

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Transportation and Telecommunications Committee February 4, 2020  
Rough Draft

**FRIESEN:** Welcome to this afternoon's public hearing of the Transportation and Telecommunications Committee. I'm Curt Friesen from Henderson, Chairperson of the committee. I represent District 34. First, I would ask you to silence all your cell phones and electronic devices. We will be hearing the bills as listed on the agenda. Those wishing, wishing to testify on a bill should move to the front. We don't have a lot of people here, so I think we're going to be good. If you will be testifying, legibly complete one of the green testifier sheets located on the table just inside the 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 you begin your testimony, I ask that you clearly state and spell your first and last names for the record, if you forget to do this, I will stop you and ask you to do that. We will use the light system: five minutes. You'll have a green light for four minutes, a yellow light for one minute, and at the red light, I'd ask you to wrap up your testimony. Those not wishing to testify may sign in on a sheet by the door that indicates their support or opposition to the bill. I think we have all the senators here today, but if someone does leave, they're probably going to another committee meeting to introduce a bill. With that, I will introduce my staff: Tip O'Neill, my legal counsel; Sally Schultz, my clerk--the committee clerk. And with that, we will start on my right, and the senators can introduce themselves.

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

**BOSTELMAN:** Bruce Bostelman, District 23: Saunders, Butler, and the majority of Colfax counties.

**ALBRECHT:** Joni Albrecht, District 17: Wayne, Thurston, and Dakota Counties.

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

**DeBOER:** Wendy DeBoer, District 10; that's northwest Omaha and Bennington.

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

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

**FRIESEN:** And we do have Michaela, I believe, as our page today.

**MICHAELA McBRIDE:** Yes.

**FRIESEN:** So thank you for being here. with that. Well, the hearing on LB1067. Welcome, Senator Erdman.

**ERDMAN:** Thank you, Senator Friesen. Good afternoon, committee. I come to you today with LB1067. But first, before I do that, let me say and spell my name. It's Steve Erdman, S-t-e-v-e E-r-d-m-a-n. The bill today is LB1067. It is a bill that is-- was introduced after a series of meetings with the Department of Transportation. I appreciate their efforts. Last year I introduced a bill, LB371, that would have done similar things. And over the interim, the Road Department was kind enough to work with us on language that would make sense, not only for my residents and those agricultural producers who needed to cross a four-lane divided highway, but also take into consideration the concerns of safety of those people traveling on the highway. So LB1067 is a bill that allows ATVs, when being used for agricultural purposes, to cross a four-lane divided highway, at a 90 degree angle, in a safe location where the highway is divided. And it's an opportunity for my land owners out there. How it came about that I needed to do something was, one of my constituents has a ranch on both sides of Highway 71. Highway 71 is a divided four-lane highway, and he was crossing the highway with his ATV to go check his tank and his pasture across from this highway. And he got a ticket for crossing the highway with his ATV because it was against the statute. So the first meeting we had was with the State Patrol, as well as the Department of Transportation. And after many times emailing back and forth and consulting with them, this was the solution that not only the Department feels is safe, but I do as well. So now that rancher can now cross that highway without having to load his ATV and his trailer, haul it across the road, and unload it. It makes sense. It's a commonsense application. It'll ease up the burden for the State Patrol to have to watch for those people crossing that highway. And it's an opportunity for us to get out of people's way and let them do their business as they best can do it, in the most efficient way. So that's what the bill does. I had told the Senator Friesen, before we started, that we'd be brief. And that's what I will do in that regard. And so it's a very simple bill. It just eases up some of the regulations, so

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[INAUDIBLE] can do their job. So with that, I would take any questions you may have.

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

**ERDMAN:** Thank you. I'll be around to close.

**FRIESEN:** Proponents who wish to testify in favor of LB1067.

**KYLE SCHNEWEIS:** Good afternoon, Chairman Friesen. Members of the committee, I'm Kyle Schneweis, K-y-l-e S-c-h-n-e-w-e-i-s, director of the Nebraska Department of Transportation. I appreciate the opportunity to testify before the committee to support LB1067. We worked closely with Senator Erdman and the stakeholders in the bill, to allow landowners to cross a four-lane highway on all-terrain or utility-type vehicles, for agricultural purposes. Current law does allow for all-terrain or UTVs to use the shoulder on any highway that is not a controlled-access highway, such as an interstate or a freeway. When the purpose is operating, the vehicle is for agriculture. This bill adds a new section to allow crossing of a controlled-access highway with more than two marked traffic lanes at certain highway openings, when that crossing is for agricultural purposes. As you know, safety is our number one priority at the DOT, and the collaboration over the summer, with stakeholders, allowed for us to, to find the compromise in the bill language. It alleviates our safety concerns and supports the desires of our rural constituents, for whom Senator Erdman was representing when he introduced the bill last year. I want to thank Senator Erdman, and I want to thank Senator Brewer. Both have been very thoughtful and helped us to work and find a solution that supports safety and meets the needs of all parties. In the name of safety, these low-speed vehicles should not be mixing freely with high-speed, highway-speed traffic without some restrictions. And so we think the safety measures in place will work. We, we, we count on those folks on those vehicles to drive safe and be aware. And we think that this bill, should it pass and become law, will allow us to do that. So happy to take any questions.

**FRIESEN:** Thank you, Director Schneweis. Any questions? Senator Albrecht.

**ALBRECHT:** Yes. Thank you, Chairman Friesen. And thank you for being here. Just have a couple quick questions. While you were talking with

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Senator Erdman about this, had you ever had anybody else come to you with this before?

**KYLE SCHNEWEIS:** Not that, Not that-- in my experience, no.

**ALBRECHT:** And have you had anybody have any accidents with the ATV since [INAUDIBLE]?

**KYLE SCHNEWEIS:** Well, we, we did have one fatality last year. We actually had one on Monday, too, on the state-- it wasn't on the state highway; it was on-- Monday's was two county roads.

**ALBRECHT:** OK,

**KYLE SCHNEWEIS:** Crossing a county road intersection. So--

**ALBRECHT:** And it--

**KYLE SCHNEWEIS:** So it does happen.

**ALBRECHT:** It does. But I appreciate the bill being brought, because that is how we move ours. And if, if we weren't able to have that, you'd have to have horses or lots of people on foot, or whatever. So I think it's really a great deal because the people that are gonna use it are gonna know what they need to do. And it's only between daylight hours. Right ?

**KYLE SCHNEWEIS:** Yeah.

**ALBRECHT:** So [INAUDIBLE].

**KYLE SCHNEWEIS:** I'm not sure if that's part of it or not, Senator. I'm sorry.

**ALBRECHT:** OK. It does say on here--

**KYLE SCHNEWEIS:** I'm getting some--

**ALBRECHT:** --between the hours--

**KYLE SCHNEWEIS:** --head nods, yes.

**ALBRECHT:** --of sunrise and sunset.

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**KYLE SCHNEWEIS:** I-- you know, I think the key for us, as we imagine folks coming up out of the ditch on one of those, at a place where there's not typically folks crossing the highway.

