in terms

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of hauling our commodities and how we treat farm equipment. And we really just want to have that conversation and move that conversation along. I want to point out that we're not insensitive to the concerns that have been raised earlier about safety issues, about roads, maintenance, and care issues. We are supportive of Senator Fischer's bill, because we understand the good...at the risk of sucking up, we did support the bill over concerns because we understand that farm to market roads are important and we do need to fund those. But also we do need to recognize some things...changes are taking place in agriculture, equipment is getting bigger and when folks are buying equipment that when it is loaded is overweight the minute they pull onto the road which can be the case in some of these larger wagons, that's a point of concern. And so we would like to continue this conversation and have further debate with the committee. So with that I will conclude my comments and again we appreciate Senator Dubas bringing the bill for us. [LB420]

SENATOR FISCHER: Thank you, Mr. Head. Do you have information from other states that you can give to us? [LB420]

CRAIG HEAD: I don't have it currently, but I'd be glad to get that for you. [LB420]

SENATOR FISCHER: Okay, thank you. Other questions for Mr. Head? Senator Price. [LB420]

SENATOR PRICE: Thank you, Senator Fischer. Mr. Head, thank you for coming before us today. So my understanding that part of what your concern is, you've got a lot of new equipment, larger equipment entering these roads and they're being pulled by tractors, big combine, what size tractor do you think is pulling these combines, these larger trailer? What do you think that is, the horsepower of the tractors pulling these things? [LB420]

CRAIG HEAD: They would probably be a little bit larger horsepower depending on the implement that is being pulled. [LB420]

SENATOR PRICE: Okay, great, because, you know, there are a lot of changes that need to be addressed and we need to make sure that when we do things that we're homogenous across the industry and not just picking and choosing winners and losers here. I just want to make sure that we understood the impact we have in our total ag market to when we're limiting what can do, what can perform, as you talk about large farm equipment, and tractors, and we haven't really spent a lot of time delineating all of those. And that some areas are exempt from different statutes, got to make sure...I didn't know if you could size those tractors for me. [LB420]

CRAIG HEAD: I'm not sure if I could give you a definitive size for the (inaudible). [LB420]

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SENATOR FISCHER: Small, medium and large, and extra large, super size. [LB420]

CRAIG HEAD: Small, medium and large, super size. [LB420]

SENATOR PRICE: Over a hundred horsepower and less than. [LB420]

SENATOR FISCHER: Thank you, Senator Price. Senator Janssen. [LB420]

SENATOR JANSSEN: Thank you, Chairman Fischer. And thank you for showing up today. Perhaps we should have a tractor testing facility or something, I don't know, to tell us those things, but I'm not aware. You kind of raised a concern with...not a concern actually, a question is, you mentioned a farmer pulling out with a combine and could be overweight unintentionally or just because it's not codified and that causes great concern and we want to, obviously, work with our farmers, I think we've had an indication that we want to do that. But has that ever happened in any case. I mean, if it is causing great concern, has it happened to where people are getting pulled over? [LB420]

CRAIG HEAD: We have not had the example that I gave you with the combine, but it was surprising when we asked the State Patrol, which we did, that that would be in most cases it would be overweight. But again, because there is no exemption from agricultural equipment from the weight limitations and I think there's a thought with in the countryside that implements of husbandry, when you pull a tractor or a combine that you would be exempt from weight and that's not the case which that raised concerns. The other thing I think our members really pointed to is right now we just look at simple weights. We look at tandem axle weights. We don't look at the types of tires that are on the equipment. For example, the gravity-flow wagons use flotation tires. They spread the weight out. It is different than a truck, per se, with a smaller tire. Speed was another issue that was raised at our convention. These gentlemen who were pulling...or ladies who were pulling these wagons down the roads are traveling 25 miles an hour. They're not traveling 75 miles an hour on the interstate; it is a completely different situation. So I think there are differences in terms of impacts to roads that I think we would like to look into. I just comment that I do know the state of Iowa, my understanding just from an article I read the other day, they've done some research into what types of damage is done to roads based on different items. I don't have that in front of me either, but I do want to investigate that a little further to see if it's something that we can maybe model from in continued conversations in the state. [LB420]

SENATOR JANSSEN: Thank you for answering that question. I thank Senator Dubas for bringing the bill. It's sadly something that interests me quite a bit. [LB420]

CRAIG HEAD: Yeah, I understand. [LB420]

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SENATOR FISCHER: Thank you, Senator Janssen. Other questions? Senator Louden. [LB420]

SENATOR LOUDEN: Yes, thank you, Chairman. [LB420]

SENATOR FISCHER: Please don't talk about axles. (Laughter) [LB420]

SENATOR LOUDEN: Well I was. [LB420]

SENATOR FISCHER: Okay. You may. [LB420]

SENATOR LOUDEN: What...what...when you're talking about overweight on these axles, what size of a wagon are you talking about pulling here if you're 20,000 pounds and you got two axles on that thing? [LB420]

CRAIG HEAD: Right. [LB420]

SENATOR LOUDEN: Are you talking about pulling 20 ton behind the tractor? [LB420]

CRAIG HEAD: Actually, I think I'm going to let the gentleman behind me answer that question because they deal with that specifically and I think would be better prepared. [LB420]

SENATOR LOUDEN: Okay. Because then we need to talk about braking for the size...if you're pulling 20 ton, you'd better have 20 ton in front of it if you don't have any brakes on there, and that's what I'm wondering what we're talking about and that's quite a lot of weight on it and I was wondering...I think there's a lot more that needs to be considered because when you talk about a combine with the permit, those huge dirt scrapers, if you move them down the highway, I think you've got to have a permit and they've got huge tires and all that, but they're way over weight because I think you'll get a ticket if you don't have a permit or something to drive one of those down the highway. And so I...they make these combines big enough, you're going to be in the same fixture. [LB420]

CRAIG HEAD: In my research I can tell you, you can buy a lot of different sizes of wagons, I'll put it that way, depending on what your needs are and that's part of the issue is, obviously, the needs are getting where we are needing larger equipment, can use larger equipment. But I think that's probably best suited to the person behind me. [LB420]

SENATOR LOUDEN: Okay, thank you. [LB420]

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CRAIG HEAD: Yep, thank you. [LB420]

SENATOR FISCHER: Thank you, Senator Louden. Any other questions? I see none. Thank you, Mr. Head, for coming in today. [LB420]

CRAIG HEAD: Yes, thank you. [LB420]

SENATOR FISCHER: Next proponent, please. And I hope you know all this axle stuff now, right? [LB420]

JOHN CREUTZBERG: I'll try. [LB420]

SENATOR FISCHER: Okay. Good afternoon and welcome. [LB420]

JOHN CREUTZBERG: Thank you. Thank you, committee, for hearing my side of things. I'm a local farmer, live north of Central City. My name is John Creutzberg, name is spelled J-o-h-n, last name is with a C, C-r-e-u-t-z-b-e-r-g. I was hauling corn late last summer, hauling in our corn from storage bins from my place. I had had surgery prior to that time so I had to have extra help to come and help so he offered to come help haul corn. One of our last loads on the bin we were really loaded up on one wagon; the second wagon of the tail end of the bin was a little lighter. We were taking state Highway 14 to town to the ethanol plant and low and behold DOT pulled him over. I was not driving the vehicle at the time. He came home and told me that I got a ticket for overweight. I said, what do you mean we got ticketed for overweight, we're a farm implement, we're supposed to be exempt is what I thought. Anyway, we were fortunate, it was not a hefty fine, but it was only because we were loaded really light. And so therefore, we had also had another neighbor friend of mine that got overweight big time, his fine was \$2,800, but he was in much heavier wagons than I was. Therefore I was weighing out to see how that turned out to see whether or not I wanted to fight mine or not. Well, I heard that he got his fine reduced, but he still had a fine to pay, and so I decided to go ahead and pay my fine. It's cheaper to pay a fine than get extra costs of fighting it. So at any rate, we went ahead and paid the fine. But I was very surprised at being a farm implement was not exempt. And it's one thing to pay a fine and it's another thing of not knowing about it which we were not aware of. And I talked to several other farmers if they were aware of it, and they were not also. I guess that's the extent of my things I have to say. If there are any questions. [LB420]

SENATOR FISCHER: Thank you, Mr. Creutzberg. Any questions? Senator Louden, now is your chance. [LB420]

SENATOR LOUDEN: Thank you, Senator Fischer. What kind of a wagon did you have? [LB420]

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JOHN CREUTZBERG: We had larger wagons, they were Brent wagons, I believe they were like 650-bushel wagons. [LB420]

SENATOR LOUDEN: They were 4-wheel? [LB420]

JOHN CREUTZBERG: Four wheels. [LB420]

SENATOR LOUDEN: Double axle, 4-wheel deal. [LB420]

JOHN CREUTZBERG: They were single axles, but two axles front and back; front steerable. [LB420]

SENATOR LOUDEN: Yeah. And you were pulling them with a tractor? [LB420]

JOHN CREUTZBERG: Farm tractor. [LB420]

SENATOR LOUDEN: A farm tractor. You said 600 bushel, then you had somewhere around 30,000 pounds on, 15 ton? [LB420]

JOHN CREUTZBERG: It was...I think the whole load was like 103,000 pounds; that included the tractor. [LB420]

SENATOR LOUDEN: Counting the tractor? And that's what...in other words, the tractor counted in as part of the weight? [LB420]

JOHN CREUTZBERG: Yes. [LB420]

SENATOR LOUDEN: That's what they were going after is your total weight rather than your load per axle? [LB420]

JOHN CREUTZBERG: Right. [LB420]

SENATOR LOUDEN: Do you know how much they weighed per axle or anything? [LB420]

JOHN CREUTZBERG: I don't have those...I don't recall those figures. The tractor weighs approximately 26,000 to 28,000 pounds. [LB420]

SENATOR LOUDEN: Thirteen ton. [LB420]

JOHN CREUTZBERG: Yeah. [LB420]

SENATOR LOUDEN: And you had on 50 ton. And you had on 37 ton of wagon and

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commodities then on there. [LB420]

JOHN CREUTZBERG: Right. [LB420]

SENATOR LOUDEN: I see. Well I was just wondering if you were over that 20,000 pounds or something like that on any one axle? [LB420]

JOHN CREUTZBERG: Yeah, we would have had to been over 20,000 pounds per axle to get an overweight ticket. So yes we were. [LB420]

SENATOR LOUDEN: Okay, and this wagon, is it something like a semitrailer? [LB420]

JOHN CREUTZBERG: No. [LB420]

SENATOR LOUDEN: Or belly dump-type deal or what? [LB420]

JOHN CREUTZBERG: No, it is a gravity box side dump. [LB420]

SENATOR LOUDEN: Side dump. [LB420]

JOHN CREUTZBERG: Um-hum. [LB420]

SENATOR LOUDEN: Okay, thank you. [LB420]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? I see none. Appreciate you coming in today, thank you very much. [LB420]

JOHN CREUTZBERG: Thank you. [LB420]

SENATOR FISCHER: Are there other proponents for the bill? Any other proponents? Any opponents to the bill? Anyone wishing to testify in a neutral capacity? I see none. Senator Dubas waives closing. With that I will close the hearing on LB420 and close the hearings for the day. [LB420]