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Transportation and Telecommunications Committee  
January 25, 2010

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[LB719 LB725 LB816 LB831 LB856]

The Committee on Transportation and Telecommunications met at 1:30 p.m., Monday, January 25, 2010, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB816; LB719; LB831; LB856; and LB725. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Kathy Campbell; Tim Gay; Galen Hadley; Charlie Janssen; Scott Lautenbaugh; and LeRoy Loudon. Senators absent: None. []

SENATOR FISCHER: Welcome to the Transportation and Telecommunications Committee. My name is Deb Fischer; I am Chair of the committee. I'm from Valentine, Nebraska; District 43. I'd like to introduce our committee members to you today. On my far right is Senator Charlie Janssen; he is from Fremont. Next we have Senator Kathy Campbell from Lincoln. Next we have Senator Tim Gay from Papillion. Our next senator is our Vice Chair, Senator Arnie Stuthman from Platte Center. On my immediate right is Mr. Dusty Vaughan, he is our committee counsel. On my immediate left is our committee clerk, Miss Laurie Vollertsen. Next we have Senator Scott Lautenbaugh from Omaha; Senator Galen Hadley from Kearney; and Senator LeRoy Loudon is not here yet. I believe he is introducing a bill. Senator Loudon is from Ellsworth, Nebraska. Our pages today are Lisa Cook from Omaha and Tony Pastrana from Fort Collins, Colorado. Here comes Senator Loudon. If you have any need to pass out materials, or if you need a glass of water, anything, please let me know and our pages would be happy to help you out with that. We will be hearing the bills in the order that they are listed on the agenda. Those wishing to testify on a bill should come to the front of the room and be ready to testify as soon as someone finishes testifying in order to keep this hearing moving. I would ask that you please complete the yellow sign-in sheet at the on-deck table and so it is ready to hand in when you testify. We use a computerized transcription program and it's very important that you do follow the directions on that sign-in sheet. You will need to hand the sign-in sheet to our committee clerk, to my left here, before you testify. For the record, I ask that you spell your name, first and last, and keep your testimony concise and try not to repeat what someone else has covered. I leave it up to my discretion to limit testimony. I don't think we'll need to today. We do have five bills to be heard, but I don't plan to use the lights; but I would ask that you keep your testimony moving, preferably 3 to 5 minutes. If you don't want to testify, but you do want to voice your support or opposition to a bill, you can indicate so at that on-deck table. There's a sheet provided there; and this will be part of the official record of the hearing. If you want to be listed on the committee statement, however, as a testifier, you must complete that yellow sign-in sheet and you must come forward and actually testify, even if you just state your name and state your position on the bill. If you choose not to testify, you can still submit comments in writing and those will be read into the official record of the hearing and senators are always interested in that information that you provide. At this time I would ask that you turn off your cell phones; we do not allow cell phones on in this committee and that means no texting, so please turn your cell phones

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off. With that, I will open the hearing on LB816 and, Mr. Vaughan, would you introduce the bill, please. [LB816]

DUSTY VAUGHAN: I would, Senator Fischer, thank you, and members of the Transportation and Telecommunications Committee. For the record, my name is Dusty Vaughan, spelled V-a-u-g-h-a-n and I am the legal counsel for the committee. LB816 is being introduced on behalf of the Nebraska New Car and Truck Dealers Association. This bill is meant to add protections in the relationship between motor vehicle manufacturers and their franchise dealers. The reason for this regulation is because of the lack of bargaining power of the dealers in relation to the manufacturers. This lack of power is evidenced by all 50 states having these franchise laws. As a result of the volatility in the motor vehicle industry, seen by the unilateral closing of dealerships across Nebraska and the United States in 2009, a further review of the statutes regulating the licensure of motor vehicle dealers and manufactures was conducted here in Nebraska. This included analyzing what other states have done to ensure that consumers are not left without having...or, not left with having to travel hundreds of miles to get their vehicles serviced. In order to continue to protect the public and prevent manufacturers from eliminating competition and availability of sales and service centers, LB816 brings recent changes made in many other states to Nebraska franchise laws. There are no amendments in this bill that are not already law in other states and that manufacturers and distributors are already complying with. The bill renames Chapter 60, Article 14 as the Motor Vehicle Industry Regulation Act. It creates new definitions in the act that fit customary terms in the industry. With regard to manufacturers and distributors, the bill requires them to make a statement that they will be subject to the act and the rules and regulations of the industry licensing board at the time of the issuance or renewal of the license. The manufacturer is also required to make additional payments when a franchise is terminated or not renewed, including the fair market value of the line-make being terminated, a contribution of that line-make towards the rent payment of the facility or two years rent. The dealer is required to mitigate damages by offering the facility for sale or lease. As far as additional restrictions on the manufacturer's actions, the bill prohibits the manufacturer or distributor from requiring the dealer to join an advertising association; fixing the pricing of motor vehicles for retail; or requiring the removal of competing products a line makes; failing to offer a similar franchise agreement to the franchisee if the manufacturer's ownership or method of distribution changes; taking adverse action against a dealer for a sold motor vehicle being exported outside the United States; favoring certain dealers by selling motor vehicles at lower prices or offering a promotional program or incentive only to certain dealers; requiring dealers to exclusively sell the manufacturer's service or maintenance contracts or provide financing with a certain financial source; or denying warranty claims based on technicalities such as clerical errors. LB816 will give Nebraska dealers and citizens the same protections and fair treatment already being received in other states. With that, Senator Fischer, I'll conclude my testimony. [LB816]

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SENATOR FISCHER: Thank you, Mr. Vaughan. Any questions? I see none. Thank you very much. Next I would ask for the first proponent to step forward please. Good afternoon. [LB816]

LOY TODD: Good afternoon, Senator Fischer, members of the committee. My name is Loy Todd, that's L-o-y T-o-d-d. I'm the president and legal counsel for the Nebraska New Car and Truck Dealers Association. First I'd like to thank Senator Fischer for introducing this bill. As committee counsel indicated, we've been studying this matter for the last year, or so, especially in light of the turmoil in our industry; government becoming the major owner of some of our manufacturers and some of the things that have happened to my dealers. I assume the committee would like to know the impact in Nebraska of some of the recent events. I can tell you that we lost 30 dealers. We may get some of them back because we passed some federal legislation to allow arbitration regarding the reinstatement of some of the franchise locations. We lost 9 Chrysler dealers and 21 GM dealers. And to give you an indication of how sensitive that subject is, I've run this association for 21 years; we have virtually 100 percent membership in our organization and I still don't know who a half a dozen of those GM dealers are. I haven't had that confirmed. They're trying to keep it as quiet as they can. The manufacturer took away 22 Cadillac franchises; we had 25 in the state; they terminated 22 of them. They're trying to get most of those back and I think we'll have some success in that regard. They also wanted to combine certain products like GMC and Buick so they...in some towns they simply took away the GMC franchise from one dealer and are going to offer it to a competing dealer; same way with Buick. We're in a real strange situation. That caused me to meet with 25 other states and look at what's going on in other states to see if other people have laws to help deal with changes in the industry. One thing I do want to point out is, certainly nothing we do in Nebraska is intended to impede the bankruptcy court's authority or to have anything to do with the bankruptcy matters because that's federal law and we can't change that. A few states have tried, unsuccessfully, we're not doing that. This legislation deals with the state franchise laws and what we're trying to accomplish there. And also, I wanted to take this opportunity to really thank the motor vehicle manufacturers because, for the first time in 21 years of doing this, we actually got to sit down and we worked this thing out. I can tell you that the Alliance of Motor Vehicles Manufacturers represented by Mr. Lindsay and also, Don Wesely, I think is here; it is my understanding that they will not testify, but I have been working very closely with them. Everything that I'm going to...that's been submitted, including some amendments that they've asked for, that I've already furnished to counsel, have been totally agreed to. So there's...and that's so much better than is happening around the country. I can tell you that the Alliance of Manufacturers and other manufacturers had to hire 18 lobbyists in Colorado to fight the dealers' implementation of some of the things they were trying to do. We just don't have that situation here, so. I apologize for the length of the bill. It's 113 pages, I believe, but most of those are Bill Drafter changes because they wanted to rename the act. I will tell you that probably 99 of the 113 pages are simply changing the name of the act so that in

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future years you can make amendments to it without all that controversy. And so I will very briefly run through the changes. Counsel did a good job of telling you what most of them are. I'll give you a couple of examples of why we need those laws. If you go through section by section, 1 through 11 are just Bill Drafting changes. Section 12, most of those changes are implemented...the new language is there because when you, as a Legislature, change the law, there is some theory that the contracts that are in existence between the dealers and manufacturers are somehow grandfathered and then your new changes don't implement. This follows Texas and Kansas and a few other states that, basically, say when the manufacturer comes in and gets their license renewed, they have to go through a process. One is to say that they will comply with our laws and also that new laws that are passed will be subject to the requirement that they follow them. Section 13, Bill Drafter's changes. Section 14, rewriting the whole statute they had to strike all the old definitions and they will be reimplemented. Sections 15 through 19, same thing, no changes in the law. Section 20 is interesting; we used the word "coerce" in the statutes for years, but never defined it; and so this copies the definition of coerce throughout the country. And, in fact, the manufacturers improved that language and we appreciate that. The other, Section 21, just moves some definitions of community to a different place in the statutes. Sections 22 and 23 make no change in Nebraska law. Section 34, we use the term "line-make" in our industry. And line-make, for example, Pontiac is a line-maker, or GMC truck is a line-maker, or whatever. And it's...and you can have separate franchises for those line-makes. But the line-make was never really defined well in the law and so this is a new definition taken from many other states, agreed to the manufacturers. We are suggesting, and I've given counsel this amendment, I talked to the RV association, the National Recreational Vehicle Association, and they are covered under our law, but they are much different than a franchised car dealer. And so in that regard, they asked if we would ask you to change and exempt them from some of the terms under line-make. Because RV manufacturers change line-makes constantly, that's not unusual for them to do it, you know, annually, they come up with all these wonderful new names for all these, you know, huge RVs, and so it's noncontroversial at all. It only impacts them. Section 35 was from the Bill Drafters that they wanted to update the federal definition of the term "mobile home." It has nothing to do with us or our bill. Section 36, it's just an update of the term "manufacturer." It clarifies that they can be distributors or manufacturers, depending on how they're doing business. Thirty-seven through 59 are all Bill Drafter changes, just to pick up the statutory name change. Again, Section 60 repeats, in some way, the requirement that the manufacturer become in compliance with Nebraska law upon you folks making changes in Nebraska law. Section 61, the first part of that...again tells the executive director of the Industry Licensing Board not to issue a license to anyone who won't agree to comply with Nebraska law. And the second change in Section 61, there was...and this was my fault, there's a part of a Nebraska insurance law that I had been wanting to clarify for years. This opened up that section, I thought I'd take advantage of that and put in a simple provision that said nothing in this act shall decide, in and of itself, who, which insurance company will be primary if a person demonstrating a vehicle

has a wreck. I still believe to this day that it doesn't change anything, however, it was giving heartburn to some members of the insurance industry. It probably didn't belong in this bill. I was taking advantage of the situation. I've decided to ask the committee to strike that; I've given counsel that, so there will be no meaningless changes in insurance law in this bill. Section 62 and 63, again, Bill Drafter changes. Section 64, it's just an update of current practices. Sixty-five through 78, again, just Bill Drafter changes. The one part, Section 79, the part counsel alluded to, under current law the manufacturer must make certain changes or certain payments to a dealer if they terminate them and most of the contracts in the industry, and the law has always been applied, so it didn't matter who terminated, whether it was the dealer or the manufacturer, because in their relationship the dealer is required to buy so many things: signs; the vehicles; training; special tools; equipment; that kind of thing, that really has no market any place else and it's all the dealer's investment. So in the event of a termination, there, either way, it will be required that the manufacturer buy back certain minimum things. We are offering amendment, at the request of manufacturer, so that that provision clearly does not apply when a dealer sells his dealership to someone else. If there's an arm's-length transaction and one Ford dealer in a town decides to sell out to someone else, we're not asking that that trigger a requirement to buy back anything by the manufacturer. That will simply be a transaction between those two parties. That "under" or "all" must be approved by the manufacturer before it takes place. So they still have their leverage. Again, in that regard, the RV Association asked that the National RV Association and Manufacturers Association asked that RVs be excluded from one part of that in that if the manufacturer is required to pay rent on the facility for a year or two, or buy it back, that won't apply to the RV people, simply because the RV people don't make the same kind of investment in a dealership that a car dealer does. The RV...a lot of those vehicles are consigned vehicles and a lot of the parts are simply unique to those RVs. So it just didn't fit and we agreed that they ought to be taken out. I'm almost finished. Section 81, it requires that a manufacturer can't require a dealer to involuntarily join an ad association. Sometimes a manufacturer might do that to get rid of their own advertising expense; instead they'll turn around and say a dealer must pay money into and contribute to an ad association; even if the ads don't do any good for them and they can...ad associations can be as broad as Kansas City to Scottsbluff or as narrow as the Omaha metro. And depending on who the manufacturer wants to force to be in it or out of it, you get people contributing to advertising they don't want to be part of. And so we're jointly requesting that they not be able to do that. The other things, and when you read some of the language, it's really kind of surprising, but, you know, to have an amendment that requires the manufacturer to refrain from making them...making a dealer not handle other products or to control pricing or...I'll give you an example of the kind of things that happen. And it's just because of the power, it...you know, it...when one party to a contract, or to a relationship, has unlimited power, or virtually unlimited power, just bad stuff happens. And, for example, I have...there's one franchise out there that I have five dealers that have that franchise; one of them called me up a couple weeks ago and said, you can't believe what they're doing now, I found out that they've

