

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 26, 2019

**FRIESEN:** OK everyone, this afternoon, welcome to the Transportation and Telecommunications Committee, and I'm Curt Friesen from Henderson, Chairperson of the committee. I represent District 34. I would ask that you please silence all your cell phones and electronic devices. We'll be hearing bills in the order listed on the agenda, and I hope it's posted correctly. Those wishing to testify on a bill should move to the front room to be ready to testify. We have set an on-deck chair up here so that you can be ready when the next testifier-- when you want to come on board. If you'll be testifying, legibly complete one of the green testifier sheets located on the table just inside the rear entrance. Give the completed testifier sheet to the page when you sit down to testify. Handouts are not required but, if you do have a handout, we need ten copies. One of the pages will assist you if you need help. When, when you begin your testimony it's very important that you clearly state and spell your first and last name for the record. If you happen to forget to do this, I will stop your testimony and ask you to do so. We will be using the light system today. We will give you five minutes: green light; and then you get the amber light at four minutes; and when the red light comes on, I'd ask that you wrap up your testimony. Those not wishing to testify may sign in on the pink sheet by the door to indicate their support or opposition to a bill. My committee counsel is Tip O'Neill, to my right, the committee clerk, Sally Schultz, to my left and rear. And the pages are Alyssa and Preston. And so with that, I'll let the senators introduce themselves, starting with Senator Bostelman, on my right.

**BOSTELMAN:** I'm Bruce Bostelman, District 23, representing Saunders, Butler, and the majority of Colfax Counties.

**ALBRECHT:** I am Joni Albrecht, District 17: Wayne, Thurston, and Dakota Counties in northeast Nebraska.

**GEIST:** Suzanne Geist, Lincoln-- District 25, representing the east side of Lincoln, Lancaster County.

**DeBOER:** Hi. I'm Wendy DeBoer. My district is 10, and I represent Bennington, the surrounding areas in northwest Omaha.

**HILGERS:** Mike Hilgers, District 21: northwest Lincoln and Lancaster County.

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**CAVANAUGH:** Machaela Cavanaugh, District 6: west-central Omaha, Douglas County.

**HUGHES:** Dan Hughes, District 44: ten counties in southwest Nebraska.

**FRIESEN:** And with that, we will open the hearing on LB698. Senator Bostelman?

**BOSTELMAN:** Good afternoon, Chairman Friesen and the Transportation and Telecommunication Committee members. My name is Bruce Bostelman; that's B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23. I am here today to introduce, introduce to you LB698. LB698 amends Section 60-6,304 to provide an additional subsection for commercial motor vehicles and trailers. The new section, which is section-- subsection, which is subsection (3) of this bill, provides that no personnel shall drive or move a commercial motor vehicle or commercial trailer upon any highway unless the cargo or contents carried by the commercial motor vehicle or trailer are properly distributed and adequately secured to prevent the falling of cargo or contents from the vehicle. Furthermore, any equipment used in the operation or securing of the cargo and contents carried by the commercial vehicle must also be secured to prevent contents from falling from the vehicle. The bill further specifies that the structures, systems, parts, and components used to secure the cargo or contents shall be in proper working order, with no damage or weakened components that affect the performance, which may cause the cargo or contents to fall from the commercial vehicle or trailer. The means of securement shall be tie-downs and tie-down assemblies of adequate strength or sides, sideboards, or stakes and a rear endgate or endboard strong enough and high enough to ensure the, that cargo or contents will not fall from the commercial motor vehicle or trailer. Violation of this new subsection will be a Class III misdemeanor, which carries a maximum penalty of three months imprisonment, \$500 fine, or both. There is no minimum penalty for, for a Class III misdemeanors. The bill also allows that, in lieu of using a citation to an operator, under this subsection "the superintendent of law enforcement and public safety may assess the owner of the vehicle a civil penalty" of \$1,000 for each violation of this section. This civil penalty was modeled after Nebraska statute 60-6,300, which gives the superintendent of law enforcement and public safety authority to pursue, to pursue a civil penalty for gross weight violations against an owner of a vehicle. The order imposing a penalty under the sub, subdivision shall be, shall be in the same manner as an order issued

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under Section 75-369.04 and any rules and regulations adopted and promulgated under Section 75-368 and any applicable federal rules and regulations. LB698 simply provides that same, that same authority to the superintendent commercial, in commercial loss of load violations in an effort to increase compliance with such statutes by owning companies. Section 75-369.04 and Section 75-368, referred to in LB698, and the current, and the current procedure for civil penalties issued under 60-6,300 simply specifies the process to be used when issuing a civil penalty under these statutes and under the provisions of LB698. I brought this bill because of the issues within my district with commercial vehicles driving without proper secure motor vehicle contents, causing trash and other materials to be deposited, deposited all over the roadways and ditches; and you can see some of that in your, the photo number one that was handed out. Currently the Butler County landfill receives waste from 20 counties, including Iowa's Pottawattamie County. This area covers a large portion of eastern Nebraska and receives over 200 semi loads a day. In 2017 and '18, 800,000 tons of waste was disposed in the landfill. Such issues have become a common occurrence on certain highways and areas, especially Highway 92 in my district. This has resulted in a group of people from the area, including myself, to form a cleaning crew which, twice a year, we go out to clean trash and debris from the roadways and ditches. In one instance, a constituent reached out to my office with pictures of a bag-- bags, I should say-- of asbestos that had fallen from a trailer and was left in the middle of the highway; and you can see that on photos two and three that were handed out. In another instance, I received a video from a constituent which shows trash flying out of the back of a moving trailer which created substantial road hazards for those following the trailer; and that's-- sec, see the photos, number four that was handed out. This bill is aimed at further deterring and penalizing individuals and companies who refuse to comply with such load-securement laws. Current law does not separate out commercial vehicle loss of load from individual personal vehicle littering violations. The existing statute also, also only applies to individual operators or drivers. This bill would separate out and distinguish commercial vehicle violations from individual personal vehicle violations and increase the penalties associated with such. LB698 would continue to apply to individual operators of drivers but would also allow for law enforcement to recognize the owner of said commercial vehicle with, with a fine and, when appropriate, to, to recognize companies that are consistent violators of such provisions and do not provide their drivers with the necessary equipment to ensure that their commercial loads are properly secured.

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Together the provisions of LB698 provide law enforcement personnel additional tools for enforcement of the commercial loss-of-load provisions. I therefore ask for your support of LB698 and its advancement to General File, and I would be happy to answer any questions that you may have. Thank you.

**FRIESEN:** Thank you, Senator Bostelman. Any questions from the committee? Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Friesen. And thank you for bringing this bill, Senator Bostelman. But could you answer-- are there any other counties that you've heard from since you've drafted this bill? I know this is something that's happening in your area. Have you heard from other people throughout the state of Nebraska with the same concerns?

**BOSTELMAN:** Specific to the writing of this bill or the introduction of this bill, no, I have not. But I do know there's other landfills. Down by Milford there is a landfill. I think out west there are several. I would-- I don't know if they have the same issues in those areas. Someone else may be able to speak to that, following me.

**ALBRECHT:** And again, you did say you're concerned about the businesses that bring these 200 loads per day to Butler County? Is that--

**BOSTELMAN:** They have over two-- yeah. Butler County receives over 200 semi loads of waste-- trash-- that comes in, and that's specifically what this bill is looking at.

**ALBRECHT:** OK. So it's, it's-- this-- you, you mentioned individuals. You're not talking about just having a cleanup day and people not having their tarps over whatever they're bringing to the landfill. You're just talking about companies in this bill?

**BOSTELMAN:** So with the bill there's two things. If the driver is stopped and cited with a misdemeanor, that's one op, one thing that local law enforcement can do. The second thing is, if it's a person or an individual or a company that's repetitive in that type of an occurrence, then the law enforcement superintendent can have an option of a civil penalty against the company that owns the vehicle.

**ALBRECHT:** OK.

**BOSTELMAN:** Does that answer your question?

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**ALBRECHT:** Just to be clear-- so if I have a cleanup day in the neighborhood, and I drive and I have something fall off, as an individual--

**BOSTELMAN:** Oh, as an individual?

**ALBRECHT:** Yes.

**BOSTELMAN:** I would-- OK, sorry. If you're talking about individual loads, I would defer to the carrier enforcement folks who are behind me.

**ALBRECHT:** OK, perfect.

**BOSTELMAN:** And they can probably answer that question a little bit better than I would.

**ALBRECHT:** Thanks.

**FRIESEN:** Thank you, Senator Albrecht. Are there any other questions from the committee? Seeing none, thank you. Proponents who wish to testify in favor of LB698? Welcome.

**GERALD KROLIKOWSKI:** Thank you. Chairman Friesen and members of the Transportation Telecommunications, Telecommunications Committee, my name is Gerald, G-e-r-a-l-d Krolikowski, K-r-o-l-i-k-o-w-s-k-i. As commander of the Carrier Enforcement Division, I am here today on behalf of the Nebraska State Patrol to testify in support of LB698. Every day our troopers strive to make our highways safe. In fiscal year 2018, 391 violations related to load securement were issued by the Nebraska State Patrol. Failure to properly secure cargo or load is an especially dangerous violation. Operators must ensure loads are properly distributed and contained by utilizing the appropriate equipment, devices, components, or other means to ensure their cargo does not escape or fall off. Items that escape from the load can create an immediate public safety hazard by falling into the path of traffic. LB698 provides an additional means to address the dangerous behavior exhibited, exhibited by bad actors, which compromise highway safety by allowing cargo to escape from their vehicles. It also addresses practices that may increase the amount of materials littering our highways and neighborhoods. Similar language was incorporated into 60-6,300 in 2013, to help address those situations in which owners continue to allow their vehicles to operate in an illegal manner. Receiving an occasional citation was considered a cost

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of doing business for some operators and often less expensive than making the necessary corrections to comply with the law. While we have undertaken such enforcement action only a handful of times since its inception, we are confident that it has had an overwhelming effect in curbing the willingness to commit such violations. This legislation will expand the Nebraska State Patrol's ability to help enhance highway safety and reduce the dangerous and unsightly results from those vehicles with inadequate components or load securement devices. I will be happy to answer any questions you may have.

**FRIESEN:** Thank you, Mr. Krolikowski. Any questions from the committee? Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Friesen. Again, thank you for being here. Can you just help me understand-- are you having a lot of difficulties from these, these companies going to the landfills? Or what about myself-- so two-part question-- what about myself just cleaning up and having a truckload of things to take to the, to the landfill?

**GERALD KROLIKOWSKI:** The Nebraska State Patrol is, is not in the practice of just issuing citations. We try, whenever we can, in those situations where we feel that education or a simple violation card is, is the right course of action, that's what we'll take. And, and in your situation, your example there, that's probably the direction we would take. We're talking about using this-- this would be utilized for those carriers that have a consistent record of willingly violating the statute and knowingly violating it.

**ALBRECHT:** OK. So if, if I'm working for one of those companies and I'm driving that vehicle, it's my job to make sure that it's secure.

**GERALD KROLIKOWSKI:** Yes.

**ALBRECHT:** But if I work for a company and they're not providing the coverage to make sure that everything stays within it, then I, as that driver, would be cited and possibly have a misdemeanor against myself because I work for a company that is choosing not to have the proper equipment. I mean that's--

**GERALD KROLIKOWSKI:** You are correct, and that's what this bill is written for. Day in and day out, we, we-- and we have to make a judgment out there in each situation. Is the violation being committed

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on the, on the driver's part or is it something that's out of their control?

**ALBRECHT:** Um-hum.

**GERALD KROLIKOWSKI:** And then-- which is what this language is addressing, something beyond their control. By all means, if they have a proper securement system and they're not utilizing it, I would certainly think that it's on the driver and we would enforce it through the misdemeanor.

**ALBRECHT:** Correct.

**GERALD KROLIKOWSKI:** But if, if we consistently see violations coming in from, or hearing violations that have evidence of violations of company X--

**ALBRECHT:** Um-hum.

**GERALD KROLIKOWSKI:** --and it's consistent, or the tarps aren't being replaced or fixed, then we would assess-- go after them through the civil penalty process.

**ALBRECHT:** OK, thank you.

**GERALD KROLIKOWSKI:** You're welcome.

**FRIESEN:** Thank you, Senator Albrecht. Any other questions from the committee? Do you have any other landfills around the state where you've had a lot of complaints for or noticed a problem?

**GERALD KROLIKOWSKI:** You know, certainly the-- what comes to mind is certainly Butler County, the haulers hauling into there-- Milford to some degree, Douglas County. Sarpy County is, is, I think, closed down now and they're not accepting. So sporadic but, by far, those are the biggest. There's some outlying further west, but it's in this general area that we receive most complaints.

**FRIESEN:** OK. Seeing no other questions, thank you for your testimony.

**GERALD KROLIKOWSKI:** Thank you.

**FRIESEN:** Welcome.

**KEVIN STUKENHOLTZ:** Good afternoon. Chairman Friesen and members of the Transportation Committee, I'm Kevin Stukenholtz, the Saunders County

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sheriff. That's K-e-v-i-n S-t-u-k-e-n-h-o-l-t-z. I'm here testifying in support of LB698. Saunders County currently has 200 semitrailers loaded with trash traveling across our county every day. These trailers are loaded in Sarpy and Douglas County and travel to the Butler County landfill. Our highways, road ditches, and fields are littered with trash as a result of these trailers not being properly covered. While company officials have worked with our department to assist in roadside cleanup crews, the cleanup crews cannot keep pace with the litter. The current fine for failing to cover the load for a Class IV misdemeanor is a waivable offense for \$100 and court costs. Some drivers have advised us this is simply the cost of doing business. I believe LB698 will allow law enforcement to address the problem with the companies that set the standards for the trucking operation. Thank you for your time, and I'd be happy to answer any questions you have.

**FRIESEN:** Thank you, Mr. Stukenholtz. Any questions from the committee? Seeing none, thank you--

**KEVIN STUKENHOLTZ:** Thank you.

**FRIESEN:** --for your testimony. Any other proponents for LB698? Seeing none, anyone wish to testify in opposition to LB698? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Bostelman, do you wish to close?

**BOSTELMAN:** I want to thank the committee for hearing LB698 and for your attention to this. This is something that affects my district to a significant amount. There may be letters come in but, when I talk to farmers along the way, we're not only just talking about the aesthetics or the environmental side of it. The plastics, the things that, that, that end up in their fields, that get into the bearings on their equipment and get into the combines, get into the planters, it costs them money. They have to go out and clean it up out of their fields. And it's not just a little bit; it's a significant amount that comes out into the fields. We do our best to try to help with that. We've, we've talked with the landfill. They have tried to-- they have worked with their drivers, but it's still to no avail. They-- the landfill also has hired someone to go out and clean up the roads, and we still go out and clean up after them; it's to that point. I think, you know, Sheriff Stukenholtz could, could talk a lot further and, as well as our care enforcement folks, about the amount of need, I guess I would call it, for, for this, because their efforts, which they do try significantly to make a difference, but it's gone on deaf ears. So



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I would urge you to, to move this bill on to General File. And I would like to thank the law enforcement individuals, those who came to testify in support, and any letters that we have. I just want to thank them for being here today. I'll answer any further questions you may have.

**FRIESEN:** Thank you, Senator Bostelman. Any questions from the committee? Seeing none, we do have letters of support from the Nebraska Cattlemen and David McPhillips of David City. We have a letter of opposition from the Nebraska Commerce-- Chamber of Commerce and Industry. With that we'll close the hearing on LB698.

**GEIST:** Thank you, Senator Friesen. You are welcome to open on LB461.

**FRIESEN:** Thank you, Vice Chairman Geist. Members of the committee, I'm Curt Friesen, C-u-r-t F-r-i-e-s-e-n. I represent District 34, and I am here to introduce LB461. This bill relates to the authority of the Public Service Commission and repeals the requirement that common and contract motor carriers must obtain a certificate of public convenience and necessity before they can lawfully operate in Nebraska. Instead, carriers would be registered and receive a permit to operate from the PSC. Currently, any person who wants to operate in Nebraska to offer transportation services or to start a moving company must prove that the public convenience and necessity requires the proposed service. The process to get a certificate of public convenience and necessity, which involves a trial-like hearing, allows current certificate holders to intervene and protest the application. The PSC is required by law to deny any application that may impair or endanger an existing business. LB461 would open up the process to allow competition for intrastate transportation and moving companies. By allowing entrepreneurs to start businesses without going through a time-consuming and expensive process, we will create new jobs and new opportunities for business. Consumers will benefit from the increased competition. The bill does not change insurance requirements, tariff requirements, or the PSC's right to conduct inspections. The consumer will continue to be protected but the existing businesses are not protected from increased competition. And I know there is a fiscal note on this bill and, according to the fiscal note, the PSC believes that it may need two additional employees to handle additional customer complaints if this bill passes. The fiscal note provides a range of estimated expenditures of between \$0 and \$150,000 for the next fiscal year and a range of between \$0 and \$190,000 for the fiscal year after that. It's my belief that this fiscal note is speculative

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at best. There's no reason to think that there will be more complaints by the public if this bill would pass. I believe the idea of repealing the requirement for a certificate of public convenience and necessity, necessity needs to be explored. The process for removing the requirement for common contract carriers and household goods movers is a good place to start. I would encourage you to advance LB461 to General File, and I'd be happy to answer any questions, if I could.

**GEIST:** Thank you, Senator Friesen. Are there any questions on the committee? Seeing none, thank you for your testimony. Are there any proponents of the bill? Any proponents? Thank you for coming today; go ahead.

**MEAGAN FORBES:** Thank you. Good afternoon, Vice Chair Geist and members of the Transportation and Telecommunications Committee. My name is Meagan Forbes, M-e-a-g-a-n F-o-r-b-e-s, and I'm an attorney at the Institute for Justice. Thank you for the opportunity to testify today in support of LB461. The Institute for Justice is a national, nonprofit, public interest law firm, and we work to open labor markets by reducing regulatory barriers to earning a living. We support LB461 for three reasons. First, LB461 ends an unnecessary barrier to starting a transportation business in Nebraska. Certificates of public convenience and necessity are among the most pernicious forms of economic regulation. Ordinarily businesses rise and fall on their own merit but, by allowing market incumbents and government officials to control entry, public convenience and necessity laws turn the ordinary rules of business on their head. To start a transportation business in Nebraska, new commerce must either get their competitors' permission or prove, in an adversarial hearing, that they will not impair an existing business. As you can imagine, both options are difficult to do. In Nebraska entrepreneurs have been left with no choice but to find different work. Nebraska's transportation entrepreneurs deserve a fair shot. LB461 ensures that consumers and entrepreneurs, not existing businesses and the government, will determine which businesses succeed. Second, we support LB461 because it's good for consumers. It allows the Public Service Commission to focus its efforts on where it matters: protecting the public and making sure that consumers are protected when they purchase these services. It will further benefit consumers by ending artificial scarcity and allowing consumers to have a say in what services they want or need. Finally, we support LB461 because the benefits of competition, in the context of transportation regulation, are well recognized. We've already seen the benefits of competition in Nebraska here, with the

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regulation of transportation network companies like Uber and Lyft. LB461 also puts Nebraska in line with the growing number of states that have repealed these outdated laws and that allow transportation entrepreneurs to operate pursuant to a simple registration and permitting process. Just taking a look at some of Nebraska's neighboring states, South Dakota, Iowa, Missouri, and Wyoming do not have these public convenience necessity, public convenience and necessity laws for common and contract carriers, and Kansas is also considering legislation this year. In conclusion, certificates of public convenience and necessity are incompatible with America's promise of equal opportunity. LB461 will give Nebraska's transportation entrepreneurs the right that so many other businesses already enjoy: the right to compete and succeed through hard work and good service. Thank you again for the opportunity to testify. I'm happy to answer any questions the committee may have.

**GEIST:** Thank you; thank you for your testimony. Are there any questions from the committee? I do have one. Do you know if--and maybe this would be better for someone behind you-- but how many transport businesses have been started in Nebraska the past several years, if there's anything new?

**MEAGAN FORBES:** I do not have that information. Senator Geist, but we do know that almost every application is protested here in Nebraska.

**GEIST:** Thank you. Thank you. I'll ask someone who is local for here. OK; thank you for your testimony.

**MEAGAN FORBES:** Thank you.

**GEIST:** Any other proponents for the bill? Good afternoon.

**NICOLE FOX:** Good afternoon, Chair-- Vice Chair Geist and members of the Transportation and Telecommunications Committee My name's Nicole Fox, N-i-c-o-l-e F-o-x, and I'm here representing the Platte Institute and in support of Senator Friesen's LB461. As you know, the Platte Institute has brought significant attention to occupational licensing reform. We are working to assure that occupational licensing requirements do not prohibit individuals from pursuing a career of their choosing. Like occupational licensing, the certificate of public convenience and necessity laws exist. And the Platte Institute wants to bring to your attention today how the requirement to obtain these certificates can prohibit individuals from starting a business. Current Nebraska law requires individuals wishing to operate a

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passenger carrier or household goods moving business to first obtain a certificate of public convenience and necessity. After the application for the certificate has been completed, existing businesses get the chance to file their objections if they don't want to give the potential business person, potential business permission to compete. There is a public trial-like hearing before the Public Service Commission where the applicants must prove that there is a public need for their new business, while competitors voice their concerns since, stemming from wanting to protect their own private interest. A certificate of public convenience and necessity is a regulatory barrier to free enterprise. It is also known as a competitor's veto. It prevents, it prevents people from entering a business, not because they are unskilled or unqualified, but because existing businesses don't want the competition. Certificates of public convenience and necessity forbid people from going into business unless they first get permission from their own competitors. Proof of public need is often arbitrary and hard to define. How do you prove that public, that the public needs a new product or service? What if Starbucks had to prove that their Seattle coffee shop was needed back in the 1970s? What if Godfather's Pizza had to get permission from Valentino's to open back in 1973? What about the multiple formulas of Coke and Pepsi that have been introduced over the years? Several of them have failed despite paying millions of dollars for market research and advertising. The public hearing does the would-be entrepreneur no favors. Who would expect potential customers to take time out of their workday to attend a government hearing and testify in favor of a business that does not yet exist? Government-created scarcity creates high price tags. These laws raise prices for consumers by blocking out competition. They deter innovation by assuring existing companies that they have no need to improve or to change, because they won't be threatened by any new company offering some new idea, and restrict opportunity for those who need it most. A perfect example in the transportation arena is ridesharing services like Uber and Lyft. Taxi companies in Nebraska opposed these services heavily, but these ridesharing services are now serving Nebraskans well. Residents and tourists now have more options from which to choose to meet their transportation needs, and the growth of Uber and Lyft have provided income for many Nebraskans. Uber and Lyft are offering services in response to consumer demands such as the ability to request specific types of vehicles and the ability to carpool with other riders for decreased costs. Nationally, more ridesharing services are evolving, and you can now download ridesharing apps like Curb, Beat, and Juno. Certificates of public convenience and necessity are gradually becoming a thing of the past.

