

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 10, 2025
Rough Draft

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

MOSER: The afternoon hearing of the Transportation and Telecommunications Committee will now come to order. I'm Senator Mike Moser from Platte County, District 22, and part of Stanton County. I chair the committee. We'll begin with senator self-introductions, beginning with Senator Guereca.

GUERECA: Good afternoon, everyone, Dunixi Guereca, Legislative District 7. That's downtown in south Omaha.

STORER: Good afternoon and welcome. Senator Tanya Storer, District 43: Dawes, Sheridan, Cherry, Keya Paha, Brown, Rock, Boyd, Garfield, Loup, Blaine, and Custer. I always feel it's important to name them all.

FREDRICKSON: Good afternoon. John Fredrickson, District 20, which is in central-west Omaha.

BRANDT: Tom Brandt, Legislative District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties.

BALLARD: Beau Ballard, District 21 in northwest Lincoln, northern Lancaster County.

BOSN: Carolyn Bosn from District 25, which is in southeast Lincoln, Lancaster County, including Bennet.

MOSER: OK. Our committee clerk is Connie Thomas and our legal counsel is Gus Shoemaker on my left. There are blue testifier sheets on the table near the entrance to the room. Please fill that out and hand it to the page when you come up. For those not testifying but would like to record your presence, sign the yellow sheet in the book on the table near the entrance. The legislators-- Legislature's policy is that all letters for the record must be received by the committee by 8 a.m. the day of the hearing. Handouts submitted by testifiers will be included as part of the record as exhibits. Please provide 12 copies of any handouts. Additional copies could be made for you by the pages. Senators may come and go during our hearing. This is common and required as they may be presenting bills in other committees during the same time. Testimony will begin with the introducer's opening statement, then we'll hear from supporters of the bill, then those in opposition, and then those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 10, 2025
Rough Draft

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

closing statements if they wish to do so. Please begin your testimony by giving us your first and last name and also spell them for the record. We will be using a 3-minute timer system today. There are no demonstrations of opposition or support on testimony allowed. And please remember to turn your cell phones off or to set them on vibrate. And with that, we'll start with Senator Bosn on LB191. Welcome.

BOSN: Thank you. Thank you, Chair Bosn and members of the Transportation and Telecommunications Committee. Again, for the record, my name is Carolyn Bosn, C-a-r-o-l-y-n B-o-s-n. LB191 includes broadband and communications infrastructure in the section of law which protects other critical infrastructure from willful and malicious damage, thereby affording them the same protections as we have to other critical infrastructure in the state. The state of Nebraska has invested hundreds of millions of dollars through the Nebraska Broadband Bridge Program, Capital Projects Fund rounds one and two. And as well, the BEAD Program. We have, as a state, taken the stand that broadband Internet access is critical to daily life and have supported the expansion of high-speed Internet services across our state. It stands to follow that malicious and intention-- maliciously and intentionally damaging broadband infrastructure perpetuates service interruptions and means that Nebraskans lack access to vital services, small businesses are hampered, and as we learned in 2020, kids are unable to accomplish some of their schoolwork. By making this small change, we can help defend our critical infrastructure and limit service outages in Nebraska. You may have noticed in some of the online comments that there was a suggestion-- a suggested amendment to also add language that would protect wireless infrastructure as well in this bill. And we did request that amendment after we received that feedback and spoke with them. We have not received that amendment back just yet. But the proposed amendment would basically just include after broadband communications, it would also then include wireless infrastructure to be more inclusive in the protections that we're providing. You'll see that in the comments that were submitted online, and I believe it was from a Jeremy Crandall on behalf of the Wireless Trade Industry Association. The other change that they made in that same online comment-- we actually had a follow-up conversation with them last week and they have since retracted that or they brought that back, that

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

requested second change. So we did accommodate the feedback that we received, we just don't have that back from Bill Drafting quite yet, so. With that, I would be happy to answer any questions.

MOSER: All right. Are there questions for the testifier? Senator Brandt.

BRANDT: Thank you, Chairman Moser. Thank you, Senator Bosn, for bringing this. Just a couple of questions and maybe somebody up behind you will have to answer this. In the bill itself, existing bill, on line number 9, you reference light, the transmission of light. Do you know what that refers to?

BOSN: You know, transmission of light. No.

BRANDT: OK. And then the-- and the line below that, subject to the action of penalty prescribed in that part of the statute, 28-519, do you know if you do--

BOSN: I do.

BRANDT: --if you do any of this, what are the penalties? Can you tell me as a prosecuting attorney?

BOSN: Depends on how much the damage is. So it depends based on levels of cost associated with it. So some-- it's both felonies and misdemeanors. 28-519, I want to say is a theft statute, actually.

BRANDT: So what you're saying is that it's scalable if it's over--

BOSN: \$1,000, \$5,000. I think it's \$1,500 is-- and less is a misdemeanor, \$5,000 and more is a Class IV felony. But I, I want to look at that before I get quoted wrong.

BRANDT: So is this something that was pretty common that we see prosecutions on in the state of Nebraska?

BOSN: As far as?

BRANDT: Being used.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

BOSN: I would say, no, it's not, like, something we're doing a tremendous amount of. But certainly when we have some of the problems that we've had with 911 outages, we want to make sure that we are protecting those and deterring any malicious disruption of those services.

BRANDT: All right. Thank you.

BOSN: You bet.

MOSER: Other questions? I have one. This is not just for incidental damage, but for willful intentional damage?

BOSN: Correct.

MOSER: OK. Thank you.

BOSN: And if I could just piggyback off of Senator Brandt's question, 28-519 is criminal mischief, not theft. I misspoke, but it's, it is a Class I misdemeanor if it's more than \$1,500, but less than \$5,000. And it is a felony if it's over \$5,000 and then it stair steps down, Class II and III misdemeanors based on smaller damages.

BRANDT: OK.

MOSER: OK. Other questions? Thank you very much.

BOSN: Thank you.

MOSER: Today, our pages are Logan and Alberto. Hello.

TIP O'NEILL: Hi. Good afternoon, Senator Moser. Chairman Moser, members of the Transportation and Telecommunications Committee, my name is Tip O'Neill. That's spelled T-i-p O-'-N-e-i-l-l, and I am president of the Nebraska Telecommunications Association. The NTA represents 20 companies providing broadband and landline telecommunications services in Nebraska. We support LB191. The pages, actually, are handing out a document from the Free State Foundation published on January 29 of this year. It was authored by Michael O'Rielly, a former Federal Communications Commissioner. Mr. O'Rielly was-- is a Republican who was appointed by former President Obama to the FCC and served 6 years in that, in that term. In his paper,

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

Commissioner O'Rielly notes the growing incidence of theft and vandalism to broadband infrastructure throughout the nation. While copper is the most valued commodity to vandals and thieves, many don't understand the difference between a fiber-optic system and copper system. In addition to making scrap dealers more accountable for buying contraband copper and perpetuating the stolen copper market, Commissioner O'Rielly concludes his paper with the following recommendations: First, expand federal criminal law provisions in 18 U.S.C. 1862 to include privately owned communications systems in providing significant fines and prison terms for the willful and malicious injury or destruction to communications facilities. Second, he recommends states to enact stronger enforcement actions and properly classify critical communications network infrastructure that includes broadband network facilities. LB191 does that, and with the amendment from the Wireless Association strengthens that even more. Again, we support LB191. I would be happy to answer any questions you may have.

MOSER: Questions from committee? Seeing none, thank you.

TIP O'NEILL: Do you want me to clarify the-- you said light?

BRANDT: Please do.

TIP O'NEILL: Yeah. That's how fiber optic operates--

BRANDT: Yes.

TIP O'NEILL: --is through light, so that's--

BRANDT: Yeah, I'm assumed as much. Yeah.

TIP O'NEILL: OK.

MOSER: Blinking lights.

TIP O'NEILL: Yeah. Thank you.

MOSER: Same to you. Welcome.

DAYTON MURTY: Thank you. Good afternoon, Chairman and members of the committee. My name is Dayton Murty, spelled D-a-y-t-o-n M-u-r-t-y, and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 10, 2025
Rough Draft

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

I'm the senior manager of Government Affairs for Charter Communications. We do business in the state of Nebraska under the brand name Spectrum, and we serve 156,000 Nebraskans in over 90 communities. We also employ 270 Nebraskans and last year we invested over \$38 million in private capital to evolve and expand our network to an additional 2,000 homes and small businesses. We're here today in support of LB191 to protect broadband and communications infrastructure from willful and malicious damage. A study by the National Internet and Television Association, documented from June through August of 2024, 3,929 instances of theft and vandalism nationwide, affecting over 325,000 customers. Global demand for copper is a driving force behind these instances of damage. And in search of copper, other critical infrastructure like fiber and broadband communications equipment suffer collateral damage. In Nebraska, telecommunications, railroad, and power companies already have special protections under the current law, and this bill just extends those same protections to broadband and communications networks. It's for these reasons that we support LB191, and I'd be happy to answer any questions.

MOSER: Questions from the committee? Seeing none, thank you.

DAYTON MURTY: Thank you.

MOSER: Next supporter. Next proponent.

***JOHN WYVILL:** Cox Communication is in support of Senator Bosn's bill, LB191. Acts of vandalism and theft goes beyond just disrupting phone and internet service. These criminal acts can sever connections vital to public safety, healthcare, transportation and emergency response. As you can see from other testimony, the wide-reaching consequences of infrastructure disruptions range from delayed 911 responses to economic losses for businesses. Unfortunately, our network continues to face escalating threats. Cox supports Senator Bosn's bill, because LB191 serves as an important piece of the coordinated strategy needed to safeguard critical infrastructure against acts of vandalism and theft in Nebraska.

MOSER: OK. Is there anyone here to speak in opposition to this bill? Anyone to speak in the neutral to this bill? We received two proponent

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

comments, no opponents, and no neutral. Senator Bosn waives her closing, so that'll end the hearing on LB191. Now, we'll go to LB449.

FREDRICKSON: Hello.

MOSEER: Welcome.

FREDRICKSON: Good afternoon, Chair Moser and members of the Transportation and Telecommunications Committee. My name is John Fredrickson, J-o-h-n F-r-e-d-r-i-c-k-s-o-n, and I represent the 20th Legislative District. I'm here today to introduce LB449. LB449 makes a simple but impactful change to the way funds are allocated to road projects throughout the-- through the Nebraska Department of Transportation and establishes that no less than 70% of highway revenue raised by each state highway commission district shall go to projects in that district. This is to ensure that districts with high needs and higher revenues are seeing more of those funds going to projects within their districts. LB449 would create a similar system to the federal Highway Trust Fund, where states must receive at least 95% of the funds that they contribute. LB449 brings Nebraska in line with this practice of allocating funds coming from the district back to that district. Over the past 15 years, District 2, the Omaha metro area has consistently received about 10 to 13% of the state's allocation, while contributing around 40% of the Highway Trust Fund revenues. Even if proper funding were available today, the Omaha metro area is close to a decade behind in updating our most traveled roads. And considering Omaha's current growth, we'll be playing catch up with these projects regardless if we pass the funding structure in LB449. And this isn't just an issue for Omaha. Lincoln, as well, is experiencing continued growth in aligning their funding allocations with the revenue they contribute will only benefit projects like the East Beltway, the most expensive project in NDOT's history at \$600 million in today's dollars. I do want to thank the department, including Director Kramer and her team members, they have been very forthcoming and open to meetings. I certainly understand that this piece of legislation would be a pretty significant shift in terms of how we do road funding in our state from what it is today. And it's something that I'm open to continued conversations about. But I do want to specifically thank the department for their openness in having those conversations. I will also have a few testifiers behind me today to speak to Omaha and Lincoln's unique road funding needs, highlight

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

some of the specific projects that are planned in these areas, and speak to the economic impact of their growing populations. Thank you for your time and attention and I'd be happy to take any questions.

MOSEER: OK. Questions? Senator Brandt.

BRANDT: Thank you, Chairman Moser. Thank you, Senator Fredrickson, for bringing this bill. This is basically the same bill that Senator McDonnell brought last year, is it not?

FREDRICKSON: It's a similar bill.

BRANDT: So what you're asking is because Omaha pays a disproportionate amount to the roads fund, they should get a disproportionate amount back. Would that be a correct statement?

FREDRICKSON: I disagree with that, like, way to quantify it. Here--

BRANDT: OK.

FREDRICKSON: I'm, I'm looking to align this more with how we do federal trust funding as well. So the idea being-- so Omaha consistently contributes around 40% to the fund, we get 12-- 11 to 12% back. So, you know, there's a significant disproportion in the amount that Omaha is receiving under this. I'm just looking to get Omaha a bit more of their fair share with this.

BRANDT: But I mean, that's typical of the state of Nebraska. For example, the Bureau of Educational Lands Fund [SIC]. So the hundreds of thousands of acres in the state of Nebraska, Omaha gets by far the most money back on that through education, where there's hundreds of thousands of acres in the western part of the state where these guys get nothing. So it's, it's kind of the same argument. So I'm afraid once we start applying it to roads, then we're going to apply it to BELF, and then we're going to apply it to-- you know, my constituents say income tax and sales tax, when we pay that into the state disproportionately, it goes certain places. So you don't think that the existing set up-- I think we have-- is it nine road districts? Do you know for sure?

FREDRICKSON: I think it's nine. I, I can double-check on that.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

BRANDT: And maybe somebody can come up here and tell me that.

FREDRICKSON: Someone can come with that. Yep.

BRANDT: But I always thought it was kind of base-- I think-- I don't know this and, and senator-- or senator-- Director Kramer could probably clarify this, but I thought our road districts are kind of allocated by miles of roads in those districts equally across the state. Do you know if that's accurate?

FREDRICKSON: So we currently-- and Director Kramer could certainly elaborate on this, but we currently prioritize preservation over projects. So that's another thing that this bill would look at as well.

BRANDT: OK. And then I guess the last point is it isn't just Omaha that's behind. I know Senator Moser and, and myself and others on Highway 81, it's been decades and some parts of the state still aren't connected with that, so. And Nebraska, unfortunately, has more wants on their roads projects. And, and I know Senator Ballard probably is going to talk to you about the East Beltway.

FREDRICKSON: He's got to love this bill.

BRANDT: Yeah, yeah. Maybe, maybe not, so. Anyway, thank you. I'll, I'll ask questions of the-- of your--

FREDRICKSON: No, and I appreciate that. If I may respond as well? So--

BRANDT: Sure.

FREDRICKSON: --I'd like to friendly remind you, 32nd district includes some of Lincoln, Lancaster as well. So your constituents would certainly be--

BRANDT: Just Lancaster. I got no Lincoln.

FREDRICKSON: But I'll also add to that, too. And I think you, you make a really astute point, which is that, you know, certainly there is an understanding that Omaha will be contributing more from a revenue perspective statewide. You know, I'm not asking for 100% of the funds that Omaha is contributing. You know, simply looking at 70%, knowing

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

that 30% of those funds would continue to go to projects outside of their district. Now, if you look at the federal model, so whatever the states do to the National Highway Trust Fund, 95% have to stay within that state. So if New York state gives \$100 billion, 95% of that goes back to New York, 5% goes to other states. So this is actually a pretty generous model saying 70% would go back to Omaha, 30% would be going outside of Omaha.

BRANDT: OK. Thank you.

MOSER: Senator Storer.

STORER: Thank you, Chairman Moser. I guess I have a variety of questions. So the example you just gave me was a state, the total dollars collected by the state. So are you suggesting that Omaha would be viewed as its own state?

FREDRICKSON: No. This is based on the NDOT road districts. So Omaha is part of District 2, so that's primarily Omaha.

STORER: But you're using-- I'm sorry, you're using the example of, like, a different state outside of Nebraska with 90%.

FREDRICKSON: Yeah, so the, so the federal funding model for the National Highway Trust Fund. So the money that Nebraska sends to the federal level. So for federal dollars specifically. So this would be state allocation or state dollars. But the way the federal model works is that for the amount that each state contributes to that, they get-- they are supposed to receive 95% of what they contribute back to that state.

STORER: Which is a state model, and we're talking about our state in its entirety. I, I guess as I, as I look at the language that you're proposing that be deleted, removed from this current statute, is the preservation of our entire road system in Nebraska not a valuable, a, a good premise for how we allocate dollars?

FREDRICKSON: I think preservation is incredibly important. And, and idea here is not to sort of make this a, you know, if A doesn't happen then B can't happen. You know, it's more of trying to acknowledge that the city of Omaha has very high needs when it comes to our roads and

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

that we have not been receiving adequate state dollars to fund those needs.

STORER: And, and I would, I would have to agree, I guess, with what Senator Brandt was saying that we, I think, have several areas in our state that would, that would have the same viewpoint. The Heartland Expressway in my district has been decades and it's still not complete.

FREDRICKSON: Yeah.

STORER: So I-- you know, I just, I just have a lot of concern about shifting over to this model that we, we do start to look at road districts in terms of their own little state and the equivalency of that and ignore the reality that our entire road system across the state of Nebraska being a very agricultural state, which tends to be low population, but, but certainly high need. We have miles of road with fewer people, certainly, but that is the origin of a huge part of our economy. And so continuing to maintain that, that road system, you know, with the same, with the same lens of how we prioritize our spending today, I think is very important.

