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Transportation and Telecommunications Committee
February 12, 2013

[LB83 LB85 LB399 LB453]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, February 12, 2013, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB399, LB83, LB85, and LB453. Senators present: Annette Dubas, Chairperson; Jim Smith, Vice Chairperson; Lydia Brasch; Galen Hadley; Charlie Janssen; Beau McCoy; Scott Price; and Dan Watermeier. Senators absent: None. [LB399]

SENATOR DUBAS: (Recorder malfunction)...and of the bills. We'll be doing LB399, Senator Lautenbaugh first, trying to accommodate someone who is coming to testify for his bill, so hopefully that won't create any hardships for anyone. I take this opportunity to introduce committee members. To my far left is Senator Lydia Brasch from Bancroft; joining us probably sometime through the course of the hearing will be Senator Beau McCoy from Omaha; Senator Galen Hadley from Kearney. Just kind of as a side note, as senators get up and come and go, it's not that they aren't interested in any particular bill, that we're introducing bills in other hearings, and so that's just...we do a lot of multitasking here in the Legislature. So, next to my immediate left is Senator...Senator, there I just promoted you. (Laugh) Or demoted. Anne Hajek, she's the committee clerk. She's the one that needs you to do all your paperwork and speak and spell your name into the microphone. We do ask that you not fiddle around with the microphone a lot. It's very sensitive and so it will pick up paper rustling and finger tapping and those kinds of things. So if you can kind of resist that urge to grab the microphone, we'd really appreciate it. My name is Senator Annette Dubas from Fullerton. To my immediate right is the committee's legal counsel, Joselyn Luedtke; next to her is the vice chair of the Transportation and Telecommunications Committee, Senator Jim Smith from Papillion; and we have Senator Scott Price from Bellevue; Senator Dan Watermeier from Syracuse; and then joining us at some point today, I think, will be Senator Charlie Janssen from Fremont. Let's see. If you want to testify today, there's green sheets back there on the table. If you'll fill those out and then you'll...when you come up to testify, the page will take it and hand it in to the clerk for you. If you're here, and you want to be on the record as to whether you're supporting or opposing the bill but don't want to get up and speak at the table, you can fill out the pink sheet that is back there on the table with your name and other information, and the clerk will pick that up to get into the record at a later time. As I said, please speak clearly and state and spell your name for the record. I would like to introduce our pages. We're very fortunate to have young people from different colleges come in and help us with our committee work and with work on the legislative floor. We do...really do appreciate their work. So we have Kaitlyn Evanko-Douglas from Montrose, Colorado. She's a senior at UNL, majoring in political science and global studies. And then we have David Postier from York, Nebraska, who is a sophomore at UNL, majoring in secondary education. I ask that you please silence your cell phones or any other electronic devices that you may have, again to prevent any interference with transcribing. I think I have covered all of the housekeeping.

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Sometimes we may use the lights, but it doesn't look today like we will need to do that. But typically we ask you to keep your comments within about five minutes or so. The committee always has the opportunity to give...let you finish out your thought or ask questions as to what you're presenting. So you don't have to stop midsentence if the lights comes on for you, but just trying to move things efficiently along. So again, I think we've taken care of all of the housekeeping, and we will open this hearing on LB399.
Senator Lautenbaugh.

SENATOR LAUTENBAUGH: (Exhibit 1) Thank you, Madam Chair and members of the committee. My name is Scott Lautenbaugh, L-a-u-t-e-n-b-a-u-g-h. I represent District 18. I, at the outset, apologize for appearing casual and tieless in front of you today, but I left the house with a tie on, but then I got here and looked in the mirror, and I realized it was a mistake. So...It must have been dark at home when I left the house. But in any event, this is a bill that was brought to me by...I don't think a constituent, but certainly a friend of mine from Omaha. LB399 was proposed by a citizen of Omaha who serves on a citizen patrol authorized by the Omaha Police Department. Current amber light statutes permit the use of flashing amber lights on various vehicles such as military or civil air patrol, or I think we added storm spotters recently, if memory serves. The Omaha Coalition of Citizen Patrols is comprised of about 30 neighborhood patrols involving volunteers who are trained by the Omaha Police Department. Citizen patrollers operate under the endorsement of the Omaha Police Department. Their role is to patrol their neighborhoods in clearly marked vehicles and observe and report to the police or other law enforcement any suspicious activity or anything that appears to be a crime in progress. They are unarmed, and under no circumstances are citizen patrollers allowed to confront anyone. They also assist the Omaha Police by conducting special patrols on days and nights when foot traffic is heaviest. They also have a rapid response team of volunteers who assist law enforcement, when requested, in the search for missing children or vulnerable adults. The organization has been in existence for nearly 20 years. For several years, the Citizen Patrols of the Montclair neighborhood had been using a flashing amber light atop the vehicles while patrolling. This tends to serve two purposes: one, to let residents know the patrol is out and active, and two, it also tends to deter those criminals...or those with criminal intent, excuse me, from acting, especially if they're aware that the Citizen Patrol is in the area as they're one step away from a 911 call. A neighbor recently complained that there's no actual statutory authorization for Citizen Patrols to use flashing amber lights on their vehicles while patrolling, and they have had to stop using the lights while patrolling, necessitating this requested change in existing law to allow them to display such lights. I do have a member of the Citizen Patrol here who will be testifying after me, but I also would be happy to answer any questions you may have. [LB399]

SENATOR DUBAS: Thank you, Senator Lautenbaugh. Are there questions? Senator Price. [LB399]

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SENATOR PRICE: Thank you, Chairperson Dubas. Senator Lautenbaugh, the question I have is: are there lights in these vehicles or in areas in the function of the duty that are atypical for parking? I mean...I was thinking when you said a citizen called in and complained, so they're parked on the side of a street in front of a house, but the light is rolling, and you would normally have cars parked on the side and the city, therefore, extended period of time with their light on. I mean, when the police do that we know for a reason, but I was wondering if that was what maybe precipitated the issue. [LB399]

SENATOR LAUTENBAUGH: I don't know the answer to that for sure. I'll be happy to look into the specifics of the incident, but I don't know. [LB399]

SENATOR PRICE: Okay. Thank you very much. [LB399]

SENATOR DUBAS: Other questions? I would just...I want to clarify. Did you say that they had used the lights in the past, and then there was a question raised about whether they should or shouldn't be and now that's why we're looking at the legislation? [LB399]

SENATOR LAUTENBAUGH: Yeah, I think we've dealt with this in different capacities on this committee in the past where a group had just used the amber lights for safety purposes, and someone pointed out, well, statutorily, you're not specifically authorized to have them. This is another such incidents, if you will. [LB399]

SENATOR DUBAS: All right. Very good. Any other questions for Senator Lautenbaugh? [LB399]

SENATOR LAUTENBAUGH: And I believe I did send out a handout that explains the Citizen Patrol. [LB399]

SENATOR DUBAS: Very good. Thank you so much. [LB399]

SENATOR LAUTENBAUGH: Thank you. [LB399]

SENATOR DUBAS: I will point out that we've been joined by Senator Charlie Janssen, Senator Galen Hadley, and Senator Beau McCoy. So, we will open up the hearing with proponents for LB399. Welcome. [LB399]

CHRIS COSTANTAKOS: Thank you. Good afternoon, Madam Chair and senators. My name is Chris Costantakos, C-o-s-t-a-n-t-a-k-o-s. My address is 6910 Pacific Street, #300, in Omaha, Nebraska. I am an attorney, and I'm also the vice president of the Omaha Coalition of Citizen Patrols. I think Senator Lautenbaugh did a great job of kind of laying out what that organization is about, but the...you should know that we were contacted about a year and a half ago or a year ago by the Washington County Sheriff.