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Several states have repealed their laws, including our neighbor, neighbor, Missouri, in 2011. As far as Nebraska's other neighboring states, only Colorado and Kansas require these certificates. Legislation similar to LB461 has been introduced in Kansas. The public convenience and necessity requirement is anticompetitive and goes against markets, principles of free markets. Consumers and entrepreneurs, not the government and existing businesses, should be the ones to decide whether a business is necessary and, ultimately, whether it is successful. I ask the committee to advance LB461 out of committee and to General File. And with that, I'm happy to take any questions.

**GEIST:** Thank you, Ms. Fox. Are there any questions from the committee? Yes, Senator Hilgers.

**HILGERS:** Thank you, Vice Chair Geist. Thank you, Ms. Fox, for being here.

**NICOLE FOX:** Um-hum.

**HILGERS:** Are there any other analogues that you're aware of, in other contexts in Nebraska, where we have this, the same type of--

**NICOLE FOX:** Public convenience and--

**HILGERS:** --necessity?

**NICOLE FOX:** No.

**HILGERS:** Any other industries? OK.

**NICOLE FOX:** No.

**HILGERS:** Thank you.

**NICOLE FOX:** Yep.

**GEIST:** Any other questions? Seeing none, thank you for your testimony.

**NICOLE FOX:** Thank you.

**GEIST:** Any other proponents for the bill?

**MMOUIPIENTILA NDA:** Thank you for allowing me to testify today. As you can see, I have an accent. So if you have a question, you can ask me. My name is Mmoupientila Nda, M-m-o-u-p as in Paul-i-e-n-t as in

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Tom-i-l-a, last name N-d-a, and I go by Marc, M-a-r-c. I am here today to testify because I've been through this experience, and I see how that hurt my client and my patient, and how they are still hurt. I currently own a home care agency. We do home health and home care. First, my-- I am originally from Togo. And if you hear people talking about alien, I'm one of them. This country provided me with all the opportunity to become what I am today. When I came here when my country rejected me, this country took, me gave me food stamp, Medicaid, housing. I went to school, get my master's degree, went for my, for my doctorate. And I didn't want to stop there. I created a soccer club to help kids, for free. And then I decided to take the opportunity, in this country, to create a business and create jobs for my community. Last year we were able to provide, to provide a payroll more than \$1 million. We are currently helping more than 181 family to take care of their family through the paycheck that we provide them. Our client are home-based client, but currently I am approved for a waiver transportation. What is the waiver transportation? You can do an errand for a client but, if a client has a medication at the pharmacy, at the Walgreens, you cannot pick that up because you need to have the type of transportation. Currently, if my client is stranded at a hospital appointment, I cannot pick them up. My employee cannot pick them up because of this certificate of publication [SIC]. When I find out that my client in the dire need, I apply to get a transportation. I was denied, not because I didn't have the means, not because my doctorate degree in business administration would not allow me to run this business properly-- because I was sued by all the transportation company. I received a phone call. They wanted me to just go in a rural area where my client are not. Otherwise they're going to make me spend attorney fee; and they did. I spent tens of thousands of dollars, couldn't get the license or the certificate, whatever it is. And what broke my heart is when I receive the decision of the commission, they state in the decision that I am qualified. I have the means to own that type of transportation. I have everything, yet I did not demonstrate that there is enough-- I'm just paraphrasing-- customer to take care of all. You know, it just broke my heart. So I think repealing the certificate of public convenience and necessity would allow us to grow in our community and provide transportation to our client that are home, who can't get out of, in the snow, to get, to pick up medication, can't get out to do some-- like for example, if you want to rent a wheelchair, it is considered medical transportation, and we can't do that. So thank you, and I will be glad to respond to any question that you, you may have.

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**GEIST:** Thank you, Mr. Marc.

**MMOUIPIENTILA NDA:** Yes.

**GEIST:** Thank you for your testimony. Are there any questions from the committee? Thank you for your testimony.

**MMOUIPIENTILA NDA:** Thank you.

**GEIST:** Are there any additional proponents? Then we'll move to opponents. Are there any opponents of the bill?

**RON HUG:** Good afternoon, senators. My name is Ron Hug; it's R-o-n H-u-g. I'm here on behalf of City Taxi. City Taxi was a product of the current system. We started in Iowa. We operated in Iowa for six months, and then we applied for an authority in the state in Nebraska. Our application was protested. That process helped define us as a company and helped prepare us in ways that we never thought possible. The-- it's conducted like any other trial-- you know, discovery, interrogatories, you know, everything you'll see in any other felony criminal trial. So we're sitting with our attorney, and we're saying: Why are they asking this? Why are they asking this? How come they're asking this? If it were not for that process, I firmly believe we would not be the successful company we are today. And our opponent, our competitor sits down here to my left and to, to, today he is my best friend. We proudly talk or text two or three times a day, seven days a week, what's going on in the community, what's going on with his business, what's going on with my business. I disagree with a lot of the comments that have been said here. I could talk at length, for hours, about this subject. But before I go, I just want to tell you how I got in this business. Prior to starting City Taxi, I worked for international union out of Washington, D.C.; I was a union organizer. One of the efforts that I was tasked with was to organize my opponent down here to the left. We had a eight-month, full-blown unionizing campaign to unionize what we'll commonly refer to as "Happy Cab." Part of that process-- my employer in Washington, D.C. sent me around the country. I visited 12 cab companies in 8 cities, and I spent two or three days with each cab company learning the business, trying to bring that information back to try to help successfully unionize Happy Cab. And we almost did; we came very close. At the end of that eight-month period, I could've wrote a math, master's thesis on the taxi industry, and I would challenge that I know as much, if not more, than the taxi industry in the United States right now today than anybody else in this room. And right now you have one investigator for

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the entire state. You had two. One retired last year. He was replaced with another investigator, and he left to go on to another position, so now they're filling that position. Those investigators work Monday through Friday, 8:00 to 5:00. Every cab driver in town knows it. Every cab driver across the state knows it. If you open this up and you take out that benchmark for companies to be able to show that they have what it takes to operate a taxi company-- and believe me, there is a lot more to it than just owning a vehicle and opening your door for a customer. You know, there's maintenance, there's background checks, there's drug checks, etcetera, etcetera, etcetera. You open it up to anybody that comes in here, you're going to need at least six investigators. At the peak of the Nebraska Public Service Commission, they had 12 investigators. And the \$190,000 for next year's fiscal period, that's only for two. I would ask you to take some time and reconsider this. I definitely think it's not in the best interest of the public, which the Nebraska Public Service Commission has been created to protect. Senators, thank you for your time. Have a good afternoon. Any questions?

**GEIST:** Thank you for your testimony. Are there any questions? Yes, Senator Bostelman.

**BOSTELMAN:** Thank you, Vice-- [INAUDIBLE] this over here. Thank you, Vice Chairman-- Chair, Chairwoman Geist and Mr.-- is it Hune [PHONETIC]? Is that correct?

**RON HUG:** Hug.

**BOSTELMAN:** Hug? I'm sorry. So are you-- explain a little bit more about the services you provide and, and the, and the City Cab. Is that--

**RON HUG:** City Taxi.

**BOSTELMAN:** Is it--

**RON HUG:** City Cab is Fremont.

**BOSTELMAN:** OK, City Taxi. Sorry. City Taxi-- explain that, where you're at and what all services you provide.

**RON HUG:** We are a taxi company. We also provide a wheelchair taxi in Omaha.



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**BOSTELMAN:** So are there other types of transportation for other people that's in the city, say for elderly, disabled, whatever, whatever other type? So--

**RON HUG:** There's multiple agencies that provide free or discounted services for the elderly and the handicapped. Metro Area Transit, through their MOBY program, provide discounted services where you have to prove you have a need, disabled or elderly or whatever. And I believe their fee is \$2.50, and you schedule that service the day before and, you know, they'll pick you up in a wheelchair or, you know, ambulatory, you can walk on their bus. Eastern Nebraska Office of Aging, I believe, has transportation for the elderly. And then there's a rural nonprofit, too, but I can't-- I'm not familiar with the name other than it's a rural elderly care and handicapped agency that provides free transportation. VA provides free transportation for vets to and from. And those are just the three or four that I can think of, off the top of my head. John Davis down here, who I'm sure is going to speak, he can probably add to that list.

**BOSTELMAN:** OK, thank you.

**GEIST:** Are there any additional questions? Yes, Senator.

**HILGERS:** Thank you, Vice Chair Geist. Thank you for coming down and you, for your testimony. I was struck, actually, when you described the process by which you were able to become a competitor in the first place. I'm a, I am an attorney and I practice law. And I can't think of another instance, in any sort of nonlegal setting, in which you go through an adversarial proceeding in order to actually compete in the marketplace. And so I guess my question would be-- you sort of, you said that it made you stronger or you, you were grate-- I don't want to put words in your mouth. But it almost sounded as if you were-- looking back, at least, you were grateful. But can you just describe the policy rationale for, for even making you go through that in the first instance to have-- in order to compete in the marketplace, going through an adversarial proceeding in which you had to do all the things that you said?

**RON HUG:** Senator, you have me at a disadvantage because I'm not an attorney. So out of my ignorance of your profession, when you graduated law school, you got a certificate, you got a degree, you got a diploma. Correct?

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**HILGERS:** I did. But would you mind-- I'm happy to tell you how I got to be an attorney--.

**RON HUG:** Well, my point-- if, if, if I, if I could, Senator-- my point is you just couldn't go practice law. You had to go take a bar exam before you could practice law. I didn't look at it as an adversarial process. I looked at it as a peer review. I looked at it as a process to challenge us, to see if we really had what it took to be successful in the marketplace, if we really had a complete grasp of everything that was going to be demanded and asked of us to be able to complete the service to a level that was already in the community. So I guess you could say it was adversarial but, again, I thought of it more as a, as a peer review. And it was very beneficial for us because, quite frankly, there was a lot of things that they asked in their, in their interrogatories that we thought, hey, that's a good idea.

**HILGERS:** Well I appreciate that answer, and I guess your-- I think the example of my law degree is actually instructive for me in the sense that there are all sorts of industries where we were, we-- there is some barrier to entry. Right? You have to have some sort of competence and, and/or, you know, maybe in the healthcare field for patient or customer safety. You have to have some sort of--

**RON HUG:** Beauticians, barbers--

**HILGERS:** Right, there are but, but, but-- there are those types of industries. However, as far as I'm aware, at least in the legal field-- I'll speak to my experience-- those are-- there's no instance in where, before I can practice, I have to go through some sort of adversarial process in which, as I understand it at least-- and correct me-- my future competitors can put forward evidence or challenge my ability to practice law. There may be some threshold by which I need to-- over, over which I need to, to, I need to have some sort of basic threshold to meet in order to be able to practice law. There may be some threshold in your industry, as well; I'm not saying there is or there isn't. But, but it does-- the unique nature of this adversarial process is what I just don't understand, and why that is justified versus just saying: OK, you have to meet some-- you have some sort of threshold requirements to meet patient or consumer safety or something. But that's different because that's just a threshold requirement. This is something I've not seen in any other context. And maybe you could just either correct me if my understanding is incorrect or maybe help just--

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**RON HUG:** I can-- Senator, I can clearly understand your perception of it. I clearly can. It does appear to be an adversarial process, but I think this, that's just a perception. And I think that if you look at it from, you know-- step out of the box, take a step back and look at it as, what can we do to ensure that individuals entering the marketplace are going to be successful, not only for themselves, but for the consumer. And my fear here is that, without that, it's ultimately going to be the consumer-- which is taxpayers-- that is going to suffer. Again, it can be construed as being adversarial, but I, I don't see it as being adversarial. Again, I considered it as being more of a peer review process.

**HILGERS:** I appreciate that; thank you very much.

**GEIST:** Thank you. Senator DeBoer, do you have a question?

**DeBOER:** Yes. I'm sort of piggybacking off of, I think, what Senator Hilgers was asking. Can you envision a circumstance in which someone could come in with all the knowledge necessary and so this sort of a-- whatever the process is, whether it's adversarial or nonadversarial-- that that would be an unnecessary obstacle to entry into this system?

**RON HUG:** You mean, as an example, coming into the current system as a taxi company?

**DeBOER:** Sure. Can you imagine someone who could educate themselves outside of the process? You said that you were educated alongside the process, you got some good tips from some of their questions and things like that. Can you imagine a circumstance in which someone would not, in fact, need that process to become up to speed?

**RON HUG:** If they had successfully operated a taxi company or similar transportation service somewhere else--

**DeBOER:** Sure.

**RON HUG:** --where they may have had multiple years of experience. You know, again as I mentioned, Senator, you know, I traveled the country, you know, over, over an eight-month period, visited 8 cities, 12 different taxi companies. And you know, the information that I gathered firsthand from, you know, two- and three-day visits wasn't even a tenth of the knowledge that I gained when we went through this process.

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**DeBOER:** Sure. But I can imagine-- I mean, I'll tell you I can imagine a circumstance where I might be able to educate myself about the process without having to go through this particular-- I mean it almost seems like, you know, this adversarial-- or quasiadversarial or peer review process-- is something that is an outlier with respect to other industries. And I know that your industry-- trust me, I want your industry to be very careful and take care of {INAUDIBLE}--

**RON HUG:** It's unique.

**DeBOER:** --And that sort of thing. But I don't find it-- Maybe I'm just not understanding it right because you know more about it than I do. But I'm not finding it so unique that it is the only system that would need this kind of peer review process. So can you tell me what makes it so unique?

**RON HUG:** Well, and from my perspective, Senator,--

**DeBOER:** Yeah.

**RON HUG:** --there are so many things that you don't even think about. We have to train our drivers in body fluids. They're transporting people who may be not in the best of health or may be going to the hospital or just a little intoxicated and maybe getting a little frisky in the backseat; it happens. So we have to train our drivers in how to safely protect themselves and the next passenger, on body fluids.

**DeBOER:** So would a certification process be an adequate substitute? Right. If I need to certify that I have trained my drivers on A,B,C,D,E,F, all the way to Z and ZZ if I have to, would that kind of a process be adequate?

**RON HUG:** You know, without seeing, with, without seeing a proposed certificate, certification process. I would have to say I have no idea.

**DeBOER:** OK, all right.

**RON HUG:** Because-- yeah, along with the body fluids, OK, we have to maintain our vehicles. So we have to have, you know, inspections. You know, we replace CV axles every 30,000 miles, replacing brakes every 5,000 miles [SIC]. You know, we're constantly-- we have a mechanic that's basically on call 24 hours a day and he's usually at the shop,

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you know, overnight most every night. Training our drivers on how to handle difficult situations, difficult customers.

**DeBOER:** I, I--

**RON HUG:** Driving conditions.

**DeBOER:** I totally understand that I do not fully appreciate the complexity of your system.

**RON HUG:** I would, I would invite you, Senator, and any other senator that would like, to come drive along with me any night, any weekend night. Let me show you firsthand what it's like. It'll be, it'll be an eye opening-- it, it, It would be very eye opening for you to see exactly what goes into being a successful, professional cab driver.

**DeBOER:** I, I absolutely--

**RON HUG:** And Uber drivers and Lyft drivers are finding that out every day. The Uber and Lyft has, you know, a very, very high turnover.

**DeBOER:** Thank you.

**GEIST:** Any additional questions from the committee? Seeing none, thank you--

**RON HUG:** Senators, thank you for your time. Have a good afternoon.

**GEIST:** Any additional opponents?

**ALISSA KERN:** Members of the committee, good afternoon. My name is Alissa Kern, A-l-i-s-s-a K-e-r-n. I am the managing director for Camelot and Triumph Transportation, and I'm here to testify in opposition of LB461. Our service territory is primarily statewide services in which we transport foster children to and from appointments or relocations and Medicaid clients to and from doctor's appointments, including vulnerable youth and adults. I have many more examples of the services that we provide, but time doesn't allow for further breakdown. So primarily we provide services the Department of Health and Human Services, Medicaid and Long-Term Care, and many other divisions of the state, as well as private party persons. Our organization has over 70 staff members, which 50, 50 percent of my employees have been with our company for over five years. Camelot has over 60 vehicles within our fleet, and I'm sure you can imagine the growing expense that we see within our fleet each year. Within the

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last 12 months we have purchased over 250 tires, 125 wiper blades, 45,000 gallons of fuel to perform nonstop, dedicated and professional, safe and secure transportation services for Nebraska. To put this into better terms, 1,191,893 miles were driven across our amazing state of Nebraska to perform over 31,440 trips just within the last 12 months. I feel this bill is deregulating the service that needs to be taken very seriously, and which the Public Service Commission oversees. This bill will allow anyone to obtain a permit to provide services to the citizens of Nebraska without showing any sort of evidence of compliance or have any account, accountability on their service. I truly feel this bill will have a catastrophic impact. The safety and security of the passengers needs to be the most important topic, and I feel this bill will strip our industry of safe and reliable service it is today. In turn we will get cheap, dangerous, and undependable outcomes. The regulations that are currently in force allow for proper services to be performed. Passengers can rest assured that all certificated carriers are performing background checks on their drivers, vehicles are inspected and routinely repaired, and the carriers actually have insurance, as this seems to be a choice lately, and that the law that is in place, as is, works. Thank you for hearing my comments.

**GEIST:** Thank you. Thank you for your testimony. Are there any questions from the committee? Seeing none, thank you.

**ALISSA KERN:** Thank you.

**GEIST:** Any additional opponents?

**JOHN DAVIS:** Good afternoon, Madam Vice Chairperson Geist and members of the Transportation and Telecommunications Committee. My name is John Davis; that's spelled J-o-h-n D-a-v-i-s. I'm here today representing zTrip. Some of you may also refer to us as the Omaha cab companies, even though we operate in Lincoln and Lancaster County, operate the taxi authorities formerly known as Happy, Yellow, Checker, Cornhusker, Safeway Cab Companies. You know, I want to begin with just talking about a background for our company. So our companies have been around for roughly about 50 years, again, operated as primarily Happy Cab and, you know, with that I'm proud to say that we have drivers and also employees that have been around for several years. Just had a driver that retired a few months ago with about 43 years in the seat. We had a mechanic that retired about six months ago that was a mechanic with us for about 45 years. So I'm glad to say that for, for decades is that we've had folks, both in the capacity of drivers and

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also in the capacity of employees, that have raised families off of the living that they made. Actually our mechanic that retired put two girls through Creighton University, so I know he was very proud of that, as were we. We currently operate a fleet of about 140 vehicles throughout the Omaha and Lincoln markets. That's down from about 200 vehicles that we had in service about four to five years ago. As you're aware, recently there was a change in ownership. It went from a local ownership, which would have been Mark Mitchell and Don Bellino, to currently we're owned by Bill George, who operates WHC NE, LLC, which does business as zTrip here in Nebraska. And so you've seen a change in that leadership. And again, it's someone who's from this region but someone who's not from Nebraska. We've seen a lot of change in terms of competition, so it's interesting with some of the testimony that we've heard earlier. The reason for, I think, our change in our numbers in terms of drivers is that we've had a lot of competition that's come to the market. And competition's OK. I certainly am all about competition and making sure that we're, we're giving the consumer the best product that we have, and certainly have no issues with that. I also want to address something that you heard in earlier testimony that was actually incorrect. Someone earlier stated that the cab companies that vigorously defended the rule or the, the law that basically allowed for legalization of Uber and Lyft, which was LB629. And actually, if you go back and look at the records, I testified in support of that, again, as the director of operations, at the time, of the largest taxi operation in state. So we did work closely on that bill and, honestly, our biggest concerns at that time were, were public safety. You know, one of our largest concerns had to do with making sure that there was a proper insurance model in place and then also background checks and that sort of thing. In terms of the quality of the product that we put out, we really-- we would dare anyone to put out a better product. We really see that our competition is really ourselves in terms of making sure that we have the best technology out, making sure that we have the best vehicles out, that we have the best repair system and safety records and everything in place, again, so that we partner with the Public Service Commission to make sure that we're keeping the public safe and we're providing a good product. However, I must say that there certainly are a number of challenges to running a business like this, and I know that there were questions related to the need and necessity. And there's probably, maybe, someone from the PSC that can better answer this than myself. But I know one of the concerns has certainly been, historically with need and necessity, is making sure that your companies that are out there, like your taxicab companies that are a safety net, is that you

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don't allow the market to become oversaturated and run those companies out of business. If you look over the landscape of transportation the last five years, you'll see that a lot of mom-and-pop transportation operations have gone out of business. And, you know, the thing that you may or may not be aware of in terms of taxicabs, which is different from limos, different from open class, and that sort of thing, is that taxicabs are really more of a safety net, much like a public utility. And so we don't have the luxury to, to be somewhat of a boutique service. You know for instance, the transportation network companies that we've heard about-- they tend to serve entertainment districts and that sort of thing. You have to be a member on their app. You have to have your credit card information saved. And that's the only way that you can pay for trips. We obviously-- you can use cash, credit. We serve a lot of entitlement programs. Mr. Hug mentioned MOBY. We certainly assist Metro Area Transit in terms of carrying out the MOBY program and, and transport folks that have some type of disability or elderly; and those trips are subsidized. So I could go on all afternoon talking about that. I realize that there's a time constraint here, and it's a pretty dry topic anyway. So certainly I will leave it open to the members of, of the committee. If you have any questions, I'm certainly available here for you.

**GEIST:** Thank you. Thank you for your testimony. Are there any questions? Senator DeBoer.

**DeBOER:** Can you-- I would like to hear a little more about this public utility kind of concept that you have. I just-- I just don't know. Is there any requirement that taxis are required to sort of serve in the area, and they are required to-- I don't know-- pick up people in those areas? And-- or can you say more about that? Why do you make that argument that it's kind of like a public utility? What, what requirements are placed on you that that make that for you?

