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Transportation and Telecommunications Committee  
February 10, 2014

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[LB1029 LB1039 LB1082]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, February 10, 2014, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1029, LB1039, and LB1082. Senators present: Annette Dubas, Chairperson; Jim Smith, Vice Chairperson; Lydia Brasch; Galen Hadley; Beau McCoy; John Murante; and Dan Watermeier. Senators absent: Charlie Janssen.

SENATOR DUBAS: Good afternoon. It is 1:30, and I think we will call this hearing to order. Welcome to the Transportation and Telecommunications Hearing this afternoon. My name is Senator Annette Dubas; I'm the Chair of the committee; I represent District 34 from Fullerton. I'll begin by introducing committee members. To my far left, we have Senator Lydia Brasch from Bancroft; Senator Beau McCoy from Omaha; Senator Galen Hadley, Kearney. To my immediate left, is Anne Hajek; she is the committee clerk. To my immediate right is Joselyn Luedtke; she is the legal counsel for the committee. Then we have the Vice Chair of the committee, Senator Jim Smith. I'm sure we will be joined at a later time by Senator John Murante from Gretna; Senator Dan Watermeier from Syracuse, and there he comes in on queue as I'm announcing his name; and Senator Charlie Janssen from Fremont. Senators are introducing bills, so there will be some coming and going throughout the afternoon as senators need to leave and go to other committees, so please don't think it's anything that you said that offended them; it's just that there are other things going on. We're very fortunate in the Legislature to have a great program of legislative pages, and they really help keep our committee hearings organized and on the floor; appreciate all that they do to help us in the Legislature. Our legislative page is Jonathan Beck, originally from Centreville, Virginia, currently resides in Seward, and is a senior at UNL majoring in political science with a minor in communications. So thank you, Jonathan, for your help with the committee. The bills will be heard today...LB1039 will be the first bill up, then we will hear LB1029 and then LB1082. If you plan on testifying, when you come forward to the table, if you'll state and then spell your name for the record, that will be helpful. You will fill out a green sheet with all of the information, and then you can hand it to the page when you come to the table; that will be helpful for the clerk and her recordkeeping. We go in order, after the bill introducer, then there are proponents, then opponents, and then neutral. If you're here today and want to register whether you...your position on any of the bills, the pink sheet back on the table there by the door, you can put your name and information on that pink sheet, and then that will go into the record. As I ask you to state and spell your name for the record, I also ask that you try to resist from moving the microphone around a lot; it's pretty sensitive, and it's more for transcribing than it is for amplification, but it picks up a lot of sounds. And when there are a lot of other sounds while there is talking going on, it makes it difficult for the transcribers. So, again, if you could try to resist the urge to move the microphone around, we would really appreciate that. If you have any handouts, we would appreciate you having 12 copies. If you don't, you can get that to

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the page, and he'll make sure that enough copies are made, and then when you bring those forward, hand them to the page, and he will hand them out to us. I would ask that you silence all of your electronic devices, and if you have to have any conversations at all, if you would please take them out into the hallway, we would appreciate it. With that...I think that's taken care all of the housekeeping. And I will turn the committee hearing over now to Senator Smith.

SENATOR SMITH: Thank you, Senator Dubas, and we welcome you to open on LB1039. [LB1039]

SENATOR DUBAS: Thank you, Senator Smith, members of the committee. My name is Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s. I represent Legislative District 34. LB1039 is a bill that I've worked on at the request of a local equipment hauler attempting to make existing regulations more uniform for businesses. Daws Trucking brought a "to do" list to my office last year seeking changes to laws that they felt were unfair or hinder their ability to compete with other businesses. In their experience, some of the requirements of our Rules of the Road were outdated. Over the interim, my office met with Daws Trucking, Department of Roads, State Patrol, and the Farm Equipment Dealers Association to try and strike a balance in our statutes and create a more level playing field. And while we were not able to find a compromise on all of the items that the Daws Trucking brought forward, LB1039 is the result of that very thoughtful negotiation and a review of the changes to long-standing practices. Our existing laws give more leeway to farm equipment dealers based on the notion that they know the equipment better than any other driver and thus will haul that equipment safely. In the 1940s, when these laws were drafted, farm equipment dealers were much closer to the farm, meaning there were more dealerships across the state and equipment was hauled shorter distances. What the law did not consider was the instance where a farm equipment dealership enlists the help of a private hauler to move farm machinery. LB1039 addresses that reality by allowing nondealers to enter into an agreement with farm equipment dealers to act as their representative when hauling farm equipment between the farmer's field and the dealership. This may be done when a farmer purchases a new tractor or combine or other piece of equipment or when that piece of equipment breaks down in the field and has to be taken into the dealership for repair. The bill requires nondealer haulers to obtain a written, signed, and dated statement from the farm equipment dealer that they are acting as a representative of that dealer. In order to ease enforcement concerns from the State Patrol, the bill requires haulers to carry this statement with them when hauling and make it available for inspection by law enforcement. The bill specifies that such an agreement does not extend to liability insurance protection. This bill only extends the height, length, and width exemptions for farm equipment dealers to other haulers. This does not address overweight vehicles. And there's also, I believe, a 90-day time frame on how good this letter is. So, hopefully, I believe there are supporters behind me who we worked with on this issue who can give you more of a personal experience and why they feel this bill will be beneficial to their business. And I

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appreciate your consideration of LB1039 and would attempt to answer any questions you may have. [LB1039]

SENATOR SMITH: Are there questions for Senator Dubas? Seeing none, thank you, Senator. We now open the hearing to proponents of LB1039...proponents of LB1039. Welcome. [LB1039]

