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Transportation and Telecommunications Committee
January 23, 2012

[LB740 LB764 LB841 LB922]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, January 23, 2012, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB764, LB841, LB740, and LB922. Senators present: Deb Fischer, Chairperson; Galen Hadley, Vice Chairperson; Kathy Campbell; Annette Dubas; Charlie Janssen; LeRoy Louden; and Scott Price. Senators absent: Scott Lautenbaugh.

SENATOR FISCHER: Good afternoon and welcome to the Transportation and Telecommunications Committee hearing. I am Senator Deb Fischer. I am the Chair of the committee and I'm from Valentine, Nebraska. I represent District 43 in the Nebraska Unicameral. Our committee members are, on my far right, Senator Janssen from Fremont, who is not here yet. Next we have Senator Scott Price who is from Bellevue; Senator Kathy Campbell from Lincoln; Senator Galen Hadley, my Vice Chair, who is from Kearney. On my immediate right is Dusty Vaughan who is our committee counsel. On my immediate left is Jonna Perlinger who is our committee clerk. The next space is Senator Scott Lautenbaugh who is from Omaha. Next we have Senator Annette Dubas from Fullerton; and Senator LeRoy Louden who is from Ellsworth. Our pages today are Gera Carstenson who is from Lincoln, and Alex Wunrow who is from California. Where in California, Alex?

ALEX WUNROW: Los Angeles.

SENATOR FISCHER: Los Angeles. Well, welcome to Nebraska. We're glad you're here. We will be hearing the bills in the order that they are listed on the agenda. Those wishing to testify on a bill should come to the front of the room and be ready to testify as soon as someone finishes testifying in order that we can keep the hearing moving. I would ask that you sign the yellow sign-in sheet at the on-deck table, and bring it up when you come up to testify. Please hand it to the clerk. We do use a computerized transcription program so it's very important that you follow the directions on that sign-in sheet. And you will need to say and spell your first and last name again for our records. I would ask that you keep your testimony concise and you try not to repeat what other testifiers have already covered. If you don't want to testify but you do want to voice your support or opposition to a bill, you can indicate so at that on-deck table. There is a sheet that's provided there, and this will be part of our official record. If you want to be listed on the committee statement, however, you have to come forward and testify, if only to say your name and if you are for or against the bill. If you choose not to testify, you can submit written comments and we will have those entered into the official record. At this time, I would ask that you turn off your cell phones. We do not allow cell phones on in this committee and that means no texting. With that, I will open the hearing on LB764. And, Senator Louden, would you please open on your bill.

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SENATOR LOUDEN: Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. My name is LeRoy Louden. That's spelled L-o-u-d-e-n, and I represent District 49. I've introduced LB764 to give livestock haulers the same protection that grain haulers now have. Statutes 60-6,301 gives grain haulers permission to be 15 percent overweight when hauling grain or other seasonally harvested products from the field to storage, market, or stockpile, or stockpile to market or factory up to 70 miles. LB764 just adds livestock to that provision. The issue arises when livestock is loaded on a ranch and scales are not available to determine the weight of the livestock. The truck usually loads and proceeds to a market, pasture, or feeding operation where the animals are weighed. Sometimes if the livestock are hauled to some type of pasture, such as summer range or cornstalks, they won't be weighed. LB764 gives some allowance to haul livestock a short distance and not be subject to an overweight citation. Care still will be needed to determine that the load does not exceed the legal limit plus the 15 percent allowed in LB764. At this time, I think we have to note that as we got the study down from the Legislative Planning Committee that the livestock industry is a little over, what, a \$9.6 billion industry in Nebraska, and along with grain is an \$8.6 billion industry. So I think we need to do what we can to take care of those industries. And by doing this, this will allow some leeway for people hauling their cattle from farm to market or from pasture to cornstalks or from ranch to a market. You will note in the bill that 70 miles is the limit on the distance. So there are issues there where they won't be hauling cattle a long ways because there is that 70-mile limit in there. Also I might point out that at the present time you can buy a permit, and my understanding it is, it's \$25 or so and you can probably haul loads up to 150,000, 200,000 pounds because I have a fellow that I visited with in Thedford, Allan Jameson, and he usually clues me in on what all of the oil companies are hauling up from Texas and how much they're weighing going down Highway...well, the one from Thedford to Valentine. [LB764]

SENATOR FISCHER: Highway 83. [LB764]

SENATOR LOUDEN: ...83, yeah. And he's complaining about that all the time. Those guys are tearing our roads up because they're hauling over 200,000 pounds. And my understanding is they can get the permit for \$25. Now this isn't anything like this because with the livestock hauling, and they're in regular semitrucks, and for the most part they're within close to the weight. But the 15 percent does give them some leeway so that they won't be getting citations on a regular basis. With that, I'd be willing to answer any questions if you have some. [LB764]

SENATOR FISCHER: Thank you, Senator Louden. Are there questions? I see none. Thank you very much. Would the first proponent please come up for the bill. Anyone in support of the bill? Good afternoon. [LB764]

CRAIG HEAD: Good afternoon, Senator Fischer and members of the Transportation

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Committee. My name is Craig Head. That's spelled C-r-a-i-g H-e-a-d. I'm the state director of government relations for the Nebraska Farm Bureau Federation, here today on behalf of the organization to offer our support for LB764. I'll just start off by saying that the seasonal harvest permit is a very popular permit for crop producers in the state of Nebraska. Probably one of the most busiest times I get phone calls is in September with crop producers interested in learning more about how they can use the permit every year and have that opportunity. Because of that, we had a lot of discussion at our annual meeting a couple of years ago about offering or extending that type of opportunity to livestock producers in some form or fashion. And our delegates at our annual meeting two years ago did adopt policy encouraging opportunities to extend that seasonal overweight permit opportunity to livestock producers. I do know that there's a little bit of a fundamental difference between the seasonal harvest permit and how that would be applied to livestock. I'm assuming that will be a question that will come up, because we know that crops, obviously there is a window of time in which harvest takes place for corn and soybeans and other commodities. Livestock is a little bit different. It's a year-round harvest in the sense of agricultural commodities different than crops. But I do think there should be an opportunity to look at possibly helping the situations that Senator Loudon discussed earlier where different segments of the industry might have a use for this, particularly in the cattle industry where you're moving cattle around to different locations; the scale issue where you don't know exactly what those animals weigh as you're loading them off of the ranch or possibly loading them out of a stock field after harvest where cattle are moved in to help graze and finish up in those areas. So for those reasons we think there might be an opportunity to explore other opportunities to include the livestock industry in the seasonal overweight permit process. So with that, I would conclude my comments and be glad to try and answer any questions that you might have. [LB764]

SENATOR FISCHER: Thank you, Mr. Head. Are there questions? I see none. Thank you very much. [LB764]

CRAIG HEAD: Good. Thank you. [LB764]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB764]

PETE McClymont: Good afternoon, Chairman Fischer and members of the committee. For the record, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm vice president of legislative affairs for the Nebraska Cattlemen. And our board has concurred on this to be supportive of Senator Loudon in his efforts here. Obviously, this is important as we do business across the state. So just want to be on record, we are supportive, and I would echo Mr. Head's comments. [LB764]

SENATOR FISCHER: Thank you, Mr. McClymont. Are there questions? I see none. Thank you very much. Other proponents, please. Are there other proponents for the

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bill? I see none. Are there opponents to the bill? Any opponents? Please come forward.
Good afternoon, Director. [LB764]

MONTY FREDRICKSON: (Exhibit 1) Good afternoon, Chairwoman Fischer and 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 here to testify in opposition to LB764. The department is concerned about adding more exemptions to the weight restriction statutes. Section 60-6,298 of statutes provides the current allowance for movement of seasonally harvested products because of an emergency, unusual circumstance, or very special situation. The reasoning behind this allowance is to allow crops to be taken quickly from the field and moved to a safe place at storage, market, or stockpile. While we certainly understand the need for timely movement of livestock, harvest constraints do not apply in that situation. Therefore, movement of livestock does not fall under the emergency-type overload. Section 60-6,301 of the Nebraska Revised Statutes allows movement of seasonally harvested products up to 70 miles from the field where such product is harvested to storage, market, or stockpile, or from stockpile to market, loaded up to 15 percent over legal weight on a tandem axle, group of axles, or gross weight. And this movement is allowed without a permit from the Department of Roads as long as the driver has a signed statement from the owner as to the origin and destination of the load. LB764 would insert "livestock" into this section pertaining to seasonally harvested loads so that livestock may be moved up to 70 miles and loaded up to 15 percent over legal weight without a permit. Overloads incrementally shorten the life of our pavements, and this new year-round exemption will have an impact over time. The department spends millions of dollars each year to maintain our state highway system. A recent evaluation by the department, not for this bill but for a 15 percent year-round overload scenario in general on the entire state highway system for all trucks, resulted in a 1.2-year reduction in the service life of a particular highway over a ten-year span. This would trigger a 13 percent increase in annual preservation expenditures to preserve the highway during that same ten-year period. I would be glad to answer any questions. [LB764]

SENATOR FISCHER: Thank you, Director. Are there questions? Senator Louden.
[LB764]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Director Fredrickson, when you say all...when you figured that and you said all trucks, now you mean all trucks or were you just figuring livestock hauling trucks? [LB764]

MONTY FREDRICKSON: No. Every truck that would be on the road today. So it's an assumption, but you can calculate the amount of trips and the weight for a truck, and over time we can estimate how long pavements last with that number of truck axle loads going over it. So then you just run another scenario of all trucks being 15 percent

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heavier. [LB764]

SENATOR LOUDEN: But that again gets to my question. When you were estimating that were you considering all trucks that run on the road or just livestock hauling trucks? [LB764]

MONTY FREDRICKSON: All trucks. [LB764]

SENATOR LOUDEN: All trucks. But what percentage are hauling cattle? [LB764]

MONTY FREDRICKSON: We've never tried to estimate that, but it would certainly be some smaller piece of that. [LB764]

SENATOR LOUDEN: Would it be 10 percent? [LB764]

MONTY FREDRICKSON: I don't know. [LB764]

SENATOR LOUDEN: Okay. Say it was 10 percent, and you want to remember they're only hauling...they're hauling empty one way. So, I mean, now we could be talking about kind of an insignificant number of loads actually because they've got to be within 70 miles in order to work with this bill. If they're going over 70 miles, I mean, this isn't over-the-road hauling. And that's what I'm wondering, you know, what we were talking about and what you've used for your numbers. [LB764]

MONTY FREDRICKSON: Our study was for all trucks and it did not focus on any one industry or livestock in particular. [LB764]

SENATOR LOUDEN: Okay, thank you. [LB764]

SENATOR FISCHER: Are there other questions? Senator Campbell. [LB764]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Fredrickson, I'm just sitting here wondering, does anyone keep track, and I'm sure someone does, of those overweight vehicles now that would get a citation? I would assume...is that the State Patrol that keeps track of that? [LB764]

MONTY FREDRICKSON: Yes, it would have to be the Patrol that would keep track of the tickets that are issued for overweight violations. [LB764]

SENATOR CAMPBELL: But do they provide any of that data to you as the Department of Roads? Do you routinely get that data? [LB764]

MONTY FREDRICKSON: I believe we get it annually. There's a certification that they

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are enforcing the size and weight statutes, which we then must turn around and submit to the federal highway people saying that we are enforcing the federal size and weight provisions. [LB764]

SENATOR CAMPBELL: In those documents that they give you, do they tell you...does it tell you how much they're over, like they're over...this one...so many were at 5 percent, 10 percent, 15 percent. I'm just trying to get an idea of how many trucks we are talking about here. [LB764]

MONTY FREDRICKSON: You mean that currently get violations? [LB764]

SENATOR CAMPBELL: Yeah. [LB764]

MONTY FREDRICKSON: I think we could find that out for you. [LB764]

SENATOR CAMPBELL: Okay. [LB764]

MONTY FREDRICKSON: We'll run some numbers. We'll talk to the Patrol. [LB764]

SENATOR CAMPBELL: Okay. Thank you. [LB764]

MONTY FREDRICKSON: I mean it should be public information. [LB764]

SENATOR CAMPBELL: Thank you. [LB764]

SENATOR FISCHER: Thank you, Senator Campbell. Senator Price. [LB764]

SENATOR PRICE: Thank you, Senator Fischer. Sir, just to tag on to what Senator Campbell was saying. In your statistical sampling are we saying that we're catching 30 percent of the violators or do we have a department number that, well, perhaps someone would come along and say the enforcement, when we do our spot checks, we're extrapolating that to say this means what the total number of trucks. So we have a total numbers of trucks; we have those we sampled for being overweight; how many are getting away? And does your calculation here use that same variable to figure out how you got to 13 percent? [LB764]

MONTY FREDRICKSON: No. Our scenario here on what would all trucks do to the highway system with 15 percent overweight has nothing to do with the violations, and that's not something the Department of Roads keeps track of. The Patrol would have to answer that question. We just said as a what-if, what if all trucks weighed 15 percent more than they do now, how much would that shorten the life of the entire highway system? [LB764]

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SENATOR PRICE: I get you. And from your previous testimony we can't determine the number or the percentage of that total truck population that is dedicated to grain and/or cattle. [LB764]

MONTY FREDRICKSON: I certainly don't know it now, and there may be some place that could provide an estimate of that but we don't have it at this point. [LB764]

SENATOR PRICE: Thank you very much, sir. [LB764]

SENATOR FISCHER: Thank you, Senator Price. Senator Hadley. [LB764]

SENATOR HADLEY: Thank you, Senator Fischer. Director, appreciate you being here. I guess I'm trying to figure out whether the problem is the weighing problem or is the problem that we want to carry more livestock in the truck. Because it would seem to me that they have...if you give an allowance of 15 percent, you've still got a weighing problem because you have to estimate whether you're 10 percent over, 15 percent over, or 8 percent over, right on the mark. So am I making sense that we're just trying to... [LB764]