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They also were interested in forming a citizen patrol. The underlying justification for these groups is essentially that the police and law enforcement, as I'm sure you can see from the 5 o'clock news, can't be everywhere and everyplace. And so these groups are simply citizen volunteers who operate under the auspices of law enforcement. They are trained by law enforcement, combination of police officers, and in this case, OCCP trainers to become eyes and ears really for law enforcement. So how does that work? If they see suspicious activity, they will probably pick up the phone, call 911, report that, and let the police sort it out. They cannot confront; they're unarmed. The other effect that we think happens is it's kind of a soft deterrent effect when folks see a citizen patrol or one of these vehicles moving through the neighborhood. We assist law enforcement at Halloween, when kids are out trick-or-treating, to make sure that no predators or nothing happens or somebody doesn't step off the curb in front of a truck. We also patrol with the police on the first day of school, when school children are walking to and from school, and then the last day of school because these are sort of highlights. Senator Lautenbaugh talked about the rapid response team, and I'd just like to talk about that briefly. That is nothing more than people who are part of citizen patrol who wish to put their name on the list to be called upon if there is a missing juvenile or a vulnerable adult. We get called at all hours of the day and night. We, for example, were called out in the search for Amber Harris when she was abducted before anyone knew that was a murder. We also have assisted with the recovery of some elderly persons who have kind of drifted away from, you know, care facilities and things like that. And how that works is the police will activate us. They'll call us, or law enforcement or the sheriff will say, "We need help." And then we will assemble, and under the guidance of law enforcement, they give us the particulars, perhaps a photograph of the missing person, and then we go out in teams. Why the amber lights would be helpful...And I do know the answer to your question on the other issue, but would be that they...First of all, it would make it easier for law enforcement, when we're working a joint operation with them, to identify us as a volunteer vehicle for crime prevention that's participating in the activity. The second thing, I think, is that it would have greater visibility in the neighborhoods where patrols want to use those amber lights and by doing that, I think that would constitute a deterrent to crime. We see kids sometimes...they're looking at a nice SUV, and then maybe they see this vehicle come by and if it's at night with the amber light, they kind of know this is a citizen patrol vehicle, and they are indeed one step away from a 911 call. The second effect it would have is recognition by the residents in the neighborhood. Citizen patrols operate on the idea that they slowly cruise or look around the neighborhoods. They drive in cars that are marked with magnets, but at night sometimes...we're not lighted, so how to say this is, I guess, in a manner of avoiding a call to 911 for us, is to say, "Hey the same green car has driven by five times now. What's that all about?" Especially if it's someone who may not be familiar with the citizen patrol. Any community can form a citizen patrol. It isn't just unique to Omaha. Right now I think we are the biggest patrol. I'm not aware if there are citizen patrols in other areas. We know Washington County Sheriff did attend...bring people to a training, a specialized training, so that their folks could set one up. I don't

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think they've done that yet, but all it really takes is for a group of interested citizens really to approach law enforcement and get their permission and blessing, basically, and put things together in that respect. The Montclair neighborhood in west Omaha were using amber lights, and my understanding of what happened there was there was someone in the neighborhood who knew the amber light law and said, "Hey you guys can't do this because you're not listed as one of the groups here." And the way I understand the proposed bill, as Senator Lautenbaugh has drafted it, it would include, I believe, volunteers driving vehicles for purposes of crime prevention or public safety, but authorized by the police, the sheriff or other applicable law enforcement and only in designated areas. So to cut to the chase, they would probably want to use amber lights when they patrol their neighborhoods, and also if they're called out on a citywide search for a missing juvenile or a missing vulnerable adult. Not all patrols would use...necessarily want to use the amber lights at all occasions. So we'd kind of leave it up to them that if this law were to pass, it would be on a voluntary basis. So if you folks have any questions, I'd... [LB399]

SENATOR DUBAS: Very good. Are there questions? I would...how many people are a part of this patrol? [LB399]

CHRIS COSTANTAKOS: There are at least over, in excess of 30 neighborhoods right now that have formed patrols, and we have in the Omaha area alone around 400-plus volunteer members. And they can also bring an approved ride-along person. That means I could take you, if you submitted to a criminal background check, if we were called out on a citywide search or something like that. So we're looking at around...I would say a rough estimate is 400-plus volunteers. [LB399]

SENATOR DUBAS: And this is all volunteer? You provide your own vehicles and everything? [LB399]

CHRIS COSTANTAKOS: We provide our own vehicles. There's absolutely no compensation involved, and these are simply good souls that are really concerned, at least on the rapid response part of it, about finding missing children or missing adults. On the patrol part, they don't want to be cops. You know, they just simply...if they see something, they pick up the phone and call 911 and let the police come and sort it out. [LB399]

SENATOR DUBAS: And was I correct in hearing you say, you do have magnets that mark your cars? [LB399]

CHRIS COSTANTAKOS: We do. We have vehicle magnets. They're kind of this two foot, maybe by one foot, that say Omaha Coalition of Citizen Patrols, and it may or may not say the neighborhoods such as Maplewood or Beamis Park or something like that. [LB399]

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SENATOR DUBAS: But if it is dark, you can't see what those... [LB399]

CHRIS COSTANTAKOS: We are not lighted, they're not lighted signs so it would be hard to see. And I think the police would probably appreciate that ability but only in terms of the areas designated. The way I think this could work is if the bill does pass, then it's up to the sheriff or the chief of police to really set out a memo and set forth the conditions of how the amber lights and where and when they can be used. [LB399]

SENATOR DUBAS: Very good. Thank you. Any other questions? Senator Brasch. [LB399]

SENATOR BRASCH: Thank you, Madam Chairman. Thank you for your testimony and for your volunteering here. I know the bill is to permit lighting but is this...are you on foot at all, or is it just solely vehicle patrolling that your organization does? [LB399]

CHRIS COSTANTAKOS: It is primarily vehicle patrolling. We have authorized in one of our memorandums, within the last year actually, a foot patrol, but that is a requirement of a minimum of two patrollers. They cannot go out alone, and they are not in vehicles, and they are not necessarily wearing marked shirts. They can, if they wish to do that, but I don't know that they would be wanting to carry an amber light with them in that respect. [LB399]

SENATOR BRASCH: So are you, I guess plain clothes volunteers or you have a special T-shirt or uniform? [LB399]

CHRIS COSTANTAKOS: There...They do have a T-shirt that they wear, and it simply would say OCCP or Omaha Coalition of Citizens Patrol, and on the back it might say, Crescent Oaks neighborhood or Joslyn Castle neighborhood to identify them. Do they all wear it? No. You know, but they do when they're out on, like, a public joint effort with the police on a search. [LB399]

SENATOR BRASCH: Is there special identification, a card or anything or a certification from your trainings, or...? [LB399]

CHRIS COSTANTAKOS: They have...are issued an identification card by the chief of police, and it is kind of a plastic...It looks like a credit card that indicates that they're part of citizen patrol which, I don't know if you know this, but citizen patrol is a subspecies of Neighborhood Watch, which comes under Citizen Corps, which is ultimately a part of Department of Homeland Security. So each trained member has an ID card that identifies that they have been trained as a citizen patroller. [LB399]

SENATOR BRASCH: Very good. Very interesting, and Neighborhood Watch was my

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next question so you've answered that. I have no other questions. Thank you. [LB399]

CHRIS COSTANTAKOS: Any other Senators? [LB399]

SENATOR DUBAS: Any other questions? Thank you very much for coming forward today. [LB399]

CHRIS COSTANTAKOS: Thank you, Senators. [LB399]