BOBBY HOEFT: My name is Bobby Hoeft, B-o-b-b-y H-o-e-f-t. I work for Jim Daws Trucking out of Milford, Nebraska. I'm in charge of permitting all our oversized loads for the company. Jim and I was in discussion with Senator Dubas and her staff over the last year to see if some changes could be made to laws pertaining...moving farm equipment. The reason we initiated the conversation is that there are different rules that apply to the equipment dealers hauling their own equipment versus a commercial carrier moving the same piece of equipment from a dealer to the farmer or the farmer to the dealer. We have a relationship with a large John Deere dealership that has 13 locations and three trucks, so you can see why there's a need for commercial carriers to come into play here, especially during planting and harvest when they need to have a broken-down piece of equipment replaced so they can keep on doing what they're doing. The reason it would benefit us is that it would...we get a lot of calls from the dealers, and they don't understand why we have to run a different set of rules when it comes to permitting and escort vehicles. And we didn't really see why it would make any difference whether the piece of equipment was on a truck owned by the equipment dealer or a truck owned by a commercial carrier. We transport several overdimensional loads not pertaining to farm equipment year round, and we don't have very many problems. We strive to do it all by the law so we're just asking that you would level the playing field for the commercial carrier and the equipment dealers so that we could be of move service to them. And I thank you for your considerations of proposed changes. [LB1039]

SENATOR SMITH: Okay. Hold on just a second. Are there question for Mr. Hoeft from the committee, please? Senator Dubas. [LB1039]

SENATOR DUBAS: Thank you, Senator Smith. If you could just give us a little bit of an example, okay, you get called by an implement dealer saying I need you to go pick up a tractor out of a field, what do you have to do versus what that implement dealer would have had to have done had they been able to go pick it up? [LB1039]

BOBBY HOEFT: Well, where the real problem comes in is today's machinery is a lot larger than they used to be. Our limitation is 12-foot wide, so if we have to go pick up a machine in the field, and it's over 12-foot wide, we have to get a permit, which isn't a big deal, the permit officer in the state of Nebraska does a very good job. The other issue is we have to get a pilot car, escort vehicle lined up because we're over 12-foot wide, and that's sort of the statute pertains to commercial carriers and it's, I believe, 14.5 foot for a farm equipment dealer before they have to provide the same thing. [LB1039]

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SENATOR DUBAS: Does the implement dealer have to do those same things or if they're going to go get a piece... [LB1039]

BOBBY HOEFT: They get an exemption to 14.5, and we have to start at 12 feet when...anything over 12 feet. So that's why we're asking for the rule to change so that we're on equal... [LB1039]

SENATOR DUBAS: Thank you. [LB1039]

SENATOR SMITH: Senator Hadley. [LB1039]

SENATOR HADLEY: Thank you, Vice Chair Smith. Just quickly, I thought Senator Dubas said that originally the idea was that somehow the equipment dealer would have some kind of...a greater...special expertise in handling this type of equipment. Is that a fair statement or is that not relevant now? [LB1039]

BOBBY HOEFT: I think that was probably the intent of the law 40 years ago. But now, you know, we haul over-sized stuff all over the United States, all over...we go 48 states. And Ron back here could attest that we've hauled stuff in the city of Omaha up to 22-foot wide, and we haven't had any problems at all. So, you know, I think that at least speaking for our company, we have the expertise it takes to move a piece of farm equipment the same...the same capability as an implement dealer would have to do the job. [LB1039]

SENATOR HADLEY: Okay, thank you. [LB1039]

BOBBY HOEFT: And we have the specialized equipment to do it with, you know, trailers that are designed to haul machinery on. [LB1039]

SENATOR HADLEY: Okay, thank you. [LB1039]

SENATOR SMITH: Senator Brasch. [LB1039]

SENATOR BRASCH: Thank you, Senator Smith, and thank you for your testimony, Mr. Hoeft. I have a question for you. When you just said that...you mentioned multiple states, that you do go to other states with some of...some equipment? Is that correct? [LB1039]

BOBBY HOEFT: We go to multiple states with lots of oversized loads. We do not haul much farm equipment across state lines, mostly all we haul was within a 150-mile radius of our facility. I'm not saying we never do, but we very seldom would haul a piece of equipment. Occasionally, we haul some from a factory to a dealer, but we do not like

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the rules that pertain to that; that's a whole different ball game. We have more time, and they understand the rules that go with that. [LB1039]

SENATOR BRASCH: Sure. And what I'm curious about is, are the laws consistent between Nebraska and over to Iowa or South Dakota? Do you ever run into any... [LB1039]

BOBBY HOEFT: The laws change...or the rules change, anyway, between state lines. That's part of my job is to investigate whatever obstacles we're going to hit when we bid a piece of equipment or whatever it may be that is oversized. But I don't think we could ever...it would be nice, but I don't think we'll ever see uniformity in all the 48 lower states on oversized...overdimensional loads and permits. [LB1039]

SENATOR BRASCH: And I will just ask you one more question along this line... [LB1039]

BOBBY HOEFT: Sure. [LB1039]

SENATOR BRASCH: ...because during the tractor pull at the Nebraska State Fair, my husband and I were in the pit area, and some of them take their tractors to multiple tractor pulls across lines, this and that. Are those...is that considered farm equipment still when it's used for both, I suppose? [LB1039]

BOBBY HOEFT: Well, most of those tractors are probably used for both, but I would assume it would be farm equipment. Most of those people haul their own. [LB1039]

SENATOR BRASCH: They haul their own. [LB1039]

BOBBY HOEFT: They own it, and they haul their own. [LB1039]

SENATOR BRASCH: Because they were concerned about the laws of moving back and forth across state lines, differed on length and equipment, and that's why I was just wondering if it affected you? [LB1039]

BOBBY HOEFT: Yeah, it would be a bigger concern to them than it is to us. [LB1039]

SENATOR BRASCH: Than you...okay, very good, very interesting, and thank you for your testimony. [LB1039]

BOBBY HOEFT: Thank you. [LB1039]