**JOHN DAVIS:** OK. So I don't have the stat, the statute right in front of me. But yes, to answer your question, taxis are required to pick up throughout their service area. So for instance, you know, we have a Lincoln, Douglas, Sarpy, Cass Counties primarily, and so we have to pick up in those counties throughout their entirety. We have to pick up 24 hours a day, and so we don't have the option of, you know, providing, you know, 8:00 to 5:00 service or, you know, 6:00 to 6:00 or whatever; it's 24/7. And again, whatever means of legal, legal tender that the person has, then we have to accept that. So again, we can't just restrict it to credit cards or that sort of thing. We have



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to take cash. Again, we have accounts with, you know, the state. We serve Medicaid. Again, we, we work with Metro Area Transit and RYDE Transportation for several entitlement programs.

**DeBOER:** Is that a qualified requirement? Can you ever turn anyone down for any reason within your area?

**JOHN DAVIS:** The only reason we could turn someone down is when-- if it's a safety-related issue, for instance, the person is, is inebriated and they pose a risk to themselves or others-- and not because they're inebriated, but I mean if a person poses a viable risk, that is about, really, the only reason that we could deny someone service.

**DeBOER:** All right; thank you.

**JOHN DAVIS:** OK.

**GEIST:** Thank you, Senator DeBoer. Any other questions? Seeing none, thank you for your testimony.

**JOHN DAVIS:** OK; thank you.

**GEIST:** Are there any other opponents?

**MARY RIDDER:** Good afternoon, Vice Chairman Geist and members of the Transportation and Telecom Committee. I am Mary Ridder, M-a-r-y R-i-d-d-e-r. I am with the Nebraska Public Service Commission, representing the 5th District. I'm here today to offer testimony in opposition to LB461. As written, LB461 makes several changes to the Motor Carrier Act, including stripping the commission of authority to engage in a meaningful review of applications for transportation authority. Currently, the commission provides public notice for all its applications and reviews authority applications to ensure the carrier is fit, willing, and able to provide the provided, proposed service and that the proposed service will serve the present and future public's convenience and necessity. LB461 would create a new permit process, requiring only that applications for new authority be reviewed to ensure completeness and that qualified applicants be approved. Our concern is with the questions that the bill creates. First, the bill does not make clear who is a qualified applicant after the removal of the standards of public convenience and necessity, or being fit, willing, and able to provide service. Additionally, there are no standards set forth by which the commission could deny an

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application, such as a concern with the applicant's criminal background check report or financial solvency. Next, there no considerations regarding the impact on existing carriers and service. An increase in the number of carriers in certain markets, such as smaller cities or rural areas, could repress growth for all carriers, leading to permit cancellations and citizens left with limited or no transportation options to meet their needs. Finally, the lack of public notice for new authority applications or consolidations, mergers, purchases, lease-operating contracts, or acquisitions of control raises due process concerns for parties that may have an interest in the operations. The commission would want the statutes to make clear how the commission could ensure that all new carriers are safe and would provide reliable service in line with the legislative intent of the Motor Carrier Act. The commission would be willing to have a very robust discussion with the committee, industry, and interested parties about whether changes to the act are necessary for the current industry environment. However any changes in transport tech, transportation regulation must always be done with the best interest of the public in mind. And I know I have a few-- a little bit of time extra, so I'm going to add a few comments that aren't written. I wanted to correct something that was said earlier. I don't know the percentage. I'll say I don't know the percentage, but it's not true that nearly all applications go to hearing; that's not true. And hearings only occur if they are protested after the public notice or if there is a fitness concern. And I think much of our testimony centers around the fitness concern, the safety concern. As this bill is currently written, you apply, you fill out all the parts you should fill out, you receive authority. So we would receive-- I believe we would still receive your background check but we couldn't act on the background check. And I believe we would still-- you-- receive the financials but we wouldn't be able to act on them. So we'd have information that may today cause us to, you know, have a hearing and raise those issues but, under this, we would simply see the information; we couldn't act with it. I think those are the two pieces I want to raise.

**GEIST:** Thank you for your testimony.

**MARY RIDDER:** So any questions?

**GEIST:** Are there any questions? Yes, Senator Hilgers.

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**HILGERS:** Vice Chair Geist. Thank you, Commissioner, for being here; I appreciate it.

**MARY RIDDER:** Yes.

**HILGERS:** I hear your point on the-- that last point that you made in terms of having some standard that might fit what you're trying to be as a gatekeeper, you know, with the criminal background check or the safety of the public. Putting that aside for a second, your other point that you made in your testimony regarding the notice and the hearing, who are the, the interested parties? I've heard the competitors would be an interested party, theoretically at least. That's what I've, that's what I've gathered from the testimony. Who else would have been interested parties at these hearings?

**MARY RIDDER:** I don't know if you'd call them interested parties, but they've certainly given testimony-- would be Health and Human Services because of ride-- providing rides for Medicaid.

**HILGERS:** OK. OK, thank you.

**MARY RIDDER:** Um-hum, sure.

**GEIST:** Thank you. Are there any additional questions? Senator Albrecht.

**ALBRECHT:** Thank you, Vice Chair Geist. Commissioner Ridder, can you tell me how many applicants do you see in a year's time and how many of those are denied?

**MARY RIDDER:** That's the percentage I don't know. I don't-- well, I don't know the percentage that go to hearing and I don't know the percentage that go to-- that we deny, but we can get you that information. OK?

**ALBRECHT:** OK.

**MARY RIDDER:** But I can say the number of certificated passenger carriers today are 157, and would break that down with-- there's 24 taxicab, which those are just on-demand or they are largely on-demand services. We have 57 open-class carriers that are certificated and those are arranged services. We have 29 limousine, 47 special party and charter. We also certificate household good movers, so we have 59 of those across the state. We renew annually 1,500.

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**ALBRECHT:** Fifteen hundred?

**MARY RIDDER:** Fifteen hundred. So that should be the number that we have currently today. We inspect 600 units per year-- our two inspectors when we get two back on service. And we investigated 134 this year. So there's a lot of activity takes place. Our department director talks about front end and back end, and in here it takes out the front end where we would see who's coming in. It moves more to the back end where you're doing more enforcement and checking into people's services from complaints.

**ALBRECHT:** And one other question. Then can you speak to the fiscal note a little bit more, if you've already had 164 investigations, would you say?

**MARY RIDDER:** One hundred thirty-four.

**ALBRECHT:** One hundred thirty-four?

**MARY RIDDER:** Um-hum.

**ALBRECHT:** And that was done by how many people?

**MARY RIDDER:** We have-- we had two people on staff.

**ALBRECHT:** Had two.

**MARY RIDDER:** Um-hum.

**ALBRECHT:** And when you send them out to investigate, what exactly is it that they do?

**MARY RIDDER:** Hmm, that's a great question.

**ALBRECHT:** OK [LAUGHTER].

**MARY RIDDER:** It, it, it can be, it can be small issues to larger issues, like they weren't certificated or safety of vehicle or complaints by people who rode, particularly Health and Human Service clients.

**ALBRECHT:** And what do you do when you find out that there's a problem in the investigation? Do they get fined? Do they get their certificates pulled?

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**MARY RIDDER:** We'll have a hearing because you don't just pull a certificate; you have-- give them the right to say their piece.

**ALBRECHT:** OK, very good. Any other questions? Seeing none, thank you for being here.

**MARY RIDDER:** You're welcome; thank you.

**ALBRECHT:** Any other opponents wishing to speak?

**LISA KELLY:** I think I'm the last.

**ALBRECHT:** Oh.

**LISA KELLY:** Thank you. Hi.

**ALBRECHT:** Hi.

**LISA KELLY:** Hello my name is Lisa Kelly, L-i-s-a K-e-l-l-y. I represent Blair Blue Cab, LLC and, up until December, I was Blair Blue Cab, LLC. So I have just recently finished this process, so I'm a little torn because I'm-- it's very fresh for me. To be honest with you, the very first time that we were protested on our application, I heard so many comments of: how dare anybody do that. I mean if somebody in Lincoln and Omaha is going to tell us that we don't need transportation in Blair. Well, it was an interesting process. Like Ron, it did help me understand a little bit more about what it is to be prepared to be a taxi company. But to give you a little bit more background, for two and a half years before I decided to start my own cab company, I was a very successful Lyft and cab-- Lyft and Uber driver in Omaha, however, in Omaha. I live in Blair. The cellular reception out there was awful. There were many times that people would find out that I was a Lyft and Uber driver and they're like: great, let me get attached to the app. No. They would send the driver from Omaha instead. And then that driver would, nine times out of ten, cancel because they didn't want to drive 30 miles to go pick up somebody to take them to Walmart. So I kind of approached this creating a cab company on a different perspective. People in my area sorely needed support. The only transportation we had was the Eastern Nebraska Office on Aging. They only worked from 8:00 in the morning until 5:00 at night. So if someone needed to come down to Omaha to a doctor's appointment that they needed to be here by 8:00, they did not have an option unless someone in their family would take off work to take them. That was a niche that we focused on providing service for.

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Yes, at first when you hear this is an adversarial hearing process to go through, that was very frightening for me. I'm like, oh, I need a lawyer. My lawyer had no idea what the process was either, so we, we learned as we went. From my perspective as having been both a rideshare driver and going through this process, I would actually ask the committee not to repeal, but to focus on revising. There are many aspects of this process that are what, in my opinion, unnecessary, but there are some that are very necessary. And my concern is that the process is understaffed as it is. If we were to go through and get rid of that opponent, I-- from my perspective, I think that there could be an easier process. It could be updated entirely. You know, there are some questions that are involved in the process, not just the hearing part. But I also can understand the need for safety. I know quite a few very, very responsible Lyft and Uber drivers, and we're still in contact. Sometimes they will call me-- you know, people will call me because they can't get a ride in Omaha. I have been restricted to my area of service because of the protest process. A lot of people still say: Why do you, why can't you go beyond? I'm limited because of that compromise that we had with my competition. They basically restricted me so that I have to have some contact within Washington County. So I can't just pick up somebody in Omaha and bring them to another part of Omaha. Yes, it's frustrating. I would like to go through the process and change that again, but I understand the meaning of the process and I do understand why some of the things are in place. But again, I just, I want to keep it short because I'm not a lawyer and I've not been in business forever. I'm still learning as I go. I'm very proud of the fact that I went through this process, I survived, and last month I actually added two drivers. So we have three drivers and three cars. It is possible to do this but, again, I really would caution against the total repeal and actually emphasis would be on, let's revise it. Bring it up to standards that are current to this century. And that's all I have to say. If anybody has any questions--

**ALBRECHT:** Thank you, Ms. Kelly. Any questions from the committee? Seeing none, thank you for being here.

**LISA KELLY:** Thank you.

**ALBRECHT:** Um-hum. Next opponent?

**BOB BORGESON:** Senator Albrecht and the Transportation Committee, my name is Bob Borgeson, B-o-b B-o-r-g-e-s-o-n. I'm the state director for the International Association of Sheet Metal, Air, Rail Transportation Workers' union. We represent a lot of railroad workers

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in the state, and a lot of those railroad workers are transported by contract carriers regulated by the Public Service Commission. We feel that this bill lessens the requirements that are, the companies are subject to. We, we don't want that. We would like this-- we would rather see the regulations strengthened, not, not lessened. Just-- we, the, the contract van is not part of our collective bargaining agreement. The contract, the carriers do that. The railroads do that. Our guys ride in them all over the state, and we spend a lot of, a lot of miles in those, a lot of hours in them. And other than that, I'd take any questions anyone would have.

**ALBRECHT:** Thank you very much, Mr. Borgeson. Any questions from the committee?

**BOB BORGESON:** Thank you for your time.

**ALBRECHT:** Seeing none, that you very much for being here. Any other opponents wishing to speak?

**JOEL BISGARD:** Good afternoon. My name's Joel Bisgard, J-o-e-l B-i-s-g-a-r-d. I'm here on behalf of my own company, Party Express Bus in Omaha. [COUGH] Excuse me. I, too, was protested because of the need and necessity. I was trying to get a stretch limousine authority to just kind of complement my business. I didn't want to start a limousine business. Just wanted to add to it, give my customers something else. I've been a truck driver for many, many years, been licensed since 1993. Thought I pretty much knew everything, at that point, on driving commercial vehicles, everything else. Well, getting into the bus business I've learned a lot when that protest came through, it hurt my feelings. It kind of-- you know what? I just want to make it a little bit better. I want to be a little bit more each time I could. I've had to learn. That protest, like I said, kind of hurt my feelings a little bit, kind of put me back. But I got back to thinking about it. I wasn't prepared for that. I wasn't in the limousine business. Driving tractor trailers, dump trucks, buses, it's a whole different deal. Limousines--whole different customer base-- I knew nothing about. Obviously, you know, I'm not a limousine guy. So, you know, I don't really have a lot to say today. I didn't plan on talking too much. It is important. There's a lot of illegal party buses in Omaha. We need the need necessity; we need that. With the Public Service Commission's help, we can get these people. It's not a matter of getting permission from another company; it's doing it the right way. I, too, didn't have my authority when I first bought a bus. If somebody has money, they can buy a bus. Go out there-- Public

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Service Commission is limited on their time. Their hours of service. Monday through Friday-- holidays, they don't work nights, weekends. There's a lot of illegal party buses out there that are not safe; they're doing it the wrong way. So the need and necessity, it needs to be-- to my opinion-- expanded on just a little bit more to go after these illegal party buses that are not operating in a safe manner. The companies such as myself I've had to learn a lot. I've had to learn how to be my own mechanic and, what I couldn't fix, it cost me a lot of money to do that. These people buy a bus, go do it. Who's stopping it? You know, those are the things that we need. You take that away, anybody can fill out the paperwork. I'm not a highly educated person. I like to think I'm OK, but I can fill out the paperwork, I can write the check out for the fees. That's all it really would take if you take this away. I don't think we need to get rid of it. I think it just needs to be-- maybe kind of refined a little bit here or there. That's all I really have to say about it.

**ALBRECHT:** Appreciate you being here. Thank you. Any questions from the committee? Seeing none, thank you.

**BOB BORGESON:** Thank you.

**ALBRECHT:** Any other opponents to LB461?

**BOB HARRISON:** Good afternoon, senators. This-- my name is Bob Harrison; that's spelled B-o-b H-a-r-r-i-s-o-n. I'm here today just to testify in opposition to the taking away of the need and necessity part of that process to get an authority. And first off, I'd like to just kind of go through the need and necessity thing. It does a couple of things. It shows that, that there's actually a need for more service in certain areas of the state. And it also sets forth parameters that those carriers, when they come in as a new carrier, can operate in where that, that authority is necessary. If you have-- you know, most people I can-- there's times where people can apply for an authority in a certain part of the state, say in the metro area of Omaha, and show that there is a need, say, in Bellevue for that, that type of service. And then once their drivers all get in the business, they'll end up with the Omaha airport picking up passengers and taking them all over town. The people in Bellevue may not-- or may or may not ever get any service out of that. So if you took that need and necessity away, and if I came in and applied for a taxi authority with two cars, I would assume I'd get statewide permission to operate anywhere in the state. The operating authority is kind of a two-way street. You're expected to operate in the area, in the service area



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that you have authority in. So if you have the whole state as your operating authority, somebody calls you from Scottsbluff and wants you to take them to the local Walmart, then you should have go out there and do that; and nobody can do that. So it would be a lost cause. The other thing is, is most of the taxi and limo or livery services in the state do have a real tough standard to live up to. They've tried to professionalize it over the last few years and done a very good job of doing it. In addition to that, there's three or four cities in the state that require all taxi drivers to be licensed through that city. Two of them are Omaha and Lincoln. They have tests they have to take, physicals they have to go through, drug screens and then have to do like street knowledge tests and all kinds of things in order to get a taxi permit, even if their parent company has a permit, the, the driver themselves has to go through it. To my knowledge, that's the only transportation business in the state in Nebraska that has to go through that. Nobody else-- none of the TNCs-- nobody else in the state has to go through that kind of thing. So it's-- the professionalization is there. I think the commission being able to limit people on where they travel and where they operate in is good business, and it keeps the services there in small town Nebraska. I talked to a guy 10 years ago who told me he made \$24,000 a year running a taxicab. If you cut that in half because you got another carrier in there, I don't know that he could survive on \$12,000, at \$12,000 a year instead of the \$24,000. He barely made it on the \$24,000. The insurance for those taxicabs are astronomical. For \$500,000's worth of insurance, it can run as high as \$5,000 or \$6,000 a car. And then the buses, when they run the party buses, they're \$5 million in coverage, and some of those go up as high as \$18,000 a year. So you've got to be able to support that or else what happens is they-- I've saw people get into the business, pay the first year's insurance, operate for a year, and find out they can't afford it, cancel the insurance and keep right on operating. And so then, then you got the danger when you've got people that are licensing their vehicle as a motor home and run around with motor home insurance, hauling 30 people out on the town, So it's good to have-- I would ask-- I mean, the caution I would say is, if you do proceed with this and it gets passed, that there be enough time set aside before it goes into effect, to come up with some sort of a standard that that's going to be there to keep people out of the business that are not desirable, because you will have a lot of that. You need to have some state and, you know, nationwide background checks, drug tests, all kinds of things if you're going to go to just strictly fitness in front of need and necessity. The need necessity has always kind of kept that, that

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little bit of quality there. And if you if you do do away with it, you'd lose that. So that's all I have to say, but--

**ALBRECHT:** Thank you, Mr. Harrison. Do we have any questions from the committee? Seeing none, thank you for being here.

**BOB HARRISON:** All right, thank you.

**ALBRECHT:** Any other opponents wishing to speak? Seeing none, anyone in a neutral capacity? Seeing none, Senator Friesen, would you like to close?

**FRIESEN:** Thank you, Chairman Albrecht. So I'm going to-- I'll cover a few things here that I think popped up over and over. This isn't about quality of service. They're still required-- the Public Service Commission is still going to oversee the quality of service. This is just the certificate of need. Do you need to be there or do you not need to be there? Is there too many, too many carriers already there? That's what they're looking at-- the certificate of need. And they're denying you on the certificate of need versus your qualifications to be there. You can be totally qualified, you can have all the insurance, you can have all of the safety features, everything in place. But if you can't prove that you have a need, they can deny you a permit to operate, and that's not really free market, free enterprise. It's the way we run things. So the Public Service Commission is still going to oversee all aspects of safety issues, quality of service complaints. They'll still be able to deal with that. You just will not have to go to prove that there is a need, and you have to get the certificate of need. So I don't-- we're not talking about the quality of service, and that came up over and over again. Some of the carriers talked about Medicaid patient transfers. Those are a contract between HHS and a carrier. If the HHS doesn't feel you're qualified to do it, I assume you won't get a contract. You know, if there's illegal party buses operating in Omaha, I don't see that this changes. It doesn't make it any more legal or any more illegal. They shouldn't be operating and, if they're out there, I'm sure they could be shut down. But a certificate-- obviously they didn't come to the Public Service Commission to get permission to run; they're operating illegally. Some of the things, I think, that are going to really change things down the road is, is we talk more about autonomous vehicles and, as those get introduced, I mean it changes the whole need for a lot of these things. So I mean change is coming. This is a change, but it is a small change. All it does is change the process where you go through the certificate of need in order to

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operate a business. I don't think there's going to be a lot of startup cab companies jumping into the business. They still have to meet all those requirements that a cab company has to meet. They still have to be able to prove that they're able to provide that service. It's just you don't have to provide now for that certificate of need, so it's a very small step. I don't think it's a big step. And I think we can look through the language some more, but the quality of service is still under the Public Service Commission, and I don't expect that there's going to be a big rash of more complaints coming in because of this bill. So with that, I'd, I'd be more than happy to answer any questions.

**ALBRECHT:** Thank you, Senator Friesen. Any questions? Seeing none, thank you.

**FRIESEN:** And with that, we will open the hearing on LB51. Welcome, Senator Vargas. I got the crowd warmed up for you.

**VARGAS:** Thank you. Ooh, this is much louder than I expected. And thank you very much, Transportation and Telecommunications Committee. Chairman Friesen and the rest of the members of the committee, my name is Tony Vargas, T-o-n-y V-a-r-g-a-s. I represent District 7 in the communities of downtown and south Omaha. I'm here today to introduce LB51, a bill that upholds free market principles, consumer choice, and promotes a continued move towards clean energy and building up our electronic vehicle infrastructure. LB51 would allow the direct sale of motor vehicles to consumers by a company that: one, does not have and has not had a franchise in Nebraska; and two, sells only the line-make of motor vehicle that it manufactures. Now before I talk about what we're hoping to accomplish with LB51, I do want to thank some owners of a company that we're talking about, a similar company, Tesla owners that are here behind me that will testify and other people that will testify in support. I want to begin to provide some context and a brief history of our current laws and why we have them. First, our current laws regarding the sales of automobiles went onto the books around the same time as many other states back in the 1950s. But back then many car dealers had tenuous relationships with manufacturers who often forced dealers to sell cars very quickly as they came off the assembly line, a pace to quick for many markets. Manufacturers were also able to terminate dealer-franchise agreements at will, without cause, if dealers refused any vehicle deliveries from factories, potentially jeopardizing a large capital investment on behalf of the owner or owners of the dealership and leaving employees without jobs.