SENATOR DUBAS: I forgot to ask this question earlier. How many people will be testifying in support of this bill? Okay. Opposition? Anyone in the neutral? Seeing none, Senator Lautenbaugh, would you like to close? [LB399]

SENATOR LAUTENBAUGH: Yes, briefly. I do thank the committee for the questions and the consideration of this. And this is kind of, I think, what we hope citizens will do in times of budgetary constraints or otherwise to volunteer and get out there and help with their own communities and the policing thereof. And if this is a simple thing we can do to help them do that, I would urge the committee to look favorably upon it. [LB399]

SENATOR DUBAS: Thank you very much. Any other questions of Senator Lautenbaugh? All right. Thank you. [LB399]

SENATOR LAUTENBAUGH: Thank you. [LB399]

SENATOR DUBAS: That will close the hearing on LB399. We've just put a call in to Senator Schumacher's office so, hopefully, he will be with us shortly so we will just kind of sit at ease here until Senator Schumacher shows up. The next bill we will be hearing will be LB83. Welcome, Senator Schumacher. [LB399]

SENATOR SCHUMACHER: Thank you, Senator Dubas. []

SENATOR DUBAS: Thank you. Thanks for accommodating us to do a little rearranging, so. You're welcome to start anytime you're ready.

SENATOR SCHUMACHER: Which one are we up on?

SENATOR DUBAS: We are on LB83.

SENATOR SCHUMACHER: (Exhibit 2) LB83. Chairman Dubas, members of the Transportation and Telecommunications Committee, I'm here today to introduce LB83 which if we probably all took a driver's test with a certain question on, we'd fail. You know when you come out of the senate parking lot, you're headed south and you turn west toward the governor's mansion, right there there's a stop sign. It's a one-way street

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heading south and a street going ahead, and obviously you can't go north because it's a one-way street. Question on the driver's exam. Is it legal to turn left to head south on that street? If I were answering that question, I'd say, "Why not? You signal, and you turn south." A wrong answer. Apparently, Nebraska law says that you have to signal for 100 feet before you can make a turn. There's not a hundred feet there. Well, suddenly everybody became a traffic offender, and if you...I mean you're subject to stop and of course so to stop, inspection of your vehicle and everything else that goes with a stop. What if you're backing out of an angle parking lot alongside the street, and you're the first one close to the intersection? Can you turn at that intersection? No. You haven't signaled for 100 feet. Say, now, wait a minute, there's something got to be wrong with this picture. There's got to be some exception. You certainly can pull up to that stop sign, turn your signal on for a couple three seconds and go ahead. Well, if there is, I haven't been able to find it, and maybe a testifier will show up today and say, "Ah, he's kind of screwy on this. In those red books, buried deep in the footnotes, there's an exception to this, and I..." If that happens, and it's a clear exception, this bill is done. But if it isn't that way, if in fact you have got to signal for 100 feet before making a turn, there are a lot of us that are traffic offenders. And what happens when you're just going home and decide, oops, I forgot to get the eggs, and you...that thought crosses your mind, and you're at a stop sign. Can you signal and turn to go left to go down to the grocery store? Uh-uh. You got to go ahead. You got to go around the block; you got to do something because you've got to signal for 100 feet. Can't back up because that's backing against traffic; you can't back up and take a run at it. You're just forced to go ahead. But what if it's at a dead end? What do you do then? You can't back up; you can't go ahead, can't go left, can't go right. You got to sit there, wait for a helicopter to take you out of the predicament. Well, that's how this thing came to my attention. A defense attorney in Columbus said, "You know..." And this guy, and I passed out his testimony, was a former county attorney as am I, and he says, "You won't believe this, but you've got to signal for 100 foot under all possible circumstances in Nebraska." I said, "There's just got to be something wrong. That flies in the face of common sense." He says, "I haven't been able to find it." And so, I said, "Well, gee, I'm in the Legislature these days, we probably can fix such a thing by simply saying that you have to give a reasonable signal at the intersection." So, thus was born LB83, which simply says that if you're stopped, like at a stop sign, like at the intersection by the senate parking lot, you can turn your signal on, and you can proceed. And that's the only change that it makes. You can do it for 100 feet, you can stop, you can signal, you can go. And it fixes a problem, without which we're all...and I'm sure, I can pretty well say this with certainty, we're all traffic offenders because I know I certainly thought I could turn left at that intersection. And why there isn't a bunch of tickets written is because it's, well, probably the common sense of law enforcement saying, "Ah, that would be ridiculous to write a ticket there." But if respect for the law means anything, and a law that makes sense means anything, then we should make a change and allow you to reasonably signal at a stop sign, or if you come to a stop at an intersection, for whatever reason, that wasn't 100 foot of running distance before you turn it on. And that's the reason for the bill. I'll be

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happy to answer any questions. [LB83]

SENATOR DUBAS: Thank you, Senator Schumacher. Questions? Senator McCoy. [LB83]

SENATOR McCOY: Thank you, Chairwoman Dubas and thank you, Senator. You probably aware the Nebraska Sheriffs' Association gave to us a letter in opposition to LB83. It would appear, though, they would like to exchange extenuating...so the phrase, "extenuating circumstances" for the language that you use in line 10 of page 2, which is for a...or they...I guess they say that "reasonable time," they believe is ambiguous. Do you think the phrase "extenuating circumstances" to account for what you're talking about takes care of the issue? [LB83]

SENATOR SCHUMACHER: Well, if you were going to give a vocabulary test to say a third-grade class, I'll bet you more of them would understand what "reasonable" means than "extenuating." Reasonable, it appears throughout the statutes. You have to have reasonable cause to search, reasonable reason to do this. You have to reasonably believe you are in deathly danger before you can shoot somebody. So reasonable is a common definition. Easier for a judge, and if this would ever get to a jury or a trial or fact of some kind, to understand than extenuating. So I think this takes care of it. We all know that if in the circumstance out there at that stop sign by the Capitol, you flip the thing on, and it goes click, click, click, you probably have been reasonable. Now, that might not be reasonable under some other circumstances. It may have to go click, click, click, for ten times. But under the circumstances of that particular street, reasonable is reasonable. And the officers continually, and county attorneys continually make a determination of what is reasonable. You know, we could say for three seconds, but gee, that would be harder to pull out a stopwatch and be sitting there waiting for three seconds to click off. So I think this is a whole lot more thorough approach than just leaving this thing hanging. [LB83]

SENATOR McCOY: I would understand that. It would seem, though, that according to the...in the Nebraska Sheriffs' Association that their concerned about a law enforcement officer having to make a subjective determination on what is reasonable or not, where the phrase extenuating circumstances would seem, he said, you know, prosecutors, law enforcement, look at things for a commonsense standpoint. Wouldn't also then the phrase extenuating circumstances account for that? In the case of the example that you just used, it would seem to be pretty obvious commonsense solution that extenuating circumstances would also accommodate the example, the analogy that you used, but at the same time wouldn't create a situation for law enforcement, then they would have to make a subjective determination. [LB83]

SENATOR SCHUMACHER: I don't think that's accurate, Senator McCoy. At that intersection, and that's probably just as good a intersection as anywhere to talk about, if

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you signal there, extenuating means something really unusual, something difficult to deal with, an exceptional kind of thing, almost a tendency toward an extreme kind of thing. Well, there's nothing like that at that intersection if you decide to go south. You...there's nothing extenuating. I mean, you're not under the gun for anything. You're not in a big rush, but we kind of all feel you should be able to go south there if you signal. At least I do. And so, extenuating would not be a proper word there. A reasonable signal is because reasonably everybody at that intersection who gives a few click, click, clicks, can be permitted to proceed without having some emergency or arm-twisting-like situation imposed upon him. I think "reasonable" is a better word than "extenuating." That's kind of the discretion of the committee, but I call this to the committee's attention, and I think "reasonable" is the word. [LB83]