SENATOR SMITH: Are there additional questions? Seeing none, thank you, Mr. Hoeft, for your testimony, appreciate it. [LB1039]

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BOBBY HOEFT: Thank you. [LB1039]

SENATOR SMITH: We continue with proponents of LB1039, proponents of LB1039. Seeing none, we move to opponents of LB1039. Seeing none, anyone wishing to testify in the neutral capacity? Welcome. [LB1039]

RANDY PETERS: (Exhibit 1) Good afternoon, Senator Dubas, members of the committee. My name is Randy Peters, R-a-n-d-y P-e-t-e-r-s, and I am the Director-State Engineer of the Department of Roads. I'm here to testify in a neutral capacity on LB1039. The department is concerned about broadening the exemptions for overdimensional loads that exist within Statute 60-6,288. These exemptions are currently extended only to farm implement dealers. Restricting the exemptions to dealers helps limit the number of oversized loads on the system that do not need a permit or an escort vehicle. Because highway lanes are 12 feet wide, the safety of both oncoming and overtaking traffic is the reason for the pilot car requirement. The justification for the exemption for dealers is that they are familiar with the local routes that can safely handle their overdimensional equipment, and dealers have the right configurations for moving equipment for delivery, repair, or overhaul within a local geographic area. These provisions keep the focus of exceptions on a very narrow subgroup of movers and thereby minimize the risks to travelers and to the highway assets. Our main concern with the proposed language of LB1039 is that it is too vague. The signed statement under the bill's language only requires the date, the name of the dealer, and the name of the hauler, and then the authorization to move on the dealer's behalf is for 90 days. The statement says nothing about the load's origin or destination which makes it impossible for law enforcement to determine if the load is on a reasonable route. Lastly, the signed statement provides no description about the load itself. The purpose of describing the load and specifying its origin and destination is to provide law enforcement with enough information to determine whether the overload is legal and whether or not the selected route is appropriate. Since oversized loads may damage infrastructure and pose safety risks for the traveling public, a peace officer who pulls over such a load to check it would typically make sure the hauler has chosen the shortest suitable route between the load's origin and destination. Under LB1039 as introduced, it may be difficult for law enforcement to distinguish actual farm equipment parts from other types of nonfarm equipment, or to determine whether a particular haul activity is on behalf of the named dealer. Overall, the signed statement lacks the detail needed to properly limit risks to the traveling public and to our infrastructure. With the addition of a statement of origin and destination and a description of the load, LB1039 would provide a reasonable extension of the current policy of exempting dealers. In fact, a properly circumscribed signed statement would be similar to what is found in Section 60-6,301(5) current statutes. That statute deals with overweight exemptions for seasonally harvested products and requires the owner's hauling representative to carry a signed statement that lists the load's origins and destinations. NDOR respectfully

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requests the committee's consideration of an amendment adding the requirement for the origin and destination of the load and a description of the load to the statement. That concludes my testimony, and I have staff here with me to assist me in answering any questions you might have. Thank you. [LB1039]

SENATOR SMITH: Thank you. Are there questions for Director Peters? Senator Hadley. [LB1039]

SENATOR HADLEY: Thank you, Senator Smith. Mr. Peters, this is where a dealer authorizes someone else to, basically, do the hauling, am I...this correctly, if I interpret this correctly? What do we do in the case if I happen to be a farmer, and I sell a piece of farm equipment to just another individual in another part of the state? How...is there a way that they can get it from one part of the state to the other part of the state without going through a dealer? [LB1039]

RANDY PETERS: I would like to bring Ron Kontos that...who has been a manager of our permits up here. [LB1039]

SENATOR HADLEY: Okay, I'll certainly hold that question until he comes. Okay, no problem. [LB1039]

RANDY PETERS: He's very conversant in those kinds of questions. [LB1039]

SENATOR SMITH: Additional questions from the committee? Seeing none, thank you, Director Peters, appreciate your testimony. [LB1039]

SENATOR DUBAS: If Mr. Kontos wants to come forward and... [LB1039]

SENATOR SMITH: And please state your name and spell it for the record. [LB1039]

RON KONTOS: I shall, yes. It's Ron Kontos. It's K-o-n-t-o-s; Ron is R-o-n, and I'm the permit manager for the Nebraska Department of Roads area. Senator Hadley, in reference to your question, there's a number of answers. One is, some farmers will hire somebody to make the move, and then they will fall under general rules and regulations as it relates to the movement of what they call a single-trip permit. In this particular case, the tractor. There's also a section in there that talks about the temporary movement of farm equipment during daylight hours and the normal course of farm operations. There will be times that you will see somebody felt that, given the circumstance of that particular move, they are moving under that statute. Then this particular area then dealing with farm dealers, that would be an arrangement made with the farmer and the farm equipment dealer for the appropriate movement of that. The dealer then, if he made the move, would have to fall under the present rules as it relates to them of where they're exempt from a permit and in some cases, depending on the

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size of the loads, they may not be exempt. [LB1039]

SENATOR HADLEY: Okay. [LB1039]

SENATOR SMITH: Are there additional questions for Mr. Kontos? Seeing none, thank you very much. [LB1039]

RON KONTOS: Thank you. [LB1039]

SENATOR SMITH: (Exhibit 2) Do we have anyone else that would like to testify in the neutral on LB1039? Seeing none, we do have letter for the record, and this is from Shane Greckel who wrote in in the neutral capacity. All right, Senator Dubas for closing. [LB1039]

SENATOR DUBAS: I will waive closing. [LB1039]

SENATOR SMITH: Senator Dubas waives closing, and that closes the hearing on LB1039. And now I'll turn it back over to Senator Dubas. [LB1039]

SENATOR DUBAS: Thank you, Senator Smith. We will now move on to LB1029. Senator Coash, welcome. [LB1029]