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Additionally manufacturers-- they were in a position to compete with their own dealers, undercutting prices by selling directly to consumers. And that's why our current laws are really currently on the books, to protect dealers from competition with manufacturers. However, 1950s-- times have changed, and so has the automobile industry. Around 60 years ago there were three major auto manufacturers. Now consumers are blessed to have a lot of options to choose from, except one. Now that's because our laws in Nebraska don't allow auto manufacturers to sell their own products directly to consumers. There are new companies, like Tesla and a few others, that have business models that don't follow the typical dealer-franchise model. They sell directly to consumers, giving them an additional choice of who to buy from. Now for Nebraskans who are considering purchasing, let's say, a Tesla, that means they have to travel out of state to even see one in real life and test drive one. If they choose to purchase one, they're spending their money that they earned in Nebraska out of state, or out of state of Nebraska. And for Tesla owners, that means they have to travel out of state to get their car even serviced. After I introduced LB51, my office conducted an informal survey of current and prospective Tesla owners, and I'd like to share those results that we found. We had about 46 current Tesla owners and 106 perspective Tesla owners respond. Of the non-Tesla owners, of over 80 percent of them indicated that they would want to own a Tesla. It is clear that Nebraskans want to access Teslas and think the amount of letters of support that the committee has received also speak to that. Now before I go on a little bit, I do want to pass out a fact sheet about LB51 that could provide some reference points. Thank you very much. Now among the Tesla owners, less than a quarter of those responding indicated that it was easy to buy their Teslas, additionally over 66 percent that it was either difficult or very difficult to service their Teslas. Again, these are dollars that are being spent out of our state for no other reason than an out-of-date law. Now historically the automotive industry is unique in its sale practices. The dealer-franchise model is not something that is used by any other industry. I'm going to repeat that again. This dealer-franchise model is not something that is used by any other industry. Companies like Apple and Dell sell their products on-line in the large electronic stores like Nebraska Furniture Mart, Best Buy, and even in their own stand-alone stores. They have the freedom. I'm going to repeat this. They have the freedom to sell their products any way they want. Now why should it be any different for newer automobile companies like Tesla? A fundamental principle of free market competition is that consumers, not regulation, should determine what

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they buy and how they buy it. But that can't happen for Nebraska consumers when it comes to their choice in purchasing a car because of our laws that don't allow it. We should be encouraging competition and increasing consumer choice just as numerous other states that are now allowing direct sales of motor vehicles are. Now I want to be very clear because there will be people testifying in opposition. It is not my intent to dismantle or harm the manufacturer-dealer relationship. In fact studies in other states that have changed their laws to allow direct sales, similar to what we're proposing here, show that there is no negative effect on dealers and, in fact, we're seeing a positive effect in certain revenue. I introduced a similar bill last year, and I've spoken to representatives from the Nebraska New Car and Truck Dealers Association. Now I understand they have concerns with LB51 because it changes how things have been done for decades. But LB51 addresses their concerns because it only allows manufacturers who do not already have franchises in Nebraska to sell their products directly to consumers. That means that none of the dealers' relationships with manufacturers today will change, which prevents any negative impact on their business. Now if Nebraska is consistent with other states that allow Tesla's direct sale model, LB51 is unlikely to have any noticeable impact on the enterprises of Nebraska auto dealers. And like I said earlier, in fact, some other states-- Colorado for example-- have actually seen record sales numbers for franchise dealers, even though Tesla participates in the market. The fact is, consumers are going to purchase these cars; the question is whether they can purchase them in Nebraska. We should be welcoming new innovative businesses like Tesla to Nebraska. One Tesla sales store would provide anywhere from 30 to 70 jobs and \$1 million to \$2 million in direct investment in property and improvements. Tesla often seeks to develop job training, veteran hiring, STEM programs from communities where they have a presence. Electronic vehicles also benefit, benefit our public power districts. In order to keep energy costs low, public power districts need more load on their systems. Now although Tesla and other charging providers have been steadily increasing Nebraska's quick charging capacity, the vast majority of Tesla owners charge their vehicles at home overnight, which provides a critical increase to public power grid loads at nonpeak hours. Now that means public power districts sell more energy without additional investment. Advancing LB51 accomplishes two very important things: one, it's going to allow and give consumers the ability to spend their money in Nebraska which in turn is going to encourage Tesla to invest in states like ours. It's also going to make sure that we're opening up Nebraska to new business, giving consumers more choices when

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purchasing a vehicle and allowing them to do so right here where they live. I ask that you advance LB51 to General File, to protect Nebraska's reputation as a business-friendly state and an innovative state. I thank you. I'm happy to answer any questions.

**FRIESEN:** Thank you, Senator Vargas. Any questions from the committee? Seeing none, thank you.

**VARGAS:** I will stick around afterwards.

**FRIESEN:** Yes. Proponents who wish to testify in favor of LB51. There is an on-deck chair up front if you want to get ready for the next testifier. Welcome.

**MICHAEL J. O'HARA:** Chairman Friesen, Friesen members of the Transportation and Telecommunications Committee, hello. I'm Michael J. O'Hara, M-i-c-h-a-e-l, middle initial J, last name O-'-H-a-r-a. I'm a registered lobbyist representing the Sierra Club, Nebraska Chapter. I am both a lawyer and economist, as well as a retired business professor, previously with the University of Nebraska at Omaha. Senator Vargas, thanks for introducing LB51. The Sierra Club supports LB51 because we believe it facilitates the transition from an internal combustion engine cars to alternative fuel cars, and supports because it improves consumer protection. Existing Statute 60-1411.03(14), starting on page 5, line 25, is antiquated at its very best. Such provisions were created by the major auto industry manufacturers to avoid a legal concept called privity. Persons with direct legal relationships-- sellers and buyers-- are in privity and each has standing to sue each other. Provisions like 60-1411.03(14) were created to prevent consumers from suing car manufacturers, car, that, for cars that killed and harmed consumers. The common law of torts evolved to allow those suits anyway and defeat that legal gambit. Such provisions were also sought by major carmakers to create a strong, local, political power base to support the major automakers legislative agendas. That power is preserved on page 9, line 8, by new subsection, sub (2)(b)(i) of existing Section 60-1348.01. What agenda? Thwarting competition always has been one agenda item, and the reason we're here today is to foster competition rather than thwart competition. There are technology transfer contexts within which such mandatory franchise relationships are consistent with consumer protection. A mandatory franchise can address a form of the principal-agent problem wherein the agent seeks to free ride on a principal's customer acquisition efforts. A typical prerequisite for that type of principal-agent problem is the need for the agent to

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maintain a significant physical inventory. But note, electric cars have hundreds of parts whereas internal combustion cars have thousands of parts. This means service, rather than parts on hand, is central to a Tesla retailer's tasks. Page 9, line 11, addresses this new subsection (2)(b)(ii) of existing 60-1438.01. The Sierra Club urges you to vote to move LB51 to General File. If you have any questions, I'd be glad to answer them.

**FRIESEN:** Thank you, Mr. O'Hara. Any questions from the committee? None, thank you for your testimony. Next proponent? Welcome.

**JORDAN BOETCHER:** Good afternoon, members of Transportation and Telecommunications Committee. My name is Jordan Boetcher; that's J-o-r-d-a-n B-o-e-t-c-h-e-r, and I am here representing my, myself, as a private citizen and a Tesla owner. To start, I'd like to thank you for your time both today and Friday. I did have an opportunity to speak with many of you Friday. Some even were, were able to come out and test drive our vehicles. We had a fantastic time, so thank you for that opportunity. I do, do care very deeply about this bill, and it's the first time I've ever done anything like this. I followed Tesla since about 2013, and the years that I followed them, they've always been on the forefront of automotive technology and safety. Model 3, Model S, and Model X-- in that order-- are the safest vehicles ever tested by our government. And it's that eagerness to push cars forward that really made me fall in love with them and follow them. My first Tesla experience was test driving a Model S in April of last year. The folks from Kansas City actually brought one up and met me in Council Bluffs, Iowa. I was able to drive the car for about an hour and ask any questions I wanted, so long as those questions didn't pertain to pricing, sales, or delivery. Any of those questions had to wait until I got back home and I made a phone call to the Kansas City store. This is where the confusion started for me. I honestly thought that we didn't have a delivery center here because it was based on demand and there just wasn't a big enough market. I didn't know about the provision for direct sales. I was finally invited to configure my Model 3 and placed my order on July 31st of last year. Initial online registration and ordering process couldn't have been easier. Paperwork was all handled through e-mail e-document signing. Financing was, was just as traditional motor vehicle. Delivery is where we really hit a snag. So I did have to take delivery of my car out of state, in this case Kansas City, Missouri. Being that I wasn't trading in my current vehicle, as I normally would have, I had to recruit the rest of my family to come with me so they could drive my car back so I wasn't

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stuck in Kansas City with two cars. Since I was taking a day trip out of town, I also had to pack up the dog-- everything that goes with that. It was more like planning a mini vacation than taking delivery of a new car. There are, are many Tesla owners behind me that went through the exact same process-- maybe not taking the dog and to that extent, but-- and there are many more in our state that want to take this leap but are, are a little weary of what lies ahead of them. I would add that the debate on LB51 isn't about direct sales versus the dealership model. This bill, in its current form, allows direct sales while also protecting that, the existing dealership and manufacturer relationships. The debate on this bill isn't about electronic-- or electric cars versus internal combustion cars. It's also not about any manufacturer being better than another. This bill provides a way for consumers, consumers to purchase a vehicle of their free choice without having to travel to get that, to either take delivery or service. Just because an auto manufacturer breaks what we've known as tradition should not mean that they are penalized. I lived in Nebraska my entire life. I've watched our state blossom into a very important piece of the Silicon Prairie, and we shout to the world that we are open for business. I know that we will hear promise of layoffs and downsizing at local dealerships. My family has been in the car business for a very long time. They can promise you the truth is, in fact, the opposite. This bill will give us the opportunity for a Tesla service and sales center, which means more jobs for hardworking Nebraskans, selling and servicing American-made cars. I'd add, in conclusion, our state tourism slogan; it's: Nebraska. It's not for everyone [SIC]. In this case it should be. Nebraska should be open to any auto manufacturer that wishes to do business here, regardless of their business model. I thank you again for your time, and I'd be glad to take any questions.

**FRIESEN:** Thank you. Are there any questions from the committee? Seeing none, thank you.

**JORDAN BOETCHER:** Thank you.

**FRIESEN:** Welcome.

**NICK BOCK:** Good afternoon, Senator Friesen and committee. It was fun watching the debate on LB461. Oh, my name-- my name is Nick Bock, N-i-c-k B-o-c-k. It was fun watching LB461 debate because, in a lot of ways, it seemed very similar-- a practice that we have seems very anti-competitive. I don't know very many industries where you can try and keep your competition out through the Legislature. But this seems



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like one of them, just like that one was. I own a couple Teslas, both of them purchased in California, which meant I did everything on-line, which people younger than me certainly like to do even more than I do. And it was great. I went out there. Unfortunately, I paid sales tax in California which doesn't have a reciprocal sales tax agreement with Nebraska. So I paid zero sales tax in Nebraska and I paid all my sales tax in California; and none of that money comes here. And that's the case with, I think, every Tesla that gets purchased, depending on what state it gets purchased in. But none of them are purchased in Nebraska. When we always talk about sales tax revenue and how do we bring money into the state, it's surprising that we're passing on that. I-- up until recently, owned an IT company that had about 85 employees and operated here in Nebraska. Nebraska is a phenomenal state for starting and running a business. There are a lot of things that have been great about that. About-- one of our major lines of business was Microsoft products and, about four years ago, Microsoft decided that they didn't want to just sell their products through resellers like myself, but they wanted to sell directly to consumers; and they did. It didn't hurt my business because my job is to provide value that a large company like that can never provide to companies and people in Nebraska. Unfortunately, the Legislature did not scramble to protect my business from Microsoft and tell them that it couldn't do business here in Nebraska. And so they did. But again, it didn't hurt my business. Business is about competition and is about providing value. If you can't do that, you're not in business; if you can, you stay in business. This bill, if it's approved, doesn't make dealerships go away. In fact, it provides more protection that, again I would say, is still anticompetitive; and they should love this bill. But they're not going to go away because they'll continue to provide value to all the towns that they're in throughout Nebraska, regardless of whether Tesla has a showroom or can service their cars. But it will provide right to repair for people like me, for consumers in Nebraska that want to be able to buy and have their car serviced in Nebraska. It's sad that we go to Council Bluffs for something like that or Kansas City. When was the last time we wanted to go to Council Bluffs for anything? More and more things are going to go to the model where it-- like Tesla has-- where you go on-line or to an app on your phone and buy a car without ever looking at it. The old rite of passage of going down to the car dealership, haggling for a car, being intimidated by a salesperson, having to pretend you're going to walk away, certainly can live on for people that enjoy that. But there's a lot of people that don't enjoy that. That's part of what's magical about how Tesla sells cars. I hope that, through this bill, our

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wonderful state of Nebraska can consider modernizing how we allow consumers to buy their cars. Thank you.

**FRIESEN:** Thank you, Mr. Bock. Any questions from the committee? So I guess, as we're seeing no questions from anybody else, I'll ask you a couple. But I mean, is the process of purchasing-- 'cause I think a year ago I went on-line and filled out all the accessories I wanted,--

**NICK BOCK:** Yeah.

**FRIESEN:** --I built a car and--.

**NICK BOCK:** Um-hum.

**FRIESEN:** And I could have just ordered it on-line and they would have delivered it to me. So I mean you went to California to get it. Did, did-- was that a choice of yours?

**NICK BOCK:** Yeah, so depending on what car you're getting and how you want to get it and when you want to get it, it does depend because, yes, you can have it delivered here. In my case, I didn't want to spend \$2,000 on somebody bringing my car to me, and I thought it'd be fun to drive it across the country.

**FRIESEN:** OK. So like in the licensing, I mean I guess I was surprised that you had to pay the California sales tax because we always license the vehicles in the county where you live; that's where you pay the sales tax, so--

**NICK BOCK:** Yeah.

**FRIESEN:** Was that required of you to pay the sales tax, or you didn't license it in California?

**NICK BOCK:** I did not. And I'm not an attorney, and I don't want to get in trouble so I did talk multiple times with the DMV here in Lincoln and, because Tesla doesn't have the ability to sell cars here, what I was told is they collect sales tax at the point where they sell it and then you just have to keep proof of that. You bring that into the DMV and they don't make you pay sales tax twice.

**FRIESEN:** OK. I realize you don't have to pay twice, but I also never realize that-- 'cause when you bring a vehicle into license it, that

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that's what I've always paid sales tax. I, I'll-- we'll look into that.

**NICK BOCK:** Yeah, from what I understand, it had to do with them not being able to legally sell in Nebraska.

**FRIESEN:** OK.

**NICK BOCK:** But--

**FRIESEN:** We can look into it.

**NICK BOCK:** -- I'm not a lawyer.

**FRIESEN:** All right. Seeing no other questions, thank you for your testimony.

**NICK BOCK:** Thanks for the questions.

**NICOLE TERRELL:** Good afternoon.

**FRIESEN:** Welcome.

**NICOLE TERRELL:** My name is Nicole Terrell, N-i-c-o-l-e T-e-r-r-e-l-l. I own a Model X and it's an amazing car. I don't usually enjoy cars, but Tesla changed my mind about that. We decided to get a Tesla for several reasons. One is we're from Ohio. We moved here three years ago so I make the trip-- 850 miles to Ohio-- with two toddlers by myself quite frequently. So we really wanted a car that was very safe. For me, I'm-- I also really like that it's environmental friendly. And eventually we would like to get the solar panel that is connected to the car charger so we can run it off Nebraska sun. Tesla also makes solar shingles, and we've started to move the bar a lot in wind energy in the last couple of years, but solar energy kind of remained stagnant in our state. Everyone has roofs on their home, and equipping them with solar shingles doesn't cut into field space and isn't an eyesore. I want to support companies advancing sustainable energy solution, solutions. We have experienced some difficulty owning a Tesla, and most of that is due to our proximity to the nearest dealership. When I drove the car home from Kansas City I barely made it to Lincoln to charge. It was a very cold night-- I think February, about a year ago-- and when I got there I found my car had an issue with the charging adapter which wasn't noticed at the dealership because superchargers fit a bit more tightly than the chargers at the dealership. It took several days for the service person to make it out

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to me because we are so far away. Recently we got two flat tires in Lincoln, and it was a disaster attempting to get it fixed, as it also damaged the suspension. We struggled to get a tow truck that would tow a Tesla. Then we couldn't find a place to store it until their stores opened at the only certified shop that could fix it. We ended up having the car towed all the way back to Hastings and then all the way back to Omaha a couple of days later. If Tesla had a presence here, more options would have been available to us. Small issues that we've had with the car, like a nail in the tire, we've been able to be fixed locally at our local dealership-- Chevrolet dealership, actually. They were able to call Tesla and ask how they needed to lift the car appropriately to not damage the battery and then go about fixing the issue. So I can't say enough about-- good things about this car and this company; their customer service is exceptional as the technology they produce. This is the type of company we should want to encourage to grow here. I was astonished to learn that they couldn't operate in this state because they do not sell through dealerships. It took an hour and a half for them to show me how to use my model X and that's not because it's a difficult car to drive. It's just Tesla takes a lot of pride in showing the owners all of the things that that car can do and, as an owner, you do want to know that. So it makes sense that that company wants to sell directly and make sure all the capabilities of their technology are known by their users. I want my state to be one that encourages innovative technology and embrace change. Inviting Tesla to Nebraska would be a step in the right direction.

**FRIESEN:** Thank you, Ms. Terrell. Any questions from the committee? Seeing none, thank you for your testimony.

**NICOLE TERRELL:** Thanks.

**FRIESEN:** Welcome.

**BENJAMIN MARTEN:** Chairman Friesen, members the committee, thank you for the privilege of speaking before you today in support of LB51. My name is Benjamin Marten, B-e-n-j-a-m-i-n M-a-r-t-e-n. I live in District 34 and represent myself. I'm not an expert at economics, the law, or automotive distribution. I'm a librarian. My expertise is in researching, finding, and understanding credible sources, which is why I'm giving you so much paper; I'm sorry. I was intrigued by this topic when I found out that Tesla was forbidden by law to sell their cars in Nebraska. Besides illegal to own things or terribly unsafe things, I'd never heard of a company being banned from selling what they were making, so I set out to find why. What I found is that many different

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experts agree that laws prohibiting manufacturers from selling cars harmed consumers and the industry. In a letter to Chris Christie, former governor of New Jersey, more than 70 experts in law, economics, public policy, etcetera, signed a letter that said-- about forbidding manufacturers from selling cars, "In sum, we have not heard a single argument for a direct distribution ban that makes any sense. To the contrary, these arguments simply bolster our belief that the regulations in question are motivated by economic protectionism that favors dealers at the expense of consumers and innovative technologies." I thought it was interesting to note, on page 6, you'll find Justin Hurwitz's name, an associate professor of law at UNL. Not just experts, but organizations on the ground supporting consumers signed a letter to state government leaders that stated, "In short, we oppose efforts by state legislators or regulatory commissions to forbid car manufacturers from opening their own stores or service centers in order to deal directly with consumers. Such laws are unnecessary for consumer protection, interfere with competition and efficient distribution, increase cost to consumers, and mount barriers to the introduction of innovative and beneficial new technologies." It is interesting to note here, highlighting the broad range, the Sierra Club signed it, an organization committed to environmental causes, as well as Americans for Prosperity, which is a well-known organization supporting the fossil fuels industry, two companies that agree on very little, but both were willing to put their organization's name down, supporting the idea that these laws do not help consumers. Writing to a senator from Michigan in 2015, the Federal Trade Commission-- or the FTC-- used the law that the senator was asking about-- allowing a small manufacturer to sell auto cycles directly to consumers without using dealers, similar to LB51-- to make a broader statement about laws that protect dealers from competing with manufacturers. To remind you, "The FTC is an independent administrative agency charged with working to protect consumers by preventing anticompetitive, deceptive, and unfair business practices, enhancing informed consumer choice and public understanding of the competitive process,-- ." They said, "Our principal point is this: absent some legitimate public purpose, consumers would be better served if the choice of distribution method were left to motor vehicle manufacturers and the consumers to whom they sell their products." I use these samples to show that experts at multiple levels agree that consumers would be better served if any manufacturer could sell cars directly to consumers. This would mean that the laws that we have that prohibit this are actually the exception. The dealers have enjoyed protected status by law as an exception to the general rule. To actually level the playing field,

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experts recommend that we allow all manufacturers the right to sell cars. However, I'm assuming that the dealers may not like that very much. So instead, a very reasonable compromise in LB51 allows the existing special exception for dealers to remain for those who already have franchises in the state and feel that the only way they can be successful is by forbidding competition through legislation. And it makes room for those who don't need that same exception to sell cars. Each of the articles I provided to you address many of the arguments that are used against changing the law and disagree. In the letter to Governor Christie about forbidding manufacturers from selling cars, the experts state, "--every argument we have heard is unconvincing and inconsistent with our understanding of the economics of distribution." The FTC says in their letter, "Those who support a blanket prohibition on direct manufacturer sales have made a number of arguments that FTC staff find unpersuasive." My research has led me to believe that, while the best solution for consumers in Nebraska would be a complete repeal of laws that forbid manufacturers from selling cars to consumers, LB51 is a move in the right direction that can fit both parties. I'd be happy to answer any questions you have. Thank you.

**FRIESEN:** Thank you, Mr. Marten. I will admit that, when I met you a couple of years ago and you gave me that one-inch-thick file. I read through some of it but I haven't made it through it.

**BENJAMIN MARTEN:** I understand.

**FRIESEN:** You do your research.

**BENJAMIN MARTEN:** I understand.

**FRIESEN:** Any questions from the committee? So I mean, your, your point is our antiquated system more than it is anything else. You're, you're saying that, overall, if we were going to have a free market enterprise, we just open it up, let anybody deal however they want.

**BENJAMIN MARTEN:** That is definitely what the experts say would be the competitive process that would be the best for consumers to improve service and to decrease costs. But I think that this, this does a fantastic job of addressing both the concerns of the dealers worrying about the investments that they're making in the state, as well as other manufacturers who have-- don't have the same structure, who are just trying to sell cars to the consumers who want them.

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**FRIESEN:** So is it-- would it be correct to say, though, that it is fairly easy to buy a Tesla and have one if you want it?

**BENJAMIN MARTEN:** I have never purchased one, but I have heard that it is easy to do on-line.

**FRIESEN:** So it's more of the-- we're thinking more of just having a service center thing like that; it's not the ability to purchase one that is being restricted, so to speak.

**BENJAMIN MARTEN:** Well, I would say that, in the research that I, that I did with the FTC, they all mentioned the fact that they don't make any distinction between whether dealers or manufacturers are the best suited for purchasing vehicles. What they complain about is the law, that this doesn't need to be, that it doesn't, it doesn't need to be a law. Where LB51 is great at, is trying to strike that compromise where it doesn't affect the dealers who have franchises in the state at all, while still allowing incoming manufacturers who don't have that model to also sell cars to consumers.