MONTY FREDRICKSON: Well, I was thinking of that too. And not being a farmer myself but if you're taking grain out of the field I don't...don't those guys have to figure out when they're at their maximum load? So somewhere along the line you get to know what your semi hauls, and you can hit it on the number or else you have to go weigh. [LB764]

SENATOR HADLEY: Okay. [LB764]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I'd like to follow up a little bit on Senator Campbell's question if I can, Director. I would assume that there are very few counties in the state where you're going to see a lot of livestock being moved that would fall under this bill within a 70-mile radius. Do you have any numbers on which highways are being traveled by ranchers hauling livestock? You know, in my area we're taking them to the sale barn in Valentine. You know, there's very few times that you're moving them around to fields because we just don't have the corn in my area. But I can see in counties like Custer County where they grow more corn, they're going to be moving them from field to field maybe a little more. Do you have any information on that? [LB764]

MONTY FREDRICKSON: We don't. All of our truck counts are only by type of truck, whether it's a semi or a short-box pickup and how many axles it has. It has...we do not classify them as to what they're hauling. [LB764]

SENATOR FISCHER: Okay. But this would be taking place in rural areas would be my guess. [LB764]

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MONTY FREDRICKSON: I would think for the most part. I don't know that there's much hauled into Omaha anymore. [LB764]

SENATOR FISCHER: Would you...I guess I'm just thinking as a rancher it would be nice to, you know, not worry too much about the weight and maybe throw on another critter or two and take off for town. But by the same token, I'm one of a number of ranchers who would be traveling up Highway 83 and causing more damage to that road then. Can you tell me if Highway 83 is on a ten-year plan to resurface? [LB764]

MONTY FREDRICKSON: I'm sure it is because that's about the interval anymore for a well-traveled road is 10 to 12 years. [LB764]

SENATOR FISCHER: Okay. So if it's going to be resurfaced anyway, what's the problem in hauling a few more critters in the truck? [LB764]

MONTY FREDRICKSON: Probably not for the next cycle, but the cycle after that then instead of resurfacing it at ten years we'd have to resurface it in nine years if there was enough loads. [LB764]

SENATOR FISCHER: And since we're looking at a shortfall in revenue available for the needs of our highways here in this state, I take it you don't think that would be a good use of the revenue that we have available to us. [LB764]

MONTY FREDRICKSON: It's an incremental acceleration of the deterioration of the highways. And it, in and of itself, you know, I wouldn't worry about it if it was only the cattle or the livestock hauled in this state for 70 miles had the only exception to the weight statutes. But we have several for all the crops that are hauled to market, and what else might be next? So I'm only here to give you a feel for what the incremental deterioration would be for another exception and leave it up to you to weigh that. [LB764]

SENATOR FISCHER: So to speak. [LB764]

MONTY FREDRICKSON: So to speak. [LB764]

SENATOR FISCHER: Can you tell me how often the weights are changed, the weight limits on trucks that are hauling crops, produce, you know, livestock? How often do we change that? How often do we raise those? Because it seems like in my eight years in the Legislature we have bills every year looking for an increase. [LB764]

MONTY FREDRICKSON: I don't believe we've changed them for 20 years. I think we're pretty much where we were in 1991, which was where certain weights were frozen by

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federal law. There's been a few exceptions, some of them width, some of them weight. I think combine, custom combine operations were given a break on length, but I don't know that they increased the weight. [LB764]

SENATOR FISCHER: Since those weights are frozen by federal law, are we going to be looking at a possible violation then where we won't receive federal highway funding, or can you make these exceptions? [LB764]

MONTY FREDRICKSON: I'll let you know in about three days. [LB764]

SENATOR FISCHER: Okay. [LB764]

MONTY FREDRICKSON: I don't think so because most of those rules are for long combination vehicles, and these would be just semis. But I put a formal request in to the federal highway to say, is this going to violate any federal law if we include the livestock in the seasonally harvested? And they said they would let us know. [LB764]

SENATOR FISCHER: Okay, thank you very much. [LB764]

MONTY FREDRICKSON: So we'll let the committee know if there is a problem. [LB764]

SENATOR FISCHER: Thank you. Other questions? I see none. Thank you very much, Director. [LB764]

MONTY FREDRICKSON: Thank you. [LB764]

SENATOR FISCHER: Next opponent, please. Welcome. [LB764]

LARRY DIX: Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. My name is Larry Dix, spelled L-a-r-r-y, last name is Dix, D-i-x. I appear today in opposition to LB764, and much of the testimony I think that Director Fredrickson brought forward. While his applied certainly to the highways, the testimony that I have certainly applies to the county roads, and I think it's been pretty well-documented and we've been pretty consistent in as an association coming forth and voicing our opposition to bills that continually put more weight on our county roads and our bridges and things like that. I think it's pretty well-documented the situation that our county bridges are in, in many parts of our state. And so without sort of belaboring and going over some of the information you've already received, that is the main basis for our opposition. It is just the continual additional weight that we put on our roads that too, like the state highway, does decrease the usage and the life expectancy of those bridges and roads that we have. So with that, I'd be happy to answer any question you may have. [LB764]

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SENATOR HADLEY: Are there any questions for Mr. Dix? Yes, Senator Louden. [LB764]

SENATOR LOUDEN: Yeah, thank you, Senator Hadley. Well, Larry, and I think I've discussed this with you before, counties now give permits for some of these trucks to be overweight on their county roads during harvest and that. Isn't that correct? [LB764]

LARRY DIX: I believe some counties do. [LB764]

SENATOR LOUDEN: Especially wheat and beets and some of that like that, because I mean that's been going on for 40 years or so I think because...and the beet business up there, I know in Box Butte County as long as you didn't drive on a state road, why, you were loaded till the springs bent the other way. And that was...they got a permit from the county down there. I don't know if they were \$5 or \$10 and that's the way it was. So how come the counties now are kind of concerned about this on livestock when there would be several counties, I don't how much livestock is hauled in some of the other counties, but this is such a small area of transportation probably out there that's done on a short trip that do you really think it would be a major issue to your roads? [LB764]

LARRY DIX: It's...I think it comes down to what we had said before consistently, and if it was beets I think last year it was Senator Harms had a bill, we talked about that. We have been in here before consistently on anything that adds weight. And so while it may be a small component, that's your statement, it still is additional weight time and time again across those bridges. And that's really where we come at it. You know, if you start to erode and you start to make more and more exceptions, I think Senator Fischer alluded to how many bills have been in here. I know in the ten years I've been in here it seems like I'm in here testifying every year on something where we want to add more weight, somebody else wants to carve out an exception here or there. So for that reason I would say that's why we're here today. [LB764]

SENATOR LOUDEN: Okay, thank you. [LB764]

SENATOR HADLEY: Are other further questions for Mr. Dix? Seeing none, thank you, Mr. Dix. [LB764]

LARRY DIX: Thank you. [LB764]

SENATOR HADLEY: Are there further opponents on LB764? Is there anyone here in the neutral capacity? Seeing none, we will close the hearing on LB764. Oh, Senator Louden, did you wish to close? [LB764]

SENATOR LOUDEN: Yes, I wish to comment. [LB764]

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SENATOR HADLEY: Okay. I didn't meant to preclude you. [LB764]

SENATOR LOUDEN: Well, Senator Hadley, since it was you I'll certainly overlook it since we're such good friends. (Laughter) Thank you, Senator Hadley and members of the Transportation Committee. This is something that we're working on. It's an industry in Nebraska. It's an industry that contributes a great deal of revenue to the state of Nebraska and it's one of these deals that, no, it isn't a big issue. There's probably about five or ten truckers in my area that get stuck maybe anywhere from \$500 to \$1,000 every so often because they happen to be overloaded somewhat. They can be somewhere around I think 1,000, 1,200 pounds, whatever it is. There's a formula for how much they're overloaded. And it's something that they usually pay for it, they don't like it. And of course, that trip, whatever they charge for that trip it took them another trip or two to make that money back. So this was the reason I brought it forward. It's in there for hauling grain. And as I say, 70 miles really doesn't help in a lot of places because where we live it's 90 miles to Scottsbluff. So if we're hauling to that sale barn over there, why, it's out of that range. The other closer area is 56 miles to Gordon and 110 miles to Ogallala, so there's some places in there that we still have to be very careful. But these people that are hauling, which I say I have all of my neighbors that surround me have semis now and they're hauling cattle either to cornstalks or summer range or something like that. These are the ones that would probably benefit. They probably have maybe a 50-mile haul at the most out of the deal, so. And usually nobody knows for sure what they're putting on, but they try to stay within range. You can't overcrowd the cattle in there or it's bad for the cattle. So this is just something that I thought would help our industry a little bit and it'll at least show some support for agriculture. Thank you. And with that, I'd answer any questions. [LB764]

SENATOR HADLEY: Any questions for Senator Louden? Thank you, Senator Louden. Now I can close LB764, and we will start with the next one which is LB841. And I believe that is Senator Harms. Senator Harms, welcome to the Transportation and Telecommunications Committee. [LB764]

SENATOR HARMS: Well, thank you very much, Senator Hadley. Senator Hadley and committee members, my name is John N. Harms, H-a-r-m-s. I represent the 48th Legislative District. Today I'm here to introduce LB841. First, Senator Hadley, thank you for giving me the opportunity to come today to visit with you about this bill. This bill would limit the hauling of seasonally harvested products in long combination vehicles in Nebraska by permitting it up to 70 miles, 10 percent greater than the maximum length specified by law, and using permits for up to 120 total days per calendar year. These provisions would bring the state of Nebraska back into compliance with the federal laws governing longer combination vehicles. In 1991, the Intermodal Surface Transportation Efficiency Act, federal highway legislation, included a freeze on state provisions regarding long combination vehicles. Every federal highway bill since 1991 has continued the freeze provisions of the 1991 act. Freeze means that each state's long

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combination vehicle limitations must not be amended to become less restrictive than they were in 1991. Last year, 2011, I introduced LB35 as a request from the sugar beet industry to allow the permits to be valid for 30 increments and renewable up to 210 days to conform to the beet harvest season in western Nebraska. LB35 was passed and was signed by the Governor. It became effective August 27, 2011. Every year the Governor or his designated representatives must certify that all state laws and regulations are being enforced on those highways, which prior to October 1991 were designated as part of the federal aid primary, the federal aid secondary, or the federal aid urban system; that the state is enforcing the freeze provisions of the Intermodal Surface Transportation Efficiency Act of '91; and the state laws governing the vehicles of this interstate highway are consistent with the laws that have been established. LB35 that we passed last year is in violation of the Intermodal Surface Transportation Efficiency Act of '91, and this bill simply brings it into compliance. And since that was done under my watch, I have the responsibility to straighten it up. In the past, the beet industry would be given permission by the Nebraska Department of Transportation permit office, here in Lincoln, to receive hauling permits. The trucking industry was notified by the permit office that they would not be receiving the permits when they requested their trucks be registered during this last beet harvest. The permit office then denoted to the haulers that the law that we passed was in violation of the regulations. Senator Hadley, and I have to tell you from that point on there was a great deal of dialogue took place and they were already into the beet harvest. Beets were being taken from the farm fields and being hauled by small trucks of the farmers to the smaller beet dumps. Then these larger trucks would come in and they'd take them on into the processing plant. The fear was that we wouldn't be able to complete the harvest, and millions and millions of dollars would be lost to the farmers and to the industry. We are most fortunate that our Governor intervened that allowed this harvest to be completed. He was very strong and forceful to make sure that this did occur. And we're very thankful and we're very appreciative for the Roads Department and the Governor coming forward to allow us to complete the harvest. That was critical for us. That's a big industry for us. As I understand it, in my visitations with the representatives from the Roads Department, if this legislation is not passed the state will lose \$24 million from their basic core funding. And I want to point out here when I brought this to the attention of the sugar industry they made it very clear to me they do not want the state to lose any money on their behalf. They're good corporate citizens. They understand how important it is for us to have highways, and they are supporting the change that we need to make so that we don't lose the \$24 million. Senator Hadley, this is kind of the basic and the short version of all that took place. I will tell you that Monty Fredrickson and two of his other colleagues came to western Nebraska about two months ago, maybe a little longer, and we had a meeting with the sugar industry. It was a very good meeting. I think people were very pleased that Monty and his staff came out to try to find some way that we could resolve this issue. And what we found is that it's a federal issue. And so we agreed...they agreed to put together a committee, and we have a representative from our own Nebraska Roads Department as part of that. They're now working with, hopefully working with their federal

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representative to see if they can correct this. So the Roads Department has been very good in trying to assist with this, so. And I'd be happy to answer any questions. I'd be happy to clarify any information that you'd like to know about this particular legislation. Thank you, Senator Hadley. [LB841]

SENATOR HADLEY: Thank you, Senator Harms. Are there questions for Senator Harms? Senator Campbell. [LB841]

SENATOR CAMPBELL: Senator Harms, I just want to make sure, just for the record, that we're clear that the weight of 15 percent extra and 10 percent greater length is also in the federal compliance? [LB841]

SENATOR HARMS: Yes. It's all corrected. What you'll find there is exactly the way the bill was last year. If you go back and read where we were, that's exactly what should be exactly what's there. We can double-check and make sure, but that's what we're after. It's got to reflect exactly the law. And if you were pretty liberal in your weights before 1991 when that came in, you still would have that. Nebraska has always been conservative and appropriately to save our highways. And so you just can't lessen it, so. [LB841]

SENATOR HADLEY: Further questions for Senator Harms? Senator Harms, I guess the question I have real quick is that this basically, the reason the federal government is involved is because these are combination vehicles. Is that one of the reasons that they are involved? [LB841]

SENATOR HARMS: Well, yes, it's this long-term hauling and they have provisions for that. And that's what this...where we got into violation of it. [LB841]

SENATOR HADLEY: Okay. Senator Price. [LB841]

SENATOR PRICE: Senator Hadley, thank you. Senator Harms, having one season under our belts under the new process we created last year, is there a way you can determine the delta of improvement to the industry notwithstanding the federal regulation guidelines that we have to go back to? I understand that. But now we had a season perhaps where there was an improvement for the industry because we put them in place to help getting things. Now we're going to have to back that back down, so now we're going to negatively impact over the baseline. [LB841]