FREDRICKSON: Absolutely. And I think you're hitting on a really important point, which is, you know, the ability of our-- having a strong road system is directly linked to our economy. And that applies certainly to the city of Omaha as well.

FREDRICKSON: Senator Ballard.

BALLARD: Thank you. Thank you for being here. So just to make sure I got the, the math right [INAUDIBLE]. So 70%, so you said Omaha contributes 40% of highway?

FREDRICKSON: So approximately-- so to the, to the Highway Trust Fund revenue, so the state Highway Trust Fund revenue, Omaha is contributing around 40% of that. And we're getting back around 10 to 13%, currently.

BALLARD: OK. So under this 70%, they'd be guaranteed-- what is that-- 20% of the total highway trust fund dollars would go to Omaha?

FREDRICKSON: That's probably the math. I'm not [INAUDIBLE].

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

BALLARD: OK. So guaranteed. OK.

FREDRICKSON: Yeah. Um-hum.

BALLARD: And so, so a follow-up on that question. So the concern with preservation over projects. So what if, what if senator-- or is it district-- Senator Brandt has a project that needs building or, or a particular, a, a, a major, a connection in the city-- county-- city of primary class on the east side, something like that. So what-- so if Omaha is guaranteed at 28%, is that going to take moneys away-- money away from those projects as well? So I, I understand the, the, the need for projects and more preservation. I get that. But I'm worried about additional projects outside of Omaha is that--

FREDRICKSON: Sure.

BALLARD: --you're "siffling" money away from that.

FREDRICKSON: Sure. Sure. Well, we'll always have to make sure and take care of Senator Brandt, of course. But, but what I will say is, you know, there's-- so the reality is we are look-- we're going to-- we, we look-- we're looking at a finite amount of money unless we, as a Legislature, decide that we want to prioritize our roads in a different way. Right? So I think it's been acknowledged by this entire committee that statewide there have been issues with roads, whether that's projects that have been delayed, projects that haven't been fully completed. That's something that is a challenge. And this is by no means a, a critique of, of the department that's-- you know, managing and maintaining roads is, is a, is a huge task. But if we're looking at this at a-- sort of like a finite sum, so if you're saying, OK, there's \$100 in this, and if we're going to give X percent to this, this and that, like, yes, there's, there's a finite amount of funds in that. Unless we, as a Legislature, would decide to appropriate more dollars towards ensuring that all of these districts had the funds they needed to maintain the roads.

BALLARD: OK. Thank you.

MOSER: Senator Brandt.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

BRANDT: Thank you, Chairman Moser. Quick follow-up. For clarification, these funds are coming from gas tax, income tax. Where are these funds coming from today?

FREDRICKSON: The Highway Trust Fund, so--

BRANDT: Yeah.

FREDRICKSON: --part of it's gas tax. I'll have to-- I can get you a direct breakdown, but gas tax is certainly a, a--

BRANDT: So this is just gas tax money, gas tax funds that, that you're referring to in this bill.

FREDRICKSON: I, I want to get-- I'll get back to you. Certainly, gas tax is, is a piece of that, but.

BRANDT: OK. And maybe somebody behind you can clarify that--

FREDRICKSON: Can clarify that.

BRANDT: --point for me.

FREDRICKSON: Yep.

BRANDT: All right. Thank you.

FREDRICKSON: You're welcome.

MOSER: Well, I appreciate you bringing up the topic of roads funding. It's certainly an issue. A little bit like education funding and, and I would say a disproportionate amount of money that we spend on TEEOSA probably goes to the bigger cities, more so than the smaller areas. And I would say that property taxes are an issue everywhere. And, you know, I don't know that every landowner gets the value for what property tax they pay, but in the mix, it all has to work out.

FREDRICKSON: Sure.

MOSER: And there are other sources of funding besides the gas tax. The Build Nebraska Act puts \$100 million every year into roads, and it's distributed by roughly the senators' districts. And of that \$100, \$15 million goes to cities and counties or 15%, just happens to work out,

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

it's around \$100 million. And I have a bill that I hope that the Revenue Committee will get scheduled for a hearing to increase that percentage from a quarter of 1% of the sales tax to 0.5%. So I don't know how many senators Omaha and Lincoln have, but 15, maybe 20 times the multiplier. You know, they're getting \$300,000 per district or something like that. So there are other funding sources besides the gas tax. Other questions? OK. Thank you very much.

FREDRICKSON: Thank you.

MOSER: Are there supporters? Proponents? Please come forward. Welcome.

AUSTIN ROWSER: Thank you. Good afternoon, Chairman Moser, members of the Transportation and Telecommunications Committee. My name's Austin Rowser, A-u-s-t-i-n R-o-w-s-e-r. I'm the city engineer for the city of Omaha. And I appreciate your time in hearing my testimony today in favor and support as a proponent of the bill, LB449. I'd like to start by just thanking our friends at NDOT. The, the department has been always very gracious to us and good to work with. We appreciate our partnership and our relationship with them. We appreciate all the hard work that they do for District 2, the city of Omaha. And, and so my, my comments are really related to the funding of that, that district in District 2. And, oh, city of Omaha, we have our own funding. We have our own programs. We do a number of things for ourselves. And, and, and, and I appreciate a district in the way that they advance programs and partner with us as a, a, a, a partner in federal funding that comes along as well. And, and my comments are really related to my role as an engineer, so I'll try to focus primarily on the engineering aspects of it and the asset management aspects of the bill rather than the, the financial and the revenue generation portions of it. But we have, we have a number of state highways within the city of Omaha that, that really are in need of a lot of work in, in some ways. You know, we have others that are in better condition than, than some and just some differing needs within District 2. And our arrangement with the department is that we, the city of Omaha, provides basic surface maintenance of those state highways within our city limits. So that's plowing snow, patching potholes, incidental repairs that come up. We rely very heavily on the department to take on projects above and beyond that, that basic maintenance for state highways that fall within our city limits. One of the topics that I would like to talk about, and, and this is a little more on the preservation side of it,

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

but from a preservation standpoint, the state highways that are within Omaha city limits, we receive about \$700,000 annually for resurfacing of those state highways and city limits. In order to resurface those asphalt segments on a 12- to 14-year cycle, that number would need to be closer to \$2.5 to \$3 million every year just, just to maintain and to preserve that system in a, in a, in a serviceable condition. We are looking at the current surface transportation program that NDOT has out 6 years. There's \$528 million in funding. By comparison, the city of Omaha, we also have a capital improvement program that is \$781 million. And so we, we do look at this as a partnership. And, again, my testimony is related to the proportionality of NDOT District 2 relative to the other NDOT districts. So I'm, I'm really speaking on broader terms than just the city of Omaha as well. Again, we rely very heavily on NDOT to lead on those state highways, to take projects that are above and beyond regular everyday maintenance of those roadways. Traffic counts, that's a significant consideration for me from an engineering standpoint. We see from NDOT's data, District 2 traffic, the average of all traffic counts NDOT has for that is 14,000 vehicle-- vehicles per day on average. That number by comparison, the second leading district is District 1 at 3,257. And safety is also another very important topic that we want to consider. We have-- we've adopted a Vision Zero Action Plan in 2023, every state highway that falls-- that passes through Omaha city limits is somewhere on our high-injury network or our high-risk network. That, that plan, that action plan is currently unfunded. And so we, we would rely very heavily on the state of Nebraska to, to help us with projects on it. Thank you very much for your time. I appreciate you hearing my testimony and I'm happy to answer any questions you have.

MOSER: Questions? Yeah, I think in Columbus when I was mayor, we got around \$35,000 to scoop the snow, fill the potholes, stripe the streets. And, and I don't think that was enough money either. So there's never enough money. Any other questions, comments? Great. Thank you so much.

AUSTIN ROWSER: Thank you.

MOSER: Other supporters? Proponents?

JENNIFER CREAGER: Good afternoon, Chairman Moser, members of the Transportation and Telecommunications Committee. For the record, my

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

name is Jennifer Creager, J-e-n-n-i-f-e-r C-r-e-a-g-e-r, and I appear before you today as a registered lobbyist for the Greater Omaha Chamber in support of LB449. We thank Senator Fredrickson for bringing this proposal to the committee to start a conversation about highway needs funding and particularly how it affects various regions of the state. Excuse me. At the Greater Omaha Chamber, we have had an active transportation council for decades. Transportation policy and funding have long been priorities of ours and we recognize that transportation needs, such as congestion and highway safety, play a critical role in our eight-county regional economic development work. Increasingly, transportation is seen as a non-negotiable aspect of talent recruitment and retention. We know that all aspects of transportation, whether it is a modern streetcar in the urban core of our city or safe and appropriately sized arterials and interstates matter when it comes to creating a place where people want to live. While we fully understand that the Nebraska Department of Transportation has several calculations to take into consideration to best address our whole state's highway needs, we do have the responsibility to advocate for needs specific to our region. Importantly, while we rank last by a wide amount when it comes to per capita funding and the least amount of highway miles in District 2, we also know that we rank highest in traffic counts with many of our highways and interstate interchanges. This is truly not a conversation that needs to turn into an urban versus rural battle. Instead, we want to focus on the most pressing needs in the state, as demonstrated by the data. Although District 2 has roughly 43% of the population, it receives under 20% of highway spending. When you take into consideration other important factors such as congestion, safety, and vehicle miles traveled, District 2's allocation is disproportionately low compared to its needs. With the 2019 Metro Area Travel Improvement Study known as MTIS conducted by NDOT and MAPA that shows expansion projects are estimated to be \$396 million, and preservation projects are estimated to be \$464 million through 2045 and indicating over \$2 billion in current needs, now is the right time for NDOT, this committee, and other stakeholders to begin the next strategic rounds of discussion on Nebraska's highway funding needs and allocations to ensure the MTIS projects are funded. While I am certainly not an expert in all things related to transportation funding, our transportation council members who have worked in this space for years are committed to being partners in this effort with you. We once again want to thank Senator Fredrickson for

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

introducing LB449 to start this important conversation. And we look forward to next steps. Thank you.

MOSER: Thank you. Questions? Senator Brandt.

BRANDT: Thank you, Chairman Moser. Thank you for your testimony. The city engineer from Omaha indicated that District 2-- and I assume the traffic count is per mile of road is 35,000 and, and then District 1 was number two, which is my district was 3,500. I don't know if the count makes as much difference as the weight. I have the opportunity and fortune to live on Nebraska Highway 4, where half of the traffic are semi-trucks that weigh 80,000 pounds or more. And in Omaha, I don't see a lot of big trucks other than right there on the interstate. So I would be more curious-- and, and my point being that these road miles in these rural areas weightwise, probably carry as much traffic per mile as what we're seeing in the urban areas. Would you agree or disagree with that?

JENNIFER CREAGER: I would agree partially, and I would disagree partially. I agree-- I totally agree that weight is a huge issue on the roads, certainly in rural parts of the state. But I do know-- and, again, I'm, I'm not an expert, but I know from kind of being exposed to it that there's a-- we're specifically focused in Omaha about a new truck route because we have so much traffic from downtown up to along 30th Street and up to 680.

BRANDT: OK.

JENNIFER CREAGER: So we have a lot-- we do have a lot of truck traffic that people are maybe not aware that we have through the, I'd say, heart of the city or, certainly, heart of north Omaha up into Florence. Senator Wayne used to talk about that all the time, all the trucks going past Harold's Cafe on north 30th Street. So, so, yes, I think weight is a huge factor, but I do think we do see some of that in Omaha beyond just the interstate.

BRANDT: OK. And I guess maybe in the rural areas-- I don't if your perspective is the same, but I equate truck traffic with the economy of the state of Nebraska.

JENNIFER CREAGER: Definitely.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

BRANDT: You know, these, these trucks are hauling goods, services, grains, livestock and hydrous, all manner of things, all aspects of the state. And I think when we build roads, they need to be held for stout whether they're in Omaha or, or they're in Valentine. And I, I would certainly agree with you that having-- you know, I've driven through Omaha, too, and you guys do need some help there. But I don't know if this is-- I, I kind of like the notion-- would you-- would the chamber be in favor of increasing the sales tax a quarter of a cent to go to roads across the entire state?

JENNIFER CREAGER: Senator Brandt, that's a fair question. I can't-- we have our public policy meeting this Thursday, so I don't want to get a hold of our official policy, but I will tell you that we did support the Build Nebraska Act in the past. We supported the transportation infrastructure [INAUDIBLE]. We've supported-- been on the record supporting other sources of additional funding for infrastructure needs.

BRANDT: All right. Thank you.

JENNIFER CREAGER: Sure. Thank you.

MOSER: OK. Other questions? Yes, Senator Guereca.

GUERECA: Ms. Creager, thank you for coming in today and for your testimony. Are you familiar with the stretch of Highway 75 just south of the interstate?

JENNIFER CREAGER: Yes.

GUERECA: A lot of commercial traffic going in and out of that area. Correct?

JENNIFER CREAGER: Yes. I was going to, I was going to mention that.

GUERECA: What's the major industry for that sort of three-- highway access just south of the interstate?

JENNIFER CREAGER: That would be meatpacking.

GUERECA: Meatpackers.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

JENNIFER CREAGER: A lot of heavy--

GUERECA: A lot of, a lot of heavy trucks--

JENNIFER CREAGER: --livestock.

GUERECA: --coming in and out, fully loaded and then-- yeah, and sent back out also fully loaded. Just as from a, from a citizen point of view, how would you describe the highway conditions of Highway 75?

JENNIFER CREAGER: Challenged.

GUERECA: Challenged. I agree. Thank you.

JENNIFER CREAGER: You're welcome.

BOSN: Hi.

MOSER: Senator Bosn.

BOSN: I told you I wouldn't ask you any questions and--

JENNIFER CREAGER: Yes, you did.

BOSN: --I lied. But this isn't designed to be a trick question, so if you can't answer, I won't be mad. Is there a ratio of relevant number of injury accidents on-- proportionately across the state highway system? I mean, because of the increased number of vehicles in the Omaha area, are there a disproportionate number of injury-related accidents as compared to out in western Nebraska or even CD 1 based on a need?

JENNIFER CREAGER: I don't have official data. I have been told, anecdotally, that the percentage of crashes in District 2 are over 40% of the crashes in the state. So I don't, I don't have any hard data to back that up, but that's been-- I've been privy to conversations about that.

BOSN: Thank you.

JENNIFER CREAGER: Um-hum.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

MOSER: Other questions from the committee? Well, again, I, I don't-- I understand your problem. I, I know the frustration of not, you know, having roads where you want them to go. I-- I've been to ribbon cuttings and grand openings on Highway 30 from Columbus to Omaha starting in 2004 when I was mayor. And I went to, I don't know, 6 or 8 of them. And now, 20 years later, the, the road is just now open. To Senator Brandt's point, you know, we've got-- not in my district, but the next district east, there's a huge packing plant that hauls animals in and out-- in and finished goods out. BD in Columbus hauls hundreds of truckloads of material out west to another plant for further processing. So it's not just all about the population that wants to get around, we've got business to do all throughout the country and we all need good roads to get that done.

JENNIFER CREAGER: If, if I may, Senator Moser?

MOSER: Sure. Go ahead.

JENNIFER CREAGER: I, I was born in Osceola. I grew up in David City. I understand-- my grandparents live in Madison. I lived that 81--

MOSER: 81 is pushed out 15 years.

JENNIFER CREAGER: --I lived that 81 conversation my entire life. So I am-- I, I don't want any of you to take from my testimony that I don't think that the needs are great across the state. I just-- we feel the need to advocate for our district.

MOSER: Sure. OK. Thank you very much.

JENNIFER CREAGER: Thank you.

MOSER: Appreciate you coming to testify. More supporters? Proponents? Welcome.

DON KELLY: Thank you, Chairman Moser, committee members. I'm a Sarpy County Commissioner. My name's Don Kelly, D-o-n K-e-l-l-y. I'm Sarpy County Commissioner for District 1 and the vice chair of the Sarpy County Board of Commissioners. I'm testifying in support of LB449. Sarpy County is in NDOT District 2. And we're the fastest-growing county in Nebraska, so that makes us the growth engine for the state. We take that responsibility seriously and we have made strategic

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

investments in infrastructure with local dollars that have resulted in immediate and significant return on investment. Consider our CONNECTS Sarpy project. We invested \$90 million in the area to build new roads and convert gravel roads to pavement. The area is now valued at \$2.5 billion. Roughly 27% of that growth is new construction, it generated over \$60 million in tax revenue to local governments, and it supports more than a dozen new development sites. The state, in turn, benefited from those increased income and sales tax from this area due to Sarpy County's investment. There is an immediate need and potential for a large return on investment of dollars in District 2 on road and bridge infrastructure. Some of our most pressing needs: a new Interstate 80 interchange between Papillion and Gretna, expansion of Highway 370 from Bellevue to Gretna from four lanes to six, expansion of Highway 50 south of Springfield to four lanes, and the Southern Sarpy Expressway. These projects are concentrated in the southern area of the county where, with proper infrastructure and development, a study shows we could generate billions of dollars in tax revenue and billions in new spending. Platteview Road in southern Sarpy expects to see six times the traffic that currently exists in that area due to our sewer expansion project. An expressway in southern Sarpy will connect I-80 and I-29 through Sarpy County. It will offer rapid access to both of Nebraska's most populous cities, serving 1.3 million residents within 1 hour's drive time. The southern Sarpy location is attractive to residents as well as to commercial and industrial businesses that move goods and services through our region. To support the region's population growth, foster new business, and avoid commuting issues, Sarpy County is planning to construct the Southern Sarpy Expressway. We are investing approximately \$100 million just this year to start that project, but this only funds a very small portion of the overall cost. Unlike the CONNECTS Sarpy project I referenced earlier, we cannot build an expressway alone. We need help from the state. Bottom line, the state's increased development in District 2 would be a win-win for Sarpy and for the district and a win for the economic health of the state of Nebraska. Thank you for your time. I look forward to your questions.