SENATOR COASH: All right. Well, thank you, Chairwoman Dubas, and good afternoon members of the Transportation Committee. For the record, I am Colby Coash, C-o-a-s-h, and I represent the 27th District right here in Lincoln. Here to introduce LB1029. You may wonder why a west Lincoln senator is introducing a bill having to do with hauling fertilizer. I'll just say I grew up in this industry. Had I chosen to follow that path, I might have been the third generation to be in the fertilizer business, but as it turns out, I'm here working with all of you. But I am pleased to introduce LB1029 which is a bill that amends the state's weight permitting laws regarding running certain agricultural vehicles overweight. Current law allows a permit for carrying grain or other seasonally-harvested products from the field which such grain or products are harvested to storage, market or stockpile in the field, or from stockpile to market or factory. The purpose of this legislation is to, essentially, extend the same provisions allowed for the grain and apply it to dry and liquid fertilizers. This legislation would allow vehicles hauling dry or liquid fertilizers up to 150 miles loaded up to 15 percent greater than the maximum weight specified by law, loaded up to 10 percent greater than the maximum length specified by law or both. Farming has changed in the past 10 years with farmers now storing from 3,000 to over 10,000 gallons of fertilizer of the farm. Corn planters run from 12 to 24 rows. The legislation would allow for efficiencies to reduce the cost of supplying these products to Nebraska farmers and also provide less fuel to be expended in making these deliveries. There are some industry professionals who will testify after me in support, and they'll give you some firsthand knowledge about this. I



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did look at the fiscal note, and I would just like to comment to the committee that I would like to work with Department of Roads and stakeholders to see if we can eliminate that because that's, certainly, not something I would want to do. But with that I'll close. [LB1029]

SENATOR DUBAS: Thank you, Senator Coash. Are there questions? Seeing none, thank you. Proponents for LB1029. Welcome. [LB1029]

BRAD BOUSQUET: (Exhibit 6) Good afternoon, Chairman Dubas, and members of the Transportation and Telecommunications Committee. My name is Brad Bousquet, that's B-r-a-d B-o-u-s-q-u-e-t. I'm here today to represent the Nebraska Agri-Business Association and Central Valley Ag Cooperative out of Oakland, Nebraska. Our company has over 40 locations that handle fertilizer, ag chemicals, feed, seed, grain, and other agricultural inputs. We hear...we are appearing here today to support LB1029. The reason for the support is farmers are becoming larger in size and fewer in numbers. Because of this, they have increased the size of their planting equipment so they can cover much greater areas in a shorter amount of time. Twenty years ago farmers planted with six-row planters. Today it is not uncommon to see 24-row planters, and in some cases we're starting to see 48-row planters. It's my understanding that John Deere is now developing a 24-row planter that can be pulled through the field at 10 miles per hours. Once the crop is planted, we have only about a week and a half or two weeks to cover the field with the appropriate fertilizers to give that crop its nutrients that it needs. At the same time, we are distributing starter fertilizers at 32 percent liquid nitrogen fertilizer to farmers for their planters and for their own application equipment. We have the fertilizer plants in place, we have the storage tanks in place to accommodate our growers' needs, but the problem is getting the fertilizer to the field and to the farm in a timely manner to ensure growers have the fertilizer they need during the planting season. I understand that the way that LB1029 is written, the state of Nebraska will probably have concerns, and some of those concerns are probably because it's broadly stated in the language. And we probably need to suggest some amendments to the language so as to narrow the bill a bit. Some of our suggestions would be to limit the overweight permit during those periods of planting, which is going to range from mid-March to mid-June, March 15 to June 15 would cover that time period. And then also to limit the permit from on-farm storage or retail storage to the field, and also from the retail storage to the farm storage. Our company has approximately 250, what we call nurse...tender trucks. And the tender trucks' responsibility is to get the fertilizer to the field for the application. Now we run these trucks really hard for about a three- to four-month window, and then they're parked the rest of the year. So it's quite an investment with the size of fleet that we have and putting the drivers in those trucks to get them out to the field in that short window. So it's really important that we have...we have a good way to do it and unfortunately with the way that the laws are written, we've got 3,000 gallon tank on a tandem truck, we can barely fill that tank at half full, that really limits the amount of fertilizer we can get to the

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field, and we really need to get the fertilizer to the field so that we can get it in the crop in a timely manner. I do have pictures here of some of the examples of tender trucks. This would be a typical tandem axel tender truck we use; that's a liquid truck. And then in the second page, we also have a picture of a tandem axle dry tender truck; pretty common trucks. There also single axle versions of these trucks and triple axle versions of these trucks. The 15 percent tolerance would certainly allow us to better serve our customers, especially in that critical time limit they have fertilizer in their fields. [LB1029]

SENATOR DUBAS: Thank you very much for your testimony. Are there questions?  
Senator Hadley. [LB1029]

SENATOR HADLEY: Yes. Thank you, Chair Dubas. What is the concern with the noncompliance with the federal funding? Do you have any idea what that concern is? [LB1029]

BRAD BOUSQUET: I did talk to Andy with the Department of Roads, Andrew Cunningham, just prior to the meeting here. And from my understanding, because it is so broadly stated, and I'm not an expert in the area, but because it is so broadly stated, that it wouldn't be seen as an emergency situation or a special circumstance. [LB1029]

SENATOR HADLEY: Secondly, do you see...do a lot of farmers take...you say you can load it half now, right? Is that... [LB1029]

BRAD BOUSQUET: A little over half. [LB1029]

SENATOR HADLEY: A little over half. Would farmers...right now are you consistently making more than one trip to the same farm then? [LB1029]

BRAD BOUSQUET: Yes. Yep. We have several tender trucks that will run out to the same field just to keep up with the floater applicators. Our floater to applicators have 80-foot booms on them, so they cover a great area in a short amount of time. And so really that's not the issue. The issue is the logistics, keeping up with the sprayers. [LB1029]