**FRIESEN:** OK. Are there any other questions from the committee? Seeing none, thank you for your testimony.

**BENJAMIN MARTEN:** Thank you.

**FRIESEN:** Welcome.

**RON KONECNY:** I should put these on to see you guys.

**FRIESEN:** OK, go ahead.

**RON KONECNY:** Good afternoon, Senator Friesen and committee members. My name is Ron Konecny, R-o-n K-o-n-e-c-n-y. I'm a management professor at the University Nebraska, Kearney, and a Tesla Model S owner. I'm not speaking as representative of the university nor of Tesla. Today I'm speaking in support of LB51 as a citizen of Kearney, Nebraska. My comments are divided into two areas: first, as a consumer and second, as a Ph.D. economist. Personal comments: one, some claim franchise dealers are good for the state because they reinvest in the communities where they sell vehicles. This thought assumes that the middle man is more civic-minded in spending money than the consumer-- follow the money. I, for one, skipped the markup from the franchise middleman and purchased my model F-- model S-- on-line directly from Tesla and took delivery in Denver. I believe I'm better qualified to spend that markup portion myself. My second thought is how is blocking

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factory-authorized work of my vehicle in Nebraska bad for the state? Currently I take my vehicle to Denver for annual maintenance and service work. As you know, the current law prohibits the maintenance here. There is no place in Nebraska to service my vehicle so I have to go to Denver, and I'd rather bring the money back home. And I'm going to go off script for a second to answer a few questions that Senator Friesen asked the previous individual. I bought mine on-line. It was click, click, click, click. Just fill in the blank-- a lot of fun. Put, put down the money off the credit card-- done. Time to buy it-- send the money. I paid cash, bought it direct. My charge-- car showed up a month later in Denver; we went out and picked it up. Wonderful experience. I just wish I could get it serviced here because now we have to drive out to Denver and a hotel and the food. Oh, we make fun. You know, we have a good time out of it, make a holiday out of it. But you know, you don't need to do that to have your car serviced. Back to my statements. As a-- my professional comments. I fully agree with the positive and optimistic comments of Senator Vargas. As an economist, my perspective requires evidence-based sustainability. If protective legislation is not justified by solid evidence, it's time to modify or sunset the provisions. An old argument that is now resurrected claims out-of-state owned stores and big retail must be stopped before it drives the most mom-and-car-- mom-and-pop franchises and retailers out of business. These predatory competitors are a threat, not only to established franchises and retailers, but also to their suppliers, their customers, their workers, the American way of life, and apple pie. You've heard this before. This argument was presented in the 1920s and 30s against mail-order catalog companies Woolworth and Sears. Again, in the 80s it was brought up against big box stores such as Walmart and Home Depot. Most recently, it's raised its head again against eBay and Amazon. As in the past, opposition by incumbent franchises and retailers to new business models based on technological innovations present their arguments in melodramatic terms such as David versus Goliath. Evidence demonstrates that when consumers have expanded choices, better prices, more options, their spending behavior expands outside the local economies. Historically, in response to this threat, local businesses lobbied state legislatures across the nation to enact laws to restore their privilege by discriminating against foreign or out-of-state corporations. Today in this room you may hear this argument again. Let me clarify the real adversary of Tesla's critics-- it's not Tesla, but the new model for retail in all forms that Tesla represents. The debate is not franchise dealerships versus nonfranchise or franchise and manufacturer relationships, but of permitting or prohibiting a highly competitive style of retail. Among



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those threatened in this disruptive innovation and retail are the former winners, under current legislation. Compact-- competition is scary, but unjustified protectionism is terrifying. In conclusion, action is needed now. It's long past the wait-and-see approach. The evidence from other states and similar industries is indisputable. Therefore, I encourage you to advance LB51 to the General File. Thank you.

**FRIESEN:** Thank you. Are there any questions? Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Friesen. And it's Konecky [PHONETIC]?

**RON KONECNY:** Konecny.

**ALBRECHT:** Konecny. So when you were in Denver, did you get to leave the sales tax in Colorado? Or did you--

**RON KONECNY:** No, no. It was here in Nebraska. I think we have a reciprocal thing. I bought a car in Colorado before. You buy it there, they sent the paperwork. It turned-- it was kind of goofy 'cause they didn't know what to do in, in Kearney, but, 'cause there are some differences. That's okay.

**ALBRECHT:** So you've owned your car for how long?

**RON KONECNY:** A year and a half. I bought it in July, a year and a half ago.

**ALBRECHT:** I'm just curious. When you should decide to trade, would a local dealer in Nebraska take your vehicle on trade-in if they won't--?

**RON KONECNY:** Well, I'm an economist and so I drive my cars till the wheels fall off.

**ALBRECHT:** I'll ask someone else that question, then.

**RON KONECNY:** So--

**ALBRECHT:** Thank you.

**RON KONECNY:** Yeah.

**ALBRECHT:** Okay. That's fair. Thanks.

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**RON KONECNY:** OK, thank you.

**FRIESEN:** Thank you, Senator Albrecht. Any other questions from the committee? Seeing none, thank you for your testimony.

**RON KONECNY:** Thank you now.

**THAD KUROWSKI:** Thank you, Chairman Friesen and committee members, for the opportunity to speak here in favor of LB51. My name is Thad Kurowski, T-h-a-d, last name K-u-r-o-w-s-k-i. I am a senior advisor of business development and policy for Tesla, and I submitted written testimony last Friday for the record. Hopefully, you've had a chance to review that and, frankly, I'll apologize in advance 'cause most of the information that I'm probably going to be providing has already been said and was totally not coordinated. It's just my customers are, are very well-informed. But let me hit the high points of the testimony. A little bit of background-- Tesla is a vertically integrated company, manufacturing fully electric vehicles, solar panels, and lithium ion batteries in the United States, which we sell, install, and service directly with our customers. In Nebraska we've already invested over \$1 million in electric vehicle charging infrastructure in Sidney, Ogallala, Gothenburg, Grand Island, Omaha, and Lincoln. And we want to bring jobs and additional investment to Nebraska to meet consumer demand for our products, with Nebraska-based stores and service centers. As mentioned, each Tesla gallery plus service center will provide 30 to 70 new local jobs and has the potential to provide \$1 million to \$2 million in direct economic activity. However, current state law prohibits the way we're allowed to do business here. Namely, it prohibits manufacturers from selling vehicles directly to customers or servicing our customer vehicles directly, blocking us from investing in brick and mortar locations because of outdated dealer-franchise laws. Tesla's never had a franchise dealership anywhere in the world. We've always sold direct to the customer for several reasons: one, were relatively small. By comparison, in 2018, Tesla produced and delivered a total of 245,000 vehicles worldwide, while GM produced and sold about 8.4 million. We have a zero-profit service model, which is important. There's no incentive for our technicians to upsell a customer on any unnecessary service expenses. And we find that maintaining a direct feedback loop between the service technicians and our vehicle engineers and designers allows for constant improvement. We strongly believe that the direct interaction, as has been referenced from prior speakers, and the education experience with consumers is vital to the successful

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adoption of electric vehicles. And to be clear, our intent is not to upend the existing dealer model. It's simply that that model does not work for us. As Senator Vargas described, LB51 amends current statute to allow direct sales and service by manufacturers without independent franchise dealers here. Dealer-franchise laws were never intended to block innovation or job creation from new companies. We've seen how coexistence can and does work in other states. We've done business right alongside franchisees for almost a decade in some places, and all tides have risen. Last year in Utah, the dealers and manufacturers willingly came to the table to come up with a solution that worked for Utah so that we could coexist. The concerns the dealers have expressed here simply aren't warranted. There's no evidence to show that allowing direct sale brings down dealers. Importantly we have several consumer protection organizations and procompetition organizations that take favorable positions on the allowance of the direct-sale model. Those organizations, the consumer protection organizations, include: the Consumer Federation of America, Consumer Action, Consumers for Automobile Reliability and Safety, and the staff leadership of the Federal Trade Commission. They've all called direct distribution prohibitions bad for consumers. And the consumer protection organizations were joined by procompetition advocacy organizations, as mentioned, with the, ranging from folks who've testified here today-- the Sierra Club-- all the way over to the other side for Americans for Prosperity-- arguing that consumers should be allowed a free choice in how they buy their cars. In conclusion, I want to see Nebraska welcome Tesla, because it's good for Tesla and Nebraska. I think it'd be great if a kid from Nebraska not only has the opportunity to work at a dealership when they get old enough, but they also have the opportunity to work directly for a manufacturer right here, especially a cutting edge company like Tesla. We'd like the opportunity to become part of the test-- or part of the Nebraska community. And thank you for their time and I'll-- happy to take any questions.

**FRIESEN:** Thank you. Are there any questions? Senator DeBoer.

**DeBOER:** Thank you very much for your testimony. I'm trying to get a sense of the size of this issue within Nebraska. About what percentage of e-cars would you say that you sell in the United States-- so electric cars?

**RON KONECNY:** We sell-- yeah, all of our cars are fully electric, so--

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**DeBOER:** Right. I know your car. I'm sorry. Compared to other manufacturers of electric cars in the United States.

**RON KONECNY:** I don't know if I know the answer to that question. So let me make sure I'm understanding it correctly. So you're asking, does Tesla sell significantly more than a Toyota or another, another manufacturing brand?

**DeBOER:** Right. Yeah that's right.

**RON KONECNY:** So-- OK. So the answer to that question is-- well, it depends on what time frame you look at. I believe we're fairly neck and neck with General Motors. There is a federal tax, tax credit-- and the reason that I'm coming back to that is there's a federal tax credit that provides any manufacturer or the consumer up to \$200,000, essentially, tax credits. And both GM and Tesla, I believe, have run out of those credits so we're probably neck and neck but our sales accelerated this past year with the delivery of our Model 3, the mass-market vehicle that we've started to produce. So that has, that has really caught us up with vehicle sales as of this year.

**DeBOER:** OK. So your cars are somewhat more expensive than my \$12,000-a-year state senator salary allows me to purchase. How many would you expect to sell in Nebraska in a year? What would you say, roughly?

**RON KONECNY:** Well, I can tell you that, to date, we have roughly 500 sales to Nebraska folks. The majority of those were this past year for our Model 3. For folks who don't understand how we have rolled out the Model 3 is essentially-- which is the mass-market vehicle. It is the vehicle that will reach the \$35,000 mark. And that production, the production of that model will commence this year, the \$35,000 model. So over, over the course of this year with the Model 3 deliveries that are the longer-range vehicles for us, we've delivered about 350 here in Nebraska. As far as projections go, I think it's partly dependent upon whether or not we're able to open a facility here. Certainly the ability to kick the tires is-- so the saying goes-- is, is a helpful sales tool, and drive the car. But in considering the adoption of Teslas, and based on history, I would think it would be somewhere around the same, same number.

**DeBOER:** And so there's not a service center located here. Is it not possible to locate one now? Or is it just not sort of economically

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possible? Right now, under law, are you allowed to have a service center directly from Tesla here?

**RON KONECNY:** We're not.

**DeBOER:** OK. So this not only-- this bill, LB51-- not only allows you to sell but also would authorize you to service directly.

**RON KONECNY:** That is correct.

**DeBOER:** Thank you.

**FRIESEN:** Thank you, Senator DeBoer. Senator Cavanaugh.

**CAVANAUGH:** Thank you, Chairman Friesen. Thank you for your testimony, and I have some similar questions to Senator DeBoer's. So the operation of a repair shop here in Nebraska, that's not something that you legally can do. We have to change that in state statute?

**RON KONECNY:** So that is correct. As Senator Vargas alluded to, when dealer franchise law came into play back in the '40s and '50s, states chose a variety of different provisions to include. One of those provisions in Nebraska is that a manufacturer is not allowed to service vehicles directly to the customer. So that, that is part of this change.

**CAVANAUGH:** OK. And as far as like the financial economic benefit to the state, I see in your testimony an estimated \$2 million in direct economic benefit. Is that from just the sales tax revenue that you're estimating, or from the workers? I guess--

**RON KONECNY:** That's from-- yeah. It's, it's the full package, so that's not only-- so that's dependent upon whether or not we have to come in and actually build the facility; that could increase from there. But this is, this is essentially to hire or pay for the employees to be there and staff the facility. And then that includes the taxes that we would pay on, and property taxes on the facility and--

**CAVANAUGH:** So how many vehicles are you anticipating that you would sell annually in Nebraska?

**RON KONECNY:** Yeah, again, it's dependent upon, you know, how consumers choose to spend their money and buy their vehicles. If we, if we are allowed to open a service and sales facility here, you know, that,

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that's a, that number could grow. If we based it on history, it's, you know, 350, you know, maybe 1,000 a year. But it, but it is really, you know-- that's very speculative on my part. It just depends upon what the consumers want to, want in the vehicle and how they want to spend their money.

**CAVANAUGH:** Are you currently available to sell in Iowa?

**RON KONECNY:** We are not. Well, the answer to that is we are not allowed, under interpretation, to, to sell vehicles directly in Iowa. We are, as I understand it, allowed to service vehicles directly.

**CAVANAUGH:** OK. So-- and the sales tax question that we had earlier. It sounds like-- and I kind of was searching-- that sales tax is paid in the state that you register the car, not the state that you purchased the car. Is that your understanding?

**RON KONECNY:** I, I do not know the answer to that. I think it's dependent upon the state and reciprocity rules, but I'm not an attorney. I can certainly find that out.

**CAVANAUGH:** No, that's all right. We'll, we'll look into it. Thank you.

**FRIESEN:** Thank you, Senator, Cavanaugh. Senator DeBoer.

**DeBOER:** Sorry, I have one more follow up question about your sales and service facilities. Are all those always located together? Or would you ever open a sales facility and not also open a service facility?

**RON KONECNY:** That's a good question, Senator. So I mentioned earlier that we have a no-profit service model. That becomes really important to the decision-making in how we set up and where we set up, in terms of sales, because what we want to do is operate a business in the black. And we also want to service our customers that we have but, but ultimately, what we are trying to do is sell more vehicles 'cause that is where our profit center lies. So a roundabout way of answering your question is, it is, it is something that we have done. It is not something that we like to do.

**DeBOER:** OK, thank you.

**RON KONECNY:** Yeah.

**FRIESEN:** Thank you, Senator DeBoer. Senator Albrecht.

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**ALBRECHT:** Thank you, Chairman Friesen. Forgive me, I do have a few questions. I wasn't here last year when you went through the drill. So I'm going to-- I will ask questions that I might not have some answers to. OK. How many other states do not allow you to do the same thing Nebraska is not allowing you to do?

**RON KONECNY:** That I'm aware of, one.

**ALBRECHT:** Iowa?

**RON KONECNY:** No, Kansas.

**ALBRECHT:** But you can't sell in Iowa.

**RON KONECNY:** Sorry. To clarify your question, what, what I'm saying is there, there is only one other state that does not allow a manufacturer to both sell and to both service directly.

**ALBRECHT:** That is Kansas, you say.

**RON KONECNY:** That, that is my understanding.

**ALBRECHT:** So everyone else throughout the country is allowing you to come in with the sales and service facility.

**RON KONECNY:** No, sorry. That, that's, the distinction that I'm trying to draw is that there are, there could be other states and, like Iowa, where sales may be prohibitive, but service is allowed. Your original question, as I understood it, was: Is there anyone else like Nebraska who doesn't allow you to sell vehicles directly but also doesn't allow you to service them directly. And the--

**ALBRECHT:** Well, you're asking in LB51, LB51 to have a sales and service facility in the state of Nebraska, correct?

**RON KONECNY:** That is what LB51 would allow us to do.

**ALBRECHT:** OK. So that is my question.

**RON KONECNY:** Yes.

**ALBRECHT:** Are there other states that do not allow you to have the sales and service in their state?

**RON KONECNY:** That prohibit both of those things?

**ALBRECHT:** Yes.

**RON KONECNY:** There is one.

**ALBRECHT:** Just Kansas.

**RON KONECNY:** Yes.

**ALBRECHT:** OK. So the other-- these charging stations that you have throughout the state, do you allow, does Tesla allow other auto dealers that sell electric cars to charge in your system?

**RON KONECNY:** So--

**ALBRECHT:** Or are they, are you are the charging systems just for the vehicles that you sell in the state of Nebraska? Surely you let everybody use them that drives through the state of Nebraska.

**RON KONECNY:** So, so currently, so currently those, those chargers are only operable for Teslas. There are several reasons for that, though.

**ALBRECHT:** OK.

**RON KONECNY:** One is when Tesla started out producing vehicles, we quickly realized that, in order to get people to adopt electric vehicles, you had to have a charging infrastructure that allowed people to take road trips, to move across the country. At that time there were several variations or-- of charging and the adapter that actually fits into a vehicle. And what we found was that there were deficiencies in some of the, those chargers. And what I mean by that is, in most cases, that those chargers weren't fast enough. We felt like a customer needs an experience where they, if they're going to pull into a fast-charging station to move along the highway, move along an interstate corridor, they needed to be able to sit there for maybe a half an hour and get a sufficient amount of charge to move along and go another 100 and-- 150 miles.

**ALBRECHT:** OK.

**RON KONECNY:** So we started producing those for our vehicles and, and rolling those out. And what happened-- since then, there are two other different types of charging adapters that can be, that can be plugged into vehicles, depending upon the manufacturer. And--



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**ALBRECHT:** Has that been an issue in the state of Nebraska for you to be able to put the charging systems throughout the state?

**RON KONECNY:** It has not been an issue for us.

**ALBRECHT:** OK.

**RON KONECNY:** And we have had discussions to your point, Senator, and we'll continue to welcome those discussions with other vehicle manufacturers about investing in supercharger infrastructure and utilizing the fast-charging capabilities. And thus far, we have had no one who wants to pay into that system who produces vehicles.

**ALBRECHT:** OK, thank you. How many-- just one other quick question-- so how long have you been selling these cars, for like how many years, two or three?

**RON KONECNY:** The company started in 2006 and started delivering cars in 2008.

**ALBRECHT:** OK. So when these Tesla owners are ready to trade, do they-- are they allowed? I mean, do other manufacturers have any problem taking them in on trade-in?

**RON KONECNY:** No. In Colorado, for example, where, where I am from, the used car dealerships take those in for trade-in and they turn around and they sell them. There are quite a few Teslas you can find.

**ALBRECHT:** But there's--

**RON KONECNY:** You could actually look up, look them up on-line and find them on Craigslist or eBay or--

**ALBRECHT:** But there's not a new car dealer or service center that will, will take care of these folks. They have to go back to a Tesla dealership to be serviced?

**RON KONECNY:** That is correct.

**ALBRECHT:** Um-hum.

**RON KONECNY:** That is how we provide our services.

**ALBRECHT:** Hmm. OK. OK, thank you.

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**FRIESEN:** Thank you, Senator Albrecht. Any other questions from the committee? Seeing none, do you-- I've heard that you do have a van that goes around and does small repairs,--

**RON KONECNY:** Um-hum.

**FRIESEN:** --I guess, whatever you can do. So there is a repair facility, so to speak, a travelling repair center?

**RON KONECNY:** There is. Chairman Friesen, the-- we call that our ranger service and, as you might imagine, the, there are some repairs that can be done through the ranger service. And the majority of, of an electric vehicle and Tesla repairs, thankfully, can be done sometimes via over the air-- updates or a software change. But if there is a physical problem with the automobile where it is-- a lift is necessary, that is when are those services cannot be provided, essentially, by the traveling--

**FRIESEN:** OK.

**RON KONECNY:** --mobile service.

**FRIESEN:** Does a Tesla dealership-- what does that look like in other states? Do you have a-- 50 cars to choose from out in the lot? Or is it a dealership? Or how does it look?

**RON KONECNY:** Well, it looks a lot like a dealership that you would see in any city in Nebraska. There are showrooms typically, where you can go and see the vehicles. You can also take them out for a test drive if you would like. And then along with that, there are service facilities where we service our vehicles there.

**FRIESEN:** So do you have a large inventory at a dealership so that you can drive one home?

**RON KONECNY:** We don't. Part of the reason why we do direct sales is because most of the cars that we produce come off the line spoken for. They've been ordered specifically by a customer for that customer, with a--

**FRIESEN:** So if you did have a dealership here, you'd still, you'd go on-line and order it.

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**RON KONECNY:** Yes, you would still go on-line or you would do that at the service center with the, with the salesperson.

**FRIESEN:** OK, thank you. Any other questions? Seeing none, thank you for your testimony.

**RON KONECNY:** Thank you.

**FRIESEN:** Any other proponents for LB51?

**STEVE BIGELOW:** Good afternoon. My name is Steve Bigelow, S-t-e-v-e B as in bravo-i-g-e-l-o-w.

**FRIESEN:** Welcome.

**STEVE BIGELOW:** I would like to talk about our experience with buying a Tesla. We had been hearing about Teslas. We went on the Internet to find out more information before we actually went and bought the car. Think of that-- Tesla does not have dealerships like most people think of automobile dealerships. We found the Tesla office closest to us was in a mall in Arizona where we have another home. We went to the mall, found the dealer-- where the store was, sat down, talked to the guy and, within 30 minutes, we had ordered our Tesla. And they said: Would you like to take a test drive? So they took us down to the lower level of the shopping center and we took the car for a ride, and we were both convinced; this was it. So it's, it's not as though you got a car dealership with acres and acres and acres of automobiles. As the previous gentleman said, you order the car, they tell you when it comes in. They call, you pick it up, and there is no inventory. The same way with their texts that they have at their service centers. The technician who has helped us on several occasions told us that he went to a school that Tesla sent him to, for over a year, to unlearn everything he ever knew about servicing a-- an automobile, because Tesla is not like any other automobile. There is no oil to change, there's no filters, there's no gasoline port. And so I've been told-- I, he can probably tell you more-- but there is only six things that ever need to be replaced on a Tesla: two windshield wipers and four tires, OK? We have an eight-year warranty on our vehicle. We purchased the automobile in Arizona and that's where we keep it. And when you talk about the amount of money that Tesla would bring into the state of Nebraska, first of all you take a look at the techs at the service centers. That's going to bring in hundreds of jobs and millions of dollars just by having those centers here in Nebraska, plus the cost of the vehicle. They aren't inexpensive. So when you buy a Tesla--

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ours was \$115,000-- that money goes into the state's coffers. So it's-- I don't know-- it's a good thing, to me, to have a Tesla and a place to, to buy the vehicles. Looking at notes here, I'm not-- oh, the other thing is the charging stations that we go to when we travel out west. The charging stations are near restaurants. It might be an Arby's or a McDonald's or a sit-down restaurant, and that brings additional revenue into the local area. When people go and they charge their car, it takes us about 45 minutes to charge. We go off and have something light to eat. We come back out, and the car is fully charged, and we're ready to go. So it's a great vehicle, and I'm in support of it. And I'll answer any questions anybody has.

**FRIESEN:** Thank you, Mr. Bigelow. Any questions from the committee? Seeing none, thank you for your testimony.

**STEVE BIGELOW:** Thank you.

**FRIESEN:** Any other proponents? Seeing none, any that wish to testify in opposition to LB51? If there are other opponents, they can move to the front of the room so we're ready to go.

