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Transportation and Telecommunications Committee
February 16, 2010

[LB773 LB820 LB896 LB933 LB991]

The Committee on Transportation and Telecommunications met at 1:30 p.m., on Tuesday, February 16, 2010, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB896, LB773, LB933, LB991, and LB820. 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: (Recorder malfunction)...Telecommunications Committee. My name is Deb Fischer, I am Chair of the committee and I represent the 43rd District here in the Nebraska Unicameral, that's Valentine, Nebraska. I'd like to begin by introducing the committee members that are here. On my far right is Senator Kathy Campbell, she's from Lincoln. Next is Senator Tim Gay from Papillion. Next we have the Vice Chair of the committee, Senator Arnie Stuthman who is from Platte Center. On my immediate right is our committee counsel, Dustin Vaughan. On my immediate left is our committee clerk, Laurie Vollertsen. Next we have Senator Scott Lautenbaugh, who is from Omaha. Senator Galen Hadley from Kearney and Senator LeRoy Loudon who is from Ellsworth. We will be joined later by Senator Charlie Janssen who is from Fremont. As most of you know, this is the time of year when we are hearing bills and there's a number of committees that are meeting, so please don't be offended if senators are in and out of the room because they are introducing bills in other committees. Our pages this year are Lisa Cook from Omaha and Tony Pastrana who is from Fort Collins, Colorado. If you have any materials, the pages will be happy to assist you in passing those materials out. 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 the hearing moving. I would ask that you complete a yellow sign-in sheet at the on-deck table and have that ready to hand in when you testify. We use a computerized transcription program, so it's very important that you follow the directions on that sign-in sheet. And I would ask that you hand the sign-in sheet to our committee clerk, to my left here, before you sit down to testify. For the record at the beginning of your testimony, please state and spell your name and please keep your testimony concise and try not to repeat what someone else has already covered. If you don't want to testify, but you want to voice your support or opposition to a bill, you can indicate so at the on-deck table and that will be part of the official record of the hearing. If you want to be listed on the committee statement however, you must come forward and testify whether you just state you're for or against the bill and that way you will be listed on the committee statement that is available to other senators and to the public. If you do not want to testify, we always welcome any comments that you may have and you can submit those to us in writing and those will be part of the official record. At this time I would ask that you turn off all your cell phones; in this committee we do not allow cell phones on and that includes texting. For the record, we've been joined by Senator Charlie Janssen of Fremont. With that I will

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open the hearing on LB896 and Senator Christensen, welcome to the committee. []

SENATOR CHRISTENSEN: Thank you, Madame Chair and members of the Transportation and Telecommunications Committee. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District and I'm here today to introduce LB896. LB896 amends Section 60-6,298 Revised Statute Cumulative Supplement 2008, to provide a permit for the operation of vehicles to exceed the maximum weight limit specified by law by two percent when transporting livestock from farm to ranch to market. Moreover, such vehicles could not exceed twenty thousand pounds on any single axle. Many times it doesn't matter if you've preweighed your livestock. If you sell your cattle and then the schedule may change or the delivery date may be delayed whether it be weather or be plant problems, cattle continue to gain weight. If you contract a full pen; one week delay potentially could mean 900 to a 1,000 pounds increase on a semi-load. That could be within the 2 percent limit. I bring this up because there are many factors. You predetermine the number of trucks you're going to need, basically, when you put the cattle in the pen, because when you sell that pen of cattle, you may have 200 head in there, you may have 220 head, whatever, you anticipate the cattle are going weigh when they're finished and according to different breeds they finish at different weights so you basically determine the amount of trucks you need at the time you buy the pen of cattle. And so any type of delay can cause you to end up overweight that you didn't intend to do. I've seen this happen a number of times on our own operation, as well as, I'm sure you'll hear from many testifiers and I'm bringing in a number of letters of support that...as soon as I have enough copies, they'll be here; also to submit to the record of people that have run into the same problems. Sometimes it's not a matter of whether you have a scales on the operation or not, you end up with the problem of, okay, I sold 200 head and now because either a storm hit which we've had a number of problems with this year; people couldn't get cattle up around Schuyler with the...they've been delayed a week or two. All of a sudden now they got to pull off one or two head. And when a semi is going to have 30 to 40 head on it, depending upon the size of your truck and what you can legally haul, you've now just encountered a new problem. Do I short the packing plant and try and find another load to shove these others on and I can't close out the pen yet? Do I try and find another truck? Do I run up a small horse trailer full of 8 head or so that I might had to pull off because I had to pull one head off of eight trucks to make weight? That becomes the problem the feedlots run into. It's not that they want to be overweight. And for a lot of farmers they don't have a scale on the farm. But there's even a number of feedlots that do have that scale there, but they run into the problem: do I short that packing plant? Think what happens to that packing plant if nine shippers all short them eight or nine head. Now they can't fulfill their slaughtering day. That becomes the issue and the reason I brought this bill. In addition, I think, you're going to hear several people come in and testify. I've had a lot of response from farmers and manure truck haulers. I think you're going to hear several testimonies from people that would like to see a permit offered to them. And on the manure side of things, I guess I would suggest that you go

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more after...copy one like the grain; 15 percent over 90 days. Because the problems we're running into right now, we had an early snowstorms; harvest was late; people didn't get things cleaned last fall. Now we're going to come in and it looks like it's going to be a wet spring. We're going to have the situation of deep pens and as soon as the feedlot is dry enough and melted enough so you can start hauling, we're going to have too wet of fields. So they're going to have to delay that and they can't spread this manure once they start planting. They actually have a unique crisis in themselves. I think you're going to hear, like I said, a number of people testify to that. They have a very narrow window. They have a very short time and they're so easily affected by weather. And it's a multifaceted issue because you've got to get them lots cleaned for health reasons. You've got to get them cleaned for smell reasons; because if they're not cleaned, the people living away and you get some winds like we do in Nebraska, it's going to drift quite a ways. It's a management issue that really gets compounded. So you're going to hear the frustrations probably from several people of how do we handle a workload when it's getting compacted so difficult this year. Imperial area is one, we had 32 inches of snow in October. Typically as the harvest is getting done, everybody is cleaning pens; not a chance this year. The ground was froze before harvest ended. Now with going into a wet spring, you can see our problem. So the other thing that affects it a lot, how wet that manure is and it varies from one end of the pen to the other because you have mounds out there for the cattle to be on. That's going to dry off quicker; it's going to be drier and that end of the bottom is going to be wetter. And when you're loading, you're just grabbing it and putting it on; you're loading it and all of a sudden you have a weight issue because some of it is wetter than the other. So with that I'm going to finish and ask for advancement of this bill, but I'd like to see the manure thought about and added to this and be glad to address any questions. [LB896]

SENATOR FISCHER: Thank you, Senator Christensen. Are there questions? Senator Hadley. [LB896]

SENATOR HADLEY: Senator Fischer, thank you. Senator Christensen, the 2 percent greater than the maximum weight, how is the 2 percent arrived at or is that just a number? [LB896]

SENATOR CHRISTENSEN: Well, what I did is, I've had several people contact me; they got 10 or 11 tickets for being over less than a 1,000 pounds. And if a semi can haul 85,000 pounds, 1 percent didn't get me to the thousand. I was trying to get somewhere near what one head would represent; because, quite often, the difference between a ticket and not is taking off that one head. And the difference that's going to be when they get loaded. And that one more problem they run into is you have difference in temperament of the cattle. You have aggressive cattle. They're the first ones to the bunk; they eat the most; they gain the most; and they're the first on the truck. So even if you're dividing by head, you can get overweight. And when you...so your first load is going to be overweight with the same number of head on it that the last truck is, same

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number of head, it won't be overweight, just because all the fat ones run to the front that are used to running to the bunk and got on. So that's...it's a...if you want to make it 3 or 4 percent, that's better. It's just...I was trying to cover the bare minimum of what do you do? If you're selling eight semiloads of cattle; do you hold off eight head? Mess up the plants? Do you put them on so you can clean the pen; get the next pen in; get going? It's more of a...I'm not wanting to let them off if they're going to deliberately try and put two or three extra head on that truck. But I understand it's hard to guess what they're going to weigh. If you have any delays beyond your control, even if you preweigh that pen, before you sell it and then the packer has to put you off because they can't take it that day or it storms, you now just fell into an overweight issue or what do you do with the extra head? [LB896]

SENATOR HADLEY: Thank you. [LB896]

SENATOR CHRISTENSEN: Thank you. [LB896]

SENATOR FISCHER: Other questions? Senator Louden. [LB896]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Senator Christensen, actually this bill here, in order to get that 2 percent over they'd have to apply for that permit, wouldn't they? [LB896]

SENATOR CHRISTENSEN: Correct. [LB896]

SENATOR LOUDEN: And how long would it take them to get that permit? [LB896]

SENATOR CHRISTENSEN: I would assume it's like a grain permit. I've walked in and applied for that and got it the same day. [LB896]

SENATOR LOUDEN: Okay. Then in other words if people are hauling cattle they more or less would have to have this permit in hand all the time, is that what this is all about? [LB896]

SENATOR CHRISTENSEN: Pretty much. Yes. [LB896]

SENATOR LOUDEN: They would buy a permit so they could actually haul 2 percent over from the ranch to the market or wherever they were going and what is it 80,000 pounds is all...is your maximum weight that you can have on a semi? [LB896]

SENATOR CHRISTENSEN: Don't remember if it's 80 or 85, but... [LB896]

SENATOR LOUDEN: Anyway, you're talking about 1,600 pounds is what you're talking about? [LB896]

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SENATOR CHRISTENSEN: Yeah. [LB896]

SENATOR LOUDEN: Now, on the grain part here, you can actually...you don't have to have a permit to be 15 percent over, can you? You're just allowed that much if you're hauling grain to market in this same statute here? [LB896]

SENATOR CHRISTENSEN: I guess I better grab the statute and look. [LB896]

SENATOR LOUDEN: Well we went through this before, several years ago, on this same thing, Senator Heidemann was working on something like that and that's what we...he was trying to put it in over here where the grain part is and you're allowed 15 percent over. And that's the reason I was wondering how come you were...figured you could get it through easier by making them just purchase this permit? And how much would that permit cost? Do they...are they talking about \$10 for a permit or what; I see in the fiscal note? [LB896]

SENATOR CHRISTENSEN: That seemed...I guess I'm not sure what they charge for that permit. I guess the issue to me wasn't what the permit cost, but trying to make the people that are trying to do business above board that get just slightly over, take care of those people. [LB896]

SENATOR LOUDEN: Well then on the other hand then if I had this permit on my truck I could actually haul 1,600 pounds more than what I could legally all the time back and forth from ranch to market or farm to market and stuff like that. [LB896]

SENATOR CHRISTENSEN: Technically they could, but as soon as you tried to plan to do that, you're going to run into the same problem we got and now you're going to be over and as with the grain haul permit you exceed that maximum allowance, all the penalties go back to the original truck axle. [LB896]

SENATOR LOUDEN: Well, yeah 20,000 pounds on an axle. Well, we run across that all the time loading cows out at the ranch to go to sale barn and most of the time those trucks are probably overloaded when they go out of there, so I was just wondering; but this has to be a permit that would be issued and they would have to have it in hand ahead of time. [LB896]

SENATOR CHRISTENSEN: Yeah. Correct. [LB896]

SENATOR LOUDEN: Okay. Thank you. [LB896]

SENATOR FISCHER: Other questions? Senator Gay. [LB896]

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SENATOR GAY: Thank you, Senator Fischer. Senator Christensen, what's the average ticket price if you get picked up for being overweight? Or is there an average? How do they... [LB896]

SENATOR CHRISTENSEN: I don't know if there's, necessarily, an average. [LB896]

SENATOR GAY: What's the worst case? [LB896]

SENATOR CHRISTENSEN: I do know they have a standard rate and... [LB896]

SENATOR GAY: A couple hundred bucks. [LB896]

SENATOR CHRISTENSEN: I'm going to say a very small amount, probably \$300. [LB896]

SENATOR GAY: So \$300. [LB896]

SENATOR CHRISTENSEN: One of the smallest ones is... [LB896]

SENATOR GAY: So, okay, and then if you have to order new trucks or extra trucks, the producer has to get more trucks in, what's that run? The average cost to run...and I know this is different because it depends on where you're delivering to also. [LB896]

SENATOR CHRISTENSEN: It's going to be \$2 or \$3 a mile, depends on where you're going. [LB896]

SENATOR GAY: So a lot. [LB896]

SENATOR CHRISTENSEN: Yeah. [LB896]

SENATOR GAY: How much on...an amount that is...but anyway, to get those extra trucks that you found out, oh gosh, I need 22 semis or whatever you're hold is, it's going to cost them a lot. Are the fees \$25, \$75 and \$100 is what I'm reading here? Because... [LB896]

SENATOR CHRISTENSEN: Well, if you read the bottom of the fiscal note it says: this is assuming issuance of 50 permits at \$10 each. [LB896]

SENATOR GAY: Yeah, but they would pay more though; what I'm saying to do this, because you're going to get...if you can cover yourself, you're going to be... [LB896]

SENATOR CHRISTENSEN: Right, and if you're saying, can the permit be \$50, I don't think that's going to be an issue to people. [LB896]

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SENATOR GAY: Or...yeah, because you could be saving thousands of dollars; the producers would save thousands... [LB896]

SENATOR CHRISTENSEN: Sure. [LB896]

SENATOR GAY: ...of dollars to have this permit. [LB896]

SENATOR CHRISTENSEN: Right. [LB896]

SENATOR GAY: So \$25 seems a little minimal to me or \$10 or whatever this is. [LB896]

SENATOR CHRISTENSEN: Yeah, it's \$10. [LB896]

SENATOR GAY: I'd raise to \$25, \$75 and... [LB896]

SENATOR CHRISTENSEN: Yeah, well I'm sure the committee can work on that. [LB896]

SENATOR GAY: Yeah. Thank you. [LB896]

SENATOR FISCHER: Other questions? Senator Louden. [LB896]

SENATOR LOUDEN: Yes, I...one other question I was wondering, does this permit go with the driver or does it go with the truck? [LB896]

SENATOR CHRISTENSEN: Well I didn't... [LB896]

SENATOR LOUDEN: Well it would make a difference... [LB896]

SENATOR CHRISTENSEN: I understand what you're... [LB896]

SENATOR LOUDEN: ...if they have two or three different trucks if it goes with the driver, than he can use that permit on each truck if it's...if each truck has to have a permit why a fleet of trucks would make a difference right there. [LB896]

SENATOR CHRISTENSEN: Correct. I guess I don't think we stipulate as I see it, but, you know, if you have a preference one way or another, I don't know that it matters. [LB896]

SENATOR LOUDEN: Well, I just wondered if it was any...if you noticed any description in...when it was drafted here whether it went with the driver or went with the truck.

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[LB896]

SENATOR CHRISTENSEN: Nope. I don't see there's anything. [LB896]

SENATOR LOUDEN: Okay. Thank you. [LB896]

SENATOR FISCHER: Other questions? I see none. Thank you, Senator Christensen. [LB896]

SENATOR CHRISTENSEN: (Exhibits 3, 4, 5 and 6) Thank you. And here's these letters. [LB896]

SENATOR FISCHER: Oh, thank you. Page. How many are here to testify on this bill? If you could raise your hands so I have some idea. Four? Five? Okay. Thank you. Would the first proponent please step forward. Good afternoon. [LB896]

PETE McClymont: (Exhibit 2) Madame Chair, members of the committee, for the record my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm here as the vice president of legislative affairs for the Nebraska Cattlemen. Our board of directors met last month and voted to support this bill. I will submit written testimony. The only thing I would add to Senator Christensen's opening remarks is that where we have ranchers who could be as much as 20, 30, 40 miles away from a scale to get a good idea of what those cattle that they're selling or delivering to the livestock market, it's a very big deterrent for them to know that there's a potential fine out there if they do not meet the weight requirement. So feedlots typically have scales at their disposal or close to it, so from that standpoint it's not really an issue, per se, for them. It would be nice to have that allowance, as Senator Christensen talked about, variances in weather, cattle performance, and so forth. But for ranchers, it would help given their distance from a scale and so with that, our membership supports this. I will submit written testimony and be happy to try to answer any questions. [LB896]

SENATOR FISCHER: Thank you, Mr. McClymont. Are there questions? Senator Stuthman. [LB896]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. McClymont, is this 1 percent enough or should we make it 10 percent? [LB896]

PETE McClymont: I think 1 percent to Senator Christensen's point of view does address, basically, one animal. More would be better, but then you as a committee and we as a state have to determine the balance of the value of our roads, you know, if we continually have overweight trucks running down the road. But yes, one animal helps, but it's probably not enough. [LB896]

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SENATOR STUTHMAN: Well that's the issue that I have, you know. Yes, I sympathize with the people that are loading out of the...off the grass and you really don't know, you know, exactly what they're going to weigh. But the issue is, you know, at what point do we say enough is enough? And in my opinion, you know, that what we got now, the weight is good for the road system. If we put a lot more weight, you know, you know what beats up the roads, is the weight on the trucks. But, I look at it as, you know, with the size of the trailers that we have now, the 102-wide, you know, you can put 15,000 more pounds in those trailers and still have loose animals in there and I just think, you know, a person should try to get as close as possible and that 1 percent isn't going to be a big issue, in my opinion. So if...I just think, you know, and we make it 1 percent, then next year we come with 2 percent, we need more, because, you know, by golly, had two calves left on the ranch and I couldn't get them loaded, so we jammed them on and I got picked up, but now 3 percent would have helped me. So, I mean, as far as numbers are concerned, you're always going to be off. You're not going to have a factory, have the cattle in the pasture, in my opinion, according to how many trucks you're going to have haul them out. So... [LB896]

PETE McCLYMONT: I see your opinion and I would...from my experience I know where you're coming from. [LB896]

SENATOR STUTHMAN: Yeah, I mean, it's...yes, you know, another...putting...loading another animal, or something like that, if you load, you know, well you load 50, 60, 70 head on and one more isn't going to make a lot of difference; but yet, you know, it could be that 1 percent, and I don't know where we would be able to stop at, in my opinion, we got to set a line so it would be simple for everyone. So thank you for your comments, so. [LB896]

SENATOR FISCHER: Thank you, Senator Stuthman. Senator Gay. [LB896]

SENATOR GAY: Thank you, Senator Fischer. Pete, I'm looking at the fiscal note, and maybe you haven't seen it, but it says only 50 permits at \$10 each. If you created this leeway, which I think makes sense, you get some more...you don't know exactly what you're going to put on those loads, convenience, I could see some benefit of it; although we're loading up trucks now to get some more, but 50 permits is all? I would think there would be a lot more permits issued than 50. [LB896]

PETE McCLYMONT: I would concur. If I was running a trucking company, and I wanted to address your earlier concerns that you stated with Senator Christensen, first thing I'd do... [LB896]

SENATOR GAY: Buy the permits. [LB896]

PETE McCLYMONT: ...is I'd get permits for all my...all my haulers and try to alleviate

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any larger fines. Yes. [LB896]

SENATOR GAY: Right, because you'd cover that so you create more flexibility for the producer to just cover themselves; not...not, you don't have to go way overboard here, but I think these fees are very too minimal, quite honestly. If you wanted to pay for...we always talk about transportation funding, it would be a convenience to the carriers, but that's way too low in my mind. If we're going to allow more weight on roads, then they should participate in paying for those more...but I think they would pay more for the convenience of the...do you agree with that? [LB896]

PETE McClymont: I would agree. The volume of permits would be much greater than what was... [LB896]

SENATOR GAY: And on this fiscal note. [LB896]

PETE McClymont: ...anticipated on the fiscal note, yes. [LB896]

SENATOR GAY: All right. Thank you. [LB896]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. McClymont. [LB896]

PETE McClymont: Thank you. [LB896]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB896]

JIM PAPPAS: Good afternoon, Madam Chairman and committee members. My name is Jim Pappas, J-i-m P-a-p-p-a-s. I'm here representing the Independent Cattlemen of Nebraska in favor of LB896 and try not to repeat what other people have said. I might add a couple things. One thing when we talk about overweight trucks that adds to the overweight problem particularly this time of year in inclement weather these pots will get a buildup of waste material in them that freezes and they might not, because of the weather, have time to clean the pots out of the trucks, the trailers and that adds significantly to the weight which you cannot gauge or know how much it's going to be. So if they add cattle to it, it's real easy to go over weight a little bit. And the fiscal note, people that make the fiscal note up, they estimated 50, you got to remember they're city people, not farmers. [LB896]

SENATOR FISCHER: Thank you, Mr. Pappas. Any questions? Senator Stuthman. [LB896]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Pappas, that one percent, how much would that be on a 80,000 pound...that would be 800 pounds right? [LB896]

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JIM PAPPAS: Um-hum. [LB896]

SENATOR STUTHMAN: We've had trucks; I know of trucking firms that will have 5,000 pounds of ice and stuff in the trucks. [LB896]

JIM PAPPAS: Yep. That's why I was pointing out that... [LB896]

SENATOR STUTHMAN: One percent is only 800; it should be, you know, a lot more then. And it gets build-up like that. [LB896]

JIM PAPPAS: Make it 5 percent; I don't care. [LB896]

SENATOR STUTHMAN: But that's extra weight on the road too. [LB896]

JIM PAPPAS: That's true. [LB896]

SENATOR STUTHMAN: So, thank you. [LB896]

JIM PAPPAS: You're the one that brought it up; I didn't. [LB896]

SENATOR STUTHMAN: Okay. Thank you. [LB896]

SENATOR FISCHER: Other questions? I see none, thank you. Next proponent please. Good afternoon. [LB896]

DONOVAN DIRKS: Good afternoon. Senator Fischer, members of the committee, I'm Donovan Dirks, D-o-n-o-v-a-n D-i-r-k-s. I co-manage a manure hauling business in Chase, Lincoln, Keith Counties and I'm just here in support of LB896 and would also like to ask from the manure side of the suggestions that he made that I would like to see that that we could buy a permit similar to the farmers grain hauler permit. And in my opinion the 2 percent, or 1 percent is not enough. And one thing on the manure side, we're hauling a product that is real inconsistent. We can load 10 loads out of the same pile and they all weight different. We'd just...I'm just asking for consideration for that. [LB896]

SENATOR FISCHER: Thank you, Mr. Dierks. Are there questions? Senator Janssen. [LB896]

SENATOR JANSSEN: Thank you, Chairman Fischer. Mr. Dirks, what...a lot has come up here about the cost of this permit; what would...what would your operation be willing to pay for a permit that said all my trucks are allowed 2 percent additional on them per annual basis? And I know I'm kind of making you shoot from the hip. I'm just trying to

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get a gauge on what the worth is to an actual entrepreneur, not that...I mean, the cattlemen are entrepreneur as well, but just from the trucking side of it? [LB896]

DONOVAN DIRKS: That's hard to answer. An overweight fine roughly...now it's...I think it's graduated, there's different levels, but 5 percent of the total over; 10,000 pounds, you know, would be \$500 and up. So for an annual permit, I would be willing to pay more than a seasonal permit. [LB896]

SENATOR JANSSEN: We get two tickets, you're looking at a \$1,000... [LB896]

DONOVAN DIRKS: Correct. [LB896]

SENATOR JANSSEN: ...if you're just barely over right there. [LB896]

DONOVAN DIRKS: You know, I would think a \$300, \$400, \$500 permit would be permissible. [LB896]

SENATOR JANSSEN: And I know I'm kind of making you tax yourself, if you will, when I ask that question, but as a business owner, I also see some value to, you know, heck yeah, I'll pay that so I don't have to run the risk of, you know, getting pulled over and paying \$1,000...probably sometimes \$1,000 fines and more. [LB896]

DONOVAN DIRKS: Yes. [LB896]

SENATOR JANSSEN: Thank you. [LB896]

DONOVAN DIRKS: Yes. [LB896]

SENATOR FISCHER: Thank you, Senator Janssen. Senator Stuthman. [LB896]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Dirks, you brought up a good thing. You know, we do have in place already the permits for grain hauling and that is because of the moisture and you don't now much you got on the truck and I appreciate that. You know, you feel it should be that for other commodity parts or hauling the manure or stuff like that also,... [LB896]

DONOVAN DIRKS: Correct. [LB896]

SENATOR STUTHMAN: ...if we're going to have the one. [LB896]

DONOVAN DIRKS: Correct. [LB896]

SENATOR STUTHMAN: Okay. One question I have is, on your manure hauling trucks,

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are...do they have a weight permit? Do you have to have a load permit on those?
[LB896]

DONOVAN DIRKS: As far as I know, there's no permits available. [LB896]

SENATOR STUTHMAN: No, permits available. But I mean, they're not a licensed vehicle are they? [LB896]

DONOVAN DIRKS: Correct. [LB896]

SENATOR STUTHMAN: So it's a farm implement and the only regulations, in my opinion, isn't it whatever your road-load would be on hard surface. [LB896]

DONOVAN DIRKS: Correct. [LB896]

SENATOR STUTHMAN: Otherwise you could run as much as you want? [LB896]

DONOVAN DIRKS: Yes. [LB896]

SENATOR STUTHMAN: Okay. Thank you. [LB896]

SENATOR FISCHER: Thank you, Senator Stuthman. Other questions? I see none. Thank you, Mr. Dirks. [LB896]

DONOVAN DIRKS: Thank you. [LB896]

SENATOR FISCHER: Next proponent please. Are there other proponents? Any opponents to the bill? Good afternoon. [LB896]

LARRY DIX: Good afternoon. Senator Fischer, members of the committee, for the record, my name is Larry Dix, L-a-r-r-y D-i-x appearing today in a position to oppose. I would tell you, initially our board took a position, a neutral position on this bill, but sitting here hearing the testimony made me realize we probably should be in a position to oppose this. One of the things I kept hearing throughout this whole conversation is, and even in the introducer's original opening statement is, okay, 2 percent, but 3 or 4 would be good; up to 10 would be good. I've got to tell you, whenever we...makes us, from a county perspective makes us very, very nervous when we start looking at overweight vehicles, putting more weight on those county roads. That just becomes a concern for not only the roads, but the bridges. And I know you've heard me state many, many times that that is a concern. Part of the concern that Senator Christensen brought up of the wet spring and what that was doing to the pens, I would tell you the snow didn't just fall on the pens. That snow is out there on the roads. We're going to have a terrible time with our roads this spring also just because of the amount of snow, the nature of it and

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so we're going to be pretty challenged there also. So I would just caution the committee in the fact that when we start to look at that, if the committee does something with it, I, you know, I think if it stays around the 2 percent, we probably are...are probably okay. But when we start jumping those percentages up, then it becomes a little bit problematic. Certainly everybody looks at the limit and says how much over the limit I...can I be, as opposed to sometimes looking at the limit and saying how much under the limit do I need to start out with so that I don't get myself up to the maximum. It's just a different way of looking at it. But that's our concern. That's why I'm here. I certainly happy to answer any questions that you may have. [LB896]

SENATOR FISCHER: Thank you, Mr. Dix. Are there questions? Senator Gay. [LB896]

SENATOR GAY: Thanks, Senator. Larry, do you know if there have ever been any studies on the impact of the overweight vehicles over the years and here on the bridges? I know what you're saying. You don't want to stress these things out; but also these people that are using those roads as well, so there are constituents of every county, but... [LB896]

LARRY DIX: Absolutely. [LB896]

SENATOR GAY: Do you know of anything out there that we could look at? [LB896]

LARRY DIX: Yeah, we certainly support people getting their products farm to market; no question about that. But I'm not aware of any study, per se, that has been done. The study is typically just the wear on the roads. [LB896]

SENATOR GAY: What the impact. [LB896]

LARRY DIX: It happens every year. [LB896]

SENATOR FISCHER: Thank you, Senator Gay. Other questions? Mr. Dix, I just want...want you to be clear on this; you said your board took a neutral position, but you decided to come up and oppose the bill, is that correct? [LB896]

LARRY DIX: Yeah. And as executive director, certainly, I have the latitude to do that. [LB896]

SENATOR FISCHER: Okay. [LB896]

LARRY DIX: And it's based on the comments that we heard in the other testifying. [LB896]

SENATOR FISCHER: Okay. Under current law, we treat grain differently; we treat sugar

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beets differently, they are...they get 25 percent greater than the maximum weight; so you're saying that livestock doesn't quite fit the bill on this? I'm giving you a hard time today. [LB896]

LARRY DIX: I know you are. I know you are. [LB896]

SENATOR FISCHER: So you're saying as a rancher, are you telling me that livestock doesn't quite reach the same level in this state as grain and sugar beets and...or should we get rid of their little perks that they get here too? [LB896]

LARRY DIX: I would tell you, certainly, I wasn't here at the time when we started to make the decision on the sugar beets, on the grain. I think if those bills were in front of us today, to move those a percent or half a percent, we would be in the same position. I think that was negotiated at the time. That certainly why we said if we can remain at that 2 percent, you know, I don't think we're there; but made me a little bit nervous when we started jumping those percentages not knowing quite where it was. I know I have sat here a number of times; appeared neutral only to see the bill advance pretty rapidly and we get up on the floor and somebody says: nobody said there was really, really any problem and so this one here sounded like it could be problematic and for that reason that is the sole reason why we did what we did. [LB896]

SENATOR FISCHER: But if it would stay at 2 percent, then your position would be neutral? [LB896]

LARRY DIX: If it would stay at 2 percent we would be fine. [LB896]

SENATOR FISCHER: But of course there are never are guarantees, as you said, when we get to the floor with a bill too. [LB896]

LARRY DIX: That's right. That's right. [LB896]

SENATOR FISCHER: Thank you. [LB896]

LARRY DIX: Thank you. [LB896]

SENATOR FISCHER: Other questions? Senator Louden. [LB896]

SENATOR LOUDEN: Yes, as another rancher, Senator Fischer, why I've been down this road several years ago and also you forgot to mention the dry beans are also set up in there so that they get special treatment too. Because several years ago we tried to put this in on this 15 percent greater on livestock moving there and we didn't get anywhere with it as Senator Heidemann carried that bill and we got locked up on single axle trucks. And if any of you around here remember that... [LB896]

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LARRY DIX: I...Senator Louden, I believe I was here and I believe I sat in the chair on that bill also. [LB896]

SENATOR LOUDEN: Okay. And so this is just a little bit different angle of it and to go with a permit that could be purchased rather than just automatically giving that reason. But I think...I don't know if this 2 percent, like this, is going to do much good, because when you're overloaded, you're overloaded. And same way with grain, hauling it out, they realize there was going to have to be more than 2 percent because that's the reason they give you a 15 percent maximum weight. So therein lies; what did we say? That's where the rubber hits the road. [LB896]

LARRY DIX: Yeah. Certainly a problem. Certainly not making any points with the ranchers on the committee. I understand that. But hopefully you can understand, you know, there is a huge investment that counties have made in those roads and we need to do what we can to protect those. [LB896]

SENATOR LOUDEN: But there's no time it can be greater than 20,000 pounds per axle? [LB896]

LARRY DIX: Right. Right. [LB896]

SENATOR LOUDEN: Okay. Thank you. [LB896]

LARRY DIX: Yep. [LB896]

SENATOR FISCHER: Thank you, Senator Louden. Senator Hadley. [LB896]

SENATOR HADLEY: Senator Fischer. Mr. Dix, since I don't know who is coming later, I'll ask this question. I guess from a policy standpoint, I'm trying to figure out why we have a limit and then we say if you buy a permit you can go over the limit. And I'm wondering, is this like the speed limits on 75 miles an hour on the interstate and for \$50 I could buy a permit that allows me to go one and a half miles per hour faster on the interstate. So I'm just trying to figure out why I have, you know, or 10 percent or...now I did read that Senator Fischer was talking about beets as exempt, and I did think they talked about seasonal products that might have a problem of rotting and such as that. So I...maybe you're not the person to answer, but I just am trying to...philosophically wonder why we need to...for... [LB896]

LARRY DIX: Right. As I stated before, you know, there's a maximum and there's a way to avoid it and it's, if you know that you're going to have more weight at some point in time, start out with less weight so that you stay under the maximum. [LB896]

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SENATOR HADLEY: Thank you. Thank you, Senator Fischer. [LB896]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? Thank you, Senators. Thank you, Mr. Dix. [LB896]

LARRY DIX: Thank you. [LB896]

SENATOR FISCHER: Any other opposition to the bill? Anyone wishing to testify in the neutral capacity? Senator Christensen, would you like to close? [LB896]

SENATOR CHRISTENSEN: Thank you, Madam Chair and fellow senators. Quickly I'll just say that if you don't think 2 percent is the right number. I'll leave that in your hands. My initial intent was, as I said, just to take care of minor infractions that occur because of things beyond your control. I wasn't here trying to allow people to go excessively. But I can defer to you guys on that and hit Senator Hadley's question; I believe the fed's have frozen the weight limits. Maybe Senator Fischer can tell me for sure. And that's why you've seen variances because when I tried to do the permit a year ago on trucks near the outer edge of the borders, we had come across that problem. So I believe that is correct and that's why you see the variances because it would be better if all states were the same; but it's not that way. [LB896]

SENATOR FISCHER: Thank you, Senator Christensen. [LB896]

SENATOR CHRISTENSEN: With that, Chair, I would take questions. [LB896]

SENATOR FISCHER: (Exhibit 1) Appreciate it, thank you. With that I will...oh, I do have a letter here from Craig Head with Farm Bureau and they are writing in support of LB896. With that I will close the hearing on LB896 and open the hearing on LB773. Senator Wightman, welcome back to the committee. [LB896]

SENATOR WIGHTMAN: (Exhibit 7, Exhibit 8) Good afternoon. Madam Chair, members of the Transportation Committee, I'm John Wightman, spelled W-i-g-h-t-m-a-n, representing the 36th District. LB773 would amend and clarify Nebraska's law on what types of farm implements must be titled, licensed and what weight may be carried by these farm implements. Current law, Section 60-123 of the Nebraska Revised Statute, exempt from titling and registration of motor vehicles certain types of farm implements including, and I'm quoting from that section: self-propelled equipment designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil and crops, agricultural floater-spreader implements defined in 60-6,294.01 and other implements of husbandry designed for and used primarily for tilling the soil and harvesting crops or feeding of livestock. LB773 would clarify the existing definition by expressly adding a definition of manure spreading implement to include specialized equipment including specialized equipment mounted on a modified

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truck chassis designed and used exclusively for this purpose. Of course, manure could be considered fertilizer or related product which would exempt the vehicle under the previously cited provision or it could be exempt as an implement of husbandry designed for and primarily use for the feeding of livestock. And I think there has been some confusion as to whether that did fit within some of these definitions, but at least in some areas they've been ticketing for not having commercial vehicles to be used for that purpose. Trucks that have been modified for the feeding of livestock are clearly exempt from titling and licensing. Unless the lots are cleaned, one cannot continue the feeding of livestock. LB773 would expressly clarify the existing law to exempt manure spreading implements from titling and licensing requirements. In addition, a weight limit is prescribed that is the same as that allowed for agricultural floater spreaders. Other types of farm implements are not subject to a weight restriction. Any load over a gross laden weight of 48,000 pounds will mean the vehicle is not exempt and is subject to the penalties for overweight vehicles. I would also offer the committee an amendment, AM1884. My staff met with a representative of the State Patrol and they expressed concerns about the language of LB773. I want to thank the Patrol for their willingness to discuss the issues. AM1781 is intended to address some of their concerns and their concerns were as follows: LB773 is not intended to cover conventional dump or farm trucks. The truck must be specialized and modified to be used only for this purpose. And there will be a later testifier who will show you pictures and have pictures for the committee of what these vehicles do look like when they're mounted on a chassis. And the amendment addresses the issue of the number of truck axles required to carry this amount of weight. The three or more axles means the modified truck must have at least a tandem rear axle. The third change made by AM1884 was added by the Bill Drafter's Office to expressly include "for manure spreading" to the definition found in 60-625 as an implement of husbandry. The State Patrol did not ask for this additional clarifying language, but the Bill Drafters thought this would be important. We would also place in evidence and Roger Keetle will hand you this, a letter from Dan Roberts of Lexington, Nebraska, who operates a number of feed lots, four or five, three or four throughout the state, I don't know exactly how many, in support of LB773. I appreciated the opportunity to discuss LB773 with representatives of the State Patrol, but as you find from their...hope you'll find from their neutral testimony, they do have concerns with the bill; other testifiers will address what we anticipate will be their concerns. I would hope the concerns could be addressed. I would say that we are looking at the dedicated use of this vehicle, as much as anything, we're not just trying to give you a particular vehicle or a type of vehicle when saying this ought to be this. This is a dedicated use with a chassis that's placed on this truck for the sole purpose of spreading manure which is important to the industry of cattle feeding. So I urge you to advance LB773 with the proposed amendment. I will be happy to answer any questions. Thank you. [LB773]

SENATOR FISCHER: Thank you, Senator Wightman. Are there questions? I see none. Thank you very much. [LB773]

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SENATOR WIGHTMAN: Well I'm sure there will be those better able to address some of those questions. Thank you. [LB773]

SENATOR FISCHER: Thank you. How many people are here today to testify on this bill, if you'd raise your hands please? One, two, three, four, five, six, okay. Would the first proponent please step forward. Good afternoon. [LB773]

STEVEN VOIGT: (Exhibit 9, 3 pictures) Madam Chair, members of the committee, my name is Steve Voigt, S-t-e-v-e V-o-i-g-t. I'm a lawyer practicing in Kearney, Nebraska and for the past 32 years have represented many ag related farm and ranch clients. I'm principally here today to tell you the incidents that arose up to this request by Senator Wightman for a change or clarification in the law. The Lewis family has farmed in Buffalo County for approximately three generations, over three generations. They had a large commercial feedlot which was sold in 2001 to Mr. Roberts' organization. One of the terms and conditions of that sale was that they had to haul or dispose and manage the manure for 20 years from the feedlot. The reason being is the feedlot owned no adjacent land. So they took...to comply with DEC, they had to have somebody that would take the manure. Mr. Lewis' father, Dwayne, passed away in 2004 so it's fallen upon him and his brother to handle the manure conditions of this feedlot. Initially the feedlot used tractor and pull-type spreaders and you'll see a picture of those. Those tractors with a spreader, unloaded, weigh approximately 45,000 pounds. The box spreader that's on those pull-types is almost identical to the box spreaders that are on the truck chassis. The gross empty weight of a truck is about 25,000 pounds. As you heard before, the weight of manure varies significantly with the content, moisture content of it and the amount of dirt that's mixed into it. In the past, these trucks have been treated as farm implements. The county treasurers manual assesses them as personal property that have not been titled or licensed. They haven't met the definition of a farm truck. Their primary use is to haul manure from a feedlot and spread it over out across a field. And as you can see from the view of the spreader, there's really nothing else that can go in that box that's going to stay there other than manure that's then going to get kicked out. The primary need to go from a tractor to a truck is based upon several factors: (1) economies of fuel and maintenance and cost. You can put together a truck-mounted spreader for about \$45,000. You can't buy half a tractor for that these days it seems like. They can spread faster; they can go further. Some of the feedlots that don't have adjacent land have to contract with farmers as much as five to ten miles away that will accept manure. The time that it takes for a tractor to drive that far and back makes it extremely inefficient to haul manure with a tractor and spreader. Like I said, these trucks aren't used for anything but hauling to a field and then spreading it in a field. Last spring a member of the Carrier Enforcement Unit of the State Patrol ticketed Mr. Lewis...two of Mr. Lewis' drivers, one driving an empty truck and one driving a full truck. The full truck was overweight and the tickets issued to the drivers were that they did not have commercial drivers licenses. As a farm implement, we didn't...we thought the law was pretty clear that you didn't need a commercial driver's

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license. But there is an interpretation that's open within the existing statutes of what is or isn't a commercial motor vehicle. The amendments that Senator Wightman has offered are to the definition of exceptions to a motor vehicle. And the reason that this is, is because the closest analogy to equipment is made to the type of equipment that's found in subparagraph 3 of 60-339 and that goes to applying, carrying fertilizer and other agricultural by-products. We felt that this statute covered these trucks. Obviously the Carrier Enforcement Unit did not. The matter was litigated. The court dismissed the tickets without a finding of whether these vehicles need CDLs or not. And rather than continue to litigate this we chose to ask the Legislature to consider clarifying the definitions so that it's clear that these are farm implements and not commercial motor vehicles. In this particular case, these vehicles are governed to 45 miles an hour for fuel efficiency purposes and the maintenance of them is cheaper than tractors and it's just about the only economical way that manure can be hauled away from a large feedlot that's used up it's adjoining land for spreading by tractor type. There will be testimony later about some of the issues faced by operators of the feedlots. If there are any questions I can answer right now, I'd be more than happy to take a shot at it. [LB773]

SENATOR FISCHER: Thank you very much, Mr. Voigt. Are there questions? Senator Stuthman. [LB773]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Voigt, is there a difference between this manure hauling truck and a truck that hauls...has a feed wagon on it that delivers the feed to the feed yard, is there a difference between those? Do you feel there's a difference between them? [LB773]

STEVEN VOIGT: Not really. I mean the purposes are the same; ones puts input into the cattle and ones taking the excrements away from the cattle; and the feed trucks are exempted, they are treated as a separate farm implement. [LB773]

SENATOR STUTHMAN: And then the other side of it; you know, they're hauling stuff from the feed yard out to adjacent land in their manure management treatment of land. Do you feel they should be treated the same? [LB773]

STEVEN VOIGT: Well they should be treated like a farm implement because their primary and dedicated use is for the husbandry of the soil to increase the nutritional value in it. They don't have any other over-the-road use or any other commercial value that you would say, even a farm truck that could haul corn; it could haul equipment; it could haul (inaudible); it could haul a lot of other things other than one product. These vehicles can only haul manure; there's just simply no other way to adapt them to haul anything else. [LB773]

SENATOR STUTHMAN: And because of the regulations and the permitting process of feed yards at the present time, it becomes very important the fact of the distance to haul

the manure from the feed yard is maybe 10, 15 miles away because of the land owned by that one and, in my opinion, the trucks can hasten that trip; tractors, you know, can't go 45 miles an hour down the road and I don't want tractors going down the road 45 miles an hour either. Some of these spreaders are turned into hauling silage in the fall when they're cutting silage; so would that be the same thing then they wouldn't have to be licensed either for hauling silage into the feed yard? [LB773]

STEVEN VOIGT: I am not familiar with that situation at all. Maybe someone else can testify to that. I...well, I don't know if I'd mix silage with manure. [LB773]

SENATOR STUTHMAN: Well, we've got feedyards that power wash their spreaders out... [LB773]

STEVEN VOIGT: Do they? [LB773]

SENATOR STUTHMAN: ...on a very consistent pattern time frame and a lot of them take out the beater part of it and use the slop gate yet, put sideboards on it and haul silage with it. [LB773]

STEVEN VOIGT: So they modify the actual spreader box... [LB773]

SENATOR STUTHMAN: Yes. [LB773]

STEVEN VOIGT: ... by sideboards and by removing equipment and that, theoretically, that could work. [LB773]

SENATOR STUTHMAN: Okay. Thank you. [LB773]

STEVEN VOIGT: Obviously it does if you know people that are doing it. [LB773]

SENATOR FISCHER: Thank you, Senator Stuthman. Senator Hadley. [LB773]

SENATOR HADLEY: Senator Fischer, thank you. Mr. Voigt, I was looking at Section 8, 60-339 which you talked about. I guess I'm having trouble trying to figure out, it says: use exclusively to carry and apply fertilizer and then we're adding manure spreading implements. Isn't manure spreading, isn't that applying...carrying and applying fertilizer? Isn't that why the manure is being spread? [LB773]

STEVEN VOIGT: Absolutely. This is just... [LB773]

SENATOR HADLEY: But we feel we have to have this language because there has been some ambiguity. [LB773]

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STEVEN VOIGT: I think there's a clarification between commercially produced fertilizer and manure. And I think this bill would go to correct or define that and make it more complete. [LB773]

SENATOR HADLEY: Thank you, Senator Fischer. [LB773]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thank you very much for being here. [LB773]

STEVEN VOIGT: Thank you. [LB773]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB773]

MIKE TWITCHELL: Good afternoon. My name is Mike Twitchell; it's M-i-k-e T-w-i-t-c-h-e-l-l. I am manager and partner in Platte Valley Feeders in Kearney, Nebraska and besides producing beef, we also produce a lot manure and the challenges that we have to get rid of this manure and apply it at agronomical rates, be good stewards of the ground, has increased over the years. The radius in which we spread this manure has increased. Past practices with the tractors, the pull type, are not feasible. We have a very short window to get the manure out. It's weather, we've got a lot of issues. You can't spread manure on the fields that are planted and we depend upon seasonal labor to operate these trucks. It's very tough to find seasonal labor with CDLs. Most people with CDLs would prefer full-time work and I guess that's about all I have here. I would be happy to answer any questions that you guys have. [LB773]

SENATOR FISCHER: Thank you very much. Are there questions? Senator Stuthman. [LB773]

SENATOR STUTHMAN: Thank you, Senator Fischer. In your operation you own the spreaders and you hire people to do the work? [LB773]

MIKE TWITCHELL: Actually I hire...contract a person to come in and take all of my manure. A farmer in the area, Mr. Lewis, provides that service to me. [LB773]

SENATOR STUTHMAN: But that's an individual that's doing it. It's not a custom manure hauling outfit because there are those here where that. [LB773]

MIKE TWITCHELL: Right. [LB773]

SENATOR STUTHMAN: Have you ever found that...or are you aware of the fact that if you're hauling your own or you hire, you know, the Lewis feed yard to do that, haul it on the crops, if there's some, you know, spillage or anything like that, can they get picked up for littering? [LB773]

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MIKE TWITCHELL: I do not have an answer for that. I guess I could look it up and get back to you, but... [LB773]

SENATOR STUTHMAN: Well, I had that experience and I was just wondering, you know, what...how...what you were aware of. In my opinion, what was told to me by law enforcement was that if I would hire a company to do the hauling from my lot, they could get picked up for littering; but if I'm hauling my own, or hauling your own manure, then the littering portion doesn't fall into place. So...because, you know, there's going to be a little bit fall off once in a while... [LB773]

MIKE TWITCHELL: Sure. [LB773]

SENATOR STUTHMAN: ...but, in my opinion, it's a natural occurring substance and it can lay there on the road as far I'm concerned. (Laughter) Thank you for your comment. [LB773]

SENATOR FISCHER: Thank you, Senator Stuthman. Other questions? Senator Louden. [LB773]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. How far do you figure you can haul it with one of these manure trucks and be feasible. I mean, there's a distance in that involved area, isn't there, that after that it wouldn't be feasible to haul it with one of these kinds of wagons? [LB773]

MIKE TWITCHELL: Correct and in...currently the way it's handled today in our feed yard, I can't speak for anyone else's, but within a 15 mile radius it's economically feasible for us to use these trucks to load directly out of the pen and spread in the fields. Anything over that we will have a side dump come in, haul it, you know, like they haul greater weight...the problem with the side dumps is we end up handling the product three times: we're stockpiling it out of our pens; then we're loading it in that; we're stockpiling at a field; then we're loading in spreaders. You still need to use the spreader equipment. It's less time and less money to haul directly out of the pens with the spreader equipment and anything...we try to stay within a 15 mile radius because of the expedient cost to go further. [LB773]

SENATOR LOUDEN: Would that help to clarify this if there was something that...within 15 miles they could be loaded...haul loaded within 15 miles or something like that to clarify anything. My understanding is that the county complained and that's where it all came about and were you ticketed on a county road or... [LB773]

MIKE TWITCHELL: Mr. Lewis was ticketed on a county road, yes. [LB773]

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SENATOR LOUDEN: And that was the weights and measure people is the one that did the ticketing? [LB773]

MIKE TWITCHELL: That is correct. [LB773]

SENATOR LOUDEN: And were they out there because the county asked them to come out there and weight those trucks or what? [LB773]

MIKE TWITCHELL: I cannot answer that. I don't know why they were there. [LB773]

SENATOR LOUDEN: Okay, because I usually...I thought usually the weights and measure people didn't get off the state highways ordinarily and that's what I was wondering if that would make a difference on clarification or if you had any opinion on that. [LB773]

MIKE TWITCHELL: You know, that would be a question, probably, for the state... [LB773]

SENATOR LOUDEN: Because if there's people that contract to do this, so if they're contracting and making a business out of it, they can actually run these machines without a, you know, a license or anything on them other than a personal property tax someplace in some county and that's what I was wondering if we had to be somewhere or another to designate what they can do with those things. [LB773]

MIKE TWITCHELL: I guess I don't have an answer for you there. [LB773]

SENATOR LOUDEN: Okay, thank you. [LB773]

SENATOR FISCHER: Other questions? I have a few for you. I'm going to step in the manure discussion. What type of vehicles do you use to bunk feed? Do you have a tractor pulling a wagon? [LB773]

MIKE TWITCHELL: No, we have a feed truck with a mixer box on it. [LB773]

SENATOR FISCHER: So you do use a truck. [LB773]

MIKE TWITCHELL: Um-hum. [LB773]

SENATOR FISCHER: And those are allowed on the roads on the state highways without any special permits? Are they licensed? [LB773]

MIKE TWITCHELL: They are not licensed. [LB773]

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SENATOR FISCHER: Do the drivers have to have CDL licenses? [LB773]

MIKE TWITCHELL: No, ma'am. [LB773]

SENATOR FISCHER: How much weight is involved with those vehicles? [LB773]

MIKE TWITCHELL: Our trucks are mixing 28,000 pounds and they will weigh roughly 25,000 pounds so we're looking at 53,000 pounds roughly. [LB773]

SENATOR FISCHER: And what would be the total weight of these vehicles here, these manure spreaders? They, I believe the previous gentleman that gave us these pictures said twenty-some thousand pounds, was that just for the vehicle? [LB773]

MIKE TWITCHELL: That is just for the vehicle. [LB773]

SENATOR FISCHER: And so when it's full, how much would it weigh about? [LB773]

MIKE TWITCHELL: Forty-eight thousand, depending on the... [LB773]

SENATOR FISCHER: So similar weight to your feed trucks. [LB773]

MIKE TWITCHELL: Very similar. [LB773]

SENATOR FISCHER: How far do you drive your feed trucks on the roads? [LB773]

MIKE TWITCHELL: Depends; if we're feeding some cattle outside of our yard; our yard is...we would keep it...we don't have to drive on the county road and in our yard, but we also background some cattle off-site. We will drive up to 5 miles to several locations and feed them with our trucks. [LB773]

SENATOR FISCHER: Okay. When you talked about a side dump, a side dump truck... [LB773]

MIKE TWITCHELL: Trailer, yes. [LB773]

SENATOR FISCHER: Okay. Trailer? [LB773]

MIKE TWITCHELL: Um-hum. [LB773]

SENATOR FISCHER: Okay. That...you said that you used that if it's over 15 miles. [LB773]

MIKE TWITCHELL: Yes. [LB773]

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SENATOR FISCHER: And that in order for someone to drive that, a CDL is required; why is that? [LB773]

MIKE TWITCHELL: It's a much larger vehicle; it hauls a lot more weight. I'm guessing here, but I'm saying it's around 85,000 pounds loaded. It's a...you know, similar to a...it looks like a semitrailer going down the road, only there's dirt in it, so, or manure in this case. [LB773]

SENATOR FISCHER: Okay. So you think this bill would be...or bring some consistency then if these manure spreaders that the weight is about 40,000 to 50,000 pounds, they would be treated like the grain trucks that you use in your feedlot, is that correct? [LB773]

MIKE TWITCHELL: Yes, not grain trucks, but our feed trucks. [LB773]

SENATOR FISCHER: Feed trucks. [LB773]

MIKE TWITCHELL: Yes. [LB773]

SENATOR FISCHER: Okay. We feed with a tractor and we pull it behind, Roto-Mix. Okay. We don't have a big feedlot. Okay. Thank you. [LB773]

MIKE TWITCHELL: Thank you. [LB773]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB773]

MIKE TWITCHELL: Thank you. [LB773]

SENATOR FISCHER: Next proponent please. Are there other proponents to the bill? Good afternoon. [LB773]

MARLYNN SAMUELSON: Good afternoon. My name is Marlynn Samuelson and I am a proponent. [LB773]

SENATOR FISCHER: Could you spell your name please. [LB773]

MARLYNN SAMUELSON: M-a-r-l-y-n-n Samuelson S-a-m-u-e-l-s-o-n. [LB773]

SENATOR FISCHER: Thank you very much. Welcome. [LB773]

MARLYNN SAMUELSON: Thank you. My husband and I have a manure hauling business so we do do this for profit. The only issue I have with this is that we have been

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stopped by the DOTs and they have cited our drivers for no CDLs. Mainly, I guess, the only thing is, I see issues with the county because of the overweight or the amount of weight that is on the county roads. Typically your trucks and I kind of glanced at those pictures; typically those trucks will probably weigh probably better than 50,000 if they're loaded really, really full. But to get to the guidelines of your not being overweight, you can load them and they would probably weigh between 44,000 and 48,000. So the only thing is that I feel with having drivers in our company some of them do not have the CDLs and we have ran the business with other drivers not having that CDL just strictly on the fact that it was a fertilizing implement that, I guess, just where it comes from. The counties...there's basically no way to get around it when you're in a business not to drive on the county roads. There are issues as far as getting on a highway, a regular paved highway, you can always try to go around it, but sometimes those issues are, in fact, not there either. And I think that's all I have. [LB773]

SENATOR FISCHER: Thank you, Miss Samuelson. Are there questions? Senator Stuthman. [LB773]

SENATOR STUTHMAN: Thank you, Senator Fischer. Miss Samuelson, have you ever been cited for littering? [LB773]

MARLYNN SAMUELSON: No. [LB773]

SENATOR STUTHMAN: No. [LB773]

MARLYNN SAMUELSON: No. It's always...typically if we've been cited, it's been for overweight or no CDL. Typically the way our boxes run, and this is from my husband because I don't partake in the venture except for the bookkeeping end of things, but he says that if you take a payloader and dump a load in, his load would be six dumps. Which, in fact, would definitely be overweight and it is probably one of those games you play with when you're running a business. You run in the field and you dump it and you spread it and you get back to the feedlot; but as far as littering, no. There has never been any issue as far as littering. I think the gray area comes from the county where they saying we're a farm implement, you don't have to license it so we're not required to have that CDL. That's where I think some of this play comes into. [LB773]

SENATOR STUTHMAN: And your trucks that you're hauling it with are tandem axle trucks or semis? [LB773]

MARLYNN SAMUELSON: Yes, they're tandems. [LB773]

SENATOR STUTHMAN: It's just tandems is what they are? [LB773]

MARLYNN SAMUELSON: Yes, they're tandems. [LB773]

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SENATOR STUTHMAN: They're just regular tandem truck is what they are? [LB773]

MARLYNN SAMUELSON: Right, right, exactly. [LB773]

SENATOR STUTHMAN: They're not...you don't run any side dumps then do you? [LB773]

MARLYNN SAMUELSON: We do run the side dumps, but the drivers that run the side dumps, it's ran by a semi so those drivers do have CDLs. [LB773]

SENATOR STUTHMAN: Um-hum. [LB773]

MARLYNN SAMUELSON: Which they will come over and run the other trucks, but there...we probably have three or four drivers that don't have the CDLs that we don't put them in those semis to run the side dumps. [LB773]

SENATOR STUTHMAN: Um-hum. That is the issue that I have, you know, and I personally don't feel that they should have to have a CDL if they're running a straight truck. [LB773]

MARLYNN SAMUELSON: Right, and that's how we feel too. [LB773]

SENATOR STUTHMAN: Yeah. [LB773]

MARLYNN SAMUELSON: We feel that they shouldn't have to have that CDL, but any time that we've gotten stopped, (inaudible) the DOTs have actually cited them for no CDL. So that's where that gray area comes in as far as reading what you're...reading and comprehending how you perceive it versus what the county is telling us, as far as, you know, you're not required to have it if you are doing the fertilizing. [LB773]

SENATOR STUTHMAN: Are you aware, do people that drive a straight truck, tandem axle, hauling grain, do they have to have a CDL? [LB773]

MARLYNN SAMUELSON: Not that I'm aware of. [LB773]

SENATOR STUTHMAN: I'm not aware of that either,... [LB773]

MARLYNN SAMUELSON: Yeah. [LB773]

SENATOR STUTHMAN: ...because it's just if you have a semi. [LB773]

MARLYNN SAMUELSON: Yeah. To me, if you're just riding, you know, you're driving a

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regular straight grain truck, no, you're not required to have a CDL, as far as I know. I mean, I believe you can actually have probably your 16-year-old son or, you know, drive it and be fine. The problem with the CDLs is that you have to be 21 to get your CDL. [LB773]

SENATOR STUTHMAN: Because the majority of the time these trucks that haul grain, the tandem axle ones are either hauling silage into the feed yard with a straight truck and hauling the waste out of it with the straight truck, to me there's no difference. [LB773]

MARLYNN SAMUELSON: Right. Right, I agree. [LB773]

SENATOR STUTHMAN: Thank you for your comments. [LB773]

SENATOR FISCHER: Thank you, Senator Stuthman. Other questions? Senator Hadley. [LB773]

SENATOR HADLEY: Senator Fischer. Miss Samuelson, thank you for coming. I'm trying to get a handle on this and maybe I've not heard it correctly. Actually the titling and registration requirements would be monetarily would be a small amount. Would that be a fair statement? [LB773]

MARLYNN SAMUELSON: We actually...we have our trucks listed on our personal property and I would say it's probably going to be about the same. Once you title those...the chassis trucks or your tandem trucks that we have, by the time we would put them on our forms and probably we would have to file it with the 2290, which is a heavy-use vehicle tax. I would assume that probably it's going to be about the same. [LB773]

SENATOR HADLEY: Okay. So, is the big concern then the overweight? Is that the major reason that... [LB773]

MARLYNN SAMUELSON: Well, you know, the overweight thing I guess is just between the hauler, you know. I mean, you can take a chance just about on anything, you know, speeding or whatever. You can go down the interstate and say, well, I'm going to drive 85 and let's take a chance and I get a ticket, you know. Some of these trucks are going to dump, you know, four or five loads, six loads into these trucks, they're going to be overweight, you know. [LB773]

SENATOR HADLEY: Okay. But this bill, it just exempts it from titling and registration. It does not exempt it from overweight. [LB773]

MARLYNN SAMUELSON: Right. Exactly. And I understand that. My issue is just

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with...making sure that that gray area is clarified as far as not having that CDL because any time...any time, that I'm aware of, when someone has gotten stopped for overweight when the Department of Transportation has stopped them that they've cited some of the drivers that do not have the CDLs for failure not to have that CDL which I don't feel is right because we are not, you know, it's a farm implement. [LB773]

SENATOR HADLEY: Thank you. Senator Fischer. [LB773]

SENATOR FISCHER: Senator Stuthman, another question? [LB773]

SENATOR STUTHMAN: Yes, thank you, Senator Fischer. You can title and register these vehicles can't you? [LB773]

MARLYNN SAMUELSON: I believe so. Yes. We have chose not to though, but we do show it on our personal property, so we do... [LB773]

SENATOR STUTHMAN: It's on your depreciation schedule on your personal property. [LB773]

MARLYNN SAMUELSON: Yes. [LB773]

SENATOR STUTHMAN: Is what it is. [LB773]

MARLYNN SAMUELSON: Yes, it is on our depreciation schedule and it is on our personal property schedule. [LB773]

SENATOR STUTHMAN: And you pay property tax on that... [LB773]

MARLYNN SAMUELSON: Yes we do. [LB773]

SENATOR STUTHMAN: ...over a five or seven years? [LB773]

MARLYNN SAMUELSON: Seven years. [LB773]

SENATOR STUTHMAN: Seven years, so. [LB773]

MARLYNN SAMUELSON: Yes, yes. [LB773]

SENATOR STUTHMAN: And I truly think that's the right way to go because anything on your property tax schedule that money all stays in the county where the others if you registered it and licensed it a portion of that goes to the state. [LB773]

MARLYNN SAMUELSON: Right. Right, it's going to go...well, it's going to go to the IRS

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because you would actually have, you know, you'd put the money in there and I know that some of our semis that we've registered with the 2290; I'm going to go off the hip on this one, I think it's either between \$500 or \$750 per unit that when you're filing that 2290, that's what you have to have. [LB773]

SENATOR STUTHMAN: Um-hum. [LB773]

MARLYNN SAMUELSON: So, you know, that's going to the IRS, that's not going locally. [LB773]

SENATOR STUTHMAN: So in other words, this...this truck, this straight truck is paying taxes. [LB773]

MARLYNN SAMUELSON: Yes, it is paying taxes. [LB773]

SENATOR STUTHMAN: You either register it or it's on your personal property tax. [LB773]

MARLYNN SAMUELSON: Correct. Correct. [LB773]

SENATOR STUTHMAN: Thank you. Thank you. [LB773]

SENATOR FISCHER: Is the straight truck titled and registered? [LB773]

MARLYNN SAMUELSON: No. Well, let me think about this. [LB773]

SENATOR FISCHER: That's okay, I don't mean to put you on the spot. [LB773]

MARLYNN SAMUELSON: I...I honestly don't know. I know that we showed on our personal property schedule, but it does not have any plates on it, so it's not licensed so I would assume that, you know, as far as like a vehicle registration and title type of thing, I...I know we have our insurance cards and that kind of thing in the trucks, but as far as an actual title registration type of thing, no, I would say that they're not. [LB773]

SENATOR FISCHER: Okay. So since it has no title, no registration then, or no registration and no license, it would not require the driver to have a CDL, is that correct? [LB773]

MARLYNN SAMUELSON: Well, that's our assumption. That's where our gray area lies with the court, with the district...or the county court and the people that have stopped you, I mean, the DOTs. [LB773]

SENATOR FISCHER: Okay. Thank you very much. Other questions? I see none. Thank

you for coming in today. [LB773]

MARLYNN SAMUELSON: Thank you. [LB773]

SENATOR FISCHER: Other proponents for the bill please. Good afternoon. [LB773]

GARY ROBISON: Hello. I'm Gary Robison, G-a-r-y R-o-b-i-s-o-n. I'm also from the same area that Miss Samuelson is from and we farm and ranch in that area and then we do some chopping and do the silage and the same thing that we're talking about here whether we use the trucks for both purposes. We take the beaters off, put racks on them and haul silage in the fall. So our trucks are licensed commercially so the issue of the license isn't so much...I don't want to be contradictory to my other proponents, but I think as I sat back there they've covered everything, except for I feel that the distance from the feedlot is probably overstated. I think probably the economics of this moving manure would say that we're probably going to stay more in the 5 mile or less range hauling it from the pens and then use the other equipment to transport it farther out. And I probably missed my chance to speak on the last bill because I thought this one was more involved with weight but I can...the 15 percent overage on the equipment that's moving it farther away would sure be helpful. This manure thing has gotten...as the feedlots have gotten bigger and the DEQ requirements are stricter on these feedlots and the thing that hasn't been addressed today is the distillers grain that we're feeding in these feed lots today concentrates the phosphorous levels which makes us have to move this manure farther, put it on the fields less often because we're more concentrating it. So we're moving this manure farther and it's, you know, I think the overage permit to get this manure farther away with transportation equipment, not spreading equipment would be quite helpful. As far as the spreading equipment, if it stays in that 5 mile range and it's not commercial like we are, I sure think that the idea of not needing a CDL would be consistent with what you're doing with the feed trucks because those feed trucks have...every feedlot has a little remote pen over here; a little four pens that the neighbor quit and they rent and they run those trucks over there and back. Of course the weight issue with all these equipment is a constant battle, but I can see that..but those are my comments. [LB773]

SENATOR FISCHER: Thank you, Mr. Robison. Are there questions? I have a question for you on this. If we put a radius around the feedlot that you can only drive 5 miles, that you can only drive 10, 15 miles from the feedlot, that is not going to be helpful is it, especially in light of EPA regulations? Won't that just compound problems for our livestock industry here in the state? [LB773]

GARY ROBISON: It would just make it more confusing too. You know, how far away am I? Do you have a GPS? Is it like the...as the crow flies rule that the commercial...you have to have, you know, where you're running a log book and all those kinds of things; yeah, I...I don't think the manure trucks are going to venture a long ways outside that

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small radius, but what's it matter? If it's a manure truck and that's all it's being used for, and it's hauling manure. [LB773]

SENATOR FISCHER: Is it becoming more difficult to dispose of this? [LB773]

GARY ROBISON: Yes. It's becoming a hardship on feedlots, yes. [LB773]

SENATOR FISCHER: So as we try to continue to grow our livestock industry in the state including feedlots, we're running into more and more roadblocks here, aren't we? [LB773]

GARY ROBISON: We need to be more helpful, yes. [LB773]

SENATOR FISCHER: So you...obviously you think this bill will be helpful, but do you have suggestions on how to make it even more helpful? [LB773]

GARY ROBISON: Yes. [LB773]

SENATOR FISCHER: And what would those be? [LB773]

GARY ROBISON: Well the one would be, as we transport this material farther out, that we be allowed to use the 15 percent overage that's being, you know, considered for the grain farmers to move the material out. And one of the reasons...and I just got a ticket Friday and it...I was underweight on the truck, but I was overweight on an axle. Loading manure on a truck is an art, not a science. You've got...you know, they're trying to clean their pens; the cattle are uncomfortable; and you know, this guy is doing his best, he's trying to scatter the load out there appropriately, you know, he missed it by 1,300 pounds; cost me \$125. I'm not here over the \$125, but it's...you know, if you had a 15 percent overage, it would give you...and most of these trucks that we're hauling this manure farther away, won't haul much over the legal limit. It's just the, you know, the placing it in the truck. [LB773]

SENATOR FISCHER: That...that 15 percent is pretty high. What about the 2 percent that was in Senator Christensen's bill? Is that going to help at all? [LB773]

GARY ROBISON: A scoop of manure... [LB773]

SENATOR FISCHER: No, truly, is that going to help at all? [LB773]

GARY ROBISON: No. [LB773]

SENATOR FISCHER: Okay. [LB773]

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GARY ROBISON: A scoop of manure in a loader...I have one loader that lifts 8 tons per scoop. If 2 percent is the overage and I've got 8 tons and just a little more falls off, it's a 1,000 pounds or 2,000 pounds. [LB773]

SENATOR FISCHER: And you get a ticket for littering too then. [LB773]

GARY ROBISON: Yes. [LB773]

SENATOR FISCHER: Okay. Thank you very much. Other questions? Senator Stuthman. [LB773]

SENATOR STUTHMAN: Thank you, Senator Fischer. Is there a difference between...you stated you got overweight on your axle is what you got fine for? [LB773]

GARY ROBISON: Um-hum. [LB773]

SENATOR STUTHMAN: Is there a difference between an overweight on an axle of that manure hauling truck or...or...which is not licensed, correct? [LB773]

GARY ROBISON: No, this was a side dump. [LB773]

SENATOR STUTHMAN: Oh, this was a side dump? [LB773]

GARY ROBISON: Yes. [LB773]

SENATOR STUTHMAN: Oh, okay. As compared to a grain cart, a thousand bushel grain cart going down the road with one axle? I mean, that's where I think there's a lot of overweight on there, so. [LB773]

GARY ROBISON: To tell you the truth, the spreader tractor pictures that you have, when those things are loaded, they're 80,000 to 90,000 pounds, you know. [LB773]

SENATOR STUTHMAN: With a tractor and spreader. [LB773]

GARY ROBISON: With a tractor and spreader. Put the same box on a truck and you guys let us haul 48,000 pounds in it. [LB773]

SENATOR STUTHMAN: So you think there's some inconsistency there? [LB773]

GARY ROBISON: Well, yes. [LB773]

SENATOR STUTHMAN: Okay. Thank you. [LB773]

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SENATOR FISCHER: Other questions? I see none. Thank you very much for being here today. [LB773]

GARY ROBISON: Thank you. [LB773]

SENATOR STUTHMAN: Thank you. [LB773]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB773]

DUANE GANGWISH: Good afternoon, Senator Fischer. Members of the committee, my name is Duane Gangwish, D-u-a-n-e G-a-n-g-w-i-s-h and I'm the vice president of environmental affairs for Nebraska Cattlemen. We're here to support the bill. I won't go over rehash much of what you've heard; although there's been quite a few questions that I think have been excellent questions and I tried to bring light to the significance of the matter. Senator Stuthman, you asked a couple of questions that were relative to littering or losing the load. All of these vehicles whether they...have to follow the Rules of the Road. The Rules of the Road mean you have to contain your load: length, width, lights, speed limits, weight limits and the weight limit is addressed here. But to give you some idea of the difficulty in maintaining your load, sometimes the product that we're talking about is, should we say, fluid. Not always, sometimes it's very dry. The challenge with losing a load is we had a member recently that delivered a load of heifers into Omaha and as they were waiting to load one of these heifers nature called and urinated out the side of the truck and the driver was ticketed a \$100 for failure to contain his load. So that is an inconceivable enforcement dilemma as is sometimes just the mere fact that the manure sometimes can spill. So, yes, it is the duty of the operator to try and contain to the best of their ability, but there needs to be some discretion in that. You asked...someone asked about the farm plates. The federal regulations regarding motor vehicles specifically exempts farm plated vehicles from licenser requirement...from the CDL requirement, but they must be a plated vehicle. What we're talking about here in this statute is exempting them from being plated, licensed, therefore they would not come under those federal requirements. It's important to note that, yes, these vehicles are titled and they are insured, but they are not licensed. And that being the key factor in the operator...in the CDL requirement. To give another example, these are dedicated use; you brought up, Senator Stuthman, that silage, it would be our view that that would be a dedicated use of animal husbandry. It might be the same vehicle, but a different use for that vehicle; but again, dedicated to animal husbandry. To give you the converse of that example, we had a member who instructed his crew to take the trash to the landfill and the crew thought the most appropriate way was to use the manure truck so they took the payloader loaded the trash on the manure truck and drove to the county landfill and they were subsequently ticketed \$1500 for not having a license plate; which was appropriate because it was not being used as a dedicated use vehicle. So there's some nuances in this bill that we feel are very critical and important to the livestock industry in the state. I don't think that a distance discussion about distance is, per se,

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relevant. I think the testifiers before you have been accurate in their discussion that it might be a relatively short distance or it might be 10 to 15 miles that's a function of cost of fuel, etcetera, but as soon as you say it can go eight miles, then someone is going to come back to you and want nine. And so I think purely from a statutory construction standpoint it's maybe inappropriate, if I could be so bold as to say that before the committee, to put a distance factor in, in regards to these. You've heard some very excellent testimony of people personally affected by this and Nebraska Cattlemen feel that this is an important issue and wanted to lend our support. I'd be happy to answer any questions. [LB773]

SENATOR FISCHER: Thank you, Mr. Gangwish. Are there questions? Senator Louden. [LB773]

SENATOR LOUDEN: Yeah, thank you, Senator Fischer. You heard some of the testimony, Duane, about when they don't license these vehicles, you know, then what they're depreciated out at after seven years? Then do they pay taxes on them after seven years? [LB773]

DUANE GANGWISH: If it's fully depreciated, I'm not an accountant or actuary, but I feel that at that point...I'm going on a limb, but I would say no. But I would... [LB773]

SENATOR LOUDEN: Yeah or your tractors or anything else after they depreciate. You don't pay property tax on it any more. So actually if you've got an 8-year-old truck or you've had a truck for eight years old out there you can be running on a highway and not paying any taxes, is that correct? [LB773]

DUANE GANGWISH: Yes. [LB773]

SENATOR LOUDEN: Okay. Yeah; I mean that's...whether it's neither here nor there, but this is a possibility on there if they're using the highways with that outfit. [LB773]

DUANE GANGWISH: I would guess that that's a bit beyond the conceivable life for some of this equipment, but I...your analogy is accurate. I think once they've been fully depreciated they would be removed from the personal property statement. [LB773]

SENATOR LOUDEN: Okay. Thank you. [LB773]

SENATOR FISCHER: Thank you, Senator Louden. Senator Hadley. [LB773]

SENATOR HADLEY: Senator Fischer. Thank you, Mr. Gangwish. I go back to the original question I asked Mr. Voigt. I'm still having trouble trying to figure out what the difference is between a self-propelled equipment designed and used extensively to carry...exclusively to carry and apply fertilizer and a manure spreading implement. It

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would seem to me that those are one in the same. Is that...would that be your thoughts on that? [LB773]

DUANE GANGWISH: Well to us farm kids the answer is yes. Obviously there is a difference between commercially produced fertilizer that might be blended to specific qualifications...specific nutrient regimens at a bulk plant and then delivered. Whereas manure, yes it is "fertilizer" to us farm kids, but it is not...it is an inconsistent product and therefore we see it appropriate to define them differently in statute. [LB773]

SENATOR HADLEY: But is not the manure being spread for use as a fertilizer, isn't that...I mean, isn't that the reason the farmer would put it on there? [LB773]

DUANE GANGWISH: Yes, the easy answer to that is yes. The intent and the purpose for spreading manure from the farmer standpoint is as nutrients and it can be very valuable. In 2008, we saw fertilizer prices triple and we saw high demand for manure because of it's value both in nutrients and organic matter. [LB773]

SENATOR HADLEY: Thank you, Senator Fischer. [LB773]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Gangwish. [LB773]

DUANE GANGWISH: Thank you. [LB773]

SENATOR FISCHER: Other proponents for the bill? Any other proponents? Any opponents to the bill? Anyone in the neutral capacity? Good afternoon. [LB773]

LARRY DIX: Good afternoon, Senator Fischer and members of the committee. For the record my name is Larry Dix, L-a-r-r-y D-i-x; executive director of Nebraska Association of County Officials appearing today in a neutral capacity on this bill. When we look at it we do believe it does clean up the CDL gray area. We've heard of that from our law enforcement folks. We certainly do believe it does that. I would tell you, Senator Wightman was nice enough to share with us prior to the hearing his amendment and we do believe that also helps this bill out. The last thing that I really want to comment on is the sort of the discussion of do we title and register; you know, I think, certainly, our interest is if these vehicles are on the roads we want to make sure they are insured, that there is some insurance on it. And Senator Loudon, I think you nailed it on the head; if it is on personal property, at the end of that time when that equipment is depreciated then it is off the tax rolls. No question about that. So with that I'd be happy to answer any questions anybody would have. [LB773]

SENATOR FISCHER: Thank you, Mr. Dix. When you said that you had heard from your law enforcement people, did you mean your County Sheriffs Association? [LB773]

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LARRY DIX: Yes, yeah. [LB773]

SENATOR FISCHER: Have they been confused by current law dealing with this? [LB773]

LARRY DIX: I don't know if they've been confused. I think by having it written like this, it is something that they can point to and say, well this is how this type of vehicle should be handled. So I'm not so sure if they're confused; but I think it does leave open...leave it open and subject to somebody's interpretation maybe. So I think that helps in this area. [LB773]

SENATOR FISCHER: Okay. Thank you. Other questions? I see none. Thank you very much. [LB773]

LARRY DIX: Thanks. [LB773]

SENATOR FISCHER: Anyone else wishing to testify in the neutral capacity? Good afternoon. [LB773]

GERRY KROLIKOWSKI: (Exhibit 10) Good afternoon. Chairman Fischer and members of the Transportation and Telecommunications Committee, my name is Gerry G-e-r-r-y Krolikowski k-r-o-l-i-k-o-w-s-k-i. I'm the commander of the Nebraska State Patrol's Carrier Enforcement Division and am here to testify in a neutral capacity on LB773. The purpose of my being here today is to provide technical information as the State Patrol understands that we serve the state as an enforcement branch and not the policymakers. One of the State Patrol's many responsibilities is to operate the weigh stations, portable scales and enforce laws relative to size, weight, load, registration, operator's license, and the overall safe operation of commercial motor vehicles. We would like to highlight some portions for your consideration in LB773 regarding weight, road safety, and some underlying effects this bill may have. LB773 amends state Statutes 60-102 and 60-302, exempting self-propelled manure spreaders from the vehicle titling and registration requirements. It has been the State Patrol's understanding as a result of Attorney General's Opinions that these vehicles meet the definition of a fertilizer spreader in the current statutory language for the purpose of these acts and are currently exempt from title and registration. Our enforcement actions reflect that understanding. It is noteworthy that this proposal would add these vehicles into Statute 60-6,294.01 in Section 9 on page 5 of the green copy. The language found within subsection (1) of this statute is very explicit in that it says: the Legislature finds that highway and roadway travel by agricultural floater-spreader implements is incidental to their designated purpose and use. This proposal would equate self-propelled manure spreaders with floater-spreader implements and essentially identify them as implements of husbandry. Our perspective is that they are two distinctively different types of vehicles relative to design and use. The floater-spreaders are equipped with flotation

tires, which distributes the weight of the load across the road surface; operates at reduced speeds; and oftentimes are filled, refilled in the field with a tender truck. Their primary design is truly for off-road work and because of these features they are exempt from the Federal Motor Carrier Safety Regulations, including the CDL requirements. Self-propelled manure spreaders, while they may have special equipment incorporated into their design to spread their cargo, typically load in one location, transport the load over a roadway to another location; off load and then return to the original location to reload and once again travel on the roadway; all the while travelling on traditional tires at highway speeds. We do not believe this type of usage is off-road work. Currently, because of their design and use, a self-propelled manure-spreader exceeding 10,001 pounds gross vehicle weight or weight rating is subject to the Federal Motor Carrier Safety Regulations. If the vehicle's gross vehicle weight rating is 26,001 pounds or more, the driver is required to hold a commercial drivers license. Federal law requires Nebraska to have and enforce laws that essentially require: (1) that commercial motor vehicles on streets and highways be operated by persons who meet the requirements of and hold a valid commercial driver's license (CDL) and (2) that motor vehicles weighing more than 10,000 pounds traveling on state streets and highways be inspected for necessary safety features and devices. The federal government has authority to withhold 10 percent of federal transportation funds from Nebraska if it fails to have and enforce these laws. LB773 specifically allows a standard truck chassis and cab fitted with a box and spreader for hauling and spreading manure to be a manure-spreading implement. LB773 allows for manure-spreading implements to have the limited right to operate on streets and highways and to be exempt from some of the existing vehicle weight requirements. It states that a manure-spreading implement is expressly not a "motor vehicle" as that term is defined in the motor vehicle registration certificate of title statutes. However, there is no distinguishing difference between a self-propelled manure spreading implement and a standard commercial dump truck, both use a truck chassis and have a box affixed to them. Arguably this implement could be characterized as a truck with a specialized box, not a specialized vehicle meriting special exemption under the motor vehicle laws. It is of further note that LB773 could create an enforcement issue that could lead to the federal government concluding that Nebraska is no longer in compliance with the federal mandates described above. If LB773 becomes law, persons operating a truck defined as a manure-spreading implement on streets and highways will argue that since this implement is not a motor vehicle under LB773, they are not required to have a CDL to operate that vehicle on state highways and local roads. This argument is expected to be made even though LB773 does not amend the CDL statutes in any way. Similarly, they will argue that these implements are not subject to the vehicle safety inspection requirements that apply to all other self-propelled vehicles of this type. The federal government may take the position that Nebraska would be doing indirectly what it is not allowed to do directly, and withhold federal funds. These scenarios are not merely hypothetical. The State Patrol has issued citations for failure to have a CDL to drivers of vehicles that are not motor vehicles under these same statutes. These drivers have argued in court that they

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were not required to have a CDL because the vehicle they were operating was not a motor vehicle. The State Patrol has seen a willingness on the part of some courts and prosecutors to accept this argument. They reason that the vehicle is not even classified as a motor vehicle and if its use is somewhat restricted, the driver shouldn't need a CDL. Arguments like this are difficult enough that a prosecutor may choose to not charge this offense or will rely on other alleged violations rather than having to defend against this argument at trial. Additionally, some judges have seemed to be troubled by the argument and charges have been dismissed. The concern is that the validity of the law is eroded when courts and prosecutors do not vigorously assert and defend the law. If the federal government determines that Nebraska is not effectively enforcing the law because of these issues, it could lead to the loss of federal funding. Adding this new exemption to the law in LB773 could increase the erosion of the validity of the weight, CDL, and safety laws. If this erosion is viewed by the federal government as being a failure to enforce these safety laws, it would cause a loss of a portion of needing federal transportation funding. In closing, I would like to urge the committee to carefully assess the underlying affects of LB773 on the roadways and federal requirements. We appreciate the opportunity to be here today and will enforce whatever policy this body deems appropriate for Nebraska. We are always happy to work with all other interested parties if so desired. Thank you for your consideration and I would be happy to address any questions you may have. [LB773]

SENATOR FISCHER: Thank you, Commander. How are these vehicles treated in other states? Do you know? [LB773]

GERRY KROLIKOWSKI: I couldn't answer that truthfully, Senator. [LB773]

SENATOR FISCHER: Do you know if other states have faced loss of federal funding due to the feds questioning how any of these vehicles are treated? [LB773]

GERRY KROLIKOWSKI: We are not aware of any state that has lost funds to this date, but certainly there have been some that have received a letter or warning from the federal government in regards to CDL issues and they corrected the actions before losing the actual funds. [LB773]

SENATOR FISCHER: Do you know if Nebraska has received any letter from the federal government? [LB773]

GERRY KROLIKOWSKI: In regards to these vehicles? [LB773]

SENATOR FISCHER: Well, in regard to any of the off-road type vehicles we have and the threat of loss of federal funding on how they're treated. [LB773]

GERRY KROLIKOWSKI: Not specifically for CDL, because... [LB773]

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SENATOR FISCHER: Okay. Any other questions? Senator Hadley. [LB773]

SENATOR HADLEY: Thank you, Senator Fischer. Captain, thank you. You have a sense, it says: adding this new exemption to the law in LB773 could increase the erosion of the validity of the weight, CDL and safety laws. I certainly understand the safety laws and CDL, but the weight; aren't they...aren't they basically governed by the same weight laws that we would have whether or not they are registered or titled? [LB773]

GERRY KROLIKOWSKI: You're correct. I think what I meant by there is portion of that LB states that they're going to be given a...more or less an exemption up to 48,000. [LB773]

SENATOR HADLEY: Okay. Okay, I see. Because the fact that the CDL and safety laws, I think are very...that is really one of the major concerns, isn't it; that the...if we boil this down to the major concerns, that would be the two. Is that a fair statement? [LB773]

GERRY KROLIKOWSKI: Correct, highway safety, yep. [LB773]

SENATOR HADLEY: Okay. Thank you, Senator Fischer. [LB773]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB773]

SENATOR STUTHMAN: Thank you, Senator Fischer. Commander, in part of your testimony it states, you know, that this self-propelled manure spreading exceeding 10,000 pounds and if the gross...if the vehicle's gross vehicle rating is 26,001 pounds or more the driver is required a commercial driver's license, right? [LB773]

GERRY KROLIKOWSKI: Correct. [LB773]

SENATOR STUTHMAN: Okay, I directed that question to Director Neth, you know, as far as my pickup, my trailer, hauling livestock; we haul 30...my gross vehicle...my gross weight is 30,000 pounds and I asked if I needed a CDL and she researched it and she stated that, you know, a straight truck or a pickup and a trailer did not require a CDL; a tractor-trailer, semi combination is required for CDL. Am I correct? [LB773]

GERRY KROLIKOWSKI: You are correct and I think she is correct. I think, if I may, Senator, I think what the...the one exemption we have in state statute for the CDL requirements under the Driver's License Act which has been in place since we enacted that...those laws in 1992...around 1992 is that farm plated straight trucks operated within a 150-air-mile radius of their farms are exempt from the CDL. Now that could be a straight truck pulling a trailer as well, but that does not include truck-tractor-semitrailers.

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If you're farm plated truck-tractor-semitrailers, you're required to have a CDL whether it's a mile from your farm or 200 miles from your farm. [LB773]

SENATOR STUTHMAN: But the straight truck with the...with, you know, with the manure spreader on is a straight truck, it's got farm...well, don't have license because it's a farm implement, you don't need a CDL then, do you? [LB773]

GERRY KROLIKOWSKI: Correct. And how we've always treated it is that they're not required to have a registration because they meet definition of fertilizer spreader; not an implement, a fertilizer spreader and that's...we've gone by that Attorney General's Opinion since 1985. [LB773]

SENATOR STUTHMAN: So is there any need for this bill then if it's determined that that is a fertilizer spreader, it's a nutrient distributor, in my opinion, you know, you're hauling the manure out of the feed yard. [LB773]

GERRY KROLIKOWSKI: My opinion, Senator, reference the Registration Titling Act, we've operated that since 1985. We're clear or have not ticketed them for registration or titling on those motor vehicles. It's just...I think you've heard earlier testimony referencing CDL which is a different act.... [LB773]

SENATOR STUTHMAN: Yeah. Have you ever ticketed one for not having a CDL running a straight truck? [LB773]

GERRY KROLIKOWSKI: Yes, because they're not licensed as a farm; they're unregistered. [LB773]

SENATOR STUTHMAN: But they're unregistered vehicle. [LB773]

GERRY KROLIKOWSKI: Yep, yep. [LB773]

SENATOR STUTHMAN: Would that be the instance of a manure hauling truck? [LB773]

GERRY KROLIKOWSKI: Sure. A lot of them. [LB773]

SENATOR STUTHMAN: Unregistered vehicle? [LB773]

GERRY KROLIKOWSKI: Sure. That...a lot of them don't have registered because they want to fall underneath that fertilizer-spreader applicator exemption for registration (inaudible); but when you do that, then you lose your exemption under the CDL because it's not plated as a farm truck. [LB773]

SENATOR STUTHMAN: What about a feed wagon truck? [LB773]

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GERRY KROLIKOWSKI: Feed wagon reference Registration Titling Act, I believe we're talking about the same thing; we call them bunk wagons or feed trucks where they have the auger that dumps out and spreads the mixture into the bunks. They fall under the same guise registration and titling as the manure spreaders. They're required to have the CDL as well if they're over the 26,000 pounds. [LB773]

SENATOR STUTHMAN: So straight truck, one if it's not registered and titled, they have to have a CDL? [LB773]

GERRY KROLIKOWSKI: You're correct. [LB773]

SENATOR STUTHMAN: If they're not...if they're registered and titled, they don't have to have a CDL. [LB773]

GERRY KROLIKOWSKI: If they're registered as farm; and it's a straight truck. [LB773]

SENATOR STUTHMAN: As a farm plate. [LB773]

GERRY KROLIKOWSKI: Yep. [LB773]

SENATOR STUTHMAN: As a farm plate. [LB773]

GERRY KROLIKOWSKI: You're correct. [LB773]

SENATOR STUTHMAN: Immaterial whether they had them on their depreciation schedule of personal property? [LB773]

GERRY KROLIKOWSKI: Has nothing to do with CDL, Sir. I mean the CDL statutes were set when we first set those statutes, the federal government allowed us to carry or exempt certain vehicles: the farm plated straight trucks was something this body decided to exempt, but primarily nothing else. [LB773]

SENATOR STUTHMAN: Hmm, well that's news to me that, you know, if we got our feed wagon truck, then you have to have a CDL license if you're carrying over 26,000 pounds. [LB773]

GERRY KROLIKOWSKI: If your gross...if its...has a gross vehicle weight rating of over 26,000 pounds. [LB773]

SENATOR STUTHMAN: Okay, but that would be...that's your rating... [LB773]

GERRY KROLIKOWSKI: Correct. [LB773]

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SENATOR STUTHMAN: ...okay, that's what's on your door on your truck. [LB773]

GERRY KROLIKOWSKI: Correct, Sir, correct. [LB773]

SENATOR STUTHMAN: Okay. Thank you. [LB773]

SENATOR FISCHER: To follow up, Commander; what you're saying is we can't have it both ways here. You can't be a farm-plated truck and then be exempt from your CDL on one of these manure spreaders, correct? [LB773]

GERRY KROLIKOWSKI: If it's farm plated straight truck, you're exempt...the driver is exempt from the CDL requirements if it's operated within 150-air-mile radius of the farm or ranch. [LB773]

SENATOR FISCHER: Right. [LB773]

GERRY KROLIKOWSKI: If it's not registered though, they don't get that exemption. [LB773]

SENATOR FISCHER: So how does that play in...let me go back a minute. You really were stressing...I felt you were stressing the possible loss of federal funding in your testimony. The State Patrol, you made the comment that you don't believe that the usage that these vehicles have is off-road work because they're basically hauling from one spot to another spot; would that be correct? [LB773]

GERRY KROLIKOWSKI: Correct. [LB773]

SENATOR FISCHER: If we would pass legislation saying that was off-road work, wouldn't it be off-road work then? [LB773]

GERRY KROLIKOWSKI: Once you go to start trying to exempt a vehicle out of the CDL regulations that was already required to have a CDL, that's where you start running into noncompliance with the federal regulations and you're subject to penalty. [LB773]

SENATOR FISCHER: So even if we...even if in the state, if we would pass a law declaring it off-road work, exempt from having to have the CDL, you believe that there would still be problems with federal funding. [LB773]

GERRY KROLIKOWSKI: Yes I do. [LB773]

SENATOR FISCHER: You also believe that there would be problems with federal funding because of inspection for the safety devices, is that correct? [LB773]

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GERRY KROLIKOWSKI: If you move to exempt them from the federal regulations, correct. [LB773]

SENATOR FISCHER: That should, I would...that should be easier for us to handle and address though, wouldn't it? Couldn't we require inspection for safety on these and that would take care of that part of it? [LB773]

GERRY KROLIKOWSKI: They're currently required, yes. And you could, essentially, well, you could, essentially, possibly, separate them out. But there's different penalties that the state would face, sizeable difference, if you keep one or eliminate the other. [LB773]

SENATOR FISCHER: Okay. Have you discussed this at all with Department of Roads or with DMV? [LB773]

GERRY KROLIKOWSKI: Yes, we... [LB773]

SENATOR FISCHER: On the problem; specifically with the CDLs and the federal funding? [LB773]

GERRY KROLIKOWSKI: Somewhat, Senator, but, if I may, it's...when we first seen the bill, I think when everybody seen the bill, we seen that only the sections of the registration titling and then the 60-6,294 were being addressed, no where in that original LB was where we seen that the Driver's License Act was being talked about. Now we, through past history, my agency, realized the complexity of our regulations and laws and some things that have been used or said in court and so forth, so we weren't overly that concerned, but especially after the testimony today I think we understand that the main or some of the focus is toward the CDL. [LB773]

SENATOR FISCHER: Have you seen the amendment that Senator Wightman gave to the committee today? [LB773]

GERRY KROLIKOWSKI: Is it AM1884? [LB773]

SENATOR FISCHER: Yes. [LB773]

GERRY KROLIKOWSKI: Yes, I've had a chance to glance at it, yes. [LB773]

SENATOR FISCHER: Do you have an opinion on that amendment? Does that alleviate some of your concerns? [LB773]

GERRY KROLIKOWSKI: No it does not. [LB773]

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SENATOR FISCHER: Okay. Any other questions? [LB773]

SENATOR STUTHMAN: I've got one question for him. [LB773]

SENATOR FISCHER: No, not you. Senator Louden. [LB773]

SENATOR LOUDEN: Thank you, Senator Fischer. Sorry, Senator Stuthman. Now if I can get this straight, Commander, if farm licensed trucks are exempt from the CDLs as long as they are within 150 miles of their home base. [LB773]

GERRY KROLIKOWSKI: Farm plated, straight trucks, you were correct. [LB773]

SENATOR LOUDEN: But if that same type of truck doesn't have any registration on it or any license plate on it, it's...the driver has to have a CDL if he's over 26,000 pounds. [LB773]

GERRY KROLIKOWSKI: Correct. [LB773]

SENATOR LOUDEN: Now what about a...if this is an unlicensed vehicle, what about a tractor and a big trailer or something like that, and over 26,000 pounds, do you have to have CDL on that if you're driving it down the highway? [LB773]

GERRY KROLIKOWSKI: No, because more so than anything, was they were exempted from the statutes when we first adopted the CDL statutes; but also the federal government recognizes the John Deere tractor as truly off-road implements. [LB773]

SENATOR LOUDEN: Well if you painted your truck green then, would it still be an implement? I mean we're talking about...are we talking about implements or are we talking about trucks in there? And these manure trucks are trying to be classified as implements is the way I see it; because they're suppose to be driven under 45 miles an hour or something like that; does that make a difference in there; I mean, on how they're classified or what we're talking about. [LB773]

GERRY KROLIKOWSKI: In my opinion is...is if you...if this body certainly wants to amend the statutes to exempt these drivers from CDL requirements, they have to visit the CDL or the Driver's License Act and make the changes there; reference definitions of vehicles, motor vehicles and so forth. But again, my caution to the body is (inaudible) reference...the consequences that we would face. [LB773]

SENATOR LOUDEN: Okay. In other words they're not an implement if they're riding on 920 tires, huh? [LB773]

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GERRY KROLIKOWSKI: What's that? [LB773]

SENATOR LOUDEN: I said they're not an implement if they're riding on 900 by 20 tires. [LB773]

GERRY KROLIKOWSKI: It's probably more than just the tires that have to be considered, Sir. [LB773]

SENATOR LOUDEN: Okay. Thank you. [LB773]

SENATOR FISCHER: Thank you, Senator Louden. Senator Stuthman. [LB773]

SENATOR STUTHMAN: Thank you, Senator Fischer. Commander, explain to me and if I was close to my truck I could look at the door, gross vehicle weight rating, 26,000 pounds; is that a two-and-a-half-ton-truck, three-ton-truck or what...what is that...what is that...I mean, it's on the door on the plate as your gross vehicle rating...weight rating. [LB773]

GERRY KROLIKOWSKI: That's set by the original manufacturer and, you know, it's hard...hard to give you a definite answer on that, Senator, because a one-ton-truck, two-ton-truck, three-ton-truck, ten years ago compared to the vehicles today have a different GVWR. Usually today they're increased. So it's difficult; you would have to look at the year and everything else. Typically you're looking at, probably, a sizeable, good size two-axle straight truck with probably tandem tires on the rear axle or bigger. [LB773]

SENATOR STUTHMAN: And that's what I was trying to clarify because it's one that could probably haul up to 45,000 pounds with a gross vehicle rating...rating as I state of 26,000. [LB773]

GERRY KROLIKOWSKI: Yeah. The only time we would deviate from that is if somebody took the vehicle and made major remanufacturing of the components, added another axle, stretched the frame, put on a heavier suspension, then we're allowed by the federal regulation and state statute to consider it a higher GVWR. [LB773]

SENATOR STUTHMAN: Okay. Thank you. [LB773]

GERRY KROLIKOWSKI: You bet. [LB773]

SENATOR FISCHER: Thank you, Senator Stuthman. Other questions? I see none. Thank you, Commander. [LB773]

GERRY KROLIKOWSKI: Thank you. [LB773]

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SENATOR FISCHER: Anyone else wishing to testify in the neutral capacity? Seeing none, Senator Wightman, would you like to close? [LB773]

SENATOR WIGHTMAN: Thank you, Madam Chair, members of the committee. I think it becomes fairly obvious that we may need some clarification here and it seems to me that it, at least arguably, that this could already be exempt and has been treated as exempt, I think, and by most of the Patrol and most of the local law enforcement officials throughout the state of Nebraska and I certainly can't address all of the complexity of the federal issue, but I think there would be some indication before that was enforced in the state; if we had a law that was in conflict with that. So it seems to me that what we're asking to be included in the definition is not that much different than the definition that we already have; but I do think it needs clarification just because of the enforcement issues that we've seen today. So with that I thank you and I'll try to answer any questions you have, but. [LB773]

SENATOR FISCHER: Thank you, Senator Wightman. Any questions? I see none. Thank you very much. [LB773]

SENATOR WIGHTMAN: Thank you. [LB773]

SENATOR FISCHER: With that I will close the hearing on LB773 and open the hearing on LB933 and welcome Senator Utter. Thank you for your patience in sitting through the last bill. I'm sure you learned a lot. [LB773]

SENATOR UTTER: Well I did and I congratulate you on the way you handle smelly issues. [LB933]

SENATOR FISCHER: We do our best in here. Good afternoon. [LB933]

SENATOR UTTER: Good afternoon, Madame Chairperson and colleagues. My name is Dennis Utter spelled U-t-t-e-r and I represent District 33. LB933 was brought at the request of the Nebraska Land Title Association to clear up a problem dealing with certificates of title for manufactured homes that occurred as a result of changes to the Motor Vehicle Certificate of Title Act in 2006. In Nebraska, as in every state, manufactured homes, or mobile homes, have a certificate of title just like a motor vehicle. However, unlike motor vehicles, when the manufactured home is attached or affixed to the real estate, that certificate of title is turned over to the state and the home is treated as real property instead of a motor vehicle. The problem we're trying to fix in LB933 is what to do when selling a manufactured or mobile home that wasn't legally affixed to the real estate by turning over the certificate of title and where the original certificate of title cannot be found if it was ever issued. This becomes a problem for the seller as it is next to impossible to get title insurance without evidence that the home is

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legally affixed to the real estate. We worked with the Department of Motor Vehicles on language to LB933 and I believe that everyone is in agreement that this bill is needed to fix a small problem with the law that can cause big problems for sellers and lenders. Jim Lamphere of the Nebraska Land Title Association will testify in more detail about the bill and he can answer any technical questions you might have. One further note, I want you to be aware that the fiscal note on this bill is blank. [LB933]

SENATOR FISCHER: And we appreciate that. Thank you. Any questions? I see none. Thank you very much. [LB933]

SENATOR UTTER: Thank you. And, Senator Fischer, if you don't mind, I'll waive closing and go back to another hearing. Thank you. [LB933]

SENATOR FISCHER: Okay. Thank you. Thank you, Senator Utter. How many people plan to testify on this bill, if you could raise your hands? Two? Okay, thank you. First proponent please. Good afternoon. [LB933]

JAMES C. LAMPHERE: Good afternoon, Senator Fischer, members of the committee. My name is James C. Lamphere, it's J-a-m-e-s C L-a-m-p-h-e-r-e. I'm with the Nebraska Land Title Association and I guess I'm the expert on this bill. Senator Utter did a nice job of explaining the problem; I'll elaborate a little bit in that. When the legislation was passed in 2006, most of the manufacturers and dealers of manufactured mobile homes began complying immediately in issuing a certificate of title. The issues that we have are with manufactured mobile homes that were affixed to the property prior to the legislation in 2006 in which parties did not realize that the homes were, in fact, titled under the Motor Vehicle Certificate of Title Act and neglected to obtain certificates of title. To them they're apt to be surrendered and affixed to the property. And so we have had particularly difficulties in our industry insuring lenders who are taking as security property that are improved by manufactured mobile homes in obtaining the necessary certificate...documentation to obtain the certificate to be surrendered under the process that was set up in 2006. The legislation that is in front of you today has been worked with...worked out with the Department of Motor Vehicles. In fact, this is their language to simplify and expedite the process of obtaining certificates of title for these older manufactured mobile homes allowing parties to show other evidence of ownership of both the underlying real estate and the manufactured mobile home to obtain the certificate of title to be affixed...be surrendered through the affidavit of affixation process. So a lot of nodding heads, I think the problem has been explained, so I'll just stand for any questions that you might have. [LB933]

SENATOR FISCHER: Thank you very much. Are there questions? Senator Louden. [LB933]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well, is this a case where the

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people are wanting to trade-off this mobile home that was affixed to this real estate and they got to have a title to get rid of it or is this a case the bank is needing something to...when they...for their mortgage, I guess? [LB933]

JAMES C. LAMPHERE: It would be the latter, Senator Louden. Most often it comes up when the property is being sold with the improvement. A lot of the times the sellers do not realize they even have a manufactured home until there's been an appraisal of the property and the appraiser identifies it as a manufactured home. They've lived there for a period of time; might be the second or third owner of the improvement and under the new law, that identification as a manufactured home requires them to actually affix it to the property and they don't have the proper documentation to do that. This facilitates obtaining that documentation through a simpler process than having to track down a manufacturer's certificate of origin or a certificate of title that's been previously issued and then lost. [LB933]

SENATOR LOUDEN: Now are you talking about any modular homes that were hauled in, you know, these two that were brought in and bolted together or are you talking about a mobile home just a 80 foot by 14 or what are you talking about when said these manufactured homes. [LB933]

JAMES C. LAMPHERE: Well I'm actually...a manufactured home is different than a modular home. Modular homes are not required to be certificated under the Motor Vehicle Certificate... [LB933]

SENATOR LOUDEN: But they're still brought in on wheels and set down. [LB933]

JAMES C. LAMPHERE: But they're still brought in on a trailer rather than on wheels. A manufactured home could be either the double wide that you're talking about; or it could be a home that is manufactured in a factory in a single piece; or two pieces, which is somewhat different than the modular home, and then assembled...joined on site. Those are still required to be certificated. [LB933]

SENATOR LOUDEN: Now when those are brought in though, those are affixed to the site and so they're consequently all part of the property so you pay property tax on them accordingly, don't they? And they're valued as a house so really was there a case where they needed the title to it? [LB933]

JAMES C. LAMPHERE: Under the state law, yes; they are required to be titled. And that therein is the problem. Most people assume once they're assembled that there is no requirement for certificate of title. What's happened now is the dealers who sell those; Sears for example... [LB933]

SENATOR LOUDEN: Now if they have to have a title then, do they have to have a

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license plate on that? [LB933]

JAMES C. LAMPHERE: No. What happens under the current law is they're titled and then that title is immediately surrendered through an affidavit of affixation and then it is affixed to the property and then it is properly taxed as real property at that point. It's converted from personal property to real property. With new homes that are sold that way, the process is pretty simple and straight forward and it's consistently followed. The problem we're dealing with is older manufactured homes that were never issued a certificate of title because the law didn't require it. I mean, there wasn't a law that...that necessarily required that and there was no process to surrender that title. [LB933]

SENATOR LOUDEN: Okay, because we went through this several years ago; if you affix the trailer to the property, you didn't have to buy a license plate. [LB933]

JAMES C. LAMPHERE: Right. [LB933]

SENATOR LOUDEN: But if you left it on jacks, well you had to buy the license plate, and that's...I'm wondering how that works across to this bill here? [LB933]

JAMES C. LAMPHERE: Well, yeah, that was the amendment that was made in 2006 and Bob Hallstrom is going talk a little bit about that too because he was involved in that process and I was not; but my understanding with...was...that addressed that for mobile homes and manufactured homes that went into service after that date; there was a grandfather affect for the loans that were placed on manufactured mobile homes that are currently in use. What wasn't addressed is what happens when you sell those and that loan gets paid off, how do you affix those improvements to the property without obtaining...without obtaining a certificate of title there is no way to do that and this legislation eases the burden for those sellers trying to transfer that property. [LB933]

SENATOR LOUDEN: Okay. Thank you. [LB933]

SENATOR FISCHER: Other questions? Senator Campbell. [LB933]

SENATOR CAMPBELL: Thank you, Senator Fischer. Sir, explain the section that if they cannot provide any of the documentation that is listed, then the DMV makes the decision as to the evidence that they have in hand... [LB933]

JAMES C. LAMPHERE: Right. [LB933]

SENATOR CAMPBELL: ...is sufficient. [LB933]

JAMES C. LAMPHERE: Right. [LB933]

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SENATOR CAMPBELL: And why the DMV? [LB933]

JAMES C. LAMPHERE: Because the DMV is the entity that processes the affidavit of affixation. [LB933]

SENATOR CAMPBELL: Oh, okay. [LB933]

JAMES C. LAMPHERE: And we're not doing away with that process. What we're doing is we're allowing the certificate of title to be issued and then subsequently surrendered by using the affidavit of affixation process. [LB933]

SENATOR CAMPBELL: Thank you. [LB933]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB933]

JAMES C. LAMPHERE: Thank you. [LB933]

SENATOR FISCHER: Next proponent please. Good afternoon. [LB933]

ROBERT J. HALLSTROM: Good afternoon. Chairman Fischer, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m and I appear before the committee today on behalf of the Nebraska Bankers Association as its registered lobbyist in support of LB933. Just a little bit of historical background; Mr. Lamphere indicated that the Banker's Association were involved from the beginning. In 2005 the Supreme Court handed down a case that concluded that these manufactured homes or mobile homes were, in fact, personal property motor vehicles that were subject to the certificate of title requirement for ownership transfer and to the certificate of title requirement for lien notation in order to have a proper lien. What had happened was, there was a case where one lender had noted its lien on the certificate of title; the manufactured home was placed or affixed to real estate; another lender took a deed of trust thinking it was part of the real estate and the Supreme Court concluded no unless it was...the certificate of title had been cancelled and surrendered properly in accordance with state law that it remained a personal property that was subject to the lien notation requirements of the certificate of title law. As result, in 2006 we went through the process of creating a specific mechanism by which, or procedure by which that motor vehicle manufactured home could be converted to real property through the affidavit of affixture process that Mr. Lamphere referenced. We also have as part of that procedure, if that manufactured home is ever removed from the real estate, a process to unwind that and an affidavit of detachment and to have a new certificate of title issued. What's happened since the original law was passed in 2006, we determined it had to come back in for a change in the law because we determined that the DMV or the local county officials were not issuing certificates of title based on a technical interpretation of the law in cases in which the manufactured home had been placed on the real estate

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before the certificate of title had been issued. So we went in, clarified in the law, I think in 2007 or 2008, that under those circumstances that if a certificate of title was requested for the mere fact of surrendered and cancelled to go through the affidavit of affixation process that the title could be issued under those conditions even if it had been previously placed on the real estate. What's happened since that time is we found now the devil is in the detail in terms of whether or not you can provide sufficient information to the DMV or the local official in terms of proving up your ownership. And so in LB933 to complete the circle we are just providing greater flexibility to those officials to grant the certificates of title under these conditions whether it be for an older manufactured home that predated the 2006 law for which a certificate of title maybe never existed or cannot now be found or for something is affixed to the property of a newer vintage prior to issuing the certificate of title. We did have one lender who told us that one of the requirements was to have the owner go out and take a polaroid picture of the registration number in the closet in the manufactured home. This law should make it a little bit easier and provide greater flexibility to prove up that ownership to go through the process and get the manufactured home deemed to be real property. I'd be happy to address any questions. [LB933]

SENATOR STUTHMAN: Thank you, Mr. Hallstrom. Any questions from the committee? Senator Louden. [LB933]

SENATOR LOUDEN: Yeah, thank you, Senator Stuthman. Well Bob, as I looked at this as it sets it up it's rather simple if you don't have one, you get a...go to the county assessor, I guess, and get an affidavit by the owner that you own that, is that what it amounts to as one of them? [LB933]

ROBERT J. HALLSTROM: I think, Senator, it's designed to be an easy process because the bottom line is you are going in simply to get the certificate of title for the purpose of immediately surrendering it and getting it cancelled so you can go through the process to make it real property which will then be owned and transferred by a deed and subject to a mortgage or deed of trust for purposes of the lien-hold interest of the lender and no longer qualifies as a motor vehicle that's subject to the certificate of title requirements. [LB933]

SENATOR LOUDEN: But, yeah, if you...if you've been shown where you've been assessed for...in the records for that home on that particular piece of property, you get an affidavit from the county assessor showing ownership, is that...I mean, that's one of the sections in here, isn't it? [LB933]

ROBERT J. HALLSTROM: Yes. [LB933]

SENATOR LOUDEN: And then the other one, even if that, then you just got to go to the department and they've got...I guess then they go and issue a certificate if you can

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show that you own it however way you want to, cancelled check or anything, would that be correct? [LB933]

ROBERT J. HALLSTROM: I think it's designed, again, to be flexible so that as long as you can provide any evidence of ownership that's satisfactory in the last instance to the Department of Motor Vehicles that they will issue that title so you can immediately surrender it, cancel it, and make it part of the real estate. [LB933]

SENATOR LOUDEN: Has there been many cases that this has come up that it has to be taken care of like this? [LB933]

ROBERT J. HALLSTROM: I don't know exactly, but I assume, based on the significant concerns expressed by the title industry; we're at the front end but they're at the back end and they make the decisions on whether or not it's insurable that there's been enough cases that's its lead us to bring forward this legislation. [LB933]

SENATOR LOUDEN: Okay. Thank you. [LB933]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? Senator Campbell. [LB933]

SENATOR CAMPBELL: Thank you, Senator Fischer. One of the proof is that the assessment records for the home from the county assessor and those records, were they...are the county assessors assessing them as a...as real property, Bob, or? [LB933]

ROBERT J. HALLSTROM: Yes, they would...I presume they would reflect that subject to the affidavit that the owner must come forward with that you both own that property and that it has been assessed in the past as a part of the real estate which would prove that it had been at least physically affixed to the property, but had not satisfied the requirements of getting the affidavit of affixture because you had never gotten the certificate of title in the first place or had lost or misplaced it. [LB933]

SENATOR CAMPBELL: Thanks. [LB933]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Hallstrom. [LB933]

ROBERT J. HALLSTROM: Thank you. [LB933]

SENATOR FISCHER: Other proponents for the bill? Any other proponents? Any opponents? Anyone wishing to testify in the neutral capacity? I see none. Senator Utter has waived closing and so I will close the hearing on LB933 and open the hearing on LB991 and welcome Senator Schilz. [LB933]

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SENATOR SCHILZ: Good afternoon, Senator Fischer and members of the Transportation Committee. I'm Ken Schilz, spelled K-e-n S-c-h-i-l-z and I represent the 47th District and I'm here today to introduce LB991. LB991 would allow for a permit to be purchased allowing a farmer or rancher to haul hay loads up to 16 feet high and 59.5 feet long. The permit would be valid for one year and all funds would go towards the Highway Trust Fund. Such permits would allow Nebraska to keep up with the exceptions of neighboring states and make business more efficient when hauling across state lines. LB991 also includes drop deck trailers in the definition of livestock forage vehicle. Often times drop deck trailers are used for hauling hay and therefore should be included in the definition. And the main reason why I wanted to bring this bill to the attention of the committee and introduce it is because, you know, in my neighborhood out there in the panhandle in western Nebraska, both the states of Wyoming and Colorado allow these types of things to go on and it's a...it's putting some of our hay haulers out there at a disadvantage and the other thing is is that as we've seen the advent and the use of distillers grain rise in the area, you need more roughage to feed with those feedstuffs and so it tends to do that. And as some of you folks know that are on the committee that raise cattle, hauling hay is a necessary thing at times and if we're forced as Nebraskans to have these restrictions or leave these restrictions in place that don't allow us to go longer and higher, then ultimately that will cost the producers more going forward. So with that I would...and I do have three or so folks that have come from western Nebraska from the panhandle to testify and with that I would ask for any questions. [LB991]

SENATOR FISCHER: Thank you, Senator Schilz. Are there any questions? I see none. Thank you very much. [LB991]

SENATOR SCHILZ: Thank you. [LB991]

SENATOR FISCHER: First proponent please. [LB991]

DAN CARNINE: Thank you. [LB991]

SENATOR FISCHER: Good afternoon. [LB991]

DAN CARNINE: (Exhibit 11) Good afternoon. Senator Fischer and members of the Transportation Committee, forgive my poor drawings that you'll receive here shortly. We did this over lunch and we thought a picture is worth... [LB991]

SENATOR FISCHER: Okay, I need you to state and spell your name first of all. [LB991]

DAN CARNINE: Oh, I'm sorry. [LB991]

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SENATOR FISCHER: Okay. [LB991]

DAN CARNINE: My name is Dan Carnine and that's spelled D-a-n C-a-r-n-i-n-e. [LB991]

SENATOR FISCHER: Thank you. [LB991]

DAN CARNINE: And before I get started with my deal here, this is not a weight issue as far...it, I mean, it has to do with trucks, obviously, but it's not a weight issue, it's specifically a length and a height issue on the trailers. And it has to do with...we talk about hay, but it's mainly straw or corn stalks, bales of those commodities because they're light...it's like a pound of gold or a pound of feathers, a pound of feathers is bigger in volume, but anyway. I'm from Morrill County and I'm a Morrill County Farm Bureau member there and I farm in the panhandle and my operation consists of cattle and forage production; corn, wheat, what have you. And I'm behalf...I'm here today on behalf of Farm Bureau Federation in support of this LB991. LB991 was established as a...for a new special permit for the transportation of hay commodities that would help Nebraska farmers by making Nebraska law more reflective of modern industry trends when it comes to hay hauling. And I like I said, it is specifically straw hauling. Because my farming operation is located in relatively close proximity to neighboring states, I do haul hay into and out of Wyoming and Colorado. Having become familiar with the rules of regulating hay transport in those states, I believe that LB991 would aid in allowing Nebraska farmers to be more competitive with the farmers in surrounding states. This bill would also accomplish this by authorizing a new permit for exemptions from height and length limitations on hay haulers, thereby allowing greater load sizes that would reduce the number of trips involved in the hay transportation, and, in turn, reduce transportation costs. LB991 would increase the height limitation from 14 feet, 6 inches, which is the current maximum to 16 feet; and in addition it would also allow you to be...for the trailer 59.5 feet long. And that's matching our neighboring states such as Kansas and Wyoming. They can be that length any day of the week with no permit. Best way to explain this and the value of the changes proposed in this bill is through a personal example. Today the industry standard for big square bales tends to be 4 by 4 feet, thus they're 8 feet long; they're 4 feet tall, 4 feet wide and when I haul these on my flatbed trailer with two rows of hay at 4 foot a piece, that represents on your pictures I drew out, that represents...there's on the front of the trailer there's...they're two high and on the back of the trailer they're three high. Anyway, when you...when I load these on the flatbed trailer with 2 rows of hay at a height of 4 foot each plus the height of the trailer which is 3 feet, I end up with a load height of 11 foot plus a 3 feet, 6 inch, oh sorry, that puts me at 3 feet, 6 inches short of the existing height standards of which I'm currently allowed. Right now I can't legally add another row of 4-foot-bales to my load as that would make me 15 feet in height; 6 inches over the existing legal standard. LB991 would address this by authorizing a permit that would allow me to potentially add an additional third row of bales to my load increasing the size of my legal load and again

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helping me to reduce my transportation costs. It is important to note that this bill doesn't seek to change any load width or load weight limitations. The value of the changes proposed in LB991 would give more flexibility when hauling lighter forage commodities such as wheat straw and corn (inaudible). These bales are generally lighter than alfalfa bales meaning they have the potential to be loaded in greater amounts before hitting the state weight limitations. The transport of alfalfa bales tends to be self-limiting in that loads of alfalfa bales generally hit state weight limits before the issue of load height becomes an issue. Finally, LB991 would also allow greater flexibility in the length of trailer that could be used to haul hay. Wyoming laws currently allow trailers of 59.5 feet without any special permit. LB991 would allow Nebraskans hauling loads into Wyoming the ability to be closer to the Wyoming standards by establishing the special permit of the length of 59.5 feet. This would be especially helpful to Nebraska farmers as they travel through Nebraska and head into neighboring states. And it's for this reason I would encourage the committee to advance the bill to General File and if you have any questions, I'm ready to answer. [LB991]

SENATOR FISCHER: Thank you very much. Questions? Senator Hadley. [LB991]

SENATOR HADLEY: Senator Fischer. Dan, I...maybe you're not the right person to ask, but, why would we need...what's the special permit do besides get \$50 to subsidize the cash fund? [LB991]

DAN CARNINE: Well, with these loads...I have some friends that have hauled these loads for 20 years and they'll testify later, but it's just been the last year and a half they started to enforce the height issue. And so we just want to have...well, we could change the law, that would be great. [LB991]

SENATOR HADLEY: I guess that's my question. I'm trying to figure out what the purpose of the special...why go through the paperwork and such as that for a special permit if we could just...we could just change the law to... [LB991]

DAN CARNINE: Sure. I guess from a personal perspective, I just felt that it would be easier to get a...to access the permit rather than change laws of the state. And maybe I'm wrong in thinking that, but that's... [LB991]

SENATOR HADLEY: Well I don't...maybe I don't...maybe [LB991]

DAN CARNINE: That was my reasoning. [LB991]

SENATOR HADLEY: I'm asking a question I don't know the answer to. [LB991]

DAN CARNINE: Sure. [LB991]

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SENATOR HADLEY: But I'm just thinking about kind of the paperwork and such as that to go through to get a special permit versus just changing the law. [LB991]

DAN CARNINE: Right. Well I know other industries have access to permits like if you want to haul a combine or a wind turbine blade, you can get a permit to be long and tall or any...all these other industries can have access to a special permit and that's...so I thought, well, this would be a good way to do it would just be to get a permit like the other industries do; but there's not one that exists for us right now just because it's new, I guess. I call it new, but it's been done for years, but it's just been recently that there's been an enforcement of it because you're close, but we're over. [LB991]

SENATOR HADLEY: Is there...one last question; is there any advantage to keeping it...to keep the haulers from Wyoming and Colorado and Kansas from coming into our state? [LB991]

DAN CARNINE: No, I would guess that most of these loads would be leaving our state. [LB991]

SENATOR HADLEY: It's a market for your... [LB991]

DAN CARNINE: As soon as we cross the line we could be big, so to speak, we're oversized legally; but we can't within our own state. [LB991]

SENATOR HADLEY: Thank you. [LB991]

SENATOR FISCHER: Thank you, Senator Hadley. Senator Stuthman. [LB991]

SENATOR STUTHMAN: Thank you, Senator Fischer. Dan, thank you for your testimony. Even going to that 16 feet, you still wouldn't have a weight problem, would you? [LB991]

DAN CARNINE: Right. [LB991]

SENATOR STUTHMAN: And the issue is the size of these big square bales? [LB991]

DAN CARNINE: Right. [LB991]

SENATOR STUTHMAN: I mean, you can put three and you got air space there which you could utilize, but if we could go to the 16, you could put another row of bales on there. [LB991]

DAN CARNINE: And that's why I drew that picture. The dotted line represents the limitations and you see how much we have to take off to be legal, so to speak. [LB991]

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SENATOR STUTHMAN: Because we have this 14 foot, 6 inches... [LB991]

DAN CARNINE: Right. [LB991]

SENATOR STUTHMAN: ...there may be other instances where that should be tall enough and that's why... [LB991]

DAN CARNINE: Right. [LB991]

SENATOR STUTHMAN: ...I agree with your special permit part of it, because, you know, it's a special load and you got...you try to get them four layers of bales on there instead of just three. [LB991]

DAN CARNINE: Right. And the length issue is too because your trailer in Nebraska is only supposed to be 53 feet long. [LB991]

SENATOR STUTHMAN: Total. [LB991]

DAN CARNINE: Total, right. And this allows us to be longer. And that's just to match what the neighboring state already are and that's why I chose that length was because that's where they're at now. And with talking with utility companies, I believe their requirements above highways, they have to be...with their wires, they have to be at least 18 feet off the ground or higher for their electrical lines and cable lines and such. So we're still well below that; and that's why I guess I went with the permit rather than trying to change everything. So... [LB991]

SENATOR STUTHMAN: And I...I...you know... [LB991]

DAN CARNINE: I'm sorry. [LB991]

SENATOR STUTHMAN: You feel that, you know, we need to be consistent with other states in your local area because, you know, you know, we don't haul hay from here out to Wyoming, but you're across the boarder and this does reflect what you have to do. [LB991]

DAN CARNINE: Exactly, from my front yard I can go 70 miles in three directions and hit South Dakota, Wyoming, or Colorado. So it's...we're close to all those others. [LB991]

SENATOR STUTHMAN: Would you mind hauling it down towards Columbus, we need hay. [LB991]

DAN CARNINE: Yeah. (Laughter) Sure. [LB991]

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SENATOR STUTHMAN: Thank you for your testimony. [LB991]

DAN CARNINE: Thank you. [LB991]

SENATOR FISCHER: Thank you, Senator Stuthman. Senator Campbell. [LB991]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Carnine, in other states is it by law that they get...we're go to Senator Hadley's questioning, that they can have the higher, or do they have to have a special permit? Do you know that? [LB991]

DAN CARNINE: They can obtain permits...they can obtain permits to be higher, but their length is...like I said, our length is 53 feet, but their lengths are already... [LB991]

SENATOR CAMPBELL: In statute. [LB991]

DAN CARNINE: ...much longer than ours. Colorado's is a little bit shorter, it's 57 feet and 4 inches, but they're...on the western end of the state, they're all longer on the surrounding states than we are. [LB991]

SENATOR CAMPBELL: Right; because taking off from there, I mean, maybe we'd be better off to just put it in statute rather than the permit, because if the other states don't require a permit, and if we're going to even the playing field here, we need to think about that. [LB991]

DAN CARNINE: Right, they...you can buy permits there to be oversized. [LB991]

SENATOR CAMPBELL: Oh, okay. [LB991]

DAN CARNINE: And we can buy permits; well, I shouldn't say...other industries in the state of Nebraska can buy permits to be oversized, but we just haven't...our industry, so to speak, for hauling straw bales has not gone through this process and that's why we're here. [LB991]

SENATOR CAMPBELL: Okay. Thank you. [LB991]

SENATOR FISCHER: Other questions? Senator Louden. [LB991]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well thank you for your testimony, I didn't get in the first part, but how...what's on interstates...what's the... [LB991]

DAN CARNINE: The underpasses? [LB991]

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SENATOR LOUDEN: The under passage on interstate; you got to be under 16 feet, don't you? [LB991]

DAN CARNINE: Yeah, and if they're...I don't know what the height would be that they have to...if they're below a certain height, I think they have to mark it; but if they're 16 feet or above...I can't answer that as far as what the minimum... [LB991]

SENATOR LOUDEN: Okay, because I thought that's the reason they all had to be 16 feet high is so they can get those missiles underneath there... [LB991]

DAN CARNINE: Sure. I don't know what it is. [LB991]

SENATOR LOUDEN: ...when they're hauling them out of Cheyenne, Wyoming was the reason I thought 16 feet was what it was and I was wondering, you'll have no trouble with 16 feet going down the interstate? [LB991]

DAN CARNINE: It's happened for 20 years. [LB991]

SENATOR LOUDEN: Sixteen feet. [LB991]

DAN CARNINE: It's just in the last year and a half it's beginning to be enforced in our part of the state where this occurs. [LB991]

SENATOR LOUDEN: I see, I see. Well then when I was looking at this bill and it says any farmer or rancher, now the...does that leave out the custom hay haulers and that? [LB991]

DAN CARNINE: That's a good question. I...it could be expanded to that. That would be great. [LB991]

SENATOR LOUDEN: Because I've had...well I don't know if you know Dan Franks (phonetic) pulls over there. [LB991]

DAN CARNINE: Oh yeah. [LB991]

SENATOR LOUDEN: And he's talked about this several years ago, you know, that the people out of Colorado and Wyoming have an advantage over in Nebraska. Now I don't know if he was hauling square bales, I presume he was because that's the only thing you can... [LB991]

DAN CARNINE: It would be the exact same load. [LB991]

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SENATOR LOUDEN: Yeah, that's the only thing you can haul to make any money is square bales if you're going very far and that's what I was wondering what the deal was; but that would be my concern is whether or not that 16 feet will...I'd hate to see you skim off you load through the interstate. [LB991]

DAN CARNINE: Right. Well there's a couple underpasses in the panhandle that...they're only 13.5 feet so you obviously don't go...in fact, a lot of cattle pots don't even go underneath them. [LB991]

SENATOR LOUDEN: Yeah. [LB991]

DAN CARNINE: Because they're...you know, like in Alliance. [LB991]

SENATOR LOUDEN: Yeah, I know where they're at. [LB991]

DAN CARNINE: And Kimball. So. [LB991]

SENATOR LOUDEN: I've seen them all. [LB991]

DAN CARNINE: But the underpasses, I know that these loads have been going underneath, you'll probably hear some testimony after me from people; but I think if you're less than 16 feet, those overpasses have to be marked with the exact height; because sometimes when they put new pavement down, it shortens it, so to speak, you know, because they bring the asphalt up and they have to remark it. [LB991]

SENATOR LOUDEN: Okay. Well thank you. [LB991]

DAN CARNINE: Thank you. [LB991]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? I see none. Appreciate you driving in for this. Thank you very much. [LB991]

DAN CARNINE: Oh, thank you. One last comment on the...it's, like I said with the feathers and the gold, the pound of feathers or the pound of gold; we're not asking to be too heavy and we're not asking to be wide, so it's not a safety issue or weight issue is what I'm...thank you. [LB991]

SENATOR FISCHER: Thank you. Next proponent please. Good afternoon. [LB991]

EDDIE NEEL: Good afternoon. Senator Fischer, my name is Eddie Neel, E-d-d-i-e N-e-e-l. I have a hay and straw business in western Nebraska. I have for several years. For the last 25 years I've been hauling these big square bales over height. The last law was passed in the middle seventies to 14 feet and 6 inches. A couple years after that,

the big square bales came out and hauling alfalfa two bales high you can run up your max weight or go over your weight; but straw bales are half the weight of alfalfa so we couldn't get a load on that paid good money so we decided to go three high which is awful close to the 16 foot limit, way over 14 foot and 6 inches. Some years ago when the port of entry was still in Northport(3) Nebraska. We carried a lot of loads across there and we requested a few times, but we were told at that time that as long as we didn't tear any lines down or cause a problem on the highway that they would let us go. And we have been going for twenty-some years, close to 25, but in the last year and a half, we started having a problem. It seems like when the economy got bad, people needed more money so you're going above the law, maybe this is where we should get the money. But there was a question a while ago about driving down the interstate; we have been down the interstate many times and cleared all of the overpasses, but there are certain overpasses in the state of Nebraska that a trucker has to know what the height is and he has to go around it. And it sure would be a good thing to either get the law changed; but the simple thing to be quick we thought it would be easier to buy permits. And the price of the permit really doesn't matter that much; if we could just get a permit or get the law changed. But I don't know; it's kind of hard to change the law. I've seen it changed three times now from 12 feet to 13 feet, 6 inches to 14 feet, 6 inches; from 8 foot wide to 8.5 feet wide; but it seems like we just keep going higher all the time or wider. But we don't have a width problem. We just need over-length and over-height mainly to haul straw and cornstalks. Alfalfa we can't go that high because we're overloaded or right up to where we need to be. I've gotten some fines in the last couple of years; or last year and a half for being over-height and I asked them what was going on and they said...I never really got a true answer. And I was pretty unhappy about the first one because two days before I got the fine, we went through the DOT on Angora Hill; everything was fine, they let us go like they always have. And two days later a highway patrolman stopped me and we had a discussion; he made a phone call; he let me go. A couple days later, up in Scottsbluff, this was down in Bridgeport area, and then a couple days later it was up in Scottsbluff. We had three semis coming down the highway and the DOT stopped us and measured us and fined us and measured our length and fined us. And I say, what's going on? And he said, well, we had a call from Lincoln that said we needed to take care of these over-height loads. Well, the only thing I could figure out is bad economies, state of Nebraska needs more money. Well, one easy way to get more money is sell us a permit. Now there are a lot of haulers in the state of Nebraska. And if we all had to buy permits it would bring in quite a bit of money. Not only that, we have people from Colorado that come over here and buy straw and stalks and haul them back; the same in the state of Wyoming. Those people would have to buy a permit too. So I think it would generate a lot of money for our state and it sure would help us haulers out. [LB991]

SENATOR FISCHER: Thank you, Mr. Neel. If I understood you correctly, you run a business hauling hay and straw, is that correct? [LB991]

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EDDIE NEEL: Yes, ma'am. [LB991]

SENATOR FISCHER: The way I read the bill, I believe only farmers and ranchers are going to be able to haul any hay under this bill; so you would like that changed, I would assume. [LB991]

EDDIE NEEL: That is something else that needs to be revised. I hate to think of myself out of business after all these years because I do not...am not a farmer or a rancher, but I buy and sell a lot of straw and I bale a lot of straw from different farmers and ranchers, but I'm actually a custom person. [LB991]

SENATOR FISCHER: Okay. And while I'm sure the state of Nebraska appreciates all the fines you've been paying I don't believe that the...you're being fined lately because of the economic situation that we're in. [LB991]

EDDIE NEEL: Well that's just what it seemed like when it happened because that's at the time. [LB991]

SENATOR FISCHER: I've been in that case too and I think they're just doing it to me, but, no, I don't believe that's the reason. But I appreciate you driving in today. Other questions? Senator Hadley. [LB991]

SENATOR HADLEY: Senator Fischer, just be a quick question. You said the cost of the permit was not a problem. We could be about \$35 million short in the budget, how many permits do you think we might be selling about. Never mind. (Laughter) [LB991]

SENATOR FISCHER: We may have to charge a lot for those permits if we do this. [LB991]

EDDIE NEEL: Well there's a lot of hay haulers. It might help, but I don't know if you'll get that much. [LB991]

SENATOR FISCHER: Well, you know the last month we were only down about a million dollars, you think you guys could make that up? [LB991]

EDDIE NEEL: We could help. [LB991]

SENATOR FISCHER: We'll see. Other questions? Senator Campbell. [LB991]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Neel, how much did it cost you on the fine? [LB991]

EDDIE NEEL: The height fine was \$25 per semi; the length fine changed depending on

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how long we were; those three semis that day when we paid the fines was almost \$500; it was like \$480-something. [LB991]

SENATOR CAMPBELL: Well maybe we are more interested, no. Thank you, Mr. Neel. [LB991]

SENATOR FISCHER: Do you make money though when you're...when you...you're willing, obviously, to take the risk now, because you know that you're going to get fined. So to put that extra layer on top, obviously, you're able to make money and still pay the fine though, right? [LB991]

EDDIE NEEL: Well, to take that... [LB991]

SENATOR FISCHER: You're just cutting out some profit here. [LB991]

EDDIE NEEL: To take that layer off is, actually, taking away our fuel that we need and our profit. We got to drop 6 to 8 inches to be legal, but in order to get 6 or 8 inches, we got to take off a whole 4 feet. [LB991]

SENATOR FISCHER: Yeah. [LB991]

EDDIE NEEL: And when you're hauling straw, if I took off those 4 feet, I'd be down to 15 ton. The weight is not a problem, even when I'm up there, because I'm not close to my weight at all, and that's a lot of money to lose. I'm sure that if I bought a permit for every load, it would be cheaper than the money I would lose. [LB991]

SENATOR FISCHER: Okay. Thank you. I appreciate that. Other questions? Senator Louden. [LB991]

SENATOR LOUDEN: Yes. Thank you for your testimony. As I look at the bill right now, I think the permit is \$10; should it be a little bit higher than that? [LB991]

EDDIE NEEL: Well I thought that there was somewhere in there said \$50. [LB991]

SENATOR LOUDEN: Okay. Anyway, it's quite minimal. [LB991]

EDDIE NEEL: Ten dollars is not very much. That's...that's not very much at all. [LB991]

SENATOR LOUDEN: I was going say, that don't take care of the paperwork to take care of it. [LB991]

EDDIE NEEL: No, it sure wouldn't. [LB991]

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SENATOR LOUDEN: And these permits, I think, were for one year at a time. Would \$500 be too much for a year's long permit for hauling hay? [LB991]

EDDIE NEEL: I would be happy to pay \$500 for a permit for one year. [LB991]

SENATOR LOUDEN: For a length of time. Well, it would be best to issue a permit for a length of time rather than having to fool with it every 30 days or something like that. [LB991]

EDDIE NEEL: Yes, yes. [LB991]

SENATOR LOUDEN: Is what I was wondering. [LB991]

EDDIE NEEL: Now the state of Wyoming, when we get permits, they go like 90 days, and they're \$50 for 90 days, so that's \$200 a year. [LB991]

SENATOR LOUDEN: Okay. Well just some idea of what we're thinking in terms. [LB991]

EDDIE NEEL: Right. Ten dollars is not enough. [LB991]

SENATOR LOUDEN: Yeah. Okay. [LB991]

EDDIE NEEL: I mean, our state needs to make more money than that. [LB991]

SENATOR LOUDEN: Yeah, you can't hardly buy hamburgers for that. [LB991]

EDDIE NEEL: Right. [LB991]

SENATOR LOUDEN: Thanks for your testimony. [LB991]

SENATOR FISCHER: Thank you, Senator Louden. Any other questions? I see none. Thank you very much for coming in. [LB991]

EDDIE NEEL: Thank you. [LB991]

SENATOR FISCHER: Any other proponents? Good afternoon. [LB991]

RICHARD SELLMAN: Good afternoon to you also. My name is Richard Sellman, R-i-c-h-a-r-d S-e-l-l-m-a-n and I am from Chadron, Nebraska. And my concerns deal with the same as these guys and I primarily handle round bales. So I have the same issues as they do. The straw commodity is a bulkier, takes up more room. I would like to be able to go that extra length; put a couple bales up in my headache rack; put a little

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extension on the back; shove them up; get more commodity on my truck; still no weight issue. We're absolutely no weight issue. We're trying to get to our maximum and we can't, so we're not hurting the roads that way. I also...I'm farmer-rancher, I fit in both categories; farm-ranch and I do custom hauling of hay, buying and selling of hay. I lease my ranch out so that the rest of my family can expand and grow. I'm doing what all you gentlemen have done at home is you've went and done something else so the kids can stay at home and live the lifestyle we want to live. We're just asking for a chance to be competitive. I deal with South Dakota, as well as Wyoming and Colorado. I drive by these guys; I'm further north. I see their problems; I see them getting pulled over. I too, with some loads break the height with my loads in the front end rather than in the rear part of the truck and trailer. The 16 foot would give me enough clearance to stay legal and that's what we're wanting to do; we're wanting to be legal. We don't want to break the law. We don't want to have to duck and dive; we want to be able to work in the daylight hours. One of the other things we're trying to do, everybody likes hay. We're trying to get that commodity to the producers so that it costs less; the square bales, round bales, both; if we got to take off those extra bales we're losing an eighth, a fourth of our load depending on how it's all set up, so. I too have paid a fine; \$70 was nothing. The heavy use-tax we pay, all of us, on these trucks is \$500 a year. Yeah, we bitch about it; but we pay it and we're happy to get our license and there we go. So at this time I'd entertain any ideas...questions. [LB991]

SENATOR FISCHER: Thank you, Mr. Sellman. Are there questions? Senator Stuthman. [LB991]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Sellman, with big round bales, can you only haul two rows now or can you put three on then at 16 feet? [LB991]

RICHARD SELLMAN: On no, just the two rows. Primarily, a round bale would be 5 foot by 5 foot; would be kind of industry standard. So no, just two rows rather than...and I haul them 2 and 2; strap every top bale; I have a headache rack, rear rack. [LB991]

SENATOR STUTHMAN: Your biggest concern would be the length then? [LB991]

RICHARD SELLMAN: Yes. [LB991]

SENATOR STUTHMAN: To pick up an extra bale. [LB991]

RICHARD SELLMAN: Yes, if I can pick up an extra bale when I'm hauling that straw commodity, and so that I could get 2 to 4, depending on the size of the bales. You know, I might get up to 60...excuse me...up to 40 bales on a load versus the 36; and actually 34 if I'm supposed to be legal at that length. [LB991]

SENATOR STUTHMAN: Okay. Thank you. [LB991]

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RICHARD SELLMAN: You bet. [LB991]

SENATOR FISCHER: Other questions? I see none. Thank you for coming today. [LB991]

RICHARD SELLMAN: Thank you. [LB991]

SENATOR FISCHER: Other proponents? Any other proponents? Good afternoon. [LB991]

PETE McCLYMONT: Good afternoon, Senator Fischer and members of the committee. For the record my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. Not to be redundant, our board of directors voted to support this bill and want to be on the record and could not add anything more to the previous testimony. [LB991]

SENATOR FISCHER: Thank you, Mr. McClymont. Any questions? [LB991]

PETE McCLYMONT: Thank you. [LB991]

SENATOR FISCHER: I see none. Thank you very much. Other proponents? Any opponents to the bill? Anyone wishing to testify in the neutral capacity? I see none. Senator Schilz, would you like to close? [LB991]

SENATOR SCHILZ: Sure. Thank you, Senator Fischer. Everyone, I don't want to say a whole lot here. Just a couple things here. As far as just allowing farmers their own stuff, if you'd want to change that, I'm more than happy to do that. I think that makes some sense. This is the way it came down from Bill Drafters and this is the way the current law reads and so. But I would be willing to look at that. I think that makes some sense. As far as why we thought a special permit and some money and within the bill the permit is put down as \$50. But truthfully guys, it was all about bribery. It was just a way to try and get you guys on board and say, look, we're going to bring something to the state. I wanted a positive fiscal note instead...and I still couldn't get one. It does...so I tried. So anyway...and with that I would...one thing that we've dealt with for a long time is everybody talks about hay loads being divisible and that's why you have this height restriction as well. I think that what we've shown here is that, yeah, at a certain time when you were hauling small squares, because that's the only kind of hay baler you could have. Yeah, it really was divisible, but now it's not nearly as convenient and easy as it was. So with that I would...I stop my testimony. Thank you for taking it into consideration. Sorry the day has gone on so long and I would take any questions if you have any. [LB991]

SENATOR FISCHER: Thank you, Senator. Any questions? I see none. Thank you very

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much. With that I will close the hearing on LB991; open the hearing on LB820 and Senator Janssen. [LB991]

SENATOR JANSSEN: Once again I am a crowd pleaser. [LB820]

SENATOR FISCHER: I think you're...you have...your four, five people, counting our sergeant at arms, Ms. Gordon, six. Welcome. [LB820]

SENATOR JANSSEN: Thank you. Chairman Fischer, fellow members of the Transportation Committee, for the record my name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n, I represent District 15, which is Fremont and all of Dodge County and I am joining in today on the let's roll long, high and heavy. I've got something too. I'm always happy when a constituent comes up, which I have one here today who has waited through these hearings; happy when they come up to see what we do, because it almost assures us a vote in the coming elections when they see what we do here. To the bill, LB820 would exempt a vehicle operated by a manufacturer or sales agent for purpose of sale, demonstration, exhibit, or delivery as an authorized emergency vehicle from the size and weight restrictions on certain roads. I'd like to thank the Smeal Fire Apparatus Company in Snyder, Nebraska for suggesting this concept. Smeal Fire Apparatus Company is a large manufacturer of emergency vehicles in the United States and is a major employer in northeast Nebraska and Dodge County. In meeting with their sales and administrative staff, I have been made aware of the different regulations they face as they deliver their products within Nebraska and outside of Nebraska. LB820 is modeled after Missouri's statutes dealing with emergency vehicle manufacturers. Colorado also has similar provisions. LB820 would simplify the delivery process by exempting emergency vehicles when in use or for delivery or demonstration from the size and weight restrictions on Nebraska roads. I'm pleased that Jeff Hunke from Smeal Fire is here today and will testify on this bill and can answer questions on how their products work, I also think he has several pictures via a calendar that he'll be handing out to you of their different types of vehicles they manufacture and the tandem axles and whatnot. Thank you for your consideration. I'd be happy to entertain any questions I could answer for you as well. [LB820]

SENATOR FISCHER: Thank you, Senator Janssen. Any questions? I see none. Thank you very much. [LB820]

SENATOR JANSSEN: Thank you. [LB820]

SENATOR FISCHER: First proponent please. Good afternoon and thank you for sharing in your legislative process all afternoon. [LB820]

JEFF HUNKE: (Exhibit 12) Good afternoon to you. My name is Jeff Hunke, it's J-e-f-f H-u-n-k-e and I do represent Smeal Fire Apparatus of Snyder, Nebraska. I am a

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supporter of LB820. I do wish to explain the calendars if I may. There are various aerial models that fall within the realm of LB820 and the reason that we wish to exempt fire trucks. I will tell you months of January, the photo for the month of January, May, July, and October, specifically those four months. Three of which have tandem axle trucks on them, like the January is a photo of two St. Louis rigs. There is one month, I believe it's May that has a single axle rear on it. I don't know, it's 4:30, I don't plan on being very long. What I will tell you is there are certain number of fire truck manufacturers that we consider to be major competitors of ours. I can tell you without hesitation, in the bigger truck market, which is large aerial trucks, pumper trucks, pumper tanker trucks, we are a top five builder in North America. Nebraska is a, what I would define as a fire truck state, if you will. There are three, what I consider national manufacturers in the state of Nebraska. South Dakota is another one. They have two majors. Wisconsin, certainly, and Wisconsin exempts fire trucks. Michigan is another state, they exempt emergency vehicles from overweight laws. Louisiana is another one. I don't know how their law reads but we do conduct business on a daily basis with a manufacturer down there and he says that they're exempt, so I'll take his word for that. Pennsylvania is exempt. And another state is Florida, there are three manufacturers in Florida and I do not know the law in Florida. But I can assure you that the majority of our competitors reside in states for which the states have exempted those fire trucks. Currently we have six aerial models that could cause problems with the way the statute is written now. Some of which, like the state...the two trucks in January, when they left our facility, the rear axles, which are a tandem axle, weighed in the vicinity of 54,000 pounds. The front axle themselves weighted approximately 20,000 pounds. And I can assure you, these trucks are in the unloaded condition. The water tanks are empty; there is no equipment; there is only one driver, you know, the fuel tank is full. Putting a third rear axle underneath a truck such as a fire truck is not an option for us. The trucks that we build, quite frankly, are mobile tool boxes that also have equipment on it to rescue, fight fires, basically called to emergencies of all types. We cannot stick another axle underneath them trucks for various reasons: (1) They won't get around in the cities. As you can see, them are St. Louis trucks; I think there's Edmonton, which is in Canada; we sell to big cities. These trucks have got to be maneuverable and they must carry the equipment that the firefighters need on them trucks to conduct their jobs. Why are they so big? It's because of the makeup of North America. I can assure you of that. We have to build them where they can get up to the twelfth story to do some rescue or to throw water or reach out 100-feet with a thousand pound payload at zero degrees, which means that these trucks have got to be heavy. One thing to consider, that I thought of while I was sitting in here today, 2010 emissions standards that are set by the federal government, as far as exhaust going out of the tailpipe, I found this out last week at a seminar, the big motors, the 500-horse powered Cummins engines, a 2010 compliant engine will weigh 883 pounds more than the 2007 engine. I don't even want to talk how much more it's going to cost, but it will weigh 883 pounds more. That's just the motor. That has nothing to do with what the chassis manufacturer or the OEM, the fire truck manufacturer has to do to make this thing compliant as well. But I'm here to entertain any questions if you have

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any. Thank you. [LB820]

SENATOR FISCHER: Thank you, Jeff, very much. How do you deliver your trucks now? [LB820]

JEFF HUNKE: It is an...you mean out of the state? [LB820]

SENATOR FISCHER: In the state, out of state. I see you have one in...that you built for Estes Park. I assume you drove it there. [LB820]

JEFF HUNKE: Yeah, there's a couple of scenarios. Sometimes the fire department will pay for the truck before it leaves our premises and, if so, then they carry the insurance burden. That is an exception to the rule. Normally, it is our...we sell all of our trucks through a dealer network throughout the United States and Canada. We throw that burden of delivery on the selling dealership, if you will. [LB820]

SENATOR FISCHER: But how do you deliver them now? [LB820]

JEFF HUNKE: Very quietly. [LB820]

SENATOR FISCHER: Are you paying permits now to get it over...over weight permit now? [LB820]

JEFF HUNKE: Yeah, we shoulder that; the burden goes on the selling dealership and they call, most of them call a company called Transceivers (phonetic) where they get their permits and then Transceivers (phonetic) attains them from the various states for which travel in, including Nebraska. We have, in the past six months...I do not have a definite time line, but we had problems approximately a year ago with obtaining a permits and then we did, as well, back in September. I cannot give you specifics, because I was not personally involved. [LB820]

SENATOR FISCHER: But you had problems obtaining the permits here in Nebraska? [LB820]

JEFF HUNKE: That is correct. [LB820]

SENATOR FISCHER: As I understand the legislation, it's to exempt your fire trucks, right? From any permits? [LB820]

JEFF HUNKE: Exclusively mine? [LB820]