**ALBRECHT:** Um-hum.

**KYLE SCHNEWEIS:** And with-- here with the median in the middle where they can cross, you know, we count on them to do that safely--

**ALBRECHT:** OK.

**KYLE SCHNEWEIS:** --and, and, and, you know, be watching for the traffic on the main facility.

**ALBRECHT:** Thank you.

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

**KYLE SCHNEWEIS:** Thank you.

**FRIESEN:** Any other proponents? Seeing none, anyone wish to testify in opposition to LB1067? Seeing none, anyone wish to testify in a neutral capacity? We do have one letter of support from Dan Nerud of Corn Growers. Seeing none, Senator Erdman would like to-- Senator Erdman waives closing. With that, we'll close the hearing on LB1067. Thank you, Senator Erdman. We will now open the hearing on LB746. Welcome, Senator Blood.

**BLOOD:** Thank you, Chairperson Friesen, and good afternoon to the entire committee. My name is Senator Carol Blood; that is spelled C-a-r-o-l B-- as in boy-- l-o-o-d as in dog, and I represent District 3, which is western Bellevue and southeastern Papillion, Nebraska. Thank you for the opportunity to bring forward LB746, which creates Nebraska Consumer Data Privacy Act. Now as our communication networks grow, because of the many ways we're able to share data and information, it is becoming more and more important to make sure that we, as a state government, have a grasp on what exactly is being shared and sent, bought and sold. It's especially important to make sure we have a framework for what is allowed when we're talking about information that someone might not know is being bought and sold, as well as who is buying and selling it. The Nebraska Consumer Data Privacy Act is my attempt to make sure Nebraska consumers know what data is being collected on them, who is collecting it, and if that

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data is sold to a third party, where and what is also being sold. We've also put several pieces into this bill that are geared towards making sure that, if there is information the consumer doesn't want sold, they can have some control over it, within reason. While some bills addressing this specific topic can be rather complex, I believe that LB746 is the right approach because it's not especially complicated. At its core, it allows consumers to make a request of a business to see what information that business is collecting. The business, in turn, must provide a way for the consumer to make the request. We've laid out that every business qualifying under this bill has to put two pathways, that are easy to find, for consumers to request the information. Those pathways are things like a link that will lead them to a form or a toll-free phone number on their official website. There must also be a very clear link on that official website where a person can opt out of having any personal information collected for a period of 12 months. You can think of this sort of like the National Do Not Call Registry when it comes to the opt-out. The company has to make a way to do it available, and honor that request when someone has taken advantage of it. But it's up to the consumer to make it clear that they wish to stay. We also make sure that, should someone want to opt out of having their information shared, the businesses they opt out with are not allowed to retaliate in any way. The bill also lays out provisions that make it clear that there are some instances where the company is able to procure, retain, and distribute information. Those instances-- bless you. Those instances include if the information was collected when the consumer was outside the state of Nebraska and if the data was gathered, in order to protect against illegal activities of the consumers themselves. So that leads me into a point I want to be really clear about today. This isn't a bill that is antibusiness. In fact, I've spoken with multiple organizations for the last seven months that would be affected by this bill, and responded to their feedback by making sure we could find middle ground. The draft you have in front of you is the product of several different edits aimed at making them as comfortable with what we're trying to do here as possible. They have had a lot to say in the crafting of this piece of legislation. And frankly, I was trying to avoid an overburdening bill, such as the one that was crafted in California. I've been working with senators from other states, as well, because we want one template crafted that we can share and bring, and bring continuity to this important issue. The federal government has been working on this issue for years, and are no, no closer today than when they started. So it's important to

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understand that the only reason many of these organizations that are now seeking congressional intervention, are doing so because, after years of opposing privacy legislation, both federally and at the state level, it is because state policymakers and attorney generals are acting more aggressively to protect the privacy interests of their states' residents. But the bottom line is that the federal government has had a lot of meetings, and put together committees with little result. Meanwhile, there've been well-documented failures of U.S. organizations to prevent massive privacy scandals, such as Facebook and Equifax. An additional example of the job our federal government is doing on this issue, is the fact that the United States was unable to implement its obligations, under the Privacy Shield data transfer with the European Union, causing it to be suspended. It is clear that if the federal government ever accomplishes this, it's likely going to be a watered down data protection regulation. Organizations will likely ask to pre-exempt state laws. They will ask that because those laws are consumer driven and usually have stricter requirements. With that said, the Supremacy Clause, within Article VI of the U.S. Constitution, does say that if a conflict exists between federal and state law, the federal law prevails. However, the exception is that states may create additional laws that give their residents more rights, as long as our laws do not conflict with the overarching federal government legislation. Finally, I'd like to point out that today I do have a Consumer Reports letter of support that I just received, that I hope we can read into the transcript, as well as one from Ollie Webb. But what's interesting with the Consumer Reports' letter is that they feel that we don't go far enough. And that's because we've worked with local and national people, trying to find that sweet spot, trying to find the middle ground. And nobody is going to be happy about this bill, with the exception of Nebraska consumers, the people that we represent. I work for Nebraska residents, and, quite frankly, I refuse to continue to kick this can down the road any longer. And it's my hope that you feel the same way, because I would like to see this bill voted out of committee for full debate. But I do want to think-- I would like to think that we can make-- I can't talk today. I want to say that I'd like to think we can make everyone 100 percent happy, but it's not going to end up that way. But if we, as policymakers, can't come up with a strong policy that is truly designed to protect Nebraskans while still protecting business, then somebody is simply not cooperating and trying to find that middle ground. They're just digging in their heels, and that benefits nobody. So what we know is this is a huge priority for all of our

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constituents. And I can tell you-- I was counting in here-- that I have met with constituents on this issue in at least four of your districts, on this committee. I believe we owe them sound legislation. And we are being responsible policy makers by sharing our final draft with other states, to prevent a patchwork of laws-- which I bet you hear today-- that creates a burden on the organizations whom this bill addresses. And the one thing I encourage you to do, as listeners today and people who will ask questions, I encourage you to ask our opponents: who are they selling your information to? I'd like to hear that answer, and I bet you would, too. And ask what is being shared without your knowledge, because that's what this bill is about today. Having said that, I'm sorry for the long introduction. There was a lot to cover. I'm happy to take any questions the committee might have, but will add that there might be some experts in the audience who would be better to answer any of your technical questions.

**FRIESEN:** Thank you, Senator Blood. Any questions from the committee? Senator Hilgers.

**HILGERS:** Thank you, Senator Friesen. Thank you, Senator Blood, for your opening. Maybe this is better for someone else, but I was curious. How-- does this bill differ, in any meaningful way, from either the California bill that was in law--

**BLOOD:** Yeah.

**HILGERS:** --or the, or GDPR?

**BLOOD:** That differs in, in reference to the California bill and the fact that, as I said in my introduction, the California bill was actually quite overburdening, and they didn't really work with the industry. They basically tried to shove something down the industry's throat. As far as comparing it to the other examples that you've given, I don't know that that's really comparable because they play different roles. But I can answer to the California law.