SENATOR McCOY: Thank you. [LB83]

SENATOR DUBAS: Senator Smith. [LB83]

SENATOR SMITH: Thank you, Madam Chair. Senator Schumacher, thank you for bringing this bill forward, and, you know, I'm impressed with your uncanny ability to bring helicopters into your testimony. (Laughter) Once again, I think last time it was...it had something to do with black helicopters, so at least it was just a regular helicopter this time. [LB83]

SENATOR SCHUMACHER: But it might have a camera on it. (Laughter) [LB83]

SENATOR SMITH: There you go. I think there's a bill for that as well, but I related to Senator McCoy's questions. Would you be opposed to finding, for example, if this particular language that you have in your bill is...causes heartburn, would you be open to amending it where we can address the Nebraska Sheriffs' Association's comments? Or have you seen their comments? [LB83]

SENATOR SCHUMACHER: I've seen their comments. And my reaction to them was, you know, I know the definition of reasonable, and it fits the situation. Extenuating, I'm not...just what I testified to before, I'm not so sure that extenuating doesn't imply something more urgent or really out of the ordinary. So I think it needs to be fixed though. I don't think we need to make law violators out of people who are doing the very reasonable thing and certainly what we all intend, and that is that you signal a turn and then you can go. [LB83]

SENATOR SMITH: So you would not necessarily be willing to amend it to address some of their language concerns? [LB83]

SENATOR SCHUMACHER: Well, the only language concern that I've seen is the extenuating versus reasonable. [LB83]

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SENATOR SMITH: Yeah. [LB83]

SENATOR SCHUMACHER: If there's another word that's in-between, and I don't have a dictionary with me, but if...I know that reasonable is frequently and often used in the law, probably a lot more than the word extenuating. [LB83]

SENATOR SMITH: All right. Thank you. [LB83]

SENATOR DUBAS: Senator Janssen. [LB83]

SENATOR JANSSEN: Thank you, Chairman Dubas. Senator Schumacher, first off a question, then just a statement, will be pretty easy here. I get to listen to you enough on our other committee assignments. Do you write your own statement of intents? [LB83]

SENATOR SCHUMACHER: Usually, either that or my staff puts it together. [LB83]

SENATOR JANSSEN: Because I can...it's just like you're talking to me when I read this, so I'm just kind of curious about it, and I just want to actually applaud you and change your name to Senator "Obvious" because you point out some things that, whether it be election ballots and envelopes and whatnot; I don't know how you have the time to do this and initiating helicopters in your statements, which I also applaud. It's a little bit entertaining as well, but I never realized that. So, thank you for bringing that to us, and I hope things can be worked out with the sheriffs in a reasonable manner. Thank you. [LB83]

SENATOR SCHUMACHER: Well, that's what happens when you don't have much of a social life; you can dream about things. (Laughter) [LB83]

SENATOR DUBAS: Other questions? Senator Brasch. [LB83]

SENATOR BRASCH: Thank you, Madam Chairman and welcome, Senator Schumacher. I thought Senator Smith presented an interesting question, and there are situations which...perhaps it's reasonable, but there are also situations that are extenuating. So perhaps we need to have both words? [LB83]

SENATOR SCHUMACHER: You know, I would have no problem with it. Maybe this is the grand compromise. "Reasonable time immediately preceding the turn or in the case of extenuating circumstances." It probably would work there, too. [LB83]

SENATOR BRASCH: You would agree to that, perhaps? [LB83]

SENATOR SCHUMACHER: Yeah, I think as long as this language is there, if a

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committee wanted to add "or in the case of extenuating circumstances," I'd have no problem with that. [LB83]

SENATOR BRASCH: Because I believe those are...can be separate incidents. [LB83]

SENATOR SCHUMACHER: There's a possibility, yes. [LB83]

SENATOR BRASCH: Okay. I have no other questions. Thank you. [LB83]

SENATOR DUBAS: Senator Hadley. [LB83]

SENATOR HADLEY: Chairman Dubas. Senator Schumacher, my only comment would be after reading Mr. Kurtenbach's written testimony: thank goodness there was a judge that used some common sense in this kind of situation. With that, that's all I have to say. [LB83]

SENATOR DUBAS: Senator Schumacher, I would have a...if there aren't any other questions, I would have a question in reference to that letter. Obviously, the judge felt that he had the ability to make that decision. Maybe not every judge would feel that way and could pursue the case. So do you feel by putting in either the reasonable, the extenuating, or both terms, that would give more guidance to the judges as far as making a decision on these types of issues? [LB83]

SENATOR SCHUMACHER: Well, I think under that particular circumstance, if it was reasonable, if the person did not give a reasonable signal, the judge would have a clear signal. And, in fact, there is case law that says if the law creates an impossible situation, the law is unconstitutional. And it, under some of the circumstances we've described with the dead end, etcetera, it created an impossible situation, and the minute you rolled past that 100-foot mark, no matter what you did, even...there wasn't a white line in the road that said, "Must signal by here." You've suddenly become an illegal. [LB83]

SENATOR DUBAS: Very good. Any other questions? Thank you. [LB83]

SENATOR SCHUMACHER: Thank you. [LB83]

SENATOR DUBAS: (Exhibit 3) Could I have an idea of how many people are here to testify in support of this bill? No one in support. All right, opposition? We do have a letter of opposition from Amy Prenda with the Nebraska Sheriffs' Association. Anyone in the neutral? Seeing none, Senator Schumacher, would you like to close? Senator Schumacher waives closing. That will close the hearing on LB83, and we'll open the hearing on LB85. [LB83]

SENATOR SMITH: Welcome again, Senator Schumacher.

SENATOR SCHUMACHER: (Exhibit 4) Thank you, Vice Chairman Smith. I'm Paul Schumacher, S-c-h-u-m-a-c-h-e-r, represent District 22 in the Legislature, and maybe ditto that into the last one because I don't think I did that on the last one. I'm here today to introduce LB85. And LB85 is the result of a conversation I had one morning at the post office with a friend of mine who is in my same age category and who has decided to express his wish to be younger by buying a motorcycle. And he was invoking my sympathies by telling me how he had to sit in the rain at a traffic light, forever, waiting for the light to change, and it didn't change until another vehicle came up behind him and tripped the sensor. Apparently, the way traffic lights are sometimes configured is not on the good old-fashioned timer where it goes for a minute or two, and I'm told, rarely do they go over two minutes before they go through a cycle. They now have devices that are sensed by magnets, and if you have so much metal at a...within the vicinity near the magnet sensor, it trips it. And it sets the cycle off and the lights go through their normal cycle because it kind of knows that there's somebody there. Well, the issue becomes...when the thing there doesn't have enough metal in it. Well, if it has less than 1,200 pounds, it may not have enough metal to trip. And you might be able to if you went fishing for the detector, going back and forth and back forth trying to trip it, you might be able to trip it, but maybe that's kind of hard to do and maybe even illegal to do if you don't put your turn signal on. But the...so what situation can we do to deal with that particular circumstance where the guy...the lonely motorcycle rider is at the intersection, and he isn't big enough to trip the sensor on the light. So this particular amendment was drafted that if you weigh less than 1,200 pounds, and I'm told that every motorcycle on the road is...weighs less than 1,200 without a load. And you face a steady red light, you may cautiously enter and proceed straight through the intersection or turn right or left after stopping is required by subdivision 3(a) of this section. And that 3(a) just simply refers to...if you're facing a red light, you shall stop at a clearly marked stopline or shall stop if there's no such line before entering the crosswalk on the near side of the intersection. So you can go through if you've been there for at least two minutes, and as originally drafted, there are no circumstances that exist which would cause entry into the intersection by the vehicular traffic to pose a hazard to anybody. Since the original drafting, somebody pointed out, with a fair amount of accuracy, that what if you went through that intersection, and there were other cars in the intersection, and people being people are spoofed into thinking the light must have changed, and they start moving too. So, therefore, the amendment that makes it a little more restrictive, and there's no other vehicle traffic stopped at the intersection, is there. So you got to be at the intersection for two minutes; there's got to be nobody else waiting at that intersection, and you can go across safely, that you can than proceed, rather than sit there and wait for somebody to come along and trip the light for you. And that's the nature of this proposal. It's a very simple proposal, and it probably is in the interest of safety because I think we all have been in the situation where motorcycles are sometimes hard to see. And if your standing at the intersection, you're not...your foot is not on the brake on a motorcycle so your little red light in back, if it's on, may not be