MOSER: OK. Questions from the committee? Senator Storer.

STORER: Thank you, Chairman Moser. Thank you. I-- I'm a fellow commissioner, al-- albeit in Cherry County. So I guess, I, I can certainly appreciate the challenges with certainly wanting-- needing,

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

needing to match the, the needs and the wants and how to pay for it all. With-- you mentioned Sarpy County is the fastest- growing county, correct?

DON KELLY: It is.

STORER: And as those-- I mean, that growth certainly is tied to economic growth which is bringing in more dollars to the county through--

DON KELLY: It is.

STORER: --tax collection. Is it, is it fair to say, you know, your resources grow as well for roads funding within the count-- your county portion of resources are going to grow proportionately with that economic growth?

DON KELLY: It's fair. But you have to remember Sarpy County is the smallest county in the, in the state, and they allocate a lot of the road dollars by road miles. So let me just give you an example of what our funding looks like. And I'm speaking only for Sarpy County District 2 here. We get about \$20 million a year in total through highway allocation, through roads and bridges, buyback funds and in motor, motor vehicle sales tax funds. So just for the sake of simplicity, let's just call it \$20 million a year. \$10 million of that goes just to upkeep, to grade gravel roads, to, you know, put asphalt overlays, to replace culverts, etcetera. And that leaves us \$10 million for new construction. \$10 million. So the only way that we can finance big projects, major arterials that move a lot of people east and west and north and south is to bond. And we've been responsible about it. But we're-- with this \$100 million bond that we're going to let to start the expressway in southern Sarpy, we're going to be topped out on our ability to do any more financing for probably the next decade or two because we, we maintain a triple-A bond rating and, obviously, we got too much debt leveraged that will affect that and that, that affects us long term and the interest rates we're able to obtain on the bonds and how fast we can actually do the construction. So I, I guess I would say I'm not here to whine about anything that Sarpy County is or isn't receiving. I mean, perhaps the greater question is, is-- does Director Kramer and the Nebraska Department of Transportation have enough resources to meet what seems to be

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

unlimited demands? I have traveled this whole state and I've been in Cherry County and I've been on some roads that are fabulous and they need fabulous roads in Scottsbluff and McCook and North Platte and Hyannis and everywhere else across the state. But there's only a limited amount of funds, and we understand that. But when you talk about the actual return on investment, that's coming from Sarpy County, Omaha, and District 2, because that's where the overwhelming majority for size. And so I think that the premise of this bill, and we thank Senator Fredrickson for bringing it, is to plow a little bit more return on investment back into those folks that are, that are doing the heavy lift with the input on the input side.

MOSER: OK. Any further questions? Senator Brandt.

BRANDT: Real quick. Thank you, Chairman Moser. Would you be in favor of increasing the state sales tax a quarter of a percent to get more money for your roads?

DON KELLY: Don Kelly definitely would be.

BRANDT: OK.

DON KELLY: But I can't speak on behalf of the board, but I think, I think something like that is-- these are-- this is very important because I don't know how else we're going to be able to achieve plowing more money in-- into roads.

BRANDT: All right. Thank you.

MOSER: Senator Ballard.

BALLARD: Thank you, Chair. Thank you for being here, Commissioner. Assume this would pass, do you have any concern that Douglas County in Omaha would then utilize most of the lion's share of the-- what, what the-- what District 2 now possesses? And-- because you have big projects in Sarpy County. And I'm sure Omaha and, and Douglas County have big projects as well. What's your relationship?

DON KELLY: Well, certainly we're in their shadow. I mean, they're three times the size of us, and we understand that. But each, each district has a, a director that, that we interface with that, that are-- they're, they're, they're fair brokers. And, and I know the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 10, 2025
Rough Draft

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

Nebraska Department of Transportation under Director Cramer, they're fair. They allocate funds where, where they'll have the most impact and, and, and effect for the population that it serves so I'm not concerned about that.

BALLARD: Thank you.

MOSER: OK. Any other questions? Thank you very much.

DON KELLY: Thank you.

MOSER: OK. Any more supporters? Proponents? Welcome.

BRUCE BOHRER: Thank you. Good afternoon, Mr. Chairman, members of the Transportation and Telecom Committee. I'm Bruce Bohrer with the Lincoln Chamber of Commerce. For the record, that's spelled B-r-u-c-e B-o-h-r-e-r. The Lincoln Chamber supports Senator Fredrickson's and others' efforts to push for a meaningful discussion about revenues for infrastructure investments. I'm really pleased with the way this discussion has gone, and I try to sit there and kind of think about, you know, how, how do you feel if you're from another place in Nebraska when you hear somebody talk about this? And, and it can be a very hard thing sometimes to hear, you know, maybe people suggesting, well, you know, we, we deserve this money more than you do or something like that. But I really see this as kind of an extension of a principle, if you will, that our board has adopted when we talk about tax policy generally, somebody mentioned it earlier about funding for schools. There's always-- imagine if you didn't get a readout on your funding for schools on, you know, how that changes. I think there's a bill in the Education Committee this afternoon if you didn't get a readout on how that impacted your schools. The way I read this bill is starting a discussion about how we should be focused on the data. I, I think if I heard correctly when some of the proponents said we, we believe we've extrapolated from the data that this is what the proportion or disproportion would be. But I don't think-- I think when you look at the fiscal note, it says the department doesn't really have this data. And so that really is counter to a principle that we have as a board saying we should be driven by data for all the data crunching that we have in this world and all the computer capacity and the AI that we have, it's almost inexcusable that we make decisions like this without really knowing. I mean, we extrapolate. We

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

have conjecture on, well, there's this many, a number of population. It makes sense to me that the higher your population, if you, you, you know, your revenue stream is based on auto, auto registrations and also gas purchases, that there are going to be more gas purchases and auto registrations and population centers, more density there, too. So I, I hope we can start this conversation. We do have a lot of needs. I'm not going to belabor that. You've already heard from other population centers. Ditto for us. We've got a South Beltway we just built with the help of the state. I do want to make sure I also make a comment about how much we appreciate the professionalism and the expertise of Director Kramer and her team. We've got an incredible team at the department. We've got incredible people locally, too. I think everybody can agree on that. I'll just wrap up with saying, to me, this is mostly a reminder from what Alan Biermann used to say, the sermon on the amount. And it's the sermon about who's paying for what. And what, what exactly? I don't think we really even know. I mean, again, back to the fiscal note, I don't think we really have the data that we all should want as people concerned about the entirety of the state and how we all grow as one Nebraska. I think we can all agree that that's a, a goal that we should all have an, you know, agreement on.

MOSER: OK.

BRUCE BOHRER: I'd be happy to answer any questions.

MOSER: Questions for the testifier? Senator Storer.

STORER: Thank you, Chairman Moser. You're correct, there's never probably going to be a total agreement on how to, how to allocate funds. There's-- and there is likely to fluctuate needs and, and, you know, depending on weather, depending on growth and communities that are trending at different rates at different times throughout a decade. Right? So that's why a, a formula that sort of locks NDOT in is really problematic to me. And when I-- I would, I would challenge you a little bit on your comment that we haven't been making decisions based on data. You know, just looking at the language of the statute as it is today is certainly databased traffic volume, right, is a very clearly databased issue, demographics, economic development in terms of different areas that have projects that, you know, there's a, there's a large packing plant in North Platte now that's going to

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

increase the need, but that need may wane off once those, those projects are completed. So, you know, I, I hate to see the conversation become sort of a push-pull of, you know, we're going to get out of something exactly what we put into it, because our communities and our, and our road districts are not islands in and of themselves. I think most of us would agree that we, across the state, with the different economic regions all are interdependent on one another. And if we didn't have good road systems coming in and out of our urban areas, that would not be helpful for the, for the long-term development of our urban areas. And the same is true for the rural parts of our state. We wouldn't be able to, to get things. So, so the whole concept that the statute is currently written to address is a holistic approach which really provides some flexibility for NDOT to make decisions in a fluid, fluid way of where those dollars need to be allocated. So, I mean, is there-- I guess, I'm probably making a statement more than I'm asking a question. But, you know, I would-- would you agree that we, we do currently make decisions with data, that it is not, it is not absent of databased decisions?

BRUCE BOHRER: Yes, absolutely, Senator Storer. I, I would take your point on we, we are data driven on some aspects of the data that you mentioned, and that's important. And I couldn't agree more with you as far as a holistic approach. And my, my main point on that is tax data specifically. And, and going back to my comment, just it, it matters. Our constituencies, as, as your constituencies, I'm sure ask what are we paying for? What is our share of this? What are we-- the, the previous testifier, what is our return on investment? Why are we being asked to do this? Somebody else earlier referenced the federal highway bill. We used to have a debate on the federal highway bill about how we were. At times, I think 20 years ago we were under a highway bill, a donor state, which is highly unlikely for a, a small state like, like Nebraska. But we were a donor state. We actually gave more federal dollars than we got back in federal money. And the feds fixed that with that 95% allocation. I, I do think you've made really some good points about how we, we do need to be careful about this. I'm just going to go back to, though, on tax data, and you know this, all of you know this, this is the sensitive part for all of your constituents. What am I paying? What am I getting back? And so I hope you're not surprised that the Lincoln Chamber guy is here trying to advocate for Lincoln and the Lincoln area. I, I will say this, too. I

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

was born in Hebron, grew up in St. Paul, Holdrege and Blair, and have landed here in Lincoln for the last several years. I've got two out of my three boys that work all across the state. I love this whole state and I think we should still not shy away from having discussions that might be hard to have, but I really think they are necessary.

STORER: Thank you. And I would just say, every time I write my tax check, I always ask that, what am I getting back for this?

BRUCE BOHRER: Yeah.

STORER: I couldn't agree more.

MOSER: You're keeping your farm and staying out of jail paying your tax. Well, you know, it's, it's a little hard to listen to some of these tales of woe when, you know, Lincoln's got Nebraska football and they just got a \$300 million South Beltway and, and we've been trying to finish Highway 30 from Columbus to Omaha for 25 years. And this-- the South Beltway came up, boom, they funded it. The state paid for it and, you know, it got built. So, you know, I, I understand, you know, you have needs, but I think you should be thankful that you've done, I would say, done pretty well.

BRUCE BOHRER: We are thankful. Chairman, can I make a comment, though?

MOSER: Oh, sure. Please.

BRUCE BOHRER: The South Beltway included a \$70 million local effort contribution. And, I mean, the point of this bill and the fiscal note that I referenced, we, we really don't have anything that we can point to that the state has where we can say, OK, you said you're lucky to have this. It's a, it's a big project and we are lucky. But do we know how much money came out of the Lincoln region or District 1, Highway District 1 to help pay for it? That was, that was-- people that drive the streets in Lincoln helped pay for that, too. And, you know, I, I, again, go back to my general point about this, we, we ought to really have an understanding based on people that really do it for a living to define this for us rather than just conjecture and, you know, kind of trying to take a guess at it.

MOSER: OK. Thank you very much.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

BRUCE BOHRER: All right. Thank you.

MOSER: Thank you. More proponents? Supporters? How about opponents? Is there anybody in opposition? Welcome.

TYLER CHICOINE: Thank you, Senator Moser, members of the Transportation Committee. My name is Tyler Chicoine. That is T-y-l-e-r C-h-i-c-o-i-n-e, and I am president of Garcia Chicoine Enterprises, Milford, Nebraska. I'm also a past president of the Associated General Contractors, Nebraska Chapter, 2011 and 2022. Today, I am testifying in opposition to LB449. I have a lot of things to say, but this has been amazing testimony today and you're going to hear very similar things from everybody. They're all going to pretty much revolve around funding issues. But, ultimately, it has been the policy of our AGC's Chapter to not interfere with or direct the NDOT in the ways and means of which they allocate moneys to their spend-- specific projects, districts, etcetera. Preserving our, arguably, the state's largest asset, its highway system, should be the first and foremost priority. Capital improvements, I mean, very, very important to whether it be District 1, District 2 or even other capital improvement projects that have to do with railroad crossings are extremely vital all across the state. A priority of funding based upon a district is earned will have drastic impact on 90% of all the other lane miles that are not located within District 1 and District 2. In fact, ultimately, there's a portion of at least two state highways that I'm familiar with that are not paved today. There's still gravel. These are state highways, mind you, but those are in rural areas, obviously. The NDOT releases its needs assessment on an annual basis to this committee. And part of that needs is a shortfall in funding. In 2011, I testified to this committee on the importance of LB84, which at the time was proposed as a half cent of the state sales tax. It passed into law at a quarter cent of, of the sales tax. Today there is a bill, LB479, which is proposed increase the BNA funding back to its original proposal of a half cent. Nebraska ranks 25th in the state in cents-- in, in gas tax cents and 38th in the United States total average price at the pump. If funding is the true issue of, of what we're discussing today as it relates to the needs, we should instead be focusing on these topics: motor fuel tax, user fees, as well as the NDOT's appropriation budget and utilizing the variable fuel tax, which was used to perfection during the COVID shortfalls in 2020. The variable fuel tax is not a political tool. There are no votes for the opposition to be used

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

against any-- anyone of you. And should be used properly to address, address the needs. I, I appreciate the opportunity to testify today. Thank you for that. And if there are any questions, I'd take them.

MOSER: Questions from the committee? Senator Guereca.

GUERECA: Mr. Chicoine?

TYLER CHICOINE: Chicoine.

GUERECA: Perfect.

TYLER CHICOINE: That's not too bad for your first try.

GUERECA: Thank you for your testimony. I just want to clarify, are you here on behalf of, of your business or on behalf of Nebraska AGC?

TYLER CHICOINE: I'm here on behalf of the Nebraska AGC. Garcia Chicoine is out of the Milford, Nebraska area, sits pretty much the, not the heart of District 1. But, again, I'm here on behalf of the AGC. Our AGC Chapter has always had-- we try to let the experts decide where, where the funding mechanisms go and measurements go. That's not, that's not my job, but anyway that's-- I'm part of District 1.

GUERECA: Gotcha. Thank you.

TYLER CHICOINE: Um-hum.

MOSER: Senator Brandt.

BRANDT: Thank you, Chairman Moser. Thank you, Mr. Chicoine, for appearing today. You said something that's very interesting to me. It's road miles. So if we're talking, you have 35,000 cars in Omaha and they drive 1 mile because their grocery store, gas station, school is in 1 mile and you got 3,500 cars in Cherry County and they have to drive an average of 10, 10 miles, basically, it's a wash. Do they-- in your industry, is that how you measure things in road miles? I mean, do you take into account-- does any of the data take into account how far these vehicles drive not just that you've got the most vehicles, but on average how far they have to travel?

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

TYLER CHICOINE: I don't think I'm educated enough to answer those questions.

BRANDT: Oh, all right. OK.

TYLER CHICOINE: I mean, I'd love to give you my own personal opinion, but I, I, I, I don't think that's relevant.

BRANDT: You're more of a road grader kind of a guy is what you're telling me.

TYLER CHICOINE: I'm not in the, the road grading industry either.

BRANDT: OK. Thank you.

MOSER: OK. Any further questions? Thank you for your testimony.

TYLER CHICOINE: Thank you much.

MOSER: Any other opponents? Welcome.

SEAN VONTZ: Hi, Senator Moser, members of the committee. My name is Sean Vontz. It's S-e-a-n V-o-n-t-z, and today I'm testifying in opposition to LB449 on behalf of the Associated General Contractors, Nebraska Chapter. AGC is a trade association of highway contractors who perform highway, bridge, and municipal utility infrastructure work across the state. And that's what I'm a member of. I do want to thank Senator Fredrickson for raising this topic. And while the bill seems reasonable on face, we think it isn't good policy for the state of Nebraska. If you think about it, the Department of Transportation is responsible for a statewide transportation system. All the pieces of it need to work together, even places with fewer people have agricultural products that need to get to market. Kids that need to get to school and products that need to be shipped in and out of manufacturing plants. While population should obviously be a strong consideration of where the DOT spends dollars, we are worried that passing this bill would have unintended consequences and result in the department and our road builders being less efficient and effective in using tax dollars we have to build and maintain our infrastructure. In addition, we are concerned that this requirement would jeopardize the department's ability to devote resources where they are most needed in any particular year to preserve the assets that we already have built.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

And that leads to my final point, what today's conversation really sparks is the need to further discuss whether Nebraska is generating enough funding for roads. The latest needs study presented to this committee and the Appropriations Committee in December indicated that we were around \$150 million short annually in funding. As you all know, these unmet needs are both in urban areas and in every corner of our state. AGC thinks closing this funding gap is where we should be focusing instead of trying to pinpoint a specific percentage to spend annually in each district. Thank you and I'd be happy to answer any questions.

MOSER: Questions from the committee? Seeing none, thank you very much.

SEAN VONTZ: Thank you.

MOSER: OK. More opponents? Welcome.