**LOY TODD:** Chairman Friesen, Friesen and members of the committee, my name is Loy Todd; that's L-o-y T-o-d-d. I'm the president and legal counsel for the Nebraska New Car and Truck Dealers Association. First thing I want to address in this regard is what the-- everyone to understand very clearly that we are not opposed to Tesla. We are not opposed to, to electric vehicles. We are not opposed to progress. We are simply in a situation where, because of our state laws, which are not unique, we are, we are concerned not with Tesla and not with their direct business model. The problem is that the franchise model was, as Senator Vargas aptly pointed out, developed nationwide, and that was because manufacturers of motor vehicles couldn't just start putting stores all across the nation, especially as a rural state like Nebraska and others; you can't just drop them everywhere. So the method of distribution of motor vehicles-- every, every state passed franchise laws to make that the franchise model. And that went along just fine for many, many years. And then, eventually, something happened, and what happened was that some of the manufacturers-- some of the larger manufacturers decided to start selling direct and competing with their dealers. And I can assure you that no dealer can compete against that dealer's factory. No dealer can buy Ford, Ford vehicles from Ford and compete against a Ford store. Ford opened what they called the collection. They started off in, in a couple of cities. One is Salt Lake City. Another one was in Cleveland, I think,

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or Cincinnati, and went into competition with their dealers. Immediately after that happened, all across the nation, including in Nebraska, we passed laws to prohibit the manufacturer from selling direct. It was not because it was a different business model. It was simply because the existing dealers, who had spent millions of dollars in their own communities and serving their customers, were in jeopardy of being simply run out of business and not being there. And I can assure you, when that happened, General Motors announced that they were going to have one dealership in Nebraska and that was going to be in Omaha. Ford certainly wasn't going to have any more. And so we wouldn't have the dealerships that we, that we have and enjoy now. The average vehicle in Nebraska is 12 years old. And so that service is, is there by the dealers that belong to our association. We have 100 percent membership penetration. Our dealers generate over \$5 billion a year in sales in the state in Nebraska. We have over 9,000 employees. We create over 17,000 indirect jobs compared to the 9,000 jobs that we have direct. We generate nearly 15 percent of the total sales tax in the state of Nebraska. Our customers and citizens in Nebraska depend on these dealerships to be there for sales and service. Now if we thought a carve-out, if just this exception would work, we would welcome it. Unfortunately, if you look at the bill and you look at last year's bill, it says if you've never had a franchisee or you never had a dealer before, then you can sell direct. There is nothing to stop the major manufacturers from simply creating a new product line or from creating a new corporation or an LLC or anything like that and say: OK, we never had dealers before. They did it with the-- Oldsmobile did it with the Aurora, GM did it with the Saturn, you know, just create another one. Right now Hyundai has gone through an exercise where they tried to create a new brand; they came up with the Genesis. They mistakenly called it a Hyundai Genesis, Genesis for some time and so they weren't allowed to, to continue to eliminate dealers; and that was their goal. We had another thing happen and that is-- those franchise laws that I talked about protected the dealers and protected the communities from having the manufacturers simply run dealers out of business. Well, in 2009, we had, had an event, and that's, that's when the economy got so bad and the, and the dealerships went broke. We ended up with Chrysler filing for bankruptcy in 2009. We ended up with GM filing for bankruptcy in 2009. And so my discussion about manufacturers getting rid of dealers is not a hypothetical. What did they do in the bankruptcy? That superseded all franchise laws. It superseded Nebraska's laws that protected the communities and protected the dealers. Chrysler terminated 789 dealers nationwide. GM terminated 1,100 dealers nationwide. These were all

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dealerships that were profitable, that were successful in generating sales. Nebraska lost 30 dealers. We went back to federal to-- and changed the federal law to at least give them an opportunity to be reinstated. To show you the mentality though, Cadillac terminated every Cadillac dealer between Omaha and Denver. Cadillac terminated every dealer-- Cadillac dealer-- between Omaha and Des Moines. Now the thing I have to point out to the committee is, you know, these aren't cell phones. These aren't, these aren't pot holders. These aren't, these aren't something that you-- a watch that's disposable. These are motor vehicles. It's the second biggest purchase that most people ever make in their life. And they need them; they need them for transportation. And the notion that, that they don't need continuing service, I mean, look at the recalls out there. Millions and millions of cars are being recalled every day. And that recall work is done by dealers. So far as warranty work, you know, warranty is a loss to a manufacturer. When Tesla talks about no profit-- and I'm sure that's right because warranty is an expense for the factory. My dealers want to do your warranty work. They want to fix your car. It's a profit center for them, and the manufacturer pays for that. And they, they want, and they want to make that work. And I see that I've got a yellow light already. One thing I just absolutely have to clear up and that is this tax situation. It's-- you buy a vehicle any place else and you're going to bring it to Nebraska, it, it-- you're going to pay state sales tax in Nebraska. I checked with California. I heard this testimony last year. Again, I was just astonished. So I checked with California. I talked to my counterpart there and I said: Is this, is this right? No. You get a form, you bring back to Nebraska, you pay Nebraska sales tax. You buy a car in Iowa, you pay it here. And one other thing I want to clear up is, while I have time, there are-- I made a list-- there are 25 states that prohibit or, this, at least. And Tesla is operating in 25 states, as far as I can tell, some of them contrary to the, to the current statutes there, and there's some litigation going everywhere.

**FRIESEN:** OK. Thank you. Thank you, Mr. Todd. Questions from the committee? Senator DeBoer.

**DeBOER:** Thank you very much for testifying. I'm going to warn you that this is not meant to be as hostile a question as it sounds. So I'm just wondering if you could speak to me a little bit about what a dealer, what the dealer-franchise adds to the process, what, what sort of value added the dealer gives to the process that could not be gotten through the manufacturer. I think I heard you say that they're

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sort of a watchdog on the warranties because, unlike the manufacturers who have a disincentive to provide warranty work, a dealer would. But are there other ways in which-- I mean, what do you add? Sorry.

**LOY TODD:** A very good question and I welcome it. First thing is competition. I can tell you that my dealers compete against each other as aggressively as anybody in the world. So when you, when you start negotiating between from-- and I don't care if it's the same product line or whatever-- one Ford dealer will do about anything to beat another Ford dealer in the deal. And even if there was only one, one, one franchise in the state, you can still compete against someone in another state. If-- there's no Lamborghini dealer in Nebraska, but if, if there were one, you could pit that Lamborghini dealer against a Lamborghini dealer in Chicago or someplace else. It-- now with the Tesla Model, there is one price and it's whatever they say it is. And so-- and the other thing is, studies have shown-- NADA, the National Auto Dealers Association, have done studies, commissioned studies. The average competition that exists among dealerships lowers the average price of a vehicle by at least \$500, if not more. The financing-- the competition for participating in financing lowers the interest rate by at least one 1.5 percent on these vehicles; the competition is furious. The other thing they had is, when, when you heard the descriptions earlier in testimony about the hundreds of dealers-- or vehicles sitting there, you know, Nebraska has the largest truck, Ford truck dealer in the country. Go look at that hill sometime and see all those vehicles. The selection is there, the service is there, the competition for, for business, not just from, not just from the price but also how you treat a customer, how you, how vehicles are taken. You know, my dealers sell on the internet. My dealers, my dealers every day sell on the Internet and they, they sell in Nebraska and other places. So as far as what they-- we make no apology whatsoever for what we bring to the table. We bring local sales and service, local employment. And one thing I hear about work force; I hear about work force constantly now. I know that the discussion is property taxes are the biggest issue. Well, I'm hearing work force is bigger. And, and what my dealers contribute to training and hiring of people-- my association has a charitable foundation. We contributed over \$300,000 last year in scholarships, tuition, tools, and education for students in the automotive trades in the community colleges. We bring so much to the table, including generating sales, 15 percent of the sales tax in the state of Nebraska. We are proud of what we bring; we bring a lot.

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**DeBOER:** Thank you; that's a helpful answer. I've also heard that, with respect to electric vehicles, they require less service than a traditional automobile and that, that, therefore, makes a sort of a subtle disincentive for a traditional manufacturer or a traditional dealer to sell electric vehicles because they know they won't be sort of getting as much on the service side of things. Can you speak to that?

**LOY TODD:** Sure. The industry is shifting to electric. There is no question about that. The investment being made by the manufacturers-- major manufacturers-- toward that goal eventually is enormous. There is, there is a difference in service, and, and one of the things that illustrates that is just what you've heard. There isn't that much need for some service on electric vehicles. That doesn't stop the dealers from selling them; it's a profit center. And as far as when you talk about the servicing, it's-- one of the things that happens with an electric vehicle, if you'd need less service, you need fewer technicians, you need, you need fewer other things. And that's why it surprised the heck out of me when I'm hearing about this need for service in Nebraska. Tesla has no intention of building a service center in every small town in Nebraska. What they need and what they talk about is Omaha. I have publications. In October, Elon Musk said that they're going to build six new service centers in the country because of the failure of service, and he said within six months, we'll have six new service centers in America. They haven't built a single one. They can build a service center in Council Bluffs or Carter Lake that'll serve Omaha and the rest of Nebraska just as easily as in, in, located in Omaha. Have they done it? No, they haven't done it, and, and they can't. So-- and when I hear that Nebraska is one of what-- there's only one other state that has laws like ours--

**DeBOER:** So--

**LOY TODD:** --it makes no sense.

**DeBOER:** So OK, but, but can you clear up for me if there is a disincentive to sell the electric car because you do miss out on some of those service sides of things? I'm just not--

**LOY TODD:** Sure.

**DeBOER:** --familiar with, in a dealership model, this being outside of my area of expertise by quite some distance, whether or not there is a



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significant profit margin in the up-front sale or what percentage that is, as opposed to the service side of things.

**LOY TODD:** I'm not going to give you a lot of answer on that 'cause I have three dealers who really do sell electric cars and--

**DeBOER:** OK.

**LOY TODD:** --right behind me so that I'm-- they'll come-- but I can tell you this. They're, the vehicles that are on these dealers' lots were bought and paid for by the dealer, from the factory, even before they were shipped. The dealer owns that vehicle and has got, is paying interest on it, probably, on the floor plan on that vehicle. They want to sell that vehicle very badly and they want to then-- and they want to sell you what you want to buy. And so from that standpoint, there is not, there is not a disincentive or anything else. It's simply let's, let's, let's sell it, let's make a profit on it, let's get another one in and sell that. And so the idea is, is to sell the vehicle. There's lots of ways to make money in a dealership. And it is not dependent totally on that, that sale. And you'd be surprised, you know, there's very little money made on a lot of other vehicles that, as far as the purchase price. It's-- there's financing, there's, there's tons of things.

**DeBOER:** So now I'm not suggesting that this would happen, but let's imagine a world where this bill would simply allow to have Tesla to service vehicles here. Let's say all it says is that-- now we're not saying that they would do it, but let's imagine a world where they do. Do you object to that side, or is it just the sales?

**LOY TODD:** When, when the Nebraska law was originally passed, it included service because, quite frankly, we didn't have a great grasp of how far they were going to go, how far the manufacturers were going to go to try to compete with the dealers. And so at that point, because there, it is, it is a profit center on the total vehicle, and so the law was passed for both sales and service and, and so it is still an issue. If the law were changed so that a manufacturer could directly service vehicles and eliminate that part of the profit center for a dealership, at that point they would have the same ability to compete with and run them out of business. You know our law is, our, our law only addresses one thing, and that is the franchise model. That is an independent dealer that you, as a consumer, can rely on. It is there for you regardless of whatever the manufacturer might do, because, you know, we have manufacturers go broke, you know. Remember

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Yugo? When Yugo went under, my dealers were still there. They were there the next day to sell, sell and service, to take trade-ins, to do those kinds of things, and the manufacturer was out of business. Other, other manufacturers have gone out of business through the years. The dealer is still there. The public has a local investor, a local entrepreneur who has invested millions in the community and is going to be there to continue to take care of them. And so that's, that's why we have the law.

**DeBOER:** And here's my last question; sorry to belabor you so long. You know, the gentleman from Tesla said that they sell about 500 cars last year or something like that. This seems like, at least right now, a fairly cottage industry. Is there any amendment that you would, that Senator Vargas could offer that would help alleviate your concerns, limit this-- the language of this bill enough-- is there is there any room for compromise that you all could entertain?

**LOY TODD:** I really appreciate that question because I've looked around the country. I've-- I'm familiar with all the states; I network with those people. And we looked at-- is there anything that's working, out there anything we can really count on? Georgia tried what you suggest, that what they, what Georgia has said, once you've sold so many cars, then you have to get a dealer, OK? Tesla-- sure, they agreed to it and then, as soon as they sold that many vehicles, they said: No, we're already here; we're not going to do it that way. And, and you've heard it. They don't want to have a dealer. The only-- the competing interests in this, in this legislation are, Elon Musk doesn't want to sell through dealers. And Elon Musk is on record saying: Once I sell enough cars, I'll need dealers. But that's what we've got right now-- just simply doesn't want to have an independent dealer. There's-- all, all that has to happen-- if you're talking about a compromise, simple one: Tesla can pick any human being in the state of Nebraska that they want. They don't have to use one of my dealers. They can take any person they want and make them the dealer; give them a franchise so long as Tesla doesn't own the store, so that there is an independent dealer. And our fear is not Tesla; our fear is the other manufacturers taking advantage of the exception that's made. These exceptions are so hard to hold. If I thought it would work, we'd be the first ones in line. I would much rather work on other stuff. But we just don't think it'll work.

**DeBOER:** So I think I'm understanding you as saying no, there's not a way that you would accept an amendment to this bill at this time.

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**LOY TODD:** If I saw an amendment that I thought would hold off the, the other manufacturers from taking advantage of it and eliminating dealers from the state of Nebraska, I would, I would gladly welcome it; I just haven't seen it. So I never say never. I'm--

**DeBOER:** OK, thank you.

**FRIESEN:** Thank you, Senator DeBoer. Senator Cavanaugh.

**CAVANAUGH:** Thank you, Chairman. Well, Senator DeBoer almost asked all of my questions, but I still have one more, the trade-in model-- or trade-in issue-- on Tesla. So currently, if somebody who owns a Tesla wants to go to a dealer and get a different car, can they trade that car in?

**LOY TODD:** Oh, absolutely.

**CAVANAUGH:** And then does the dealer sell the Tesla?

**LOY TODD:** Sure. Sure.

**CAVANAUGH:** And there's no issue-- I don't understand how-- much like my colleague, I'm very far removed from how car dealerships work. I really try to never buy a car because it just terrifies me. So if you, if you trade in a car, and then you can sell the car, but you can't sell the car if it's new; you can only sell the car if it's used.

**LOY TODD:** Our law only addresses new motor vehicles.

**CAVANAUGH:** OK.

**LOY TODD:** There is no, there is no prohibition. There is no handicap in any way with any owner of a used vehicle, trading it, selling it, service. The other dealers can-- it's Tesla's choice that other dealers can't service their vehicles. It is not, it is not the other dealer's choice.

**CAVANAUGH:** OK, thank you.

**FRIESEN:** Thank you, Senator Cavanaugh. Any other questions from the committee? Seeing none, thank you, Loy.

**LOY TODD:** Thank you.

**MICKEY ANDERSON:** Good afternoon, Chairman Friesen and members of the committee. My name is Mickey Anderson; it's M-i-c-k-e-y

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A-n-d-e-r-s-o-n, and, and so I think that I am the dealer that the gentleman from Tesla has already proactively disagreed with or preemptively disagreed with in his testimony. But I'm a car dealer. I, along with my sister, own the Baxter Auto Group. We have 17 dealerships here in Nebraska, in Omaha and in Lincoln, employ about 1,500 people in those 17 dealerships. We trade for Teslas from our customers, and, and I, you know, I tend to agree with some of the people that you've heard testimony from that it's a neat vehicle. And there are some things about it that are rather innovative. But I think, to be fair, the, they, the folks here that own those vehicles ought to protest, not this state, this franchise law, but maybe Tesla itself. So my family's been in the business for 60 years, and I've worked actively in it in 30 years, for 30 years. And 30 years ago we were given the Lexus franchise, which is an example of what Loy pointed out. These manufacturers are able to make any vehicle, label it under any brand, and they could easily skirt any existing franchise law if we were to make an accommodation. Every year they're coming with new models, and Lexus was an example of that. But Lexus chose to engage in, in business in the state in Nebraska according to the state, the state law. So when we chose to become a Lexus dealer, before we could sell a car we had to buy property, build a building, buy a couple hundred thousand dollars' worth of parts to have on hand for our customers. We had to train half a dozen technicians and another 20-- or so-- support staff from parts and sales and so forth. We had to do all of this before we sold the vehicle. Now this makes sense. This is what's in the customer's best interests because customers get in those cars and they drive down the road really fast. And these things are made of tens of thousands of moving parts. You have airbags, you have the brakes, you have all these various components that can go wrong and there can be accidents and there can be flat tires, as was spoken about here earlier. And the idea being what's in the best interest of the customer would be to make sure you have an established service point prior to selling the vehicle. But that is not what is the most profitable path. What is most profitable would be for a manufacturer to sell a vehicle at a fixed price. If you take dealers out-- somebody mentioned the middleman-- we dealers are discounters. If you take the dealers out, you eliminate the discounting so you can sell everything at a fixed sticker price, maximize the margins. If you then come back and eliminate the notion of creating a network to service the people that are buying the cars, you've eliminated a ton of expense. And Tesla has rightly identified that that is the best way to maximize the profits on the vehicles that they're selling. But they're not the only ones that will ever identify

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this. Every manufacturer knows that to be the case. The dealers being local, the dealers living in the community with their customers, are making massive investments to make sure that we can service the vehicles and maintain them safely during the ownership experience of the vehicle, of the customer. You've already heard how unsafe and inconvenient it is to, to have a vehicle and not an ability to maintain it. Dealers make sure that that is, in fact-- that that happens. And dealers do advocate for customers. We do fight to get repairs coming under warranty; it's what we do. We also make massive investments in our communities and we're proud to do it. My company pays about \$2.4 million in property taxes every year here in the state in Nebraska. And we're proud to do it. Those are the types of investments that companies like Tesla and every other manufacturer would like to avoid. If you reference this bill just through the lens of Tesla, you're going to say: Well, they're so small and so insignificant that what harm could they possibly do. But what you have to remember is that that law would be impairing or modifying is the same law that's holding everybody else. All of that really, the big technology companies like the Toyotas, the General Motors, the Hondas, the Nissans, and so forth, the Mercedes Benz, those are the big players in this space and, if you create that opportunity for them to do business direct, they will. And it would be in-- not in the best interest of the, of the consumer, nor of the state in Nebraska. And again, I would reference what Mr. Todd said. Ten years ago this, this year, in 2009, when franchise laws were suspended, 2,000 new car franchise dealers just went away, one of them right here in Lincoln. A longstanding, multigenerational Chrysler dealership just one day woke up, and they owned a building, and they owned inventory, and they had a payroll and they had employees, and they had trained people; and it was gone because, at the end of the day, it maximized the manufacturer's revenue.

**FRIESEN:** Are we wrapping it up?

**MICKEY ANDERSON:** I'm done.

**FRIESEN:** Thank you. Thank you, Mr. Anderson.

**MICKEY ANDERSON:** Thank you.

**FRIESEN:** Any questions from the committee? Senator Albrecht.

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**ALBRECHT:** Thank you, Chairman Friesen. Mr. Anderson, thank you for being here. I just have a quick couple questions for you. Of the 17 stores that you have, how many have electric cars available?

**MICKEY ANDERSON:** Of the various manufacturers?

**ALBRECHT:** Well, that you actually sell.

**MICKEY ANDERSON:** That we sell? Nearly all.

**ALBRECHT:** They all do?

**MICKEY ANDERSON:** We represent 10 different manufacturers, yes.

**ALBRECHT:** Really. I've been out of the car business for ten years and I had no idea all this was happening. That's what happens when you live out on the farm and you aren't getting the information. When you talk to these Tesla dealers that you take trade-ins,--

**MICKEY ANDERSON:** Um-hum.

**ALBRECHT:** You know, I guess for myself, going on-line to buy anything and not being able to have it serviced somewhere, you know, or, you know, even a tire change, does, does AAA even go out and tow them to wherever they need to go? Does the body shop and service departments around-- if you won't service them, then, you know, I guess I just can't wrap my head around buying something on-line and not having somewhere to service it. So do you hear from the Tesla buyers that are trading their vehicles in to you what their frustrations are?

**MICKEY ANDERSON:** Well, sure. I mean, it is a reference when I opened this up. It would be much better for the consumer had Tesla established a real--

**ALBRECHT:** Franchise agreement.

**MICKEY ANDERSON:** Yeah, a dealership in, in the cities were they intended to sell the vehicles.

**ALBRECHT:** Would you say that that's why they're able to sell it for less than what you probably-- like a window sticker. Are they, are they comparable all in price, you know, the different models that they have?

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**MICKEY ANDERSON:** I think so. I mean they certainly, they had the benefit of, you know, Obama-era tax credits that have-- I mean every--

**ALBRECHT:** Well, everybody did that had the electric car.

**MICKEY ANDERSON:** Yeah, I mean-- yeah.

**ALBRECHT:** And that's gone now, so--

**MICKEY ANDERSON:** It's expiring, right?

**ALBRECHT:** It's expiring. So at that point I guess what I see is, yes, it's easy to say yes to something on-line that-- but, but they're suffering-- the consumer of the Tesla would be suffering if they don't have somewhere to go to service it. If it has, if-- I mean, I don't know what they do when they, when they have a vehicle. I mean, I'm quite certain a dealership like yourself would have a rental vehicle to give somebody if they brought their vehicle in for service. But if you're-- I don't know what Tesla's agreement is with the consumer, if they actually give them something to drive when they have it towed to either Denver or Kansas City. I just really am having--

**MICKEY ANDERSON:** I have-- and I don't know. I couldn't answer that either. And we would never refuse service, but there's certainly-- there are going to be--

**ALBRECHT:** Right, 'cause you can't do the--

**MICKEY ANDERSON:** --proprietary.

**ALBRECHT:** --warranty on it, so you're not going to be able to take care of that [INAUDIBLE]. OK, thank you.

**FRIESEN:** Thank you, Senator Albrecht. Senator Cavanaugh.

**CAVANAUGH:** I'm good.

**FRIESEN:** OK. Senator DeBoer.

**DeBOER:** Hi. Thank you for testifying. I was wondering if you could talk to me a little bit about these profit models between sales and service, and what percentage is coming from each, and whether there is a disincentive to sell electric cars.

**MICKEY ANDERSON:** Well, so we have never sold a car because it would create service revenue downstream. We, we tend to like the cars the

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customers like, which are the ones that are the most reliable. I, we've got three Toyota franchises and three Lexus franchises, and we really love those franchises because those cars are incredibly reliable. So electric vehicles have a special appeal to us dealers because they deliver a great experience to the guest. I think that's wonderful.