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brightly lit and, consequently, you may be hard to see. And a vehicle coming up from behind while you're sitting there waiting and waiting and waiting in the snow and sleet and rain, you know; you might get rear-ended. So, this seems to be in everyone's safety interest in order to allow motorcycles, under those conditions, to proceed. I would also point out that there is a provision of the law that says, in the event of a malfunctioning traffic light, you can go ahead. Well, how's the motorcyclist to know whether or not it is malfunctioning or not malfunctioning. Is it malfunctioning if it doesn't sense him? If it's doing what it was specified to do, sensing of a piece of metal over so many pounds or so many kilograms or whatever. Well, you get into all those issues that you don't get into by making a very simple rule like this. You don't get into the issue of having to prove or disprove that the traffic light was malfunctioning. And I think there's a suggestion in the letter from the sheriffs' department, which again they're opposing here, that, well, maybe what should happen is you should be given a ticket, and then you can go tell the judge. Well, I been a prosecutor long enough to know that when you give somebody a ticket, even if the person is not guilty or has a good defense, you've got a small problem. Because once you file with the judge, there's a \$50 court cost, or maybe it's more than that now, that is accruing, and so somebody's got to eat the \$50 court cost. If the county attorney says, "You know, I agree with you. I'm going to dismiss it, and you got a point there." Because the county doesn't want to pay the \$50 court cost. And surely since the motorcycle rider was not really in the wrong, he shouldn't have to pay the \$50 court cost. And you shouldn't have to prove yourself innocent. So let's make a simple, easy, commonsense standard and apply it to these folks who are enjoying their near old age on their motorcycles. That would be my comments. [LB85]

SENATOR SMITH: Yes. We have Senator Price and then Senator Hadley. [LB85]

SENATOR PRICE: Thank you. Senator Schumacher, in listening to your presentation, perhaps I'm behind the times or misheard you. Did I hear you say that they take their foot off the brake, and there's no light on anymore? [LB85]

SENATOR SCHUMACHER: It's my understanding that your light...when you brake a motorcycle, you're light comes on brighter than it...just like when a car, when you press your...a brake light, it comes on brighter. [LB85]

SENATOR PRICE: Okay. I may have to do the hand brake; I didn't know they had foot brakes on motorcycles now. [LB85]

SENATOR SCHUMACHER: Well, and I'm not old enough to enjoy a motorcycle yet... [LB85]

SENATOR PRICE: Thank you. [LB85]

SENATOR SCHUMACHER: ...but the brake light isn't as bright. [LB85]

SENATOR SMITH: Senator Hadley. [LB85]

SENATOR HADLEY: Vice Chairman, Smith. Senator Schumacher, you bring us some interesting things to ponder. What happens if I am driving my car, and I come up to a stoplight, and I've sat there for a reasonable time, and it's red? How do I determine whether it's malfunctioning? You know, it's green coming the other way, so it's not a blinking, or it's not off, but it's red. I would assume that eventually, I'm going to have to make a decision to run that light because it's...I'm assuming it's malfunctioning. Well, wouldn't we be using the same logic here that...as a motorcyclist I'd pull up there after some quote "reasonable" time, it doesn't change, the light is malfunctioning, if we assume that malfunctioning means not functioning the way it's supposed to? So I think these are...to me they're kind of the same kind of situations. [LB85]

SENATOR SCHUMACHER: They're kind of the same but kind of different because a malfunction would indicate that whatever, the sensor is broken or the battery or whatever runs it is dead, and it isn't working as designed. Well, in the case of a motorcycle, the sensor is just fine, the mechanism is just fine; it just isn't sensitive enough to detect this motorcyclist. And because of that, far more often, you have a failure of these systems than you do have in the case of something that is broken and not detecting the car. It'll detect the car, and this is addressing a problem that these things are not designed and do not function well in detecting these lighter pieces of metal. And it may get actually worse as more and more lightweight materials are used in motorcycles, and less and less metal appear in them. [LB85]

SENATOR HADLEY: Okay. I understand that. I just think...to me I...I guess I'm saying the light isn't as malfunctioning as in regards to that motorcycle because it's not functioning the way it should when any vehicle comes up to it. So I think we're on the same...and I'll just...I always hate anecdotal, but my brother-in-law told me of an instance in Denver where a lady backed into him because she thought that the sensor hadn't worked, and she actually backed into him, you know. He was waiting behind her. So it does happen. [LB85]

SENATOR SMITH: Senator Schumacher, I do see that you had referenced this to vehicular traffic and not motorcycles, so you are taking into consideration the lighter vehicles on the roads today, some of the smart cars and things like that. [LB85]

SENATOR SCHUMACHER: I think so, but from what I can gather, the smart cars have enough stuff in them to trip it, and they're over 1,200 pounds. [LB85]

SENATOR SMITH: Okay. All right. Do we have any additional questions for Senator Schumacher? I see not. Thank you, Senator. [LB85]

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SENATOR SCHUMACHER: Thank you. [LB85]

SENATOR SMITH: And we now move to proponents of LB85. Welcome. [LB85]

JOHN LIPPERT: Good afternoon, Senators. My name is John Lippert. I reside at 3205 40th Street, Columbus, Nebraska. [LB85]

SENATOR SMITH: Let me ask that you spell your name, please, for the record. [LB85]

JOHN LIPPERT: L-i-p-p-e-r-t. I guess I'm the old guy that approached the senator on this subject. I would like to start out by clarifying something regarding these control systems. I initially thought that it was the mass of the magnetic reactive steel, iron, that determined whether it was picked up or not by these buried inductive coils. I have since found out that it is more the surface area of those materials, rather than the mass. It's more the surface area and, of course, motorcycles, as you probably know, have much less surface area than four-wheel vehicles: cars and so forth. But it is not...I was told by our assistant city engineer that it is not the mass but rather the surface area that is the determining factor. I also understand, and I would stand corrected if this is wrong, understand that the sensitivity of these systems is specified by the National Highway Administration guidelines for traffic control signals and that it is not within the power of the local highway department or Nebraska Roads Department to adjust them to being more sensitive than a certain level. Now that's my understanding on that. Okay? Okay, I own a Harley-Davidson Ultra Classic Electra Glide, and it's no-load weight is 900 pounds. I hold a valid Class M operator's license. I live in Columbus, Nebraska. Virtually all intersections with Highways 81 and 30, which pass through Columbus, having traffic control system, light systems, virtually all of them have induction type sensors at some or all of the approaches to the intersection, be it straight through or left- or right-turn lanes. Very few, if any, will sense the presence of my large motorcycle. I must decide whether to violate the red light or arrow, or turn right at the intersection because right turns are permitted on red unless posted or signaged otherwise. Footnote there: you cannot legally change your mind and turn right if you're already in a left-turn lane. You'd be jumping out of that left-turn lane to get into a lane which permits a right turn. So that wouldn't be a real good option. I'd like to point out that at least 12 states--I say at least because I checked this this morning on the Internet--at least 12 states have passed provisions to address this problem. Some of them address it in the same way that this bill would address it, to basically...after a certain period of time, to allow the operator of the vehicle to turn left on that red light or red arrow, but that that motor vehicle operator, of course, would assume any liability for doing so if, you know, if an incident occurs. Some of the states, their statute provides that this would be a legal defense to defend yourself from a ticket. Some of them do it that way. And that's basically what I have to say in support of LB85. [LB85]