SENATOR HARMS: Well, what the real issue is, Senator Price, is the length of the harvest days. [LB841]

SENATOR PRICE: Right. [LB841]

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SENATOR HARMS: And if you look at what's happened with that beet industry, there are more people raising beets. The prices are really good and the issue for them is, you know, we haul all the way...they haul all the way from Ogallala, Nebraska, into Scottsbluff. And that's quite a haul. So I think it will have an impact on them. They're looking at ways that they might be able to work around that within the law, and I don't know what those are yet. If the feds would refuse to make an adjustment to this then they'll have to find other ways. They'll have to either put more trucks on the road in order to do this because it is a problem for them. And they have a very short window to go through when you do this kind of harvesting. Beets is a special niche in western Nebraska, and once they start that harvest they have a very short niche to get those things out of there quickly. And they take them...they have to get in before harvest, they have to cover them up with large bales of straw and hay so they don't freeze, and then they start that harvest. And in the smaller dumps if they can't move those beets out and they freeze, it's pretty much over with. [LB841]

SENATOR PRICE: Well, I would appreciate if you have a chance after the fact to get the size of improvement they might have seen for this one year, if you don't mind. [LB841]

SENATOR HARMS: Sure. [LB841]

SENATOR PRICE: Thank you. [LB841]

SENATOR HADLEY: Further questions? [LB841]

SENATOR HARMS: Well, you've been very good. Thank you. [LB841]

SENATOR HADLEY: Seeing none, thank you, Senator Harms. [LB841]

SENATOR HARMS: Yeah, thanks. Senator Hadley, because of where we are in the Appropriations Committee today, we're having trouble with a quorum, I will not be here to close. [LB841]

SENATOR HADLEY: Okay, thank you, Senator Harms. [LB841]

SENATOR HARMS: So I thank you very much. Appreciate that. Thank you. [LB841]

SENATOR HADLEY: Thank you. Are there further proponents to LB841? [LB841]

MONTY FREDRICKSON: (Exhibit 2) Good afternoon, Senator Hadley, 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 Nebraska Department of Roads. I am here today to provide testimony in support of LB841. As

Senator Harms has stated, in 1991 Congress passed the ISTEA legislation that froze all state laws regarding long combination vehicles. So that was the beginning of this story. And he also stated that every federal law since then has included those freeze provisions. At the back of your handout is a picture of what a long combination vehicle looks like, and the sugar beet industry is one of the very few industries that utilizes this type of a vehicle, and that's a general rendition of what that would look like. It is a truck-tractor with a semitrailer and trailer combination. The legal length defined in Nebraska statutes in 1991 is 65 feet for the two trailer combinations, excluding the truck-tractor. In 1991, Nebraska statutes had an exemption for the long combination vehicle freeze for the movement of seasonally harvested products, which read as follows--you've heard this before--"To operate vehicles, for a distance up to 70 miles, loaded" with "15 percent greater than the maximum weight specified by law, up to 10 percent greater than the maximum length specified by law, or both, when carrying grain or other seasonally harvested products from the field where they are harvested to storage, market or stockpile in the field or from stockpile to market or factory." Permits issued for the movement of the above seasonally harvested products were valid for 30 days and renewable for a maximum of 120 days per year. This meant that long combination vehicles hauling seasonally harvested products could be 15 percent over legal weight, 10 percent over legal length, and could move up to 70 miles with a permit from the department. Ten percent over legal length for a long combination vehicle would be 71.5 feet. The only haulers using long combination vehicles then were those hauling sugar beets in western Nebraska. In 1996, there was a fire and explosion that destroyed the sugar beet processing plant in Scottsbluff. The sugar beet industry had to haul to processing plants in Colorado or Wyoming while the plant was being rebuilt. Senators Exon and Kerrey were successful in having federal legislation passed that allowed for long combination vehicles hauling just sugar beets to travel up to 120 miles and be 25 percent over legal length for a two-year period, until February 28, 1998. In 1996, the Nebraska Legislature passed LB1306 that mirrored the federal legislation with a sunset date of June 1, 1997. It is clear from the hearing testimony that all parties, including the state and the sugar beet industry, understood that unless new federal legislation was passed the increased length and distance provisions would sunset on June 1, 1997. In 1997, the Nebraska Legislature then passed LB122 which removed the sunset date and retained the increased over-length and distance provisions. However, federal legislation to permanently increase the length and distance provisions were never passed. In 2010, as Senator Harms testified, LB35 was passed which allowed the permits for long combination vehicles to be renewable up to 210 days per year. After LB35 was passed, the Department of Roads staff discovered the anomalies in state statute compared to the federal statutes and regulations. Nebraska is currently in noncompliance with federal law concerning long combination vehicles in three areas. Current state statutes allow 25 percent over legal length as compared to 10 percent in federal law. Current state statutes allow travel up to 120 miles as compared to 70 miles in federal law. Current state statutes allow permits to be valid for 210 days as compared to 120 days in federal law. If the state of Nebraska does not bring statutes into compliance with the

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federal freeze statutes, Nebraska will lose 10 percent of its federal apportionment for various highway funding categories, amounting to \$24 million annually. This would be a severe blow to our annual highway program, so I urge you to pass LB841. In closing, I would like to thank Senator Harms for introducing this legislation and for facilitating the meeting between the Department of Roads and the sugar beet industry. The NDOR is committed to working with the beet industry and Nebraska's congressional delegation on the possibility of federal legislation to address the haulers' concerns. Thank you for your time, and I'd be happy to answer any questions. [LB841]

SENATOR HADLEY: Thank you, Director Fredrickson. Are there questions for Director Fredrickson? Senator Louden. [LB841]

SENATOR LOUDEN: Yeah, thank you, Senator Hadley. Director Fredrickson, in other words you're telling me that this should have a \$24 million-plus fiscal note on our fiscal note here for this, if this bill is passed? [LB841]

MONTY FREDRICKSON: Yes, we didn't put it in the table. We put it in the text because we can avert the loss if the bill is passed. [LB841]

SENATOR LOUDEN: Right. But that's what's on the table here. [LB841]

MONTY FREDRICKSON: It certainly is. [LB841]

SENATOR LOUDEN: Okay, thank you. [LB841]

SENATOR HADLEY: Director Fredrickson, just for my own knowledge, the federal government basically has the right to tell us what our laws will be not only on federal highways but state highways and county highways, is that correct? [LB841]

MONTY FREDRICKSON: Yes, to lesser and lesser extents. [LB841]

SENATOR HADLEY: To lesser. [LB841]

MONTY FREDRICKSON: But, yes, on the state highway system and especially the interstate, they hold the trump card. [LB841]

SENATOR HADLEY: Okay. I was trying to think of, you know, if a person who took sugar beets to a particular place and just used county roads. [LB841]

MONTY FREDRICKSON: Well, you still have regulations there... [LB841]

SENATOR HADLEY: You still have the regulations. [LB841]

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MONTY FREDRICKSON: ...to deal with. And what we're dealing with today is the highway system exclusive of the interstate. [LB841]

SENATOR HADLEY: Okay. [LB841]

MONTY FREDRICKSON: These...all the seasonally harvested product exemptions do not allow you to run on the interstate, that we've talked about today or that have been in place for 20-some years. You have to stay on the primary highway system. [LB841]

SENATOR HADLEY: Okay. So earlier we talked about the cattle. So that would not apply then if they were going to transport the cattle on the federal interstate system? [LB841]

MONTY FREDRICKSON: No, they could not go on the interstate. [LB841]

SENATOR HADLEY: Okay. [LB841]

MONTY FREDRICKSON: That's been in our laws and the federal law for 20-some years. [LB841]

SENATOR HADLEY: Okay. Did not know that. Further questions for Director Fredrickson? Senator Campbell. [LB841]

SENATOR CAMPBELL: Thank you, Senator Hadley. I just want to clarify. Probably the federal regulations come into play in the counties because the counties do receive, I mean, federal funds at some point. And it's therefore you would come under. Would that not be true, Director? I mean, the money comes down through the federal government and is apportioned out, but. [LB841]

MONTY FREDRICKSON: I am not familiar with how this provision would apply to the counties or what their maximums are. I guess the statute that we're referring to, the seasonally harvested product statute that allows overages is for the entire state. So I believe it would apply equally to the county roads, that they could haul 15 percent over. Fortunately, with the sugar beet industry, it's not a weight issue for them. They don't have any problem with the statute as it's been for 20-some years on weight. They just got used to using longer trucks. So it's the length and, of course, now the days with LB35. [LB841]

SENATOR HADLEY: Are there further questions for Director Fredrickson? Thank you, Director Fredrickson. [LB841]

MONTY FREDRICKSON: Thank you. [LB841]

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SENATOR HADLEY: Are there further proponents to LB841? Seeing none, are there opponents to LB841? Anyone to testify in the neutral? With that, we'll...Senator Harms has waived closing, so we will close LB841 and move on to LB740. Senator Schilz. [LB841]

SENATOR SCHILZ: Good afternoon, Senator Hadley, members of the Transportation and Telecommunications Committee. My name is Ken Schilz, spelled K-e-n S-c-h-i-l-z, and I represent Legislative District 47. LB740, which you have before you and I am introducing today, would allow for a permit to be purchased allowing a farmer or rancher to haul hay in loads of up to 59.5 feet long. The permit would be valid for one year and is to be carried in the cab of the truck or tractor. The fee for the permit will be \$50 and will be collected and distributed the same as other motor vehicle fees which is credited to the Highway Trust Fund. This bill would help make our hay haulers much more competitive with their counterparts in surrounding states. Another issue is the difference in size and shapes of round and square bales. The current length does not allow for the same amount of hay to be hauled due to the difference in the shape of the bales. Many times this results in eliminating an entire row of hay from the load. LB740 will allow farmers and ranchers to carry the same load of hay whether they have the round or square bales, and this permit will allow Nebraska to keep up with the exceptions of neighboring states and make business more efficient when hauling across state lines. It should be noted that even with the new length, the weight of the new loads will still be under what is legal today. I understand that the State Patrol has some technical changes in the language that they would like to address and would like to see changed. Of course, I'm always willing to work with them. And I do know that we have a few people from western Nebraska that have traveled all this way to give testimony today too. And with that, I ask for your support of LB740, and I would be happy to answer any questions you may have. Thank you. [LB740]

SENATOR HADLEY: Are there questions for Senator Schilz? Seeing none, thank you, Senator Schilz. Will you be staying for closing? [LB740]

SENATOR SCHILZ: I may. [LB740]

SENATOR HADLEY: Okay. Okay, LB740. Are there proponents for LB740? [LB740]

SHAWN SHOEMAKER: (Exhibit 3) Good afternoon. My name is Shawn Shoemaker, that's S-h-a-w-n S-h-o-e-m-a-k-e-r. I'm from Potter, Nebraska. I am a small farmer and I own and operate a small trucking company. I haul some general freight, but the core of my trucking transportation I specialize in baled hay and forages to feedlots, dairy farms, you know, ranchers respectively not only in our state but outside of our state especially. And in my...I'll start out within the paperwork that you guys have received. I believe it's the second page is a map of the current United States. And I'm not good at PowerPoint, so it's kind of a crude map but bear with me. LB740 requests a length change to 59.5

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feet, 59 feet 6 inches, for single trailers, being a permit or a law change. I'm real passionate about this because this is how I make my living and feed my family. And Nebraska being at 53 feet, and I have three states, Colorado, Wyoming, and Kansas, who are respectively longer states than we are, so when I load a load of product to go into these states I'm competing with trucks in those states that are hauling a bigger load than I can haul. Once I cross the state line, if I had the product there, I could load it on and transport legally. But I can't, I've got to leave my original origin with what I can. So it's very frustrating trying to compete with states that are already...that have the lengths that we do not have. I need to emphasize that when we request this length, we are trying to increase our payload that we're transporting, but we're not trying to increase past current weights that are already in place for our state currently. We're trying to load a load that will reach a legal payload to be transported in our state. For those of you who aren't familiar with some of the baled forage products, especially straw, cornstalks, grass hay, they're extremely bulky and they don't weigh very much. So this is kind of a crude visual, but imagine a gold bar that weighs ten pounds and a box of feathers that weighs ten pounds. They both weigh ten pounds, but the box of feathers is going to be significantly larger than the gold bar is in terms of space that it takes to reach ten pounds. And that's what we're fighting with the baled forages for the livestock. And with the increased length in the trailers we would see increased productivity to us in terms of what we could haul on a daily basis, increased competitiveness with other trucks out of our states that we're having to compete with. We can haul...we would increase our revenue to what we're hauling with our loads. We would...obviously if you can put more bales on, we can make less total trips, you know, in terms of product. So we can, you know, be more efficient and burning less fuel, less wear and tear on the equipment, and less exposure on the roads because I'm making less trips through traffic and things of that nature. As the map shows and as it currently is, especially noting the drought of 2011, some of the largest markets for these baled forage products are in Arizona, New Mexico, Texas, and Oklahoma. A lot of the...especially the dairy farms are moving out into the more rural areas because, you know, the population centers are forcing them out, and that's where they're moving to. And that's one of the biggest markets for hay is the dairy farms and the concentrated livestock feeding areas. So with the drought, if anybody has been out more to the western side of the state you've noticed the amount of hay being transported not only out of our state, but from states north of us into these southern states. The migration of hay this year is probably larger than it's ever been in history, I'm estimating, demand is so high. And it would appear, based on watching the weather, I'm not an expert, but watching the weather the drought is not changing in the south. And 2012 is shaping up for another large demand for baled forage products in the south. So, you know, I just am a strong proponent of being able to compete on an equal basis with trucks surrounding me to haul the same load, the capability of hauling the same loads that they're currently hauling. And I thank you for your time and considering this, and I appreciate it. And if there are any questions, I'll do my best to answer them for you. [LB740]

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SENATOR HADLEY: Mr. Shoemaker, thank you for that. We appreciate your coming in to make us aware of this concern that you have. Are there questions for Mr. Shoemaker? Senator Price. [LB740]