**DeBOER:** Do you sell a lot of electric vehicles?

**MICKEY ANDERSON:** We sell them to everybody who wants one, which is-- I mean, it's a, this fairly short list. I mean, it's not--

**DeBOER:** Yeah.

**MICKEY ANDERSON:** --ubiquitous. There's a huge switch over to trucks, to pickup trucks, and SUVs are very popular. And, and there are no, at this point, electric trucks or SUVs. So-- but that's a national dynamic. I mean the, the-- I think, of all the cars sold around the globe, I believe it's something like 2 percent would be all-electric. I have a manufacturer that sells a hydrogen fuel cell car which is really neat and cutting edge in technology. But it's-- there's just no demand for it at this point.

**DeBOER:** OK, thank you.

**MICKEY ANDERSON:** Sure.

**FRIESEN:** Thank you, Senator DeBoer. Any other questions from the committee? Seeing none, thank you, Mr. Anderson. I know it looks like we're running out of committee members, but they have probably bills to introduce somewhere else. Welcome.

**THOMAS McCASLIN:** Thank you, Senator Friesen and committee. Thomas McCaslin, T-h-o-m-a-s M-c-C-a-s-l-i-n. In June of 2009, I was a victim of GM and their bankruptcy. The bankruptcy suspended our franchise laws that were put into place to protect us. Because I'm in a small town, a rural dealership, they decided that I was not viable enough to move forward with the new GM. At that time, we had Chevrolet, Buick, Pontiac, and Cadillac franchises. At this point, we had been in business in Broken Bow, at our current location, for 35 years. We were profitable. We were selling new GM vehicles along with many other makes and models of used vehicles. Not only did we sell them, but we also serviced them. When GM sent me the letter informing me that they were no longer going to honor our dealer agreement, many things went



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through my mind. What are we going to do? What are my employees going to do? What are my customers going to do? I had 13 families that were all employees. Where are they going to go, now that they don't have a job? Thousands of customers that were also without a place to go for service of their vehicles, having to travel a further distance. A business that they had trusted to take care of them after they'd purchased the vehicle and for service was no longer there. At this point, the word, the word had spread through town, and many of our concerned business people and citizens of our small town came together and asked me: What can we do to help you? Broken Bow rallied around me. We all wrote letters to our senators, to all of our representatives--sent them to Lincoln, got our name out there. Next thing you know GM reinstated us. One thing that we cannot compete with is a factory store. I know that, if a factory store comes in, I will be the victim again and one of the first ones to be axed. Thank you.

**FRIESEN:** Thank you, Mr. McCaslin. Any questions from the committee? Seeing none, thanks for your testimony. Welcome.

**JOHN ERNST:** Welcome, Senator Friesen. Chairman Friesen and the committee that's left, thanks for having me here today. My name's John Ernst, J-o-h-n E-r-n-s-t. I'm from Columbus, Nebraska. I'm the dealer principal of Ernst Chevrolet, Buick, GMC, and Ernst Toyota. And I'm also the sitting chairman of the Nebraska New Car and Truck Dealers Association and a third-generation dealer. The traditional manufacturers for many years have been trying to reduce the number of small rural dealers. Nebraska, like virtually every state, has franchise laws which level the field and help keep them from terminating their dealers. My family has been serving our community and customers with sales and service of not only the vehicles which we sell, but used vehicles of every type for three generations. As difficult as it is to understand, some manufacturers would like to compete directly with their dealers or simply eliminate them altogether. In 2008, GM took advantage of the opportunity to eliminate my cat, my family's Cadillac dealership and terminated nearly every Cadillac dealer between Omaha and Denver. We lost our Cadillac franchise and our customers lost their source of sales and warranty service. We employ over 100 people in our dealerships and provide good pay and benefits. We create sales and income tax. We pay property taxes and support our communities in many ways, directly and indirectly. The franchise system has served our customers, our employees, and community well. We fear that allowing factory stores in Nebraska will eventually open the door to allow any manufacturer to

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compete with franchise dealers. You can't possibly compete with a factory store. A Tesla exemption to the franchise laws will open the door for the man, other manufacturers to begin the process of demanding an equal opportunity to open factory stores. And doing so will lessen our customers' protection under current Nebraska franchise laws. Thank you.

**FRIESEN:** Thank you, Mr. Ernst. Any questions from the committee? Seeing none, thank you for your testimony.

**JOHN ERNST:** You bet; thank you.

**LEIGHTON YATES:** Good afternoon, Mr. Chairman, members of the committee. My name is Leighton Yates; that's L-e-i-g-h-t-o-n Y-a-t-e-s. I am the director of state affairs for the Alliance of Automobile Manufacturers. On behalf of the alliance, I'd like to thank you for the opportunity today to express our opposition to LB51. This legislation that we believe is-- unfairly creates two different sets of rules within state law for competitors in the same exact marketplace. For those of you that are not familiar with the alliance, we are a trade association that represents 12 of the world's leading car and light-duty truck manufacturers. And together each year they represent 70 percent of all new cars sold in the U.S. As automakers, we work closely with our franchise dealers to operate as successfully as possible within our industry's existing distribution model. Nothing in law precludes Tesla or any other company from competing in the Nebraska automobile marketplace under the same exact rules as every other automaker does today. In Nebraska, as in every other state, automakers and dealers operate under a complex scheme of state franchise laws that regulate nearly every facet of our business relationship. Admittedly though, some of these laws are onerous for manufacturers. Yet in the same marketplace where competition between brands is fierce, all participants must at least operate under the same set of rules. LB51 would change that. While it is true this bill would allow Tesla Motors to sell directly to consumers and simultaneously prohibit every other existing manufacturer that is in the marketplace for doing the same, it also opens the door to allow any other new vehicle manufacturer that follows to use the same direct sale model. It is naive for anyone to think that Tesla Motors will be the last automobile manufacturer to enter the marketplace. For example, today there are 23 vehicle manufacturers who sell vehicles in other parts of the world, but not here in the United States. There are also new vehicle start-ups that are trying to bring new vehicles to

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market but they are not yet here in the marketplace. On the same side of the coin, large vehicle companies-- large technology companies, excuse me-- are spending exorbitant amounts of money to also enter the marketplace. While all of these are fine, they each are examples that would be allowed to sell directly to consumers while existing auto manufacturers would not. This is about more than Tesla. Alliance members welcome new competitors because that drives innovation and encourages competition. This benefits industry as well as consumers. Passing LB51 will cleave the market vehicle place into two. On one hand, new entrants unbound by the franchise system, on the other hand existing manufacturers required by law to follow the current franchise system. Your predecessors in the Legislature established the rules under which your dealers and constituents, as well as my members, have built their businesses. This includes the prohibition on direct sales. It would be patently unfair for the state to have a long-existing set of laws governing how manufacturers distribute their products, but now only let new manufacturers enjoy a competitive advantage by being able to be exempted from these restrictive and complex laws. Once a niche company, Tesla's product is no longer unique to the marketplace; therefore, it does not require a special dispensation from the current distribution model. Traditional automakers are currently offering almost 40 different electrified models for sale in the United States today. This includes pure battery electric vehicles, just like the three that Tesla sells today. In fact, there are more than two times the amount of battery electric vehicles coming from traditional automakers this year alone. There are dozens more electrified models. These are battery electric vehicles, as well as hybrids, that are in the production pipeline. There's over 100 thousand-- excuse me, 100-- models projected by model year 2021. These will also benefit the air and environment, as Tesla's products do. Electrified models of all different shapes, capabilities, and sizes are already on the market, both with two- and all-wheel drive options, which I hear comes in handy on days like this in Nebraska. To be clear, our members do not shrink from added competition. Our members have developed modern vehicles that are safer, cleaner, and more advanced than ever, and they welcome new competitors to try and keep up. Our members simply believe that state laws that govern the sales of vehicles should provide a fair and equitable playing field for all and not grant special privileges for a select few. Due to these reasons, we ask to vote against the passage of LB51, and I'd be happy to answer any more questions. Thank you for your time.

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**FRIESEN:** Thank you, Mr. Yates. Any questions from the committee?  
Senator DeBoer.

**DeBOER:** Sorry, everyone. Is your objection the "treat us all the same" objection? Or how would you feel if we said we're doing away with the franchise system in general; you can sell directly in Nebraska, whoever you are? Would you be OK with that? Does that break down this wonderful alliance that you have?

**LEIGHTON YATES:** Not quite. The investment that has been made by manufacturers over the, in some instances, 50 to 100 years, if you got rid of the franchise system today, all of that investment, on our side as well as the dealers' side, would be worth nothing. We've put time, money into-- it takes time and money to open a store, close a store, move a store, remodel a store, as well as the parts and inventory side of it. We also pay for the warranty work that the dealers do in their service facilities. So to say it would be fair to get rid of the franchise system today, in our view, is not accurate.

**DeBOER:** So you're not pushing to, to sort of sneak under the tent and get rid of the franchise system in general. You just want to be treated the same as everyone else.

**LEIGHTON YATES:** We would like anyone selling new motor vehicles to sell them how we're forced to sell them.

**DeBOER:** And I asked this of one of the other gentlemen representing the dealers, and so I guess I'll ask you the same question. What-- from a manufacturer's perspective, what value added comes from the dealership model? What, what does a dealer add for the consumer, because it is an additional expense, right? Or otherwise you wouldn't be worried about being undersold--

**LEIGHTON YATES:** Um-hum.

**DeBOER:** --if it isn't an additional expense. I mean, the argument that there's competition amongst the, the different Ford dealers, or whatever, is slightly offset by the fact that the manufacturer Ford could come in and sell less than either of those. I mean, that's just the math of it. So what, what is the value added from a, from a franchise for the manufacturer?

**LEIGHTON YATES:** Well, I think the gentleman before me-- they got to some of the more local benefits. The income sales tax, the, the

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salaries that they pay their workers, obviously some of the local and more charitable investments. I think more importantly, especially in this argument that we're having today, is adding more service touchpoints in some of the more secluded, more rural, isolated parts of-- not even Nebraska-- other states. That discuss, discussion is going on. It's quite some distance to go between point A to Point B. So having those local dealers provides a service point for those folks to-- even if there's nothing wrong-- get the vehicle checked out. If you hear a clicking noise, what is that? Oh, it's nothing; you're fine. You know, something's stuck in your in your wheelhouse. But it could also lead to something bigger that could eventually potential save, save a life. If you have to drive 200 miles to get to that service center, with whatever issue you may or may not have, you could have fatal, fatal outcomes. So being able to have that-- the network, that local investment-- is important.

**DeBOER:** Thank you.

**FRIESEN:** Thank you, Senator DeBoer. Any other questions from the committee? Seeing none, thank you, Mr. Yates.

**LEIGHTON YATES:** Thank you, Mr. Chairman.

**RON SEDLACEK:** Chairman Friesen and members of the Transportation and Telecommunications Committee, for the record, my name is Ron Sedlacek; and that's spelled R-o-n S-e-d-l-a-c-e-k. I'm here today on behalf of the Nebraska Chamber of Commerce, in opposition to the legislation before you. I had prepared some-- a little more formal written testimony but, being courteous of your time and the hour, I'm going to give you the short version and give you some reasons why we, as a chamber, have concerns regarding this legislation, so just a handful of topics that that we have discussed and our board has approved and asked this to come to you, and state our opposition. You've heard about the economic advantages of the longstanding franchise model. That's been the preferred way of doing business in the industry, and there's a number of reasons why we continue to support that model and kind of list those out. First of all, we believe that the franchise model does foster competition. It facilitates that competition of the whole buying experience and ownership process. Dealers give the opportunity throughout the state of Nebraska. You can drive from one dealership to another. There's always the opportunity to see what competition brings to the table. And it's in all aspects of the purchasing process and, as an example and mentioned before, is financing, financing options. That's one example where you may have

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local financing with your local bank, credit union, savings and loan, whatever institution, that may be a package arrangement with the dealership, and that has a direct effect on the local economy. Secondly, dealers really do support local communities in ways that an out-of-state manufacturer doing direct sales will not. The fact of the matter is that dealers are invested in their local communities. They enrich their local communities by creating jobs that generate additional revenues, primary, primary jobs as well as secondary jobs. And third, dealers provide local support and local services that some automakers can't provide or do so on a limited basis. And finally, there is that particular issue, not only in regard to warranties, but also recalls. We believe dealers are more likely to identify problems and then to report those problems. That might not happen as often with direct sale manufacturers. When we look at the dealership model as a whole-- and these figures are provided for economic activity during 2017-- it's estimated the number of new vehicle dealership employees in Nebraska at about 7,800, a little bit more than that. The average number of employees per dealership, around 49. The average annual earnings per dealership employee is over \$52,496. The annual payroll of new vehicle dealerships, in total, is about \$410 million. Again, those are 2017 figures. So we're looking not only at that total effect or the effect in local communities, but the overall effect on the state: the sales tax revenues, corporate tax revenues, and property taxes, as well. And our concern is also that, should we begin erosion of this system, it's going to continue. And in the future there will be economic dislocations that will follow. And we're concerned about that, from an economic standpoint, throughout the state. And that's my testimony.

**FRIESEN:** Thank you, Mr. Sedlacek. Any questions from the committee? Seeing none, thank you for your testimony. Any other opponents who wish to testify? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Vargas, you're willing to close.

**VARGAS:** Thank you very much, Chairman Friesen. Members of the committee, I know we've been here for a little bit. I appreciate those that are still here. I know others are in different bills, introducing them in different committees. OK. So I want to start with a couple different points, and of a formal closing, I really wanted to try to address some of, some of the things that we heard. I do want to thank Tesla owners for coming again. I think we, we heard a variety of different rationales and reasons as to why people support Tesla and specifically want to then support their consumer choice. I'm not going

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to spend too much time on that other than trying to address a couple of different circumstances. I want to start with reiterating, because I think we've gotten a little bit far away from the original intent and argument because, again, this is not a courtroom. This is more of a debate in some ways. It is not my intent to dismantle or harm the manufacturer-dealer relationship. I say that because I think we have to sift through what is both as close to fact, and is most objective and data-driven to what is, what is really going to happen. And I say that because I think we're hearing that doing this will dismantle the manufacturer-dealer relationship, and that's some concerns that we're hearing from dealers. Then we also heard from the Auto Alliance that this business model works for them. They don't have any intent to then change anything because they've made investments. So I don't think we're seeing a credible threat. To answer some of the instances about how, how often this is occurring in states, I think we heard the half glass empty, which is 25 states don't allow direct sales or allow a service center. The half glass full here is 25 states that do. Twenty-five states, in some way, shape, or form-- members like yourselves-- have somehow allowed, or through some other mechanisms-- through law or through litigation-- have figured out a mechanism for allowing Tesla to directly sell and to directly service. And I want to just clarify what that means. That means that there was 25 states that found a solution. They figured out a pathway forward. They found a way for consumers to have the choice. And what this means for people-- and I know we get kind of caught up-- this means that somebody that-- let's say-- owns a Tesla or wants to then own a Tesla can pick up a Tesla car in Nebraska, they can service a Tesla car in Nebraska, they can test drive a Tesla car in Nebraska. And they're still considered a dealer and held to the same exact standards, that entity that's selling them, that Tesla facility. So I just want to make a little bit of clarification, because to say that this is not possible or not the best pathway forward, I think there are states that found that. And I think our job, as legislators, is to find that line and find a potential solution, because there are others before us that have. And I do want to make reference to a recent-- and I've spoken with some of you about this-- the Utah legislature just recently last year-- both houses nearly unanimously passed legislation to allow Tesla to directly sell-- both houses. One person voted against it. The entities that-- some of which testified-- were brought at the table and there was mechanisms to then figure out a pathway forward. So to say it's not possible or it couldn't work I don't think is completely fair or honest to you. I think it is. I think consumers are asking for it; they were just here. I also want to touch a little bit on this notion

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that-- "blanketly" that competition will-- the competition within the dealers will automatically provide-- are more likely to provide more of a benefit to the consumer. There was a study cited here by, I think by Loy Todd, that the National Auto Dealers' study created its own study showing that competition helped with lowered costs. Again, our job is to sift through which is the closest to what's going to help us-- factual information. I don't doubt that that's a study that they created, but I point us back to the Federal Trade Commission recommending direct sales because that, that competition would provide, on average, about an 8 percent benefit to consumers. We also will have-- which we don't have right now, which you'll see soon-- the Department of Justice providing an opinion on this bill, specifically for encouraging free market and competition. And so I want to state that because we do have to sift through these different facts on what is really going to be the biggest benefit to consumers. Whether or not this is hurting businesses, which is one of the claims, if in 25 different states there's allowed direct sales or there's some level of direct servicing, we should have seen entities or some examples of where auto manufacturers, as a result of changes in legislation in those areas, are undermining auto manufacture-- are undermining dealers. And what we're seeing is really the latter. Both have been able to harmoniously coexist and both have been able to operate. I don't think we are seeing data points that are showing us that there is, as a result of this change in legislation to allow for a new direct sales for new auto manufacturers, that is actually upending the system in states. I think we would have seen it and we would have heard that data cited. And I encourage you to look at that because we are not the only state that is encouraging legislation out of those 25. We have about seven to eight new states that are still pushing legislation to try to allow for this direct sale for consumers. You heard a little bit about how this specifically is, you know, a little bit different in terms of vertical integration. The one part I just want to state is, we're really not talking about, necessarily, dealers versus auto manufacturers or, and, or, or auto manufacturers versus Tesla specifically. We're more talking about-- at least I am trying to reference a business model. I think what we referenced earlier from some of the dealers, which I do appreciate, is that Tesla or new auto manufacturers will directly sell, when given the opportunity. We don't have enough evidence to show that, as of recent, as a result of this legislation. Now I do understand the concerns on how the economy, or different other factors, has impacted dealer versus auto manufacturer relationships, and I've heard that. But that wasn't as a result of this legislation. It wasn't a result of anything that we did. That was



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a result of other forces-- I don't know, the economy, other market forces. And we still had this law in place and so I-- it begs the question on whether or not that is actually changing the bar in this scenario. I know that for some-- and I know Loy Todd referenced this and I want to be able to come back to it-- that it's Tesla's choice that they don't service through dealerships. I encourage you to really think about this in a different way. That phrase is inherently-- it's stating that Tesla themselves are not choosing to use dealers. Rather then, actually, it is our laws that are prohibiting their ability to directly service cars for Nebraskans, not whether or not they choose to use the existing model. They have a business model that is different from the existing business model. And then I think we heard that. I think our job is to review laws and consider new pathways where business models and our existing laws are not in concert. I think that's what we've seen. We're not saying that the existing auto manufacturers and the dealers don't have a place in our state. This bill keeps that in, intact. What we're saying is let's not inhibit another business model that has a different pathway to them being able to then operate in the state in Nebraska, and has been doing this in 25 other states in some way, shape, or form. Let's not get in the way of that. That's what I'm asking you here, because I think it's very easy to then come back to that there's some up-ending; there is no intention of that. I think we see that all the time with legislation. So I ask you to truly consider what changes we're making and how we can find a pathway forward, because-- and I think Senator DeBoer asked this question of Mr. Todd. Is there any compromise that can be had or any changes that would make it easier to make this legislation move forward? Indirectly I think what we heard is, I would be open to it if I saw it. We have 25 examples of somehow it working in a state, not that people will necessarily always be on the side of supporting it or liking it, but that it would work for the state. I think there are, there is a pathway. And what I'm asking the members of this committee is that we find that pathway, because we're clearly seeing that our laws, that we've created, are forcing a business to operate a certain way without a reason for doing it that way. Tesla, just like every dealer, is a business. It will be part of our community. It will continue to service people when it's here. And just like any entrepreneur, we want to give it the opportunity to live and thrive in Nebraska. That's what I'm asking. And I ask you to consider that. With that, I want to thank you. I want to thank the individuals that came and testified. I want to thank the dealers, also, for coming. I know

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it's hard for everybody to come out here-- and welcome any questions that individuals in front of me may have.

**FRIESEN:** Thank you, Senator Vargas. Are there any questions from the committee? Senator DeBoer.

**DeBOER:** I think I heard you say, Senator Vargas, that in the 25 states where Tesla is doing direct sales-- I think I heard you say that there have not been adverse effects on their dealers. Is that correct?

**VARGAS:** Correct.

**DeBOER:** Do you have some kind of information that you can supply us with that would bear that out that you could send to us?

**VARGAS:** Yeah, I, I can look. I mean, there's not a specific study. My, my point is having contacted the legislators that have been able to pass compromises in those states and seeing that dealers still exist in those states; they still have operated. Colorado is a great example. Even after Tesla was able to directly sell in Colorado, we actually saw record revenue for dealers in that same year when they were allowed to sell. So I think what we're seeing are data points, which is a little hard to say 'cause every state may have a different way about going about this. Some may allow direct sales, some may allow direct service centers, some may do both. But what we are seeing is, we are not seeing data that's showing us that dealers no longer exist or have been outrun. And I think we also heard that the Auto Alliance said: Our intention isn't to then upend the system. And then you ask the question directly: Yeah, basically would you sell or would you sort of work around them? They said it's-- their investment in the system right now is why they continue to do it. I think we heard that there's just a different business model that wants to operate outside of that. And when have we, in the state of Nebraska here, as members, stood in the way of a new business model and supported entrepreneurship? Hopefully we don't do that.

**DeBOER:** Thank you.

**FRIESEN:** Thank you, Senator DeBoer. Any questions from the committee? Seeing none, thank you, Senator Vargas. We do have some letters of support: Thad Kurowski, Tesla Inc.; Donald Cox, Lincoln Nebraska: Alan Meyer, Cedar Bluffs; Anne DeVries, Cortland: and Ryan Daly, Omaha.

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With that, we'll close the hearing on LB51. OK, we will now open the hearing on LB366. Welcome, Senator Bostelman.