SENATOR HADLEY: Thank you. [LB1029]

SENATOR DUBAS: Other questions? Seeing none, thank you very much for your testimony, appreciate you coming forward. Additional proponents for LB1029? Is there anyone in opposition? Welcome, Director. [LB1029]

RANDY PETERS: (Exhibit 3) Good afternoon, again, members of the committee. My name is Randy Peters, R-a-n-d-y P-e-t-e-r-s. I'm Director-State Engineer for the Nebraska Department of Roads. I'm here today in opposition to LB1029 which adds

exemptions for haulers of fertilizer on state highway system. My testimony also includes concerns raised by the Nebraska State Patrol. The fundamental principle for safe truckload weights and dimensions is that a divisible load such as grain, gravel or fertilizer must stay within the allowed maximum limits. Our laws do allow that a nondivisible load, typically a large object such as a building or a piece of equipment, to be moved over a controlled route under a permit issued by the department. Let me quote from subsection (1)(b) of Section 60-6,298: No permit shall be issued unless the object which exceeds the size or weight limitations cannot be dismantled or reduced in size or weight without great difficulty, and of necessity must be moved over the highways. The same statute provides some very limited exceptions to the maximum weight and dimension limits for certain divisible loads under a special permit. One of the exceptions, subsection (1)(a)(ii) allows loads over legal limits for the movement of seasonally harvested products in restricted situations. This allowance permits sugar beets to be taken quickly from the field and moved to a safe place at storage, market, or stockpile. LB1029 would create a parallel exemption subsection for hauling fertilizer, so that fertilizer may be moved up to various distances, 150 miles for a single unit trailers and 70 miles for long combination vehicles and loaded up to 15 percent over legal weight and up to 10 percent over legal length. Rather than being seasonal, this would be a year-round exemption. While we certainly understand the need for timely movement of fertilizer, unlike sugar beets, it does not involve perishability. Another point, geography restricts sugar beet overloads to the Panhandle and north central Nebraska, which have rural characteristics, low population density, and less travelled roads. Furthermore, another statute, Section 60-6,301 requires that sugar beet overloads be accompanied by a signed statement of origin and destination. The proposed new exemption for hauling fertilizer would have no such stipulation. The reason for laws limiting maximum loads is to protect the integrity of our infrastructure and for the safety of the traveling public. For loads over the legal weight, the extra weight incrementally shortens the life of the pavement, so this new year-round exemption would have a significant impact over time. NDOR spends hundreds of millions of dollars each year to maintain the state highway system. An evaluation made by the department a few years ago addressed a 15 percent year-round overload scenario applied to 20 percent of truck traffic on a rural two-lane highway. That analysis showed a 1.2 year reduction in the service life over a 10-year span. Offsetting that accelerated deterioration would require a 13 percent increase in annual expenditures to preserve the highway over the same 10-year period. Oversize loads are a hazard for other drivers. These loads usually move more slowly than regular traffic, creating overtaking situations with difficult sight and judgment issues for passing. Oncoming traffic can also experience challenges. The State Patrol brought to my attention the issues of vehicle safety compliance and transportation of hazardous materials. A recent 18-month study conducted by the Patrol found that overweight trucks, even those operating under an overload permit, had significantly higher out-of-service rates than trucks operating under the statutory weight limits. Out-of-service status results from not complying with other statutory safety requirements. My final concern is the issue of

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conformity with federal law under what is known as the "longer combination vehicles freeze." LB1029 would jeopardize federal highway funds due to a provision of 1991 Federal Transportation Act, known as ISTEA, and subsequent federal rulemaking which froze each state's exemptions for length and operations of long-combination vehicles. Appendix C of Title 23, Code of Federal Regulations, Part 658 prevents Nebraska from liberalizing its long-combination vehicle statutes from what we had in place in 1991. That specifically includes holding the exemption for long-combination vehicles to seasonally harvested farm products. The penalty for violating the federal freeze is withholding of 10 percent of all federal-aid highway funds which would otherwise be apportioned to Nebraska under 23 United States Code 104 and 23 United States Code 141(a). That amount is approximately \$27.4 million for the state of Nebraska. That concludes my testimony. I'd be happy to try to address any of your questions. And if they're over my head, I have staff here to assist me. [LB1029]

SENATOR DUBAS: Thank you, Director Peters. Are there questions? Seeing none, I think you did a good job, apparently. Thank you very much, Director Peters. [LB1029]

RANDY PETERS: Thank you. [LB1029]

SENATOR DUBAS: (Exhibits 4 and 5) Additional opposition to LB1029? Anyone in the neutral? I do have one letter of opposition to LB1029 from John Ross, County Supervisor, Cuming County. Neutral? Senator Coash, would you like to close? Oh, I do have a letter of neutral on LB1029 as well from Bob Andersen, the Nebraska Cooperative Council. [LB1029]

SENATOR COASH: (Exhibit 6) Well, thank you, Chairman Dubas. I'm going to pass around a photo of the kind of truck we're talking about so that you can kind of see...this is the photo of a truck that they can only fill a little over 50 percent. It's not a big truck, but they can't use it to its capacity. It's my understanding that in the green copy of the bill there's an extension of length which is the reason for the fiscal note. And I think...I don't think that is as necessary, because you can see the kind of truck that we're talking about doesn't need to be that much longer. They just need to be able to fill it full, and they can't do that. I would tell you that I don't believe fertilizer is hazardous. I grew up around it. I swam in vats of fertilizer, not on purpose, but I spent a lot of time around fertilizer, and it's not a hazardous material; it's not subject to those. And the less trips we have to make, the less hazardous it is. And that's what we're trying to do here is allow this product to be delivered all at once. And in an effort to be more efficient and to save producers money, we did something like this with grain. And I think that if it's good for the grain haulers, it can be good for those who haul this product as well. With that said, I would appreciate the opportunity to work with the Department of Roads, work with the committee to amend this so that we do come into compliance, reduce the scope, make it reasonable. There is a limited time in the year where these products need to get to the field. I think it was mentioned there is a short window of three to four months, and so I