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been having a sales contest and a promotion and only three of us were told about it. Three of us were told that we get a thousand...extra \$1,000 off of each vehicle we sell during a certain time frame. The other two weren't even told about it. We're competing with the others, we're getting beat on every deal, can't figure out why, stumbled into this information. And the next thing will be that franchisor will come along and say, you know, you're really not a very good dealer, you're not...you know, your market share is this much, and you're not holding your own, I mean, that's the kind of goofy stuff that happens in our industry. And we have nowhere else to go. You know, if we were selling hamburgers, and the franchisor of McDonald's said, you know, we don't like you anymore, you can always go buy another hamburger someplace and bring it in and sell it; but these guys...my guys invest millions in their facilities. They build them in the design the manufacturer insist; the investment is huge; training; we pay for everything. But they have that kind of bargaining power which is why we have these kind of laws. So the other changes in here will control, at least to some extent, that kind of manipulation. And then one of the few remaining things, we're also asking the law to be clarified so that they can't do those things indirectly that they can't do directly. For example, GM can't say, okay, we're not doing it to you, but have GMAC, which is the financing arm, set up a requirement that you have to do something in that regard. So it just clarifies that there can't be an indirect control of a dealership. And the...well, the last change that I'll discuss, Section 83, we're having a little problem regarding warranty claims and audits and we just wanted to clarify that loss. Because some manufacturers, in tightening their own belts, well, they'll come along and come up with some very picayunish requirements, for example, that every repair order be signed and initialed by a certain qualified technician and they'll reject those because the signature wasn't there or it was an initial instead of a name or things like that. And we just want the right to resubmit those claims if they're for a technical violation. And it's hard to believe that we need that on the law, but we do. And so one of the amendments that I've given counsel is to still be able to do that and that they can audit for fraud any time they want, but...within a two-year period. But on technical things, we get to resubmit the claim. With that, I would answer any questions. But, like I said, we've worked it out, it's been...you know, it's been a dream come true. I was, you know, I was afraid this was going to be the donnybrook of all time, and I wasn't relishing the thought of fighting with 18 other lobbyists. There's just me. Thank you. [LB816]

SENATOR FISCHER: Thank you, Mr. Todd. Are there questions? Senator Gay. [LB816]

SENATOR GAY: Thank you. When you say you worked this out, you'd said earlier, how many states are trying to go through this process of rewriting the...you're rewriting your whole act, basically, aren't you or not? [LB816]

LOY TODD: We're making, probably, a dozen changes to the act, but the act has been around for more than 50 years. [LB816]

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SENATOR GAY: Yeah. [LB816]

LOY TODD: Every state has had laws exactly like this for more than 50 years, because it just has to be controlled. [LB816]

SENATOR GAY: Yeah, and you talked about the imbalance of power, I understand that, but the game is changing now, so you're saying, well, we got together and here's what we need to change. [LB816]

LOY TODD: Yes. [LB816]

SENATOR GAY: How many states did you say this is...that are trained to do this, then? [LB816]

LOY TODD: I'm aware of about 20 states that already have legislation pending. [LB816]

SENATOR GAY: Pending, not passed. [LB816]

LOY TODD: Yes, well, we're pretty early, but, no, these changes...probably there have been a dozen states that have already passed changes similar to this. And we have some things in Nebraska law that are actually way ahead of other places. A lot of states are picking up Nebraska's statutes and changing their language to fit some of that. So it just...it's just...it was cause for us all to get together and compare. [LB816]

SENATOR GAY: So, I guess with competitive forces going on in the auto industry, new entrance, and everything else, I mean, you're kind of in between a rock and a hard place here. But I'm just kind of wondering how much, if we're continuing this, the government involved in these contracts, in a way, we're...to me it looks like the government has been stepping in and saying...I mean, I'm wondering if any of this is still needed in a competitive market that you say, hey, I don't want to be a dealer here anymore and... [LB816]

LOY TODD: I understand, Senator. The interesting thing is, as opposed to it, maybe not being needed anymore, the problem is that the competition...first of all, there are very few motor vehicle manufacturers and it's very expensive to get into the business. And what's happening, especially in rural states like ours, what the manufacturers would kind of like to do, is get rid of lots of small town dealers. Even though they don't cost them anything or very much, but the inclination is to say, well, if we've got fewer dealers then they'll sell just as much product and they will be more profitable and compete better, which doesn't work. When GM wants to come in and get rid of every Cadillac dealer between Grand Island and Denver, it shows you they really aren't interested in serving that market. They just don't want to do it. Even though that dealership is my dealer's expense, not the manufacturer's expense, the products are bought FOB Detroit. The

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dealer pays for that before it leaves. The training of the employees, my dealer pays for that; pays the factory to do it. The signs, we either rent them or have to buy them from the factory. The tools, we rent them or buy them from the factory. Other than computer access, the factory does nothing. And to clear the decks for these manufacturers to...I can tell you, if you want to buy certain vehicles and you don't live in Lincoln, Omaha, Grand Island, you're just out of luck. And that's why we need these laws. It's...even though it seems like there's more competition, there really isn't. There are a few new players, but they're going away. Some are going away too. So this is incredibly important to the public because you buy that car...average age of a car in the country is ten years old. Nebraska has the second oldest fleet in the nation. We're like 14 years old. If they were allowed to just dump on the people that have invested in that product, it would be pretty harmful, so. So the trend is opposite of what your instincts are, simply because of the unique industry. [LB816]

SENATOR GAY: It truly hasn't changed that much, is what you're saying, yeah. [LB816]

LOY TODD: Correct. [LB816]

SENATOR FISCHER: Other questions? Senator Louden. [LB816]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well, as I look this over, are you trying to tighten it up to decide who can be a dealer and not dealer, is that part of what this is in here? Because I see where you got to have a sign and a telephone and a bunch of stuff like that. [LB816]

LOY TODD: That's already existing law, we're not changing anything about what it takes to be a dealer at all. It's pretty...really pretty easy...about the biggest requirement we have in this state, the biggest hurdle for somebody who wants to get in the business to overcome is the \$50,000 bond which the Legislature increased that from \$25,000 to \$50,000 a few years back. When the average price of a new car is already at about \$25,000, that bond isn't really too meaningful at that \$25,000 level. That's the biggest impediment to getting into the business is having enough assets so that you can pay off a \$50,000 claim. [LB816]

SENATOR LOUDEN: Well, I see where it was described then, I was wondering where you increase the fees, was that just something to bring it up to date, or something like that? [LB816]

LOY TODD: The fee increase happened a couple of years ago because the Industry Licensing Board was a cash agency and it was broke and they had some vacancies they couldn't fill so this committee and the Legislature increased those fees. It has nothing to do with this bill. We're not... [LB816]



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SENATOR LOUDEN: There's...that's new language in here, that they increased the fees, aren't they? [LB816]

LOY TODD: I think it's just moved. There is no intent and I know of nothing in this that's got... [LB816]

SENATOR LOUDEN: It's got lines under it. Went from...for a dealer from \$200 to \$400 and that sort of thing. [LB816]

LOY TODD: Actually, what I think...that's just picking up the change that had been made previously and moving it to a new section and because it's coming into a new section, I believe, that's why it's underlined because it struck the old section and moved it to the new location. [LB816]

SENATOR LOUDEN: And then, oh here about page 96 or something, they talk about, and I think you maybe answered that when you talked to Senator Gay there, about in one part of the state...and do I understand it that if Ford Motor Company was having a...some sort of a promotion in Omaha then I should be entitled to get that same promotion in Alliance or someplace? Is that what that means? [LB816]

LOY TODD: Yes, pretty much. It means it needs to be functionally available to all dealers. For example, if they're saying every vehicle you sell after 10 vehicles or after 15 vehicles, qualifies for the promotion, it doesn't matter if that's in Alliance or in Omaha, whatever. But what we don't want, is someone to be able to say, that the dealer competing...the Alliance dealer competing with the Omaha or Grand Island dealer, whatever, that only one of those people can be offered the promotion and none of the rest of them because they all have exactly the same source for those vehicles. And since they have that and the dealer pays for the transportation also; the manufacturer doesn't pay for that, so, what we're saying is, if you've got five dealers in the state or ten, you've got to let them all participate in the pricing and the promotions that you offer. You can't pick and choose one or another. Because what they do, eventually, is then they load their friends up, they punish their enemies and then pretty soon they want to terminate you because you didn't compete well. [LB816]

SENATOR LOUDEN: And that would be statewide? [LB816]

LOY TODD: Yes. [LB816]

SENATOR LOUDEN: Okay. Now does that have any effect on the manufacturer? I mean, my understanding here a few years ago, when they started choking some of these car dealers to death, that there wasn't much that anybody could do about it because manufacturers, you might say, held all the cards. By putting this in statute, does that make any difference? Can they still, more or less, do as they please seeing as

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how they own the whole country? [LB816]

LOY TODD: No, this stops them. And you have the...you have the power to stop them. Now what we can't control is cross state lines. If they want to do a promotion in Iowa and not Nebraska, we can't control that. But we can control what they do in Nebraska. And so, let's say, when they're doing one of these in the state of Nebraska, they have to treat all the dealers in Nebraska the same. [LB816]

SENATOR LOUDEN: Now we wouldn't be putting something in statutes and then they would, one of these manufacturers, would say, well then, if that's the case, I'm not going to do business in Nebraska and just plainly not...pull the dealerships out. [LB816]

LOY TODD: No, they don't have the right to do that under the law. And this, certainly, won't accomplish that. And, as I've indicated, they agreed to this. And this is the law in a lot of other states already. [LB816]

SENATOR LOUDEN: Okay. Thank you. [LB816]

LOY TODD: Thank you. [LB816]

SENATOR FISCHER: Senator Hadley. [LB816]

SENATOR HADLEY: Senator Fischer, thank you. Mr. Todd, on Section 79, when you talk about additional payments including fair market value of the franchise from the line-make, is that new language or is that... [LB816]

LOY TODD: That's new. [LB816]

SENATOR HADLEY: Now, quick question. I didn't see much in the way of how that would be implemented. Would there be problems of determining who decides on what fair market value is and what happens when the manufacturer says, we have one person that says it's this and the dealer has...how would that be worked through? [LB816]

LOY TODD: Okay. First of all, let me tell you that's a very limited application, that one section because that is only when they take away a line-make and a dealer only has one line-make. It doesn't apply if you have multiples. So that...let's say...but say you're a...we had it one time...we had one of the few stand-alone Plymouth dealerships in America, in Nebraska, and they terminated that line. When they did that, that dealer was entitled to nothing. Okay. If this had been the law at the time, here's exactly what would have happened in that circumstance. The...both parties would have looked at it and they would have gone back to...the value of that franchise, at the time the termination was announced, and then they would try to value it at that...try to evaluate it at that point and

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they are experts all around. I mean, there's a going formula for determining the value. And so, each party would negotiate and say, I think it's worth this much; manufacturer would say something else. They would try and get together. If they failed to, the Industry Licensing Board is the ultimate decision maker; either party could complain to the Licensing Board and say, they haven't complied with the law or they have...they're not following the law, both parties could come in, present their proof, the Licensing Board could make a decision. If anybody's unhappy, they can go directly to the district court from there. So the process is in place. And this establishes those time frames within this statute. [LB816]

SENATOR HADLEY: And then a follow-up to that. You said we had one Plymouth dealership at one time. How many single, do you estimate, how many single dealerships do we have in Nebraska now? [LB816]

LOY TODD: Very few. [LB816]

SENATOR HADLEY: I was going to say... [LB816]

LOY TODD: I was trying to think and I don't...I can't think of one, but my guess is there may be... [LB816]

SENATOR HADLEY: I was thinking, like, Mercedes, or something like that... [LB816]

LOY TODD: But they're almost never stand-alone. Yeah, you're exactly right. If there are a dozen, I'd be stunned. [LB816]

SENATOR HADLEY: Okay. I was just curious. Well, I just wanted to be sure that...because I know from an accounting standpoint, sometimes determining fair market value could be in the eye of the beholder and can be a difficult task. [LB816]

LOY TODD: Exactly. Uniquely in our industry, there are true experts in formulas. I even have workbooks on how to determine it, so, yeah. But it is...it is a...it is going to be a fact-finding problem. [LB816]

SENATOR HADLEY: Thank you, Mr. Todd, thank you. [LB816]

SENATOR FISCHER: Other questions? Mr. Todd, I think you began your testimony where you listed the dealers that have been lost in Nebraska, and I view that as the main purpose for this bill, would you agree? [LB816]

LOY TODD: Yes. [LB816]

SENATOR FISCHER: That it's...the bill is to update our laws so that not only we protect

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these businesspeople in the state, but we also protect their customers. I know, being from rural Nebraska, when a dealership closes, you've also lost the ability to have your car serviced. Do you know or can you say where these dealers, the 30 dealers were located in Nebraska? Were they across the state? Were they in more rural areas? Was it kind of an even breakout there for us? [LB816]

LOY TODD: Senator, it's really difficult to generalize, but I can tell you two things that are...we had anticipated that the terminations were going to be in Lincoln and Omaha because the manufacturers, for years, have said, that's where they have a problem, that's where they're over-dealered, because the dealers are competing against each other. And the theory out there, the theory by a manufacturer is this, that if they've got five Ford dealers in a town, they're so busy competing with each other they're not making enough profit so they don't compete well against Toyota. Then that's the theory and it's been around for many years. Now, whether that's right or not, I don't know. But that's what they've been talking about. And they want to get rid of the dealerships in the older, more rural...excuse me, not rural, the more economically poor areas of town, those kind of things, an area that the traffic has moved away from, those kinds of things, a clean-up. And we always understood that, and said, we'll help you facilitate that, get the dealers together, buy each other out, or you buy them out, and take care of it that way. Unfortunately, when all this turmoil happened, and that's what we thought was going to happen, I thought I was going to lose dealers in Omaha and Lincoln. When the Obama task force met and came up to be the only financing arm available to the manufacturers, they said, no, we want to recreate the American auto industry in the image of Toyota. And Toyota only has about half as many dealers and they're successful, so. We want you to cut more. At the point where the manufacturer had already submitted their old list of inner city dealerships and places where they thought they were over-dealered, now they had to come up with a double number. So what they did, is what you would do. And they said, well, let's get rid of the little guys, because they're selling the fewest cars. And that's where Nebraska got killed. And so, here's the surprising thing in Nebraska, we lost a couple of...a few Chrysler dealers, three or four in the Lincoln and Omaha area. No GM dealers. It's all statewide, it's out, it's the rural areas, it's the small towns, like I said, 22 Cadillac dealers. And then GM especially, and then Chrysler, small town dealers. And it really doesn't work in Nebraska, I mean, it just doesn't, the model doesn't work. If all my guys were selling Toyotas, they ought to been doing a lot better back then, because it was such a hot product at the time. That changes. So...but you're exactly right, Senator. It's the public that is justified...justifies having these laws. It's protection of them and having parts, service, sales available. [LB816]

SENATOR FISCHER: Which is how I view this bill. I view it as consumer protection, not just protection for the dealers. And I'm pleased that you've been able to work with the manufacturers and come to an agreement on it. So thank you very much. [LB816]

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LOY TODD: Thank you. [LB816]

SENATOR FISCHER: Next proponent, please. Any other proponents for the bill? Are there any opponents to the bill? Anyone wishing to testify in the neutral capacity? I will waive closing. With that, the hearing on LB816 is closed. And we will open the hearing on LB719. I believe Senator Avery is in another hearing and so I welcome his legislative aide for the opening. Thank you for being here. [LB816]

NICOLE KANNE: Thank you, Senator. My name is Nicole Kanne, that's K-a-n-n-e, and I'm here on behalf of Senator Avery today who is testifying in another committee. LB719 would require that any individual actively engaged in weather spotting, ham radio communications, or emergency management have a rotating or flashing amber light affixed to their vehicle. We also include in the language authorizing rural mail carriers to have roof or front and back amber lights. Weather spotters, ham radio operators, and emergency management teams provide an invaluable service to the rural communities, often giving their communities the precious gift of time, added seconds and minutes that can help save lives. Weather spotters and ham radio operators are individual volunteer citizens who take stationary positions near their communities and report wind gusts, hail size, rainfall, flooding and cloud formations that can signal developing tornados. They report these findings and information, known as ground truth, to the National Weather Service and their community emergency management agencies. This is often done through an elaborate system of on-location reports, coupled with Doppler Radar, data collected from satellite, and ham radio networking and reporting frequencies. In the average year, 10,000 severe thunderstorms, 5,000 floods and more than 1,000 tornados occur across the United States. As has been evidenced in recent Nebraska history, these damaging storms can materialize in seconds with little or no notice to citizens. They can become life-changing events taking lives, properties and entire villages. Volunteer weather communications and medical workers are valuable first responders providing our communities with needed services. The intent of this bill is to provide as many safety features as possible to those individuals conducting official activities pursuant to weather, emergency or community related events. These volunteers practice their trade in harsh, adverse elements and extremely low visibility conditions. We want those volunteer citizens who are on the sides of rural roads collecting, reporting weather data to be seen by oncoming vehicles. We want to protect those that are protecting us. Currently, amber lights are statutorily required for any military vehicle mobilized by the state; public utilities; towing services; privately owned construction vehicles; pilot vehicles escorting wide loads, and vehicles owned on behalf of railroad carriers. Adding a new category of volunteer safety workers is reasonable and the benefits outweigh the minimal fiscal impact. We have received a good deal of inquiries on this bill and have received no negative comments. Furthermore, it is important to note that the Region 5 Emergency Management Agency in south central Nebraska endorses this bill. And I believe they're here today to testify on behalf of it. Senator Avery has also been approached by two other industries who would like to be

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included in the list of vehicles. Senator Avery asked that the committee consider furthering...further extending the language of the bill to require amber lights for special events vehicles, including escorts for cycling or road races who can provide needed volunteer traffic coordination and to private independent individuals who operate snowplows. And that's all I have. Thank you. [LB719]

SENATOR FISCHER: Thank you, Nicole. Are there questions? Senator Louden. [LB719]

SENATOR LOUDEN: Yeah, were you going to answer questions on this? [LB719]

NICOLE KANNE: I can. I think you'd, probably, be better served by some of the testifiers here today. [LB719]

SENATOR LOUDEN: Okay. Thank you. [LB719]

NICOLE KANNE: Sure. [LB719]

SENATOR FISCHER: Thank you very much. Are there proponents for the bill, please? Good afternoon. [LB719]

PAT GERDES: (Exhibit 2) Good afternoon, Senator Fischer and committee. My name is Pat Gerdes, P-a-t G-e-r-d-e-s and I am the Director of Region 15 Emergency Management out of Holdrege. I cover four counties down in that part of the state. And I'm also the president, this year, of the Nebraska Association of Emergency Management. And just wanted to kind of shed a little light on this; we were approached, as an association, about mid-summer last year after it was discovered that a couple...about a year ago, it might have been July, of '08, I believe, a law was passed that Senator Schimek had put through that had given the Adjutant General some authorization to allow his military convoys to run an orange, an amber flashing light as part of their convoy. And in that then, somebody had discovered that these other categories were listed in that law that Miss Kanne just told you about, but that left out anything for any volunteer folks. In the past, amber, it had always been, or the orange flashing was kind of a caution. It was in no way to take away from the red flashing lights of law enforcement, other actual emergency vehicles. The idea was to give these folks some kind of a...some extra added protection out there in the field when they are on...have been deployed by emergency management; or amateur radio groups are out there watching storms; assisting in traffic control; parades, whatever the case may be. The way the law was written, they were actually not in compliance and could be cited and that brought some concern out to some of the metro area, amateur radio folks, that's the ones that approached us. So I had contacted Senator Avery's office about moving forward with this after our legislative committee of the association had met and decided that this was something we ought to look at. And it wasn't, again, an authority

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type of thing, it was just a public...or a safety issue for our volunteers. We do a lot of things for them to keep them safe while they're out there trying to protect us; watching the weather, etcetera, and this just gave them that added...a little bit of added protection. Not only to protect them, but also to protect our counties from some liability. When we actually deploy them, our counties, actually, somewhat become liable because under the Emergency Management Act, they are operating under the auspices of the local county. And in the event that they would get struck on a hillside during inclement weather or because they were not able to be seen by a passing motorist, the county is going to end up eating some liability, maybe just as simple as a ding in the car to possibly a death. So, if we can alleviate that by adding a \$40 bright orange flashing light on the roof of their car so that other motorists can see them, we felt that this was very important to us, so. And then I guess I turn it back to you and if there's any questions, I'd be happy to answer them. [LB719]

SENATOR FISCHER: Thank you, Mr. Gerdes. Are there questions? Senator Stuthman. [LB719]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Gerdes, for these weather spotters and stuff like that, will this just be a portable light that would get...be a magnet they put on their own vehicle and go like that, would you think there would ever be the time when somebody else would just put one on his own vehicle as a portable one and not be a weather spotter or think he's a super weather spotter and he'll go out and try to check the weather? [LB719]

PAT GERDES: That's a very good point, Senator. Yes, there would be that chance and there is that chance. And that's been an issue with emergency managers the last few years that we've had some pretty rough summers. And the idea is, our people that we did issue orange lights to would be...my particular instance, my people only run their light when they're stationary. They do not do it when they're driving down the road; they have to be stopped at their spot. They turn their light on for protection and if they move to a different spotting location, they shut their light off and wait. We have a difference between spotters and chasers. And that's a public perception that's been very hard to overcome. My people are spotters because they stop; they watch the storm; they relay information. We have chasers that come in from...some in-state come...some come from out of state; some are television network based, and they think they own the roads of Nebraska and they put on...do exactly what you just said, they throw their orange light on and they impede traffic. They don't obey traffic laws. We had issues a couple of years ago where they were running their orange lights, but they were running faster than any law enforcement officer probably could go to catch up to them, because that's the...they were wanting to stay ahead of the storm. And with limited resources at the NSP level, limited resources at the local and county level of law enforcement, it's hard for them to stay on top of it. So that could be an issue. [LB719]

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SENATOR STUTHMAN: Mr. Gerdes, thank you for that information because I truly support the fact that if you've got weather spotters and they're stationary, they're watching the movement of the clouds and can report, you know, as it's moving, everything like that, and as far as I'm concerned, the storm chasers are those people, the only time their light should come on is when they're upside down in the ditch. [LB719]

PAT GERDES: So noted. [LB719]

SENATOR STUTHMAN: Thank you. [LB719]

PAT GERDES: Thank you. [LB719]

SENATOR FISCHER: Other questions? Senator Hadley. [LB719]

SENATOR HADLEY: Senator Fischer, thank you so much. Mr. Gerdes, just out of curiosity, this would...a lot of these are volunteers, is that correct? [LB719]

PAT GERDES: Yes, that's correct. [LB719]

SENATOR HADLEY: Would there be any problem of having the funding for the light or how would the potential funding might work for this kind of light? [LB719]

PAT GERDES: For the most part, it would come...it could come down to a couple different things. From what I understand in the metro area...the Omaha metro area, where the Amateur Radio Relay League volunteers are doing the storm spotting for Douglas County and that area, they primarily provide their own light, from what I understand. In my particular area, my spotters, I buy...I purchase the lights out of my county budget to fund that. Just because I...again, my key thing is to keep them safe out there while they're working under my auspices, so. [LB719]

SENATOR HADLEY: Thank you. [LB719]

PAT GERDES: Thank you. [LB719]

SENATOR FISCHER: Senator Louden. [LB719]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well, when I look at this, the way that you wrote this bill here in 60-6,232, you've added "front and rear" on a rotating, flashing light on...for rural mail carriers. Why did you do that? [LB719]

PAT GERDES: Well, that was a suggestion that had come...that really hadn't...the mail carrier thing, obviously, didn't have a lot to do with emergency management; but there



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are some mail carriers now that are starting to run a, what they call a corner strobe, orange or amber flasher, similar to what the Nebraska State Patrol runs in their cruisers now where they have a strobe in all four corners of the vehicle that's, I think theirs are clear, NSP could enhance on that, but the...some of the mail carriers have now put those in and according to that statute, it said they must have a...an affixed light to the roof of their vehicle. It did not take into consideration that type of lighting, so that was just added to kind of protect the rural mail carriers. [LB719]

SENATOR LOUDEN: When you say, "front, or rear", now you're talking about down low on the rear of the vehicle or... [LB719]

PAT GERDES: They go right into their taillights and their turn signals is where they are affixed. They get permanently mounted in there and they're a flasher that way. [LB719]

SENATOR LOUDEN: Rather than having a roof mount, rotating light? [LB719]

PAT GERDES: That's what they're doing. [LB719]

SENATOR LOUDEN: Okay. And now by putting that in statute, does that mean all the rest of these down here, located in here, clear down to hauling baled hay, or unbaled hay, and that sort of thing, have to have those types of deals? [LB719]

PAT GERDES: Well, I believe the intent was that it would be the mail vehicles would have that capability. [LB719]

SENATOR LOUDEN: Okay. Now, does the mail carriers, or someone ask you to put this in, or who asked to have this... [LB719]

PAT GERDES: That just came from some discussion that had come out of the group of things that were going on across the state that thought why...this statute was being looked at, that that ought to be a...maybe, an amendment to be put into that. [LB719]

SENATOR LOUDEN: But otherwise, all you're doing is just giving weather spotters the authority to put a rotating light on top of their cars, is that right? [LB719]

PAT GERDES: Correct. [LB719]

SENATOR LOUDEN: Now, can the spotters have to put the...be able to put this front or rear deal on theirs, or are they bound to just have it on the roof of their car? [LB719]

PAT GERDES: The intent was to have them with a light on the roof of their car so that it was...the strobes do not give out near the intensity that the roof-mount light probably, it is far all 360 degrees around the vehicle. They are more directional, so the intent is that

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the spotters would still use a revolving or a flashing on the roof so they get 360 degree protection. [LB719]

SENATOR LOUDEN: Now, when these spotters are parked some places, oh, we got some...oh, an e-mail from some people that nearly got hit on a bridge or something like that, why didn't they have their hazard lights on? Can't the spotters use their hazard lights when they park along... [LB719]

PAT GERDES: They can, but back, I don't remember when, probably, I'm going to say the late '80s, somewhere in there, safety studies were done on the effects of flashing lights. Law enforcement, primarily, at that time, was using a red, or a red and a white, and that's when they...Nebraska changed the statute to allow law enforcement, emergency responders, I'll put it, blanket it that way, to be able to use blue, because blue had some better effects during inclement weather than what the red did. Hazard lights to the rear are red. And so there...on some of the older vehicles, so there is an issue there as they aren't, maybe, quite as noticeable as coming from the front and seeing an amber on the front of the car. Whereas, if you had the amber flashing on the roof, again, you're going to get 360 degree protection out of that. It won't be directional. [LB719]

SENATOR LOUDEN: Just for an interesting point, the reason they got the blue lights on there is for people that are color blind, shows up better than the red lights did. [LB719]

PAT GERDES: And that's true too. But the blue does show up. Obviously, white was the best, it was...and that was designated on school buses, as the safety feature on a school bus, because it showed up the best in fog, and then blue and orange, or amber, were all in there. Red was one of the worst ones that, as far as, through inclement weather, so. [LB719]

SENATOR LOUDEN: Okay, thank you. [LB719]

PAT GERDES: Thank you. [LB719]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? I see none. Thank you very much, Mr. Gerdes. [LB719]

PAT GERDES: Thank you for (inaudible). [LB719]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB719]

BOB ROSE: Good afternoon. Honorable members of the committee, my name is Bob B-o-b Rose R-o-s-e and I'm the Clay County Emergency Manager and I don't propose to know nearly the background that Mr. Gerdes had in this. But I will say that for the

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safety of our volunteers, this is a needed addition. The federal government now requires anybody that's on a highway to have a vest that is reflective from all directions when light shines on it. Now I know that our spotters, most of the time are not outside their vehicle so somehow we have to make it so they can also be spotted. And they're out there, usually in inclement weather and so the flashing light would definitely be for that. As we get less and less volunteer firefighters and whatever doing our spotting, it becomes a big thing that we use people that are interested in radios which are our amateur radio clubs as spotters in a lot of areas. I know that in our local trimmer's area, we just authorized a grant for \$26,000 to put up repeaters for these people so their communication can be better. If we're going to put them out there, we need to, somehow, help protect them. And so, I'm strongly supporting this bill. [LB719]

SENATOR FISCHER: Thank you very much, Mr. Rose. Are there questions? Senator Campbell. [LB719]

SENATOR CAMPBELL: Thank you, Senator Fischer. Are there any other identifying elements to the volunteer who is out there? Do they have a card or they have a magnetic sign on the car? [LB719]

BOB ROSE: Very few. Some people might have a magnetic sign they put on, but that's few and far between. I know that volunteer firefighters are allowed, with the sheriff's permission, to have a red light put in their car. But otherwise, the rest of the volunteers are pretty much without anything. [LB719]

SENATOR CAMPBELL: Thank you. [LB719]

SENATOR FISCHER: Other questions? I am curious on something, Mr. Rose, would you happen to know, and I don't know if you do, but would you happen to know if there have been any fatalities of a volunteer person, is that why this is being brought forward? Or have there been any accidents? Or is this a precaution so there won't be any? [LB719]

BOB ROSE: I would say that it's mostly precautionous. But has there been volunteers that have died, I won't say that they've died because of the not light on their car. I know that one that was swept away by a flash flooding a few years back. [LB719]

SENATOR FISCHER: I was just curious. [LB719]

BOB ROSE: And I believe there was a fire truck hit while they were out spotting. But, no, I don't have that off the top of head. [LB719]

SENATOR FISCHER: Okay. We'll, hopefully we'll look into that and get that information. Thank you very much. [LB719]

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BOB ROSE: Thank you. [LB719]

SENATOR FISCHER: I appreciate you coming today. Any other proponents please?  
Welcome. [LB719]

LARRY DIX: Good afternoon, Senator Fischer and members of the committee. For the record, my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials appearing today in support of LB719. A couple of things, certainly, we're in support of it as our organization represents the emergency managers across the state. But I would like to touch base just on a couple things that were brought up. We're more than happy to work with the committee, if you believe there's a need for additional identification for these folks. They could be, as much as, having some type of a name badge to identify them through the local emergency managers or they could carry some piece of documentation. If you would like that from the emergency manager's office so that if someone would stop them, they would have some type of identification to understand why they would have this amber light on their roof. One of the things that we did find is that in some of the instances, we had some...our law enforcement folks going out to some of the spotters saying, well, why are you sitting here on the side of the road? And you're going to have to move unless you can prove that you're doing what you're supposed to be doing. And so in this instance, we want to make sure that those law enforcement entities are working with our emergency managers. But yet, they have some type of identification and they know there is a purpose for them to be there. And so we'll be happy to work with the committee on...if you feel there needs to be an amendment to identify that. We'll be very happy to do that. With that, I'd be happy to answer any questions anybody has. [LB719]

SENATOR FISCHER: Thank you, Mr. Dix. Are there questions? I see none. Thank you very much. Next proponent, please. Good afternoon. [LB719]

ARTHUR ZYGIELBAUM: Good afternoon, Senator and committee members. My name is Art Zygielbaum, I'm on the faculty at UNL and...but my being here is I'm also the section manager for the state of Nebraska for the American Radio Relay League. We're the national organization of amateur radio or ham radio operators. [LB719]

SENATOR FISCHER: Would you spell your name, please. [LB719]

ARTHUR ZYGIELBAUM: I'm sorry. Took me until the fourth grade, I try to avoid it. Z-y-g-i-e-l-b-a-u-m. [LB719]

SENATOR FISCHER: Thank you. [LB719]

ARTHUR ZYGIELBAUM: In some sense, I'm the head ham for Nebraska and I appoint

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the emergency coordinators that are part of the amateur radio emergency services here in the state. I do that in support of the emergency...county emergency managers who they work with. I am a trained storm spotter and I did want to comment on one thing. Just a couple things before you look further, in Lancaster County we do have a badge issued by the county. We're also encouraged to have decals on the cars that say we're storm spotters just so people know what we're about. Hams put in thousands of hours, drive thousands of miles in this state supporting their communities warning about weather hazards and in the case of disaster, doing damage assessment and helping mitigate the disaster as part of the response. This is all done at their own risk. And that's in terms of their physical well-being, as well as their property. By international treaty and by federal regulations, hams cannot be paid for their services. So, and...there was a question earlier about any damage. Last year we did lose one car in returning from a storm-spotting activities, so. They do risk their own property. Flashing...when the law was changed to disallow the amber lights, I received e-mails from hams across the state asking that that be changed and seeing what could be done about it. These flashing lights do help protect individuals from collision when they're deployed. And typically they're deployed at the tops of small rises way out in the country so they can have a good view of the weather that is coming without being...the interference of lights of a city or town. And typically it's in bad weather, so they would be hard to see by oncoming cars and this would tend to protect them. So in my opinion, and the opinion of my organization, this would seem to be the least we could do to help these volunteers protect themselves in these situations. And that's basically what I had to say. I'd be happy to answer any questions. [LB719]

SENATOR FISCHER: Thank you very much. Are there questions? I see none. Thank you for being here today. [LB719]

ARTHUR ZYGIELBAUM: Thank you. [LB719]

SENATOR FISCHER: (Exhibit 1) Any other proponents, please? Any other proponents? Any opponents to the bill? Anyone in the neutral capacity? The committee did receive an e-mail from Jim Harper and we will have that entered into the official record on the bill. With that, I will close the hearing on LB719. Open the hearing on LB831 and Senator Utter, welcome to the committee. Pleasure to see you. [LB719]

SENATOR UTTER: Thank you very much, Senator Fischer and committee members. This is my first appearance before the Transportation Committee and let me tell you, from where I sit, this is kind of an intimidating sight and I'm as nervous as a cat and I hope that we get through it fine. [LB831]

SENATOR FISCHER: Well, we'll try to make you feel comfortable. [LB831]

SENATOR UTTER: Thank you. I'm here to introduce LB831 which would make some

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changes to who can obtain school permits in Nebraska. Currently, students who are eligible for a school permit must live outside the city limits of a metropolitan, primary, or first-class city, or the school must be outside a metropolitan, primary, or first-class city. LB831 would add students who live within the city limits of a first-class city to obtain a school permit. However, they first must also live 1.5 miles from their school and meet all the requirements that pertain to receiving a school permit. The reason I'm bringing this bill to you today is because of a situation that has come to my attention which has affected some constituents in my area. The situation is that some new rural subdivisions in Nebraska are being annexed by nearby larger cities. When this annexation occurs, the student who attends a school that is in the larger city, and previously were eligible for a school permit because there was a considerable distance to the school and they lived outside the city limits now they are no longer able to obtain a school permit. This is because they are now within the city limits of that larger city that annexed them. But they are still a considerable distance from the school. An example I can give you involves a constituent of mine and I think, maybe, they're here and you will hear from them after I speak, so I won't go into too much detail, but he and his family live in an area just outside of Hastings. Their residential address was previously Juniata, which is a small town just west of Hastings. Recently Hastings annexed the area where these constituents live and now their residential address is Hastings. The school their daughter attends in Hastings is approximately five miles away. Previously, when their address was Juniata, their daughter was able to have a school permit to drive a distance...to drive the long distance to and from school because they lived outside the city limits of Hastings. Now that they are residents of Hastings and they still live a long distance from the school, a hardship is created because their daughter must now find another way to get to school that is five miles away. I know there are other people in my district, and I'm sure across the state, who have also encountered similar situations. This is my purpose for introducing the bill. I believe it will help a few responsible students and their families who attend school that is a considerable distance away, but cannot legally drive to and from school with a school permit because they have been annexed and no longer are outside of the city limits. I want to be sure to also point out that LB831 would apply only to first-class city...residents of first-class cities. I know having, perhaps, more younger drivers on the road is a concern for many people and that is why I chose to narrow the scope of this bill to not include the more populated areas of the state. One final thing before I close, there is a fiscal note with this bill. However, I am happy to announce that it is a positive fiscal note. The fee that is charged for the school permit is \$10.50 and it is allocated \$7.50 of that fee goes to the DMV cash fund; \$2.75 goes to the State General Fund; and \$0.25 goes to the county. Thank you and I'll be happy to respond to any questions you may have. [LB831]

SENATOR FISCHER: Thank you, Senator Utter. Are there questions? Senator Stuthman. [LB831]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Utter, how many people

do you think this will affect? Have you have any idea whatsoever of illustrations like you just said, you know, where the one kid got the school permit and the younger one couldn't get one because of the annexation. That's the issue that I have, you know, because of these communities are annexing out and getting more valuation and then we're going to restrict those young ones to drive. And in my opinion, we need to allow those younger ones to drive and get the experience. [LB831]

SENATOR UTTER: You know, I don't have any idea, but I suspect statewide, Senator Stuthman, that it is a rather substantial number of students. Just around Hastings, I can think of, just off hand, of about five subdivisions that have sprung up outside the city limits of Hastings. And there may even be two or three miles of roadway between this subdivision and where the old city limits used to start. And they've kind of went down that roadway and they snatch up these little subdivisions and what was legal yesterday may not be legal tomorrow. And I think this helps rectify that situation. [LB831]

SENATOR STUTHMAN: Well, and I appreciate the fact that you brought this to our attention because initially, I think, when it was made into a law, into statute, you know, it was when the school was within blocks of the person's home, when the communities were small, and then there was no need to drive. There would be more horsing-around than anything. But now, you know, it's...it amounts to some miles and I think this...I truly support your idea. [LB831]

SENATOR UTTER: It works a particular hardship, I think, in those areas where public school transportation is not provided, such as it is in Hastings. In our particular situation, in Adams County, at least with the Hastings Public Schools, the only alternative to getting those children to school is by a private vehicle of some kind because there are not school bus routes out to these subdivisions. [LB831]

SENATOR STUTHMAN: Okay. Thank you, Senator Utter. [LB831]

SENATOR FISCHER: Other questions? Senator Louden. [LB831]

SENATOR LOUDEN: Thank you, Senator Fischer. Well yes, Senator, I've worked on this before because that's the reason now we have it that you can have a learner's permit until you're, what, 16-years and two or three months, because there at one time, you could only get a learner...or school permit until you were 16. [LB831]

SENATOR UTTER: I think it is 14 now. [LB831]

SENATOR LOUDEN: I mean, from 14 to 16, but when you turn 16, your school permit was no longer of any good. And if you lived out west, sometimes the driver's license examiner didn't come for a while, so actually we had kids that were driving for a period of time until they could get their driver's license because you can't get your driver's

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license before you're 16, so that's the reason for two months. As I look at this, and I don't have any problem with it, I guess when you crafted this bill how come you didn't just scratch out first class or something like that, where it describes a metropolitan, primary, or first class? If that would have been just deleted, would that have still served the same purposes, rather than putting in all this new language? [LB831]

SENATOR UTTER: It may have, Senator Louden. This, as you know, you take these ideas to the Bill Drafters and they do their handiwork on it and this is the way it arrived from there and I guess I didn't question making it simpler. But that may be a valid point. [LB831]

SENATOR LOUDEN: Well, I was just wondering where you added all this new language, I just was wondering what your line of reasoning was to add that language was mostly...was my curiosity, I guess. And I guess if you blame it on the Bill Drafters, that's good enough for me. [LB831]

SENATOR UTTER: Okay. Thank you. [LB831]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? Senator Campbell. [LB831]

SENATOR CAMPBELL: Senator Utter, right now, oh, thank you Senator Fischer, right now, in a learner's permit, does that person have to drive? [LB831]

SENATOR UTTER: Distinguishing between a learner's permit and a school permit; if you have a learner's permit, I think there has to be an adult driver, an adult licensed driver in the vehicle with you. With a school permit, that's not required. [LB831]

SENATOR CAMPBELL: But in the school permit, does the student not have to drive before they get a... [LB831]

SENATOR UTTER: Oh, they have to go...they have to pass the test and do the driving test and qualify for the school permit, it's not an automatic. [LB831]

SENATOR CAMPBELL: I just like to put in a word for the students who live in Lincoln and Omaha, my daughter qualified because we lived outside the city limits and she took the test and she got the hardest person there was to get it...to pass. And she passed the test and she drove to East High School from 14 to 16. So I don't know that I'm willing to just throw out Lincoln and Omaha just because they're...because the kids...there are kids nowadays who already have these permits. So, that's why I asked if you could still drive. [LB831]

SENATOR UTTER: If you lived outside the city limits of a metropolitan or primary-class



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city, or a first-class city, as the law is now written, you can drive in, but once you become a part of the city limits, then you no longer do that. And I certainly, you know, I...this is crafted, I guess, to solve the problem that we had, Senator Campbell, and I certainly would not be unwilling to listen to other ideas. [LB831]

SENATOR FISCHER: Thank you, Senator Campbell. Senator Gay. [LB831]

SENATOR GAY: Thank you, Senator Fischer. Senator Utter, metropolitan area, Omaha, we have the option, you can go to any school you want, so you're saying metropolitan. So an Omaha student couldn't drive themselves down to Papillion South, because we're a first-class community, or whatever, but a Papillion student, because...or Bellevue or Gretna or anyone else, could drive into Omaha? Because you could still get... [LB831]

SENATOR UTTER: That's the way the law is currently written. [LB831]

SENATOR GAY: So no Omaha kid could then be driving back and forth. But isn't that 15... [LB831]

SENATOR UTTER: If I understand your question correctly, and maybe we need to... [LB831]

SENATOR GAY: At 15, I think, well, I know at 15 you can go from an SID, correct, right now, and you want to change this, you can do that, and I know kids that are, and they will go into Omaha, but they're 15, but this bill would say lower it to 14? [LB831]

SENATOR UTTER: No, the current law is 14 years and two months. [LB831]

SENATOR GAY: Oh, okay. So, but what I'm wondering then, is if then everybody would be eligible in Papillion or Bellevue, not just the SID, because I thought you had to live in the county. The way it is now, if you're outside city limits, which could be...here's one street and now you're outside the city limits, they're annexing like crazy in our area too. So, but that would allow anyone in Papillion, if they decided to go to Burke or North or, you know, whatever. You never know where they might want to go. They've got these magnet schools. They could then go into Omaha then. So we'd be opening this up quite a bit, actually, in an urban area, so. Because just in our county alone, you'd have about everybody...you'd have...well, Springfield doesn't...but Gretna, Papillion, Bellevue, La Vista could all be...all those kids would be driving at that point. So you're talking pretty substantial amount of new...because, I don't know, I'd have to check in the law... [LB831]

SENATOR UTTER: That would create a really big positive fiscal note, wouldn't it? [LB831]

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SENATOR GAY: I don't know. There would be a lot of drivers though too. But anyway, but that's the way it is now is what you're...so, I was just saying, what we talked about, it wouldn't affect urban. I think it would in our area. I know you've excluded the other way coming in, but I think they could still go out. [LB831]

SENATOR UTTER: Well, let me assure that I would be...as the introducer of this bill, be willing to listen to ways we could...I don't claim this to be perfect; I just claim it to be an idea and certainly be willing to work with any of you to take it from here and make it better. [LB831]

SENATOR FISCHER: Other questions? Senator Louden. [LB831]

SENATOR LOUDEN: Yeah, I would just want to point out for those people who live in metropolitan areas that consider having their 14- and 15-year-old kids drive to school across town, for anyone who has ever had kids at that age driving, the cost of their insurance for the car will make you take a deep breath before you allow that. So there is a little bit of a stop-gap in there, I would point that out. Thank you, Senator Fischer. [LB831]

SENATOR FISCHER: Thank you. Senator Hadley. [LB831]

SENATOR HADLEY: Senator Fischer. Senator Utter, I was just asking Senator Louden, Ellsworth is considered a first-class city in his mind, would it apply to Ellsworth? [LB831]

SENATOR UTTER: Well, if it's considered...if he, if Senator Louden considers it a first-class city, it would apply to Ellsworth. [LB831]

SENATOR HADLEY: I just wanted to be sure. [LB831]

SENATOR FISCHER: Be careful, Senator Utter, we can't do that here. (Laughter) Other questions? I see none. Thank you. Will you stay for closing? [LB831]

SENATOR UTTER: Thank you very much and, yes, I will stay. [LB831]

SENATOR FISCHER: Thank you. Will the first proponent please testify. Good afternoon. [LB831]

JON LOETTERLE: Good afternoon. My name is Jon Loetterle, J-o-n L-o-e-t-t-e-r-l-e. (cell phone rings) I apologize. I'm the constituent that Senator Utter refers to. I live in Hastings, Nebraska. My rural location, actually, mail is delivered through Juniata, Nebraska, was considered a Juniata location until about four years ago when the Westbrook subdivision was annexed into the city of Hastings. I have a 14-year-old

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freshman in high school, daughter, who, this summer, I think, would probably take part in the driver's ed course so that we could lower that insurance just a touch and she's also prepared to pay the difference in the insurance with her part-time job so that she would be able to drive to school. We have three daughters, two in middle school and the oldest in high school. My wife teaches fifth grade in the public schools in Hastings as well. And so mornings for us are quite chaotic. So I guess I'm here as a proponent of this bill and would answer any questions that you would have. [LB831]

SENATOR FISCHER: Thank you very much. Are there questions? I see none. Thank you very much for making the trip today. Are there other proponents for the bill? Any other proponents? Any opponents to the bill? Please step forward. Good afternoon. [LB831]

LAURIE KLOSTERBOER: (Exhibit 4) Good afternoon. My name is Laurie Klosterboer and that's L-a-u-r-i-e, the last name is spelled K-l-o-s-t-e-r-b-o-e-r. I'm the executive director with the Nebraska Safety Council and I'm here before you today to testify in opposition to LB831. The Nebraska Safety Council is a private, nonprofit organization and a chapter of the national safety council. Our mission is to provide leadership and resources to promote safety on our roads, at our workplaces, and in our homes and communities. Driving safety has been one of our primary focuses since we began in 1961. I have provided you with some data. The first sheet is just information I'll be talking about with my testimony. But the second page, you will see, is all of the first-class cities in Nebraska which I received this information from the Nebraska Department of Economic Development. So you'll see that there's approximately 31 cities that would...we would be opening to having teen drivers in our communities driving to schools. I've also given you some information to show you what has happened since Nebraska passed its graduated driver licensing law which was in 1999. And one of the issues that the Legislature...the reason that it was passed was due to the fact of how many teens we had that were dying on our roads and our highways due to motor vehicle crashes. I'd also like to point out that it is the number one killer of teens ages 15 to 20 and these statistics also bear out in Nebraska. In 2008 in Nebraska, drivers ages 15 to 24 had the highest percentage involvement of all age group in both all crashes and fatal crashes; 30.9 percent and then 25.7 percent, which this information came from the Nebraska Department of Roads. Since Nebraska enacted its Graduated Driver Licensing Law, fatal and injury crashes for drivers ages 16 to 20 have decreased from 8,146 in 1999 to 4,121 in 2008. As well, I'd like to point out on the very last page that I gave you is some information about adolescent brain. In 2004, the National Institutes of Health released a 15-year brain scan study of brain development from ages 5 to 20. The parts of the brain devoted to expanded attention and focus, judgment and identifying risk, develops in the late teens and early 20s. Which this is new information that has come out as they're studying the brain that, you know, all those times that we've talked about how teens take risks behind the wheel and they're immature with their driving that maybe there's been a reason that they're like that is because their

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brain is not fully developed. And so one of the benefits of the Graduated Driver Licensing Law has...is to give those teens a chance in restricted environments to age and to learn how to drive behind the wheel. And so our opinion is that we would be taking a step backward with this law by expanding it to having that many teens and any of the revenue that might be raised through the fiscal note of the \$10 fee for school permits would end up costing the state due to the fact that we would probably have more injuries and deaths. Thereby, you'd have your public responders that are going to be responding to these and just the loss of life of our teens, so. We would...we're here today because we want to testify in opposition to this bill. And I would be happy to answer any questions that you would have. [LB831]

SENATOR FISCHER: Thank you very much, Laurie. Are there questions? Senator Stuthman. [LB831]

SENATOR STUTHMAN: Thank you, Senator Fischer. Laurie, is there any data as far as youth that have started driving when they were 14-year-old and how many accidents they've had until they were, like, 24, as compared to a student that, a youth that has only started driving at 16 years old until 24? [LB831]

LAURIE KLOSTERBOER: I'm not aware of any, Senator. Now I know that they have done comparisons. New Jersey is one of the only states...is the only state in the United States that you get your license at 17. So they have done some comparisons prior to their Graduated Driver Licensing Law between New Jersey and Connecticut, because Connecticut was 16, and looking at the differences and those early results did show that New Jersey, the older that they were, they had less rates of death than the Connecticut teenagers who got their license a year earlier. So I do have that information that I can share with you. But I don't have information about the 14-year-old. In Nebraska it's the 16-, 17-, 18-, 19-, and 20-year-olds that we have data on. [LB831]

SENATOR STUTHMAN: Well, the question that I have and the concern, mainly, is the fact that, you know, driving comes with experience and the more times you drive and the fact of the parents teaching them responsibility at a younger age, in my opinion, creates a better driver in years to come. [LB831]

LAURIE KLOSTERBOER: But, I would ask the senator look at the information that I've provided of this research study that is showing is maybe the 14-year-olds because their brain isn't fully developed that they cannot determine the risk that they should take, that they don't have the judgment that maybe an older teen, someone in their 20s, does. And so that's why we have the concerns with the very young teen, the 14-year-old, and opening up even more to have that many teens behind the wheel. [LB831]

SENATOR STUTHMAN: So, in other words, according to this data here, it would be better if we wouldn't allow anybody to drive on the roads until they were 20 years old.

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[LB831]

LAURIE KLOSTERBOER: No, I didn't say that. But I do...but I would say that what the data is showing us is that the younger ages, the 14 and the 15, that maybe we should be waiting until they're 16, 17, some places 18. I know that over in Europe and those countries, you do have to be 17 and older, generally, to get your license. And so I think the statistics have shown that that does make a difference. [LB831]

SENATOR STUTHMAN: Thank you. [LB831]

SENATOR FISCHER: Other questions? Senator Hadley. [LB831]

SENATOR HADLEY: Senator Fischer, thank you. Laurie, right now as I read this correctly, students who live outside the city limits of a metropolitan, primary, first-class city can obtain a permit to drive in, is that correct? [LB831]

LAURIE KLOSTERBOER: Now I'm not sure about the metropolitan, that may be correct. From what I was reading, and I had gotten this off the Department of Motor Vehicles, if they either reside outside a city of 5,000 or more, or attend a school outside a city of 5,000 or more, so you're right, it would include the metropolitan and the primary. [LB831]

SENATOR HADLEY: Okay. The question I have, do we have data as to their rate of accidents? [LB831]

LAURIE KLOSTERBOER: We don't. I asked and we don't have that. [LB831]

SENATOR HADLEY: So I guess that would be a question I would have is that...are we letting students outside drive in, and I would...it would be interesting to know whether they have a higher rate of incidents than students who were of age driving within the city or, you know, just... [LB831]

LAURIE KLOSTERBOER: Sure, I don't disagree. [LB831]

SENATOR HADLEY: Thank you. [LB831]

LAURIE KLOSTERBOER: Uh-huh. [LB831]

SENATOR FISCHER: Thank you, Senator Hadley. Senator Louden. [LB831]

SENATOR LOUDEN: Thank you, Senator Fischer. As I look at your testimony, now your organization is actually against school permits, down here, this 14-years-old, is that the way I understand your testimony? [LB831]

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LAURIE KLOSTERBOER: No, I'm not saying I'm against permits. I'm definitely...in a perfect world I think it would be better if we had our teens getting their driver's license as they're older. I understand why the 14... [LB831]

SENATOR LOUDEN: Okay, that was my next question. How are you going to get these kids to school? And are you going to move them to school or are you going to wait until they get old enough to drive before they can go to school? [LB831]

LAURIE KLOSTERBOER: You know, I understand what the issue is in Nebraska, and my understanding was that the reason we had school permits for students was because Nebraska is very rural. Back in the early, early years, we had a lot of students living on farms and so they needed a way to get to school because their schools were far away from where they lived. But I do think that times are changing; we don't have as many in the rural that we did, say, 30's, 40's, 50's. So I understand that it's a dilemma, but, you know, obviously, these cities are starting to expand out, so cities are growing, and, you know, I guess I've had to deal with children, certainly, who I've had to transport back and forth to school because I did live in city limits and so I understand...I understand the issue we have in the rural communities. But again, we also know that teens behind the wheel, it's the number one cause of death. And our organization is all about trying to teach people about safety and safe lives. [LB831]

SENATOR LOUDEN: Now when you say kids behind the wheel are the number one cause of death, is that a correct statement? I thought it was more alcohol related or something like that was more number one cause of traffic deaths. [LB831]

LAURIE KLOSTERBOER: Motor vehicle crashes are the number one cause of death for teens. [LB831]

SENATOR LOUDEN: Right. But it isn't necessarily if it's young drivers? [LB831]

LAURIE KLOSTERBOER: I would say yes. [LB831]

SENATOR LOUDEN: Okay. And when you talk about...this...there should be that information available, any insurance company will tell you what age driver had the wreck, wouldn't they? I mean, that's the reason your insurance premium goes up is because they have their...their numbers...or their actuarial on what's costing them money. And if it's these younger drivers that they have to insure, then I'm sure that information is there which shouldn't be that hard to find. [LB831]

LAURIE KLOSTERBOER: Well, I can certainly contact some of the insurance companies that we deal with to see if we can get a hold of that information. I mean, I would assume that it must be an issue with...that the insurance companies are

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concerned about as well. I know that many, State Farm, Farmers Mutual, have programs where they're trying to get teens before they give them insurance to have them take a course that they've developed. [LB831]

SENATOR LOUDEN: Before you drive, you have to take the course, yeah. Well, thank you for your testimony. [LB831]

LAURIE KLOSTERBOER: Uh-huh. [LB831]

SENATOR FISCHER: Other questions? Senator Campbell. [LB831]

SENATOR CAMPBELL: Thank you, Senator Fischer. One of the things that I draw my colleagues' attention to, and see if you have any anecdotal, is on Section (2)(a) and that is, that when the young person is given the permit to drive, they have to drive to and from school; nearest highway; shortest distance; but they also can drive to extracurricular or school related activities. Have you had any information about young people driving...I can understand the to and from school, but on the extracurricular, any anecdotal information even? [LB831]

LAURIE KLOSTERBOER: About data for that? Well, we do know that the dangerous times to drive, I mean, that's part of the reason that on the graduated driver licensing, you limit the times they can drive. In Nebraska, the law is it's 6:00 a.m. to midnight because they're more susceptible to crashes in the evening hours. I think that it's the National Highway Traffic Safety Administration that recommends, actually, it should be...the restriction should be 10:00 at night instead of midnight. Because after those hours, it's more dangerous for the teens. But, you know, as legislation and...we were able to get midnight, so. [LB831]

SENATOR CAMPBELL: Because that opens it up quite a bit. [LB831]

LAURIE KLOSTERBOER: Sure. [LB831]

SENATOR CAMPBELL: You can drive to... [LB831]

LAURIE KLOSTERBOER: And that's one of the dangerous time in the evening hours for teens. [LB831]

SENATOR FISCHER: Other questions? I have a question for you. You gave us the list of the first-class cities in Nebraska and I believe you said there were 31, is that correct? Do you know how many of those communities, their school districts would offer busing? [LB831]

LAURIE KLOSTERBOER: I don't. [LB831]

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SENATOR FISCHER: I realize that the population of rural Nebraska is decreasing, but there are still a number of students who live a distance from school and it is a problem trying to get to school, especially in today's society when you have both parents working also. It's...I think it's easier in communities that offer busing that those students are taken care of that way, in trying to get them to school, but I would be interested in knowing which of the first-class cities, those school districts offer busing if you, or perhaps Senator Utter, would look into that. [LB831]

LAURIE KLOSTERBOER: I will do that. [LB831]

SENATOR FISCHER: Okay, thank you so much. Other questions? I see none. Thank you very much. [LB831]

LAURIE KLOSTERBOER: Thank you. [LB831]

SENATOR FISCHER: (Exhibit 3) Are there other opponents to the bill? Anyone else wishing to testify in opposition? Anyone in the neutral capacity? I do have an e-mail here from the Greater Omaha Chapter of the Nebraska Safety Council in opposition to LB831. We will enter that into the record. [LB831]

COLEEN NIELSEN: Good afternoon, Chairman Fisher. [LB831]

SENATOR FISCHER: Good afternoon. Are you here in neutral? I look up and you surprised me sitting right there, Miss Nielsen. So welcome. [LB831]

COLEEN NIELSEN: I apologize. My name is Coleen Nielsen, spelled C-o-l-e-e-n N-i-e-l-s-e-n and I am a registered lobbyist for State Farm Insurance Companies. I didn't intend to testify here, but I wanted to just, perhaps, shed some light on our position on graduated licensing. And that is, is that when graduated licensing was passed in Nebraska, State Farm had quite a number of people working on that particular issue. It is State Farm's position that we go by the recommendations of the Highway Traffic Institute...or the...I don't think it's...now I don't know the name exactly, but I believe that there are particular recommendations for graduated licensing and we did deviate from them. One of the them being the time period from...we did go from "to midnight" rather than "to 10:00" as being the period of time where teens could drive. We also deviated in the extracurricular activities and that was just part of the legislative process. And so I would just say that we have not met to take positions these particular bills and that's why I...my position is neutral here today, but I would say that we'd rather go along with the recommendations of graduated licensing by the National Traffic Institute. [LB831]

SENATOR FISCHER: Okay. Thank you. Are there questions? I see none. Thank you very much. Anyone else in the neutral capacity? I see none. Senator Utter, would you



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like to close? [LB831]

SENATOR UTTER: Well, I don't that it's necessary that there's anything further say, unless there's further questions of me. But I would just say to all of you that if there's further work that you feel, as a committee, needs to be done on this bill, I'll be happy to work with any or all of you to work this out. Thank you. [LB831]

SENATOR FISCHER: Thank you, Senator Utter. With that I will close the hearing on LB831 and open the hearing on LB856. And, Senator Janssen, would you open please. Good afternoon. [LB856]

SENATOR JANSSEN: Good afternoon. Senator Fischer, fellow members of the Transportation and Telecommunications Committee, my name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent the 15th District which includes Fremont and all of Dodge County. And I appear in front of you today to introduce LB856. LB856 would ask the Nebraska Department of Roads to adopt and promulgate rules and regulations regarding roadside memorials within the right-of-way of our state's highways. I brought this bill because I think it has the potential to increase safety, assist family and friends during a great time of difficulty. After some motor vehicle fatalities, family and friends have sought to remember loved ones by placing memorials at accident sites. Some are not even visible from the roadway, while others can be large, distracting, and potentially dangerous. The last thing anyone wants to see is a second accident at the same site. Unfortunately, this has happened in the past in our state. While unintentional, this can be foreseen if family and friends are unsure of our traffic safety and the right-of-way laws. It may be valuable for persons interested in a roadside memorial to have the expertise of the Department of Roads when considering how to establish one. Our Roads Department has an excellent staff who, I'm sure, is up to this task. In fact, they may already have some guidelines in place and I welcome their testimony during this hearing. Other states have tackled this issue in a variety of ways. Several have spelled out the criteria in lengthy detail in their statutes; others have informally given their transportation departments instructions to develop rules and regulations. When drafting this bill I intentionally gave the department discretion to formalize the appropriate rules and regulations. They are the experts in this issue and our statutes are already plenty long as it is. And also saw a statute bill today about 100 pages long. So I think we could all agree on that. Another reason for this bill, actually, I wasn't approached by anybody on this bill, to bring this bill, it actually happened this summer. I was driving my personal vehicle, I was actually on West Center Road going into Omaha and came to a crest of a hill and had looked over and saw a memorial sitting there. And I looked at it and before I realized it, I had come up on the car in front of me quite close and I had. I guess I had a school permit when I was 14; I had the learner's permit. I've never been in a wreck, never been in an accident, consider myself a fairly good driver. And that did distract me enough and right there at that point in time, I'll say, I did pull over safely, in a safe area, and texted my assistant here in Lincoln. I said, we've got to do something about these

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roadside memorials. And I understand that this is a very emotional subject for some people to lose a loved one on the roadside, or anywhere, in a tragic accident. So the thing I want to do is, I wanted to reach out and embrace that and say, yes, we do want to memorialize that person, if you so desire to do that. That would be the intention while not causing a distraction for the current traffic or passers-by. There's a fiscal note, I just want to touch on it and I'll read directly from the fiscal note, I'm doing nothing more than just reading this, it's \$1,250: "the only cost identified by the department is \$1,250 for the publication costs to provide notice of public hearings. This amount can be absorbed by the department without a change in the appropriation." So I know that's been something scaring all of us, including myself, this session, so wanted to point that out. I'd like to conclude that LB856 gives the Legislature a chance to ask the department to create standards for safe roadside memorials. We want to respect the memory of accident victims while ensuring that other drivers do not themselves become victims to this distraction. I thank you for your time and I'd be happy to answer any questions that you might have. [LB856]

SENATOR FISCHER: Thank you, Senator Janssen. Senator Hadley. [LB856]

SENATOR HADLEY: Senator Fischer, Senator Janssen. Section 1, part (1) and (2), it seems to me that they're almost redundant. Because the first one says: the department now has the right..."shall be held inviolate for state highway and departmental purposes, and no physical or functional encroachment, structures or uses shall be permitted within such right-of-way limits, except by written consent of the department". So they have the right, right now, to regulate this. So why do we need the second part that asks them to adopt and promulgate rules? [LB856]

SENATOR JANSSEN: You know, you've kind of caught me off-guard with that. I didn't bring the bill, actually, over here with me. With that, I'm hopeful that somebody within the department can ask, and I wanted to... [LB856]

SENATOR HADLEY: Okay. I was just curious. It seems like they have the right to do it right now. [LB856]

SENATOR JANSSEN: Currently we're not doing it right now and there's nothing out there, so. If this is a push in that direction, I'd certainly be open to that. [LB856]

SENATOR FISCHER: Senator Stuthman, did you have a question? [LB856]

SENATOR STUTHMAN: Yes. Thank you, Senator Fischer. Senator Janssen, the question that Senator Hadley was...it's almost similar to it, what I've understood, you know, in years past and being a county supervisor prior to this, is the fact that, you know, nothing is permitted in the right-of-way of the state highway system unless you get a written permission. And I think a lot of these that are out there, right now, I don't

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know whether they have written permission or not, but I appreciate the fact that the Department of Roads just hasn't pulled them up the next day after they've been put there in respect to the families. And I've seen a lot of them and, in my opinion, those that are low, and that's where we need, probably need some regulations as to what would be allowed, just the small little cross or a couple little flowers or something like that, in my opinion, does alert me that, you know, there has been someone killed on this intersection and, you know, there must be a problem here somewhere, so. [LB856]