**BOSTELMAN:** Good evening, Senator Friesen and Transportation and Telecommunications Committee. My name is Bruce Bostelman; that's B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23. I am here today to introduce LB366. LB366 amends the alternative fuel tax provision in Section 60-3,191 and increases the fee from current \$75 to \$125 over the next five years. The fee, under the bill, would increase by \$10 each year until the fee reaches \$125 in the year of 2024, and would remain the amount every year after, thereafter. An alternate fuel fee is assessed on all vehicles powered by any source of energy not addressed, not addressed in the motor fuel laws. Alternative fuel is defined in Section 60-306 as electricity, solar power, and any other source of energy not otherwise taxed, not otherwise taxed under the motor fuel laws, that is: motor vehicle fuel, diesel fuel, compressed fuel, etcetera. This bill does not apply to hybrid vehicles or any vehicle that may run on motor fuel. The alternative fuels of-- the alternative vehicle fee is assessed at the time of the vehicle is first registered and, again, each time the vehicle's registered is, registration is renewed. The fee is credited to the Highway Trust Fund. Alternative fuel vehicles drive on and use the same roads as traditional fueled vehicles. However, due to the nature of their power source, alternative fuel vehicles are not contributing to the maintenance and care of those roads in the same manner as traditional fuel vehicles. These vehicles do not require gasoline to run and are, therefore, not paying a gas tax, which is the major source of income for the Highway Trust Fund. And I say gas is a fuel. The Trust Fund, which distributes thirty three and one-third percent of its funds to the Department of Transportation, 33 and one-third percent of the various, to the various counties for road purposes, and 23 and one-third percent to the various municipalities for street purposes. The modest increase in the alternative fuel fee in this bill is in line with what many other states are currently charging for alternative fuel fees. Nineteen states, including Nebraska, require some form of annual fee for alternative fuel vehicles. Those fees range from as low as \$50 in Colorado to as high as \$320 for commercially owned vehicles in Georgia. A majority of the states charge between \$100 and \$150 dollars for such fees. Some states also charge fees on vehicles that are not strictly battery powered, such as plug-in hybrid electric vehicles and hybrid vehicles which allow the vehicle to be powered by battery or fuel-- or a fuel tank. Therefore, the gradual increase of alternative fuel fee required by

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this bill is up to, up to \$125, as consistent with other states. Similar, similar, similarly, a fee of \$125 is fair in relation to what individuals driving traditional fuel vehicles pay each year in fuel tax. An individual driving a traditional-fuel pays-- vehicle pays an average of \$150 in fuel taxes annually, according to the Nebraska Car and Truck Dealers Association. Therefore, bringing the cost of the alternative fuel fee more in line with what the average person pays in fuel taxes is a fair way for everyone to fund the Department of Transportation and the roads we all drive on. I brought this bill because I believe this is an important and necessary conversation to have, as our society and transportation technology and customs continue to evolve. As long as we continue to drive on our roads, we must continue to pay for the maintenance and upkeep of those roads, going forward. Currently, this is largely, largely done through the motor fuel tax. We must find a way to compensate for the loss of revenue from the motor fuel tax as we move towards substantially more alternative fuel vehicles on our roads because, regardless of what type of vehicle we drive, we want our roads and infrastructure to be safe and an effective means to travel. From 2017 to 2018, alternative-fuel vehicles registered in Nebraska rose about 90 percent, from 405 to 772 vehicles. Should alternative fuel vehicle use increase, the tax revenue generated from the motor fuel tax will decrease. According, according to the 2018 study done by the Iowa Department of Transportation, ownership of electric vehicles in Iowa is projected to rise from a currently, current level of about 3,000 total vehicles to about 220,000 vehicles in their low estimate and 1.1 million vehicles in their high estimate, by 2040. This increase would make an alternative fuel vehicles nearly 80 percent of the registered vehicles in Iowa and reduce the revenue from their motor fuel tax annual vehicle registration fees and fee from new registration by a low estimate of \$39.975 million by 2040. Iowa's road use tax already has lost roughly \$319,000 in tax revenue due to alternative fuel vehicles last year. Should Nebraska follow these low projections-- Iowa projections, excuse me-- the Highway Trust Fund may face substantial financial issues by 2040. As Director Schneweis explained in his briefing to this committee, the state needed \$605 million in 2017 for road maintenance and construction. He also stated that, as, as electric vehicles become more prolific, we would need to look for other sources of funding for our roads. I believe LB366 is a step in the right direction as a way to address financial issues as we face road construction and maintenance, moving forward. I think this is an important discussion to have and, therefore, I ask for your support of LB366 and its advancement to the floor so that we, as a body, may have

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this important conversation. Thank you for your time, and I would be happy to answer any questions you may have.

**FRIESEN:** Thank you, Senator Bostelman. Any questions from the committee? Senator DeBoer.

**DeBOER:** I noticed that you said that \$150 was the approximate amount that a traditional vehicle--

**BOSTELMAN:** Right.

**DeBOER:** --would spend, but it seems to me that the additional cost between \$75 and \$125 is \$50. So is that less than-- right, so you're already paying \$75 and that's not the amount or--

**BOSTELMAN:** The \$75 is what they currently pay annually with the registration. The idea is to step it up to that \$125, so if I misspoke--

**DeBOER:** So it's a \$50--

**BOSTELMAN:** So if I miss, misspoke, yeah.

**DeBOER:** No. So--

**BOSTELMAN:** So it's-- no, there's a \$25 difference between the \$150 and the \$125, if I'm understanding your comment.

**DeBOER:** Oh, I see what you're saying. OK.

**BOSTELMAN:** So average, the average Nebraskan pays \$150 in fuel taxes every year. And what this would do would just step, step the \$75 fee up to that \$125 fee, as it's even below--

**DeBOER:** Yep.

**BOSTELMAN:** --the average.

**DeBOER:** I got it.

**BOSTELMAN:** But it's just kind of the--

**DeBOER:** So if--

**BOSTELMAN:** --a reasonable-- yeah.

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**DeBOER:** If we went to tomorrow. Suddenly we pass this Tesla bill. Everybody buys a Tesla.

**BOSTELMAN:** Sure.

**DeBOER:** Everybody throws their old cars away. We only have, you know, electronic or electric cars, is that enough to sustain our road system? Do you know?

**BOSTELMAN:** Boy, that's a good question. We'd have to look at it. I doubt it. If everyone bought an electric car tomorrow and we started tomorrow, would we generate \$650 million by that? I'd have to know-- maybe someone behind me, if they testify, might know, but I just don't know. It'd be the-- I don't know what the total number of vehicles owned in the state of Nebraska times \$125 would be, if that would, if that would make it or not. I don't know.

**DeBOER:** I don't want to do the math.

**BOSTELMAN:** Yeah.

**DeBOER:** OK. I just am trying to get a sense 'cause I think it'd be great if we all had electric cars, wouldn't it?

**BOSTELMAN:** Oh, I don't disagree.

**DeBOER:** And then we want to make sure we have roads, so--

**BOSTELMAN:** I agree. Then that's the point is to have that discussion because, as we move in that direction, we need to make sure that we're able to maintain our roads and highways. And one way we're going to do that is if everybody is able to participate in that opportunity.

**DeBOER:** Yeah. Thank you.

**BOSTELMAN:** Yeah.

**FRIESEN:** Thank you, Senator DeBoer. Any other questions from the committee? Seeing none, thank you. Proponents who wish to testify? Welcome.

**MICHAEL J. O'HARA:** Chairman Friesen and members of the Transportation Telecommunications Committee, I'm Michael O'Hara, M-i-c-h-a-e-l O-'-H-a-r-a. I'm a registered lobbyist for the Sierra Club, Nebraska Chapter. And thank-- Senator Bostelman, thank you for introducing.

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You'll notice in the handout we switched from neutral to pro, and that's because we believe in taxes being at the appropriate level and we were worried that it might-- with such a rapid increase it might not be appropriate. If anything, it's too low. My numbers would be \$169 as opposed to \$150, and I will draw your attention to the last paragraph. That's something you should know about alternative vehicles but, if you have any questions, I'd be glad to answer them. It's been a long day.

**FRIESEN:** Thank you, Mr. O'Hara. Any questions from the committee? Seeing none, thank you.

**MICHAEL J. O'HARA:** Thank you.

**JOHN BRANDEAU:** Good afternoon, Senator Friesen. Members of the committee, my name is John Brandeau, J-o-h-n B-r-a-n-d-e-a-u. I live in Papillion, in Legislative District 14. So I'm kind of surprised that I'm here today, as a partial-hybrid, electric vehicle owner, telling you I think this is a good idea; but it is. Basically the way I see it, if you drive a vehicle on the public roads, you should share in the cost of maintaining the public roads. You got to pave them, you got to stripe them, you got to-- all the stuff, you know, you have to do. And I think, actually, the numbers work out pretty well., Real quickly because we just sat through the lengthy Tesla discussion, I drove-- I flew to California to buy my Toyota because the local dealers didn't have the model I wanted. I paid the 9.25 percent sales tax in California, which is not refundable, but even then I saved money. The place I bought my car from is eight miles from Tesla headquarters. So I own one of these cars; I have skin in the game. And just some quick numbers to tell you why I think these are accurate numbers. Thirty cents a gallon fuel tax-- rough numbers-- and that costs me about six-tenths of a cent per mile in fuel road use taxes for me to operate this vehicle on the roads. So coming to and from here today from Papillion, that's about 66 cents in sales tax or motor fuel tax that I paid. So that was my contribution to road maintenance today. When I don't drive the car on gasoline-- because this car has the ability to run on pure electric-- and I estimate that in a year I'll drive about 5,000 miles on electric only. So 5,000 miles time six-tenths of a cent per mile, guess what you come to? \$30-- and that's for half a hybrid. So I think the numbers are pretty reasonable. And I think that it is incumbent. Long-term there's going to have to be a better way to pay for roads, but we don't have that now. Right now we use a, we use of a fuel tax. I think, long-term, the

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strategy is going to have to be either paid by the mile or the weight or something. But there's the privacy issues. Until that exists, I support this bill. Subject to your questions, that concludes my comments.

**JOHN BRANDEAU:** Thank you, Mr. Brandeau. It's kind of unusual for someone to come in and support a tax, so we, we appreciate that.

**DeBOER:** Thank you.

**FRIESEN:** Are there any questions from the committee? Seeing none, thank you. Proponents?

**LOY TODD:** Senator Friesen, members of the committee, I'll be very brief. My name is Loy Todd, L-o-y T-o-d-d. I'm the president of the Nebraska New Car and Truck Dealers Association. Years ago, when I used to do this lobbying as a younger man, there used to be a really strong highway lobby, lots of different associations were there to, to really promote and protect the interest of roads in the state in Nebraska. It's sort of dissolved through the years, but one thing's for sure. If we want good roads in the state, we've got to pay for them. There's no question about that, and we don't have any quarrel with that. We have about 2.1 million registered vehicles in the state of Nebraska. And so when you start doing the math on that, I think we're talking about \$262 million that'd be raised by this, and we're talking about replacement revenue. The future is, I believe, electric, but that's a long ways away. When you, when you see a population demand of under 2 percent, you know we're going to be-- transition is going to take some time. And I don't believe it's legal in Nebraska to surcharge the electricity. I think, as a public power state, we have some prohibitions against that statutorily, maybe even constitutionally. I don't-- I haven't looked at it; it's not our issue. But, but I do, I do see that we need to recognize the, the expense. And it isn't related to wear and tear on the roads or anything like that, and weather destroys our roads as much as anything in the state. And heavier vehicles do more damage. But your standard passenger vehicles, and SUVs, and those kinds of things don't do much at all. So we have to find a way. And you know, I know it's tradition to find someone else to pay your taxes. It's tradition to say, well, what does somebody else do that I don't like or-- and then let's, let's tax them. But you know, these are motor vehicles, and so we would be remiss not to be supportive of, of a tax on our product to take care



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of expense that we benefit from, along with the rest of the state. So with that, I'll close.

**FRIESEN:** Thank you, Mr. Todd. Any questions from the committee? Seeing none,--

**LOY TODD:** Thank you.

**FRIESEN:** --thank you.

**TIM KEIGHER:** I guess it's good evening now. Chairman Friesen, members of the committee, my name is Tim Keigher; that is T-i-m K-e-i-g-h-e-r. I appear before you today in support of LB366, on behalf of the Nebraska Petroleum Marketers and Convenience Store Association. Mr. Todd needs a lesson in brevity; he wasn't very brief. I will be brief. I guess I agree with the same numbers that others have testified on, the \$169. I think, Senator DeBoer, in answer to your question, those are averages. So if the person drove 13,476 miles a year, which is what the U.S. Highway Federal Administration [SIC] said, using that is how you come with the \$169, or \$169 a year. So if I drive 40,000 miles a year, obviously I'm going to pay a lot more motor fuel tax. So if everybody drove an electric vehicle, you'd have to raise that average up quite significantly from that. So since I'm going to be brief, I will conclude my testimony.

**FRIESEN:** Thank you, Mr. Keigher. Any questions from the committee? You know, I think the only thing we miss here is those electric vehicles that are traveling through the state that don't register here yet.

**TIM KEIGHER:** True.

**FRIESEN:** We need to find a way to get those yet, but thank you for your testimony.

**TIM KEIGHER:** Thanks.

**FRIESEN:** Any other proponents for LB366? Seeing none, anyone wish to testify in opposition? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Bostelman? We do have letters of support from the Nebraska Propane Gas Association, Nebraska Chapter of the Associated General Contractors. We have letters of opposition from the Motorcycle Industry Council and Janece Mollhoff of Ashland, Nebraska.

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**BOSTELMAN:** Waive closing.

**FRIESEN:** Waive closing-- thank you, Senator Bostelman [LAUGHTER].

**BOSTELMAN:** We have one more to do, sir.

**FRIESEN:** With that, we'll open the hearing on LB325.

**BOSTELMAN:** Good evening, Chairman Friesen and the Transportation Telecommunication Committee members. My name is Bruce Bostelman, B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23. I'm here to introduce today LB325. LB325 allows a motor vehicle registration fee tax exemption on one motor vehicle owned and used for his or her personal transportation by a veteran of the United States Armed Forces with a 100 percent service-connected disability compensation rate recognized by the United States Department of Veterans Affairs. Also, it grants this exemption for one motor vehicle owned and used for his or her personal transportation by a recipient of a dependency and indemnity compensation paid by the United States Department of Veterans Affairs. The bill is-- this bill adds these exemptions to Section 60-3,185, which deals with motor vehicle tax exemptions. However, the process for applying for both of these exemptions can be found and described in Section 60-3,189. An individual is qualified for receipt of dependency and indemnity compensation from the Department of Veterans Affairs when they are, when they are an eligible survivor of a military service member who died in the line of duty or whose death resulted from a service-related injury or disease. Both exemption applications must be approved under Section 1 of the Nebraska Statute 60-3,189, which states that they must apply for an exemption from the county treasurer not more than 15 days before and no later than 30 days after the registration date for the motor vehicle. Currently, the motor vehicle tax is assessed on a vehicle at the time of initial registration, and annually thereafter, until the vehicle reaches 14 years of age or more. There are current statutes that allow exemptions for veterans who have lost the use of, use of or have undergone amputation of one or more extremities, or is defined as blind, whose sight is so defective as to seriously limit his or her ability to engage in the ordinary vocations and activities of life. A veteran is considered to have 100 percent service-connected disability if they are recognized by the United States Department of Veterans Affairs for having 100 percent service-connected disability that is payable under 38 U.S.C. 11 and are discharged or otherwise separated with a characterization of honorable. A veteran is considered 100 percent service-connected

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disabled if they have sustained serious injuries in the line of service that entirely prohibit them from working. And a qualified individual under the statute would still be required to pay sales tax on the vehicle. This bill is simply aimed at helping veterans and their families and would allow them to exempt registration fees for one vehicle owned and operated for their own personal use. I am bringing this bill on behalf of the Nebraska Veteran's Council. In addition, I believe our veterans and their families have made a great sacrifice for our state and country, and we need to continue to take care of them once they come home, especially if they are-- if they return home disabled. This bill specifically addresses those veterans who are 100 percent disabled, honorably discharged, and have lost the ability to work and fully support themselves, or those currently providing for them, and for the family members who lost a loved one in the line of service. By providing them this support and by adding this provision, we will help veterans and their families with some financial relief by exempting them from paying the registrations fee, the registration fees. Therefore, I ask for your support for LB325 and its advancement to General File. Thank you.

**FRIESEN:** Thank you, Senator Bostelman. Any questions from the committee? Seeing none, proponents?

**GREG HOLLOWAY:** Senator Friesen and Transportation Committee, my name is Greg Holloway, G-r-e-g H-o-l-l-o-w-a-y, and I am the appointed legislative advocate for the Nebraska Veteran's Council. And again, this is the third time that I've been able to bring this bill forward. Let's see, three different senators, to boot. So this is the reason why we think this is a viable option for the veterans and the DIC recipients. I'm a, I am actually, I'm 100 percent service-connected disabled veteran. As a matter of fact, 51 years ago today, I was at the stagings, stations at Fort Lewis, Washington, headed for Vietnam; I left for February, on February 28, and on my way to become a disabled American Veteran. I was wounded the first time April 19th, just a month and a half after getting into, into Vietnam. And then the second time I was wounded by a grenade, which I left Vietnam because of that. It was July 3rd. So this is a good time to talk about veterans' issues for me, and it clears, it than it looks like it clears the house when you start talking about veterans' issues. And because there is not a long line of veterans behind me, doesn't mean that everybody-- everybody has been talking about this bill for me for a long time. And I am, I guess, trusted to be the voice for the veterans in the state of Nebraska. This not only affects the veterans,

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but we have the DIC recipients in it. When a, when a spouse of a veteran-- when, when that spouse loses their, her veteran-- their veteran-- they lose about \$25,000 a year in income to start with. So it's a quality of life issue for the surviving spouses. And a surviving spouse of a military personnel that dies in action or a disease related to his military service, they lose a lot more than \$24,000 a year. Not only do you lose, lose the contact of their loved ones, but the financial aspect of everything. And it's hard to talk about money when it comes to the death and everything. But that's what it comes down to. Money is the system, quality, the quality of life. The quality of life means you'd be able to, actually, maybe save a couple dollars so you can buy a better car, you can buy a better house, you can buy better food, you can buy better medical care, you can buy better clothing for your children if you need to, or your loved ones or yourself, if you're a surviving spouse. That's why we are bringing this forward. I got it out of the committee a couple of years ago but couldn't get it to the floor. What I'm asking you is get it out of committee and let's have a chance to get it to the floor again; that's all I want. Senator Bostelman has been more than gracious to bring us forward for us. He's got a large agenda this year. And just I'd appreciate it if you'd look at it, reflect on it a little bit and say, yeah, this is a worthy cause. We can help some people in the state of Nebraska have a better quality of life. Let's see what we can get done with it. Any questions? I'll sure answer them, but I think everything speaks for itself.

**FRIESEN:** Thank you for your testimony. Any questions from the committee?

**GREG HOLLOWAY:** We should have done these last two first.

**FRIESEN:** Then you wouldn't be here now.

**GREG HOLLOWAY:** Yeah.

**FRIESEN:** Thank you for your testimony.

**GREG HOLLOWAY:** And I thank you for this committee. I appreciate everything you do for the state of Nebraska. And I've been doing this for approximately 30 years, talking to committees about veterans' issues, and I'm pretty passionate on it.

**FRIESEN:** I've seen--

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**GREG HOLLOWAY:** I guess they trust me.

**FRIESEN:** I've seen you a few times up here.

**GREG HOLLOWAY:** A couple times, a couple times. Thank you very much.

**FRIESEN:** Welcome.

**ELLEN GEISLER:** Thank you. Chairman Friesen, Friesen and members of the committee, my name is Ellen Geisler, E-l-l-e-n G-e-i-s-l-e-r. I am a senior certified law student at the University of Nebraska College of Law. I am enrolled in the Civil Clinical Law Program and colead the clinic's Veterans Advocacy Project. I am testifying as a citizen and not for the university. I have a few points I want to address that speak to the value and the practicality of this bill. LB325 would expand motor vehicle tax exemptions to more of our disabled veterans, a class of Americans who are so deserving and who are often struggling financially. As part of the Veterans Advocacy Project, our clinic serves many veterans who struggle with service-related disabilities, including PTSD and long-term, service-related illnesses, and who find themselves in financially precarious situations. It is in part for this reason that we provide free legal services to veterans through the project's Veterans Coffee and Counsel Program and, and through the Wills for Heroes Program. Through these programs, we aim to reduce the financial burden of legal services for veterans in need. I am here today because expanding this tax exemption to more disabled veterans will reduce yet another financial burden that they face. Nebraska would not be alone in offering this benefit. Other states, including but not limited to, Arizona, Colorado, Georgia, Massachusetts, Michigan, Mississippi, New Hampshire, North Dakota, Oklahoma, South Carolina, and Tennessee already have laws in place similar to what LB325 proposes, providing vehicle tax exemptions to veterans who are 100 percent disabled. LB325 would expand the tax benefits to veterans with active service-connected terminal diseases, such as cancer and tuberculosis. Both of these diseases and many others qualify for a 100 percent disability rating from the V.A. According to the United States Department of Veteran Affairs, in 2017, there were 3,503 Nebraska veterans receiving 100 percent disability compensation. Those veterans who receive 100 percent disability compensation are given that rating because, because of their extreme reduced ability to earn income and to support themselves. Veterans suffering from a service-related disability often struggle to hold steady employment because of this reduced or impaired ability to work. Because of these challenges, financial uncertainty is a problem many veterans with disabilities

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face. LB325 will provide financial assistance to the most vulnerable and the most deserving veterans, those who have volunteered to protect the freedoms that we now enjoy and, as a result, suffer limitations and disabilities that disrupt their financial stability. This tax exemption may not seem like much but, for the veterans that we work with, every dollar makes a difference. Thank you.

**FRIESEN:** Thank you, Miss Geisler. Any questions from the committee? Seeing none, thank you for your testimony.

**ELLEN GEISLER:** Thank you.

**FRIESEN:** Any others wish to testify in favor of LB325? Seeing none, anyone wish to testify in opposition to LB325? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Bostelman? We do have a letter of support from the Nebraska Veteran's Council and a neutral from the Nebraska Department of Motor Vehicles.

**BOSTELMAN:** I want to thank those who testified today. I do-- as we are sitting here thinking about this, I do have family members this does apply to on the 100 percent disabled. I know what it would mean to them. We do have a large fiscal note with this, but I would like to work with the-- talk with our UNL law students. I talked with a professor a little while ago about the numbers here, and I think they're pretty high. And I think they can be-- I think we could whittle these down quite a bit 'cause, if you look at this over 14 years, this isn't one year expenditure; this a 14-year expenditure. And I think their numbers are high on, on what those, what the fees might be. So I'd like to work with them. But I just want to thank those who came. I think this is an important bill. I think that it needs work, especially on the fiscal side, but it would be one that I would really like to see the committee, committee help me work on, perhaps see if we can get it out, get it on the floor and get it on debate. Thank you for your time.

**FRIESEN:** Thank you, Senator Bostelman. Any questions from the committee? Seeing none, that will close the hearing on LB325, and we'll close the hearings for the day.