**HILGERS:** Thank you.

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



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**ALBRECHT:** Thank you. Chairman Friesen. Thanks for being here and for your introduction. Can you tell me who would actually take this task on for the state?

**BLOOD:** So it would have to be the Attorney General's Office, as it has been in every state.

**ALBRECHT:** And other states that-- how many other states actually have something in play right now?

**BLOOD:** That is a good question. Let's look and see what I put in my notes. I do know that California was the groundbreaking one, and that was the one that was not done well.

**ALBRECHT:** Um-hum.

**BLOOD:** And I think it put the industry in a state of shock. So I show that I have-- there's nine other states. And I can get you the names of the states that are currently pursuing this or in the process of doing this right now.

**ALBRECHT:** OK. And what brought you to a point to bring something like this? Is it just something that you've been watching? Or--

**BLOOD:** May I be frank?

**ALBRECHT:** Yes.

**BLOOD:** So as you know, I'm very interested in technology, especially when it pertains to the rights of our citizens.

**ALBRECHT:** Um-hum.

**BLOOD:** Sometimes I'm for technology. Sometimes I'm about removing hurdles to technology. Other times I feel that we're behind, when it comes to protecting consumers in technology. So after Equifax and after what happened in Facebook, I started doing research as to what protects Nebraska citizens from their data being sold and shared. I'm sure that you, if you use the Internet, you find that, miraculously, these ads show up that just happen to pertain to your interests and maybe sites that you've been on. So you know that-- not to sound creepy-- Big Brother is watching you. You know that your information is being shared. There's an algorithm that others can use to market to

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you. Some of the industries that came out against this, I find it really concerning that they're selling my data without my permission.

**ALBRECHT:** And what kind of a fiscal note would what the AG's Office be looking at?

**BLOOD:** So they did an estimated fiscal note that I assume that you have.

**ALBRECHT:** I don't think I have [INAUDIBLE].

**BLOOD:** And it was substantial, but they also said that it's an estimate. And I look at our population of only 1.9 million people, and I'm curious why it was such a big fiscal note, because it, quite frankly, based on our research-- and I'm certainly not here to oppose their fiscal note, but the same token, I, I feel strongly that that's an overreaction. And it's 'cause we're kind of going into the, into the unknown. I don't think it's going to be as labor intensive as they propose it may be.

**ALBRECHT:** Um-hum.

**BLOOD:** But the bottom line is, when do we stop this?

**ALBRECHT:** Um-hum.

**BLOOD:** It's not being stopped by the federal government. And time and time again, when we pass things all off like this to the federal government, it gets watered down and the consumers never really get protected.

**ALBRECHT:** Um-hum.

**BLOOD:** And it is reasonable, in this case, to do it at the state level because Nebraskans want us to. And, and I don't know how many of you have ever been affected by identity fraud, but that tells you how easy it is to access your private information. So buyer beware.

**ALBRECHT:** Um-hum.

**BLOOD:** And we are no longer a money society. Every time that you utilize any type of technology, you open yourself up to sharing your data with somebody.

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**ALBRECHT:** Um-hum; thank you.

**FRIESEN:** Thank you, Senator Albrecht. Any other questions? Senator Hughes.

**HUGHES:** Thank you, Chairman Friesen. Thank you, Senator Blood, for being here today. I apologize; I just scanned the bill very quickly. I haven't taken the time to study it, but it does mention for-profit businesses. Does this also cover nonprofit businesses from data collecting?

**BLOOD:** So I cannot remember, to be really frank. That's a good question. I will find out and I will tell you in the closing.

**HUGHES:** OK. Thank you.

**FRIESEN:** Thank you, Senator Hughes. Any others? Senator Geist.

**GEIST:** Thank you. And I'm just looking at the provisions that this lays out, and I'm curious. These are Nebraska-specific businesses. Is that correct, that sell in Nebraska?

**BLOOD:** No.

**GEIST:** Are based in Nebraska?

**BLOOD:** It would do business in Nebraska, but not necessarily--

**GEIST:** In, in Nebraska.

**BLOOD:** --Nebraska businesses. And--

**GEIST:** So--

**BLOOD:** Oh, go ahead.

**GEIST:** So do-- how is this-- would this be enforceable for a business outside Nebraska that does business in Nebraska? Is it enforceable for our state to take action against them if they're not in our state?

**BLOOD:** I mean, tax is the first thing that comes to mind. When states do business in your state, they have to comply, comply with your laws.

**GEIST:** And then with-- is the enforcement, did you say, by the AG? So is that correct?

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**BLOOD:** That is correct.

**GEIST:** So each individual case would be, would run through the AG Office.

**BLOOD:** For those who didn't comply. The, the theory is, and how it's already working, and we're seeing in other states, is that people comply. They put the link on their website. They put the 800 number on their website. They do it-- and you get it from your banks. Banks have already kind of stepped up to the plate where, once a year, you get an email or a letter in the mail saying: Hey, do you want to sell your private information to outside organizations? And you opt out. You also usually have that opportunity with your credit card companies once a year, as well.

**GEIST:** OK; thank you.

**BLOOD:** So there are a lot of organizations that are already doing it. And that's why the fiscal note concerns me. I think we're, we're, we're anticipating something that's not going to happen. I think that most people are going to be in compliance 'cause it's, really what we're asking to do is quite an easy thing, right?

**GEIST:** OK; thank you.

**FRIESEN:** Thank you, Senator Geist. Senator Hilgers.

**HILGERS:** Thankyou, Senator Friesen. Just following up on that. My recollection of GDPR was that that was an exceptionally tall task--

**BLOOD:** Um-hum.

**HILGERS:** --for companies to comply. And there was a real--

**PHONE VOICE:** Here's what I found.

**BLOOD:** Oh, You Googled it while you're sitting there. Good for you.

**HILGERS:** No, I don't know what I-- I have a BlackBerry. I don't know why it was talking. No, I practiced-- no, I've done. We've-- for the record, I did not Google this call [LAUGHTER]-- just because an accusation has been made. BlackBerries don't Google; they're straight out of the '90s.

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**BLOOD:** It was. Yes, it was; I agree.

**HILGERS:** That was-- so I just, from a compliance perspective, it's-- I mean, it's pretty-- now that was -- GDPR was in Europe.

**BLOOD:** Right.

**HILGERS:** So not all, obviously, you're not [INAUDIBLE]--

**BLOOD:** And, and Europe has the strictest policies when it comes to this type.

**HILGERS:** Right. So there are some United States-- American companies that also are in Europe, and they are complying with it, I'm sure; and that would apply here. But there are quite a few, I'd imagine, probably a significant portion that have not already-- are not already in compliance with GDPR, that are being sort of roped in with this bill. Wouldn't the compliance issues be pretty significant here, as well?