KATIE WILSON: Good afternoon, everybody, Senator Moser, members of the Transportation and Telecommunications Committee. My name is Katie Wilson, K-a-t-i-e W-i-l-s-o-n. I'm the executive director of the Associated General Contractors of America, Nebraska Chapter. Today, I'm testifying in opposition to LB449. AGC Nebraska is a trade association of highway contractors. And this has been a very tough bill for my membership. In the end, my board chose to oppose. But my members do build the roads, bridges, airport runways, municipal utilities in every corner of the state. So focusing on funding where revenues are generated is tough for us. However, it allows us to focus on funding and the vast needs of our state. While it may seem logical to allocate resources based on revenue generation, this approach fundamentally is concerning and overlooks the diverse needs of our state. Nebraska is a large state with just short of 200,000 lane miles, 91% are rural, 9% in urban areas. AGC supports preserving all of our roads regardless of whether they're urban or rural. When we fail to invest equitably in preservation and capital improvements, we are effectively sidelining the needs of many Nebraskans and jeopardizing their safety and well-being. A fair and needs-based approach to road funding is essential for sustaining and enhancing our state's economy. That leads me to my final point. I think today's testimony shows one area where we all agree Nebraska needs to have a serious discussion about whether we are generating enough funding for our roads. This committee heard in December at the Appropriations and

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

the Transportation joint committee hearing, \$150 million is a shortfall in our funding structure. This need is statewide in both urban and rural areas. AGC feels strongly that closing that funding gap is of critical importance. Let's focus on growing the pie rather than redistributing our current one. And thank you all. I'll answer any questions.

MOSER: Questions from the committee? Thank you for testifying. More opponents? Welcome.

VICKI KRAMER: Thank you, Senator. Glad that we could re-caffeinate, too.

MOSER: Yeah. I got to stay awake.

VICKI KRAMER: Well, I'm, I'm happy where the conversation has gone. So good afternoon, Chairman Moser, members of the Transportation and Telecommunications Committee. My name is Vicki Kramer, V-i-c-k-i K-r-a-m-e-r, and I'm the director of the Nebraska Department of Transportation. I'm here today to testify in opposition to LB449. LB449 seeks to impact how Nebraska invests in our highway system through a prescriptive process that is not capable of being implemented within current revenue collecting processes. This bill removes NDOT's statutory obligation to prioritize the condition of our roads before making additional investments when it's proven to be more cost effective to maintain roads and in good condition through ongoing maintenance than it is to let the asset deteriorate to a point where it needs to be repaired and repairs will be more costly. For these reasons, asset preservation was determined to be the primary priority of the department and makes it the largest category of our projects in our annual needs assessment. LB449 does not, does not attempt to set a new priority or rank other factors which are currently used in program projects such as traffic volume, safety requirements, economic development, etcetera. Instead, it removes from statute the clear legislative intent to focus on these priority areas. The department is even more concerned by the provision that states 70% of highway revenue raised in each district shall be allocated to projects in that district. This would be detrimental to the department's ability to manage this entire system by requiring what we anticipate to be the majority of revenue to be spent in the most populous counties such as Douglas and Lancaster. Unfortunately, this increase comes at the

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

expense of the maintenance of the network in Nebraska's less populated and more rural counties. While population may be centered in the state's metropolitan areas, the highway system is not, and agricultural and manufacturing industries count on the quality of the system. While there would be an increase in funding to the state's metropolitan areas, the vast majority of counties would lose out on funding they currently receive if this provision were to be enacted. The remaining highway districts may have to wait several years to save up for funding to complete projects such as the four-lane expansion of Highway 81 and U.S. 275, which would lead to deterioration and increased project costs due to inflation. Just to note, with the enactment date of this bill, that means all current projects are subject to being pushed back. So 275's plan would go away. With that being said, we understand Senator Fredrickson's intent to cultivate a conversation regarding highway revenue being directed to Omaha and is sufficient enough to meet the growing needs, which I consider a fair question. As such, we provided in your handout information referencing the 1, the 5-year programs as well as the MTIS study that's been referenced previously, as well as some of the documentation that we put together in order to understand what the actual investments look like based on the counties that we've looked at. While we understand the question, we do not support losing the ability to manage the condition of the state's highway system as a network, especially given the existing \$17 billion in needs. I would also like to note the logistical concerns about actually determining where highway revenue is generated from since the department does not have a collection tool capable of capturing where motor fuel is purchased, since motor fuel taxes are collected at the distributor level by the Department of Revenue rather than individual gas station locations. I'd be happy to address any questions regarding the logistics or some of the questions we've had on lane miles. And thank you for your time, Senators.

MOSER: OK. Do we have questions for Director? Yes, Senator Guereca.

GUERECA: Thank you, Director, for coming and for your testimony. So how is currently vehicle miles traveled considered and what factors-- what other factors does NDOT look at when you're looking at future growth?

VICKI KRAMER: Yeah, absolutely. So I, I want to kind of level the playing field right now. So when we're talking about the Greater Omaha

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

area or District 2, as we have eight different districts, District 2 has about 5% of our total lane miles. And so as we look at that, we can factor in a lot of the different things that are in statute, whether it be ADT or traffic volume, safety, those different pieces. But, really, it's the quality of our roads. We drive our roads every year, and that goes into the Nebraska Serviceability Index. So we manage the quality of our roads on an annual basis to understand what that looks like. So there are a lot of different ways that we can put that economic impact with ADT in those different pieces. But I think it's important to understand, especially since it's been said that it's not data driven, that those data points on the quality of our roads are captured annually. And that's how we calculate the Nebraska Serviceability Index, which essentially says this is where the department should spend the money because these are the roads that are good, these are the roads that are bad. Many different things can impact the quality of the roads, Senator, like you said, and as Senator Brandt has spoken to, freight is going-- trucks are going to damage our roads much more than just your typical traveler. And so we can't factor in just ADT because that doesn't capture the true deterioration of the roads. You need this larger scope and you need to be able to manage that annually understanding what that serviceability index is for that one particular highway.

MOSER: OK. Other questions? Senator Brandt.

BRANDT: Thank you, Chairman Moser. Thank you, Director, for testifying today. So you said that District 2 has 8% of the road miles.

VICKI KRAMER: Five.

BRANDT: 5%. OK. So we have got eight districts, rough math, if you divide-- if all things were equal, they'd all have 12.5% road miles. Is that right?

VICKI KRAMER: Yes.

BRANDT: OK. Rough, rough numbers.

VICKI KRAMER: Yeah.

BRANDT: What percent of the money do they get? Do they get more than 5%?

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

VICKI KRAMER: They, they do. So if, if you look at your sheet that looks like this one, we actually ran some of the numbers so that you could understand kind of where we're at. And we also ran what the potential numbers would be. And so you do see an increase actually just for Lancaster County folks. Right now, our estimate is that they would actually lose money based on this model because of their total lane miles. So you'll see that their, Senator, lane miles are about 16% of our total network, whereas the Omaha area that we're talking about in District 2 is 5%. And so you'll see that District 1 would go up to-- or sorry, District 2 would go up to about \$93 million under our estimate. And, again, like we said, a lot of this is based on registration and other pieces. It's very hard to estimate where this would look like in terms of fuel tax, since we don't currently collect it that way, nor are we aware of a way in which we could actually collect it.

BRANDT: All right. Thank you.

MOSER: Senator Storer.

STORER: Thank you, Chairman, Chairman Moser. And thank you, Director Kramer. Just for-- help me-- I'm always good at having sort of real-life application examples of what this would look like as well. Under the proposed model in Senator Fredrickson's bill, what, what limitations-- let's just use 2019, because that was sort of a catastrophic year for a lot of the state of Nebraska in terms of for flooding, weather events, and, and, and decisions that NDOT had to make. And I know that I'm not going to pin you down to exact numbers, but generally, you know, under this model, how would that have changed your ability to make decisions in a year like that?

VICKI KRAMER: So it would drastically impact it. So when we have a large-scale catastrophic incident like the flood, really, we put our program on hold to understand where those-- the needs are going to be because we're reacting to recovery has to come first because then you're looking at preservation, right? And so with recovery, you're looking at is it short-term recovery? So is it just plowing the roads and doing some resurfacing or are you going to have to completely redo those bridges? So if you think about it like this, those bridges that we had to redo up at 281, they wouldn't have gotten done and they definitely wouldn't be gotten done as quickly as we got them done. So

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

this rediminishes the number one rule of thumb we have in ER event or emergency relief events, which is you have to reestablish mobility for that community. It wouldn't be done in real time.

STORER: OK. Thank you.

BALLARD: Yes.

MOSER: Senator Ballard.

BALLARD: Thank you. Thank you.

MOSER: It's hard to interpret the waves sometimes. Sometimes they're just scratching their heads.

BALLARD: Thank you, Director, for being here. In your testimony, you said you have \$150 million deficit needs. How do you determine needs and then how do you prioritize those needs?

VICKI KRAMER: It is a very calculated process, and so-- good question-- every, every-- annually, every year we look at our 20-year needs across our system. So we look at what are we going to have to invest in over those next 20 years. So are we going to have to program a change here? Does this need to be resurfaced? Do we need to have a four-lane expansion over here? And so that goes into a spreadsheet. So we determine and we make sure that we don't count-- we don't double count across our preservation, our monetization, and our capital improvements. So maybe we're modernizing that road. At the same time, we may be in the future during capital improvements. How do we manage that? It's a 20-year process. Every year we look at that, we total up those costs both in today's dollars as well as in 20 years forwards dollars. That's where we get our total needs. So if we were to, if we were to address everything that we need that we see is not in good condition, how much would it cost? And so as we look at what our needs are, we've started to say how quickly can we get to the projects we need to get to in a timeline that we need to get them to. And so that's where you get that 150-- into that 120 to 150, depending on how we calculate it, in annual needs. Does that--

BALLARD: That does. And then, and then is economic or population growth, economic growth a determination in that formula?

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

VICKI KRAMER: So this has come into question several times of how we actually calculate prioritization of our capital improvement projects. I want to make sure that we all understand that we're still building off of a list that was greenlit in 1988. Right? So we've had several different adjustments to that as we've gone forward, but we haven't started factoring in some of those projects that have been discussed today, like the Sarpy County Beltway, because it wasn't-- there, there is no future funds that we can allocate to that because we're still allocating out past 2045 the projects that were greenlit in 1988. And so our prioritization process, when we went through in the Transportation Innovation Act, we looked at what are some of those new things that should be brought into the actual fold of capital improvement projects. Highway 92 is one of them. Those are-- those conversations are starting. It's, it's a matter of data and what's coming out. Lincoln South-- or the Fremont Southeast Beltway is a good example to where we had a company come in and that project actually moved up because there was a \$25 million investment from the local community in order to prioritize that project. If we do have either industries that come in or industries that are communities that are growing, we factor it in. But we haven't done a large-scale initiative that relooked at how we prioritize projects because there are no funds for those projects.

BALLARD: OK. Thank you.

MOSER: Senator Guereca.

GUERECA: Is road congestion currently affecting the project selection?

VICKI KRAMER: No.

GUERECA: So when you're prioritizing [INAUDIBLE] preservation, how do you determine current conditions and what's the threshold for that repair resurfacing?

VICKI KRAMER: I don't know exactly what you're getting to, but can I answer one question because I think it comes into play a little bit through what we've been discussing? Are we discussing prioritization or are we discussing capital improvement projects? Because from what Omaha's testimony was, it was much more capital improvement projects and congestion would be tackled in with capital improvement projects.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

And so to really answer your question, it is when we get to, like, the MTIS projects and we start to program those. So we do value congestion within our programming of projects, but not within asset preservation and the allocation that they get. So Omaha does receive a, not what, not what I would consider a portion, but we do invest in Omaha through Build Nebraska Act and other different programs on capital side. The preservation side is very much what is the status of this road over here? Doesn't matter what kind of traffic it looks at or what kind of traffic it carries, we look at the actual quality of the road and we do that annually. And so a lot of things can shift. But when you get to the capital improvement piece and the modernization of the system, then we're looking at what kind of traffic is it? Is it level F, meaning by the federal standard it's completely broken or is it still maintaining kind of that level C where it can be operational and you have that 30-minute kind of traffic jam?

GUERECA: I think, specifically, if you're looking at preservation, like what, what factors do you look at specifically to determine that condition of whether or not you need to come in and, and, and do that maintenance?

VICKI KRAMER: So-- I mean, we're looking at deterioration of the roadways. So you're looking at the smoothness of the ride. Those kinds of pieces, is that what you're looking for?

GUERECA: Yes.

VICKI KRAMER: Yeah.

GUERECA: Yeah. Are these standards the same as the federal standards or are they more stringent?

VICKI KRAMER: We're going to use federal standards on our roadways. And so it, it's a little different because the Nebraska Serviceability Indexes are indexed. So if you're saying that, could we accept risk and would we lose federal money if our standard or quality of roads went down? No, we wouldn't. But we like to keep it to a point where we can measure it consistent with our peers across other states. So if you look at the I-80, you want to make sure that you can have the same level of expectation and the same drivability and, and driver expectation across the entire system.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

GUERECA: Thank you.

MOSER: Can I ask a question about this color chart here with the blue, the pink, and I don't know what that is, green? It's kind of a color test here. Does that indicate that LB449 would reduce the BNA allocations for District 1 and 2? Currently, they--

VICKI KRAMER: Yes.

MOSER: --get \$16 million a year and with LB449--

VICKI KRAMER: And these are--

MOSER: --it would go down to \$3 million?

VICKI KRAMER: And, again, BNA isn't by district. We don't give exactly that amount per district. But if we ran these and we were to essentially follow this guidance, yes, it would. Based on what we've been, what we've been investing versus what we would be investing. Yes. But in the, in, in the, in the past, we have not been calculating BNA by the same way that we calculate what would be the highway allocation.

MOSER: So if the percentage of the sales tax, not necessarily increasing the sales tax percentage, but if the allocation of the current sales tax was increased from a quarter of a percent to a half percent, that would raise \$100 million a year or something like that more?

VICKI KRAMER: Yes. Yes.

MOSER: And you're short how much? 150?

VICKI KRAMER: 120 to 150 is [INAUDIBLE].

MOSER: So that would help fill that gap?

VICKI KRAMER: It would. Yes, sir.

MOSER: Yes, I'll write that down. Thank you. I hate to put you on the spot. All right. Other opponents? Thank you. Welcome.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

BRANDON DESH: Thank you. Good afternoon, Senator Moser and the members of the Transportation and Telecommunications Committee. I'm Brandon Desh, B-r-a-n-d-o-n D-e-s-h. I'm the ACEC Nebraska Legislative Committee chair and a civil engineer at Benesch, which is an ACEC member firm. ACEC Nebraska is the American Council of Engineering Companies in Nebraska and we represent 46 engineering firms doing business across the state. On behalf of ACEC Nebraska, we respectfully oppose LB449 because we believe the responsibility of assessing infrastructure needs should be determined by trained professionals, professionals such as Director Kramer and her team, engineers, planners, other consultants that assist them and who have the education, experience, and knowledge necessary to determine the needs of communities across the state and make decisions based on their professional judgment. It's really been well said, I guess, before this so I won't-- I don't really have anything else to add from that perspective. I think the testimony has shown that these are very technical issues and the ability to maintain the entire system across the state is of high importance and critical to the, the infrastructure needs of the state. And that should, in our opinion, be left to those that do that at the Department of Transportation and their team. If you have any questions, I ask those at this time.

MOSER: Questions from the committee? They let you off easily, I guess. Thank you.

BRANDON DESH: Have a good day.

MOSER: Any other opponents? Is there anyone here to testify in neutral? Senator Fredrickson, come on up then.

FREDRICKSON: Thank you, Chair Moser. I think this might be my most controversial bill I've ever brought. It's kind of exciting. So I, I just want to thank all the testifiers who, who came here today to share both their expertise and, and perspectives and viewpoints on this. I think this is-- certainly, I agree with many who spoke ahead of me, which that this has been, I think, a really nice conversation starter. I think Senator Storer made an excellent point about how we are very all interlinked throughout the state and, and for the economic develop around that. I did look into-- I know there was a few questions. I wanted to just sort of highlight a couple of things. Senator Brandt, you had asked about how this is funded? So it's both

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

the gas tax, but the other two funding mechanisms are the motor vehicle sales tax and the motor vehicle registration fees. But the gas tax is the largest driver. The one thing that, that did get brought up that I think is really worth us thinking about as a committee and perhaps this is a conversation with the department as well is we, we-- I'm hearing that we don't have clear data on where gas tax is being collected or how much gas tax is being collected per transportation district. And the reason that I say that that might be important is that that's going to obviously inform a lot of the data-driven decisions we're making around this. But even further than that, I know Senator Brandt asked about, you know, distance of who drives the most. I mean, one way to find out which roads are being used the most would simply be where's the most gas being purchased? Right? If the most gas is being purchased in District 2, that would indicate that the most road travel is happening in that district because more people are filling up their gas there. The other thing I looked into was the department's reports on truck traffic. I know that was a conversation that was had about Omaha roads not necessarily having heavy trucks. And you're right, District 2 only has 5% of the highway roads, but it has the most number of trucks on our roads. So we have around 737 trucks based on the department studies. The next highest is District 1 with 359 trucks, then it goes to District 6 with 350 trucks, District 3 with 308 trucks, District 4 with 299 trucks, District 5 with-- District 4 with 299 trucks, District 5 with 254 trucks, District 7 with 217 trucks, and District 8 with 172. So District 2, even though it is an urban area, we by far have the most trucks traveling on the roads in our district. So, again, it's a bigger conversation. This is based on NODT's traffic studies. And so-- that I think we need to be having. But, again, I think where we can all agree is that road funding is something that is needed throughout the state, not just in any specific district and something that we should be looking at as a Legislature to prioritize.