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think that would be appropriate. And I would, again, appreciate working with the committee on this. Thank you very much. [LB1029]

SENATOR DUBAS: Thank you, Senator Coash. Are there questions? Seeing none, thank you very much. That will close the hearing on LB1029. And we are now ready to move on to LB1082, Senator Brasch. Welcome. [LB1029]

SENATOR BRASCH: Thank you, Madam Chairman, and good afternoon members of the Transportation and Telecommunications Committee. I am Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I represent the 16th Legislative District in the Nebraska Legislature. I'm here today to introduce LB1082 which I have brought at the request of volunteer members of the West Point Rescue in District 16. And I also have a representative from Washington County, Arlington, present today. Seeing a large growth in the number of recreational all-terrain vehicles, known as ATVs, and utility-type vehicles, UTVs, in the area, the West Point Rescue team has considered purchasing ATVs or UTVs to modify them for emergency rescue use. These first responders express concern that several of the emergencies in recent years have occurred in locations that are difficult to access with their traditional highway-use emergency vehicles. Obviously, increased response time comes with increased risk of death and injury from lack of proper and immediate medical attention. It is also possible that property damage may increase and a lengthier response time such as in the case of fire. (Section) 60-356 allows ATVs and UTVs to be used for electric utility personnel, but does not provide for emergency responder use. And, currently, electric utility ATVs and UTVs must be properly insured and must only be operated under 30 miles per hour and must have proper lighting and safety equipment that includes a bright orange bicycle safety flag. The driver of the vehicle must have a valid Class O driver's license. There's also an exemption for electric utility vehicles that allows them to operate between the hours of sunset and sunrise. These are the only ATVs and UTVs under statute that allows them to do so. ATVs and UTVs used for agricultural purposes, for example, must be operated during daylight hours, but they may be driven where emergency personnel are currently not allowed to drive ATVs and UTVs. Electric utility personnel were authorized to use ATVs and UTVs on highways in 1989 with LB114, but were only authorized to operate during the hours of sunrise and sunset until the law was amended in 2010 with LB650 to allow operation between sunset and sunrise. These changes were made because utility personnel are required to repair power lines and address other issues at night, and ATVs and UTVs would give them the freedom to more easily access areas with need than a truck. Additionally, the weather can cause hazardous conditions. According to expert testimony before the Committee on Transportation on January 24, 1989, electric utility personnel would often have to walk miles on foot to get to the problematic area. The same goes today for emergency response personnel. They are often required to respond in the middle of the night to emergencies in the middle of a field, just as downed power lines and lack of electricity poses serious hazards to Nebraskans, a brush fire, or an injury that occurs in the middle of a corn field in the middle of the night

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poses similar threat. Allowing the use of ATVs and UTVs for emergency use in these rural areas will help our emergency responders to better help their victims. Right now, they cannot properly respond because they cannot drive even where electric utility companies and farmers are allowed to. And that's why LB1082 is so important. There will be emergency response personnel who will follow me in testimony, and they can answer specific questions as to how these vehicles would be used and the process for obtaining or insuring them. Before I conclude my introduction, I would like to note that the people using these vehicles are trained for emergency response. They must be properly licensed to drive these vehicles. The vehicles must be insured, and they must have the proper safety equipment. I did not introduce this bill without considering the impact it would have on general safety. I will also mention that the green copy you have received will be slightly different than the final version. You would have received a copy of AM1834 which strikes the reference to subsection (2) from the new language added in LB1082. We realized that referring to subsection (2) was unnecessary because subsection (2) itself relies on the rules outlined in subsection (3). So including the language as it currently exists in LB1082 would create redundancy. Again, proponents of LB1082 will follow me and explain to you the importance of this bill to their efficiency and effectiveness in emergency response, especially in our rural areas. I urge you to consider LB1082 and its passage from committee to the floor, and AM1834 through to General File. Thank you, and I'd be happy to answer questions or those following me. [LB1082]

SENATOR DUBAS: Thank you, Senator Brasch. Are there questions? Senator Hadley. [LB1082]

SENATOR HADLEY: Yes, thank you, Senator Dubas. Senator Brasch, I just have to ask, would this...would they be any better if they had yellow flashing lights on these ATVs and UTVs when they went out? (Laugh) [LB1082]

SENATOR BRASCH: The last portion of this bill, as it already stood, is that the county could...the county board could make more restrictions and more rules to them. And thank you for asking. That's an excellent question. [LB1082]

SENATOR DUBAS: Other questions? Senator Brasch, it's my understanding that the State Patrol actually uses some all-terrain vehicles for their work, and that that would fall under a different section of statute. Did you look at that section of statute to see if that fits what you're trying to do here? [LB1082]

SENATOR BRASCH: And we have. And I do have a copy of that statute for emergency vehicles...oh, I think I have it tagged here...and that is under 60-610. And there's a statute for publicly owned...authorized emergency vehicles shall mean fire department vehicles, police vehicles, rescue vehicles, ambulances that are publicly owned, such as publicly or privately owned vehicles. And this would authorize them to use these in

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emergencies that our volunteer fire departments and others have. But also allow them to use them during evening hours, after sunset into the morning. So that does not affect this specific group. [LB1082]

SENATOR DUBAS: Okay. All right. Thank you. Other questions? [LB1082]

SENATOR BRASCH: And I have testifiers behind me. Thank you. [LB1082]

SENATOR DUBAS: Thank you. Can we have proponents for LB1082. Welcome. [LB1082]