**BLOOD:** No, because I think what we've done, if you read the bill, it's-- ours is really very simplistic. We started, actually, with a bill quite similar to what you're talking about, that actually was more burdensome. But what we were trying to do, again is find the sweet spots, find the middle ground. But what we found, even though we've been working on this for seven months, what we found is that there are organizations that are-- basically don't want to do it, and they're just going to dig in their heels. You know, a lot of them do want it to go to the federal government. And I understand, 'cause then they get a watered-down version. But at the same token, we have states. We're all trying to share data and make good legislation that-- so we don't have that patchwork. So I can't really compare it to the European Union, because what they do is much more grandiose than we're trying to do.

**HILGERS:** Thank you.

**BLOOD:** We're-- ours is much easier.

**FRIESEN:** Thank you, Senator Hilgers. Any other questions from the committee? Are there any specific businesses that are exempt?

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**BLOOD:** You know, to be really frank, I can't remember. I got to look it up, and I'll, I'll tell you in my closing,

**FRIESEN:** OK.

**BLOOD:** I had a meeting over my lunch, and I didn't reread my bill before I got here. So I got to be really frank; I can't remember.

**FRIESEN:** That's fine. Thank you. Seeing no other questions, thank you. And are you going to hang around for closing?

**BLOOD:** Absolutely, and look up those answers.

**FRIESEN:** OK. Proponents for LB746? Are there any proponents? Seeing none, any opponents for LB746?

**JIM OTTO:** Senator Friesen and members of the committee, my name is Jim Otto; that's J-i-m O-t-t-o. I am a registered lobbyist for the Nebraska Retail Federation and the Nebraska Restaurant Association, and I am testifying in opposition to LB746 on behalf of both associations. Retailers and restaurants recognize and appreciate that today's consumers are increasingly sensitive about the personal information they disclose, and expect their information to be handled confidentially. Safeguarding consumer privacy has been a top priority from the advent of catalog mailing lists, all the way today-- to today's mobile apps, and it is even a higher priority today. But customer loyalty programs are very important. Establishing a loyal and long-term relationship with customers requires more than just providing access to merchandise and prices that they-- at prices they are willing to pay. Winning customer trust is essential in the hypercompetitive marketplace that stretches from Main Street to online. One element of that trust lies in the customer information gathered to better serve them and win their business. The vast majority of customers are willing to trade some personal information for valuable benefits and discounts. This is how customers stretch their precious dollars and realize tangible benefits beyond the purchase itself. Businesses want to meet the customer where they are, so they go to great lengths to adopt policies and practices that put the consumer first and invest heavily each year in technology to collect, analyze, use, and protect customer information. As you probably know, signing up for a customer loyal pro, loyalty program is nearly always accompanied by a privacy statement which discloses how personal information is handled. It is our position that LB746, as

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introduced, threatens the existence of most customer loyalty programs. And even small businesses appear to be impacted. The threshold stated is, "alone or in combination, annually buys, receives for the business's commercial purposes, sells, or shares-- the personal information of 50,000 consumers, households, or devices." At first glance, that 50,000 seems like a high threshold. However, when one examines it closer, it appears to include many, if not most, small businesses. Many individuals have over 2,500 Facebook members. It is nothing for a business to send out 5,000 emails a month, if it's a mass emailing, I have five TVs that each have a fire stick, and I have a cell phone. So do I have six devices or am I one device?. So-- and if you think also of credit card transactions, every time a credit card transaction is done, that is a sharing of personal information with-- by the business-- with the processor. So this appears-- as Senator Blood mentioned, this bill appears to follow the California Consumer Privacy Act, which took effect on January 1st of this year. I want to point out that Senator Blood's introduction of LB746, and similar legislation being introduced in other states, has received national attention. As a result, the National Retail Federation has launched the Center for Consumer Privacy and Innovation, which advocates for the federal private-- for federal privacy legislation, which incorporates the basic principles of LB746. With that, I'll attempt to answer any questions.

**FRIESEN:** Thank you, Mr. Otto. Any questions from the committee?  
Senator Cavanaugh.

**CAVANAUGH:** Thank you. Thank you for being here. You closed with talking about the national Consumer Privacy so the retailers would support consumer privacy, similar to this bill, at a federal level.

**JIM OTTO:** I would-- absolutely, we'd prefer a federal solution. I know that people get frustrated with going for a federal solution because it seems to get-- but the National Retail Federation has-- and I'd be glad to share with you-- what they have included and what they would support at a federal level.

**CAVANAUGH:** So could we take what they would support at the federal level and implement it at a state level? And would they support that?

**JIM OTTO:** We certainly could take a look at that. I can't just obligate at this point, but we could [INAUDIBLE].

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**CAVANAUGH:** 'Cause then Nebraska could be the model for what the--

**JIM OTTO:** Maybe so.

**CAVANAUGH:** --federal government could do, which oftentimes the federal government--

**JIM OTTO:** If that'd get me a raise, I'm all for it.

**CAVANAUGH:** I'm, I'm always trying to help to get people paid more. So I have a, just a follow-up question. So, so the issue isn't with the privacy itself; it's, it's with that there's not currently a federal model. So we could work with Senator Blood's office.

**JIM OTTO:** Yes. Yes, we could. The, the issue-- I think everybody recognizes that consumer price, privacy is extremely important. And everybody-- it would be ludicrous not to recognize that. However, the penalties in the bill and how, what, how they are applied, it seems vague with this language. So I think discussion would be great.

**CAVANAUGH:** Thank you.

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

**BOSTELMAN:** Sorry, sorry for jumping in late. But thank you, Mr. Otto, for being here today. How much can you quantify? Can you tell me how much of a business-- a restaurant, a retail company-- how much of that business or, as Senator Blood's bill has talked about the resale of my information or the consumers' information, how much of, of, of the business model or the income for those businesses is the reselling of that information?

**JIM OTTO:** I can't, I can't quote you as specific, specific amount as, especially, but especially in the restaurant industry, it isn't that large. The resale I don't think is a huge issue. I think just sharing or being on 50,000 devices-- I mean, even if you, if you don't sell anything, it looks like you could be in violation.

**BOSTELMAN:** So it would be more on the credit card side and then social media. Is that what we're talking about?

**JIM OTTO:** Well--



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**BOSTELMAN:** Or--

**JIM OTTO:** I think that--

**BOSTELMAN:** --if I go online--

**JIM OTTO:** I think those, I think those need to be addressed, yes.

**BOSTELMAN:** So--

**JIM OTTO:** Social media, credit cards-- I think it just needs to be specified better.

**BOSTELMAN:** So if I, so if I go online and I go shopping for-- in that Business X, to look at widgets, and as I look through those widgets, that information is then collected by someone. That's what I, what I'm gathering here. And then they turn around and sell that information, whoever-- like is there an intermediate person, company in there that does that? Or do you know?

**JIM OTTO:** That isn't usually done by the retailer. That's-- if you notice--for example, if you search for something online and then you go on your Facebook page, all of a sudden you start seeing ads for that item on your Facebook page. That's above my pay grade as to how that happens. But I certainly don't represent those companies. That would not be your normal retailer or your normal restaurant.

**BOSTELMAN:** So normal purchases I make in clothing store X, I go in and I buy certain clothes, certain times of the year, that would be information, potentially, that we're talking about. that that company, then, is gathering that, and then using that to either market to me or to mar, to market to my demographics in, into that city or that community.