MOSER: OK. Questions? Senator Brandt.

BRANDT: Thank you, Chairman Moser. Thank you, Senator. That truck number you just gave is that trucks per mile?

FREDRICKSON: I'd have to ask the department. It's based on NDOT's traffic studies though.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

BRANDT: Because if it's based on the amount of miles in a district, you would have the most because you have the fewest miles as opposed to a district that has a lot of miles where the trucks are spread out. Could you get back to me on that?

FREDRICKSON: I would love to. Yes.

BRANDT: OK. Thank you.

FREDRICKSON: You're welcome.

MOSER: Other questions from the committee? Thank you.

FREDRICKSON: Oh, Senator Storer.

MOSER: Oh, I'm sorry.

STORER: I was late. I was late.

MOSER: Yes, be quick.

STORER: Thank you, Chairman Moser. I've been processing the-- and I'm just offering this as an example because this is such a-- we do have such a diverse state. But in terms of-- I, I would suspect that part of the reason it's hard to determine the motor fuel, motor fuel tax allocation specifically-- for example, I get to go home Thursday and I'm really excited about that. And I'm going to fill up here in Lincoln and I'm going to end up-- I'm going to drive through 2 or 3 road districts to get home. And, and, and that's just-- we do-- this state is interconnected in such a way that-- I don't-- it's really difficult to say this because you are buying your gas in one district--

FREDRICKSON: Filling up your gas. Yep. Yep.

STORER: --that that's necessarily where all the miles that are being put on occur. And so I just offer that as an--

FREDRICKSON: I think it's a fair point. Yeah.

STORER: --illustration.

FREDRICKSON: Um-hum.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

MOSEER: All right. Other questions from the committee before we let-- all right. Thank you very much, Senator.

FREDRICKSON: Thank you.

MOSEER: Appreciate it.

FREDRICKSON: Appreciate it.

MOSEER: That'll end our hearing on LB449. We had two proponents, six opponents, and no neutral testifiers online. LB225. Guereca. Welcome. Welcome.

GUERECA: Thank you. Good afternoon, Chairperson Moser and members of the Transportation and Telecommunications Committee. My name is Dunixi Guereca, spelled D-u-n-i-x-i G-u-e-r-e-c-a, and I represent Legislative District 7. Today, I'm here to introduce LB225, a bill designed to reduce administrative burdens on the issuance of duplicate vehicle titles. LB225 modernizes the title transfer process by removing the notary requirement for electronic signatures in specific circumstances. This legislation is narrowly focused and applies only to title transfers where a vehicle is being transferred into an insurance company's name following a total loss. The change is friendly to both consumer and businesses. For consumers, total loss claims are already a stressful experience, and unnecessarily administrative hurdles only add to that burden. By allowing electronic signatures without a notary, we can streamline the process, helping vehicle owners receive their settlements faster. Electronic signatures are secure, widely used, and come with built-in authentication measures that protect the integrity of the process. From a business perspective, this bill enhances the efficiencies for insurers and auction companies by reducing the number of manual steps required to process title transfers. Importantly, this bill aligns with national regulatory standards. The American Association of Motor Vehicle Administrators, the AAMVA, has confirmed the legality and legitimacy of electronic signatures and the National Highway Traffic Safety Administration has issued regulations supporting their use. Additionally, the approach is already in place in other states where the removal of the notary requirement has not led to adverse outcomes. In the rare event of an error, current protections remain in place. Insurer would still be responsible for indemnifying the correct owner,

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

just as they are with wet signatures today. This is a commonsense update that reflects the reality of modern transactions while ensuring consumer protections, efficiency, and compliance with existing law. I urge the committee to support this bill and help bring Nebraska's title transfer process more accessible and efficient. Thank you for your time consideration and I'm happy to answer any questions.

MOSER: Questions from the committee? I guess I'll ask one. What is the problem you're trying to solve here?

GUERECA: So the problem is, is that, you know, it's, it's just an undue burden, right, having to find a notary to come during the process where your vehicle has just been a total loss.

MOSER: Well, what's the situation that the insurer, the insurance company owns the vehicle and they want to sell it or they have a lien against it or what?

GUERECA: No, no, no. So it's, it's- I, as a private citizen, my car gets total loss,--

MOSER: Right.

GUERECA: --and if I'm-- that the process of me signing over the title to the insurance company, currently under statute, there has to be a notary instead of just--

MOSER: So they're buying your car from you, basically.

GUERECA: Correct. Yeah.

MOSER: Or paying off the loss.

GUERECA: So if I were to sell my car to you, I wouldn't need a notary. But under current statute--

MOSER: Titles don't have to be notarized anymore?

GUERECA: No.

MOSER: Wow. It's been a while since I sold a car. Other questions?
Senator Storer.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

STORER: Thank you, Chairman Moser. Thank you, Senator Guereca. Is this, is this just, though, the way I read this, does it necessarily limit this just from you signing your title over to an insurance company or is it just the, the trade or sale of--

GUERECA: It is just, just when you're signing your total loss over to an insurance company.

STORER: So it does not necessarily apply to when you purchase a vehicle--

GUERECA: No.

STORER: --online. So, so you would still have to have the sworn physical signature for transfer of title for just-- I'm going to trade my vehicle out, right? So I recently traded with-- I live in "Timbuktu" as you become aware and traded in Omaha, but we did it over the phone, right, but I still had to physically-- so this wouldn't necessarily allow people in a private trade or sale--

GUERECA: The, the difference is--

STORER: --to use the electronic signature?

GUERECA: --you, you, you didn't need to get it notarized. So, currently, as the process, you-- there has to be a notary whenever I'm signing the title over to the insurance company.

STORER: OK.

GUERECA: So all that's-- all this bill does--

STORER: Just specific to--

GUERECA: Just specifically, if my car gets total loss and I'm signing over my-- signing it over to the insurance company,--

STORER: OK.

GUERECA: --at that moment, there has to be a notary. When you traded in your car, there wasn't a notary in that process.

STORER: Right.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

MOSER: No, this is specifically for when a car gets total loss and I'm signing the title over to the insurance company. Under current statute, there needs to be a notary present for that. It's a bit of a undue administrative hurdle we're just trying to--

STORER: Do you have any background-- I mean, I always have to ask the question why, somebody apparently at some point thought that was a good idea. Any background [INAUDIBLE]?

GUERECA: I don't know. There, there is someone, there's a testifier coming behind me that might be able to answer that question from the insurance industry. But as to why that is in statute, I, I could certainly look into it, get you an answer.

STORER: Thank you.

GUERECA: Yeah.

MOSER: Questions from the committee? All right. Thank you.

GUERECA: All right.

MOSER: Supporters for LB225? Proponents? Welcome.

MARK BINDER: Thank you, Mr. Chairman and members of the committee. I appreciate the opportunity to speak and ask for support of LB225. My name is Mark Binder. It's M-a-r-k B-i-n-d-e-r, and I'm with Copart. You probably never heard of Copart, but Copart is a global leader in the auto auction industry and we offer a wide range of service. But our primary customer is insurance companies. So we sell total loss vehicles for insurance companies that they, as you mentioned, buy from the policyholder at the time of a total loss. We have one facility in Nebraska. It's located not too far from here at the Greenwood exit on I-80. As you see, it's a very simple bill. And what it does, it removes the notary requirements and allows digital signatures. This is on just duplicate title applications only. So this is consistent with other applications that the DMV requires and other forms. They all can be signed electronically, but there's-- because those were all fixed by rule. But this one specific typical title is in statute to require a notary. And we're asking that that be changed. And this is-- we believe this is needed modernization to the Nebraska statutes because, as you can see, many citizens that need to order these titles when

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

their vehicles are determined to be a total loss. And just-- this is an all-too-common scenario. Let me explain it to you. Vehicle has a-- a Nebraska vehicle as a total loss and the customer can't find their title because they've had the title for 10 years and it's in a stack somewhere and they can't find it. So they have to order a duplicate title. In order to do that, they have to have the application notarized. The application is sent to the vehicle owner, they have to go get it notarized after they sign it. Well, how do they get it notarized when they have a total loss and their car is not drivable? So what it does, it adds delay, adds inconvenience, adds delay and it delays the time that the customer will get paid for their vehicle. So what we're asking for is this notary requirement to be removed so it can be signed electronically like in multiple other states and, and there are fraud protections behind that as well signing electronically. We believe this is a hardship and unnecessary and the transaction can be completed with one phone call now. If you have a total loss settlement, if this passes, you would be able to have your claim settled in one phone call, agreement made, settlement made, and then issue payment after you sign the documents. And hopefully, you see-- believe why this bill is needed and I encourage the committee to support it. Thank you. And I'm available if you have any questions.

MOSER: Questions from the committee? Senator Storer.

STORER: I feel like I'm just the only question asker today. Thank you, Chairman Moser. Is this-- so this is only in the case of a complete loss.

MARK BINDER: Total loss.

STORER: Total loss. So would that change the status, would that become a salvage title?

MARK BINDER: Correct. In most cases, it's a salvage. There's unique situations where it's not, such as a car stolen and it's recovered with no damage to it. But a vast majority of them are sal-- or total loss vehicles, which are salvage brand.

STORER: So does that at all affect the need for a notarization because it's actually a change of the status of the title?

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

MARK BINDER: It does not. It's because if it's a, if it's a total loss claim, you're basically selling your car to the insurance company. So no matter what title they get, they have to sign the documents.

STORER: So at what point then-- how, how does the salvage title get developed? How do-- how does a, how does a-- the title on my car change into a salvage title if it's a 100% loss and I'm signing that title over to you? The title I would have would be the original title to my car. The title you would have would be a salvage title.

MARK BINDER: Yeah. What would happen is you would-- we'll just pick a-- we'll just say Farm Bureau because everybody knows Farm Bureau, you have a total loss and I'm Farm Bureau Insurance, you would sign your title, your ownership over to me at Farm Bureau. Farm Bureau would take it and they would apply for a title in the name of Farm Bureau as a salvage title. But what this fixes is you can't find your title, so you don't have to go order a new one when you fill out an application and you sign electronically and Farm Bureau will order the duplicate title for you. And then when they get it, it'll be a clean title, they'll transfer it over into a salvage title.

STORER: OK. Thank you.

MARK BINDER: You're welcome.

MOSER: Senator Brandt.

BRANDT: Thank you, Chairman Moser. Thank you for testifying today. Using that same scenario, why does Farm Bureau even have to bother with the salvage title? Isn't that incumbent on the entity that purchases that vehicle? Because if they part it out, it's irrelevant, but only if they fix it up would they need to provide a salvage title to the next purchaser. Is that correct?

MARK BINDER: That is not correct, Senator Brandt. Let me explain it, because the reason is you need to complete the chain of ownership. So in that example, you would take the title out of Senator Storer's name. If you didn't, if Farm Bureau just sold the vehicle, the title would be-- I mean, it could be in Europe, it could be in Africa. The cars go all over the world, but it would still be in her name. So the insurance company is required by law to put it into their name as

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

branded so it can be identified as, as a salvage vehicle. That, that reason, too, because you have to have-- declare what the damage is. Whenever somebody-- and I apologize, I'm not completely 100% clear on Nebraska, but I believe Nebraska has a rebuild title. So if the title-- vehicle-- they don't? OK.

BRANDT: Well, they kind of do, but not going to go down that road.

MARK BINDER: But, but that way-- the, the whole purpose of the salvage title is, is, is not just to have a title, it's to prepare customers if they ever bought it down the line. And when you put it into salvage time, it goes into a federal database that says this vehicle was a total loss called NMVTIS, the National Motor Vehicle Title Information System. But that's-- the, the purpose of switching the title into a salvage title is to protect the consumer. And that's what-- and to pull the chain-- pull the vehicle out of the-- her name, because if it was rebuilt and you went to another state, you'd have tolls, violation, parking tickets, and all that would be coming to you because the title would still be in your name. And you, obviously, don't want that, so.

BRANDT: So if, if this is working in other states, why do we still have vehicles getting green washed or title washed through Tennessee and Florida and some of these states, when you have these flooded vehicles and then they dry them out and then they show up on used car lots? Can you answer that question?

MARK BINDER: I, I can't answer that question. That is, actually, greatly reduced. And it's-- my understanding is it's Kentucky, that's the only state is that you can get the title washing as you say, it's Kentucky. But, but those are identified through the national database, which I just mentioned. So if it's declared as a total loss by an insurance company, it is reported to this database. It's required and it's very serious if they don't, because there's \$1,000 fine per vehicle per insurance company. So every vehicle that they don't report is a significant fine by the federal government. So that is every-- this database goes to every background check service through NMVTIS, like you go to Carfax, you can get Auto Data Direct or Experian. You can look at the vehicle history or you can go on vehiclehistory.gov if you want to see it and you can pull your own and it shows the NMVTIS history. So that's, that's the consumer protection. It's actually from

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

a 1992 Anti-Car Theft Act. I can talk hours about it, but I'm sure you don't care, so.

BRANDT: No, that's cool. Thank you.

MARK BINDER: You're welcome.

MOSER: Senator Storer.

STORER: Thank you. Just as a follow-up to that and maybe-- and we will learn more when we get to Senator Quick's bill, which deals specifically with-- and not that I-- maybe we're getting hung up, hung up on the wrong thing here, but the-- how we determine salvage title. And so you're saying once I sign that over, regardless if I'm notarizing it or doing it electronically, which is the point of the bill I understand. But that, that is determined it's up to-- the insurance company has to apply for the salvage title. And is that per state statute? I mean, is that a very defined parameter by which they have to--

MARK BINDER: It is a defined parameter.

STORER: --turn that title into a salvage title?

MARK BINDER: That is correct, Senator. And, and Senator Quick's bill, I think, adds another option, another ability to get the brand outside of what's currently in statute.

STORER: OK.

MARK BINDER: So right now, I believe it's 75%. But there, there-- I'm not speaking for his bill, but I believe that change just adds another option other than an insurance company to get the brand chosen, because 75% is kind of in the line. I mean, what if it's 74.5% or what if it's 70? I mean, that's-- there's not much flexibility and, I think, that's what they're trying to fix with Senator-- the other bill.

STORER: And for the purpose of this, it is not change at all really how, how that salvage title is determined, you're just asking--

MARK BINDER: Correct.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

STORER: --for the method to transfer the title to be electronic.

MARK BINDER: That's a great way to explain it, so.

STORER: Thank you.

MOSER: OK. All right. Thank you for your testimony.

MARK BINDER: Thank you.

MOSER: Are there more supporters for LB225? Are there any opponents to LB225? Seeing none, is there anyone here to speak-- are there any people here to speak in the neutral on LB225? Seeing none, Senator Guereca, you're welcome to close.

GUERECA: Down a bit of a rabbit hole there. Thank you, Senator Storer, for taking us--

STORER: You're welcome.

GUERECA: --back and bringing us-- refocusing us. So, again, this does not change how a branded title is created. No, this is just at the moment of a total loss, making it a little bit easier for an average Nebraskan to just get their title over to the insurance company and they can get their settlement check. That's what we're-- this is just simplifying-- so it's a one-word change in, in statute which will make it a little easier for folks to be able to get their settlement check, move on with their life.

MOSER: OK. Seeing no further questions, thank you.

GUERECA: Thank you.

MOSER: That'll close our hearing on LB225. We had one proponent position letter received and no opponent or neutral position letters. That'll bring us up to LB490. Senator McKeon. Welcome.

McKEON: Good afternoon, Chairman Moser and members of the Transportation and Telecommunications Committee. I'm Senator Dan McKeon, D-a-n M-c-K-e-o-n, representing District 41, at the Nebraska State Legislature. I'm here to introduce LB490. LB490 is a simple cleanup bill of a gray area in the state statute that often is

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

interpreted differently by the Nebraska Department of Revenue and the DMV. Agricultural equipment is like self-propelled-- like the self-propelled cattle feed trucks not used on public roads do not need licensed or titled. But a title is often needed. Personal property tax are paid on these vehicles used exclusively off road and off-road equipment is exempt from sales tax. If used on the public roads, they are licensed and then pay the sales tax and other fees. This is where the confusion occurs. Currently, equipment like self-propelled feed trucks not, not used on the road are often not able to transfer title at the point of sale without paying sales tax for which they are exempt. For dealer self-propelled feed trucks, this problem can be a common, common as twice a week while they are helping customers find equipment for their operation. The Nebraska statute 60-123 exempts a wide list of implements from this definition of motor vehicle, including those used for animal husbandry for feeding livestock under 60-137. They are not required to have a title under the LB-- 60-137 and, thus, do not need to pay sales tax or motor vehicle fees. However, if you need a title, you can apply under 60-137. LB490 amends the definition of 60-- 60-137 by taking the definition from 60-123 to clarify that a self-propelled feed truck and other ag equipment can be granted a title when a license is not needed because they are used exclusively off road. LB490 clarifies any questions about which taxes are to be paid, allowed for the titles to be issued at the point of sale without paying sales tax for the equipment while used on the public roads. This will put the DMV and the Department of Revenue on the same page so there will be no further confusion. It is clear that LB490 is a solution to a practical problem that needed clarifying in the statute. There are a couple witnesses to follow that can further explain that this is a real-life problem from their practical experience that will be fixed by passing LB490. The Bankers Association will be bringing a friendly amendment that will explain in the testimony. I ask that you vote for LB490 out of committee with the Bankers' amendment and send it to the General File. Any questions? And I might give you an answer.