SENATOR FISCHER: Well not exclusively yours, but your trucks would be covered under this legislation? [LB820]

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JEFF HUNKE: Yes, absolutely. [LB820]

SENATOR FISCHER: Correct? [LB820]

JEFF HUNKE: I guess the way it is written, I believe, it would affect my competitors like in Wisconsin that sell trucks... [LB820]

SENATOR FISCHER: Right. [LB820]

JEFF HUNKE: ...and Colorado. If they cannot attain a permit, I would assume they would by-pass the states; instead of going down I-80, they go down to I-70 or I-90 up in South Dakota and deliver the truck. [LB820]

SENATOR FISCHER: What is a permit cost? [LB820]

JEFF HUNKE: Depends. [LB820]

SENATOR FISCHER: What do you usually pay? [LB820]

JEFF HUNKE: Well like the state of Iowa, we have to get a permit, it costs zero dollars. Basically, they just want to know that we're coming across and they call it a...I think, what they call it is a fuel permit at zero dollars. Man, I don't know. I can tell you it's pretty expensive if you don't have one and you get caught, like 54,000 pounds on a tandem. I even drove one a few years where I got threatened to be impounded, but I didn't have a sleeper on the truck. It wasn't in Nebraska, but, nonetheless. I don't know, I suppose a couple hundred bucks. [LB820]

SENATOR FISCHER: Okay. Thank you. [LB820]

JEFF HUNKE: And I'm just kind of guessing on that. I don't know that for sure. [LB820]

SENATOR FISCHER: Okay. Thanks. Other questions? Senator Louden. [LB820]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well, is it...there's a limit to how big you can make those trucks or you won't be able to go to a fire with one. Would that be correct to say? [LB820]

JEFF HUNKE: Absolutely, and I will tell you without question, I think we're at that limit. [LB820]

SENATOR LOUDEN: And if you're...well, if you've got this limit here, then is a problem that Nebraska Department of Roads don't allow you to put them on the highways with

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that limit, but yet you can drive them in towns or where does that...how does that all work? [LB820]

JEFF HUNKE: Well, the way the statutes is written now, the truck becomes exempt in the state of Nebraska if a firefighter is driving it. It does not specifically say to an emergency or returning back from, or for instance, like if I sold one of these big trucks to Kearney and there was a malfunction on it and it had to come back to my factory for warranty. As long as the fire department is transporting the truck, it is exempt. [LB820]

SENATOR LOUDEN: I see. [LB820]

JEFF HUNKE: If I'm driving it or one of my employees, or dealers, for that matter, is driving it, then it is not exempt and then we have to obtain permits. [LB820]

SENATOR LOUDEN: I see. [LB820]

JEFF HUNKE: If, in fact, we can get them. [LB820]

SENATOR LOUDEN: Then as long as the factory still owns the truck then it's not exempt; as soon as the fire department owns the truck, then it's in a different category? [LB820]

JEFF HUNKE: Yeah, I think there's...I think there's some interpretation there. But I believe that the vast majority of the time, yes, that would be correct. [LB820]

SENATOR LOUDEN: Okay, thank you. [LB820]

JEFF HUNKE: Yes, Sir. [LB820]

SENATOR FISCHER: Other questions? Senator Hadley. [LB820]

SENATOR HADLEY: Senator Fischer, quick question, I know notice you sold one to a town called H-o-o-p-e-r, how's that pronounced? [LB820]

JEFF HUNKE: Hooper. [LB820]

SENATOR HADLEY: Hooper. That is Hooper, Nebraska? [LB820]

JEFF HUNKE: Absolutely. I just...I wanted to use this for reference, okay, and you're welcome to keep these, if you wish, but I will tell you, without hesitation, it is a mandatory thing that one photo of every calendar we do is a Nebraska truck. We do promote this state. In the fire fighter world, Nebraska's known for two things and that's our fire trucks and Husker football. [LB820]

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SENATOR HADLEY: Thank you. [LB820]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB820]

SENATOR STUTHMAN: Thank you, Senator Fischer. Jeff, you probably heard the testimony all day today, but what is the GVW on your tandem axle trucks? [LB820]

JEFF HUNKE: Well, the rating itself on a tandem, like, take for instance, that May truck, if it's a single axle, that truck will have a rating of 21,500 on the front axle, okay. [LB820]

SENATOR STUTHMAN: On the front. [LB820]

JEFF HUNKE: And then it will have a 31,500 rear axle rating. [LB820]

SENATOR STUTHMAN: On a single? Single. [LB820]

JEFF HUNKE: Yes, a single axle. [LB820]

SENATOR STUTHMAN: Okay. [LB820]

JEFF HUNKE: That's correct. Then you add them up and, basically, in essence, what it says is when that truck is going down the road, it cannot exceed that weight either on the front, on the rear or as a gross total. Because the weakest link in chain whether it be the tire rating, the brakes, the suspension, what have you, the weakest link in the chain is the maximum rating of that front or rear axle. [LB820]

SENATOR STUTHMAN: So do you have to have a CDL license to operate a fire truck then? [LB820]

JEFF HUNKE: Yeah, you do. In the state of Nebraska, absolutely. [LB820]

SENATOR STUTHMAN: You do. [LB820]

JEFF HUNKE: Yes. It varies from state to state, and quite frankly, it varies from city to city as well. [LB820]

SENATOR STUTHMAN: Okay. Thank you. [LB820]

JEFF HUNKE: Yes. [LB820]

SENATOR FISCHER: Other questions? Senator Janssen. [LB820]

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SENATOR JANSSEN: Thank you, Chairman Fischer. By the way, I have to point out, it's Hooper, not Hooper. [LB820]

JEFF HUNKE: Oh. [LB820]

SENATOR JANSSEN: I just...correct that. You're from Snyder, so I'll let that pass. [LB820]

JEFF HUNKE: I know. And you should hear what they call us. [LB820]

SENATOR JANSSEN: To correct the record on that. But one thing I want to point out, and I'll ask question, I'll just point this out, because I don't think I'm going to close on this, is there's not, and I want to find out how many trucks a year this would affect on you, and I think my point being, I'll let you answer as soon as I shut up here, but my point being that this isn't, of all the bills we've heard today, this isn't a repetitive use over and over of the vehicle on a regular basis. This is probably a small number per year to take out of the state and sell. So I'll just ask...add that and then just ask the question, how many? [LB820]

JEFF HUNKE: All right. That's a good question. It is, without question, a down market in the fire truck industry so I would say an average year give or take 20 a year, I suppose. The...we belong to Fire Apparatus Manufacturing Association which...big deal, there was a gentleman there a couple of years ago at a seminar that said: all emergency miles, that includes policemen, ambulances and such, is a fraction of one percent of one percent of one percent of total miles of highway miles. And these big, big machines, and they are certainly large, these are literally special vehicles and it depends on the fire department and city thereof, but most of these are specialty vehicles and they only go out on third calls, 3-alarm fires and above. They go out on structure fires. They do not chase automobile accidents; they don't go to dumpster fires; they go to structure fires only. Thank you. [LB820]

SENATOR JANSSEN: Thank you very much for that...the question, and I guess I just wanted to add that, that this isn't something that...it's not every truck that rolls out of Smeal or Danko or R.K. Aerials, or what not. [LB820]

JEFF HUNKE: No, no, it's not. But I can assure you that it is a vital part of our business. [LB820]

SENATOR JANSSEN: Thank you. [LB820]

SENATOR FISCHER: Other questions? I see none. Thank you very much for being here today. [LB820]

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JEFF HUNKE: Thank you, Senator Fischer. Thank you. [LB820]

SENATOR FISCHER: Next proponent please. [LB820]

JERRY STILMOCK: Good afternoon, Senators. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k testifying on behalf of my client the Nebraska State Volunteer Firefighters Association in support of LB820. I polled several of the fire departments through a question and answer session to find out, in case, just anticipating, the questions that may come, in relation to...what about the situation, what about bridges, what about the lack of county funds and the ability to keep up the bridges when heavy equipment is rolling out. So I wanted to come forward in support of the bill to let you know that in the conversations and correspondence that I've received the fire departments that do have heavier vehicles, they are in contact with the counties in which they're situated to map out the bridges that are questionable or not available for a heavy apparatus so that the communication is occurring and they have their routes mapped out ahead of time to the best that they can. So in the responses that I received, a lot of them said, well, we don't reach that category of weight classification. But yet, I wanted the members of the committee to at least be aware of the fact that when we do have heavier vehicles that there's some forethought going into it and investigating and finding out what the capacity of the bridges are. But we'd certainly join in support of LB820 and ask the committee to advance it to the General File. Thank you. [LB820]

SENATOR FISCHER: Thank you, Mr. Stilmock. As I read this bill, none of that changes. You know, you started out by saying what about the bridges, and what about this and it's heavy equipment and what this bill does is just eliminate the need for these types of heavy equipment to get a permit, correct? [LB820]

JERRY STILMOCK: I looked at it as two different issues. One of them was the issue that you addressed. The second issue is the weight limitation of 60,000 pounds. The back piece of that section in the bill that speaks of...that actually deletes the permit requirement, then the last sentence to that deletion is the max weight of 60,000 pounds on a tandem axle. So it's that point to which I address, Senator. [LB820]

SENATOR FISCHER: So, you would support...so support a bill that addresses this type of equipment that there's no need for a permit and the weight can be anything? [LB820]

JERRY STILMOCK: Yes. [LB820]

SENATOR FISCHER: Would your support extend to, say, wind turbine blades that are traveling through the state of Nebraska? And I'm on the Natural Resources Committee and that committee is looking at continued development of wind in the state and including blades and the gear boxes which weigh a tremendous amount, so if we would do it in this case, would we need to do it for those companies that are in the state of

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Nebraska that are...for example, transporting those huge, very, very, long turbine blades or the very, very heavy gear boxes? I'm looking at a policy move here, not... [LB820]

JERRY STILMOCK: Sure. [LB820]

SENATOR FISCHER: I'm not putting down any business here, because I appreciate all the businesses we have in the state; but looking at the policy issue, you know, the permits truly don't cost that much. So should we just eliminate all of them for cases like this? [LB820]

JERRY STILMOCK: Well, I take it that from Senator Janssen's earlier comments, one point of operations from the manufacturer or dealership to the location on a very infrequent basis. And then I further tune that down to operating within a municipality or fire district, so these fire trucks aren't being driven other than in the...to get them there and then they're being confined, for the most part, in a particular area. So, maybe not apples and apples to your question on where...wind turbines. But on a policy reason for my thoughts I would view it differently because that product is not going up and down Interstate 80 and up and down Highway 81 on a frequent basis for fire trucks. It's getting to the locale and it's, for the most part, being confined to a locale. [LB820]

SENATOR FISCHER: Well that's the same case with my example. [LB820]

JERRY STILMOCK: Well, but... [LB820]

SENATOR FISCHER: The turbines are being transported from where they're manufactured to a specific location and then assembled at that location and hopefully work there for about 20 years. [LB820]

JERRY STILMOCK: The image that I created in my mind when you started testifying was that of the... [LB820]

SENATOR FISCHER: I'm not testifying, I'm asking you questions. [LB820]

JERRY STILMOCK: ...when you testified...when you ask me a question, was the growing number of wind turbines in Iowa as you drive up and down I-80 and so I'm thinking of a proliferation of turbines that they're going to be everywhere, Senator. My thoughts. [LB820]

SENATOR FISCHER: Any other questions? I see none. Thank you very much. [LB820]

JERRY STILMOCK: Thank you, Senators. [LB820]

SENATOR FISCHER: Any other proponents for the bill? Any other proponents? Any

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opponents for the bill? Good afternoon. [LB820]

ELLIS TOMPKINS: (Exhibit 13) Good afternoon, Senator. My name is Ellis Tompkins, that's E-I-I-i-s Tompkins T-o-m-p-k-i-n-s. I'm the rail and public transportation engineer with the Nebraska Department of Roads. I'm here today representing Mr. Monty Fredrickson, our director state engineer. Monty apologizes he had to be out of town today so he could not testify. I'm here today to testify on behalf of the Department of Roads in opposition to LB820. This bill suspends the size and weight statutes for a manufacturer of an emergency service vehicle such as a fire truck to be moved on the highway system for the purpose of sale or demonstration or delivery. It also repeals the section of the statute that limits the tandem axle weight of an emergency service vehicle to 60,000 pounds. The department met several years ago with the fire truck manufacturer from Scribner and then Senator Ray Janssen. We agreed to provide the manufacturer with an overweight permit to move the fire trucks as long as we could run the route through our permit system to do a bridge analysis and make sure we had no bridge failures based on the analysis for the axle loads that were provided. We provided that manufacturer, and would do so for others, with the permits, since that time many times for axle weights over legal and feel that process is working quite well right now. The department is opposed to having vehicles move on our highways system and over our bridges with no bridge analysis and with unlimited axle weights. Currently the tandem axle weight is limited to 60,000, which is almost double the normal legal tandem weight of 34,000 and 1.5 times the tandem axle weight of 40,000 that we would normally permit. I'll be happy to answer any questions. I will state one other thing. The question was raised earlier about the cost of the permit; the permit is \$20. In the last year, we've issued approximately 15 of those permits to that manufacturer for...to move if...and I talked to my permit manager and he said we've issued those permits all within one hour of the time that the request came in. If he thinks that they have a problem, it may be that we had to adjust the route because of a bridge analysis, but we have issued all of the permits. Happy to answer any questions that you have. [LB820]

SENATOR FISCHER: Thank you, Mr. Tompkins. You heard my question about the turbines, are you the person responsible for issuing permits to all types... [LB820]

ELLIS TOMPKINS: We issue permits for... [LB820]

SENATOR FISCHER: ...of hauling across the state? [LB820]

ELLIS TOMPKINS: Yes, yes I am. We issue permits for the bases for the turbines that are moving because they are overweight. The turbine blades are not overweight, so as far as the statute is concerned, they fall under what is called a...similar to what you would have if it was a utility company, electric company hauling poles or something, so they are exempt from the length statute so we do not issue permit for the turbine blades alone. [LB820]

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SENATOR FISCHER: But don't they...do you recommend routes for over length vehicles? [LB820]

ELLIS TOMPKINS: Yes, we do. [LB820]

SENATOR FISCHER: Because I know there's certain corners... [LB820]

ELLIS TOMPKINS: Yes, we have certain corners... [LB820]

SENATOR FISCHER: ...that they have a problem trying to get around, yeah. [LB820]

ELLIS TOMPKINS: ...that are very difficult to maneuver, like Highway 15 and 34 in Seward is a prime example of a turn that is very difficult for anything that is extremely long. In our permit system, we put a length into the system so that if a load is requested, and I apologize, I don't know what that number is for Seward, but say it's 150 feet, so if we get a permit request for a load over 150, then the system would not allow it to take that route or make that turn at Seward. [LB820]

SENATOR FISCHER: How often do you have to change a route that a manufacturer or someone transporting something that's overweight wants to take because of a bridge that may not structurally be able to handle that amount of weight? [LB820]

ELLIS TOMPKINS: I can't answer that question with respect to this specific fire truck issue; we adjust routes daily, many times for overweight loads. [LB820]

SENATOR FISCHER: And if...and we're talking up to 60,000 pounds at this point for a limit, correct? [LB820]

ELLIS TOMPKINS: Yes, that's what the statute has right now. [LB820]

SENATOR FISCHER: Can you give me an estimation of how many more bridges could be affected or questionable in being able to support any kind of transport over that 60,000 pounds? [LB820]

ELLIS TOMPKINS: No, I can't give you a specific number. I did talk to our bridge engineer and he said that based on the analysis, our normal bridges on the highway system, as long as it's not a posted bridge, the...those bridges have enough of a safety factor into the design to handle the 60,000. If you go beyond that, you know, then we start running into potential problems. [LB820]

SENATOR FISCHER: Would you, as a department, have to do a different type of analysis if we would eliminate that upper weight limit of 60,000 pounds? Would you

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have to look at the bridges? [LB820]

ELLIS TOMPKINS: We wouldn't be doing an analysis because they wouldn't be...the statute would not require them to get a permit. Based on the way this statute is written, he could have 80,000 on a tandem... [LB820]

SENATOR FISCHER: Correct. [LB820]

ELLIS TOMPKINS: ...and not get a permit for that. [LB820]

SENATOR FISCHER: And so it's just kind of up in the air on what route they would take and what would happen? [LB820]

ELLIS TOMPKINS: Under the way this is written, they would be able to take any route they so chose. All we're saying is, is that we're willing to give them a permit. And we do give them a permit. We would just like to run that truck through our bridge analysis program and make sure the route is not going to have a problem, that we're not going to have a problem with one of our bridges. [LB820]

SENATOR FISCHER: Okay. Thank you. Other questions? Senator Campbell. [LB820]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Tompkins, I want to be sure that my notes are correct here, how much do we charge for a permit? [LB820]

ELLIS TOMPKINS: We have three different basic permit charges. An over-dimensional permit alone is \$15; an overweight permit is \$20; or a combination, if you have an over-width, over-length, plus overweight, then that would be \$25. [LB820]

SENATOR CAMPBELL: Okay. So at this point, the special permit price is far less than if someone is fined, because Mr. Hunke talked about a fine of \$200. [LB820]

ELLIS TOMPKINS: That would be true. The permit...the single trip permit for overweight is \$20. So it would be very much less than the overweight fine, yes. [LB820]

SENATOR CAMPBELL: Okay. Thank you. [LB820]

SENATOR FISCHER: Thank you, Senator Campbell. Senator Janssen. [LB820]

SENATOR JANSSEN: Thank you, Chairman Fischer. Mr. Tompkins, thank you for appearing. I can assure you Mr. Hunke did not come down here today to try and get out of paying a \$20 permit fee. So obviously, they find some issues with the permitting process that...it's probably not as streamlined as you're indicating, at least not in their case. But that said, I think you kind of turned me on to something when you were--in

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your testimony, we're talking about the tandem axles and 60,000, is that at present? I don't know if you can see this or not, this type of a...I can...just hand it to him, this is the January thing, that tandem axle on the back of that, is that what you talk about being rated at... [LB820]

ELLIS TOMPKINS: Yes, that would be a tandem axle and in the statute right now, that tandem axle was limited to 60,000. [LB820]

SENATOR JANSSEN: Sixty...and you're fine with the tandem axle carrying 60,000? [LB820]

ELLIS TOMPKINS: Yes. Talked to our bridge engineer and he's fine with that. [LB820]

SENATOR JANSSEN: So the tandem axle alone with 60,000 is that regardless of the entire weight of the apparatus? Single axle on the front that also has a load. [LB820]

ELLIS TOMPKINS: The...typically the single axle on the front is not going to be a problem. The statute in Nebraska limits a single axle to a maximum of 20,000. As long as that statute is met, we certainly wouldn't have a problem. [LB820]

SENATOR JANSSEN: So if we had 20,000 on the front axle and then the tandem axle was carrying 60,000. [LB820]

ELLIS TOMPKINS: We'd be okay. [LB820]

SENATOR JANSSEN: You're okay with that. [LB820]

ELLIS TOMPKINS: Yes. [LB820]

SENATOR JANSSEN: And that's with current...that's in current statute? [LB820]

ELLIS TOMPKINS: Yes, sir. That's in current statute. [LB820]

SENATOR JANSSEN: And that's actually, I think, what I have lined out in my copy, so that's something I'd probably want to revisit with you and the director. [LB820]

ELLIS TOMPKINS: If the manufacturer is having some kind of a problem obtaining a permit, then, you know, my office would certainly be willing to meet with them and see what the problem is. As I said, I talked to my permit manager and we've issued a number of these permits and typically they've been issued within an hour after the request for the permit came in. [LB820]

SENATOR JANSSEN: Yeah, I appreciate that, because, certainly, there's something

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that's getting missed between your testimony and the testimony of Mr. Hunke and I don't believe either of you is trying to send us the wrong message. I think there's something in here that can be worked out and I think we're close. I did a crash course today on...and I'm expanded upon on our hearings today on what a tandem axle is and what it can carry and I think we might be closer on board than this bill would require. So, this is something we're probably going to want to discuss with you, if possible, afterwards. I'm sure Mr. Hunke would like to speak to you. [LB820]

ELLIS TOMPKINS: I would be glad to talk to you. [LB820]

SENATOR JANSSEN: Thank you. [LB820]

SENATOR FISCHER: Thank you, Senator Janssen. Other questions? I see none. Thank you, Mr. Tompkins. [LB820]

ELLIS TOMPKINS: Thank you. [LB820]

SENATOR FISCHER: Anyone else in opposition? Anyone in the neutral capacity? Seeing none, Senator Janssen, did you want to close? Senator Janssen waives closing. With that I will close the hearing on LB820 and that closes the hearings for the day. [LB820]