**JIM OTTO:** Yes, but not if you just go and buy it. I mean, I don't know to what extent everybody does it, but what we're really talking about is customer loyalty programs where you actually sign up for the program, and you maybe get a card and, after so many purchases, you get a discount. So that's specifically what we're concerned about, is those customer loyalty programs where you actually voluntarily gave that information.

**BOSTELMAN:** So who's selling that information or that company?

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**JIM OTTO:** Well, I don't know, but I would, I would suggest that most retailers-- and now I don't know about a national chain or anything like that, but a low-- a local retailer that has a customer loyalty program, I don't think they're selling it.

**BOSTELMAN:** OK.

**JIM OTTO:** I think they're using it to market to you.

**BOSTELMAN:** OK; thank you.

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

**RON SEDLACEK:** Good afternoon, Chair Friesen and members of the Transportation and Telecommunications Committee. For the record, my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k. I'm here on behalf of a number of associations, primarily representing the Nebraska Chamber of Commerce and Industry, the Lincoln Chamber of Commerce, the Greater Omaha Chamber of Commerce, the Nebraska Telecommunications Association, and the Nebraska Realtors Association, in opposition to LB746. First of all, though, we would like to thank Senator Blood for engaging, engaging industry stakeholders before the introduction of the bill, and soliciting our comments. We all agree on one thing, and that's consumer data privacy protection is a legitimate and a well-intentioned issue to address, for both individual consumers, as well as businesses and business, business transactions. We don't consider this bill antibusiness. Rather, we support reasonable and workable privacy practices to ensure consumer and business privacy is safeguarded, and to do it in the most efficient, uniform manner. The chambers responded to Senator Blood with a joint letter, which we passed out-- just passed out to the committee members. As Senator Blood had stated before, as the Internet evolved, there's mechanisms that have been created whereby entities from Internet service provider to a browser and mobile devices, even the Internet of things like your thermostats, and refrigerators, and other appliances do collect, store, and share personal information and other user information. These interactions on the Internet have seen all sorts of problems: hacking and unauthorized use. We acknowledge that. Now there is a notable piece of legislation that Senator Hilgers already referred to, and that's the General Data Protection Regulation, or GDPR, which was enacted to address these issues in the European Union and the European Economic Area. It addresses the transfer of personal data outside of

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the EU. So if you're engaged in international transactions, you must be in compliance. And as of today, we have yet to see the United States address the issues by federal legislation. However, there's various legislative proposals that are being considered and being worked on in Congress to address the best workable type solution. We have industry sector specific regulations Congress has addressed, such as HIPAA, and you have the Gramm-Leach-Bliley Act and so on. So they, they are segmented, and that's probably how it should be addressed, on, on, on that basis, so that industries are addressed in individual matters. But in this vacuum, there have been some states that have passed various patchwork laws in an attempt to tackle the issues. New York has passed a law that's different from California, and it's very limited. California's law is the California Consumer Privacy Act, or CCPA. That took effect January 1st of this year. Their attorney general is supposed to be doing regulations, but they have not yet been issued, so there's not a lot of guidance in this regard. This bill is modeled after the California law, but it's not uniform with that law. There's a number of approaches, but it has a lot of the basic features. Our belief is that this patchwork of nonuniform or variations of state law are just causing complexity and compliance challenges for both businesses and consumers. We know some businesses in Nebraska that had to comply with the European Union regulation and then comply with the California regulation. And as you get other states involved, and everyone being different, the cost of compliance, it gets really high and it gets really complex. So what I'd like to do is just hand out for the committee a number of issues that actually address a number of the issues in, in the bill before you today. This is written by 41 privacy professionals, professors, and legal practitioners just in California. And it outlines the shortcomings, the problems with the current California law, but it's not inclusive. But there is a backlash within the privacy industry itself over this. There's not uniformity of thought. We all have the same intent to address these issues, that we're not finding these patchwork of laws to be, to be sufficient at this point. We prefer a federal solution. I'll hand those out to the committee, as well. And I'll be happy to answer any questions. Some of the, some that you've already asked, I could probably answer, and--

**FRIESEN:** Thank you. We'll-- Senator--or Mr. Sedlacek, we'll-- maybe somebody will have some questions. Your red light is on.

**RON SEDLACEK:** OK.

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

**DeBOER:** I do have one question. Thank you for testifying. Maybe you can tell me, has there been any attempt on the part of any of your married organizations that you're here today, to try to get a federal solution? What steps have you gone to, to sort of help that process along?

**RON SEDLACEK:** Yes. Thank you for asking that question. United States Chamber of Commerce, and there are some other national organizations, as well, and that, as I say, industry sector-type organizations. And the U.S. Chamber is an umbrella organization. They have been working on a model legislation in this regard, and they're ready to support legislation on a federal level. This is a issue that begs for a national solution, and maybe even a more likely international solution, because we're dealing with the worldwide situation here. But yes, and we're supportive of those efforts. There's also, just within the United States, uniformed commissioners on state law that are looking at the issue. So this is something that's developing. The California law, particularly, is-- it, it is not ready for prime time, and--

**DeBOER:** So that makes me a little nervous when you say maybe it should be done on an international level. I mean, I'm a little concerned that we'll say, oh, no, not the state, oh, no, not the feds; now we need an international treaty. Like I'm a little worried that we're kind of-- we've, we've sort of not determined where the buck needs to stop, and we're going to keep sending it up the ladder. And I think if we wait for an international solution, that might become problematic. So--

**RON SEDLACEK:** And I agree, it may be, I think a national solution, at this time, is preferable.

**DeBOER:** So has your organization done any sort of requesting that a national solution be found?

**RON SEDLACEK:** We're in sync with the United States Chamber. They, they agree there needs to be a national solution to this.

**DeBOER:** Do-- have they asked anyone to sponsor a bill towards that end?

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**RON SEDLACEK:** Well, there has been legislation sponsored, as well as they've-- and the participation of studies, as well as developing model legislation.

**DeBOER:** OK, thanks.

**RON SEDLACEK:** Um-hum.

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

**GEIST:** And I-- this is a remedial action; I apologize. I'm not a techie. So this, I'm assuming, gives names, addresses, your shopping habits, things that you purchase. What are the-- I know Senator Blood said that, that her privacy requirements are very simplistic compared to California. I believe that's correct. What are the differences? Like what, what does it allow? And what's normally mined? Is that too broad of a answer to give?

**RON SEDLACEK:** Well, it's a little bit of a complex answer. The definitions are very similar in nature or in approach to California. And so it goes beyond what's covered personal information. And that's one of the problems that's happening in California right now, is they're trying to see-- I mean, they're going to have to have a lot of legislation. They've, they already have done remedial legislation; didn't get a number of issues. But we're dealing not only with, with what you would think about, let's say, when, when Mr. Otto was talking about for the, the loyalty programs or affinity programs. Trading information to affiliates doesn't have to be a sale. Just trading the information is considered a sale by definition, under that law, under the law. Personal identifiable information includes license plate numbers, and it includes biometrics. It includes search histories, geolocation data, just a whole bunch of stuff beyond just personally identifiable information. But then it sets a real high bar because there's de-identified data and anonymized data, as well as pseudonymized data, OK? The pseudonymized data-- it's very hard to get over even that threshold because it can be covered under the act.