MOSEER: I have a question.

McKEON: OK.

MOSEER: So are you a farmer?

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

McKEON: I, I act like one on TV.

MOSER: Well.

McKEON: I just-- no. Yeah, I'm in the ag sector. I, I do crop consulting.

MOSER: So-- well, I was going to ask a question about these vehicles, and I didn't know if you knew the answer, so I should have just asked the question. So what is a self-propelled feed truck and how is that different than any other?

McKEON: Well, you'll have a tractor-- you can have a tractor and a feed wagon. OK? But the feed wagon sits on a base of-- could be a single-axle, double-axle truck.

MOSER: Like a straight truck?

McKEON: Yes. Like a straight truck. Yep. Correct, where you can take the box off--

MOSER: So it's really a truck and it's got a spreader or auger system or something in the back of it.

McKEON: Right. It's just the feed in feed lots. Yes. And the thing is, none of them, for the most part, don't go off the road. They don't go on to any of the-- might be-- go across the county road, but not on any of the highways.

MOSER: No state highways or anything?

McKEON: Yeah.

MOSER: Yeah, we scooped everything by hand. Questions from the committee?

McKEON: OK.

MOSER: You're good. Thank you. Supporters? Proponents for LB490? Welcome.

JAKE PULLEN: Thank you. Good afternoon, Chairman Moser and members of the Transportation and Telecommunications Committee. I am Jake Pullen,

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

spelled J-a-k-e P-u-l-l-e-n, and I serve on the board of directors for the Nebraska Cattlemen. I am here in support of LB490 and also testifying on behalf of Bill's Volume Sales and the Ag Leaders Working Group. For your reference, the Ag Leaders Working Group consists of the following organizations: Nebraska Cattlemen, Nebraska Corn Growers, Nebraska Farm Bureau, Nebraska Pork Producers, Nebraska Sorghum Producers Association, Nebraska Soybean Association, Nebraska State Dairy Association, Nebraska Wheat Growers Association, and, lastly, Nebraska-- or Renewable Fuels Nebraska. LB490 is clarifying language that per the motor vehicle definition, Nebraska Revised Statute 60-123 and applicability of the Motor Vehicle Certificate of Title Act, Nebraska Revised Statute 60-137, a feed truck or other listed used-- excuse me, a feed truck or other listed equipment used in production agriculture should not be charged sales tax at the transfer of title since it, since it is explicitly defined as not a motor vehicle. This includes utility trailers, any self-propelled equipment designed and used exclusively to carry and apply fertilizer-- fertilizer chemicals or other-- or related products to agricultural soil and crops, agricultural floater-spreader implements, power unit hay grinders, and other implements of animal husbandry designed for and used primarily for tilling the soil and harvesting crops or feeding livestock. This is an issue that has come up within the last couple of years. Previously, feed truck owners were able to use Form 13, Nebraska Resale or Exempt Sale Certificate, to prove to the county treasurer's office that the truck was an implement of animal husbandry and should not be charged sales tax on the transfer of the title. Now buyers are being told they cannot transfer the title without paying that sales tax. Some produ-- some producers do drive these feed trucks off the operation onto highways. At that point, they should be plated and titled as a motor vehicle. We believe that the current statutes are clear that feed trucks used exclusively on-farm are not motor vehicles and should not be charged sales tax at the transfer of title because they do not meet the definition of a motor vehicle, but want to include this in the language in 60-137 to, to ensure that in this case. We thank Senator McKeon for introducing this bill and ask the committee to advance the bill favorably out of committee. I am happy to answer any questions regarding this issue.

MOSER: Senator Brandt.

BRANDT: Thank you, Chairman Moser. Thank you for your testimony.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

JAKE PULLEN: Thank you.

BRANDT: So, really, what your-- if I understood you, the law we've got to now is just confusing.

JAKE PULLEN: Correct.

BRANDT: And this is just clarifying language to the existing law. The law we've got today, if the county treasurers understood this, it wouldn't be a problem?

JAKE PULLEN: That is correct. See, for years-- I've been in my current position for a little over 15 years and we've always used the Form 13, implemented animal husbandry. So that's always been the case for not paying sales tax because it goes on your personal property tax. So, basically, now if the, the, the implemented feed truck gets resold again, that it covers not having to pay sales tax. So it's more written out as you go down the road also.

BRANDT: But if you paid the sales tax, does that exempt you down the road from the personal property tax?

JAKE PULLEN: Well, they would want to collect it twice, is the problem. Because you--

BRANDT: They can do that?

JAKE PULLEN: I don't know, Senator.

BRANDT: It seems like double taxation.

JAKE PULLEN: That's what I-- and that's why this bill is written for that.

BRANDT: All right. Thank you.

JAKE PULLEN: Thank you.

MOSER: So is the title necessary for financing?

JAKE PULLEN: Yes, because they have the liens. And then in my business, by day, I work for Bill's Volume Sales, which we are a supplier of feed trucks to livestock producers. So for us to be able

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

to track, make sure it's lien free or, or a, or a producer can get a lien on a piece of equipment, that's what the title is for.

MOSER: But they didn't necessarily pay sales tax?

JAKE PULLEN: No, no.

MOSER: Or, or personal property tax or do they have--

JAKE PULLEN: They do pay personal property tax. Yes.

MOSER: But it's depreciated based on its age and those things.

JAKE PULLEN: Correct. Yeah. Correct.

MOSER: OK. Any other questions from committee members? Thank you very much. Appreciate you.

JAKE PULLEN: Thank you. Thank you for your time.

MOSER: Yes. Are there more proponents? More supporters? How about opponents, people who are against this bill? OK. Seeing none, how about someone in the neutral capacity?

JERRY STILMOCK: Thank you.

MOSER: Hey, Jerry.

JERRY STILMOCK: Mr. Chairperson, members of the committee, my name is Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k, testifying on behalf of my client, the Nebraska Bankers Association, in a neutral position. The, the issue is this: nontitled vehicle, the way Senator McKeon described nontitled vehicle, you want to put it in an era and an arena of being a titled vehicle. Well, right now with lenders that have a security interest in that nontitled vehicle they would file under the Uniform Commercial Code. In bankers' speak, they would file a financing statement with the Nebraska Secretary of State stating the first National Bank of Brandt as a lien position on the equipment such as is described in LB490. We want to make sure simply that if there would be a prior lien position under the Uniform Commercial Code, that, that lien position would continue on when a nontitled vehicle became a titled vehicle. Fortunately, we have some precedent in legislation

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

that was already created. So think back when you had UTV, ATV, mini bikes, discussed earlier this year, those were always nontitled vehicles. And when the Legislature, before all of you, decided to change and make those the opportunity to have titled vehicles, there's a transition statute found at 60-165. I bring that up because the framework is already pieced together in that piece of legislation. If "thout" had a nontitled vehicle and now the owner wants to get a certificate of title for that vehicle, the law through what was done previously, statute 60-165 recognizes that. It simply says if that-- if there is a lender out there that had a, a lien position on a nontitled piece of equipment in this case, that that lien position would continue on once the owner went and got a title. Now, it gets a little clumsy because maybe not everybody wants to go title-- maybe not all the owners want to go title these pieces of equipment that are outlined. It works pretty well on UTV, ATV, and mini bikes. Those items that are singular. LB490 would bring in, you know, the self-propelled feed wagons. I understand that part. But then there's other language that says and basically any other type of implement that is used to till the soil or feed livestock. But we feel that the, the amendment would be able to accomplish that. So I wanted to explain it. It's-- there's-- as I said, I won't repeat. And, finally, if the, if the owner of the vehicle or the piece of equipment-- if you may, please-- thank you-- piece of equipment owner didn't do that, the lienholder would be able to go and obtain a lien and a certificate of title most importantly itself. So it works a little clunky because it may be what, you know, what type of ag equipment would that owner want to go get titled that isn't getting titled that maybe the banker does go get? A "singulatory" item, such as a feed wagon, is pretty easy, but then you get into tractors and combines, etcetera. My time is expired, so I'll stop.

MOSER: Questions from the committee?

JERRY STILMOCK: Thank you, Mr. Chairperson.

MOSER: OK. Greetings once again.

JERRY STILMOCK: OK.

MOSER: You used to live in Columbus.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

JERRY STILMOCK: Yeah.

MOSER: I knew you in your former life.

JERRY STILMOCK: You know, I couldn't get anything passed in front of the city council either, but that's all right.

MOSER: Well, you're probably doing better here.

JERRY STILMOCK: Yeah.

MOSER: So are you-- does this bill help you or-- you're testifying neutral.

JERRY STILMOCK: Yeah, neutral, just to let, just to let the committee know that we need, we need that transition amendment incorporated within LB490 because we want to make sure our lien position-- our lien position is protected that was already in place before the title was asked for.

MOSER: So you might have had a title before-- I mean, you had a lien before the title was produced?

JERRY STILMOCK: Yes, sir. Yeah. Right now-- yes, sir, to answer--

MOSER: How would they know that when they title it?

JERRY STILMOCK: The amendment, based upon the earlier statute, simply states that lien position that was prior before the title being created continues. So the only way I can answer your question, Mr. Chair, is to give you an example. So a financing statement lien is good for 5 years. So let's say that owner of the piece of equipment went in year 2 to obtain a certificate of title. It's incumbent upon that, that owner to make sure that lien is noted on the new certificate of title. But, yet, the, the suspenders and belt, if you will, in the proposed amendment that patterns after existing law simply says that lien that was already created by filing that financing statement is good for 5 years, and it's only year 2, that's going to perpetuate, too, of end of the 5-year period or until and unless the owner makes sure that lien is noted on the title. So it is a little--

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

MOSER: Or they pay off the loan.

JERRY STILMOCK: Of course. Yes, sir. You're very good on your part.

MOSER: Otherwise, they could possibly title it and sell it and then the lienholder may not get paid.

JERRY STILMOCK: Amen.

MOSER: OK.

JERRY STILMOCK: Yeah.

MOSER: Any other questions from committee? Thank you very much.

JERRY STILMOCK: Yes, members, Mr. Chair, thank you.

MOSER: Any other neutral testifiers? Going once, going twice. It doesn't appear that there are so Senator McKeon, please.

McKEON: Well, with no opposition and no fiscal note to this bill, I would like to see this go to a consent calendar worthy. So I'm asking for you to vote for LB490 out of committee on an 8-0 vote and with the, with the Bankers' amendment to this.

MOSER: OK.

McKEON: That's all I have.

MOSER: Questions from committee members? It doesn't look like there are any questions. Thank you very much.

McKEON: Thank you.

MOSER: OK, that'll end our hearing on LB490. We had one proponent letter received and no opponent letters and no neutral letters, comments. That'll take us to LB112. Senator Quick. Welcome.

QUICK: Yeah, thank you. Good afternoon, Chairman Moser and members of the Transportation and Telecommu-- Telecommu-- I can't even say it-- Telecommunications Committee. I'm Dan Quick, D-a-n Q-u-i-c-k, and I represent District 35. And today I'm introducing LB112. LB112 amends the definition of salvage title to include a structurally totaled

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

vehicle. Under the bill, structurally totaled vehicle means a vehicle totally-- totaled due to a kink or a crease in a frame or rail, underbody or structural component, including an engine cradle or a rear, rear differential. The cost of repairs must exceed 75% of the actual cash value of the vehicle. These vehicles with-- these are vehicles with major damage. I currently have an amendment being drafted that adds language that will create a clear distinction between structurally totaled salvage titles and regular salvage titles. This is to clarify the difference between cosmetically damaged vehicles such as vehicles damaged from hail or minor fender benders from structurally totaled cars. The aim of this bill is to provide consumer protection for Nebraskans if a vehicle on the market has or had structural damage that exceeds 75-- 75% of actual value of the vehicle. These automobiles would not necessarily be taken off the road, but they would be-- would and should be labeled a structural salvage title. This bill does not include cosmetic damage, such as total loss due to hail damage. The practical problem is Nebraskans are buying vehicles that are structurally damaged that they have no idea. Body shops across Nebraska are increasing-- are increasingly pulling back panels, bumpers, and hoods, and finding consumers are driving vehicles that are unsafe. The proponents of this bill do not have a financial incentive. The reason for this legislation is to ensure there is awareness when a vehicle has structural damage. A salvage title will provide that awareness. This determination must be made by the repair shop and the insurance company. If both parties do not agree, then a-- then the determination of structural totaled would not be made. This bill is being brought with the endorsement of local industry Nebraska-owned auto body repair businesses. There is no financial upside for the people and the businesses that have identified the need for this legislation. The industry has become concerned, as I hope this committee will be, that currently auto body repairs are being performed that put owners and others on the road at physical and financial risk. We can solve that problem with LB112. Thank you and I'd appreciate any questions from the committee and I'll try to answer any questions if you have them, but there's people behind me that might answer them better.

MOSER: Questions from committee members? Senator Brandt.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

BRANDT: Thank you, Chairman Moser. Thank you, Senator Quick, for bringing this. So you're just creating a second tier of salvage title called structurally damaged. Is that correct?

QUICK: Yeah, to my-- yeah, I believe that's how this is supposed to work for--

BRANDT: Do you know if I have a structurally damaged salvage title can I still put it on the road?

QUICK: That I do not know. [INAUDIBLE]

BRANDT: I mean, we shouldn't. That's the reason we're identifying this.

QUICK: Yeah.

BRANDT: But does it stop somebody from, from fixing it?

QUICK: Currently, that's probably happening, right?

BRANDT: Yeah, it is today.

QUICK: Yeah. So this is a concern.

BRANDT: Yeah. But I didn't, I didn't know if that title would stop it from being--

QUICK: Yeah. Yeah. I know, even, like, with the amendment, we're working to try to make this bill work somewhat, maybe, with our position that we're, we're finding out we have so. But we've got-- we're trying to protect consumers from what's happening.

BRANDT: OK. Thank you.

MOSER: Senator Bosn.

BOSN: Thank you. Thank you, Senator Quick. Can you tell me how is the vehicle determined-- who makes the ultimate decision as to whether or not it's structurally damaged? Is that something you can take to anyone you choose or--

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

QUICK: I think right now the insurance company-- I'm guessing it's insurance--

BOSN: OK.

QUICK: --companies, I think, determine that. I mean, I'm sure when the, when the body shop starts working on it, maybe they can recognize it. But then, you know, they're not the ones that get to determine who pays for, you know, those, those repairs, so.

BOSN: Right. Thank you.

MOSER: Other questions from the committee? So wouldn't that car already have a salvage title?

QUICK: Well, I think what-- I think this is what this is trying to address, because there are sometimes those, you know, like if there's just, like, if you can't see the damage, you know, when you go to inspect the car, then, then it's just-- they just put it in for repair and then they fix maybe the cosmetic damage that they can see. So this is trying to adjust those things you can't see. Let's say, like--

MOSER: But if the insurance company takes possession of it and they resell it, doesn't that stamp the title as salvaged?

QUICK: Yeah, they might have to answer that question behind me. I'm not sure how that, that totally works, but.

MOSER: OK. Thank you. Just trying to figure out the reason for your bill.

QUICK: Yeah. Yeah.

MOSER: All right. Thank you so much.

QUICK: Yeah. And I, I do have to go to exec, but I'll try to be back for closing.

MOSER: OK. Yeah, if you don't show up, we'll go home without you. Supporters for the bill? Welcome.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

DAVE YARD: Welcome. Thanks for having me. Thank you, Chairman Moser and members of the committee. My name is Dave Yard, D-a-v-e Y-a-r-d. I'm the NABA, Nebraska Auto Body Association, Chairman. We represent almost every district in Nebraska. I'm the owner of the Collision Center in Ashland, Nebraska. I appreciate you addressing this issue. This issue is very, very important to me and I'm very passionate about it and I have to read this because I would get offhand and go out in the weeds and, and, and take you places we don't need to go. But thank you. First, I'd like to clarify what salvage vehicle is and how it affects your constituents. The definition is not clear or absolute. In short, it is a vehicle that incurs more damage than it costs properly-- to properly repair it. This may seem practical, but it gets more complicated. A vehicle can be totaled for cosmetic damage, water, storm, fire, and collision damage, to name a few. The area of most concern in collision damage or any other damage causes structural issues or that causes structural issues. Remember, the vehicle has more damage than is feasible to repair properly. So what happens to the structurally damaged vehicle? In most cases, this vehicle is auctioned off to yards and, far too often, to rebuilders. A rebuilder buys the total loss in the intention of fixing the car to sell to customers. The same car that the structural damage was deemed not feasible to repair at a retail price and is now, now going to be repaired and sold at a discount because it's a pre-salvaged title. In some cases they still manage to profit. I see these cars come into my shop for repairs and sustaining new damage. The first thing we do for any repair is a diagnostic scan. Often they have codes, the original damage-- often they have codes from the original damage that were not repaired: airbags, seatbelt, or sensor codes that are unrelated to the new damage. This is the vehicle your neighbor, your friend, your family might have bought. If you disregard the safety implications and deception of the customers and the loss of value alone should be concerning. Now, let's say there are no codes. They manipulated the vehicle, bypassed the codes. Yes, yes, sometimes I've seen modules cut apart, soldered, taped over the access hole and reinstalled. It is harder to recognize when airbags, seatbelts, and other equipment have been replaced. If so, they have been replaced with parts from another vehicle. Most safety equipment is required, required to be placed-- replaced after a collision, even if it appears undamaged. For example, a seatbelt. If worn in a collision, that seatbelt is made to stretch. So if you're in a second collision, that seatbelt is already

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

stretched. It may be stretched to the point where it breaks or, at the very least, it stretches to where you're in a position where the air-- when the airbag comes out, it's going to physically harm you or possibly kill you. This is a big deal. I see these cars come into my shop repaired. Now, now let's say there are no codes. They did-- I'm sorry, I got to backtrack here. Let's set aside those concerns for a moment. I remember opening the hood on a customer's vehicle. They wanted me to check out their car certified by the person that fixed it right away, they had just bought for their teenage daughter. Seems like it's always a teenage daughter, they got to save some money on a car for their child. I could see right away the frame was damaged, not repaired properly, still had kinks, parts didn't line up, and the ABS brake module was hanging from a hydraulic brake line. If this vehicle were involved in another accident, the structure would crush more quickly, possibly causing the airbag, if it even works, not to deploy in the correct time, which could again lead to injury or death.