SENATOR JANSSEN: Yeah, and I guess that's more of a comment than anything, but I do think we're in "agreeance" you know, I would foresee and want to work with the department, I would like to see something that is flat. I think something that the county road workers could come by and mow over without disrespecting anybody. That certainly brings your attention to it, that's actually what I'm trying to avoid is it bringing your attention to that because these, obviously, are, in most cases, dangerous intersections and dangerous parts of the road. So I understand wanting to memorialize somebody, but distracting you from your driving duties is probably not the best practice. [LB856]

SENATOR STUTHMAN: Okay. Thank you, Senator Janssen. [LB856]

SENATOR FISCHER: Other questions? I see none. Thank you, Senator Janssen. [LB856]

SENATOR JANSSEN: Thank you. And I'll stick around for closing. [LB856]

SENATOR FISCHER: We aren't letting you leave, yeah. Are there proponents for the bill? Good afternoon. [LB856]

RANDY MEEK: (Exhibit 5) Good day, Senator and committee members. My name is Randy Meek, that's R-a-n-d-y M-e-e-k. I'm chairman of the Nebraska State Legislative Board of the Brotherhood of Locomotive Engineers and Trainmen and a representative of approximately 1,000 members who operate trains in the state of Nebraska and work on Burlington Northern Santa Fe and Union Pacific railroads. On behalf of those members I represent, we support this bill. Our members are not insensitive to those who feel the need to memorialize their loved ones who are lost. We just wish those who feel the need to do this would stop and consider the impact to our members who are involved in these tragedies through no fault of their own. Most engineers and trainmen are at some point in their career going to be involved in a serious accident or fatality at a public road crossing. We have worked long and hard to get the railroads by agreement and the states by law to provide our members critical incident stress debriefings and counseling when needed following these incidents. Most of the time these programs work well enough to get our members back to work with minimal disruption to their lives, but they will never forget the fact that they have killed someone. To be continually

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reminded of their involvement through these roadside memorials maintained by parents, children, or spouses are a continuous and unwarranted action that perpetuates their need to deal with traumatic memories. And I've included a picture of one of the memorials along the tracks as "attachment A." I personally have experienced the trauma of operating a locomotive and watching a person die directly in front of that locomotive, knowing that I was helpless to stop it. And it's not something that I want to remember every day of my life. We do not object to the use of state sanctioned and placed signs that memorialize someone's passing. Many states have already, or are considering this method of dealing with this issue. We feel it is much safer if the state places the signs due to the experience of state transportation department's engineering and safety personnel. While some may try to justify current roadside memorials as reminders that enhance public safety, we respectfully disagree. In the example provided as "attachment A," the fact that it is so large and so close to live railroad tracks, we feel it creates the potential for motorist distraction and a potential for another accident. If rules and regulations are eventually implemented, we will push hard for a minimum setback from railroad tracks to prevent motorist distraction and minimize the mental anguish our members experience in being reminded each day of their involvement. This bill would only deal with state roads, as I understand it, and it leaves county roads unregulated, which are where the majority of the fatalities involving trains occur. So if a state sanctioned marker is eventually approved, we sincerely hope that some avenue for county participation is included or mandated either in this legislation or by the regulations that are promulgated. Thank you very much. And if there are any questions, I'll be glad to try and answer them. [LB856]

SENATOR FISCHER: Thank you, Mr. Meek. Are there questions? I see none. Appreciate you coming in today. Thank you. [LB856]

RANDY MEEK: Thank you. [LB856]

SENATOR FISCHER: Other proponents for the bill? Are there other proponents? Are there any opponents to the bill? Anyone wishing to testify in a neutral capacity? Good afternoon, Director. [LB856]

MONTY FREDRICKSON: (Exhibit 6) Good afternoon, Senator Fischer, members of the committee. I am Monty Fredrickson, M-o-n-t-y F-r-e-d-r-i-c-k-s-o-n, Director of the Nebraska Department of Roads and State Engineer. I am here today testifying neutral on LB856 to provide the committee on how the department currently addresses the issues surrounding roadside memorials. Nebraska Revised Statute 39-1359 is the controlling statute governing the right-of-way acquired by the department. It states that the right-of-way is to be held for department purposes and prohibits physical and functional encroachments, structures, and uses without the department's written consent. The statute and others direct the department in the prohibition of signs, parked motor vehicles, vendor stands and other unauthorized items from being left or placed

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along state highways. Despite this statute, the department does encounter memorials placed along or near the highways by friends or family members of a victim from a fatal motor vehicle crash. Seldom are we asked for our written consent. For a number of years, we have struggled with the issue of whether or not to adopt a written policy addressing roadside memorials. On one hand, public safety is our paramount goal. On the other hand, we understand the needs of families and friends who have lost a loved one. Each situation tends to be unique. Because of this struggle, we have an unwritten policy to provide some flexibility to handle each memorial case by case. Generally, department employees do not immediately remove memorials unless they are a traffic hazard, a distraction, or obstruction...or obstructing mowing or other maintenance activities. One exception is that memorials placed along freeways are promptly removed. When the memorial has to be moved, the department will either place it at the edge of the right-of-way, generally along the fence line, or take it to the local maintenance yard for storage until claimed by a family member or friend. Memorials are also removed if there is a complaint from families of other victims of the crash that do not want to be reminded of the crash and their loss. The department tries to permanently remove memorials after a reasonable amount of time, or if they appear to become neglected. I would be happy to answer any questions. [LB856]

SENATOR FISCHER: Thank you, Director. Are there questions? Senator Hadley. [LB856]

SENATOR HADLEY: Senator Fischer. Mr. Fredrickson, the question I'd asked Senator Janssen, basic...I think you've answered. But basically, in 39-1359, you have the ability now to promulgate rules and regulations concerning roadside memorials? [LB856]

MONTY FREDRICKSON: Yes, we do have that option. [LB856]

SENATOR HADLEY: Okay. That's what my point is. [LB856]

MONTY FREDRICKSON: And ability. [LB856]

SENATOR HADLEY: And ability, okay. [LB856]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB856]

SENATOR STUTHMAN: Thank you, Senator Fischer. Director Fredrickson, do you see in the state where, you know, these memorials are placed almost immediately after the accident and stay there for a length of time? Do the majority of them stay for years and years and years or are some of them taken away after a year? [LB856]

MONTY FREDRICKSON: I don't have any personal accounting of that. We'd have to poll our district maintenance people who handle this. And sometimes different areas of

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the state are handled different, so, I don't know that there's any consistency there. You could probably guess as good as I from driving the highways as to how many of them stick around. [LB856]

SENATOR STUTHMAN: What I have observed is the fact that there are some that get refurbished, or new stuff gets put there every year on the anniversary and stuff like that, I've seen that. Others I've seen, you know, the original little flower, whatever, stays until the wind blows it away. [LB856]

MONTY FREDRICKSON: I've seen both. [LB856]

SENATOR STUTHMAN: So, I mean, in my opinion, in respect to the family, you know, if I was drawing up some rules, it would be that they could stay there for a certain length of time and then they'd have to be removed. Thank you. [LB856]

SENATOR FISCHER: Other questions? Senator Janssen. [LB856]

SENATOR JANSSEN: Thank you, Chairwoman Fischer. Director Fredrickson, thanks for your testimony. I just got...took a couple notes while you were testifying and to me it just seems...I'll just get your comments back from mine, it just seems like we're really opening ourselves up, and I was reading through the materials that Mr. Meek put forward and he brought some stuff up that I wasn't thinking of when I actually crafted this legislation that...and then you said, you know, we do it on a case-by-case basis, depending on the situation. I think possibly that opens this up to some liability of why we're treating certain people a certain way. And something I didn't even think of, it was looking at the fact that a lot of these are crosses and there's separation of state and government and that was something that was put in an article, it was one of our handouts, certainly it was not something I brought forward. But it is something that if somehow somebody is offended by the Wiccan symbol or whatnot, something like that, somebody might call in. So we might be opening ourselves up by not acting on this and not doing anything for reasons that I wasn't even intending, but after looking at this, it seems to make it, I think, a little bit more compelling of a reason to actually move forward and do something like this. And what I foresee, I guess, I agree with Senator Stuthman, that there should be a period of time there. Also, if I were to help with that, I would want something to be flat on the ground. I looked at Wyoming, there's a picture of Wyoming's in Mr. Meek's handout. I wouldn't be, necessarily, in favor of a big sign on the side of the road like that, it's a nondenominational type, nonreligious sign, but something that could be flush with the ground or down that would work well with the county roads people. Just some comments on that. Maybe if you see that we're opening ourselves up a little bit by not having a policy set down, like a lot of states have. [LB856]

MONTY FREDRICKSON: It's possible. Knock on wood, we haven't had that problem to date. So I understand the theory behind that. And, of course, you've probably seen in

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the research there's probably as many states that have a policy in place that don't. Our research is about 50-50. So we're not opposed to a policy. And actually we started one and we just never got it finished. We got doing other things and, of course, it's a sensitive issue during certain periods of time... [LB856]

SENATOR JANSSEN: Right, right. [LB856]

MONTY FREDRICKSON: ...so it was never finished. [LB856]

SENATOR JANSSEN: Well, just so long as you can finish that river bridge in Fremont, then we'll be fine. If we can get to this, as well, since there's no money for any other roads, so, we should get the time to work on this. [LB856]

MONTY FREDRICKSON: Okay. [LB856]

SENATOR JANSSEN: Thank you very much. [LB856]

SENATOR FISCHER: Other questions? Director, have you received complaints? Do you receive a lot of complaints either that you've removed these memorials or that they've been put up? [LB856]

MONTY FREDRICKSON: Both. I don't know the numbers. The districts may keep track of them, but I doubt it. [LB856]

SENATOR FISCHER: Is there...do you think there's a lot or not? [LB856]

MONTY FREDRICKSON: No, I wouldn't think...I'd hate to guess at a number, but...five a year, maybe, across the whole state...ten. [LB856]

SENATOR FISCHER: Okay, so it's just a small number? [LB856]

MONTY FREDRICKSON: I'm just guessing. [LB856]

SENATOR FISCHER: Okay. Appreciate it. Other questions? I see none. Thank you very much for being here today. Anyone else wishing to testify in the neutral capacity? I see none. Senator Janssen, would you like to close? [LB856]

SENATOR JANSSEN: Thank you, Senator Fischer, members of the Transportation Committee. I guess, just to continue on with the Department of Roads back there, Director Fredrickson, I probably guess more than five or ten if I were going to pick a number, because I've heard more than five or ten from my office just recently. And I got several e-mails as well. People both for and against, but it's important that people have contacted my office and mention that, you know, this is a horrible thing, I want to

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remember somebody in that manner. And once I explain to them that we're not trying to take this away, I'm actually explaining it doesn't currently exist and then, you know, in some instances it's actually roadside littering, if you want to, you know, if you're real up-front about it. So we want to remove that and allow a memorial to be there in a legal manner. So I do think it's time for the Department of Roads said they'd obviously, their testimony kind of said, yeah, we kicked it around, we thought about it, but I think this...and it's the Transportation Committee, we're also tasked with public safety on the roadsides. And this is our opportunity to push that through and ensure that that happens. I think if we saw a tragic accident that happen over and over, sometimes at the same site, I grew up in Fremont and I could tell you where there's certain areas that...that I had known friends when I was in high school that had passed away on roadsides and those are still very dangerous intersections in areas. When I was out campaigning, I noticed some signs in my district that were also, basically, the crosses and the flowers, whatnot. Eventually we put up a light there, but there are public safety concerns and, you know, I think it's pretty straightforward and I trust the Department of Roads to put together something that would be in the best interests of all Nebraskans. So, if I could answer any more questions? [LB856]

SENATOR FISCHER: I see none. Thank you, Senator Janssen. [LB856]

SENATOR JANSSEN: Thank you, Chairwoman Fischer. [LB856]

SENATOR FISCHER: With that, I will close the hearing on LB856 and open the hearing on LB725. Welcome, Mr. Vaughan. We've lost the press now and the cameras so they followed Senator Janssen out the door. [LB856]

DUSTY VAUGHAN: (Exhibit 7) Thank you, Senator Fisher and members of the Transportation and Telecommunications Committee. Again for the record, my name is Dusty Vaughan spelled V-a-u-g-h-a-n and I'm the legal counsel for the committee. LB725 proposes changes to reinstate exemptions for certain vehicles that were in place prior to 1988. The current language of state statute requires fertilizer trailers and agriculture chemical application and distribution equipment to be subject to the Federal Motor Carrier Association regulations which include the need for brakes, brake lights and turn signals. The purpose of LB725 is to provide a definition of fertilizer and agricultural chemical application and distribution equipment and to provide exemptions from brakes, brake lights and turn signal requirements for these vehicles. The exemption is sought because the trailer's chassis are not equipped with brake and light systems from the manufacturer as they are designed and intended to be primarily in the fields and at low speeds and the chassis is not conducive to retrofitting. Contact has been made with the Federal Motor Carrier Safety Administration to make sure that LB725 does not take the state of Nebraska out of compliance with federal regulations and we do check out with that. With that, I'll end my testimony. [LB725]