**GEIST:** And then I assume you have it-- everyone would have issues, state to state, of how exactly to define each one of those things.

**RON SEDLACEK:** And if this differs from, from California, and we've had this businesses here in Nebraska that have tried to comply internationally, California. Then you got Nebraska and then, who knows

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next? And it just continues down the line. And it just-- there will be a federal solution because, if they start doing this, it's going to collapse.

**GEIST:** Thank you.

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

**KATHY SIEFKEN:** Good afternoon, Chairman Friesen and members of the committee. My name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, and I am the registered lobbyist and executive director for the Nebraska Grocery Industry Association, here in opposition to LB746. This bill would provide consumers with the right to know what personal information is being collected and whether their information is being sold or disclosed. and to whom. There appears to be no limit to the number of times personal information can be requested or deleted by a consumer. Due to the fact that a consumer can request this information an unlimited number of times, in addition to potentially higher compliance costs, the need to overhaul data use practices, and the possible risk of enforcement by the Attorney General's Office, the cost for retailers that offer discount programs could be so overwhelming that we believe these loyalty or discount programs could become too expensive to continue. The bill also gives the consumer the right to access the personal information that's been collected, to decline to have their personal information sold, and to have personal information deleted, while at the same time, providing equal services and prices, even if a consumer exercises the right to have their information deleted from the employer's database. So how do you give someone loyalty discounts without knowing who they are? Section 4, which is at the bottom of page 2, uses a definition that will pull small businesses under the weight of this bill. The bill sets a threshold of annual gross revenue of \$10 million, which our industry-- in our industry, with the very tight margins that we have of-- nationally, it's like 1.5 percent-- is about \$150,000 net income per year. And in our small stores, both mom and pop work that store. So that \$75,000 a year income to our store owners would pull those small businesses under this bill. Section 10 is very vague. As written, we believe it will be a problem for loyalty programs when discounted pricing is available through an app on your phone or when a discount is offered through in-store promotions, such as gas programs. Yet this section goes on to say that: Nothing in this section prohibits a business from charging a consumer a different price or level of

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service, if the difference is reasonably related to the value provided-- reasonably related to the value provided, I'm not sure who defines that. So when you sign up for a text program, and one program will give you a \$3.00 discount and another retailer will give you \$1.50, who determines what's valuable and whose-- and what's not? And if a consumer requests information be deleted, do consumers also opt out for the discounts that are available to everyone that participates in the program? Or does this bill establish discrimination if a discount is not available to those who opt out? Is not offering a discount retaliation for removing your name from the list or from the database? We believe this is a federal issue that should be taken care of on a federal level. Nebraska is a small state. We've got-- what-- 9-- or 1.9 million people. There are other states in the nation that have a lot more people than we do. They are in the process of working on this, and we believe that we shouldn't be the leader in this area. This is something where other people can probably do it better. I have so many questions about this bill that I don't know if I can answer any of your questions, but I would be willing to try. Thank you.

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

**BOSTELMAN:** Thank you. Thank you, Ms. Siefken, for being here. Help me understand something, I guess, as you walk through this. And part of it is probably just part of the [INAUDIBLE] bill, as written. But if I belong to a program, bonus program, whatever it might be, why isn't that information already protected? I mean, it's not so much that I care that that company, that business has it; it's that I just don't want them to share outside of that business. So how is-- could you talk to that just?

**KATHY SIEFKEN:** Absolutely. That that information is already protected. Our stores-- everyone takes credit cards. And in order to be approved to take a, and process a credit card, we have to-- it's called PCI compliance, where we have to meet certain thresholds, based on what level of transactions we process. And so the information itself is protected. This bill is not about security; this is about privacy. So--

**BOSTELMAN:** Understand, I understand.

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**KATHY SIEFKEN:** --just to be clear, the information, at almost every level, is protected to the best of the ability of those retailers.

**BOSTELMAN:** So how does the information get out about my home address, my phone number, my likes, my things I purchase, I don't purchase, where I-- if I'm sitting in a-- which restaurants I go to? I guess that's the information that, that's-- how does that--

**KATHY SIEFKEN:** And--

**BOSTELMAN:** --how is that not protected?

**KATHY SIEFKEN:** That is not us. I'm talking about grocery stores. Grocery stores are being pulled into this bill. We are not--

**BOSTELMAN:** Then--

**KATHY SIEFKEN:** --one of those companies that turns around and sells information; we protect ours.

**BOSTELMAN:** I know. I understand that, but I thought, also in your testimony, you talked about if you have a buyers' club or something like that.

**KATHY SIEFKEN:** Um-hum.

**BOSTELMAN:** And that's probably not the right term. But I understand it's that--

**KATHY SIEFKEN:** A loyalty.

**BOSTELMAN:** So you have those type of things. But then that information, you said, well, whether you can have that information or whether you'd have to delete the information, and then whether there would be some discrimination in there, that's what I'm not under-- that's where I'm-- you lost me, I guess.

**KATHY SIEFKEN:** OK. So, so that information is used internally by our stores. They don't share it with other stores because then what would be the point of a loyalty program? That information is, is kept within the company, and that is used to market to your customer base. So our information isn't used, isn't sold to third parties. That's not, that's not the program that we run.



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**BOSTELMAN:** So it's the reuse of the information that you already have out to your customers who you have, not selling it outside of--

**KATHY SIEFKEN:** Right.

**BOSTELMAN:** --of that customer base.

**KATHY SIEFKEN:** Um-hum.

**BOSTELMAN:** OK.

**KATHY SIEFKEN:** And we are concerned about the fact that this bill, even though we aren't the problem, this bill pulls us in just based on the definitions at the bottom of page 2.

**BOSTELMAN:** OK. Thank you. That helps; thank you.

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

**KATHY SIEFKEN:** Thank you.

**FRIESEN:** --thank you for your testimony.

**TIM KEIGHER:** Good afternoon, Chairman Friesen. Members of the committee, my name is Tim, T-i-m; last name K-e-i-g-h-e-r. I appear before you today in opposition to LB746, on behalf of the Nebraska Petroleum Marketers and Convenience Store Association. And if you think Kathy's knowledge of this bill was limited, mine is even less. I guess we have the same concerns that Mr. Otto and Ms. Siefken raised: loyalty programs and that type of thing. You know, Senator Bostelman, to maybe try and answer one of your questions, I think that a lot of the information that's collected on loyalty programs may stay in-house, but there are also programs that I know my members participate in, with major oil companies, where it's a nationwide program. I'm sure that the major oil company has that. What they do with it, I don't know. I do think there are some valid points in Senator Blood's bill that, you know, all this information is being sold. I was on the Internet back here in the back of the room, and I got an offer to buy five digital thermometers 'cause I looked at one yesterday for a meat thermometer. I guess we would be interested in participating in the discussion. I wasn't part of the original discussion to see if we could go forward with this, but we obviously

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have the same concerns the others have. So with that, I'll try-- and happy to answer any questions.

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

**TIM KEIGHER:** Thank you.

**FRIESEN:** Any other opponents who wish to testify on LB746? Seeing none, anyone wish to testify in a neutral capacity?

**STEVE WILLBORN:** Mr. Chairman, members of the committee, my name is Steve Willborn, S-t-e-v-e W-i-l-l-b-o-r-n. I'm the Harry A. Spencer Professor of Law at the University of Nebraska, and a member of the Nebraska Uniform Law Commission. The Nebraska Uniform Law Commission is our delegation to the National Uniform Law Commission, which is a confederation of all the states to draft laws where uniformity in laws is appropriate and desirable. The other members of the Nebraska delegation include: Harvey Perlman, Larry Ruth, Joanne Pepperl, Jim O'Connor, and John Lenich. I'm here, as a member of the Nebraska Law Commission, to provide information on model or uniform legislation that may be coming from the National Uniform Law Commission on this topic. Last year, the Uniform Law Commission authorized a committee to draft a uniform law on this topic, and the charge, read as follows, "This drafting committee will draft a uniform or model law addressing the collection and use of personally identifiable data, including provisions governing the sharing, storage, security, and control of the personal data of others. The collection and use of personal data are important features of our modern economy, but raise significant issues of privacy and control. A uniform or model act on this subject would serve as a comprehensive legal framework for the treatment of data privacy." This committee has 12 members, and it's disproportionately Nebraskan. The chair of the committee is Harvey Pearlman, currently a law professor at Nebraska, and, as you probably know, formerly chancellor of the Lincoln campus. Jim O'Connor, a highly regarded Omaha attorney who recently retired from Baird Holm, is also on the committee. Bill McGeveran, a leading privacy expert from the University of Minnesota, is what's called the reporter for the committee; he's the brains behind the committee. The committee has not yet published its first draft of its model or uniform act. The progress of the committee can be tracked on the Uniform Law Commission website, which is at that sort of unfair, unfortunate address, long address, on the handout. An advantage of a uniform act in an area like

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this is that these kinds of businesses, and even consumers, don't fall neatly within state boundaries. By their nature, they tend to cross geographic boundaries. Uniformity of state law retains state discretion in the area, as opposed to federal action, which would cede state authority to the federal government, and it provides more guidance and predictability to businesses and even consumers, and eases compliance issues. If this drafting committee follows its normal course, as I expect it to, a final act should be ready for your consideration in the early fall of 2021. I have no opinion on what you do with this information, but I wanted you to know that this is something that the National Uniform Law Commission is doing.

**FRIESEN:** Thank you, Professor Willborn. Any questions from the committee? So as you draft your model legislation, do you put it out there for other states to look at? Everyone gets look at it and--

**STEVE WILLBORN:** Yes, the Uniform Law Commission process is always a very public process. The commission has a number of national conduct, contacts, and it seeks stakeholders from the industry, in this case from the national commerce [INAUDIBLE].

**FRIESEN:** Are there other groups doing the same thing?

**STEVE WILLBORN:** Not, not that I know of.

**FRIESEN:** OK. Seeing no other questions--

**STEVE WILLBORN:** Thank you.

**FRIESEN:** --thank you for your testimony. Any others wish to testify in a neutral capacity?

**JILL BECKER:** Good afternoon, Chairman Friesen and members of the committee. My name's Jill Becker, J-i-l-l B-e-c-k-e-r, and I appear before you today as a registered lobbyist on behalf of Black Hills Energy. I just wanted to mention a few things that I haven't heard mentioned today. In the normal course of business, we share customer information with some third parties, for example: debt collection agencies; our Choice Gas Program suppliers; agencies that offer LIHEAP energy assistance programs. And we would want to ensure that we could still provide that data to those organizations. We don't sell that data; we share it. And so you've heard other testimony today about retaining that ability to share that information. We would also need to ensure compliance with any new legislation that might be passed

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through LB746. We do cross-- we cover multiple states, and so one of our issues is that we would need to ensure that we have sufficient information for Nebraska customers, that they can find it, and ensure compliance with every state that passes legislation like this. And so that becomes a little bit of a challenge for us if states do pass legislation that is not necessarily always the same. We also have to ensure then that any third parties that we work with would also be in compliance with sharing that same type of customer data. We provide our customer privacy act online, and we do allow customers to opt out of that. So those types of things, I think, are pretty similar to what Senator Blood is offering in her legislation. We don't sell our customer, customers' personal information. The expenses that we would incur for enacting a piece of legislation like this, [INAUDIBLE] mentioned, would just be making sure that our policy policy-- our privacy policy is updated, and ensuring that all entities that we work with are necessarily included, because it is both, especially on the utility side, a privacy issue, but also a security issue for us. So with that, I'd be happy to answer any questions from the committee.

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

**JILL BECKER:** Thank you.

**FRIESEN:** --thank you for your testimony. Any others who wish to testify in a neutral capacity? Seeing none, Senator Blood, would you like to close? We do have one letter of proponent and ten letters in opposition.

**BLOOD:** And I'm guessing some of those letters are some of the same people that testified today.

**FRIESEN:** Could have been.

**BLOOD:** The ones we received in our office. I appreciate the opportunity to close. I have a long list of things I want to respond to. I was asked who was excluded. Page 12 clarifies that. I was asked what was the definition of businesses that this pertains to. You'll find that on page 2. Let's put this in perspective. The sky is not falling. It is not difficult to put a link on your website. It's not difficult to put a 800 number in an email or on your website. That is something that is simple and that is data-driven then done by your IT person. I don't know how many of you have hit "unsubscribe" on a

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newsletter, but it's not any more difficult than at that type of a link. And so people are purposely trying to scare you and tell you that this is crafted after the California law, which I've made very clear it was not. In fact, if you want to look for a template that we utilized as our foundation, it came from the Consumer Data Industry Association, again, the CDIA; you'll find their website if you Google it. And their goal is to protect consumer data while they work with organizations that deal with credit cards and organizations that deal with fair credit reporting. Their goal is to make sure that there's a symbiotic relationship that protects both the businesses and the consumers. So they talked about customer loyalty programs. I don't know how many of you belong to a customer loyalty program, but I I love mine at the grocery store. But here's what I know. When I shop at my grocery store, somebody that has a marriage with my grocery store of some sort finds out that my-- I buy dog food for my dog that is mostly protein, and it's an outside organization sending me those coupons. It is not Baker's sending me those coupons. So let's, let's put our cards on the table here. It's unfortunate that, for the first time in my three years, I don't agree with the Chamber of Commerce on something, 'cause I've always agreed with them on almost every opinion they brought forward to me. As he told you, I brought this bill to them a long time ago. And I'm not sure, since he keeps referring to the California draft, if he has looked at the most recent draft, because we've worked very hard on that. When it [INAUDIBLE]-- the question in reference to "reasonably related," what does that mean? Well, I'm not a lawyer, Senator Hilgers, but I always said that that meant equitable, judicious. Right? So when we look to, to write statute, we look for a language that, if it were to go to court, what does that mean? So you talk about requests and limited times to be removed from a list. Well, if you comply the first time, why would they request it more than once? And a simple-- and again, unsubscribe button suffices. And so how you program your IT is how that's going to address it. The quote that I found the most disturbing today was when you asked somebody what they're doing with your data. And the answer was: What they do with it, I don't know. I ask you again, are you OK with this? If the federal government was going to address this. It would have been done by now, 'cause this is a pro-- problem that is a decade old. I care about the consumers in Nebraska. You've been told, and I-- we already knew about this 'cause we spoke-- or I spoke with somebody on the committee. Yes, a template would be available in 2021. And just like what's been going on for years on this committee, it's going to go through several other years of people looking it over and