MOSER: Sir,--

DAVE YARD: It will-- yes.

MOSER: --could you kind of conclude your comments and then we'll ask you some questions here because your time is up, so.

DAVE YARD: OK. Lastly, vehicle [INAUDIBLE] has surged. This pushes people into buying these vehicles. I need to finish the point. When that crushes, they crush the way they're not designed, not the way they're built because it's already been crushed. It will crush different ways and stuff, cause the airbags to deploy where it hurts a person. It can also tear and rip and dismember or kill a person in the vehicle at that time.

MOSER: OK. Questions from--

DAVE YARD: Well, thank you.

MOSER: --questions from the committee? Yes, Senator Brandt.

BRANDT: Yeah, thank you, Chairman Moser. Thank you for telling us how this all works. So when we create this title structurally deficient or structurally damaged, why don't the insurance companies cut the cars

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

in half or crush them or dismantle them to the point they cannot be rebuilt?

DAVE YARD: Well, I can go into many, many reasons. I mean, for one, that car can be rebuilt even though structurally damaged. Right now, as law has it, somebody can buy that car and put it together. I've seen them out of Copart. I drive by there on the way home every day. They buy a wrecked one and hook two more wrecked ones to the wrecked one. The wrecked one pulls the other two wrecked ones right down the interstate heading out of town. I see it, I see it time after time after time again. And these are going to shops that probably aren't at our association meetings learning about how the correct way is to [INAUDIBLE]. I'm sorry, I'm speculating all of this.

BRANDT: But isn't, isn't the purpose of this bill to keep them from getting rebuilt?

DAVE YARD: Right. So that's why if it is-- we, we want a title-- they've got to have a salvage title to cover if it's had a loss beyond the value. But we also need a title that's parts only. So if it goes to-- it can still be sold and the parts can be sold off the vehicle and used. There's still good parts on that vehicle. So there is still some use for that vehicle. We're not trying to hurt any industries. We're trying to, to save people.

BRANDT: All right. Thank you.

DAVE YARD: Yeah.

MOSER: Senator Guereca.

GUERECA: So what this bill would do is create a separate classification of a branded title that says this vehicle is not safe to be rebuilt. It is only safe to be parted out.

DAVE YARD: Absolutely. They do this in Florida. And I think there might be some other states. I'm not as versed on that, but I know at least in Florida they do that. Yeah, it, it's a big deal.

GUERECA: OK. Thank you.

MOSER: Senator Storer.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

STORER: Thank you, Chairman Moser. So just to follow up on Senator Guereca's question. We would-- this would create two separate titles. One, one is just really when the damage, which would be considered cosmetic damage, is over 75% of the value of the car,--

DAVE YARD: Right.

STORER: --and one would be any structural damage, the, the frame.

DAVE YARD: Correct. So when, when they're assessing the damage, they're going to assess the damage by writing a sheet of damage.

STORER: Right.

DAVE YARD: So if part of the damage is the frame is off, they may not know at that time. But if it gets to that point where the structural damage and, and the vehicle goes over the 75%, they're going to be on that sheet. It's going to be listed right on there that the frame was bent, buckled, bent, torn, whatever it is. That would determine that it's a structural loss. If it's hail dents, you know, moneywise, I don't care about that. It's, it's the safety that I'm looking at.

STORER: Right. Right. And right now, is it the value, is it the dollar value or the-- not the dollar value, but the percentage of damage that's the issue or is that just that these are going on-- I mean, nobody's nobody's identifying the structural damage. I mean--

DAVE YARD: Unfortunately, even repairable vehicles are not all done correctly. The frame can be done "discorrectly." But we're trying to cut that down. At least this is the biggest part. And this is what I see coming in the shop. This is where my customers get the bad end of the deal. They come and they don't even know. They know-- they, they were sold a certified car. Well, the person that is certified, fixed it. Like I said, when the rail crushes and splits and stuff, somebody can be injured from that. So I guess-- am I answering your question?

STORER: A little bit. I, I guess what I'm trying to get at is will this ultimately fix the problem if there's not requirements for how that car is inspected? Because what I'm kind of hearing is there's two problems, maybe. One is the structural damage may not equal 75%, is that possible, may not equal-- be 75% of the damage of the value of the car?

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

DAVE YARD: So 75% is kind of the standard for where they break off for a total loss and that's--

STORER: Right.

DAVE YARD: --why that number was used.

STORER: But is it possible that somebody-- you know, you get-- you're, you're in a wreck, you bring-- take your car in and visibly it might look OK, but it has a bent frame. Is it possible that the bent frame could not-- the dollar value to repair that would not be-- would not meet that 75% threshold?

DAVE YARD: Absolutely.

STORER: OK. So that's part of it.

DAVE YARD: Absolutely. Yes.

STORER: So is the second-- just so I'm understanding this-- so is the second part of the problem that perhaps some of these vehicles are just not being identified as having structural damage? Like, nobody is--

DAVE YARD: No, I, I, think it's obvious--

STORER: --insurance companies just aren't--

DAVE YARD: --that the structural damage is there. So if I'm repairing at my shop and it has structural damage on it, we're going to correct that, if that means cutting the entire frame rail, if it could be a quarter section of the car. If the, if the manufacturer says you can do it that way, we'll do that. And if it's still within the value of the car, we can do a good job, repair that car, put it back on the road and be confident that person is going to be safe should they be in another accident. Now, if you buy a salvaged car and, and the person that, that buys that, fixes it, they align things so that their lights maybe point down the, the road the right direction. You know, to a, to an average person, they see a car that looks just fine. But I, I mean, you just-- it, it's--

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

STORER: But are these vehicles being missed? Are they falling through the gaps because somebody is not documenting that there was structural damage or because the cost to repair still falls under the 75% of total cost of the car?

DAVE YARD: Their, their vehicle, it's not safe to go back on the road that is able to be titled again because the amount of the damage on the vehicle will never be safe to go back on the road again. I, I mean, you can buy a salvaged vehicle and you could bring it back to the state to where it was safe to drive again. But at a retail price, it's already deemed a total loss because it's going to cost you more to repair it correctly. If you go to fix that and make a profit on it, there's no reason to even go there. You're not going to make a profit. It's going to cost you more than the value of the car.

STORER: So these are vehicles being brought into our state, not vehicles that were inspected like a resident of Nebraska wrecked their vehicle, took it to their insurance company? I just want to make sure that what we're doing here actually fixes the problem, I guess, is one of my questions.

DAVE YARD: Right. Right. So they're deemed a total loss, they go into a secondary market, people from the secondary market buy the car. And to enable them to make a profit, they have to cut corners. Then they go back onto the roads again.

MOSER: OK, I've got a question. Maybe this will-- maybe this is what Senator Storer is asking. I don't know. But can the salvage title moniker ever be removed from a car-- from a title or once it's salvaged, it's always salvaged till it's crushed?

DAVE YARD: Yeah, it's, it's-- to my best knowledge, it's always salvaged from that point on.

MOSER: But it'll always say on the title, salvaged, previously salvaged or whatever it says, right?

DAVE YARD: Yeah, because even if you did the best job in the whole world, that person deserves-- purchasing that car deserves to know that it's been through this.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

MOSER: So who-- what's the requirement that the insurance company marks it as structurally damaged?

DAVE YARD: I, I, I don't know what the requirement is, and we see a lot of them at the salvage pools that are-- obviously have structural damage.

MOSER: Well, I think that's what Senator Storer was asking. I mean, is this really going to solve the problem? I mean, we understand that people who buy a car want to know that it's all right, you know, that it's safe to drive and, and all that. But if, if they don't put salvaged or previously salvaged, where, now, you're going to have a new category, structurally salvaged?

DAVE YARD: Yeah, I, I different-- I differentiate structural because that's acute-- that's a, that's a big deal because that's something--

MOSER: I understand the difference, some could just be hail dents and glass and things that were broken.

DAVE YARD: Right.

MOSER: And you could fix all that. But if you buy a car that says structurally damaged, it's always going to say structural damage on the title. So you're going to have to take it somewhere-- to somebody's shop and have it be inspected be--

DAVE YARD: No, it'd be parts only.

MOSER: What's that?

DAVE YARD: It would be a parts only.

MOSER: Oh, if it's structurally damaged, it's parts only, it can't be rebuilt?

DAVE YARD: It's not going back on the road. At that point, they don't need to be back on the road. It needs to be a parts car, can be sold, sold off and parted out.

STORER: So how are--

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

MOSER: Go ahead. Go ahead. The spontaneous interruption, that's fine.

STORER: So, so how are those cars getting on the road today, again, if they're--

DAVE YARD: So it gets sold at auction after they're salvaged. So people, they, they know they're salvaged when they, they got them. They buy them and they rebuild them and then they sell these. There's, there's all kinds of places you can buy these. People buy these cars. I see them come into my shop and, like I said, they're usually for their children because they're cheaper, but they cut corners to fix them right. So if it's a hail car and they cut corners, I don't care.

STORER: So to bring us full circle, I think I'm, I think I got this now. This would create two separate salvage titles--

DAVE YARD: Yes.

STORER: --and one would very clearly tell the purchaser that the frame-- that there was structural damage for full transparency and disclosure for the buyer.

MOSER: They shouldn't buy it to drive on the road if it's got a structural sale.

DAVE YARD: Well, that's [INAUDIBLE], we don't want it to be sold to be driven on the--

STORER: Because with that--

DAVE YARD: --road, period. We want it to be a parts car at that point.

STORER: So with that structural-- the salvage title that indicates structural damage, it can only be sold for parts?

DAVE YARD: Correct. You can't license that vehicle again. I-- sorry, was that too--

MOSER: But can't you--

DAVE YARD: --painful?

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

MOSER: --but can't you, can't you cut out part of the frame or replace cross members or things if they get bent and do it correctly?

DAVE YARD: Well, you could, but I mean, I see them coming in the shop with drywall screws sticking up through there. They're not even welded back together, carpet thrown over the top of it and, you know, if that, that vehicle is going to roll over, it's going to crush premature, and you're going to have all these porcupines with drywall screws sticking up there stabbing the guy's daughter that just bought the car or their friend who is driving with them.

MOSER: But isn't that fraud? I mean, it's not the, not the fault of, of the wrong kind of salvage title. I mean, the guy didn't disclose that it was previously salvaged.

DAVE YARD: They do. And, and they'll sell them and they'll say, well, well, it's a certified repair. And their own shop certifies the repair and they sell them that way. And I would agree, it's, it's wrong, but I don't know how you would stop that short of or short of not letting them title the vehicle for the road.

MOSER: It probably wouldn't be in the insurance company's best interest or monetary interest to say that something is structurally damaged because it's going to be worth a lot less than if it could be repaired. Right?

DAVE YARD: Well, they would have to create fraud when they're writing a report up for that to happen and that could happen.

MOSER: I don't know, I think-- I don't-- I understand that you don't want people to get ripped off and you don't want to get stuck in the middle of a repair that is not-- wasn't done before and can't be economically done now.

DAVE YARD: Right.

MOSER: But, but there's always going to be people that cut corners and do shady stuff. Other questions? Yes, Senator Bosn.

BOSN: Thank you. Thank you for being here. I, I asked my question of Senator Quick as well. Who makes the ultimate determination as to the 75%? Right? So is it the insurance company that says upon review of

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

information we deem this vehicle 75%? You know, or I guess I use 75% salvage, but costing 75% of what it's even worth just to fix or is it the repair shop, is it the owner, who is it?

DAVE YARD: Yeah, I'm, I'm not sure the, the legal percentage, 65 or 75, and maybe Ryan that follows me can tell you that. But even if it doesn't hit that percentage, the insurance company could say, well, I can sell this car and it's going to have more value, it's going to go to a rebuilder that's going to cut corners and put it together. So we're going to salvage this-- we're going to total this car out, even though we're not up to that legal percentage. So that's why I say there's so many gray areas on here and we're probably not going to stop it all. But if the ones with the obvious, obvious structural, structural damage on there can't be relicensed, we're going to stop a lot of it. And, and I see so much of it.

BOSN: Well, let me, let me bring you back. So my, my issue is that may be true for the insurance company, but if that's my only vehicle and I don't have the money to go out and buy another one, I may disagree with my insurance company. So that's why I want to know who gets to hold the keys to whether or not that threshold is met. Does that make sense? I mean, I understand what you're saying. And safe vehicles, I can't impress this upon you enough are a priority of mine. But I still think we have to know how that determination is made. And my second question is, when I read this bill, and although I may be mistaken, I don't see anything in here that says once it's deemed structurally, you know, salvageable or a salvage--structurally salvaged vehicle, that it can only be sold for parts. I, I may be overlooking that, but I don't see it in here.

DAVE YARD: That was overlooked and it is being written.

BOSN: OK.

DAVE YARD: And it will be in the, the new bill.

BOSN: OK.

DAVE YARD: And to your first question, I mean, we see it-- I see it all the time. People are, are, you have to fix my car. I, I owe more than what it's worth. I can't go out and buy another car. It's, it's

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

not a good situation. Ultimately-- I mean, this isn't-- some-- sometimes we write this and sometimes the insurance company writes it. It's usually-- it, it may come where-- there's a lot of different methods of where that estimate gets put together. But if, if it's structurally unsafe, unfortunately, that person really shouldn't be back in that car because you put them in harm's way. And it's, it's a bad situation. If it's structurally, if, if it's structurally damaged, but it's within the value of the car, then absolutely, we would fix that for them.

MOSER: So the 75% threshold just determines whether it has a salvage title or not? So if 75% of the value of the car-- if the repair is more than 75% of the actual cash value of the car, then it is a salvaged car?

DAVE YARD: Again, like I said, I'm not sure exactly what Nebraska law is on the percentage, but-- and different insurance companies have different places where they put it, it doesn't have to be 75%. The insurance company could start at 50%. But if--

MOSER: But the insurance company pays the owner of the car the actual cash value of the car.

DAVE YARD: And I believe in most cases, you can go up to 100% of value, but they choose to go a different route.

MOSER: Can I, can I keep my car if it was salvaged and fix it myself?

DAVE YARD: They give you an opportunity to buy it back because they have to make up a loss [INAUDIBLE]. So they would give you an opportunity. If you buy it back, if you buy it back, then it, it should-- and it's a salvaged vehicle, it should be marked so that the next person, should they sell it, is aware of that.

MOSER: OK. Thank you. Any other questions from committee members? Thank you for your testimony.

DAVE YARD: [INAUDIBLE]

MOSER: Anybody else to speak in support of this bill? Welcome.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

RYAN CLARK: Hello. Good afternoon, Chairman and members of the Transportation and Telecommunications Committee. My name is Ryan Clark, R-y-a-n C-l-a-r-k. I wanted to jump in and answer a lot of those questions that were just there. So as we mentioned, we've, we've gotten a lot of feedback from meeting with different people on this bill. And we realize that there's a little bit of amendments that we might need to do to it. But essentially what we want to bring forward is the issues that are coming towards Nebraskans. Our motive of this bill is not of monetary value. It is strictly to put awareness to the consumer by branding a title a salvage-- structurally salvaged title so it can-- so they know that their structural damage to it rather than any cosmetic damage. I've given you a couple of exhibits here, on Exhibit 1, that is a vehicle that came into my shop. As you can see, there's minor bumper damage to it. On the very next page, that is a frame rail that has crushed some. And that's what he was alluding to. Vehicles-- the frames today are built differently than they used to be. So that vehicle crushed kind of like a pop can, when you pull it back out, just never going to be the same. However, this vehicle was deemed a total loss. It got sold back to rebuilder market. What we're trying to do is prevent this from happening again. Because again, you know, this was sold to his daughter. There's major damage to it. On the very next picture, that is an airbag sensor, an impact sensor, that they just left bent over. So if the vehicle would get in an accident, that would not react the same. I'm not saying that all repairs are going to be done differently. What we're trying to do is if there's any structural damage to a car, we want to bring awareness, continue the conversation, and work with other people to make sure that we can bring this awareness to Nebraska. My next exhibit on Exhibit 2, I pulled up some cars that are on Copart this morning. That is one of the auction-- auto auctions. I know he spoke here earlier today. These are all here in Nebraska. The very first one is clearly, clearly total loss. It has a South Dakota title, yet it is advertised as a clean title. I circled it down below. On Exhibit 3, that is a Nebraska certificate title, it does show a rebuilt salvage. To answer your question, Chairman, you can rebuild a title after it's been done. What we're trying to signify is the difference between a structurally damaged vehicle and a vehicle that was totaled for repairs costing over 75%, but it is being advertised as a clean title down below. And in Exhibit 4, you can see this is another clean title, again from a different state, and it is being sold as a clean title. And as you

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

look at the rear end of that car, that car has been smashed. We're in the business to repairing damage to vehicles. This bill will not increase our revenue or bottom line, it's just the right thing to do for our consumers. And we in the industry believe that it's necessary to protect consumers so they can make informed decisions when they're purchasing vehicles for themselves and their loved ones. Vehicles are coming to the state to be sold at auction for higher value than other states. And we agree that there may be additional conversations after previous testifier for, for this bill. We just really thank you for your consideration and thank you for the time working on this important issue and I'll be glad to answer any and all questions.