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SENATOR FISCHER: Thank you, Mr. Vaughan. Are there questions? Thank you very much. With that I would ask that the first proponent for the bill please step forward. Good afternoon, Colonel. [LB725]

BRYAN TUMA: (Exhibit 8) Good afternoon, Senator Fisher and members of the Transportation Committee. I'm Colonel Bryan B-r-y-a-n Tuma T-u-m-a, Superintendent of the Nebraska State Patrol and I'm here to testify in support of LB725. My goal today is to provide background information regarding relevant statutes and to outline the importance of this proposed legislation which would provide exemptions for brakes, brake lights and turn signal requirements on fertilizer and agricultural chemical application and distribution equipment. This proposal is brought after consultation with the Nebraska Agri-Business Association and is intended to do two things: reinstate exemptions allowed under Nebraska State Statute 75-363 prior to 1988 for fertilizer and agricultural chemical application and distribution equipment without jeopardizing federal compliance and to establish a definition for the same. The history of what brings us here today is somewhat lengthy but intended to explain the foundation of this proposal, so I would ask that you please bear with me. In 1990, the Federal Hazardous Material Transportation Law was amended to require the Secretary of the Department of Transportation to regulate hazardous materials in intrastate commerce. On October 1, 1998, states were required to comply with the Federal Hazardous Material 200 Final Rule, which required that all intrastate shippers and carriers comply with the Federal Hazardous Materials Regulations. This resulted in the passage of LB1056 in 1998 which was essential for Nebraska to comply with the Research and Special Programs Administration HM200 Final Rules. Prior to the passage of LB1056, the anhydrous ammonia nurse tanks did not have to comply with Title 49 CFR Part 173-Shippers-General Requirement for shipments and packaging, and Part 177-Carriage by Public Highway. In March 1999, LB161 changed Nebraska State Statute 75-363(3) at the request of the State Patrol with the understanding that such changes were needed to stay compliant with the Federal Motor Carrier Safety Regulations. LB161 added the following verbiage, and I quote: if the equipment is not required to be placarded pursuant to 75-364. The ramifications of this change resulted in all placarded fertilizer nurse tanks needing to comply with the Federal Motor Carrier Safety Regulations, and in particular, requiring these vehicles to be equipped with brakes, brake lights and turn signals. On April 8, 2009, the Nebraska State Patrol received information from the Nebraska Agri-Business Association voicing concerns regarding these types of vehicles, specifically the requirements to have brakes and lights. On April 29, 2009, the Nebraska State Patrol met with the Nebraska Agri-Business Association to discuss their concerns. It was determined that by the letter of the law, anhydrous ammonia nurse tanks which are required to be placarded, are subject to the Federal Motor Carrier Safety Regulations requirement to have brakes and lights. We understand industries' concerns related to this effect...excuse me, to the effect this would have on their operations. Due to the fact that these trailers are designed to be pulled through the field and used as such, retrofitting them with brakes

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and lights would not only be cost prohibitive, but lead to overwhelming maintenance issues. On April 30, 2009, the Nebraska State Patrol contacted the Federal Motor Carrier Safety Administration's Nebraska Division Office regarding this issue to assure our continued compliance would be met if such vehicles were once again exempted through state statute. On November 4, 2009, the Nebraska State Patrol received a letter of response from Federal Motor Carrier Safety Administration Acting Deputy Administrator, Rose McMurray, and a copy of that letter is included in your packet. The letter, in part, stated that Federal Motor Carrier Safety Administration consulted with the Pipeline and Hazardous Materials Safety Administration, which is responsible for promulgating and interpreting the hazardous materials regulations. Although PHMSA could require anyone transporting hazardous materials in a commercial motor vehicle in intrastate commerce to comply with Title 49 CFR Part 390-397, PHMSA has confirmed that 49 CFR 177.804 was never intended to have that effect. In the letter FMCSA stated: "Neither the HM200 final rule nor the MCSAP compatibility standard required Nebraska to repeal the 1986 exemptions from the Federal Motor Carrier Safety Regulations. FMCSA concluded that although the regulations provide that pre-1988 laws or regulations grandfathered under 49 CFR 350.341(c) are valid only as long as they are still in effect. Nebraska's actions were taken in an effort to meet what is believed were federal requirements and not as a result of a deliberate policy choice by the state. Consequently, Nebraska should not be penalized for its good faith effort, the Federal Motor Carrier Safety Administration will allow the state to reenact its pre-1988 exemptions without sacrificing their grandfathered status under Part 350.341(c). Therefore, this proposed legislation will not jeopardize Nebraska's compliance with federal requirements. This legislation exempts specific vehicles from only two parts within the regulations; Part 393, which is Parts and Accessories Necessary for Safe Operation, (i.e. brakes and lights) and Part 396, which is Inspection, Repair and Maintenance. This will allow assurance that such items as tank integrity and driver qualifications are maintained. The proposed definition for fertilizer and agricultural chemical application and distribution equipment clearly outlines which vehicles these exemptions apply to and for which my testimony is in support of. On behalf of the Nebraska State Patrol, I wish to thank you for allowing me to provide a perspective on this issue and to be an active participant in this endeavor. Our agency's focus is on public safety and the fair, consistent enforcement of the law. I would gladly answer any questions that you might have. Thank you. [LB725]

SENATOR FISCHER: Thank you, Colonel. I appreciate the information. Any questions? I see none. Thank you very much. [LB725]

BRYAN TUMA: Thank you. [LB 725]

SENATOR FISCHER: Other proponents? Good afternoon. [LB725]

BRAD BOUSQUET: (Exhibit 9) Good afternoon, Chairman Fischer and members of the

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Transportation Committee. My name is Brad Bousquet, B-r-a-d B-o-u-s-q-u-e-t with Central Valley Ag Co-op out of Oakland, Nebraska. I serve as the vice president of safety and compliance for the company. We have 27 branch locations across northeast Nebraska. I appear before you today on behalf of my company, as well as the Nebraska Agri-Business Association. The association represents agricultural input suppliers and manufacturers who sell fertilizer, ag chemicals, seed and other services. We appear in support of LB725. LB725 is the culmination of work between our association and the Nebraska State Patrol Carrier Enforcement Division. The bill provides a definition of fertilizer and agricultural chemical application and distribution equipment, which include self-propelled or towed equipment designed and used exclusively to apply commercial fertilizer, chemicals, or related products to agricultural soil and crops which are equipped with implement or flotation tires. The major piece of equipment we're referring to is the nurse tank which ag suppliers fill with anhydrous ammonia. These tanks are then taken to the field by a farmer, hooked to a tool bar, and used to apply the product to the field. The bill then further exempts these pieces of equipment from the requirements of brakes and lights. Lights will be required in another section of Nebraska law during the hours after sunset and before sunrise. Over the years, these pieces of equipment have never been required to be equipped with brakes. In fact, it would be difficult to equip and maintain these trailers with brakes. The trailers are pulled through farm fields and the dust and wear and tear on the trailers would damage the brakes in short order. The cost to put brakes on these trailers is around \$400 or more per trailer. Our company has alone over 700 of trailers that we use during the spring during the fertilizer season. And we believe that there are over 20,000 such trailers in use in Nebraska. The reason for this legislation is due to changes a few years ago made by the Legislature in adopting the Federal Motor Carrier Safety Regulations. Nebraska, as do most other states, had a grandfather clause which did not require the brakes on trailers. Due to the adoption of the federal standards a few years ago, the brake and light issue came to light. This past spring, the State Patrol issued a ticket for noncompliance and at that point we began working with the Nebraska State Patrol, the Federal Motor Carrier office, as well as Senator Johanns' office, about the problem. Nebraska was granted an allowance by the Federal Motor Carrier Safety Office to reinstate the exemption from the braking standard and therein lies the purpose of this legislation. These trailers are pulled behind our pickups, as well as farmers who pick them up at our facilities, as well as tractors in the field. Having brakes installed would be difficult due to the various hookups required for the variety of vehicles which would be towing them. We do not believe this to be a safety hazard as we have not experienced any problems with not having brakes on these trailers. The industry nationwide does not utilize brakes on these trailers. We would ask the committee to advance LB725. We do have one suggested amendment which we have visited with your office about concerning registration certificates accompanying these trailers. We would ask that the certificates be allowed to be kept on file at the principal place of business versus being attached to the trailer. A copy of the amendment is attached to the testimony that I've handed to you. In order to keep the registration certificates with the trailer, we would

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have to attach some sort of holder to the trailer. The harsh conditions these trailers are exposed to would make it difficult to preserve the paper registration. In addition, these trailers are used by farmers, then returned to ag input suppliers and sent with another farmer. The registration certificate would certainly be lost in the confusion of the busy fertilizer season. I thank you for allowing me to testify today. If you have any questions, I'd be happy to answer them. [LB725]

SENATOR FISCHER: Thank you, Brad. Are there questions? Senator Hadley. [LB725]

SENATOR HADLEY: Thank you, Senator Fischer. Brad, just a quick question, you said that you have not experienced any problems with not having brakes. That means you've had no accidents attributable to not having brakes on these particular pieces of equipment. [LB725]

BRAD BOUSQUET: That's a fair statement. [LB725]

SENATOR HADLEY: Okay. [LB725]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB725]

SENATOR STUTHMAN: Thank you, Senator Fischer. Brad, all of these trailers are registered and licensed to travel on the roads, aren't they? [LB725]

BRAD BOUSQUET: Correct. [LB725]

SENATOR STUTHMAN: Okay. So you are paying your registration fee on these trailers and trailer licenses. [LB725]

BRAD BOUSQUET: Yes. [LB725]

SENATOR STUTHMAN: Okay. And...but your concern is keeping that with the...the registration with the vehicle, you know, I've noted sometimes they try to put a little bit of a galvanized pipe on there with a cap on and try to keep that with it. But it's almost impossible to keep the... [LB725]

BRAD BOUSQUET: It's very difficult. My previous career was working with these guys and the Nebraska State Patrol as a carrier enforcement officer and I inspected a lot of semitrailers and just the semitrailers that are over the road, it's almost impossible to read the registrations on those trailers. Now you take our nurse tank trailers that are parked in snow drifts right now, some of mine are probably in 8-foot snow drifts, try to preserve those registrations is about impossible. [LB725]

SENATOR STUTHMAN: And I truly agree with you, you know, that as long as they're

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licensed, registered and you can prove that down the road, I think that's very important, so. But...thank you. [LB725]

BRAD BOUSQUET: Uh-huh. [LB725]

SENATOR FISCHER: Other questions? I see none. Thank you very much for being here today. [LB725]

BRAD BOUSQUET: Thanks. [LB725]

SENATOR FISCHER: Are there other proponents for the bill? Any other proponents? Good afternoon. [LB725]

CRAIG HEAD: Good afternoon, Senator Fischer and members of the Transportation Committee. My name is Craig Head, that's C-r-a-i-g H-e-a-d and I am the state director of government relations for the Nebraska Farm Bureau Federation just here on behalf of the organization this afternoon to reiterate our support for LB725. We appreciate the State Patrol working with the Nebraska Agri-Business Association on this effort to, basically, codify an exemption and to codify current practice that's being done in the field today. So with that I'll keep my comments brief and take any questions you might have. [LB725]

SENATOR FISCHER: Thank you, Mr. Head. Are there questions? I see none. Thank you very much. [LB725]

CRAIG HEAD: Great. Thank you. [LB725]

SENATOR FISCHER: Other proponents? Any other proponents? Good afternoon. [LB725]

STEVE EBKE: Good afternoon. Members of the Transportation Committee, my name is Steve Ebke and that's spelled S-t-e-v-e E-b-k-e. I'm here today representing the Nebraska Corn Growers and I'm like Craig, I just want to reiterate that we support LB725 and we appreciate the work that the State Patrol and the leaders of the Nebraska's fertilizer industry have put together to get this problem resolved. And so we'd ask that you support and advance LB725. Thank you. [LB725]

SENATOR FISCHER: Thank you, Steve. Are there questions? I see none. Thank you very much. [LB725]

STEVE EBKE: Thank you. [LB725]

SENATOR FISCHER: (Exhibit 7) Any other proponents to the bill? Any proponents?

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Excuse me. I do have a bill from the Nebraska Cooperative Council signed by Robert C. Andersen, President, in support of the bill. Any opponents to the bill? I see none. Anyone in the neutral capacity? I see none. We'll waive closing. And with that I will close the hearing on LB725 and close the hearings for the day. Thank you for being here.  
[LB725]