SENATOR PRICE: Senator Hadley, thank you. Mr. Shoemaker, again thank you for making the drive. Do you know the lengths of the states east of us? I notice in your graph we didn't have that available. [LB740]

SHAWN SHOEMAKER: This little handbook is produced by J.J. Keller. I just brought it for a reference. I took all that information I used to make that map out of this handbook, which is...you're supposed to have that in your truck so that you know as you cross into different states what their restrictions and regulations are to be there. The lengths, which I have on that map to show you, I obtained out of this little book. So... [LB740]

SENATOR PRICE: Does that little book have Iowa in there? [LB740]

SHAWN SHOEMAKER: It has...all the 50 states are in here. [LB740]

SENATOR PRICE: Okay. Okay, great. [LB740]

SHAWN SHOEMAKER: All the 50 states are in here. I only noted on the map the states that are in excess of 53 foot. So if the states are blank on that map they are 53 feet or less in overall trailer length. [LB740]

SENATOR PRICE: Okay. And then... [LB740]

SHAWN SHOEMAKER: If the states are colored on that map that I made for all of you, then that means those states are in excess of 53 feet on a single trailer. [LB740]

SENATOR PRICE: Great, I got that crystal clear. You're talking about when we make the change it would make you competitive in other states. But do other states when they come here, according to your book, am I to understand that you couldn't have a 109-foot truck from South Dakota doing business in Nebraska? Is that correct? [LB740]

SHAWN SHOEMAKER: They can't do it legally. But where we live on a lot of us...you know, on the western end of the state we're clear to the edge. So they will come in and out sometimes. And if they don't get caught, you know, they're going to do it. I got into a long load awhile back and I was seven miles from the Colorado border and I forget exactly the length, but I was...bales were over each end of my trailer, a 53-foot trailer, they were hanging over each end of it. And I received a ticket for overlength in Nebraska, which that was the law, I can't argue with the officer about that, but I was seven miles from the Wyoming border. And it's like, (laugh) it was very frustrating that, you know, I knew they were a little over the length. But, you know, that's as close as I

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can get, I need the payload, I got to go. And I was within seven miles of the Wyoming border and I received a ticket for I believe it was approximately \$150 with court costs and everything. But I can't...I didn't bring that with me for exact representation. [LB740]

SENATOR PRICE: Now I'm going to ask a citified joke here, okay, or a comment here. When your baling equipment is creating these bales, or whether it's your equipment or not, I know you transport, is there one size that spits out one size and you can't adjust that? I mean I've moved some bales of hay back in the old days when they were all square. But with these round balers, I mean, does one size comes out of that and that's it, so you don't get something that's a diameter of 22 feet or 18 feet or 16 or... [LB740]

SHAWN SHOEMAKER: Well, the baler is designed to create a bale that's in a certain specification. But the product being introduced into the baler and then the way the baler has the ability to compress it, it will vary in its shapeliness. [LB740]

SENATOR PRICE: Okay, good. [LB740]

SHAWN SHOEMAKER: So you could bale, you know, maybe four products side by side and each one of them is going to be a little bit different in terms of length and shape because the product...it just depends how the product compresses. [LB740]

SENATOR PRICE: All right, great. Thank you. [LB740]

SENATOR HADLEY: Are there further questions for Mr. Shoemaker? Mr. Shoemaker, I guess I have just a couple. Director Fredrickson was talking earlier about the rules and the interstate. Are you allowed to haul the bales on the interstate? [LB740]

SHAWN SHOEMAKER: You know, I guess I can't comment for sure on that. You cannot haul round bales on the interstate in Nebraska. To the last that my knowledge was, you cannot haul round bales on the interstate in Nebraska. However, square bales, I do believe we are legal to haul those on the interstate. [LB740]

SENATOR HADLEY: Okay. And then a question that has absolutely nothing to do with bales and highways and such as that, but for my own interest. You're in Potter,... [LB740]

SHAWN SHOEMAKER: Yes, sir. [LB740]

SENATOR HADLEY: ...and exactly where is Potter? [LB740]

SHAWN SHOEMAKER: I am 20 miles west of Sidney, right on Highway 30 and the interstate there. [LB740]

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SENATOR HADLEY: Twenty miles west of Sidney. And how far is that from Lincoln?
[LB740]

SHAWN SHOEMAKER: Well, we are at exit 38 on the interstate and Lincoln is exit 400,
so that puts us at 360 miles approximately. [LB740]

SENATOR HADLEY: Okay. And to follow up on that question, if we would have had
two-way videoconferencing available and you could have gone to Sidney and given
your testimony and we could have questioned you, it would have made it a lot easier in
your life, wouldn't it? [LB740]

SHAWN SHOEMAKER: It probably would have made it a lot easier. I could have maybe
worked early in the morning before and accomplished a little more. But I feel very
passionate about this and I was willing to park my truck--and I'm the sole provider for
my family--and made the trip down here for this. [LB740]

SENATOR HADLEY: Okay. Well, I very much appreciate that. I just was asking
because that's one of my pet ideas is to make it easier for the citizens of Nebraska to
come down and testify. [LB740]

SHAWN SHOEMAKER: Yeah, that would work. [LB740]

SENATOR HADLEY: Senator Campbell. [LB740]

SENATOR CAMPBELL: I'm just going to follow up on that. So then how many miles
would you be from Scottsbluff? [LB740]

SHAWN SHOEMAKER: We are...following the highway system, we are approximately
65, 70 miles from Scottsbluff. [LB740]

SENATOR CAMPBELL: And I just want to say to my colleagues that this summer when
the Health and Human Services Committee traveled around, we were in Scottsbluff at
the John Harms Center--I know it has a more official name. But they have all kinds of
video capability that would answer that for us if we had centers across the state that
people could testify. A small point. I just thought I'd tag on. [LB740]

SENATOR HADLEY: No, I appreciate... [LB740]

SENATOR CAMPBELL: Would have made your life simpler. [LB740]

SENATOR HADLEY: Yes, because I think it is...we ask people to drive 350, 700 miles
round trip, to come to testify. And I think it's a tribute. We appreciate your giving us that
input. [LB740]

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SHAWN SHOEMAKER: I just...I feel really strongly about this, and I appreciate that, and I just want to thank you guys for listening to what we have to say on this because this is an important issue to a lot of us, especially in the western part of the state. [LB740]

SENATOR HADLEY: Thank you, Mr. Shoemaker. [LB740]

SENATOR CAMPBELL: Thank you for coming. [LB740]

SHAWN SHOEMAKER: Thank you. [LB740]

SENATOR HADLEY: Thank you for coming. Okay, are there further proponents for LB740? [LB740]

DAN CARNINE: Good afternoon. My name is Dan Carnine, D-a-n C-a-r-n-i-n-e, and I live out between Alliance and Bridgeport, in the Panhandle of Nebraska, and I'm in support of LB740. I'll try not to repeat too many of the things that Shawn had mentioned earlier. And I am here also representing not only myself but the Nebraska Farm Bureau. This issue is to deal with the length of the trailer hauling baled hay. Again, like Shawn said, we don't want to be overweight. We're not overweight because we're hauling cornstalks and straw. It's light. It's hard to get, you can't hardly...that's the wrong terminology. It's very difficult to get up to what the legal weight limit is with these commodities. Like Shawn did, he compared it to feathers. And if you look on the map that Shawn made, we're almost an island in the sea of long loads, so to speak. And a permit, that would be great, or even the law change for this. There's already other industries that enjoy having longer length. They can buy permits, whether they be a combine hauling a trailer or another combine, some of these windmill blades, you know, they can all have access to a permit. And that would be great. And without repeating too many things, that's about all I have. So I'm in support of it. Thank you. And if you have any questions... [LB740]

SENATOR HADLEY: Are there questions? Thank you, Mr. Carnine, for coming. Are there any questions for Mr. Carnine? Senator Louden. [LB740]

SENATOR LOUDEN: Yeah, thank you, Senator Hadley. Well, Dan, thanks for being down here. And tell your mom and dad hello for me. [LB740]

DAN CARNINE: Sure. [LB740]

SENATOR LOUDEN: I've catted around a lot of country with Forest over the years. When you are hauling these bales, you haul mostly square bales. That's what you have at your place, don't you? [LB740]

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DAN CARNINE: Yes, correct. [LB740]

SENATOR LOUDEN: Now can you haul them...if they're square, can you haul them on the interstate? And do you stay within that 8-foot width? [LB740]

DAN CARNINE: Yes, with a square bale. The reason you can't haul round bales on the interstate is because you're overwidth. [LB740]

SENATOR LOUDEN: You would have to have a permit...if you hauled them...if you got a permit, you could probably haul them, because you can haul them 14 feet wide on state highways but you can't on the interstate. Is that right? [LB740]

DAN CARNINE: Yes. And that's the ironic thing is we could load a wider load and get a permit, but we can't be longer to match the other surrounding states. And in my opinion, it's a lot safer to have a longer load than it is to be wide. But we can't...we could do that, but that would be a very dangerous load, but you'd be legal. [LB740]

SENATOR LOUDEN: Can you load square bales wider? [LB740]

DAN CARNINE: You could, but it doesn't... [LB740]

SENATOR LOUDEN: I was going to say they won't fit very well. [LB740]

DAN CARNINE: Right, because they're designed...that's why they designed the balers in the shapes and the sizes they have is so that they fit on the trailer. [LB740]

SENATOR LOUDEN: So that you can truck them. [LB740]

DAN CARNINE: And yeah, you're not overwidth. [LB740]

SENATOR LOUDEN: Yeah, because I've bought a lot of round bales and I know they can haul them in the daytime, and they've usually got to be under 14 feet, I think, the same as if you was hauling loose hay down the highway. I think you got to be within 14 feet or something like that, whatever that is. [LB740]

DAN CARNINE: Right. [LB740]

SENATOR LOUDEN: Now on this, have you looked at this bill, because there's a part in there that I'm kind of wondering about. The first part is a special permit may be supplied, and it was for a truck and tractor combination of a farmer or rancher used wholly for his own products. Well, you may be hauling all your own products, but are some of these other people purchasing product someplace else, they're hay haulers as we call them

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nowadays. [LB740]

DAN CARNINE: Sure. [LB740]

SENATOR LOUDEN: And I'm wondering if that part was going to be a problem in the bill, because as I read the bill, the other part down here in line 19, where you get the special permit and all that to get 59.5 feet long, doesn't say anything about having to haul our own product. And I'm wondering if we're having a problem here, or what's your thinking on that bill? [LB740]

DAN CARNINE: Well, you could have some refinements of the verbiage of the bill. And it would, in my opinion, we wouldn't have to have just the farmers and ranchers. It could be open to any flatbed truck hauling hay. They could just get it from their local county to get a permit or from the truck permit station. [LB740]

SENATOR LOUDEN: And then I think in one of the bill summary that come out there, a bill "including a drop deck trailer." What do you call a drop... [LB740]

DAN CARNINE: That's a trailer that instead of being straight from the truck all the way back, it drops down 18 or so inches. And that's what they call a drop deck. And that's primarily what most of the hay is hauled on because it carries a lower center of gravity so you're not as top-heavy. [LB740]

SENATOR LOUDEN: Um-hum. And then you still have to stay under, what, 14 feet, or is there a height that you have to stay under? [LB740]

DAN CARNINE: Yes. [LB740]

SENATOR LOUDEN: Because we had some of that last year I think in some legislation about trying to have the height a little taller. [LB740]

DAN CARNINE: And that was us. We, some of us wanted, and this deals with round and square bales, we wanted it to be a little bit higher because we were sticking up 6 or 8 inches higher than we should be. But in order to come into compliance we'd have to take off four feet off the top of that load. [LB740]

SENATOR LOUDEN: Had to take a whole bale off, huh. [LB740]

DAN CARNINE: Exactly. [LB740]

SENATOR LOUDEN: I see. And did that work out or... [LB740]

DAN CARNINE: That worked wonderfully, yes. Thank you so much. [LB740]

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SENATOR LOUDEN: Now is that with the drop deck trailer where you can get that or is it just a regular flatbed? [LB740]

DAN CARNINE: Pretty much a drop deck, yes. There is no way you could come in compliance with a straight deck. [LB740]

SENATOR LOUDEN: Um-hum. [LB740]

DAN CARNINE: And that's one of the reasons why they use drop decks is not only for a lower center of gravity, but you can carry a little more on top. [LB740]

SENATOR LOUDEN: Yeah, okay. Thank you for coming down. [LB740]

DAN CARNINE: Thank you. Thanks for your time. [LB740]

SENATOR HADLEY: Mr. Carnine, I guess I have a question, and maybe you can't answer it. But basically you're asking for a special permit to get up to 59.5 feet, is that... [LB740]

DAN CARNINE: Yes, and we're...I mean you guys could change the law if you wanted to match some of our surrounding states. But just having access to a permit would be great. [LB740]

SENATOR HADLEY: Okay. I guess the question I have and I'm trying to figure it out, and maybe if you can't answer it somebody else will later. We just dealt with a bill that dealt with long combination vehicles that are 65 feet in length. So why are we... [LB740]

DAN CARNINE: Right. And the argument against us has always been, well, we're too long. But there are trailers in other industries that are much longer than we are, and we're... [LB740]

SENATOR HADLEY: I'm trying to figure out, yeah, why 59...why yours is less and we can go up to 65 on a... [LB740]

DAN CARNINE: Well, those are combination vehicles. [LB740]

SENATOR HADLEY: So does that make them safer than...? I mean... [LB740]

DAN CARNINE: No. (Laugh) No. We just have one trailer. It's just that we just want to be able to make the trailer a little longer. [LB740]

SENATOR HADLEY: Well, I understand that, and I'm just trying to figure out why we

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allow 65 in the long and not on the others. [LB740]

DAN CARNINE: Right. [LB740]

SENATOR HADLEY: Maybe somebody later can... [LB740]

DAN CARNINE: Yeah, and like the windmill blades, the beet trucks we referred to earlier. Custom combiners, when they're traveling through they'll have a truck and then a combine trailer hauling a combine, and then a lot of times they'll pull a grain trailer behind that. And you can get a permit for all those, but that's why we'd like access to a permit to be a little longer for hauling baled hay. [LB740]

SENATOR HADLEY: Okay. Thank you. [LB740]

DAN CARNINE: Whether you use a longer trailer or... [LB740]

SENATOR HADLEY: Thank you, Mr. Carnine. Okay. [LB740]

DAN CARNINE: So, great. [LB740]

SENATOR HADLEY: Any further questions for Mr. Carnine? Thank you. [LB740]

DAN CARNINE: Thanks so much. [LB740]

SENATOR HADLEY: Are there further proponents? [LB740]

RICHARD SELLMAN: Good afternoon. My name is Richard Sellman, R-i-c-h-a-r-d S-e-l-l-m-a-n, and I'm here today in favor of LB740. And I traveled 450 miles down here direct line, but I went down to Potter to travel with my buddies because that's a trucking deal. I primarily load and haul hay out of Senator Fischer's district. I am in Chadron, Nebraska, so I'm about as far away from here as you can get. I farm and ranch, it's a habit, and I substitute my habit with my trucking. And I also buy and sell and raise hay. I'm really in favor of this 59.5 foot. One of the questions was the bailers. When you buy and sell hay, you have so many different producers baling the hay, stacking the hay. When we get to a haystack, a lot of times we won't know what we have until we start putting it on the truck. And some days you get a beautiful load, some days you get an ugly one. The days that your bales were promised to weigh 1,500 pounds and they weigh 1,200, there's quite a difference. And, you know, we pushed them on as hard as we can, but if we had just a little bit more it would probably allow me anywhere from two to four bales, depending on the configurations, which could be anywhere from five ton for me. And this latest year I'm hauling primarily grass hays. I don't deal a lot in the straw. And I deal with the round bales. And I'm just...I can't get the weight. If I find a load that I come to weight, I'm excited. (Laugh) So I'm not even touching the heavy load. I

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just need a little bit on both ends to get down the road. You know, I'm right there on 385 and we've seen a huge amount of hay come down there. And we swear it's the only place that hay comes out of. And I know 83, 281, all of those corridors going south are just loaded with hay trucks. And like I said, I haul out of the northwest. I go to Wyoming, Colorado, Kansas. All of those states are longer, so I'd like to be competitive. I'm only 60 miles to Wyoming. Colorado, I've got to travel all the way through Nebraska. I'm on an island. I'm surrounded with where I go. Everybody else can run longer. So I would like the opportunity to buy a permit and support the state and run legal. And I also took a stack moving truck off the road which I could haul more bales on it for my weight and put a...and then put a semi on the road. So I would like to be able to run a little longer, run the same amount of bales, and not be as wide. I'm sure some of you have met a stack moving truck on the road and wished he'd had those bales on the back rather than on the side. So if there's any other questions, I'd sure be glad to answer them. [LB740]

SENATOR HADLEY: Are there questions for Mr. Sellman? Senator Louden. [LB740]

SENATOR LOUDEN: Yeah, thank you. Well, thanks for coming down here. [LB740]

RICHARD SELLMAN: You bet. [LB740]

SENATOR LOUDEN: Do you live out there south of Chadron, is that where you live? [LB740]

RICHARD SELLMAN: Yes, south of Chadron, right there on the table. Prettiest part of the state I think. [LB740]

SENATOR LOUDEN: Yeah, I remember going up to your folks' place when you raised Hereford cattle. What's the length of your trailers you can haul on now? [LB740]

RICHARD SELLMAN: I'm currently running a 53-foot drop deck trailer. [LB740]

SENATOR LOUDEN: Okay. And then by putting on this other 6 foot or 6.5, you can get one more layer of bales, is that what you get on there? [LB740]

RICHARD SELLMAN: Yes. And that has variations to the size of the bales, you know. Primarily they're a 5-foot bale. We set them on side by side. We have 10-foot wide loads with round bales. And we're legal to go to 12, I believe, and maybe even longer. I know we can be wider than that with a stack mover. But we're dealing with a 10-foot wide load on these drop decks. And if we had a little bit of length to hang over the front and a little bit to hang over the rear, we would be able to sometimes put another row of bales which would allow for possibly four more bales. [LB740]

SENATOR LOUDEN: Well, now if it was 59 feet you can't have any...or 59'6", you can't

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have any hanging over, right, because you'll...that's what they measure is what's...
[LB740]

RICHARD SELLMAN: It's what is hanging over. [LB740]

SENATOR LOUDEN: ...what's sticking out. [LB740]

RICHARD SELLMAN: Currently, right now, if I load and put two up in the headache rack and load my back end, it will hang over approximately 3 feet the way the round bales are shaped. It's coming up, I have a cradle in the back and I strap it. The lights are visible. I don't have to do anything to my trailer currently to go to the 59.5-foot length.
[LB740]

SENATOR LOUDEN: Now that 59.5, that's just your trailer or does that include your whole truck? [LB740]

RICHARD SELLMAN: Nope, that is exactly the trailer. Us that are running longer wheelbase tractors are able to put a little bit up front. [LB740]

SENATOR LOUDEN: Now if you have a conventional tractor then, that doesn't make any difference whether you have a conventional or cab over? [LB740]

RICHARD SELLMAN: No. It would be the wheelbase of what's behind the cab to the frame of the trailer. [LB740]

SENATOR LOUDEN: Okay, thank you. [LB740]

RICHARD SELLMAN: You bet. [LB740]

SENATOR HADLEY: Any other questions? Mr. Sellman, does the reverse work? By having 53, which is what we have as the law now, does that keep a lot of people from coming from South Dakota, Wyoming, Colorado, and Kansas into Nebraska? I mean, does it impact your competition from those states being able to bring extra bales into the state? [LB740]

RICHARD SELLMAN: We don't have a...we have trucks coming through right now, but that's due to the drought and the oil boom in combination. And most of those trucks that are coming through are hauling hay on a rehaul basis. They're up there anyway. They're hauling hay down. So primarily our extra trucks on the road right now due to the drought, they are 48-footers. A few will be...some are putting some extensions on 48's to get to the 53. South Dakota, you know, you can pull the doubles up there, but 55 is your length. Fifty-three is your length in South Dakota. I primarily load in Nebraska. So we're not seeing those trucks come through. But what we want to deal with is on a

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yearly basis, we're having an abundance of trucks go through right now, but primarily they're not, you know, overlength or overweight because the grass hay, which is predominantly in the north country, is going south. So we're looking at the big picture, the lots of years. We're not looking at this year and next year. We're looking at lots of years. [LB740]

SENATOR HADLEY: Okay. Thank you, Mr. Sellman. Senator Louden. [LB740]

SENATOR LOUDEN: Yeah, one more question. Thank you, Senator Hadley. Then those trucks that are coming down 385 with hay are actually rehauling from the oil fields up in North Dakota? [LB740]

RICHARD SELLMAN: Primarily. Yes. Where I'm based out of Chadron there, 385 and 20, I wish I had a nickel for every truck that went by. I wouldn't have to go get in the truck myself. (Laugh) [LB740]

SENATOR LOUDEN: Well, yeah. The other day before Christmas I drove up to Chadron there and we counted ten trucks between Alliance and Chadron... [LB740]

RICHARD SELLMAN: Oh, a slow day? (Laugh) [LB740]

SENATOR LOUDEN: ...of just hay. [LB740]

RICHARD SELLMAN: Yeah, that would have been a slow day. (Laugh) [LB740]

SENATOR LOUDEN: Yeah, just hay. There was ten loads. And those are primarily rehaul because they were all round bales and they weren't, you know, hanging over a long ways or anything. It didn't matter, they were just hauling something back to... [LB740]

RICHARD SELLMAN: Yeah, and that's exactly right. They're able to...you know, it's a blessing for Texas that the oil boom in North Dakota hit to get the hay back home to Texas is how I feel about it. But, yeah, I deal with the beet hauling trucks every day, and 59.5-foot looks short next to those guys. [LB740]

SENATOR LOUDEN: Yeah. Okay, thank you. [LB740]

RICHARD SELLMAN: You bet. [LB740]

SENATOR HADLEY: Thank you, Mr. Sellman. We appreciate you coming down. [LB740]

RICHARD SELLMAN: Thanks for your time. [LB740]

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SENATOR HADLEY: Are there further proponents for LB740? [LB740]

PETE McCLYMONT: Senator Hadley, members of the committee, for the record my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm here representing the Nebraska Cattlemen membership as vice president of legislative affairs. Our board took a position to support. And I don't want to lengthen the hearing and repeat any of the comments but would be happy to answer any questions if you have any. [LB740]

SENATOR HADLEY: Are there questions for Mr. McClymont? Thank you, Mr. McClymont. [LB740]

PETE McCLYMONT: Thank you. [LB740]

SENATOR HADLEY: Further proponents for LB740? Seeing none, are there opponents to LB740? Seeing none, are there those that wish to testify in the neutral capacity for LB740? Welcome again, Captain. [LB740]

GERRY KROLIKOWSKI: (Exhibit 4) Thank you. Senator Hadley and members of the Transportation and Telecommunications Committee, my name is Gerry, that's G-e-r-r-y, Krolikowski, K-r-o-l-i-k-o-w-s-k-i. I am the commander of the Nebraska State Patrol's Carrier Enforcement Division, and I am here today to testify neutral on LB740. One of the State Patrol's responsibilities is to operate the weigh stations, portable scales, and enforce laws relative to size, weight, load, registration, operator's license, and safe operation of commercial motor vehicles. The purpose of my testimony today is simply meant to bring forth information regarding how LB740 may influence the safe operation of specific vehicles and that, as currently written, may be interpreted for enforcement purposes to actually place greater limitations on the length of drop deck semitrailers. Currently, under State Statute 60-6,288, 60-6,289, and 60-6,290, semitrailers used to transport baled livestock forage during daylight hours are allowed to be 12 feet in width, 15 feet 6 inches in height, and 53 feet in length with no limitation on the length of the truck-tractor. One of our core missions is to be mindful of the safe operation of vehicles and highway safety in general. Baled livestock forage, like any other divisible load placed upon a vehicle that does not fully enclose such contents, is difficult to be adequately secured to such vehicle. In reading the proposed changes to 60-6,305, it is the Patrol's understanding that without a permit the combination of a drop deck semitrailer and a truck-tractor will be allowed to be 18 feet wide, 18 feet high, and 65 feet long at any time during daylight hours. It is also the Patrol's understanding that under subsection (5) of this statute such vehicles may be able to obtain a permit to operate up to 25 feet wide with no limitation on height and length. As written for enforcement purposes it is likely that the proposed language will be interpreted that any drop deck semitrailer operating under the exceptions found in 60-6,305 will need to include a special implement attached to it in order to load, unload, and move such

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product. Unlike the actual livestock forage vehicles, most commonly referred to as stack movers, which have a width ranging from 10 to 16 feet, most drop deck trailers have a manufactured width of 8 feet. We share this with you as you consider the overall safe operation of such vehicles, especially if the intent is not to require these trailers be adequately equipped with such an implement. It is also the Patrol's belief that the new language as proposed may be interpreted that the vehicle combination of a semitrailer and truck-tractor will be limited to a length of 65 feet. This would in fact place a greater restriction on the length of what such combinations can currently be. A semitrailer, empty or loaded included, is allowed to be 53 feet long with no limitation on the truck-tractor. In closing, I appreciate the opportunity to be here today to provide information from an enforcement perspective. The State Patrol strives to provide professional application of the law as deemed appropriate by this body. Thank you for your consideration, and I would be happy to address any questions you may have. [LB740]

SENATOR HADLEY: Senator Louden. [LB740]

SENATOR LOUDEN: Yes, thank you, Senator Hadley. Well, Gerry,--and I'll call you Gerry because I think that's easier for me--where are you reading that this is, as I say, 18 feet wide? Where are you reading that in this bill? [LB740]

GERRY KROLIKOWSKI: Well, if you look at...let me walk you through it here, Senator. On page 3, which starts with the Statute 60-6,290, okay, that is the length statutes. That's where you gain the length of vehicles, the legal length of the vehicles. And if you turn to page 4, at the bottom, this language removes the wording of "unbaled," clear down at the bottom, Senator; (d) removes that and then adds language--"that comply with (2) of section 60-6,305." [LB740]

SENATOR LOUDEN: Okay. And that's... [LB740]

GERRY KROLIKOWSKI: Which then takes you to livestock forage vehicle, so there it says that it will have to adhere to the limitations of 60-6,305, or give you the exemptions under that. [LB740]

SENATOR LOUDEN: Okay. Then that's what we have to look at is that 60-6,305. That's the culprit in here, is that what you're saying? [LB740]

GERRY KROLIKOWSKI: That's where we're looking at, yes. [LB740]

SENATOR LOUDEN: Okay. [LB740]

GERRY KROLIKOWSKI: Because the length statute refers you to this statute, which essentially gives you the actual length. [LB740]

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SENATOR LOUDEN: If it was going to say 18 feet wide, that's pretty wide to go down a 24-foot highway. [LB740]

GERRY KROLIKOWSKI: Yes, sir. You know what a stack mover is on... [LB740]

SENATOR LOUDEN: Well, yeah, they're... [LB740]

GERRY KROLIKOWSKI: ...you know, with the wide, wide bed and... [LB740]

SENATOR LOUDEN: Some of them are 15 feet wide and some of them are 14 feet wide, depending on which one you have. And they're usually 22 or 24 feet long. [LB740]

GERRY KROLIKOWSKI: Yes. [LB740]

SENATOR LOUDEN: I've got...I've hauled a lot of hay with stack movers down the highway, that's the reason. And anyway, that's what I was...my concern was, is when you talk about these widths here, that I guess we'll have to look this over then, because I was somewhat surprised, because that wasn't anything I did but I certainly didn't stop and look up 60-6,305. So thank you for your testimony. [LB740]

GERRY KROLIKOWSKI: Thank you. [LB740]

SENATOR HADLEY: Are there further other questions? Senator Janssen. [LB740]

SENATOR JANSSEN: Thank you, Vice Chair Hadley. I could try this: Patrolman Krilkowski (phonetic). Close enough? [LB740]

GERRY KROLIKOWSKI: Krolikowski. [LB740]

SENATOR JANSSEN: Krolikowski. [LB740]

GERRY KROLIKOWSKI: You can call me Gerry as well. [LB740]

SENATOR JANSSEN: (Laugh) Okay, thank you. Just in your testimony I wanted to clarify one thing. Maybe I heard it wrong, but just on the top of your second page, the first sentence you said, such vehicles may be able to obtain a permit and operate up to I think you said 25 feet and in your testimony I have it says 20 feet. Is it... [LB740]

GERRY KROLIKOWSKI: Correct, there's, if you look at 60-6,305... [LB740]

SENATOR JANSSEN: Is it 20 feet? [LB740]

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GERRY KROLIKOWSKI: It's 20...well,... [LB740]

SENATOR JANSSEN: That's what I...I thought you said 25, and I was reading along with you and I... [LB740]

GERRY KROLIKOWSKI: It's 18 feet wide. But then subsection (5) of 60-6,305 would allow such a vehicle to get a permit from the county to go up to 25 feet wide with no limitation on height or length as long as they operate, and that permit is good for only that county and adjoining counties. [LB740]

SENATOR JANSSEN: All right. Am I...is this a typo then in the top of your testimony, the second page? [LB740]

GERRY KROLIKOWSKI: Yes. [LB740]

SENATOR JANSSEN: Is that a typo then? Is it 25 or 20? [LB740]

GERRY KROLIKOWSKI: It says 25 feet wide. Yeah, if you turn to...and the language is in the bill. [LB740]

SENATOR JANSSEN: I'm just looking at your testimony sheet. [LB740]

GERRY KROLIKOWSKI: Yeah, 25. [LB740]

SENATOR JANSSEN: Okay. [LB740]

SENATOR CAMPBELL: It only says 20. [LB740]

SENATOR JANSSEN: Maybe I've got a different one. [LB740]

SENATOR PRICE: No, mine only says 20. [LB740]

GERRY KROLIKOWSKI: Oh, I'm sorry. My apologies. Then we... [LB740]

SENATOR PRICE: We're back on the same sheet you're using now? [LB740]

GERRY KROLIKOWSKI: Yes. It's 25. I'm sorry. [LB740]

SENATOR JANSSEN: And bring me up to speed on these permits. I know we have certain permits now. How do you enforce those? Are those done at your stations, your weigh stations if somebody has a permit or not? [LB740]

GERRY KROLIKOWSKI: For over-dimensional permits? [LB740]

SENATOR JANSSEN: Yeah. [LB740]

GERRY KROLIKOWSKI: Typically, the over-dimensional permits are issued by...Department of Roads is the biggest issuer because they issue the permits for over-dimension or overweight for their jurisdiction, which means the state highways. Counties can as well. Whoever has jurisdiction over those roadways are the ones that issue the permits. We just enforce the permits. [LB740]

SENATOR JANSSEN: So you enforce them at the weigh stations or do you enforce them... [LB740]

GERRY KROLIKOWSKI: Weigh stations or portable scales. Yes. [LB740]

SENATOR JANSSEN: And is there anything in this bill that...I mean do you think you could work with Senator Schilz on the language a little bit to make this a little bit more palatable to the State Patrol? [LB740]

GERRY KROLIKOWSKI: Yeah, and that's why we decided to come here to testify is because there are a lot of points in here. We wanted to assume that they were going after or requesting 59'6" on a semitrailer with a divisible load of hay. But that wording in itself is in a registration statute which has no bearing on the rules of the road statutes where your size of vehicles lie. [LB740]

SENATOR JANSSEN: Okay, thank you. [LB740]

GERRY KROLIKOWSKI: Yeah. [LB740]

SENATOR HADLEY: Captain, a couple of questions. What is the reasoning or kind of the policy behind issuing permits? Is it a revenue generating process or is it recordkeeping? Why not just change it, if we're going to change the law and say you can do it up to 59.5 feet and not have to go through the process of getting a permit? [LB740]

GERRY KROLIKOWSKI: Well, a lot of it centers around, Senator, some previous testimony about federal dollars given to the state jurisdictions and so forth for federal highway funds. And in those federal laws it allows states and jurisdictions to issue permits for nondivisible loads, okay? Once you start getting into divisible loads, that opens up a whole other can of worms and the permit essentially allows a vehicle hauling whatever is decided in the law to exceed the legal weight or size limitations in your statutes. In other words, it's a...poor choice of words, but a way of them to exceed the legal limitations is what I want to say. [LB740]

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SENATOR HADLEY: Okay, okay. And I guess maybe that answers my second question, because earlier we were talking about the beets and the double trailers 65-foot long. [LB740]

GERRY KROLIKOWSKI: Yes, sir. [LB740]

SENATOR HADLEY: And here we're talking just having a permit to go to 59. So I'm trying to figure out how, why 65, if it's a divisible load, and that's what I assume you mean by two trailers. I'm concerned why the different... [LB740]

GERRY KROLIKOWSKI: Well, I'm...that was part of our concern as well, Senator, is that knowing that 59'6", where it's lying in the statute has no bearing on the length statutes to begin with. Then we had to look at the language change in 60-6,290 and 60-6,305, and it started to cause us to question what the intent was or what the desire was here, because they weren't going to get there. And the 65 feet also is, just a word of caution about trying to draft something more here, is if you looked to...it has to be carefully worded because of the, like we mentioned before, the federal freeze. If you go to allow this trailer to be 60 feet, 65 feet, whatever the number is, but if you don't word it right and allow it to be pulled by another vehicle, that's a cargo carrying vehicle, now you have two cargo carrying vehicles. And now...if you exceed the original limitation that that freeze put on, you could be in jeopardy again. So it has to be very carefully written if you're going to look at exceeding any, especially the length limitations. [LB740]

SENATOR HADLEY: We have an outstanding legal counsel for the Transportation and Telecommunications Committee... [LB740]

GERRY KROLIKOWSKI: Yes, I know. [LB740]

SENATOR HADLEY: ...that can probably handle any kind of. Any further questions for the Captain? Thank you, Captain. [LB740]

GERRY KROLIKOWSKI: Thank you. [LB740]

SENATOR HADLEY: Are there further testifiers in the neutral? Seeing none, I believe that...no, we're going to have Senator Schilz close. [LB740]

SENATOR SCHILZ: Thank you, Senator Hadley. I guess I should have asked you before. I didn't have to close if you guys will all vote it out of committee. But thank you today for sitting and listening to this bill. I understand...I want to thank the State Patrol for coming in and giving their advice on this. I really do appreciate it. Quite honestly, what we want to do is we want to create a situation where somebody that's hauling hay in the state of Nebraska can have a load length on the trailer of 59.5 feet. That's all we want to get to. If we don't want a permit for that, I'd be fine with that, and I'm guessing

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the guys behind me would be great with that too. But if we need that there to take care of some of the issues that may go on and everything, that's fine as well. But I want to work with the committee, with the State Patrol, and with whoever else to make sure that we can get this bill put in place, get it put into law and move forward. Thank you very much. [LB740]

SENATOR HADLEY: Are there questions for Senator Schilz? Thank you, Senator Schilz. With that, I will close LB740 and turn the committee over to the real Chair. [LB740]

SENATOR FISCHER: Thank you, Senator Hadley. I will open the hearing on LB922. Welcome, Senator Mello.

SENATOR MELLO: Good afternoon, Chairwoman Fischer and members of the Transportation and Telecommunications Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. LB922 is legislation devised to address an ongoing problem in my legislative district: the numerous spills by trucks carrying cattle and other livestock to the multiple meat packing plants in south Omaha. These spills are not only a potential public health hazard but also have a tendency to cause numerous traffic accidents on the off ramps of Highway 75, better known as the Kennedy Freeway, at the L Street and Q Street intersections. Data collected by the city of Omaha and presented to the South Omaha Environmental Task Force shows that in a 14-month period, from August 2009 to October 2010, there were over 42 documented manure spills on streets and roadways in south Omaha alone. The South Omaha Environmental Task Force, an organization that seeks to address neighborhood and environmental concerns surrounding the south Omaha meat packing plants and industrial corridor, has been working with industry groups, like the Nebraska Trucking Association and the Nebraska Cattlemen's Association, to try to address this problem for much of the last decade. While these manure spills fall under the existing load spillage statute of 60-6,304, current practice has been that most violations of load spillage statute result in a minimum fine of \$100. By contrast, if the same spill were to happen on the premises of the various meat packing plants in south Omaha, those businesses assess a \$500 fine, actually resulting in an incentive for truckers to spill manure on Nebraska roadways and streets instead of on private property. LB922 would amend the existing load spillage statute to provide a separate subsection that applies only to manure spills. A violation under this new subsection would still be a Class IV misdemeanor, but also carry a mandatory minimum penalty of \$250. While this is a fairly modest increase that doesn't bring the current fine levels in line with the private businesses, it is my hope and the hope of the south Omaha area businesses that an increase in the level of fines will serve as a deterrent for the few bad actors with whom education and ongoing advocacy by SOETF and partners have been ineffective. The new subsection language provided for in LB922 is based off existing city of Omaha ordinance language, so many of the current livestock

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transport companies already fall under this language. In drafting LB922, my office worked with the Nebraska Trucking Association, the Cattlemen Association, and the Nebraska Farm Bureau to try to ensure that any new language would be in keeping with the existing load spillage language. As we move forward, however, I intend to work with those organizations and others who will testify today to ensure that any refining of this new language will ensure that only manure spill problems get addressed and there won't be any unintended consequences. Thank you for your time, and I'd be happy to answer any questions you may have. [LB922]

SENATOR FISCHER: Thank you very much, Senator Mello. Are there questions?
Senator Price. [LB922]

SENATOR PRICE: Senator Mello, I have a question that...on the language that you have here in section...it's looks like it might be (2)(a), that whole new paragraph there. [LB922]

SENATOR MELLO: Um-hum. [LB922]

SENATOR PRICE: Does that exist already in current statute somewhere else word for word or is that all new language? [LB922]

SENATOR MELLO: That is the language, Senator Price, that I mentioned is similar ordinance language within the city of Omaha. So that similar language is within the city of Omaha's charter which regards to city issues and city fines in regards to manure spills. [LB922]

SENATOR PRICE: Okay. So this isn't currently anywhere else. [LB922]

SENATOR MELLO: No. [LB922]

SENATOR PRICE: Okay. Because my question is, it says here on line 8, lines 7-8, where you talk about all door openings, seals and gaskets, other seals, gaskets, and seams "are maintained in proper condition." And how do we determine what proper condition is? I mean, I've maintained a lot of vehicles in my day. And I don't want to be...I'm not trying to throw rocks at this. What I just want to know is, where do we find the fallback in statute for "maintained?" [LB922]

SENATOR MELLO: Senator Price, that's a good question. And I believe some of the groups I mentioned in my testimony who will testify after me in the neutral capacity will explain that this is the language that we are trying to find out and figure out, that that language may be problematic, obviously, in the sense of how it's defined within the city of Omaha's ordinance in comparison to a state statute. The underlying purpose and focus without that language is to provide a mandatory minimum increase in the fine from

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\$100 to \$250, in part due to the incentive that currently exists for truckers, while there may be a few bad actors, to spill manure on Nebraska roadways and streets instead of doing it at the private plant. So as I mentioned, my office is going to be working with the multiple groups that testify after me to either remove this language or clarify it so that we really want to get to the issue of reckless truckers who are acting as bad actors and who are not fulfilling their legal obligations in their current statute to not spill manure on roadways and streets. [LB922]

SENATOR PRICE: Thank you. [LB922]

SENATOR FISCHER: Thank you, Senator Price. Other questions? I see none. Thank you, Senator Mello. [LB922]

SENATOR MELLO: Thank you, Senator Fischer. [LB922]

SENATOR FISCHER: Are there proponents to the bill? Would the first proponent please step forward. Good afternoon and welcome. [LB922]

DUANE BROOKS: (Exhibits 5 and 6) Thank you. Good afternoon, Chairwoman Fischer and members of the Transportation and Telecommunications Committee. My name is Duane Brooks, D-u-a-n-e B-r-o-o-k-s, and I'm appearing today to testify on behalf of the South Omaha Environmental Task Force. Unfortunately, our chairman, former Senator Don Preister, could not be here today, but I would like to read the following remarks on his behalf. Chairwoman Fischer and members of the Transportation Committee, thank you for your service to the people of Nebraska and for this opportunity to present testimony in support of LB922. We thank Senator Mello for his work on the issue and the bill. My testimony is on behalf of the South Omaha Environmental Task Force, but a few of our members remain neutral. I chair the South Omaha Environmental Task Force that brings together businesses, government, and residents to seek solutions to our industries' problems in our committee. It works better when I have my glasses on. Thank you. The South Omaha Environmental Task Force was organized 40 years ago by business leaders from the stockyards and packing industry to mitigate problems associated with their businesses. Rodents, strong odors, and manure spilled on streets were problems having negative impact on the city image that they wanted to stop. With much cooperative effort, we have greatly reduced all of these problems. Now it is rare to get rodent complaints, and odors are vastly diminished. Manure spills from cattle trucks are way down, but despite our best combined efforts they remain a daily occurrence. Partly this is due to the volume of 100 loads per workday entering our area. We see 95 to 98 percent of our truckers as conscientious in driving and maintaining their trucks and loads. It is that remaining two to five loads a day that have caused serious problems from their spills. Resulting traffic wrecks including a near fatal motorcycle accident have moved onto the interstate, further concerning the State Patrol and Department of Roads. Given the volume of interstate traffic, it is nearly impossible to use road cleaners