SENATOR SMITH: Yes, Senator Hadley. [LB85]

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SENATOR HADLEY: Senator Schumacher. Thank you for coming in. From a liability standpoint, if you pull out...you know, if you pull out now when the...it hasn't been tripped, I would assume if someone hits you, it probably would be your fault. Would that be a...? [LB85]

JOHN LIPPERT: Yeah. Absolutely. That's my understanding, but it does not relieve you of liability. It relieves you of...shall I say the word, criminal charges, criminal being a very strong word for a traffic offense, but yeah. [LB85]

SENATOR HADLEY: So, basically what we're saying is, that if he...so I get it right. You stop, you wait two or three minutes, and it doesn't...you feel that it hasn't tripped, and you pull out, and some other person is coming the other way and sees the green light, doesn't somehow... [LB85]

JOHN LIPPERT: It's my fault. [LB85]

SENATOR HADLEY: Your fault. Okay. Just wanted to be sure on that... [LB85]

JOHN LIPPERT: That's the way I understand... [LB85]

SENATOR HADLEY: ...that we're not trying to change the liability of the situation. [LB85]

JOHN LIPPERT: No, it would just relieve me of having to pay for a ticket. [LB85]

SENATOR SMITH: I have Senator Brasch and then Senator Price. [LB85]

SENATOR BRASCH: Thank you, Vice Chairman Smith and thank you, Mr. Lippert, for your testimony today. I do have a question. When you're at that light, and a vehicle does come behind you, wouldn't that engage the light system? Then do you need to sit and wait because a heavier vehicle behind you has now tripped the timing mechanism? Or does this law just allows you to go through the light, and the other car has to wait? [LB85]

JOHN LIPPERT: I believe that the way I understood the Senator Schumacher is that there is something in there that says that this provision would only apply when there was not other traffic to trip it. [LB85]

SENATOR BRASCH: Okay. All right. Okay, that was my... [LB85]

JOHN LIPPERT: Now, we'd like to point out that if the sensors are not located far enough back in the approaching lane, that second vehicle may not trip it, which would

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be a problem with this. That second vehicle may not be far enough in the approach lane to be above an induction coil to trip it. Now, some of that would have to do with, if I were the motorcycle operator, would have to do with how far into that proximity of the induction coil I had stopped. If I had stopped farther back, that car behind me might not be there. Of course, though, we are supposed to go to the...if there's a white line, we're supposed to stop behind the white line. Now, I don't know how far behind you're allowed to stop, if it is specified. [LB85]

SENATOR SMITH: And that may be a case for Senator Schumacher's helicopter then. [LB85]

JOHN LIPPERT: Yes. [LB85]

SENATOR SMITH: Senator Price. [LB85]

SENATOR PRICE: Thank you, Senator Smith. Thank you, sir, for coming and testifying and providing some technical insight as far as the horizontal component of the induction coil because I think that might have been something that had been...or would have been overlooked otherwise because of the narrow profile provided by a motorcycle so I just wanted to say I appreciate you taking the time to come in and provide that information to the committee. And I'd also point out: now, you cannot make a left-hand turn, but as we heard today, you couldn't make a right-hand turn. [LB85]

JOHN LIPPERT: That's right. If you were in the left-hand lane with a solid line, you're really not supposed to change your mind at the last minute and move over. [LB85]

SENATOR PRICE: But even more, for the record, if you were in the right-hand lane or in the right side, being that there was only one lane, if you hadn't given your signal for 100 feet, you could not proceed to the right either, so I appreciate your opportunity to work both those bills together. [LB85]

SENATOR SMITH: I see no additional questions. Mr. Lippert, thank you for your testimony. [LB85]

JOHN LIPPERT: You're welcome. [LB85]

SENATOR SMITH: And we continue on with proponents of LB85. Welcome. [LB85]

TODD MILLER: Members of the committee, my name is Todd C. Miller, T-o-d-d M-i-l-l-e-r. I'm state coordinator for ABATE of Nebraska, American Bikers Aiming Towards Education. I'm here today to give testimony for this bill. One of the reasons we are for this bill is that it is not aimed directly at motorcycles as you mentioned before. There are other municipalities that do use golf carts for trash collection and other things

that do have the same issues. They do weigh under the 1,200 gross no-load weight rating. We also do have many smart cars that are coming out these days that are under that weight limit because of trying to save gasoline; for whatever reasons they're using the electricity and batteries and things. So there's a lot more vehicles that it does affect than just motorcycles. And for the record also, from my experience, from what I've found out across the state, there was more than one type of system that does set this off. There's also a motion sensing type of light switch which also has issues as far as not seeing a larger vehicle. A smaller vehicle does tend to get lost. They do have adjustments, but I believe that what I've been made to understand is that many municipalities get reports and send people out to repair these, but with Nebraska's changing weather and everything else, it becomes an ongoing problem. They may fix it for summer, but then they have to readjust it for winter. So it's a very large burden on those people as well, just the municipalities themselves, for keeping these adjusted and keeping them up to speed. One of the things that I did ask my membership about was what stories to bring to you guys to display. I didn't want to flood the Transportation Committee hearing, but we did have a few of us come down here. And some of the things that I wanted to point out was...Senator Price you did mention, take your foot off the brake. Yes, motorcycles do have a foot brake. It's the rear brake is run by a foot pedal, and the front brake is run by a hand brake. So, yes, we do always have to take our foot off the brake to come to a stop, unless you're really good at balancing a motorcycle, but generally, the light is off. One of the other things that was mentioned is where the position of the sensor is. I have had people send me e-mails and letters explaining the fact that they've had to, and I've experienced it myself, where you come to an intersection it won't change, been waiting. You've got two or three cars behind you, and it still won't change because you're sitting on the sensor. And they can't sit on it while you're there, so the only way to get around it is to either edge forward into the...a lot of times the crosswalk in larger towns of Lincoln, or to move off to the side of the road, which again is illegal. Both places we're putting ourselves in jeopardy. Or to edge forward to allow that other car to move forward. Again, and they come into a problem where they're crowding us as well, putting us into potential position where they cannot only be hit from side-moving traffic or whatever because we're still waiting for a red light to change, but we also get sandwiched in behind the car behind us. So I want you to consider the fact that, when this bill is written, that the way I understand it, and Schumacher maybe can explain this further, but we understand that the way this bill should be written is that the cars waiting at the intersection, so the ones following behind the motorcycle or vehicle would not count as those vehicles also waiting at the light, because us, that small vehicle may be holding up a line of four or five cars. No other cars at any other side of the intersection of the light, and yet, if this is not worded correctly, we could end up in a situation where we still cannot proceed. I just want you to take that. I guess I would really stress that this is a huge safety issue for a lot of these smaller vehicles because of the fact that we are stuck there. Yes, we could possibly turn right, although we did find out that that may be illegal at this time. But, like I said, we put ourselves in jeopardy all the time. We know that as motorcyclists; we know that in these

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smaller cars, these smaller vehicles. We are more vulnerable. That's just what we do. We take that responsibility as citizens when we do this to try to drive these vehicles. But we still have to have some way to...if the law won't let us operate in a lawful manner, then there's something wrong with the law. If we can't just proceed and drive normally, then we've got a problem, and it needs to be addressed, and it needs to be fixed. With that, I would just like to open it for questions or whatever, but I think that I got everything that I need to say. [LB85]

SENATOR SMITH: Senator Hadley has a question. [LB85]

SENATOR HADLEY: Thank you, Vice Chairman Smith. Quick question. I think the bill says two minutes, am I correct? [LB85]

TODD MILLER: Uh-huh. [LB85]

SENATOR HADLEY: What happens in a legal situation if a policeman happens to pull up, or a minute...you've waited a minute; you leave after another minute. How do you fare in a court of law when the policeman says, "I was there. I saw him wait for a minute, and he left." And you say, "I waited for two minutes." How...just do you have any idea how that would play out? [LB85]

TODD MILLER: Well, in some reality if that police officer wasn't behind me or behind the person, then I would be illegal to move forward anyway because they would be at it at the intersection, correct? So then at that point, I wouldn't have been able to leave. So I would have been able to be issued the ticket unless, like I said, they were behind me, and then they didn't see me. Then it would be up to me to take it to my peers in the court of law and say, "Hey, look, reasonable doubt." And that would be my defense. In a lot of the way this is written in other states, quite consequently, is that it says rather than the time limit, it says "reasonable." And reasonable time to leave and reasonable time to wait, and a lot of them prefer that because of what you're saying. Setting an arbitrary time limit I'm not sure is the absolute perfect plan on this but making a reasonable time to sit there and making sure that you're reasonably safe to leave. And again, obviously the cars coming from one direction or another, then it's not reasonably safe to leave, so I think the bill would cover all those situations. [LB85]

SENATOR HADLEY: I guess I had an earlier thought, the idea of substituting reasonable for, especially... [LB85]

TODD MILLER: And a lot of states have used that language. [LB85]

SENATOR HADLEY: ...because how, you know, you're sitting there on a motorcycle. How do you count off 120 seconds? (Laugh) [LB85]

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TODD MILLER: Exactly. Some of them say, you have to wait through two stoplights. In other words, if you see the flash, and it...A lot of times what happens is it will flash, but it won't turn green... [LB85]

SENATOR HADLEY: That's right. [LB85]

TODD MILLER: ...but you see the flash, and then it stays green for the other side and wait for that. Some of them require that but there again, there are so many different kinds of lights; I don't think that fits. I think reasonable is probably the best terminology. [LB85]

SENATOR HADLEY: A thought just happened to me. Would a person on a bicycle have the same...? [LB85]

TODD MILLER: Actually any vehicle, any vehicle. [LB85]

SENATOR HADLEY: ...the same exact concern that if they don't want to violate, I mean, if they're truly a bicyclist who believes in following the traffic laws, they come up to a signal... [LB85]

TODD MILLER: Absolutely. [LB85]

SENATOR HADLEY: ...and it doesn't trip. They're... [LB85]

TODD MILLER: Absolutely. And that's what the beauty of, I think, the way this is written with the 1,200 gross legal weight rating covering all vehicles. [LB85]

SENATOR HADLEY: A good point. Thank you. [LB85]

SENATOR SMITH: Senator Brasch. [LB85]

SENATOR BRASCH: Thank you, Vice Chairman Smith and thank you, Mr. Miller for testifying today. Mr. Lippert indicated he was from Columbus, and I'm not sure of where... [LB85]

TODD MILLER: I'm sorry, I'm from Lincoln, Nebraska. [LB85]

SENATOR BRASCH: Very good. You don't have to say where you're from, but I don't know Columbus or any of the other...In Cuming county, there's a particular light that has a sensor on it, and it's 275 and 32. And, most of the time, there's a very long vehicle that comes through and because you mentioned golf carts, smart cars, it's probably a good idea to not go quite up to the corner because a vehicle...double-trailer will... [LB85]

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TODD MILLER: Sure. [LB85]

SENATOR BRASCH: Now, I'm wondering reasonable extenuating circumstances, back from our other bill, but are you familiar with corners where, if you're right up there, that your chances are you're going.... [LB85]

TODD MILLER: Part of my job for ABATE, you know, is to travel, and I go to all over the state and deal with this and of course, like I said, I've gotten a lot of complaints and people wanting to have their voice heard but not necessarily wanting to testify. Yes, there's a lot of places where it's not really safe for us. [LB85]

SENATOR BRASCH: To go to the trip point on a light, and I think... [LB85]

TODD MILLER: Right, exactly, because...I mean, and that's just with anything because of the way their cut or because they've planted the crosswalk right in the...right at the very edge there because the growing municipality moved the roadway out slightly to get another lane in or whatever. There's a lot of places where there is some danger. And, like I said, they haven't necessarily moved the trip position to accommodate. So, yes; there's a lot of places where there is. And I know there's a rule, like I said, or a law, that allows us to...if one is faulty, but how do you prove it's faulty if you weren't in the position? I mean, it's actually not performing incorrectly, it's just...doesn't work in this particular instance. [LB85]

SENATOR BRASCH: Excellent. Thank you for your testimony. [LB85]

SENATOR SMITH: Senator Watermeier. [LB85]

SENATOR WATERMEIER: Thank you, Senator Smith. Just a quick question about the brakes. You had mentioned the brake light doesn't come on at the stop sign if you take your foot off, but the brake light does come on for the front line, front brake as well, doesn't it, with your right hand? [LB85]

TODD MILLER: If you pull the front brake, yes. [LB85]

SENATOR WATERMEIER: Right. I mean, so if you're sitting at a stoplight... [LB85]

TODD MILLER: Generally there's no reason to hold the front brake sitting at a stop sign, so, yeah. [LB85]

SENATOR WATERMEIER: Right. [LB85]

TODD MILLER: As a matter of fact, one of the things that a lot of safety courses teach is not to hold the front brake because if you are accidentally rear-ended, you would roll

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through rather than take the full brunt of the back, so... [LB85]

SENATOR WATERMEIER: I'm just kind of preparing myself for the next question that may come outside of the committee, and we'll have questions, and so just to be able to answer that. [LB85]

TODD MILLER: Sure. Sure. But yeah, both brakes will set the light, absolutely. [LB85]

SENATOR SMITH: I see no further questions. Thank you, Mr. Miller, for your testimony. [LB85]

TODD MILLER: Thank you for your time. [LB85]

SENATOR SMITH: Are there other proponents for LB85? Welcome. [LB85]

ROGER ITES: Good afternoon, senators. My name is Roger Ites, I-t-e-s. I'm from District 5 in Omaha. I've been riding a motorcycle for over 30 years. I appreciate all the previous testimony. I think it seems pretty clear that we have a problem with lights not activating on smaller vehicles. It's not that they don't function properly. They're not malfunctioning; they do not have the capacity to recognize our vehicles. I thought it interesting that the red light, the sensor in the ground is looking for mass, so I thought it appropriate that I give testimony. I've got two massive motorcycles. The first one is a Honda GoldWing which is a V6 engine. It weighs close to 1,050 pounds. The second one is a Can-Am Spyder which is a trike, and as we...I heard several times...we're talking about a smart car, and I heard some testimony that, you know, the sensor is looking for the width of the vehicle. A Can-Am Spyder is 60" wide, and a smart car, as I sat here waiting to give some testimony and looked it up on Google, it is 5' 1", which is 61". So when I'm on my Can-Am Spyder trike, I'm every bit the width of a smart car. That vehicle is just under 1,100 pounds. The problem with both the GoldWing and both the Can-Am Spyder: they both share a common component. They are an aluminum frame covered in plastic. So, you know, we can only see more of that coming forward on four-wheeled motor vehicles. I've had an issue with red light right-of-way. I was sitting in a left-turn lane; there was a straight lane of traffic and a right lane of traffic. Sitting and sitting and sitting, waiting for the light to change. I finally went through and was cited for improper turn, and the officer said, "Well, you had an option. You could have turned right." So I'm supposed to cross from a left-turn lane, through a straight lane of traffic, to another turn, and I'm supposed to, what? Illegally cross two-lanes of traffic? And that's wrong. Obviously, that's...I'm going to break two traffic laws to make a left-turn. The other thing that makes me special is performing that type of maneuver is a little bit difficult at times for me because I pull a two-wheeled cargo trailer with my motorcycles. I pull a camper with my motorcycles, and then I have a one-wheeled trailer that I pull with my motorcycles. So, now we're not just talking about whether or not I can safely maneuver the bike from a left-turn lane to a far right-hand lane, I've got a combination of

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vehicles behind me now. So now if I try to attempt to do something like that, I'm going to be blocking several lanes of traffic in order to do that. So, highly in support of LB85. I also think the two-minute thing is sort of vague. "Reasonable" would be the way to phrase that. So thank you for your time. If there's any questions... [LB85]

SENATOR SMITH: Senator Watermeier. [LB85]

SENATOR WATERMEIER: Vice Chairman Smith. You bring up the question now: is the 1,200 pound rule ever going to be a problem? I mean, I don't even like the idea of 1,200 pounds in there because if motorcycles get bigger, Can-Ams, I realize its market's changing. It's not been that long since those motorcycles have been around. Would that cause us trouble? [LB85]

ROGER ITES: I don't think a motorcycle really is going to get much bigger than that 1,200 pound limit, but you may get into some wider weight. [LB85]

SENATOR WATERMEIER: Right. The next question is, then, your...Are you licensed with a trailer on that motorcycle when you pull this camper and your other vehicles? So that wouldn't be added to... [LB85]

ROGER ITES: No, I don't have any special LCV. I am a Class A CDL holder that has doubles and triple certification, but it's no different than if you were to have a Ford F-150 pickup, and you decide you're going to pull a little camper behind you. There's no special license certification for that. [LB85]

SENATOR WATERMEIER: No, I appreciate that. I own all those licenses as well, but I...My question was: is the trailer that you're pulling licensed separately so the weight's on...like my tractor, the weight is just on the tractor so you don't have to worry about that. [LB85]

ROGER ITES: Every trailer that I have is licensed through the Department of Motor Vehicles. Yes, they are tagged vehicles. [LB85]

SENATOR WATERMEIER: Just like a trailer. Okay. I wasn't sure how that worked on motorcycle trailers, sorry. [LB85]

SENATOR SMITH: (Exhibit 7) Thank you, Mr. Ites, for your testimony. We continue on with proponents for LB85. Seeing none. Opponents for LB85? Seeing none, we will... [LB85]

SENATOR DUBAS: (Exhibit 5) Senator Smith, I do have a letter to read into the record in opposition to LB85 from the Nebraska Sheriffs' Association. Thank you, Senator Smith for taking good care of the committee while I was gone. Again, any opponents?

Neutral? Any neutral testimony? Senator Schumacher, would you like to close? [LB85]

SENATOR SCHUMACHER: Thank you, Chairperson Dubas and members of the committee. It did occur to me that there's one reason maybe not to advance the bill. Can't you just see this taking all morning? It's the kind of issue we really can get into, trying to figure out how to solve this defined problem. But we have defined a problem, and the bill that has been proposed with the restriction of two minutes, no other vehicles at the intersection, being able to proceed safely through the intersection, is a solution that probably addresses itself to the great bulk of these situations. I'm not sure any language can be 100 percent. We've heard about the sensors in the road, not maybe sensing a vehicle behind, if the motorcycle is not ahead far enough. We've heard a suggestion, maybe, that the word "reasonable" be substituted for the amount of time. Those are all possible wrinkles in it, and that's something that I believe is appropriate for the committee, to make adjustments based on the testimony here. But as worded with the suggested amendment, we probably address the great bulk of the situations and resolve this problem for the great bulk of the situations. So unless there's any other questions, that would wind up my... [LB85]

SENATOR DUBAS: Senator Price. [LB85]

SENATOR PRICE: Thank you, Chairperson Dubas and thank you, Senator Schumacher, for bringing a situation to light. I know that I've heard motorcyclists discuss this fine point numerous times, but I also begin to wonder, as Senator Hadley had, when we think about bicycles, and then I began to further wonder if, you know, in cities such as Lincoln and Omaha, where there's a greater focus on utilizing bike paths, if we are not frustrating that effort because you couldn't...it would take a lot of bicyclists, even if I were included, to give you the profile and the weight and the metal requirements to set that off. So we could have bicyclists, students, waiting at night, waiting to make a turn or in the evening or in the morning when they're going to school when they can't...because there's no other traffic, and they wouldn't be able to proceed. So I think we have created what you said earlier, before: an impossible situation and that a light would never go, and a citizen could never...a citizen could never fulfill their activity based on the law. So I just wondered if you would concur with that or not? [LB85]

SENATOR SCHUMACHER: I think so. I did not put any particular time in the studying the bicycle or skateboarder or whatever situation, but the motorcycle one is addressed by this. [LB85]

SENATOR PRICE: I do believe bicyclists must follow the rules of the road so, therefore, they fall under that jurisdiction as well. So, thank you very much. [LB85]

SENATOR DUBAS: Thank you, Senator Price. Other questions? Thank you very much, Senator Schumacher. [LB85]

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SENATOR SCHUMACHER: Thank you. [LB85]

SENATOR DUBAS: All right that will close the hearing on LB85, and we will open the hearing now on LB453. Senator Karpisek. Well, you know how to clear a room. (Laughter) [LB453]

SENATOR KARPISEK: I'm getting better at it every year, Senator. (Laughter) Senator Dubas, members of the Transportation Committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I'm here today to present LB453. LB453 would simply state that all headlights shall be clear or of white color. I've seen quite a few headlights that are either blue or pink, and I just don't think that this should be allowed. I'm not talking about the bluish lights that LED or halogen lights put off. These are actually bulbs or lens covers that turn them on colors on purpose, and that is the extent of the bill. I'd be glad to take any questions. [LB453]

SENATOR DUBAS: Good. Questions for Senator Karpisek? Senator Price. [LB453]

SENATOR PRICE: Senator Dubas, thank you. Would you be amenable to adding those annoying quartz halogen--burn-your-eyeballs-out--lights? [LB453]

SENATOR KARPISEK: I would, Senator, but I didn't think I should go that far. [LB453]

SENATOR PRICE: Thank you. [LB453]

SENATOR DUBAS: Other questions for Senator Karpisek? Seeing none, thank you. [LB453]

SENATOR KARPISEK: Thank you. [LB453]

SENATOR DUBAS: You going to hang around? [LB453]

SENATOR KARPISEK: Oh, what the heck. (Laughter) [LB453]

SENATOR DUBAS: (Exhibit 6) Do we have anyone in support of LB453? Anyone in opposition? We do have a letter that was sent from Steve McDonald with the Specialty Equipment Market Association. I would guess I would put them...his letter in neutral, not opposition. So, do we have any other neutral? With that, Senator Karpisek, would you like to close? Senator Karpisek waives closing. Thank you very much. [LB453]

SENATOR WATERMEIER: His letter is in neutral? And he sells equipment? [LB453]

SENATOR DUBAS: Well he has questions, is what he's raising so...Okay, so with that,

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I'll close the hearings for the day, and do I have a motion to go into Exec? [LB453]