MICHEAL DWYER: (Exhibit 7) Good afternoon, Madam Chair and members of the Transportation Committee. I appreciate the opportunity to testify this afternoon. My name is Micheal Dwyer, M-i-c-h-e-a-l D-w-y-e-r. I'm a member of the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association legislative committee. I'm also a 31-year member of the Arlington Volunteer Fire Department and captain of our rescue squad. I'm here today to testify in support of LB1082, a bill that would allow the use of all-terrain and utility-type vehicles for emergency purposes. Currently, over 70 percent of Nebraska is covered by volunteer fire and rescue services whether it's a house fire in Nebraska City, a car accident near Albion, or a prairie fire in western Nebraska, the goals and the risks for us are the same. The men and women of Nebraska's volunteer fire service leave family, dinner sitting on the table, and the comfort of a warm bed in February to risk their lives to protect the lives and property of Nebraska. LB1082 is necessary particularly in Nebraska's diverse landscapes to allow firefighters and EMS personnel to reach, respond, treat, recover, and transport patients, as well as effectively fight brush and wildland fires. There are areas that we simply can't reach without these types of vehicles. I would encourage your support of LB1082. The lobbyist for the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association is here to answer any questions of a technical nature. Otherwise, I would welcome any questions and thank you. [LB1082]

SENATOR DUBAS: Thank you, Mr. Dwyer. Are there questions? Senator Hadley. [LB1082]

SENATOR HADLEY: Mr. Dwyer, just a quick question. You talk about transport. Can an ATV or UTV be used to actually transport a potential victim? [LB1082]

MICHEAL DWYER: Good question. In a literal sense, and probably in a legal sense, no; this is not something that we would use, typically, to haul somebody to a hospital. But, quite frankly, as an officer, if I've got to figure out a way to get Suzie from the bottom of that spot up to my rescue unit, I'm going to use whatever I have to. And these vehicles, on occasion, are invaluable in getting her, at least close to the unit, so that we don't have to go...try to go down there purely by hand. As Senator Brasch mentioned,

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sometimes the distances are significant. Brief story: we fought a fire in the middle of a sandbar in the middle of the Elkhorn River a summer and a half ago. And it was...thank god there wasn't anything out there that was serious because it was in the middle of a sandbar, but I have no idea how we would have even gotten to the edge of the river with most of our equipment and portable pumps had we not, god forbid, that would have been a patient that was in need of life-threatening care...or life-aiding care. I hope that answers your question. [LB1082]

SENATOR HADLEY: Yes, it does. Thank you. [LB1082]

SENATOR DUBAS: Other questions? Mr. Dwyer, have you attempted to purchase this type of equipment for your use and been told, no, you can't? [LB1082]

MICHEAL DWYER: Great question, Senator Dubas. Our particular department doesn't actually have one. Typically, we would...quite frankly, we do the mutual aid, a department that we know has one; or, quite honestly, in the case of the river fire that I mentioned, we just simply confiscate one from a landowner. But to answer your question, no, we have not attempted to purchase one and have not been able to to my knowledge. I think the concern that fire service has, and particularly the gentleman from West Point, is that we don't want to be between a rock and hard place in the middle of a call and have a very well meaning NSP deputy or somebody from a sheriff's office say, guys, you can't use this here or, gosh forbid something go wrong, and have some legal concerns simply when we're trying to respond, especially for a volunteer service. [LB1082]

SENATOR DUBAS: Thank you very much. Any other questions? Again, thank you for coming forward today, appreciate it. [LB1082]

MICHEAL DWYER: Thank you. [LB1082]

SENATOR DUBAS: Next proponent for LB1082. Welcome. [LB1082]

STEVEN BRUNE: Welcome. Good afternoon. I am Steven Brune, B-r-u-n-e. I'm a resident of West Point and a first responder...volunteer first responder with decades of experience. I'm here today in support of LB1082. That's because I'm a first responder, and I've done that for a long time now. It is my personal experience, as well as observations of many other emergency responders in Nebraska, that many emergency response departments are in need of this type of equipment on their departments that they represent today. LB1086 (sic) makes reference to ATV and UTVs used as emergency response vehicles and authorizing them to be driven on the roads. You need to understand that the popularity of these vehicles worldwide has exploded in the last several decades. There are currently millions and millions of these vehicles in American today; tens of thousands of them now in Nebraska, and eventually some of



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these vehicles are involved in some accidents which require emergency responders, like myself, to respond to their accident, or at least to be able to gain access to them in the very remote location they end up in. This is because most ambulances, fire trucks, and other emergency response vehicles are not designed to leave the streets, highways, and roads. It is our current population today here in Nebraska that have these vehicles capable of going much farther off the road than the emergency response vehicles, thereby creating environment unsolvable by most current emergency response departments without the passage of LB1082. Everybody here today, if you've ever needed to call 9-1-1 would expect that when help arrives you receive the very best equipped and the best trained emergency responders possible. You'd expect nothing less, and the emergency responders intend to provide nothing less. That is just the way Nebraskans like to live. It would be in my normal goal to support any legislative bill that would enhance the capacities of Nebraska emergency responders. This bill can do just that. This bill would allow the use of ATV and UTVs used as emergency response vehicles to be driven on the same road. If not passed, these ATV and UTV emergency response vehicles should remain in the fire halls, parked, collecting dust. In reality, some of these vehicles are already in use today in a very limited way. Some of these vehicles are driven on the roads today not authorized. Why, you ask, would they do that? Because all emergency responders have a great desire to help others in need. These emergency responders have a risk-reward process they must evaluate. They risk a ticket by driving this type of vehicle on the road for the potential reward of saving a life or putting out a grass fire inaccessible by fire trucks they have available to them. They may drive this unauthorized vehicle past a uniformed officer with a badge, risking a ticket. The guy with the badge could issue a ticket, but might be made a spectacle of embarrassment at the next county election for county sheriff as he ticketed a volunteer attempting to save a life of someone involved in a traffic accident. This is a very awkward environment at times. The passage of LB1082 would improve that environment. It would authorize the use of these vehicles and thereby creating a safer environment for all Nebraskans. If the use of this vehicle is authorized, it's not the first time they've been authorized in Nebraska. They have been authorized in Nebraska for agricultural purposes for many years. They have also been authorized by utility power companies, electrical companies. These prior authorizations have placed thousands and thousands of these vehicles on the roads for many years. The challenge to emergency responders is farmers and utility personnel have been authorized to drive these vehicles on the road, at times getting far enough off the roads where ambulance and fire trucks are unable to go and end up in accidents of some type and the emergency responders are unable to gain access to that area because we're not authorized to drive the very same path. Passage of LB1082 would assist this type of emergency response. It would simply authorize emergency responders to drive the same roads already approved to be used by agriculture and electrical utility personnel. LB1082 would help make all Nebraskans safer. I'm here today to tell you the passage of LB1082 would be a real asset to emergency responders all across the state of Nebraska. I would also tell you that it will improve the safety of all Nebraskans. Please