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for spill removal. Driving on a manure slick is like being on ice; it is dangerous. Our focus must remain on preventing spills through education with the Nebraska Trucking Association, Nebraska Cattlemen, packers, State Patrol, Department of Roads, and other members. I commend our business partners for their sincere ongoing efforts to prevent problems. The letter given out by the packers to the truckers, see the attached, the excellent articles written over the years by Nebraska Trucker magazine, Carrier Enforcement, and the Road Department also help. We are all doing what we can and now turn to the Legislature for one more tool to use. Education is working but it has its limits. When packers posted and enforced a \$500 fine for truckers spilling manure on their properties, the spills stopped. Packers only have authority on their own property though. LB922 extends their reach area by increasing the current fine to \$250. The present \$100 fine has not been a deterrent for a few of the persistent violators. The responsible drivers will never be affected by this increase. It is the last irresponsible drivers that we are attempting to change by this legislation. Even they will not be impacted if they drive and operate properly. That is what we seek. LB922 brings additional attention in the statute to this issue. The awareness of increased penalties will serve as a deterrent. It is another tool for us to use in our ongoing efforts. Our goal is to change the offensive behaviors of a few that all of the other 98 percent responsible drivers already abide by, but are negatively impacted by this. The legislation requires proper operation of truck trailer equipment, which should already be required, and updates an old fine with a more effective increase. I ask your favorable advancement of LB922 to the full Legislature. Thank you for the courtesy of hearing my testimony. Respectfully, Don Preister, South Omaha Environmental Task Force Chairman. And thank you for your time. And I would be happy to answer your questions. [LB922]

SENATOR FISCHER: Thank you, Mr. Brooks. Are there any questions? Senator Louden. [LB922]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. What kind of spills are you talking about now? Are you talking about spills that if they have the traps open on the bottom of their truck, are you talking about spills that slide over the top of the truck, or what are you talking about? [LB922]

DUANE BROOKS: I'm thinking this through very carefully. I have seen a truck on Interstate 80 going eastbound toward the packing houses with its trap open, obviously, because there was stuff running out of the bottom of the truck and impacting my windshield. [LB922]

SENATOR LOUDEN: Now that's against the law now isn't it? [LB922]

DUANE BROOKS: That's against the law now. Of course, I don't have... [LB922]

SENATOR LOUDEN: Has been for a long time. [LB922]

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DUANE BROOKS: Right. But there was a problem right there. That happened to me personally. I work primarily in the south Omaha area, even though I do go west. But where I see it the most is out of the stockyards area. In the summertime you can see the brown haze on the interstate, and this brown haze is not dirt. It...being a dust as such, this is being thrown up into the air. Now I don't know what's in cattle manure, but I bet it's not all healthy for you. Maybe it is, but it's awful. (Laughter) I guess the sweet smell of success. [LB922]

SENATOR LOUDEN: Vitamin B. It's Vitamin B12 in case you're wondering. [LB922]

DUANE BROOKS: Okay, I'm not all sure. But there on the curves of the interstate, the exit ramps, for example, leaving south Omaha on the Kennedy Freeway and you turn to go westbound, along that area there is forever full of manure, and I mean there are big splatters of it here and over there on the side. [LB922]

SENATOR LOUDEN: Now does that come from the...is that an animal, a cow or a steer or something backed up against the side of the truck and where that comes from? Because the way this bill is you don't spill any of it. And I don't know how you're going to stop some of those animals from backing up to the side of the truck and doing whatever they naturally do. [LB922]

DUANE BROOKS: I would say that this is probably an empty truck because these are leaving south Omaha; they're not going to south Omaha. This is going westbound. And there's another spot on the interstate that you wouldn't expect, but it's on Interstate I-680 and the exit ramp to go westbound onto Dodge Street. There's a large curve there, in fact it's two curves. And on any given day you can go out there and you can see where there's been a spill. Now this is headed toward western Nebraska. So when it gets out of the city of Omaha, what happens? When it's going like to Fremont and that big turn that goes around Fremont, I'll bet you could probably find it there also. So I mean it's a major spot. I've got to say something: I find this extremely--I don't know the right word to use--irritating, whatever, it's an extremely bad thing to happen to us in the city of Omaha. I walk my dog two or three times a week, and I carry with me a little plastic sack and I pick up the dog manure when it does its thing. I don't think it's right for a trucker not to take the time before he leaves the packing houses to not clean it; to dump their manure. [LB922]

SENATOR LOUDEN: Do they have an area there at that packing house to wash trucks out? [LB922]

DUANE BROOKS: I am told that there is. I do not know that for a fact; I've never seen it. [LB922]

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SENATOR LOUDEN: Because usually, and I'm mean we've (inaudible) Natural Resources and the Department of Environmental Quality, and yeah, there's one on, what, Interchange 237 in Lexington. And they've been fighting with them for years because they're out of compliance, and they always have to be in compliance. So I'm questioning if they have one there to wash trucks out, there's another problem with compliance. So I'm wondering if that. My next question was, do you wish to...have you petitioned to have those packing houses moved out of Omaha down there so you didn't have that problem? [LB922]

DUANE BROOKS: I can't answer that question for you, Senator. I don't know that. [LB922]

SENATOR LOUDEN: Because that all goes with it, you know, and... [LB922]

DUANE BROOKS: I don't think the packing houses are going to leave Omaha. [LB922]

SENATOR LOUDEN: And Senator Preister always said he always called himself an SOB--a south Omaha boy--and rode bicycles and everything down through there. [LB922]

DUANE BROOKS: That's right. [LB922]

SENATOR LOUDEN: So we've discussed that at length all the time. But that goes with going down there. I can remember going down L Street, you know, over 50 years ago and it was the same thing, only then you had these trucks and it was coming out over the top, part of the time. [LB922]

DUANE BROOKS: They didn't have traps at that time. [LB922]

SENATOR LOUDEN: No, but they didn't have as solid of sides as they do now, so that was all part of it. So I'm wondering, you know, what we're doing to stop some economic development down there because that's what...that's the reason you have it down there is because you got these, what, four packing houses down there? [LB922]

DUANE BROOKS: Yes. [LB922]

SENATOR LOUDEN: And what is...how many people work in those four packing houses, you know, and how much is that to the economy of that particular area having these packing houses? And my next question is, is what's worse?--cattle manure or just plain oil on the street dripping out of your cars as far as the environment is concerned. [LB922]

DUANE BROOKS: I can't answer that question for you, Senator, I'm sorry. [LB922]

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SENATOR LOUDEN: Okay. Well, thank you. [LB922]

DUANE BROOKS: Thank you. [LB922]

SENATOR FISCHER: Thank you, Senator Louden. Senator Campbell. [LB922]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Brooks, I was taking a look at the information that you provided to us. And one of the people who...one of the folks who signed the letter to the truckers was from the Iowa Motor Truck Association. Do you know whether Iowa has similar laws or have you approached Iowa? [LB922]

DUANE BROOKS: I can't answer that question for you, Senator. I'm so sorry. [LB922]

SENATOR CAMPBELL: Because I was struck by the fact that it was signed by the Iowa Motor Truck Association. So I thought perhaps they had some legislation. [LB922]

DUANE BROOKS: I know some of them come to our meetings at times, but I can't tell you what legislation is there. [LB922]

SENATOR CAMPBELL: Okay, thank you, Mr. Brooks. [LB922]

SENATOR FISCHER: Thank you, Senator Campbell. Senator Price. [LB922]

SENATOR PRICE: Thank you, Senator Fischer. Sir, thank you for coming down to testify. I know it's hard to read other people's writing. It was difficult enough to read it. I was noticing, and if you can't comment, I understand, but you can take it back. [LB922]

DUANE BROOKS: And I'll tell you so. [LB922]

SENATOR PRICE: The third line on the last paragraph on that front side of your letter from Mr. Preister says, "LB922 extends their reach." It seems to intimate that we're extending the reach of the packing plant into Omaha. And I would beg to differ what that... [LB922]

DUANE BROOKS: And I would agree with you. As I read this the same way, I thought to myself, now it isn't going to be the packing houses that will extend their reach. It will extend the reach of... [LB922]

SENATOR PRICE: It would just increase the fine... [LB922]

DUANE BROOKS: The fine. Right. [LB922]

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SENATOR PRICE: ...and tighten it up for what you would be fined for by the state.
[LB922]

DUANE BROOKS: I agree. [LB922]

SENATOR PRICE: Just take that back as a nugget. I appreciate that. [LB922]

SENATOR FISCHER: Okay. Thank you, Senator Price, for asking that clarification. Other questions? I just have a short one for you. As I understand it, your major concern is when they open the traps on these trucks and just release the waste as they're driving down the road and they're not disposing of it properly. Is that correct? [LB922]

DUANE BROOKS: No, that's not correct. [LB922]

SENATOR FISCHER: Oh, okay. [LB922]

DUANE BROOKS: I've seen that happen personally myself, and I'm not so sure that it was a trap that opened. Maybe it opened on its own. I can't tell you what happened. But I believe that our--oh, what's the word?--our support of this is because of the vehicles that spill when they're not supposed to be doing so I guess is the way to say it. I don't believe any of them actually open their traps and drain them as they're going down the highway. I don't think they do that on purpose. That's my opinion. Maybe I am wrong. [LB922]

SENATOR FISCHER: Do you believe these are intentional spills by the truckers?
[LB922]

DUANE BROOKS: No, I do not believe so. [LB922]

SENATOR FISCHER: How do you regulate accidental spills then? [LB922]

DUANE BROOKS: I don't know. But I do know that if they would clean their trucks out before they left we wouldn't have the problem, would they. [LB922]

SENATOR FISCHER: So you are...I'm just trying to clarify this. [LB922]

DUANE BROOKS: Right. [LB922]

SENATOR FISCHER: So you are hoping that after the cattle are taken off the truck at the packing plants that the truckers maybe should be required then to empty their traps at that point so there are no accidental spills? [LB922]

DUANE BROOKS: That is correct. [LB922]

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SENATOR FISCHER: Okay. So you're not targeting when the cattle are on the truck being taken to the packing plants and there might be accidental spills? [LB922]

DUANE BROOKS: (Laugh) I refuse to answer on the grounds...no. (Laughter) No, I would...dumping manure... [LB922]

SENATOR FISCHER: I mean there are going to be...I just...my point is there are going to be accidental spills. [LB922]

DUANE BROOKS: Yes, there are. [LB922]

SENATOR FISCHER: You know, accidents happen. These are animals. There are...as Senator Louden was explaining, things happen. [LB922]

DUANE BROOKS: Right. [LB922]

SENATOR FISCHER: So when the cattle are on the trucks things happen. But once the cattle are taken off the truck, I'm just trying to say is that your concern? And possibly, you know, we can work this so that would be identified. I think it would be harder to make changes when spills truly are accidental and cattle are on the trucks and the drivers haven't had a chance yet to empty. [LB922]

DUANE BROOKS: I would agree with that. [LB922]

SENATOR FISCHER: Okay. Okay. Thank you. Any other questions? I really appreciate you coming in today. Thank you very much. [LB922]

DUANE BROOKS: Thank you very much for listening to me. [LB922]

SENATOR FISCHER: Yes. Our pleasure. We like to have citizens come in. Thank you. Next proponent, please. Good afternoon and welcome. [LB922]

MIKE BATTERSHELL: Good afternoon. He's always a hard act to follow. Good afternoon. My name is Mike Battershell, Mike B-a-t-t-e-r-s-h-e-l-l, and I'm here representing the South Omaha Neighborhood Alliance. Quickly, just to address before I forget a couple of concerns that were addressed. There are truck washing...Senator Louden, to your question, there are truck washing stations in south Omaha all throughout. So we hope that they would utilize them either entering or leaving, full or empty, to make sure that those spills don't occur. So thank you for your service to the people of Nebraska. I'm here to provide support for testimony...or testimony in support of LB922. As the president of the South Omaha Neighborhood Alliance, we enhance south Omaha neighborhoods through communication, community collaborations,

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empowering families, and promoting positive perceptions of south Omaha. We have worked since inception to ensure the environment in the community of south Omaha is strengthened through relationships with both public and private entities. We work with the South Omaha Environmental Task Force, South Omaha Business Association, the potentially and impacted businesses of LB922 and other regulations similar, to ensure that neighbors are not impacted by the heavy industrial businesses within our district. We have appreciated the longstanding positive relationship built on trust, response, willingness to listen and act to improve the physical environment of those most closely impacted by industrial and manufacturing facilities in south Omaha. Further, we appreciate and value those businesses for their positive impacts on the economy and the strengthening of households throughout all of Omaha. As an association, we've been successful at educating and implementing efforts to increase awareness surrounding the environmental impact of spills, smells, and trucking in south Omaha. To that end, we support LB922 and hope you'll advance it for discussion in the full Legislature as an additional comment and commitment by the state of Nebraska to ensure a stronger deterrent is created to discourage actions and bring into compliance the remaining few drivers who don't value the streets and lifestyle of our community. Thank you. [LB922]

SENATOR FISCHER: Thank you, Mr. Battershell. Are there questions? Senator Hadley. [LB922]

SENATOR HADLEY: Senator Fischer, thank you. Mr. Battershell, I always hate to ask a question if I don't know the answer, but I'll give it a shot. Could the city of Omaha pass laws that would impact this and require a \$250 or a \$500 fine for doing this? Well, I guess I keep hearing, you know, it's brought by the city of Omaha and a concern of the city of Omaha. Can the city council say that if... [LB922]

MIKE BATTERSHELL: I think it's currently in statute. And I can't speak to the specifics because that's not my area. But I would think that current statute at the state level says that the fine is \$100. So you would have to remove that from statute to allow and then I would assume give authority to the city to fine. But I don't know that it's just an Omaha issue. I'm just simply speaking on behalf of south Omaha as the current impacted areas, as our streets are splashed. I mean, as Duane alluded to, that westbound 80 traffic out of Omaha, you see the overspilling on those curves. But to your question specifically, I don't...I would assume that being in statute we couldn't pass an ordinance without your approval. [LB922]

SENATOR HADLEY: Okay. Thank you, Senator Fischer. [LB922]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thank you so much for coming in today. [LB922]

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MIKE BATTERSHELL: Thank you. [LB922]