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deciding what they're going to do with it and how it's going to work. What states are trying to do is, we're trying to work together so there isn't a patchwork of laws. But we have to get some of the states to pass the actual bills so we can start spreading it from state to state to state. So the question I have for you today, or the request I have for you today, today, is to, please, let's empower our people over special interest. I know who I work for, and it's the citizens of Nebraska. Nobody here can tell you who they're selling your data to because a lot of them don't know. They just know that there's income that they're generating from it; and they are getting income from that. And I don't fault them for wanting to make a profit and finding creative ways to make a profit. But they're doing it on our consumers backs, and that's not right, and that's not fair.

**FRIESEN:** Thank you, Senator Blood. Any questions from the committee? Senator Hilgers.

**HILGERS:** Thank you, Senator Friesen. Thank you for your closing, Senator Blood. Just a couple quick questions. I think I heard you mention maybe a part of an answer to my question. So but I-- just to make it explicit on the record, so the professor testified that there's a Uniform Law Commission process that's going on. They're--

**BLOOD:** Right.

**HILGERS:** --soliciting stakeholders,--

**BLOOD:** We're familiar with that.

**HILGERS:** --trying to get a-- what I interpreted was, it's something that could be used around the country that's not federal. And but how-- so if I were to ask you the question, why shouldn't we just wait to see the product of that work, well, how would you respond?

**BLOOD:** Then I would encourage you to speak with people from that committee, how long they have been working on it and how successful they've been so far, and how long, how much longer they think it will take after the release, because I think you're going to find that the combination is quite extensive. And how long do we wait to protect our consumers? And quite frankly, what if we don't agree with that bill? Then we've put it off for another year or two or three or four. This is just an issue-- I have to be really frank. This is an issue that's about money, and it's not the money that you and I are making in our pockets, the money that big business is making off of our backs. And

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so I feel that it's an urgent issue because we have sat on it for a decade. And I, I don't see the federal government ever taking anything seriously lately and getting stuff done. So when it comes to that committee, there's a lot of smart people in that committee, and I don't fault them at all for the work that they've done. But they've been meeting for quite a while. And 2021 is what they're going to present for you to look at, not to run with.

**HILGERS:** Thank you. And then, so I know we've talked about patchworks and the idea of not, maybe not having a patchwork. That's not your words; that's some of the opposition. And I think that's an important consideration. I just want to-- I guess my thought would be that this would create a patchwork. But I understood some of your testimony, so I just want to ask and get it explicit on the record that, that the, that your argument would be that passing this bill would help not have a patchwork. Is that right?

**BLOOD:** Is that your question? I'm sorry,

**HILGERS:** That's my question, yes--

**BLOOD:** OK.

**HILGERS:** --that it was-- that you were-- is that an end argument that you're making?

**BLOOD:** So the question that I'm being asked is whether this creates a patchwork--

**HILGERS:** Right.

**BLOOD:** --of laws, which has been the ongoing phrase that's used in every state that brings a bill like this forward. But what people don't understand is we all attend NCSL, CSG, NFWL. We all attend something,--ALEC, where we meet with other senators. And I don't know about you, but I take that opportunity to exchange ideas. We share bills, we share templates. And so it is the goal of multiple states in the central United States to be consistent. So we can't prevent all 50 states from complying. But you know, and I know that once there's good legislation, and we get it passed in states, and we share it with other states, that it continues to grow and grow and grow; and that's the goal. And I've, I've been traveling all over the United States this year because of this bill, trying to get it right.

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**HILGERS:** Are there any other states, that you're aware of, that either have introduced a version of your bill or have passed a version of your bill?

**BLOOD:** Yeah, we can get you that information and take it to your office.

**HILGERS:** OK; thank you.

**FRIESEN:** Thank you, Senator Hilgers. Any other questions from the committee? So I asked you earlier if there were any specific types of businesses that were exempt. You said you would check into that.

**BLOOD:** Yes, and I answered that in the very beginning. So I believe it was page 12, I said, that explains the different businesses. Hang on. One answer was page 2, and one answer was page 12. I literally just had my notes in front of me. Now I don't find them.

**FRIESEN:** Are, are banks exempted?

**BLOOD:** Pardon?

**FRIESEN:** Are banks exempted?

**BLOOD:** Are banks exempted? Well, banks have a specific law that is already under the federal government, so I don't know if "exempt" is the right word. It's that they are already monitored.

**FRIESEN:** That they can't share any data currently?

**BLOOD:** That they can't share any data-- what do you mean?

**FRIESEN:** Well, can they sell their-- they, they handle financial [INAUDIBLE], all of them. They have access to all the information that there is. Are they-- I mean, are they prohibited currently from sharing any of that?

**BLOOD:** Banks have a federal guideline, and I'll read that to you.

**FRIESEN:** A guideline or what?

**BLOOD:** That's a good question. When it's a federal-- so it's a federal law. It's the federal government. He-- Senator Hilgers actually covered it a little bit at the beginning, and maybe Senator Hilgers can help me out. But if you look at page 12, so they fall under the



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Gramm-Leach-Bliley Act, and they-- gosh, I wish I could find that big piece of paper. They fall into the Gramm-Leach-Bliley Act, and it says that they are regulated: Any rule or regulation adopted or problem-- promulgated, I hate that word-- pursuant to such act, as such act, law and rules, regulations exist on the effective date of this act. So personal information that's collected, processed, sold or disclosed, pursuant to that act or to any rule or regulation adopted-- doo doo doo doo-- existed on the effective date of this act. So they're already protected, just like HIPAA is, just like the Uniform Motor Vehicle Records Disclosure Act. So they're already in other acts, so we can't touch them because they're protected under the federal government.

**FRIESEN:** OK.

**BLOOD:** Sorry, I don't mean to sit there and babble.

**FRIESEN:** Thank you. Any other questions from the committee?

**BLOOD:** So again, who it is, who it applies to, and what the description of the business is, page 2 and page 12.

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

**BLOOD:** Thank you.

**FRIESEN:** I think we have all the letters entered in. And with that, we will close the hearing on LB746, and the hearings for the day.