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consider this bill, and I encourage you to support the passage of LB1082. I thank you. [LB1082]

SENATOR DUBAS: Thank you. Are there questions? So have you been told by anyone in the past that you can't use this type of equipment or have you attempted to use an ATV or UTV and been told that you can't? [LB1082]

STEVEN BRUNE: We have used them, just like I said, clearly knowing it is not authorized. [LB1082]

SENATOR DUBAS: Okay, but no one has...no to date... [LB1082]

STEVEN BRUNE: No one has ticketed us yet. [LB1082]

SENATOR DUBAS: Okay. [LB1082]

STEVEN BRUNE: We have...we have...in response to your question to the prior testimony, have we purchased one? We have not. We have evaluated it, but when my city attorney says you can't drive it on the road, you must leave it parked. Now I'm to say what? [LB1082]

SENATOR DUBAS: Okay. Thank you. [LB1082]

STEVEN BRUNE: He's correct. [LB1082]

SENATOR DUBAS: Thank you. Other questions? Seeing none, thank you for coming forward today, appreciate your testimony. Further proponents for LB1082? [LB1082]

JERRY STILMOCK: Thank you, Senators. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients, Nebraska State Volunteer Fire Fighters Association and the Nebraska Fire Chiefs Association, in support of LB1082. Senator Brasch and the previous two proponent testifiers hit on everything. I just want to respond to my understanding that because we use a term that's legally defined as "authorized emergency vehicle" that we lap over into other sections of the statutes that use that same term and brings to the point of Senator Hadley's question, what about lighting? And as an authorized emergency vehicle, there is a statutory directive that requires lighting. And on any authorized emergency vehicle because it uses the word "shall." And that shows up in 60-6,231. So I just wanted to clarify that point that, yes, if the committee chooses to advance and the full Legislature would adopt LB1082, it's my opinion that the vehicle would have to be equipped with a red light or a red and white light as defined in the statute. Thank you, Senators. [LB1082]

SENATOR DUBAS: Thank you, Mr. Stilmock. Questions? I would have a question

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about another section of statute. I said when Senator Brasch introduced it, State Patrol is currently using vehicles like this. And my understanding that under 60-678 it allows government subdivisions to authorize the use of ATVs and UTVs and regulate that use within their jurisdiction. So I guess I'm just wondering...it sounds like we're talking about a variety of different parts of the statute. I'm trying to figure out exactly where this kind of use would fit in. [LB1082]

JERRY STILMOCK: Yes, and Mr. Dix, with Nebraska Association of County Officials, and I quietly visited while others were giving testimony, and we got into a discussion. I thought maybe under 60-610 that any vehicle owned and operated by a public entity for use by their volunteer fire department would qualify. And I had not looked at 60-678, the one you had referenced. So we may end up with, perhaps, just looking at a rather conservative city attorney at West Point that says--thou shalt not. And I applaud the department, of course, and Senator bring forth to get that clarity, if, in fact, that clarity is needed beyond 60-678, Senator. [LB1082]

SENATOR DUBAS: Well, we have some things to look at at least. [LB1082]

JERRY STILMOCK: Yes, ma'am. [LB1082]

SENATOR DUBAS: Thank you very much. Other questions? Thank you, Mr. Stilmock. [LB1082]

JERRY STILMOCK: Thank you, Senators. [LB1082]

SENATOR DUBAS: Further proponents for LB1082. Is there any opposition? Anyone in the neutral? Seeing none, Senator Brasch, would you like to close? [LB1082]

SENATOR BRASCH: Thank you. Just very briefly close here, and when I read earlier it's Section 60-6,356, that does allow the ATVs and UTVs to be used for electric utility personnel, but not for emergency responder use. I believe I read that wrong. And then just one more thing I wanted to add. When I mentioned 60-610, the authorized emergency vehicles defined, Captain Sean Caradori from the State Patrol stopped in our office to visit with us, and he had mentioned that they do have them, but they to date have not used them, as our volunteer fire and emergency responders have. When I asked my staff moments ago, how do they use them? And his response was, he was told in parades and not in actual emergency situations and not that they couldn't use them otherwise, but when you mentioned they had them that it's very important and valuable to our local responders, especially in our rural communities. And in the past, I have also heard of where they've been used for hunters to go into a ravine or something to help rescue someone in an emergency situation. And I...these are excellent questions you brought up today, and we will be looking into the other statute you mentioned and how that will affect our counties. And thank you for your time and

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consideration. [LB1082]

SENATOR DUBAS: Thank you, Senator Brasch. Are there questions? Seeing none, that closes the hearing on LB1082 and closes our hearings for today. Thank you, everyone, for participating and have a motion to go into Exec Session. [LB1082]