SENATOR FISCHER: Any other proponents for the bill? Are there other proponents? Are there opponents to the bill? Any opponents? I see none. Anyone wishing to testify in the neutral capacity? Good afternoon, Mr. McClymont. [LB922]

PETE McCLYMONT: Good afternoon, Chairman Fischer and members of the Transportation Committee. For the record, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm vice president of legislative affairs for the Nebraska Cattlemen. And my board had initially voted to oppose this bill. But in working with Senator Mello, I agreed to testify in a neutral capacity as we worked through some of the challenges that have been brought up and some of the questions. First off, the reasons that we had initially opposed the bill was, number one, Senator Price's point. Right now if somebody has a spill they can be fined, obviously, as identified with the 42 spills that Senator Mello talked about. So we felt like that additional language was redundant and unnecessary and open-ended to the point that it might create more lack of clarity. The second point is that, through Senator Mello and Senator Preister, for over two and a half years they've been kind enough to invite us as the Cattlemen to come and participate in the South Omaha Environmental Task Force meetings, and we really appreciate that. And so I have been in contact with the Iowa Cattlemen's Association because it's a fair and reasonable thought that there are many cattle coming to these plants from Iowa as well as Nebraska, being obviously on the border. So we have done that. But the question that arose that was another primary reason that our board voted to initially oppose it was because if this was an issue statewide, the State Patrol, DOT, counties, sheriffs, they would have obviously voiced their concerns about it. So in respect to Senator Mello and Senator Preister having attended these meetings, it's a concern, as you heard from Mr. Brooks and Mr. Battershell. So, you know, that's a large reason why we appreciated being involved in it. But to Senator Hadley's point, that was our concern and that's why we would like to work with you, Chairman Fischer and legal counsel, because if this can be resolved with an ordinance in Omaha it would be wise that it would be done that way. I have been told, and that's why we need to do further research, that the primary spills are coming on Highway 275, which is a U.S. highway. And I was told that because it's a U.S. highway, hence we're here. So if that in fact is the case, I understand that. So my concern is in terms of the fine is if somebody is delivering cattle out to Jack Hunter's barn in Crawford or they're going to the sale barn in Ogallala or wherever they might be going, we don't want to paint a broad brush and have those people fined when it isn't a problem. On the flip side, these people, the South Omaha Environmental Task Force has been working a long time, and this subject comes up at every meeting and so they're trying to do something. So we thought Mr. Larry Johnson, with the Nebraska Trucking Association, maybe this is a business opportunity to build a washout in close proximity to these plants. Maybe somebody could purchase a truck and put a tank on it and they could go and for X amount of dollars suck out the effluent out of the trailer, so that way when the trucks are exiting they do not create spills. But nonetheless, you

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know, there's a problem. So with that, we told Senator Mello and his staff our concerns like I just shared with you. And we will work with him and you to try to come up with something that can address south Omaha and their issues but yet not implicate the rest of the state. [LB922]

SENATOR FISCHER: Thank you, Mr. McClymont. I think there's a number of issues we can look into that could be possible solutions to this. Are there questions? Senator Price. [LB922]

SENATOR PRICE: Thank you, Senator Fischer. I'll ask this to you because I'm not sure if we're going to get closing. But on that page 3, line 11 of the green copy, it talks about being a violation whether or not there was a spill. I mean it almost seemed to me like I could get a ticket for speeding whether or not I was speeding. I just bring that up for general, you know. It says here you will be fined even if there isn't a spill. That's somewhat problematic. Just if you want to take a swing at that softball or not, I don't know. [LB922]

PETE McCLYMONT: (Laugh) Well, and that was our point when we communicated with Senator Mello's office. Knowing the issue there, we respected what he's trying to do. On the flip side, the new language was the biggest red flag we saw when we were looking at the bill initially, so. And in fairness, I just want the record to show Senator Mello and his staff sent me the bill in November, so we've been talking. [LB922]

SENATOR PRICE: Thank you. [LB922]

SENATOR FISCHER: Thank you, Senator Price. Senator Campbell. [LB922]

SENATOR CAMPBELL: And, Mr. McClymont, my comment is really more for the record, and ask and request that we look into whether Omaha, I'm sure, is under a home rule charter as a city, and whether they have the ability to do this. That would be my concern. I would have to say unless, you know, if it is a state highway and we have to take care of it, that's one thing. But under a home rule charter, I think we need to find that out. And maybe Senator Mello knows that when he closes, and could address that. [LB922]

PETE McCLYMONT: I would agree. Thank you. [LB922]

SENATOR FISCHER: Senator Louden. [LB922]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Pete, do you get over to Lexington very often or the packing house at Grand Island? Now is there a problem going in and out of Lexington into that packing house like this? [LB922]

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PETE McCLYMONT: Well, like George Washington, I cannot tell a lie, Senator. When you exit the interstate and you see the off ramp going into town to the plant, there are spills there, yes. I've seen them. Are they frequent? No. [LB922]

SENATOR LOUDEN: Okay, because I pull in there sometimes and we gas up and that sort of thing in there. And I guess I've never noticed this big issue. But maybe I'm used to something like that and don't see it, or I'm not on a motorcycle. And that's what I'm wondering, whether this is something just more or less in Omaha or is it because of the traffic, or is every packing house we have in the state of Nebraska has this trail leading in and out of it, I guess. [LB922]

PETE McCLYMONT: Well, my understanding, and having driven it to go to these meetings that Senator Preister holds, when you're coming off I-80, whether eastbound or westbound, and you go south on the South Kennedy Expressway, Highway 75, if they're taking that curve you can see if the possibility or if someone hadn't cleaned out and, depending on how far they've hauled the cattle, the amount of manure they've collected, if they're going too fast you can see how that could happen. But, you know, obviously, there's a tremendous amount of traffic in that area compared to Lexington in your example. [LB922]

SENATOR LOUDEN: Now is that because of something coming out the bottom or is that something coming out the sides? [LB922]

PETE McCLYMONT: My "guesstimation" would be the sides. [LB922]

SENATOR LOUDEN: Rather than coming out from the bottom. [LB922]

PETE McCLYMONT: Yeah. [LB922]

SENATOR LOUDEN: There isn't much you can do about that coming out the sides, is there? [LB922]

PETE McCLYMONT: That's true. And actually it's probably when the cattle are in there, they actually act as a baffle. So if there is some movement of the effluent within the trailer, you know, it's not going to go. But if they exit and they're driving too fast that's a possibility. [LB922]

SENATOR LOUDEN: No, but I mean coming out the sides, coming out from the cattle that are standing in there rather than coming out from off the floor of the semi. I've hauled a lot of cattle and you don't haul, in a straight truck, and you don't leave your window rolled down. (Laughter) Thank you. [LB922]

PETE McCLYMONT: Thanks. [LB922]

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SENATOR FISCHER: Thank you, Senator Louden. Senator Hadley. [LB922]

SENATOR HADLEY: Senator Fischer, thank you. Two quick points. Senator Louden, we'd appreciate it if you stopped in Kearney and gassed up instead of Lexington. Secondly, Mr. McClymont, I happen to...I was driving into Lincoln last week and I think it was the Aurora exit had a big truck wash, Aurora or one of them right in that area, and it happened to have a cattle hauler or livestock hauler there. How often normally do livestock haulers clean their trucks? Is it a common thing after every trip or is there any kind of standards that they follow? [LB922]

PETE McCLYMONT: I don't or nor have I ever owned any trailers, but as Senator Fischer and Louden can attest, and Senator Dubas, when a trucker comes to your place to pick up your livestock that you've contracted with them to move them to another location, it sure is nice if that trailer is clean for obvious reasons. So depending on how far they've driven, you know, yes, you'd hope that they would wash out every time. But a wash out can be anywhere from \$50 to \$100 depending on, you know, how long you haven't cleaned it out. So from that standpoint, you know, as a livestock owner you like a clean trailer, that's for sure. [LB922]

SENATOR HADLEY: And I guess that leads to my last point. You know, the fine is always to deter action. And you have to make sure that the fine is at a level to deter action. And there is a cost to them to wash it out. And I could say that it's possible that some truckers weigh fines versus washing the truck. Thank you, Mr. McClymont. [LB922]

PETE McCLYMONT: Thank you. [LB922]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thank you, Mr. McClymont. [LB922]

PETE McCLYMONT: Thank you. [LB922]

SENATOR FISCHER: Anyone else wishing to testify in the neutral capacity? Good afternoon. [LB922]

CRAIG HEAD: Good afternoon, Senator Fischer and members of the committee. Again, my name is Craig Head, that's C-r-a-i-g, and the last name is H-e-a-d. I'm the state director of government relations for the Nebraska Farm Bureau here today on behalf of the organization in a neutral capacity on LB922. I think Mr. McClymont, in his previous testimony, did a great job explaining the concerns I think from an agricultural perspective. I do appreciate the previous proponent testimony explaining that their interest is working on a very localized issue, because our major concern, as you review

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the language in the bill, is that we might be trying to attempt to address a very local issue with a broad brush that would have far-reaching implications across the state. And I think that helped clarify it from our perspective. So we do look forward to working with Senator Mello to try and find mutually agreeable language, and hopefully we can address their issue. So with that, I conclude my comments. [LB922]

SENATOR FISCHER: Thank you, Mr. Head. Questions? I see none. Thank you very much. [LB922]

CRAIG HEAD: Thank you. [LB922]

SENATOR FISCHER: Anyone else in the neutral capacity? Good afternoon. [LB922]

ED WOEPPEL: Thank you. Senator Fischer and members of the Transportation Committee, I'm Ed Woepfel, and that's E-d W-o-e-p-p-e-l, with the Nebraska Cooperative Council. The council is a trade organization for the farmer-owned cooperatives across the state. I'm here today on behalf of president Robert Andersen. He was not able to be here, as our legislative advisory committee is meeting, and this is one of the issues that our group really had a lot of discussion upon. I think all the issues that have been talked about already by Mr. McClymont, and in agreeing with Mr. Head, I think have been addressed. Our issue is the matter of enforcement. If things are on the books to be able to handle that, that's how we feel it ought to occur. The transportation of livestock in our state is extremely important to the economy of the state, and certainly we don't want any kind of thing put in place that's going to create problems there. And as has been noted, accidents do happen. When you have a load of cattle in a truck there's no way to avoid those kinds of things with the current technology that we have. So with that, I won't plow the ground again. So if there are any questions, I'd be glad to try and respond. [LB922]

SENATOR FISCHER: Thank you, Mr. Woepfel. Are there questions? I see none. Thank you very much. Anyone else wishing to testify in the neutral capacity? I do have an e-mail that I received in opposition to LB922 from Vaughn Beed, B-e-e-d, from West Point, Nebraska. He asks that it be entered into the record. Seeing no other testimony, Senator Mello, would you like to close? [LB922]

SENATOR MELLO: Thank you, Senator Fischer and members of the committee. It is importantly I'd like to thank the testifiers who came in a neutral capacity: the Nebraska Cooperative Council, the Nebraska Cattlemen, Nebraska Farm Bureau. I think Mr. McClymont was able to explain to you the ongoing challenges that we face in my neck of the woods, so to speak. And as we discussed earlier, I think the question that was raised by Senator Campbell in regards to whether or not a home rule charter would have some impact, the city of Omaha does already fine truckers who ultimately do spill discharge, since we got this language from the city of Omaha's charter. The challenge

though is what Mr. McClymont mentioned. Most of the spillage that we're talking about are on state highways. L Street is a state highway as well as Highway 75 where a majority of the spillage occurs. And so if there's a...as always I think Senator Fischer and the Transportation and Telecommunications legal counsel, any help that can be provided of us finding a way, as I mentioned to Mr. McClymont before, to focus on the city of the metropolitan class without...we're trying to find ways to ensure that we're being constitutional. Both I think the neighborhood associations and the South Omaha Environmental Task Force would appreciate any compromise we can come to, because I think the unique thing with this issue is business, government, and the community organizations that testified today all come together quarterly in south Omaha to discuss these issues to try to find ways to work together to solve these problems. And I'm very appreciative of those who, from the business community and the agriculture industry who are willing to step forward and acknowledge this is a community issue, that they want to be part of the solution. And whatever solution we may be able to find together as a committee I would be very appreciative of. Thank you. [LB922]

SENATOR FISCHER: Thank you, Senator Mello. Senator Price. [LB922]

SENATOR PRICE: Senator Fischer, thank you. Senator Mello, I saw you in the audience and I think I know the answer to this. But again on that one part in the paragraph (2)(a), does Omaha fine people who don't spill? [LB922]

SENATOR MELLO: I think part of that section that you're mentioning is that they can fine a truck that has their trap open I think is the point, and that's where the language comes from, because the language states that your trap can't be open, so to speak, as you're traveling the city of Omaha, within the city of Omaha limits on city streets. So to that extent they can fine a truck if they have their traps open. The city of Omaha and essentially the Omaha Police Department can pull them over and write them a ticket or a citation. So I hope that answers your question. The bigger question, what Senator Loudon mentioned, I would be remiss to also explain, and Mr. Brooks representing the South Omaha Environmental Task Force mentioned it as well. The issue is not so much, as we've identified in our community meetings, of trucks with full cattle coming into south Omaha. That's not the concern that is an ongoing, day in and day out. We understand there are occasionally the accidental spill that may slosh out from the side. But as Mr. McClymont mentioned, usually the cattle stop that. It's when the trucks leave the meat packing plants full still of manure, and the spillage comes from the side by them sloshing around by taking a turn getting on to a state highway or getting back onto the interstate. That is where the ongoing challenges that we see and have it is, and that's why I think the whole issue in regards to the city of Omaha has their own policy. They enforce it through the Omaha Police Department on city streets, but it actually is the state law that oversees state highways, and the Class IV misdemeanor only provides that \$100 fine. [LB922]

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SENATOR PRICE: Thank you. [LB922]

SENATOR FISCHER: Thank you, Senator Price. Other questions? I see none. Thank you, Senator Mello. [LB922]

SENATOR MELLO: Thank you. [LB922]

SENATOR FISCHER: With that, I will close the hearing on LB922 and close the hearings for the day. Thank you all for coming. [LB922]