MOSER: Senator Fredrickson.

FREDRICKSON: Thank you, Chair Moser. Thank you for being here--

RYAN CLARK: Yes.

FREDRICKSON: --and for your testimony. So can, can you just-- we've talked about it a lot. There's a lot of questions, obviously, that have been asked.

RYAN CLARK: Yes.

FREDRICKSON: And I appreciate your, your expertise here. How do we as a state compare to other states in regard to this? I mean, does it feel like Nebraska is a little lax with how we're operating with this or--

RYAN CLARK: Yes, from my point of view-- it was brought up earlier, the value of what is a total loss in the state of Nebraska, and currently it's 75%. In the state of Iowa, it's 100%. So the vehicle repairs have to exceed the market value of the vehicle. So what's happening is it's not totaled in the state of Iowa, it will come over to the state of Nebraska with a clean title, even though the car may be deemed a total loss here. So we can't control what other states are doing. However, we do want to, if their car is totaled in the state of Nebraska, we want to make it structurally totaled so if it does go elsewhere or it's still here, our consumers are safe. There are other states, such as the state of Florida who just passed similar legislation. Be happy to, you know, bring that to your attention as

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

well. Their version of it is a certificate title of destruction, meaning the title is destroyed. The car can be sold for parts only. However, there is a process for you to rebuild that car and repair it, put a new frame on it or whatever it may be, and then it will be branded a rebuilt title.

FREDRICKSON: Thank you.

RYAN CLARK: Yep.

MOSEER: Other questions from committee members? Senator Brandt.

BRANDT: Thank you, Chairman Moser. I didn't catch, who are you with? Which--

RYAN CLARK: I'm with Nebraska Auto Body Association. I also am part owner of Eustis Body Shop. We have eight locations across the state in Nebraska and six different communities.

BRANDT: So it appears South Dakota is the one that's dumping on us.

RYAN CLARK: The one, the one's this time.

BRANDT: All right. So going to your handout here where we've got the burned-up Hyundai, literally, there's nothing left to this car.

RYAN CLARK: That car should not be back on the road.

BRANDT: Well, it's got a clear title, though.

RYAN CLARK: I know.

BRANDT: OK. So isn't the value to this hulk the title?

RYAN CLARK: Um-hum.

BRANDT: OK. So don't you just take a lug nut or something off of this, put it on another one, and now you've got a clean title?

RYAN CLARK: It's scary.

BRANDT: But I mean, isn't that kind of how that works?

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

RYAN CLARK: Yeah, I mean, if the engine has a VIN, and there's other VIN parts off of it.

BRANDT: I mean, you really wouldn't salvage anything off this vehicle except for the title.

RYAN CLARK: Correct.

BRANDT: But you could do that in Nebraska today.

RYAN CLARK: Today.

BRANDT: And, and then it wouldn't even be a salvage title.

RYAN CLARK: It'd be clean.

BRANDT: It would be a clean title, right?

RYAN CLARK: Yeah, it's scary.

BRANDT: What percentage of the cars that you see at these kind of situations-- I mean, how many in Nebraska do you think are like this?

RYAN CLARK: You know, we're across a lot of different communities. I think these are more prevalent in the metropolitan areas. You know, the-- we have shops out in Eustis-- we're in western Nebraska, they're not really seeing it as much as the people closer to rebuilders or stuff like that. This Honda that I came in, this was in my shop, the very first page. I probably get one a month that I get involved with and some customers are unaware-- they, they do sometimes are successful to go back to the dealer they bought it from and, and are able to get it resold and others are upside down and they're not willing to do so. So it's just case by case.

BRANDT: All right. Thank you.

RYAN CLARK: Um-hum.

MOSER: Senator Bosn.

BOSN: I'll ask my same question.

RYAN CLARK: Yes, ma'am.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 10, 2025
Rough Draft

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

BOSN: Who makes the determination as to when that threshold has been met? Is it you? Is it the insurance company? Is it the car's title owner?

RYAN CLARK: Currently, in the state in Nebraska, it is the insurance company. We did include a provision in there for the structurally title to have the repair facility help dictate that. But right now it is 75% of the-- the repairs exceed 75% of the vehicle's value. And then the insurance company would pay fair market value for that vehicle. It's the insurance company.

BOSN: OK. Thank you.

MOSER: The car that Senator Brandt was talking about that is burnt to a crisp, that has VIN numbers and serial numbers on the motor and stuff. You couldn't just buy a different car that was salvaged and swap titles, right?

RYAN CLARK: No. You would need matching VINs. I mean, of course, we're getting back into the classical days and [INAUDIBLE] is different.

MOSER: Because if the VIN numbers don't match, then the county is not going to title it.

RYAN CLARK: Correct. We currently have a title inspection process with the sheriff's office.

MOSER: Yeah, I bought a jeep from a guy in, in Idaho, and the motor and the frame numbers didn't match the title. And the sheriff came out and it took me quite a while to get it straightened out so I could title it.

RYAN CLARK: Yeah, the purpose of this one was just to show that there are clean cars-- cars with clean titles coming to this state that should not have clean titles.

MOSER: OK. Thank you. Further questions? Thank you for your testimony.

RYAN CLARK: Appreciate it. I appreciate you guys' time.

MOSER: Sure. Are there other supporters? OK. Are there opponents to the bill? Welcome.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

ROBERT M. BELL: Good afternoon, Chairperson Moser and members of the Transportation and Telecommuting-- Telecommuting-- and Telecommunications Committee. Dang. It's been a day. My name is Robert M. Bell. Last name spelled B-e-l-l. I am the executive director and registered lobbyist for the Nebraska Insurance Federation. I am here today to testify in opposition to LB112. As a refresher, the Nebraska Insurance Federation is the State Trade Association of Nebraska insurance Companies. The federation has 49 member companies who write all lines of insurance. I'm proud to say that the Nebraska Insurance Federation membership includes the top 10 writers of private auto insurance in Nebraska. According to the National Association of Insurance Commissioners, the top 10 writers write nearly 84% of the total market in Nebraska. As introduced, LB112 would create a new category of salvage title, a structured totally or totally structured vehicle. Sorry. I think I messed that up on what it's actually called. Under current Nebraska law, a salvage title has two categories, one for late model damage over 75%, and a second tier for a vehicle that's determined by the owner to be a salvage title. This creation of this new salvage category of structurally total vehicles causes a number of issues for consumers and insurers. First, it places the decision of whether or not a vehicle is structurally destroyed in the hands of both an auto body shop and the insurer. Currently, the decisions are made by insurance companies, not by the auto body community. Additionally, the definition of structurally totaled, totaled vehicles is puzzling. The definition has an exemption for vehicles that can be repaired for less than 75% of actual value, which is the current law for late model vehicles, which are vehicles that are 7 years of age or younger. Perhaps, this is intended for nonlate model vehicles which will result in less older vehicles on the road as salvage title vehicles are typically owned by insurance companies and are more difficult to register for average Nebraskans. Driving is an expensive activity for Nebraskans. Cars are expensive, gas is expensive, insurance can be expensive. Used vehicles are significantly more expensive than they were before the pandemic. LB115 [SIC] would needlessly further impede this market in Nebraska, invariably increasing the cost of all vehicles and the insurance required by Nebraska law. I'm just going to say I cannot find neither with the National Transportation Safety Board and the National Highway Traffic Safety Administration any significant issues with rebuilt vehicles. The issues related to safety typically are distracted driving,

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

speeding, and impaired driving. Those are the things that are killing Nebraskans, those issues and, of course, the failure to utilize proper safety equipment. For these reasons, the Federation must respectfully oppose LB112. Thank you for the opportunity to testify. I do think they clarified insurance companies make that decision right now. In this one here under-- as drafted, we would have to work with the auto body shops which, invariably, is going to cause a lot of conflict, so, or an owner can decide that as well under Nebraska law.

MOSER: OK. Questions from the committee? Yes, Senator Brandt.

BRANDT: Thank you, Chairman Moser. Thank you, Mr.--

MOSER: We should give you a permanent pass.

BRANDT: You should. I'm picking up for Cavanaugh. Oh, he wasn't in this committee. Mr. Bell, would you drive a car that's held together with drywall screws?

ROBERT M. BELL: No, I would not.

BRANDT: OK. So, I mean, your statement that no one's getting killed out there from these shoddy repairs, and I think you're aware of what's happening in the industry. And, you know, I applaud the proponents of this for at least making an attempt to make it safer. What would be the insurance company-- the group that you represent, how would you address this problem?

ROBERT M. BELL: Well, we certainly don't want to insure people that are driving vehicles with drywall screwed frames either. However, we're the ones with the financial interests at the end of the day. If that vehicle is in an accident and it falls apart, we're going to be responsible for all the variety of things that are going to come our way related to injury, death, repair of the vehicles involved. And so, certainly, we have no interest in, in insuring shoddy vehicles.

BRANDT: But wouldn't it be in your best interest to have these vehicles immediately parted out as opposed to being put back on the market [INAUDIBLE]?

ROBERT M. BELL: So I was thinking-- I don't know, I don't know about members of the committee, but I've got teenagers. My teenager drives a

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

Honda Civic, right? Let's say it has a, a bend in the frame and he's in an accident, which happens more than I care to, to mention in a, in a fender bender or something like that, and that can be safely repaired for, let's say, I don't know, \$1,000. That is going to be well, more than 75% of the value of that particular vehicle. Right? However, I should have that option to have that repaired. And under Nebraska's current salvage law, because that vehicle is over 7 years of age, I can continue it. As long as it's done safely, he could continue to drive that vehicle. Right? And there's, there's no salvage title, so. I don't know if I'm particularly answering, answering your question, but I was trying to think of my own personal circumstance with vehicles my teenagers drive that are not worth very much money. But the utility to our family and to other folks is high. Right? I mean, it's, it's easier for us to get him in a vehicle like that than to go spend, you know, tens of thousands of dollars on a, on a late-model used vehicle. And so that's, you know, that's one of our concerns.

BRANDT: All right. Thank you.

ROBERT M. BELL: You're welcome.

MOSER: Senator Guereca.

GUERECA: But this bill, as written, doesn't-- look, in the, in the situation you just talked about, your son gets into a fender bender, \$1,000 to repair the, the frame. He can still drive it. It's just the title that changes.

ROBERT M. BELL: Well, he can't drive a salvaged-- I mean he-- to get-- if your, if your title goes salvage, you have to go through other steps to make it drivable again. You can't necessarily go register it. Under current law, if he's in that accident, there would be no salvage title on that particular vehicle presuming that it's over 7 years of age, which I'm going to tell you, it absolutely is. I bought the car when I was a young legislative aide here, so 20 years ago, 20-plus years ago. So, as written, if that repair deals with something with the frame of, of the vehicle under LB112, we'd have to get a salvage title. And then there are requirements under the law related to what an insurance company has to tell the consumer. Maybe I buy it back from the insurance company, but it doesn't mean I'm going to be able

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

to easily go get it registered and, and drive it. There's other laws that come into play that, I'm going to admit, I'm not a complete expert on. But, with that said, a cascading group of decisions that then have to be made by the consumer that's involved with the vehicle.

GUERECA: Thank you.

ROBERT M. BELL: You're welcome.

MOSER: Other questions? All right. Thank you for your testimony.

ROBERT M. BELL: You're welcome.

MOSER: Other opponents? Welcome.

JUSTIN BRADY: Thank you, Senator Moser and members of the committee. My name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the American Property Casualty Insurance Association, or APCIA. A lot of what I was going to say, Mr. Bell said before me, so I'll try to be respectful of your time. I do want to bring up, you know, from APCIA, we represent about 50% of all the private passenger automobile insurance purchases in the state. So they do have a vested interest. And they also have a vested interest to make sure cars are safe. I don't want anything, me being here, or anybody from the insurance company seen as not wanting safe cars out there. I think the real question, as I, you know, listened to the proponents and read the bill is should the state automatically say, because there's frame damage, it's automatically salvaged and, therefore, go through the whole process of being a salvage title or as the proponents or Senator Quick made reference to, automatically just be parted out? And I would say from the insurance companies' standpoints, they don't think that distinct line should be drawn because it should be valued at each car. You know, I looked quickly, I will not pretend at all to be an expert in any sort of auto body repair or anything. But, you know, I looked up the term unibody, and if you look it up, it specifically says it's designed with the intention of being repairable after frame damage. And you're talking about cars like the Honda Civic, Toyota Camry, BMW, Tesla, Volkswagen, Jetta, Nissan Maxima, those are some that-- so if you have cars that are designed that can be repaired after frame damage, this bill would also then say, if you go with the full intention of what the

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

proponents, you're automatically salvaged and you have to take that car off the road forever or part it out. That doesn't seem to jibe with what manufacturers are making from that. And I think it-- that's why I think it should still stay as a decision of insurance companies as they are evaluating these vehicles. To your question, Senator Fredrickson, as far as up until today, the answer was we were unaware of any other state that had done this. It's my understanding, at least from the proponents, it sounds like maybe Florida just recently looked at passing or passed something like this. But as far as other states that have created this other category, the answer, at least as of today, was zero, maybe one, so. With that, I'll try to answer any questions.

MOSER: Questions from committee members? So the value of a car that's listed as structurally damaged is going to be less than just salvage title? Could be less.

JUSTIN BRADY: Could be, yes. Yes. And, I guess, if you go even further as the proponents talk, you wouldn't even be able to sell it as though someone could buy it. So Mr. Bell could buy it and put his child in it to drive around town. You would have to part it out. Not-- that's not what the bill says, that's what-- I haven't seen the amendment from Senator Quick, but that's what it sounded like their intentions were moving forward.

MOSER: Yeah, is the problem that people are not repairing them correctly or is the problem that we aren't classifying these cars correctly?

JUSTIN BRADY: Right, I-- yes.

MOSER: Yeah. And whether they're fixed correctly, it takes an expert to tell that.

JUSTIN BRADY: Right. You'd almost have to have a post repair inspection and another cost to everybody who just was unfortunately in an accident.

MOSER: Yeah. OK. Any other questions? Thank you very much for--

JUSTIN BRADY: Thank you.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.

MOSER: --your testimony. Any other opponents? Is there anyone here to testify-- seeing none, anybody here to testify in the neutral? OK. Believe you could-- welcome to close, Senator Quick. We had five proponents received, two opponent comments, and no neutral comments for LB112. Welcome back. You made it just in time.

QUICK: Yeah, just made it just in time. Thank you, Chairman Moser and members of the committee. And I want to thank all the testifiers today. You know, one of the things besides safety that I think about, too, with, with this legislation is consumers buying a car that's maybe not up to snuff or maybe has had-- not had the, the best repair or maybe it was repaired and it shouldn't have been. And so when people buy a car like that, all of a sudden you end up putting more money into the car yourself. So it isn't, it's not even an issue with the insurance company, it's the issue with the consumer who's bought this car now and now all of a sudden these things start going wrong. And I guess that can happen without this, too. But, but some of these things can happen because of the accident. I know the insurance adjuster, you know, they're the ones that really-- they're the first ones that look at the car after you had, had an accident. I've had a couple of my-- over my lifetime and had to have them adjust the-- make the-- figure out what those repairs were going-- needed to be. And then I'm hoping that that amendment will clarify and maybe fix some of the issues that maybe we're having differences of opinion on. And not that it makes me an expert, but I did-- we did hit a deer one time with our, with our car. And I took it out to the, to the-- to Kramers, our salvage yard, and was just going to have them part it out or sell it to them for parts. And they, they actually told me we'll sell you a front clip and you can go fix it yourself. So I took the car back home. I brought the front clip and I borrowed a welder from one of my friends and I fixed the car myself. And my son drove it for, for quite a while after that. But that has nothing to do with this bill. But just telling you, I have a little experience working on cars, so. I know they mentioned, like, other states, and I think Wyoming, I don't know if they're working on legislation or the same as Florida, and we're modeling ours after Florida with the-- and trying to fix it that way. So with that, I'll be done. Thank you.

MOSER: OK. Any further questions from the committee? Seeing none, thank you very much. And that'll end our hearing for the day. Thanks for attending.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 10, 2025
Rough Draft

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony.