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Transcriber's Office

Transportation and Telecommunications Committee
March 05, 2013

[LB181 LB393]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, March 5, 2013, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB181 and LB393. Senators present: Annette Dubas, Chairperson; Jim Smith, Vice Chairperson; Lydia Brasch; Galen Hadley; Charlie Janssen; Beau McCoy; Scott Price; and Dan Watermeier. Senators absent: None.

SENATOR DUBAS: Good afternoon and welcome to the Transportation and Telecommunications Committee. Today we will be hearing LB181 by Senator Avery and LB393, Senator Bloomfield. I will begin...let's do a few housekeeping things and then...you're free to come up any time though, Senator Avery. I'll begin by introducing the committee members that are here. To my far right is Senator Dan Watermeier from Syracuse. Next is Senator Jim Smith from Papillion. Senator Smith is the Vice Chair of the Transportation and Telecommunications Committee. To my immediate right is Joselyn Luedtke. She is the legal counsel for the committee. I am Senator Annette Dubas from Fullerton. To my immediate left is Anne Hajek. She is committee clerk. It's her job to keep a record of everything that transpires here today. So it'll be important for you to have your paperwork done and state and spell your name clearly to help her with her work. Next to Anne is Senator Galen Hadley from Kearney. We will be joined...senators may be coming and going today...bill introduction, etcetera, so please don't be offended if anybody gets up and leaves in the middle of something you might be saying. Not that they aren't interested, it's just, as I said, a lot of different things going on and senators have other responsibilities. But we will be joined at some time throughout the course of the afternoon by Senator Lydia Brasch from Bancroft, Senator Beau McCoy from Omaha, and Senator Charlie Janssen from Fremont. Every committee is served by our page program. We're very fortunate to have these college students who have an interest in government, who come and help us either up on the floor of the Legislature or in the committee. We appreciate what they do to help us keep things moving smoothly in the process. So we are served by Kaitlyn Evanko-Douglas from Montrose, Colorado--she is a senior at UNL majoring in political science and global studies--and David Postier from York, Nebraska--he is a sophomore at UNL majoring in secondary education. So again, thank you to our two pages for their work. As the bill is introduced, after the introduction is made, we will have proponents, followed by opponents, followed by neutral testimony. I will be using the light system today. I want to make sure that everybody gets a chance to get up and state their case and take their positions. And so you'll be given five minutes. So the green light will come on at the beginning of that five minutes. At the end of four minutes, the yellow light will come on, kind of as your warning. And then when your five minutes is up, the red light comes on. It doesn't mean you have to immediately stop what you're saying. You know, please, at least finish your thought or your sentence. But, most of the time, senators will follow up with questions, and those questions don't count toward your time. So just to make sure

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that everybody gets their chance to state their case today, we will use the lights. When you come up to testify at the table, if you will bring a green sheet--and they are on the table back there by the door--and have this all filled out, the page will take it from you. Again, it's for our transcribing purposes, so we appreciate you having that filled out. There's, again, back there on the table by the door is this pink sheet. If you're here today, you want to be on the record as to whether whatever your position is on either or both of the bills, fill out the appropriate information on the pink sheet, and then the clerk will pick that up at the end of the hearing, and it will go into the permanent record. When you come to the table, if you again, state and spell your name clearly for the record. And if you get started, and you haven't done that, I may interrupt you. Again, it's very important for our transcribers to make sure that they have an accurate record. It's also very tempting to want to fiddle around with the microphone. These microphones are more for transcribing rather than amplifying. They're very sensitive, so they will pick up what you have to say very easily. But they also pick up any paper rustling or finger tapping or any of those kinds of things. And, again, that creates some problems for our transcribers as they're trying to create the permanent record. So, as much as you're able to, resist the temptation to mess around with the microphone. If you have handouts for the committee--again, hand those to the page--fifteen copies. If you don't have 15 copies, the page can go and make those copies to make sure that the committee has access to those. If you would shut off your telephones or any other electronic devices or at least put them to silent, again, out of respect for those who are testifying as well as any interference on the transcribing equipment. I think I've hit all of the housekeeping duties. We have been joined by Senator Beau McCoy and Senator Lydia Brasch. And so we will begin with LB181. Senator Avery, welcome. [LB181]

SENATOR AVERY: Thank you, Madam Chair. I am happy to bring LB181 to you. This is a child safety bill as it relates to child passengers on moving motorcycles. This idea for this bill came to me after hearing from several concerned parents who have, for example, shared custody arrangements of a child. In many instances, the parent would speak about their ex arriving to pick up their toddler or young child on a motorcycle and take them away for a weekend of custody on the back of a moving vehicle. Last summer, a Lincoln man was charged with negligent child abuse because his three-year-old fell off the back of his moving motorcycle. He arrived at his court date with the child again on the back of the motorcycle. He did have a helmet on the child. It was, however, an adult helmet that was hanging by the strap around the kid's neck or throat and was back on his shoulders. In this case, the Lincoln Police Department admitted that no traffic law specifically addresses whether a child can ride on the back of a motorcycle. So what we're doing here with LB181, is we are proposing to amend Section 60-6307 regarding restrictions on operating motorcycles. And it would read as follows: No person shall operate a motorcycle with a passenger who is less than eight years of age. It makes operating with a child rider an explicit traffic violation as opposed to having the officer interpret an event which could result in a criminal endangerment to the child or outright abuse of the child. Chapter 60, which we are amending, has several

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restrictions already contained in that section relating to operation of motorcycles. For example, permanent and regular seats for passengers and riders have to be present. Operator and riders must face forward, riding astride, not sidesaddle. If you're from the cowboy era, you know what sidesaddle is. Drivers cannot hold a package that prevents them from using both hands on the handlebars. These are all sensible restrictions. Handlebars cannot rise above 15 inches from the mounting point. No passenger can obstruct the driver's vision or control the motorcycle. And here, the final one is important. Any motorcycle which carries a passenger other than in a sidecar or enclosed cab, shall be equipped with footrests for such passenger. They're getting close here with having footrests. This restriction is where we might find some vague legislative guidance about the age or size of a passenger, but it is not explicit. For example, does the statute read that the presence of a passenger footrest means that a passenger's feet must actually be able to reach the pedals? Well, in the case of small children, that's probably not the case. They probably cannot reach them. Does the distance from the seat to the pegs imply certain size or weight of a child passenger? It is my opinion that this statute, which appears to be the most controlling regarding child passengers and motorcycles, is very much insufficient and in need of legislative review, which we are proposing here. It's worth noting that the department or the Office of Highway Safety in Nebraska has observed that some cyclists have been cited for having children passengers whose feet did not reach these footrests. But, again, application of this statute is not consistent. The National Highway Traffic Safety Administration has developed motor vehicle standards. One of these is Standard 213 which regulates child restraint systems with regard to child safety seats. And the federal mandate is quite explicit and rigid in its design to reduce the number of children killed or injured in motor vehicle crashes by restraining children under 80 pounds in very secure seats. This mandate is reflected in Nebraska Statute 60-6267 which states that children up to six are required to be restrained pursuant to this Standard 213, and children under 18 must use an occupant restraint system such as lap and shoulder belts. In that same statute, however, occupant protection systems are explicitly exempt in taxis, mopeds, and motorcycles. So I can imagine it would be difficult to use a child restraint seat on a motorcycle anyway. It's interesting, though, that there are some very strict federal and state laws about restraining children in motor vehicles but next to no laws regarding what to do about children on motorcycles. And that's what we're trying to address. It is, of course, no secret that motorcyclists are by far the most vulnerable motorists on the road. Many accidents are not the fault of the operator but are the result of actions beyond their control. In most cases, I think motorcycle accidents are caused by cars not seeing them in time to stop, and you have crashes for that reason. There were 22 motorcycle fatalities in Nebraska last year, including 3 passengers. There are other states that have some restrictive child-rider laws. Texas restrains kids under five; the minimum penalty is \$100. Washington State restricts them under five, Hawaii under seven, Arkansas under eight. So this is not new territory; we're not plowing new ground here. This is, in fact, quite reasonable, we think. Massachusetts has a law that says no child under the age of five and no child weighing 40 pounds or less shall ride as a

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passenger on a motorcycle with a maximum speed in excess of 30 miles per hour. Nebraska would join these states in making the protection of children on the road a priority and would be a national leader with respect to the prohibitive age. I'm sure that we'll hear some testimony today about or from, probably, parents who want their kids to ride dirt bikes, motocross, and ATVs. I would submit to the committee that these motorized vehicles are not street-legal. Motorcycles share the road with other vehicles; they share the road with commercial trucks, semi-truck trailers, and I've witnessed many times motorcyclists trying to maneuver through the traffic of very, very large vehicles. We, in Nebraska, have no limitation on speed when cyclists are carrying a passenger. So you could have a three-year-old on the back of a motorcycle going down I-80 at 75 miles per hour. Now, I don't have to tell you that that just doesn't make plain sense. It's endangerment to the child. Distracted driving is, of course, a serious problem when passengers may be...sometimes they are quite diligent, responsible operators. Many drivers may not be. Motorcycles, by design, pose an inherent threat to small riders with small attention spans who might fall asleep. I believe this three-year-old that was injured did fall asleep and fall off the back of the motorcycle. So let's not wait until we have tragedies to our children before we act. I think we can have a very real and productive discussion of this issue beginning with this bill, and I would hope that you would agree with me. Thank you. [LB181]

SENATOR DUBAS: Thank you, Senator Avery. Are there questions? Senator Janssen. [LB181]

SENATOR JANSSEN: Thank you, Chairman Dubas. Senator Avery, in looking at this, how would you define--and maybe you touched on this--is this a primary offense? [LB181]

SENATOR AVERY: Yes, it would be. I mean, it couldn't be anything else because the child would be visible on the bicycle. [LB181]

SENATOR JANSSEN: Would it be...I've got a nine-year-old. I've also got a six-year-old and a five-month-old. And they don't ride on motorcycles, nor do I. But how would you tell the age? I mean, I have trouble telling the age of children. Wouldn't it lend itself a little bit to profiling perhaps? [LB181]

SENATOR AVERY: Well, yes. You would profile small individuals. I mean, you can look at a child and get a pretty good idea of whether they are old enough to ride on the back of a motorcycle. If the child is so small that their feet don't reach the footrest, for example. That's a pretty good idea. [LB181]

SENATOR JANSSEN: Well, I understand that. I'm just...I just think it would be extremely difficult if the...now it's easy to tell my, you know, obviously a five-month-old, but... [LB181]

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SENATOR AVERY: But, you know, what you...if you were a police officer, and you saw a case of a child riding on the back of a motorcycle, you couldn't be sure how old the child was. You stop the motorcycle; you ask. [LB181]

SENATOR JANSSEN: So I might want to pull this person over that left wherever. I mean, it lends itself. You see what I'm getting at? And, I mean, I'm just trying to point out something I think could be a problem. [LB181]

SENATOR AVERY: You mean overzealous interpretation of the law or application? [LB181]

SENATOR JANSSEN: Well, in this case even...you could pull anybody over. Reasonable...somewhat reasonable if somebody... [LB181]

SENATOR AVERY: Well, if you have reasonable doubt or probable cause is I think the legal term. Probable cause often is widely interpreted by police, but the object here is to protect the child. And if there's a question about whether that child might be endangered, then that would be probable cause for the police officer to intervene. [LB181]

SENATOR JANSSEN: Okay. I just wanted to point that out, and you probably already thought of it anyways. [LB181]

SENATOR AVERY: Thank you. [LB181]

SENATOR DUBAS: Other questions for Senator Avery? Senator McCoy. [LB181]

SENATOR McCOY: Thank you, Chairwoman Dubas and thank you, Senator Avery. To follow up on the exchange between you and Senator Janssen just a moment ago, I...my wife and I have four kids at home, and we have a nine-year-old daughter that's about to turn ten. Under LB181, if it were to pass and become law--and I don't have a...possess a motorcycle but just say that I did--and I took our nine-year-old daughter out for a ride and was pulled over by a police officer--and our nine-year-old daughter is very small. In fact, she's about the same size as our six-year-old daughter. I have a driver's license that I would have on my possession. How would I go about providing documentation to that law enforcement officer as to the age of my nine-year-old daughter? [LB181]

SENATOR AVERY: My expectation is that you would not have to show proof of her age. But the officer would ask you, and your word...if you lied to a police officer, that's a crime in itself. And if you said, this child is nine years old and he said, I don't believe you, then he could take further action, require some kind of documentation. If you couldn't prove it, or if you produce the document and she turned out not to be legal age

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to be riding on the back of a motorcycle, and you had lied, then you would be liable for a ticket yourself. [LB181]

SENATOR McCOY: I understand that, and I very much understand this situation. And it scares me to death to think about putting a small child like you're talking about on the back of a motorcycle. But there doesn't appear, unless I'm missing it, to be anything in the green copy of the bill to provide any sort of a natural progression of what you just referenced, unless I'm missing it. It talks about, you know, it would be a traffic infraction. But what mechanism would there be for, I mean...I was just sitting here and trying to think. I'd have...I guess I'd have to go home to our safe at the house to get out a birth certificate in order to provide proof or documentation to a law enforcement official. I...we don't carry those with us on our possession... [LB181]

SENATOR AVERY: No. [LB181]

SENATOR McCOY: ...or I suppose... [LB181]

SENATOR AVERY: And I'm not asking you to. [LB181]

SENATOR McCOY: ...I suppose a passport in a case of...I'm just thinking aloud and talking here. We just recently took a trip with our kids last fall. We did have passports for everyone. That, of course, has a birth date on it. But, again, we don't carry those passports with us when we're in the normal course of day-to-day business. [LB181]

SENATOR AVERY: Right. [LB181]

SENATOR McCOY: So I understand what you're saying, and we all hope that our word is as good as our bond. And it should be. [LB181]

SENATOR AVERY: All right. Let me... [LB181]

SENATOR McCOY: And I appreciate that but I don't know that that's...It ought to be enough; I just don't know that it would in this case. [LB181]

SENATOR AVERY: We have child restraint laws for motor vehicles. And you're not required to carry an ID card proving how old your child is when you operate your car and that child is with you. And police officers manage to enforce those laws effectively. You understand the point I'm making? [LB181]

SENATOR McCOY: I do, Senator, and I... [LB181]

SENATOR AVERY: And this wouldn't be any different. [LB181]

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SENATOR McCOY: I understand that. However, again, we have our nine-year-old daughter is very petite, and she could easily pass for much younger than what she is and often does. [LB181]

SENATOR AVERY: And you can have her in your motor vehicle in a restraint that may not be a qualifying one. [LB181]

SENATOR McCOY: That is correct. [LB181]

SENATOR AVERY: And how would the officer know her age in that circumstance? It would be the same. The enforcement procedures would be very similar to the same kind of enforcement procedures you have for motorized vehicles and seat belts. [LB181]

SENATOR McCOY: Well, I think it would be different in this case because, oftentimes, I would contend, especially in this day and age, with tinted windows of vehicles and other mechanisms, and in our case we drive a minivan. You have a child sitting in the middle seat belt of a backseat of a minivan, and you're driving down the interstate, it might be very difficult for a law enforcement officer to tell how many children you have in a vehicle, much less if the size of the child is the right one for the child-restraint system that you should have. It becomes a little different in this case, I would contend, Senator, because you're talking about the back of a motorcycle that, from a pretty good distance away, you could tell that there's more than one individual on that motorcycle. [LB181]

SENATOR AVERY: You can see that the child is exposed to danger, can't you, from a good distance? [LB181]

SENATOR McCOY: Well, I'm not agreeing or disagreeing with that, Senator. I'm just...I'm saying I think that I understand your comparison. I'm just not sure that they are apples and apples. I think it might be apples and oranges. But I just...made me think back to Senator Janssen's point that there's a...it seems to me that there's not really a mechanism here to define how you...how one would go about determining or proving to a law...and like most people, most Nebraskans would certainly want to abide by the law such that the laws exist. There just really doesn't seem to be any mechanism here for a law-abiding citizen to provide documentation to a law enforcement officer as to the age of their child. [LB181]

SENATOR AVERY: And I'm only saying that that's the same problem, if you consider that a problem, it exists for our seat-restraint laws right now with motorized vehicles. And I do believe too, to go back to your comment about tinted windows, there are rules in the state of Nebraska about the extent to which you can tint windows so that it obstructs the ability of officers to see inside the vehicle. [LB181]

SENATOR McCOY: That would be correct for drivers and passenger-side windows of

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the front doors and, I believe, the windshield. As far as windows back farther than that, I don't believe that that's the case. But you may be right. [LB181]

SENATOR AVERY: You might be right. [LB181]

SENATOR McCOY: You may be right. I just think from an enforcement, I think we put law enforcement in a really tough position here because I think we would be asking them to make some judgment calls and to... [LB181]

SENATOR AVERY: We do that every day, Senator. [LB181]

SENATOR McCOY: ...and...well, I think it becomes a little bit difficult in something like this. But that may be in...that would conclude the questions that I would have. Thank you, Senator. [LB181]

SENATOR DUBAS: Are there other questions? Senator Price. [LB181]

SENATOR PRICE: Thank you, Chairperson Dubas. And Senator Avery, I apologize for my late arrival. In looking at the simple bill here of barely a page, I was struck by why we picked eight years of age. And I thought maybe you've covered it, but it says "No person shall operate a motorcycle with a passenger who is less than eight years of age." What about a sidecar, that two-wheel... [LB181]

SENATOR AVERY: I addressed that in my opening. Sidecars are permitted already in law. [LB181]

SENATOR PRICE: Okay. I missed that, then. Okay. So but now why the eight years of age? [LB181]

SENATOR AVERY: I guess I would be willing to do work with the committee if you want to change it to a lower age. Eight years would seem to me to be about appropriate age where a child could have grown to the size where you would need to be in order to easily reach the footrest so that you can hang on. You don't strap yourself in with seat belts on motorcycles. I know when I get on my bicycle sometimes out of habit because I drive cars mostly, I reach down like this to get the seat belt. And I'm thinking, whoa, I don't have one. Maybe you wouldn't want to be. [LB181]

SENATOR PRICE: I've never shared that experience. But I just...I'm struck that if you're...if it's foot pegs that give them a place to put their feet, myself I'd blow a couple more holes in it, put some pegs up higher. And then I didn't know if age was a developmental issue or, like you said, it's a functional arrangement. You know, as soon as we put it in there, if that's the reason we put pegs on there for an eight-year-old, now I've alleviated that reason, have we really addressed your reason then? [LB181]

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SENATOR AVERY: Well, Texas, Washington, and Massachusetts use five years, Arkansas uses eight and Hawaii, seven. [LB181]

SENATOR PRICE: Okay. [LB181]

SENATOR AVERY: So the range is from five to eight. [LB181]

SENATOR PRICE: Thank you very much. [LB181]

SENATOR DUBAS: Additional questions for Senator Avery? Senator Smith. [LB181]

SENATOR SMITH: Thank you, Senator Dubas. Senator Avery, mentioning those other states, in these other states, is it a primary offense or a secondary offense or can you expand on that a little bit? [LB181]

SENATOR AVERY: I cannot tell you that. We can find out. But my guess would be it's a primary offense because the child is in danger. The minute you see the child on there without the ability to properly reach the footrest and hang on, you can...any police officer will know this child is in danger. I don't know how you can make that a secondary offense where the operator would have to commit a traffic violation before you could stop the vehicle. [LB181]

SENATOR SMITH: All right. Thank you. [LB181]

SENATOR AVERY: It is my desire that it be a primary offense. [LB181]

SENATOR DUBAS: Other questions? Seeing none, thank you. [LB181]

SENATOR AVERY: Thank you. [LB181]

SENATOR DUBAS: (Exhibits 1, 2) Just so I can get an idea and we can let the following bill introducer know how long he may have before he needs to show up, can I have a show of hands as to the number of people who plan on testifying in any capacity on LB181? One, two, three, so we don't have very many testifying. So if Senator Bloomfield is listening, he'll be on deck here really quickly. So can I have our first proponent for LB181? I do have a letter to read into the record as a proponent for LB181 from Dale Michels, the State Board of Health, and as a proponent, the Nebraska Nurses Association for LB181. Okay. No proponents. Opponents? We have our first opponent testifier on LB181. Welcome. [LB181]

TODD MILLER: Good afternoon, senators. My name is Todd C. Miller, T-o-d-d M-i-l-l-e-r. I am state coordinator for ABATE of Nebraska, American Bikers Aiming

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Toward Education. I come before you today to be in opposition of this bill for a couple of brief reasons, some of which you've already asked. We feel this bill is extremely prejudicial. It is pointed strictly at motorcycles, motorcycles alone, nothing else; not snowmobiles or any other form of transportation that could be potentially considered dangerous. It's an arbitrary age. What's to say that an eight-year-old of some size is better equipped to handle a bike than some five-year-old that happens to be more mature or more advanced? One of the things that you brought up was the idea that...how would it be enforced? I think we're opening ourselves up to a major problem in the fact that everybody that's carrying a child on the back of their bike is going to be pulled over and be forced to come to court to prove their innocence. I would say that, for myself, I carried my...I rode on the back of my dad's bike at a very early age. I've been riding since I was five years old. I've rode motorcycles for 44 years. I have taken my daughter on rides, certainly have never taken her on anything at 80 miles an hour, whatever. I feel as a parent, I make those decisions based on her age and her abilities. She's long since grown and does her own riding now. But that would have deprived me of some serious memories with my child that I would never want to give up. Things that I could share from my youth that my dad would spend with me. Motorcycles are unique. And we talk about safety harnesses and things like that to strap them down or seat belts. And the reality of it is, a motorcycle...most often it's better to get away from it. And I have had some of our members and membership come to us and talk to me about this particular bill, in particular, at the bike show, discussing with me the use of harnesses that they have made or bought on the Internet which actually straps the child to your back on a seat so that when you do escape the bike, if there was any accident or an incident, that you can get away. My bottom line here is that I really believe that this is a parental choice. We, as parents, make the decisions. And we already have laws in force right now, as was mentioned. We have child endangerment. If a police officer feels that you are doing something that is endangering a child, they can be pulled over and given a ticket. And that carries a lot more weight than some traffic fine. And I really believe that that's really more important to protect that child in that case. But other than that, the parent should have the right to make that decision. With that, I'll keep it very brief. I know there's a lot on the table, so I would thank you, and I would urge you not to move this bill forward. [LB181]

SENATOR DUBAS: Thank you very much, Mr. Miller. Are there questions for Mr. Miller? Seeing none, thank you for coming forward. Next opponent for LB181? [LB181]

DAVID HALEN: Senator Dubas, thank you. My name is David Halen, D-a-v-i-d H-a-l-e-n is how you spell my last name. My opposition to the bill is similar to what you've heard already. I believe some tightening of the statute might be in order. I guess that makes me maybe not a vehement opponent but slightly opposed. Age is not a good discriminator in my opinion. The person's size...I've ridden, like Mr. Miller, 44 years. I took my children for rides. They had to be big enough; they had to wear proper safety equipment; their feet had to be on the pegs. And I think that's primarily where our

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current statute is somewhat weak. It just says you have to have pegs on the bike. The person's feet should be on those pegs, and they should be able to hold onto something. That's basically the extent of my opposition. [LB181]

SENATOR DUBAS: Very good. Thank you, Mr. Halen. Questions? Seeing none, thank you for coming forward. [LB181]

DAVID HALEN: Thanks. [LB181]

SENATOR DUBAS: Next opponent to LB181? Any other opposition? Okay. Is there anyone in the neutral capacity? Please come forward. Have a seat and if you'll state and spell your name, we'd appreciate it. [LB181]

DEL SCOTT: My name is Del, D-e-l, Scott, S-c-o-t-t. I didn't come here to talk on this bill, but I was sitting there and listening, and it seems like to me that the peg...people's...children's feet should be on the peg, you know. And so...and if you want to have a age limit, that the parent should go down to the DMV and get a identification card to have with them so that if they ever get stopped because of age, they could have it with them. And I would think that the police could see that the pegs...people with kids that are not on the pegs, that that would be a reason for stopping, not because of what the age limit is. But if they did get stopped for age, they'd have a card that shows their age, whatever age you decide on. [LB181]

SENATOR DUBAS: Very good. Just wait one minute in case there's some questions here. Are there any questions for Mr. Scott? Okay, now we'll let you go. Thank you for coming forward. Any other neutral testimony for LB181? Seeing none, Senator Avery, would you like to close? Senator Avery waives closing. Thank you very much, Senator Avery. That will close the hearing on LB181, and we'll move on to LB393. Senator Bloomfield. Welcome, Senator Bloomfield. [LB181]

SENATOR BLOOMFIELD: (Exhibits 3 and 4) Thank you. Good afternoon, Chairwoman Dubas and members of the Transportation and Telecommunications Committee. For the record, my name is Senator Dave Bloomfield, D-a-v-e B-l-o-o-m-f-i-e-l-d, and I represent the 17th Legislative District. I'm proud to be here today to present LB393 to the committee for your consideration. If you pass this bill onto the full Legislature, it is my intention to make this my priority bill for this session. Under current Nebraska law, as you know, all motorcycle operators and passengers are required to wear protective helmets on state highways. LB393 would give motorcycle operators and passengers who are at last 21 years or older the choice of whether or not to wear a helmet while operating a motorcycle but would require the operator to have eye protection. All motorcycle operators or passengers under the age of 21 would still be required to wear a helmet. Today, you will hear testimony from Nebraskans and others who merely want their freedom to choose returned to them. You will hear from Nebraskans who are

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professionals that take their motorcycles on long trips through other states, all the while spending thousands of dollars in doing so, while taking every opportunity to avoid Nebraska. You will also hear testimony about the amount of insurance many of these riders already carry. The benefit would be not only to riders but to all persons in Nebraska who operate on our highways and interstates. Finally, you will hear from ordinary folks from both inside and outside Nebraska about how repealing the helmet law would affect them. I appreciate the committee's attention to these issues. I'm well aware there are folks here who oppose this repeal, and I look forward to hearing their testimony. I would ask that, as you listen to the grim statistics on what could or might happen, that you would keep in mind that no states surrounding Nebraska, with the exception of Missouri, requires that helmets be worn by adults. Some of those states at one time had requirements but have repealed them. None of the states around us that have repealed these laws have found it necessary to reinstate them. I've introduced an amendment to the committee that the committee should have removing the necessity of the "helmet not required" being placed on the operator's license. This wording is not needed due to the fact that our licenses already clearly distinguish who is over or under 21 based on the vertical or horizontal license. This would eliminate the majority of the fiscal note with the exception of the \$13,000 estimate from the Department of Roads for signage changes as you come into the state. I would also like to give the committee a copy of an e-mail that I received from Mark Sullivan of Indiana expressing his thoughts on LB393. I also have a print-off I would like to give you that shows the Police Officers' Association of Nebraska supports LB393. The handout was printed from their Web site. And if you turn to the second page, I have highlighted their position on LB393. I have two main goals in the introduction of LB393. First would be to open our borders to hundreds and thousands of people who, for one primary reason, choose to avoid our beautiful state and take their millions of dollars elsewhere, that reason being because they wish to have the right to ride without a helmet; not that they necessarily would ride helmetless. Many of them just do not like the fact that they are forced by penalty of law to give up that choice. My second and, I believe, more important goal is to uphold our citizens' belief in their rights to make choices in matters that affect themselves. We as a state and as lawmakers in this state, I think, have a duty and an obligation to protect and not to infringe on the principles of liberty and the pursuit of happiness. Whatever the committee's decision, I'd hope you will keep these goals in mind. There are good people behind me on both sides of this issue that are probably better equipped to answer your questions. However, I am willing to attempt to respond if you would like. And Senator Kent Rogert will be following me. I think he has carried similar legislation at one time. So if you have any questions, I'd try to answer them. [LB393]

SENATOR DUBAS: Very good. Thank you, Senator Bloomfield. Questions? Senator Brasch. [LB393]

SENATOR BRASCH: Thank you for bringing this bill, Senator Bloomfield. And as you know, I'm one of the cosigners here. [LB393]

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SENATOR BLOOMFIELD: Thank you. [LB393]

SENATOR BRASCH: And my question now is, following Senator Avery's bill saying that children under the age of 8 should not be on a motorcycle, what is your thought with that? [LB393]

SENATOR BLOOMFIELD: I was in the Agriculture Committee during that hearing, but my general thought on that would be that that would be a parental decision and not the state's decision. [LB393]

SENATOR BRASCH: And during his testimony he did mention that there was an incident where a 3-year-old on the back of a motorcycle had fallen asleep and fell off the motorcycle. That...and then another testimony had stated that there's a special on-line harness that you can buy to strap kids to you, young children. And I'm just curious if any of those things would be considered. As a grandparent, as you are, the minute I put the little...you know, even a 5-year-old in the back of the car, they zonk out. You know, you put them in a stroller, they zonk out. [LB393]

SENATOR BLOOMFIELD: Yeah. [LB393]

SENATOR BRASCH: And so now I...hopefully, on a motorcycle, that we take precautions of children falling asleep or something with this law. That's just my thought and perhaps visiting with Senator Avery on the statistics and what other states' bills would be. [LB393]

SENATOR BLOOMFIELD: Yeah. I'm certainly willing to talk to him or anybody on here about such things. But we can't legislate against all injuries. I caught something on, I think it was Fox News this morning, or it might have been Channel 8, where a mother cleaning her house had pushed the couch over against the window so she could vacuum under it. The little boy went over and bounced on the couch and flipped out the open window and fell three stories down. Fortunately, he landed on his feet. He went to the hospital for 20 hours, and he's in pretty good shape. But we can't eliminate all accidents that are going to happen to people. [LB393]

SENATOR DUBAS: Senator Janssen. [LB393]

SENATOR JANSSEN: Thank you, Chairman Dubas. And thank you, Senator Bloomfield, for bringing this. And welcome to the party. [LB393]

SENATOR BLOOMFIELD: Thank you. [LB393]

SENATOR JANSSEN: I think Senator Rogert brought it, and I brought it, and I think we

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both got it to the floor, and I'm not certain who got more votes. It might be a game. I think I was at 30 or 31; I can't recall what the number was. I needed 33. In your opening testimony...I just wanted to clarify this, and maybe I heard it wrong. You said that, of all our border states, that only Missouri has the helmet law, is that correct? [LB393]

SENATOR BLOOMFIELD: Has an adult helmet law. No, some of the other states have helmet laws that require up to age 18 or 17. [LB393]

SENATOR JANSSEN: But none as restricted as ours? [LB393]

SENATOR BLOOMFIELD: No. Only Missouri. [LB393]

SENATOR JANSSEN: Oh, okay. I just wondered. [LB393]

SENATOR BLOOMFIELD: Iowa has none. [LB393]

SENATOR JANSSEN: I just wanted to make sure that that was at least stated, because I may have heard it wrong. [LB393]

SENATOR BLOOMFIELD: Well, I might have stumbled over my tongue, too. Thank you. [LB393]

SENATOR JANSSEN: We all have our days. Thank you. [LB393]

SENATOR DUBAS: Other questions for Senator Bloomfield? Seeing none, thank you. [LB393]

SENATOR BLOOMFIELD: Thank you. [LB393]

SENATOR DUBAS: We'll begin with proponents for LB393. [LB393]

KENT ROGERT: Good afternoon, Senator Dubas, members of the Transportation and Telecommunications Committee. For the record, my name is Kent Rogert, R-o-g-e-r-t. I'm here today representing myself and ABATE of Nebraska on and in support of LB393. The helmet law has a long history in the Nebraska Legislature, and what we ask ourselves is this: Why do we keep revisiting this issue, and why are so many people passionate about it? The answer is fairly simple: because there are a large and substantial enough number of citizens in our great state who feel that they are directly and consequently imposed upon by universal helmet legislation. We each should ask ourselves what it is that makes our lives worth living, that even though it may not be advisable, even though it may be dangerous, it causes us to savor the chance to wake up in the morning. There are many things that are considered dangerous that cost society money, but make, to different people, life worth living. We eat red meat and

potato chips. We ride bicycles and snowboards. We ride horses and jump out of perfectly good airplanes. There is an enormous number of activities that any one of us might find a poor risk or ill-advised but for others they are the very essence of enjoyment of life. The proper role of government should be to protect people from other people and from unknown risks or risks they cannot control. When government steps in and starts telling individuals they cannot engage in an activity that does not cause harm to others because we know better, then we are skating on extremely thin ice; that in a free society the essence of respect for individuals, for their freedom, is to accept that they may make decisions you don't agree with, but you honor or even fight for their right to do so. So I ask you to review what it is that's important in your life, from eating a cheeseburger at lunch or having a diet Coke in the afternoon, and ask yourself whether or not the state should be at liberty to take that activity away from you because it is not dangerous...because it is dangerous to continue. I submit that it should not. The simple fact is that the cost of a free society is that some people will die. Some people will be injured. Some things will happen. But that is the cost of a free society. But what you end up with is a people who are independent, who are happy, and a people who understand and trust the government will not interfere with their basic pursuit of happiness. I want to emphasize to you that individual choice, awareness promotion, education, training, and even eye protection are far more effective and proactive than mandating that all riders wear a helmet when we know that helmets do absolutely nothing to prevent accidents on the road. Can helmets save lives? Yes. Do they save enough lives? No. One might think we are saving motorcyclists from themselves by forcing a helmet on them. But we're never going to save a motorcyclist from an oncoming truck, a car changing lanes, or somebody who simply did not see the cyclist. Helmets don't and will never prevent accidents, but education and awareness will. Thank you. [LB393]

SENATOR DUBAS: Good. Questions? Senator Hadley. [LB393]

SENATOR HADLEY: Senator Dubas, thank you. Senator Rogert, thank you. If I remember right, the last time we had this bill on the floor, we tried to reach a compromise where insurance was involved because one of the concerns of people was that there can be costs to citizens of the state by people taking this action. Is that a fair statement? [LB393]

KENT ROGERT: That is true. And we...there was...yeah, there was a compromise reached. I don't know if it was completely hammered out. We ran out of time in the session before we got back to it. But I think that that would be something we'd be willing to look at if we came up with the correct terminology in statute that the insurance companies would provide us to look at that issue. [LB393]

SENATOR HADLEY: Because that's what I remember is that it basically turned out the insurance companies didn't want to write \$5 million healthcare policies is basically what they told us, right? [LB393]

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KENT ROBERT: Well, I think that's kind of what they looked at, yeah. [LB393]

SENATOR HADLEY: Yeah. I think...you know, I certainly hear from people on both sides. And, to me, I understand...certainly understand the personal freedom side, but I do also understand a person who says, why should I pay part of my taxes going to Medicaid for someone who opted that their personal freedom not to wear a helmet now impacts me because I have to pay part of their hospitalization or long-term care costs? How do we answer that? [LB393]

KENT ROBERT: Well, I think there are things that we pay for through our tax dollars for Medicaid services all the time that we don't have a choice in, and we...but we do as a part of society. One of the arguments that can be made that the income that comes in by removing this law will many times over cover the costs of the increased accidents that may or may not happen. [LB393]

SENATOR HADLEY: Thank you, Senator Robert. [LB393]

KENT ROBERT: Thank you. [LB393]

SENATOR DUBAS: Senator Brasch. [LB393]

SENATOR BRASCH: Thank you, Madam Chairman. And thank you for testifying today. Back to Senator Avery's bill, because we do have, as I think a state and as constituents, to protect children. [LB393]

KENT ROBERT: Um-hum. [LB393]

SENATOR BRASCH: And we cannot prevent all accidents. I do agree with that. But when I heard...also heard that Senator Avery said that small children are wearing adults helmets that just aren't even protecting their head, and because this bill is for requiring anyone 21 and under is...to wear a helmet, that was the reason I had, after many town hall meetings, agreed that it's time to try something like this. [LB393]

KENT ROBERT: Sure. [LB393]

SENATOR BRASCH: However, learning that perhaps our children may not well be served at younger ages, what are your thoughts about an age-appropriate helmet for... [LB393]

KENT ROBERT: They have them. [LB393]

SENATOR BRASCH: Okay. [LB393]

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KENT ROBERT: And I would suggest that the folks who witness children with helmets that are too large for their head are witnessing children with parents that aren't equipping their children well enough. They have helmets made for...because you can get snowboarding helmets for little kids that fit them just well, and they fall right down on them (laugh), and so you know that they are there. So I would suggest that those are there and available, and I also suggest that there are probably...there's probably room in the child endangerment statutes for blatant disregard for the well-being of a child. [LB393]

SENATOR BRASCH: Or an age-appropriate helmet... [LB393]

KENT ROBERT: Yes. [LB393]

SENATOR BRASCH: ...should an officer see that this child is having an adult...that would be reason for... [LB393]

KENT ROBERT: Or hanging off a motorcycle, asleep, or something to that effect. Yeah. [LB393]

SENATOR BRASCH: Okay. Very good. I have no other questions. Thank you. [LB393]

SENATOR DUBAS: Thank you. Senator Price. [LB393]

SENATOR PRICE: Thank you, Chairperson Dubas. Senator Rogert, can you...to ask the question first. Can you hazard an estimation on the number of motorcycle accidents in a population of total motor vehicle accidents? What percentage of...in other words, what percentage of total accidents are motorcycle-related? [LB393]

KENT ROBERT: I can't answer that question, no. [LB393]

SENATOR PRICE: Well, I could...I didn't expect you to. Perhaps someone else will. But it was in a good... [LB393]

KENT ROBERT: Some of these guys behind me have a lot of numbers, and they may be able to help you. [LB393]

SENATOR PRICE: But it's a good lead-on question for the...for my growth in the subject area. I was a proponent...I was one of the leaders who said in previous iterations that there was an unfair burden placed on the taxpayer if someone did have an unfortunate accident, could no longer pay their bills, and ended up on Medicaid. Do you know what? That's what happens right now if you're in a car accident,... [LB393]

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KENT ROBERT: Right. [LB393]

SENATOR PRICE: ...you know, and I hadn't put that part to it. So I thought if I looked at the general population. You know, recently...I mean, I think the statistics this year is we're ahead on traffic fatalities this year than they were last year. Over 90 traffic fatalities because they're happening five and six at a time for entire cars, and the number of accidents seem to be getting worse. So if I have people plan...not seat belts in back seats because I don't have to wear a seat belt, and they are becoming projectiles, and we have them flying out of cars, and they're ending up on our Medicaid roll. So I think in...to keep things on the same playing field, that argument doesn't hold the same water in my mind that it used to, because we find other people for other reasons. Unfortunately, we had a skateboarder in Bellevue, a young man four years ago, passed away, because he fell down twice... [LB393]

KENT ROBERT: Yeah. [LB393]

SENATOR PRICE: ...not badly, but fell down twice in an hour. And so I think as I began to look at these and considered these aspects to the bill, I began to realize that the universe of people who are injured are greater than what happens on a motorcycle in the totality of accidents that happen. And that's why I asked that question. [LB393]

KENT ROBERT: I would concur with your thought process. [LB393]

SENATOR PRICE: If someone can provide a baseline, I'd appreciate it. [LB393]

KENT ROBERT: Sure. Um-hum. [LB393]

SENATOR PRICE: Thank you. [LB393]

SENATOR DUBAS: Other questions? Senator Janssen. [LB393]

SENATOR JANSSEN: More of a comment. Thank you, Chairman Dubas, Senator Rogert. To Senator Hadley's question, yes, there was an amendment put on the legislation four years ago, five years ago, something like that. [LB393]

KENT ROBERT: LB253. Yeah. [LB393]

SENATOR JANSSEN: It was Senator Coash that put forward that legislation with the same argument, Medicaid argument, that Senator Hadley brought up. And I was going to make Senator Price's point, but he made it beforehand. And keep in mind that you can also be in the front seat and not wearing your seat belt, breaking the law, and Medicaid dollars are still at risk. You can be intoxicated. You can be breaking all kinds of laws while this...so legally, you drive...operating a motor vehicle or motorcycle. So

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we're really picking winners and losers based on that argument. It's a pretty poor argument. There are many valid arguments that are going to come up in opposition to this bill and for this bill. I just think that's just a...that thing is not a valid argument, period. That's my opinion, though. So thanks for answering my question. (Laugh)
[LB393]

KENT ROBERT: Yeah. No problem. [LB393]

SENATOR DUBAS: Other questions? [LB393]

KENT ROBERT: Thank you. [LB393]

SENATOR DUBAS: Seeing none, thank you for coming today. [LB393]

KENT ROBERT: My pleasure. [LB393]

SENATOR DUBAS: Next proponent for LB393. [LB393]

ROBERT AILOR: (Exhibit 5) Good afternoon, Senators. My name is Robert Ailor, A-i-l-o-r, and I'm from York. I'm glad to be able to speak to you today regarding LB393 as a citizen of Nebraska and as a concerned motorcyclist. First, I would like to note that LB393 does not prohibit anyone from wearing a helmet. It merely gives adult riders the ability to choose when and where to wear one. When the current law was enacted in 1989, it came after an abnormally high year for motorcyclist fatalities and years of pressure of possible withholding of highway federal funds. During the debate on the bill, which became our current law, it was stated that motorcycle accidents and fatalities were a burden to the public by creating higher taxes and higher insurance rates. Since the current law went into effect, neither my taxes nor my insurance rates have decreased. Helmet laws don't seem to have a positive impact on the state's overall expenditures in healthcare. Looking at Nebraska and our surrounding states, two of the three states with the highest healthcare costs per capita are states that have mandatory helmet laws. If a law requiring riders to wear a helmet is a significant impact on healthcare costs, it would seem that those states would be at the bottom of those rankings. If the issue is truly one of reducing head injuries and saving lives, I feel we need to expand our scope. Motorcyclists suffering head injuries, coming into ER, represent less than 1 percent of all head injuries coming into ER according to the CDC. Ten times more people in cars end up in ERs with head trauma than motorcyclists. Overall, motorcyclists make up a minute number of those who suffer or succumb to head injuries. The fact is, nationally, more than half of the fatalities of motorcyclists are people wearing helmets. Just how effective are helmet laws? Statistics do not point to the fact that if there is a law to mandate wearing a helmet, that those states will have a lower fatality rate than those that don't. Year after year, there is a mix of mandatory and nonmandatory states that make up the safest places to ride in the nation. Nationally,

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motorcycle fatalities have had a strong relationship to motorcycle registrations. As registrations have gone up, the fatality rate had gone up. In 2008, that trend started to reverse; and in 2009, motorcycle fatalities nationally dropped by about 16 percent. The past couple years have seen this go up slightly, but the registrations are still rising faster than the rate of fatalities. This drop occurred despite more states repealing helmet laws than enacting them. There are currently six more states that have no mandatory helmet law for adults than there were in 1997. Forcing someone to put on a helmet and tell them to go out and play in traffic is not the best safety program, yet we are continually told that it is. We are more vulnerable when we ride. That is why it is so important for us to focus on accident prevention rather than safer crashing. We need to avoid being hit in the first place. How do we do this? By rider's education courses and raising awareness of motorcyclists by drivers of other vehicles. There have been two studies done, one in New Hampshire and one in Virginia, regarding those who have taken rider's education courses and fatalities; and they have found that people who have taken the rider's education courses make up a fractional percentage of those who have...of all fatalities in those states. The New Hampshire study showed 15 fatalities out of 44,000 riders who had taken the training since 1990. Those 15 fatalities represented .034 percent of all fatalities in New Hampshire during that time. Training riders to ride safer will save more lives than forcing us to wear a helmet. Rider's education courses need to become readily available just like driver's education programs. Education of the vehicle driver is also very important in motorcycle safety. There are more motorcycles on the road than ever before. PSAs on TV, radio, and on the Internet are being used effectively to raise awareness. Share the Road programs are aimed to educate and should become part of the driver's education program throughout the state. I am opposed to being mandated to wear a helmet because there's times when wearing one can be uncomfortable and fatiguing. Depending on the type of helmet you choose, you cannot hear traffic around you as well, and you may lose some peripheral vision. There is also a potential injury from the helmet itself. There are people who have suffered severe spinal cord injuries and even death because of the helmet. Our nation was founded on the principle of liberty and justice for all. Liberty is freedom: freedom to speak, freedom to assemble, freedom to make choices for yourself. Over 20 years ago, I lost the freedom to choose how to best protect myself when I ride a motorcycle. As an adult, insured, and taxpaying citizen, I would like to be able to choose how to best protect myself. I thank you for giving me the opportunity to address you and ask that you consider advancing this bill to the full Legislature. Thank you very much for hearing me. [LB393]

SENATOR DUBAS: Thank you, Mr. Ailor. Are there questions? Seeing none, thank you for your information. [LB393]

ROBERT AILOR: Thank you. [LB393]

SENATOR DUBAS: Could I get an indication of how many people are planing on testifying today in any capacity? Okay, very good. Thank you. Welcome. [LB393]

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SCOTT LUCEY: I'll try and be brief. [LB393]

SENATOR DUBAS: That's fine. You've got the five minutes. [LB393]

SCOTT LUCEY: (Exhibit 6) As brief as I can. Scott Lucey, L-u-c-e-y. I am from Omaha, Nebraska, and I first wanted to thank all of you for the service that you are as citizen legislators to the state of Nebraska. That's a very noble thing that you folks do every day and probably thankless at times. There are two very different sides to the economics of the mandatory helmet bill: the one that wishes to repeal it and the one that wishes to leave it intact. As you are aware, for over 20 years since the original law was enacted, the opponents of any repeal effort have been successful in making a case that the helmet bill repeal is a bad idea. One of the pillars of the opposition's argument has been the unintended societal burden placed on citizens due to increased injury and hospitalization, the fear of increases in Medicaid costs, as well as higher premiums inflicted on all citizens due to a few people's poor choices. That argument always leads me to the question as to why the state of Nebraska's per capita Medicaid average expenditures is significantly higher than that of the five contiguous states that are free choice states. In addition, 4 of those 31 states that are free choice states that border Nebraska are well below the national Medicaid expenditure average. My stance on the economic aspect is in Nebraska we lose millions of dollars in revenue each year to those five contiguous states that are free choice states, and when those rare tragedies do occur, Nebraska may still be on the hook. Just a few examples. The state of Iowa rally held in Algona for three days in July brings in over 8,000 people from all over the place, and a large contingency from Nebraska attend the rally as well. The town of Algona has estimated the economic benefit to their community of 5,500 residents at over \$3 million for the three-day event. This estimate does not include benefits felt in other communities en route to that well-attended event. Kansas holds a similar rally in Lake Perry, but with about half the number, but still estimating over a million dollars in revenue. Nebraska's rally, at best, to date, has netted over 300 attendees; so significantly less than our bordering states. This is in large part due to the people wanting to ride in free choice states, and we get absolutely no draw from neighboring states. So typically, when we have a rally in Nebraska, we get a handful of people from Nebraska going but nobody from the exterior communities. Motorcycle runs are hugely popular fund-raisers during the riding season. Anywhere in the state there are a minimum of at least two runs per weekend in any given region. Runs like the ones for Nebraska's spina bifida, benefiting children with crippling diseases, and Project Harmony, to help funding for neglected and abused children, can see their attendance numbers dramatically fall if the run is primarily held in Nebraska. The point of the run is obviously to raise money for charity. OAB, or Omaha bikers association, the group sponsoring the spina bifida run, on average will contribute over \$15,000 a year to the charity from run proceeds. An advertised "All Iowa" run that spina bifida puts on will ensure that the attendance near doubles than if it was held primarily in Nebraska. It's a

sad reality, but the unintended consequences is that businesses in Missouri Valley and Woodbine, Iowa, and the like, will see near 500 costumers those days traveling through on the run route, while businesses in Herman and Nehawka, Nebraska, will just see the regular and passerby people. Nebraska is also smack dab in the middle of many summertime destinations for motorcycle enthusiasts, such as the Rockies and Sturgis, to name a few. It's been estimated that Nebraska loses over \$4 million in revenue during the Sturgis bike week in South Dakota just in pass-through traffic, forfeiting millions in food, fuel, incidentals, and lodging revenue and taxes to bordering states. We actually polled 100 members of the Kirkwood, Missouri, HOG, which is the Harley Ownership Group, Kirkwood, Missouri. One hundred of them were planning on coming to Sturgis; 80 of them voted to bypass this state in order to...when they were planning their route. Nebraska's highways, like 30, 81, 73/75, 51, and 71, are ideal routes for motorcycles, but rarely are occupied by out-of-state motorcyclists. The big losers are the towns and businesses that depend on the traffic for funding and revenue along those highways. In summary, 31 states have sided with the mature citizenry, protected their rights, and not succumbed to legislating freedom. Consequently, especially those states that border ours, have seen economic benefit to their nonriding citizens as well. A filling station in Crescent, Iowa, for instance, just leveled and rebuilt twice its size. They staff 3-4 people on weekends to handle all the traffic and walk-ins from the hundreds of motorcyclists that travel through there each day. At much the same intersection in Nebraska, the owner is working Saturdays since he cannot afford to staff that shift and is contemplating closing early due to the low traffic volume. Thank you. [LB393]

SENATOR DUBAS: Thank you, Mr. Lucey, for your testimony. Questions? Senator Hadley. [LB393]

SENATOR HADLEY: Thank you. I appreciate it. And you asked a question about why is the state of Nebraska's per capita Medicaid average expenditures significantly higher and you posed that question. I think if you look, Medicaid is basically designed on...each state designs its own Medicaid program. Reimbursement rates are different in each state. What is covered is different in each state. So trying to compare Medicaid rates between states I don't think is really a very good comparison unless you get reimbursement rates, you get what is covered, what is not covered, and factor all of that in. [LB393]

SCOTT LUCEY: Could I make a comment on that? [LB393]

SENATOR HADLEY: Sure. [LB393]

SCOTT LUCEY: Or is that a question? [LB393]

SENATOR HADLEY: No, I just...yeah, I just... [LB393]

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SCOTT LUCEY: Okay. The...in doing that, and I'm very cognizant of the Medicaid rates, typically. One of the reasons Nebraska is significantly higher is because we've been out of compliance with CMS for so many years, which I'm sure you all are cognizant of. Then we're being forced now to be brought into compliance. Many of those expenditures are due to unnecessary expenditures in nursing homes and long-term care facilities paid directly to the provider as opposed to the facility directly to provide those services. So a large part of that is due to that. My point basically in that comment is that the states around us, five of them have actually below average national rates, where ours is significantly higher, although we're the only one that I compared to that has a helmet law and the other ones do not. So that was the thrust of my argument. [LB393]

SENATOR HADLEY: Okay. The second question I have is you talk about businesses in Missouri Valley and Woodbine, Iowa. [LB393]

SCOTT LUCEY: Yes. [LB393]

SENATOR HADLEY: If there was a significant trauma accident, where would they take the people from those two places? [LB393]

SCOTT LUCEY: Typically, if there was a trauma accident, more than likely it would be either University of Nebraska Medical Center or Creighton University, depending on which one had the trauma call that week. They alternate in that area. Once that person was stabilized, the individual would be transported back to their home area, which could be whatever state they actually reside in. Obviously, the citizen, you know, if they're from Des Moines, obviously they would probably go back to Mercy in Des Moines. If they were from Grand Island or Lincoln, they would be stabilized at St. Elizabeth or BryanLGH. [LB393]

SENATOR HADLEY: The reason I asked that, I thought that they might come to either UNMC or Creighton, because in the testimony we heard a couple of years ago...we heard testimony, and it was on the floor, that Creighton's trauma unit, 40 percent of the people treated in the trauma unit were either underinsured or not insured. So if this is correct, the accidents that are happening in Iowa where you're saying all the people are, but the costs are coming to Creighton or UNMC where 40 percent of the people do not have the insurance to cover the costs of their stay there. [LB393]

SCOTT LUCEY: Well, to answer that, actually it could be a little misleading to a degree, because the trauma center in Creighton is at the cusp of a very highly violent...an area full of violent crime, if you will. It's on the border of basically 30th and Cuming. They have the...their trauma dates typically are Friday, Saturday, and Monday, which are high incidences of violence, domestic violence, and other incidences that occur in north Omaha. So many of those trauma cases are gun shots and other things that are

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factored into that, which is where a lot of that low percentage of payment comes in. As an example, being a healthcare provider, I actually stock product within those trauma centers as well as those ERs. And we find, on average, just with crutches, for instance, that about 80 percent of the crutches that we send out we can't get reimbursed for because the people don't have any insurance. Those aren't people that are wrecking motorcycles in Missouri Valley. Those are people that live in that community that don't have insurance or aren't taking advantage of their Medicaid reimbursement. [LB393]

SENATOR DUBAS: Other questions? Senator Smith. [LB393]

SENATOR SMITH: Thank you, Senator Dubas. And thank you, Mr. Lucey, for your testimony. I'm looking at your map. [LB393]

SCOTT LUCEY: Yes. [LB393]

SENATOR SMITH: Can you tell me what is the law in South Dakota for a helmet law? It shows a partial law. [LB393]

SCOTT LUCEY: Partial law, I believe it's 18 and above if I'm not mistaken. I'm sure someone will correct me when they get up. [LB393]

SENATOR SMITH: Is it 18? [LB393]

SCOTT LUCEY: Yes, I believe it is. I could be wrong. [LB393]

SENATOR SMITH: Okay. And in Kansas? [LB393]

SCOTT LUCEY: I believe that's the same. The...to better qualify that, the gray states on that map have no laws. The blue states, if I'm not mistaken, are the ones that have some form of a law but nothing pertaining to 21 and over. [LB393]

SENATOR SMITH: And likely age-specific would be that partial law. [LB393]

SCOTT LUCEY: It may be an age-specific, it may be an education-specific "clausation" that has to go on there. There's some other anomaly that they have to do, or some other thing they have to do, in order to be able to be helmet-free. [LB393]

SENATOR SMITH: But by and large, those would, in the blue, would be...over a certain age with the proper education would be able to ride without a helmet. [LB393]

SCOTT LUCEY: That's correct, sir. [LB393]

SENATOR SMITH: Okay. Thank you. [LB393]

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SCOTT LUCEY: And you can see the...by the placement of Nebraska as it relates to the east-west corridors, and obviously north-south, that we're placed in a position to where people, they just don't want to ride through. [LB393]

SENATOR SMITH: So what is the common route around Nebraska to Sturgis? [LB393]

SCOTT LUCEY: I-29 and Missouri Valley. [LB393]

SENATOR SMITH: Okay. [LB393]

SCOTT LUCEY: Well, the I-29 that goes up just north of us. You know, and I mentioned in there that, you know, there's a lot of...73/75 would be an ideal corridor, you know, catching up with Highway 20 and Highway 2, going across the state, catching Highway 71 up to Chadron would be a beautiful ride and probably very welcome to a lot of the businesses along those routes that don't see a lot of traffic. [LB393]

SENATOR SMITH: All right. Thank you. [LB393]

SENATOR DUBAS: Further questions? Seeing none, thank you very much, Mr. Lucey. [LB393]

SCOTT LUCEY: Thank you. Appreciate your time. Thank you very much. [LB393]

SCOTT VON MINDEN: (Exhibits 7 and 8) Senator Dubas, members of the Transportation and Telecommunications Committee, my name is Scott Von Minden; that's spelled S-c-o-t-t V-o-n M-i-n-d-e-n. I started riding motorcycles as a child on the farm with my father who rode till age 75. Some of you may remember him, as he served in the Legislature in the 1980s. Today, I'm here representing myself and a local motorcycle riding club called the Roughriders. The Roughriders are a group of motorcycle enthusiasts who spend a great deal of time with each other riding our motorcycles. We come from all walks of life. Some are retired; some are younger. We are business owners, blue collar workers, white collar workers, and everyone in between. I personally am a financial consultant. Our mission statement is printed out for you on the handout. In addition to riding motorcycles, we also spend a significant amount of time doing charitable fund-raising and have donated over \$175,000 to local charities over the last ten years. We're recognized as a nonprofit corporation. The purpose of my testimony today is to show an example of the size of the economic loss experienced by Nebraska because of the helmet restriction on motorcyclists. Our group logs a tremendous amount of miles each year. And unfortunately, many of our excursions leave the borders of Nebraska because of the helmet law. I personally rode a little over 13,000 miles last year on my motorcycle. We typically spend our time and our money in the neighboring states of Iowa, Kansas, South Dakota, none of which

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have the helmet restriction we have and where we have the right to choose whether to wear a helmet or not. I just selected two annual rides and did a spending analysis of each. This is a very small sampling of our travels and the spending we do each year, and we're just one of a very small part of the 55,000 riders that are in Nebraska. Awesome Biker Nights is a fun and exciting annual event in Sioux City that the Roughriders have attended since it began in 2000. I distributed a detailed summary of our expenses to illustrate the impact one small club can have. On average, about 20 members and spouses attend this weekend event. The Roughriders will spend nearly \$28,000 those four days we're out of Nebraska. It should also be noted that this is just a drop in the bucket. The boost to the Sioux City economy is enormous. If you don't have a room booked by January 1 for that weekend, you're out of luck. Every room in downtown Sioux City has been filled since the first of the year. I don't know if that happens in Lincoln with the exception of game days, but I would like to imagine, you know, downtown Lincoln with every room filled, all those visitors paying state, local, sales, and lodging taxes. Awesome Biker Nights has also donated over \$800,000 to charities as a result of this event, over \$100,000 last year alone. Although the Lincoln Haymarket area would be perfect for an event like this, it's not likely to happen in Lincoln or in Omaha. We cannot draw any motorcyclists into Nebraska from the neighboring states because of the helmet law. Riders in Iowa, Kansas, South Dakota, Colorado, Wyoming, have no desire to come ride our roads here or spend their money here. A second event I focused on was an event we call our Fugly Shirt Ride. And yes, I pronounced it correctly, and it does get "fugly." This is a Roughrider-only contest to see who could wear the ugliest shirt while riding their motorcycle. It comes not only with bragging rights, but the winner gets some prizes and a trophy. Our Web site is on that handout. If you want to see what that looks like, I suggest you go there. There's lots of photos of us in those shirts. And it's a fun time; it's a bit comical. The destination on that changes each year. Recently, we visited Springfield, South Dakota; Topeka, Kansas; and Des Moines, Iowa, to name a few. We average about 16 guys on this overnight ride. We'll log approximately 500 miles, spend one night in a local motel, and spend over \$3,700 in the two days. We're only one small group, and I highlighted only two rides. We participate in dozens of rides each year, mostly for charity and including our annual trip to Sturgis. Again, we travel the most direct route we can to exit Nebraska so we can do more riding in a free state. The economic costs to Nebraska because Sturgis-bound riders are avoiding our boundaries must be enormous. The Roughriders and riders in general do not fault helmet use, and we encourage it for those who choose to wear them. About 20 percent of our members and spouses do choose to wear a helmet even when not required to. We do, however, request the freedom to make that choice ourselves. I wanted to point out a couple things on the spreadsheet that you may question. I know Sioux City, Iowa, is not 150 miles from here, but the way I travel it is. As a matter of fact, it took me 190 miles to get there last year, as we go to Iowa, and we spend a lot time riding the back roads of Iowa. Also the price of gasoline on there, we burn premium fuel, so our cost is a little higher because of that. Motel charges during that weekend in Sioux City are higher than normal, I would say probably 50-75 percent

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higher than normal. They see you coming and take advantage of that. And I think everything else is kind of self-explanatory. So with that I'll conclude my testimony. [LB393]

SENATOR DUBAS: Thank you, Mr. Von Minden. Questions? Senator Price. [LB393]

SENATOR PRICE: Thank you, Chairperson Dubas. Thank you, sir, for coming and being a numbers guy. It would be interesting if someone could set up a rough model that would calculate a percentage of traffic that's available to travel through Nebraska to these events so you can...you know, if you said 30 percent of the traffic going to Sturgis now has happened to go out of the way and would come through, you know, and then you could build a realistic model to get a cost analysis there because of what you said people avoiding the state, until we can figure out...I mean, I suspect people from South Dakota...North Dakota won't go to Nebraska to get to South Dakota. So, I mean, if we just followed good business rules, and like migratory fowl, you know, they just find the easiest way, you know. So that's...it would be interesting if you did that at one point in time and could kind of build a model, be a financial guy. [LB393]

SCOTT VON MINDEN: Yeah. I can't put any numbers on that, but I go to Sturgis every year. I speak to...you know, over the years I've spoken to hundreds of people from other states, and they, frankly, don't come through Nebraska. If they're from a free state...you think about a couple on a motorcycle coming from, say, Kansas or Missouri or south into Texas, Oklahoma, anywhere down there; when they're coming north, the thought of packing two big helmets on a motorcycle in addition to everything else they have, they would just as soon jot over to Colorado and head north and not bother with cutting through Nebraska. As the gentleman before said, I don't think there's a prettier ride around than across the Sandhills on Highway 2. Unfortunately, most people don't bother to go that way. [LB393]

SENATOR PRICE: All right. Thank you. [LB393]

SENATOR DUBAS: Other questions? Senator Hadley. [LB393]

SENATOR HADLEY: Senator Dubas, thank you. I appreciate it. And you may not be able to answer but maybe somebody else. What...the neighboring states that do not have a helmet law, are they different in the amount of fatal accidents per mile driven? Head injuries different than Nebraska? [LB393]

SCOTT VON MINDEN: I haven't seen recent numbers on that but several years ago when this came up I did look into that, and I know at that time, and I don't have the numbers current, and I don't have them with me, but I know years ago when I looked at them you could look at South Dakota, Iowa, and Nebraska, those three, and fatalities per 10,000 miles ridden or 100,000 or however they did it, was about the same. There

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wasn't a significant difference. [LB393]

SENATOR HADLEY: I was just curious if... [LB393]

SCOTT VON MINDEN: As a matter of fact, Nebraska was a little bit higher at that time than Iowa. [LB393]

SENATOR HADLEY: I was just curious if anybody had any current data, because the thought crossed by mind that if it's true that we change the helmet law, and we suddenly have many more people riding through Nebraska without helmets, and if it is more dangerous to ride without a helmet, then are we going to have potentially increased costs for people who are either underinsured or not insured that have access in Nebraska now? [LB393]

SCOTT VON MINDEN: Well, I don't know that I can answer that. I can just say that I think there's a misunderstanding among people who don't ride, and it's that riding a motorcycle without a helmet is dangerous. The fact is, riding a motorcycle is dangerous. Whether you have a helmet on or not, it's dangerous. Now the helmet, in some cases, is likely to help you. In many, many cases it doesn't do you a bit of good, but we wouldn't have all the fatalities we have in this state every year if it were because we're all wearing helmets. But the fact is, the inherent danger is just riding itself. And I think that's where we've got to focus on making other drivers more aware of motorcycles, motorcyclists' habits, how we ride, so that they can be better sharing the road with us, and motorcyclists need to do better training themselves on not only education but riding skills. And that would be better to try to prevent those accidents than trying to save somebody with a helmet. [LB393]

SENATOR DUBAS: Senator Brasch. [LB393]

SENATOR BRASCH: Thank you, Chairman Dubas. And thank you for testifying Mr. Von Minden. I'm very curious now. When you had mentioned that...and I thought I heard you say that people just don't...they aren't even helmet owners because of no helmet laws? [LB393]

SCOTT VON MINDEN: Yeah, a lot of them aren't. Yeah, if they live in those others states. Absolutely. [LB393]

SENATOR BRASCH: And many of the... [LB393]

SCOTT VON MINDEN: Helmets are very expensive, and they don't last very long. You need to replace them every four or five, six years, and then they're expensive, so. [LB393]

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SENATOR BRASCH: Many of the people that have come to my office to talk to me on behalf of this law and many riders I've talked with have said at high speeds they would continue wearing their helmets. But you're saying the opposite is true, that it doesn't matter what speed, that if this law gets passed then most people will buy their motorcycle and not even invest in a helmet. [LB393]

SCOTT VON MINDEN: No, I'm not saying that at all. I think you look at the non...the free states, states that don't have the helmet restriction. I think the percentage of people that ride with helmets is around 50 percent. We're not trying to tell people they shouldn't wear them. I by all means encourage it if that's what they choose to do. But as an adult, I'd like to...I'd just like to be able to make that choice myself. [LB393]

SENATOR BRASCH: All right. Thank you. [LB393]

SENATOR DUBAS: Further questions? Senator Smith. [LB393]

SENATOR SMITH: Thank you, Senator Dubas. I'm going to go back to the question that Senator Hadley asked. I think he legitimately is asking if an increased amount of traffic due to no helmet law would increase injuries. And let me expand on that a bit. Is there any evidence to indicate whether the majority of motorcycle accidents, just like vehicle accidents, are local or long distance in nature? I think that's kind of what his question was. If you don't have that information, maybe someone following you can answer that as well. [LB393]

SCOTT VON MINDEN: Yeah. I couldn't put any numbers on that. I could say this, though. People who would possibly travel through here on the way to Sturgis, if they were in an injury or in an accident, ended up in a long-term care facility, they're going back to their home state, and their home state is going to pick up that tab. Just like myself and my group that love to go to Iowa and ride all the time. If I'm injured in an accident over there and I end up at Madonna the rest of my life, the state of Nebraska is still going to be on the hook for that. So I don't know how that would affect...I don't think riders from out of state passing through here would add to our cost. And now...but I honestly can't answer that. [LB393]

SENATOR SMITH: And I don't have any evidence to this, but it seems to me that, oftentimes when you're on a road trip, you may be more mindful of driving safely and obeying the limits. You know, you're a bit more engaged than the routineness of local driving. But I guess that's what I was trying to get at. [LB393]

SCOTT VON MINDEN: I think that's true. Um-hum. [LB393]

SENATOR SMITH: All right. Thank you. [LB393]

SENATOR DUBAS: Additional questions? Seeing none, thank you for your testimony. [LB393]

SCOTT VON MINDEN: Thank you. [LB393]

SENATOR DUBAS: Next proponent. [LB393]

DALE RENNER: (Exhibit 9) Good afternoon, Senators. My name is Dale Renner, D-a-l-e R-e-n-n-e-r. I'm from Norfolk, Nebraska. The National Highway Traffic and Safety Administration estimates that you are 37 percent more likely to die without a helmet. That means for every 100 helmeted fatalities, 37 would have been alive today out of that 100 if they had a helmet on. Helmeted riders account for about 60 percent of the fatalities, and helmeted riders account for about...or helmeted people account for about 60 percent of the riders. I would think that the helmeted fatalities would be lower if you're 37 percent more likely to die with a helmet on or without a helmet. Iowa always comes up in this discussion, so let's take a look at Iowa. Iowa is a nonhelmet state and has about 50 fatalities a year. Nebraska is a helmet state and only has about 20 fatalities a year. Iowa has 1 fatality for every 20 accidents. Nebraska has 1 fatality for every 28 accidents. The 37 percent more likely to die equation appears to be accurate, but Iowa has double the population, double the--I'm talking about motor vehicles now and not...the total motor vehicles--double the registrations of motor vehicles, double the accidents, about double the fatalities, about the same vehicle miles traveled, and it has about the same terrain as eastern Nebraska and the same demographics. But Iowa has 3.25 times as many motorcycles as Nebraska--3.25 times, one of the highest per capita in the nation. Iowa has the second lowest helmet usage in the nation at 17 percent. Nebraska is 100 percent. On a per registration basis, Nebraska actually has 55 percent more accidents than Iowa. So it looks like the helmeted rider may be involved in more accidents than the nonhelmeted rider. Do you follow me? So if you're 37 percent more likely to die without a helmet, and it takes 100 accidents to cause 100 nonhelmeted fatalities, how many accidents does it take to cause 100 helmeted fatalities? Answer: 160. The same as Iowa versus Nebraska accidents. So I contacted the National Highway Traffic and Safety Administration and requested accidents--not fatalities--by state, so I could determine if the helmeted states do actually have more per capita accidents than the nonhelmet states. They don't have the information. That's in your handout, an e-mail, it's on page 2. I said: You must have the information because you have total accidents and total injuries. Estimated number; they told me it's an estimated number. It's on the e-mail. So I guess of the thousands of pages of statistics, no one has ever done any research to see if the helmeted rider is actually in more accidents than the nonhelmeted rider. Why not? I would think that would be crucial. What they did send me, however, and that's on handout page 2, and Senator Hadley was talking about it, was total fatalities per 100,000 registrations by state of '98 to 2008. You'll notice on page 3 of the handout that Iowa has one of the lowest deaths per 100,000 registrations in the national, at 26.35. You'll also notice that Nebraska is at 43.44--60

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percent higher. Also of interest was South Dakota, which is number 24...it's even less than Iowa in the fatalities, and they've got the Sturgis Rally. So I think the info they gave me and the average, the helmeted states against the nonhelmeted states per 100,000 registrations, and the helmeted states in 2008 averaged over 90 deaths per 100,000 registrations. Nonhelmeted states averaged under 60. Again a 60 percent difference. If you noticed, 1998, the figures are much closer, but the helmeted fatalities are still more. So we have 60 percent more accidents to cause the 37 percent more likely to die equation, 60 percent more Nebraska versus Iowa accidents, and 60 percent more Iowa versus Nebraska fatalities. Forty percent of all the accident victims end up in the hospital; 5 percent of the helmeted victims have traumatic brain injury compared to 8 percent of the nonhelmeted victims. It's only 3 percentage points difference. As a taxpayer and a motorcycle rider, I need somebody to answer one simple question: Is the helmeted rider in more accidents than the nonhelmeted rider? Thank you. [LB393]

SENATOR DUBAS: Thank you for your testimony, Mr. Renner. Questions? Seeing none, thank you for coming today. Next testifier, please. [LB393]

JAMES LORENCE: Good afternoon. [LB393]

SENATOR DUBAS: Good afternoon. [LB393]

JAMES LORENCE: James Lorence, J-a-m-e-s L-o-r-e-n-c-e. I'm from Elkhorn. Well, we were annexed--Omaha. I didn't bring any paperwork, any statistics. I would just like to convey experience. I've been selling health insurance for 30 years. I've been involved both on the marketing side, working with underwriters, and working with, oh, the guys in the ivory tower that set rates. And I visited with two senior vice presidents of the "Blues," Blue Cross/Blue Shield of Nebraska, primarily to find out whether there was any statistical information they used to set a rate for insurance based on helmet use. Nonexistent--it has never come up for a health insurance company to try to set a rate for whether you had your helmet on or you didn't have your helmet on. And, Senator Hadley, a lot of your attention is heading in that direction, and one of the things that Obamacare is going to mandate is that we all have health insurance. And part of that mandate is it's an unlimited lifetime benefit, so it's not limited to \$5 million; it's not limited to whether you're hurt in a car or whether you're hurt on a motorcycle or falling down your steps. And if that law is implemented, and we can go through an exchange...and that should be the end of that debate. We'll have insurance. And I think most responsible riders, I mean, everybody that I know that's riding in our club, which is ABATE of Nebraska, District 6, in Omaha, has health insurance. I've even sold some. That would be all of my testimony. [LB393]

SENATOR DUBAS: Thank you, Mr. Lorence. Are there questions? Seeing none, thank you for coming forward today. [LB393]

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JAMES LORENCE: You're welcome. [LB393]

SENATOR DUBAS: Next proponent. Further proponents for LB393? [LB393]

ROGER ITES: Good afternoon, Senators. My name is Roger Ites, I-t-e-s. I'm from Omaha, Nebraska, in Legislative District 5. Just wanted to share some information. This is...these are statistics that sometimes we forget about. Riding a motorcycle is a dangerous business. We can't debate that. August of 2009, Cornhusker Road and Oakwood Drive, motorcycle...the rider was killed when an SUV turned in front of him. I know that person, good friend of mine, Bob (phonetic) Baylor (phonetic) (sic), helmet didn't do him any good, died from critical internal injuries. More recently, May 23, 2012, it was all over the news: 44-year-old Jeffrey Ahl of Omaha had a vehicle turn in front of him, was hit by a woman that, as I understand, was legally blind. I'm still trying to figure that one out. But he was wearing a DOT-approved helmet. So when we sit here and we're talking about the helmet law, who are we trying to save, and do we believe that it's actually saving lives? And it's not. I'm a big guy. I'm 6'2", 260 pounds, right? There's a lot more to me than my head. And last year, I was taken down by a drunk driver with no license, no insurance, totaled my bike. I'm just glad to be here today with the permanent ligament damage that I have in my arm and some pain that I have in my knee. I think by far the most frustrating part is I'm at the hospital and I have a splint on my wrist and people are saying, did you have your helmet on? What's that got to do with it, doc? I'm here for my wrist and my knee. Enough with the helmet already. They don't fix all ails. Now I don't want to undercut the idea that severe head injury is a problem. It is. A good friend of mine fell off his motorcycle in his driveway. It took him close to a year to get rehabilitated from that head injury, but things happen. We saw it recently in the media. Hillary Clinton, jeez, she bumped her head, severe head trauma. Things like that happen. Now my friend who fell off his motorcycle, he was turning out of his driveway and fell off his bike and hit his head on the concrete. Now that very well could have happened...he could have tripped going down the steps out of his house, more likely than not. We've both done it. We fell out of his boat parked in the trailer in the driveway. Bad things happen. So by saying that, hey, let's take away a freedom of choice from the citizens of Nebraska. We can't fix all those problems. Bad things happen to good people. Thank you. [LB393]

SENATOR DUBAS: Thank you, Mr. Ites. Are there questions? Seeing none, thank you for coming forward today. Further proponents for LB393? [LB393]

GRANT AHLMAN: Good afternoon. My name is Grant Ahlman, G-r-a-n-t A-h-l-m-a-n. I am the assistant coordinator of ABATE District 4. We include 19 counties and 7 legislative districts--19, 23, 24, 25, 34, 40, and 41. I'm not going to give any real new testimony. What I want to get across to people is to do the math. I'm not a big fan of statistics. Statistics will give you any answer you want if you ask the right question. I was 15 when the law went into effect. I had been riding with my dad for ten years at that

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point. The three main guys that my father rode with--Bill (phonetic), Mike (phonetic), and Jim (phonetic)--when the law passed they all sold their motorcycles and quit riding, very disheartening to me as that's what I grew up with; it's what I love to do. And I saw my dad's interest wane to the point where, a couple years later, he had already quit riding by the time I was old enough to ride. I never got the chance to ride with my dad because he gave it up because his friends did. I've had a...I grew up in Norfolk, Nebraska, on Highway 81. And when I was a kid, the big thrill every year was me and my buddy would watch the traffic go by during Sturgis week. It like a parade to watch the motorcycles go by constantly. After the helmet law, that thrill went away because the traffic did. There wasn't half as many motorcycles that went by every year. My buddy that used to love it with me, he's lived in Kansas, which has no helmet law, and now lives in South Dakota, again no helmet law. But he won't get a motorcycle because he would do most of his riding here in Nebraska coming to Norfolk every other weekend or so, and he doesn't want to wear the helmet, so. Met a couple in Iowa at the Awesome Biker Nights, which was mentioned earlier. I met them again in Algona, Iowa, at the Freedom Rally, and saw them again in Sturgis. I asked them to come to a rally that we have in Norfolk called Midwest Bikefest, and they declined because of the helmet law. They told me that they even ride around Nebraska. When they go, they go up to 90, go up 29 to 90 and take 90 straight across South Dakota. They could cut off a huge chunk by coming across Nebraska. I have attended the Sturgis rally six of the last ten years. Over those years I've had dozens of people tell me they avoid Nebraska. My son, Cyrus, who is also an ABATE member, attended Western Iowa Tech to become a motorcycle mechanic. He had friends from Iowa that would not ride home with him on the weekend because they did not own a helmet and weren't going to purchase one for a weekend ride. I totally understand it. Last year at Midwest Bikefest, for a state with no helmet, it has a pretty good attendance. We had close to 300 people on the Poker Run and probably 600 to 800 people in attendance over all. But talking with people there, meeting people, almost none of them were from out of state. At the same venue a month later, we held the Nebraska ABATE State Rally. We had an abysmal turnout. We had less than 150 and, of those, I would say maybe a handful from out of state. Norfolk is only 60 miles from either border, South Dakota or Iowa. To have that low of attendance from out of state is crazy when we go and see the thousands in attendance at Iowa, Kansas, and hundreds of thousands of people in Sturgis. This is very important to Nebraska and its motorcyclists. You know, that's why we as a collective group give a day's pay to attend hearings, lobby days, other functions. It is very important to us. We don't want to give up it. There are...the number I had was close to 60,000 licensed motorcyclists in Nebraska. I ask you to see how many of those people...think about how many of those people have the same stories that I as one person do. Do that math, and Nebraska is missing out on a lot. I ask that you reinstate the freedom and help Nebraska's economy along the way. Thank you. [LB393]

SENATOR DUBAS: Thank you, Mr. Ahlman. Are there questions? Seeing none, thank you for coming forward today. Appreciate it. [LB393]

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GRANT AHLMAN: Thank you. [LB393]

SENATOR DUBAS: Next proponent for LB393. [LB393]

TODD MILLER: Good afternoon, committee,... [LB393]

SENATOR DUBAS: Welcome. [LB393]

TODD MILLER: ...Madam Chair. My name is Todd C. Miller, T-o-d-d M-i-l-l-e-r, from Lincoln. I'm glad to be here today speaking for this bill as a citizen of Nebraska and avid motorcyclist and chair of ABATE of Nebraska, American Bikers Aiming Towards Education. I'm going to summarize a lot of things that's already been said to speed things along. You have heard how uncomfortable a helmet is to wear, the reduction in vision, hearing, and fatigue that's associated with long miles of riding. You have heard how, economically, it's hurting our state--lost revenues, lost tax dollars. We have our own people riding out of state, spending their money, their weekends, and their vacations in other states. You have heard that more riders have died nationally while wearing a helmet than those not, about 59 percent, approximately. You have heard the effects of helmets on increasing neck injuries. It was done by...Dr. Goldstein did a study, and trading one catastrophic injury, a neck injury, perilous, for traumatic brain injury or something like that, it just doesn't make sense. You have heard the pleas of Nebraskans in favor of this bill thus far. You will hear that accidents have happened on motorcycles. You will hear from families, and you may hear from those that have had accidents. I, myself, have too. We feel for everyone for a tragic accident. ABATE of Nebraska has sponsored many things for all kinds of tragedies. It is dangerous to ride. It is dangerous to drive. It is dangerous to walk across the street. Statistically, according to the CDC, falling is our biggest fear, yet we still stand erect. We don't have guard rails on the sidewalks or tethers or make you wear helmets to walk. We all make choices. Choices affect us in our everyday lives, good and bad. All we're asking, as adults, is to be able to make those choices. We did not fly people in here to testify. We have spent our evenings, weekends, spare time, our vacations, as we mentioned before, coming here, pleading to you, working campaigns, working the political process. I ask you, with the money that is spent to promote helmet laws, for grants to do motorcycle-only checkpoints that really set up to see if you're wearing a legal helmet or not, to enforce the law, wouldn't that money be better spent somewhere else? The states around us that do not have a helmet law agree. They believe in that. They use their money to promote education, safety, and awareness, and it's working. Their numbers are less than ours. They have more motorcyclists and less accidents. Educating the public, the riders alike, grant money going to safety and education, or accident prevention, rather than enforcing a law that does nothing to prevent an accident, makes more sense. I am not paid to be here, neither are any of the people behind me supporting this bill. We are here to plea with you to change this law, get us back on track, and give us back our

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choices. I've been asked many times why this year--even in committee, as I've come before you guys before, some of you--why again, why this year, what makes it different? My answer is this: I remember what it's like to ride in Nebraska before a helmet law. I remember spending time on Highway 2, spending time on Highway 6, riding somewhere, anywhere, nowhere in particular, and enjoying the day, feeling the freedom, feeling the troubles of the day walk...fade away, mile by mile. I enjoy that part of riding. Some may say that you can do that with our without a helmet on. I challenge you to do whatever it is that you like to do--fishing, skiing, whatever--try it with a helmet on and tell me that it makes the same difference. It may not make a difference to you, but to me it makes all the difference in the world. It does to those behind me. So with that, I would like to close and say that I would really appreciate moving this bill forward to the full legislative body and let them decide. Thank you. [LB393]

SENATOR DUBAS: Thank you, Mr. Miller. Are there questions? Seeing none, thank you for coming today. Further proponents for LB393? [LB393]

BRAD CHRISTIAN: I hadn't planned to testify, but I just wanted to add a little bit to what Mr. Lorence... [LB393]

SENATOR DUBAS: Excuse me, sir, can I have you state and spell your name, please? [LB393]

BRAD CHRISTIAN: Brad Christian, B-r-a-d, Christian, like a church, C-h-r-i-s-t-i-a-n. I'm a past president of the Lincoln Association of Health Underwriters, past president of the Blue Valley Life Underwriters. I'm currently an officer of the District 2 ABATE that represents Saunders, Lancaster, and Gage County. I've ridden a motorcycle about six or seven years. I've sold insurance about 30. The playing field has changed, and the only reason I'm here to testify--I wasn't going to...the comments earlier about the attempt on this law a couple of years ago regarding insurance, I just...the Patient Protection and Affordable Care Act eliminates the need for an insurance issue being an issue. The unfair burden is already in place. I will tell you that most people in the health insurance business oppose that law. But it is law, and that's the way it is. I don't testify in support of Patient Protection and Affordable Care Act. I'm here to say that, because it is law, the insurance issue doesn't need to be an issue. The eventual expansion of Medicaid in all states...I know that currently there's about 25 states have taken the Obamacare Medicaid issue and expanded it. Nebraska currently is not running that direction. I know that...I think Senator Campbell has introduced something to go that direction. It'll be debated. Nonetheless, eventually Medicaid will be expanded. Aside from that, the PPACA requires everyone to have health insurance or pay a tax as a penalty. After January 1, 2014, preexisting conditions will not be an issue on health insurance. Currently, the tax penalty for not buying health insurance is less than premiums. There will be people that will choose to not buy health insurance. This has nothing to do with motorcycles except to say the fact that that law is an issue, and it is

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an issue here. They'll pay the tax. The day they get hurt, the day they get sick, they'll go down to some insurance agent. There might be some insurance agent set up office in an emergency room. I don't know. They'll buy insurance because that's the way the law is written. They don't have to have it before. You'll be able to, in a sense, buy car insurance after you wreck the car; you'll be able to buy house insurance after you burn the house, as it relates to health insurance. So I just wanted to reiterate what Mr. Lorence said earlier, that the PPACA eliminates any need for health insurance issues in discussion. Already, all insurance--major medical and group--have an unlimited...there is no cap. So the \$5 million issue, that's out the window. They're at \$1 million, \$2 million. It doesn't matter. It's unlimited. That is the law. That's all I wanted to say is that if that comes up in discussion you don't need to discuss it very long. [LB393]

SENATOR DUBAS: Thank you, Mr. Christian. Are there questions? Senator Hadley. [LB393]

SENATOR HADLEY: Senator Dubas, thank you. And thank you for coming. Quick question. We've heard a lot of argument today on individual rights, and I understand that argument very much. Wouldn't that...wouldn't those people use the same right on the Affordable Care Act if the insurance...that what is the federal government telling me, to buy insurance, and I'm not going to buy insurance? [LB393]

BRAD CHRISTIAN: I'm going to...yes, I agree. And I said, every committee I served on through the health underwriters and the life underwriters--I'm also a member of the Big I--we opposed that law as hard as we could for that same issue. But we failed, and it is the law. So because that law is in place, the idea of trying to strap an amendment onto this law saying, you have to have insurance, it's a...it don't exist. That issue is gone. I ride about 10,000 miles a year on a motorcycle. Last year...I live in Clatonia, Nebraska. I'm a constituent of District 30, Senator Wallman. And Russ Karpisek is a personal friend, and that's neither here nor there, just...I have some connections. But when I left to go to Sturgis last year, I drove from Clatonia, which is a suburb of Wilber, for those of you that don't know. (Laughter) And I drove to Omaha, to 29 and up, and took 90 across because it was shorter. (Laughter) And I'm 30 minutes from the Kansas border, and a lot of times I go see my sister in Colorado, I take 36 across, just...I choose. Now last year, when I left Sturgis I went to Montana and Wyoming, and I wore a helmet the whole time. And those states didn't require it. Choice is the issue. We don't have a choice on healthcare. They put it on us. [LB393]

SENATOR HADLEY: Well, but as an individual we could have a choice because we could say we're just not going to do it, buy it. [LB393]

BRAD CHRISTIAN: And then you'll pay the tax. [LB393]

SENATOR HADLEY: Well, if they catch us. [LB393]

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BRAD CHRISTIAN: And some are going to do that. [LB393]

SENATOR HADLEY: If they're going to catch us or...okay. [LB393]

SENATOR DUBAS: (Exhibit 10) Further questions? Seeing none, thank you, Mr. Christian, for coming today. Further proponents for LB393? Come forward if you're ready to testify in support. I do have a letter of support for LB393 from Charles Pospisil. If there is no further testimony in support, we will move to opponent testimony, our first opponent. [LB393]

DUANE SCHROEDER: (Exhibit 11) Hi, I'm Duane Schroeder. Schroeder is S-c-h-r-o-e-d-e-r. I'm a resident at 321 West Fourth Street, Wayne, Nebraska. I appear in opposition to LB393. I've been riding a motorcycle for the last more than 50 years. I've been using a helmet for over 45 years. In the last seven years, I have ridden nearly 100,000 miles. I've had my bike on the Mexican border, the Gulf of Mexico, the Canadian border. I've been over the Rockies any number of times. I've been in all the Rocky Mountain states and most of the states west of the Mississippi. A lot of those miles my wife was with me, and every one of those miles both of us wore a helmet. Helmets work. They reduce injuries. They save lives. They don't work all the time because there are some injuries that are unsurvivable, but they increase your odds. I'm personally aware of five individuals who survived motorcycle accidents because of the use of helmets. I'll relate two of them, one of...one is myself. A friend of mind, many years ago when he was 19, he was on a ride. He wanted to go without a helmet. His companion refused to ride unless he wore a helmet. There was an accident. My friend slid across the road. He hit his head on a steel stake, split the helmet. He walked away. Nine years ago this August, a young, inexperienced driver turned left into my lane of traffic--I was going about 55-60 miles an hour--t-boned his pickup truck. I flew over his pickup. I landed about 35 feet in front of the pickup. My helmet had deep gouges in it. I had...it took four surgeries to put me back together, but I never lost consciousness. I had permanent but not life sustaining...not life-threatening injuries. I was totally without fault. But had I not been wearing a helmet, I would have been dead wrong...or dead right. In my discussion, I'll refer to some statistics. I won't give you the citation for those statistics. They're in the materials I've given to you. Briefly, I'll address the issue that helmets can, allegedly, occasionally cause increased injuries due to the increased weight on the head. That's been proven wrong in many studies. Most recently, a study out of Johns Hopkins University, 2011, in February, they showed that there was a 22 percent decline in cervical or neck injuries due to...or with helmets. They decrease neck injuries not increase them. I'll give you some statistics. According to the National Highway Transportation Safety Agency, helmet usage increases the likelihood of...decreases the likelihood of a crash fatality by 37 percent. The statistics show that, when helmet use is mandatory, usage is 100 percent; optional, 50 percent. California introduced the helmet use law in '92. Hospitalization for motorcyclists for head injuries

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decreased by 48 percent in '93 compared to '91, and total medical costs decreased \$20.5 million. Nebraska conducted an experiment, in effect. We had an earlier helmet law that was repealed in 1977. We subsequently reinstated our helmet law January 1, 1989. There followed a 22 percent reduction in serious head injuries followed...following that, and medical charges for injured motorcyclists declined 38 percent. Those are real numbers. Florida changed its universal helmet law to require helmets only for riders younger than 21 years. Head injuries went up 82 percent in the following 30 months following the weakening of the law. In '77, Texas amended its universal helmet law to make helmets mandatory only for those under 18. Thirty-five percent decrease in motorcycle fatalities followed. Nonhelmet riders have higher health costs. I think it's...and I'm aware that the Obamacare, the Affordable Care Act, the medical issue may go away, but we still have the issue of long-term care. I think it's inconsistent for us to argue about freedom to choose if we're not ready to pay all of our own costs. As a taxpayer, I object to paying for someone else's freedom to choose to ride without a helmet, and then when the accident happens I have to help pay for his care. I submit that if we're going to pass this statute, amend this statute to eliminate helmets, we should, as a precondition, require people to provide proof of long-term care insurance. What this argument is about is whether we, the people of the United States...of the state of Nebraska can continue a commonsense safety measure that reduces injuries and prevents deaths. I submit we do. [LB393]

SENATOR DUBAS: Thank you, Mr. Schroeder. Are there questions? Senator Price. [LB393]

SENATOR PRICE: Thank you, Chairperson Dubas. Mr. Schroeder, thank you for your testimony and providing some data points. Would you submit that if it's the risky...inherent risk of the behavior that's unfair burden for a taxpayer that you find objectionable, would it be prudent to levy that same concept on other risky behaviors like skydiving, parachuting, mixed martial arts? And I only say this, not to be flippant, but I've had constituents who have inherited children because of someone who augered in the ground when the chute didn't open up. And thinking that my wife used to jump from planes, there's a lot of inherent risk. I'm glad she doesn't anymore, but...and mixed martial arts and other things, they're a lot of risk, and they end up on our payroll. [LB393]

DUANE SCHROEDER: Yeah, I understand that. And a friend of mine said that only two things fall out of the sky. [LB393]

SENATOR PRICE: Right. [LB393]

DUANE SCHROEDER: And that's fools and bird poop. But I'd say no. But what I would say is that what we want people to do is, within the parameters of what it takes to engage in that activity, use the safety measures that are available. And so if you're

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diving without...if you're skydiving without a backup chute, that's probably foolish. If you're riding a motorcycle without a helmet, that's foolish. [LB393]

SENATOR PRICE: Okay, thank you. [LB393]

SENATOR DUBAS: Further... [LB393]

DUANE SCHROEDER: And then you had a question earlier to one of the...about the relative crash...relative injury rates. If you'll look on my materials, on...it's number one. And it indicates quite a...National Highway Traffic Safety Administration. Motorcyclists have about 30 times the number of deaths as cars per miles traveled, so it's a risky business. [LB393]

SENATOR DUBAS: Further questions for Mr. Schroeder? Seeing none, thank you for coming today. [LB393]

DUANE SCHROEDER: Well, thank you. [LB393]

SENATOR DUBAS: Thank you for the information you presented. Next opponent. [LB393]

DAVID HALEN: Hi. David Halen, first name D-a-v-i-d, last name H-a-l-e-n. I work primarily as a mechanical engineer in Omaha, but one of my part-time passions is teaching people how to ride motorcycles. I've been an MSF instructor, Motorcycle Safety Foundation instructor, for 21 years. I'm one of, actually, Iowa and Nebraska's chief instructors. I actually train the other instructors. In this part-time job, I see people crash five to ten times a year at speeds varying from 0 to 20 miles an hour. And it's kind of scary watching a human being fall from standing or a sitting height to the ground and hit their head. We do require helmets during all these classes, so, fortunately, we don't have fatalities or traumatic brain injuries. Not to say they haven't happened, they just haven't happened in Iowa and Nebraska. It's really the vertical fall that does the most damage, to human brains anyway. My issue with changing the state law...we're legal vehicle owners and operators, just like cars and trucks and buses. We have to obey the rules of the road. I view wearing a helmet when riding a vehicle such as we prefer to travel on...and I can match my mileage against most of the other people who have testified here. Most of my mileage is actually commuting, and I put about 10,000 miles a year commuting back and forth, which is probably more dangerous than those long trips we all like to take. So typically, my annual mileage is about 20,000 miles a year. I see some pretty bad things. I wear a helmet all the time. If this law changes, I'll continue to wear a helmet. My concern is when the law changes, helmet usage will decline. And, as has happened inevitably in other states that have already been mentioned, fatalities and injuries, and traumatic brain injuries in particular, increase. So this is a public safety issue to me. I take it pretty personally. There are some people in the back of the room

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who are proponents of the law that have been students of mine. I recognize them. So it's a public safety issue. It's not a rights issue, at least not to me, and that, basically, we should be able to operate these vehicles when we choose, but we should also have to follow whatever the rules and laws are. If you have any questions about the education side of things, I'd be glad to help you. I do have an answer for you, Senator Price. I think this is what you asked. On Friday I hosted a meeting with Ray Oakes. He's the doctor of education who writes the curriculum for the Motorcycle Safety Foundation. He said motorcyclists account for 3 percent of the crashes in the United States and 13 percent of the fatalities. I'm not sure whether that was what you were asking, but that's the number I heard from him. [LB393]

SENATOR PRICE: I just have another question. [LB393]

SENATOR DUBAS: Sure. [LB393]

SENATOR PRICE: Thank you, Chairperson Dubas. Thank you, Mr. Halen, for coming. I'm glad you found the materials too. For the record, just so we have it, what and how are those helmets rated for, as far as the mileage per hour? It's my understanding that it's like a 17- to 20-mile-per-hour accident. So if I were sitting, standing still on my bike and I fell over and I smacked my dome, that's about...you're traveling about 17 miles an hour, 15 to 17 miles an hour at that point in time. [LB393]

DAVID HALEN: That's as good a guess as any. There's a DOT standard... [LB393]

SENATOR PRICE: Right. [LB393]

DAVID HALEN: ...that our state requires helmets meet. There's also a Snell standard that's actually recently been modified to be much closer than the DOT standard. When I race on a track, I wear a Snell helmet because it's required. On the street, I wear a DOT helmet. It actually has a lower-density polystyrene in it that is easier on our brains and our skulls. [LB393]

SENATOR PRICE: But I was getting to the point of there is a rating for the helmet. It's not 60 miles an hour. [LB393]

DAVID HALEN: It is not. [LB393]

SENATOR PRICE: It's not 30. It's less than 20 miles an hour because that's that standing still accident, like you said, that vertical fall, as opposed to... [LB393]

DAVID HALEN: One of the other gentlemen had a friend who was turning out of his driveway. He probably wasn't going very fast at all, and he fell and hit his head. [LB393]

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SENATOR PRICE: Okay, great. Thank you very much. [LB393]

DAVID HALEN: You're welcome. [LB393]

SENATOR DUBAS: Further questions? Thank you so much for coming today. I appreciate your testimony. [LB393]

DAVID HALEN: You're welcome. [LB393]

JOSEPH STOTHERT: (Exhibit 12) My name is Joseph Stothert. That's Joseph Stothert, S-t-o-t-h-e-r-t. I'm a professor of surgery at the University of Nebraska Medical Center, and I represent the group of trauma surgeons who work at the University of Nebraska Medical Center who are listed at the end of this testimony which was sent to you earlier. I am also medical director for trauma for the state of Nebraska. I have come today to testify for our group of trauma surgeons in opposition to LB393. We are testifying as individual citizens, and our thoughts are in no way a reflection of what the University of Nebraska or the Nebraska Department of Health and Human Services advocate. I personally have testified against changes to this helmet law for many years. We feel that data speaks larger than words and, therefore, I'll cut to the chase and give you what our five years' worth of data at the University of Nebraska Medical Center is concerning the treatment of individuals who were riding motorcycles and had helmets on versus those that did not have helmets on. Remember, this is a selected group of individuals because we're the highest-level trauma center in the region. I wish to place that data in the record which you already have had sent to you. For the purposes of the rest here, these data from 2008 through 2012 encompass the majority of motorcyclists that we have cared for through this five-year period. We are presenting data when helmet or no helmet use was specifically documented. This data does not include patients who were not brought to the hospital due to death at the scene. Each of the senators has a copy of this data. For the purpose of the audience, this data includes 297 motorcyclists who were injured primarily on Nebraska and Iowa highways. As many are aware, Iowa has no helmet law, therefore, the large number of these patients without helmets come from that state. This affords us a tremendous ability to compare groups. The most striking impression in this data is the tremendous increase in mortality between helmeted and nonhelmeted patients. This five-year data, on the average, shows a 6 percent mortality for helmeted individuals versus a 20 percent mortality for patients without helmets. This is greater than a threefold increase in death associated with not wearing the basic protective gear. It is of marked interest that LB393 attempts to remove the helmet from the motorcyclist, as well as protective...as a major piece of protective equipment for patients above the age of 20. This is not enforceable unless all motorcyclists are stopped and inspected for age. Some of us will probably be able to be judged being over 20. However, the vast majority of the senators you couldn't tell, so they would have to be stopped. (Laughter) This is not enforceable unless we stop everyone. Traveling at highway speeds without eyewear protection is ludicrous and results in patients losing

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their eyesight and crashing. Similarly, due to the nature of motorcycle riding, crashes are always a possibility. And if you think about it, what the bill actually says is that you should wear eyewear, that's mandated, but you don't have to wear a helmet, that's not mandated. So apparently the eyes are more important than the brain. Remember, as noted in the data with the exception of one year, traumatic brain injuries were more prevalent in nonhelmeted motorists. We the people who actually take care of the majority of severe motorcycle accidents feel that it is important to continue enforcing the helmet law in the state of Nebraska in order to provide the motorcyclists with a fighting chance in the prevention of brain injury and death. The state should enforce basic protection for its citizens, including eye, as we have already indicated that that is in the bill, and head protection, which is similar to seat belts, stop signs, stop lights, and other traffic laws. We feel this makes good sense to continue protecting the citizens of Nebraska. Aside from these medical implications of removing head protection from motorcyclists above the age of 20, the senators of the Transportation and Telecommunications Committee should also be aware of some of the social implications of advancing this bill. Our children watch what we do as adults. Promoting dangerous behavior as a rite of passage encourages our young not to wear eye protection and not to use helmets to prove that they are adults. This will result in a threefold incidence of death and disability in young people. We urge the Transportation and Telecommunications Committee to not allow this bill out of committee. Thank you for allowing me the time to testify in front of you. [LB393]

SENATOR DUBAS: Thank you, Dr. Stothert. If you would like to read the names of the fellow doctors on your testimony, we'll get that in the record. [LB393]

JOSEPH STOTHERT: Certainly. These include: Dr. Paul Schenarts, professor of surgery and director of trauma/critical care at the University of Nebraska; Michel Wagner, assistant professor of surgery; Randy (phonetic) Jawa, assistant professor of surgery; Matthew Goede, assistant professor of surgery; Oveys Mansuri, assistant professor of surgery; Lawrence Nelson; assistant professor of surgery; and David Young, associate professor of surgery. All are members of the trauma/critical care team at the University of Nebraska Medical Center. [LB393]

SENATOR DUBAS: Thank you, Dr. Stothert. Are there questions? [LB393]

JOSEPH STOTHERT: Yes. [LB393]

SENATOR DUBAS: Senator Price. [LB393]

SENATOR PRICE: Thank you, Chairperson Dubas. Thank you, Dr. Stothert, for coming forward. [LB393]

JOSEPH STOTHERT: Thank you. [LB393]

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SENATOR PRICE: I asked a question, and with an honest genesis, and that is, when a patient comes to your trauma center, you're not afforded any information act to characterize the nature of the accident. You have a patient, and you deal with that patient, correct? [LB393]

JOSEPH STOTHERT: No. We know pretty much what occurs at the scene of these accidents because the paramedics deliver the patient to us in our presence and describe to us what happened, what protective gear they were wearing, and the nature of the accident. [LB393]

SENATOR PRICE: So you would know the speeds at which all of them were traveling, the...that they...I'm asking about your statistical analysis. It didn't seem to show that the characterization of these were vehicle...because there were more and more...because of the I-29 traffic, because of the speeds they were traveling, that they hit other vehicles. There are a lot of other mitigating aspects that contribute to the medical condition of the injured individual that may not be covered in that statistic because it's done at a very high level. [LB393]

JOSEPH STOTHERT: Most certainly, but we get as much information about the scene of the accident as we can and sometimes even the records from the police later on. [LB393]

SENATOR PRICE: Okay, thank you. [LB393]

JOSEPH STOTHERT: And we have a large database--it's called a trauma registry--that we maintain information on everybody that we care for. [LB393]

SENATOR PRICE: Thank you. [LB393]

SENATOR DUBAS: Senator Hadley. [LB393]

SENATOR HADLEY: Senator Dubas, thank you. Dr. Stothert, thank you for coming. We've heard testimony that a lot of riders skip Nebraska now on their way to South Dakota because of the helmet laws. Is it a fair statement to say if we do away with the helmet law that we would find more...would you believe that we would find more statistics like you show with no helmet, if we increase the number of people driving through Nebraska without a helmet? [LB393]

JOSEPH STOTHERT: Like every state that has had a helmet law, removed it, and some have even reinstated after it...the mortality rate doubles. [LB393]

SENATOR HADLEY: Okay. [LB393]

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JOSEPH STOTHERT: Now the cost is always a little questionable because it's a lot cheaper to care for dead people than it is to care for live people. So if you look at the statistics, actually surviving some of these accidents are a lot more expensive than being killed in these accidents. So it depends what sort of information you want. As one of the other individuals said, statistics can tell you and prove just about anything. [LB393]

SENATOR HADLEY: And I, you know, I think that's a really great point because I think, from the debates we heard a couple years ago and two years before that, I do believe sometimes senators feel that if someone doesn't want to wear a helmet, kill themselves, that's your choice. I mean, you have that choice. Where our concern is, is where you don't kill yourself,... [LB393]

JOSEPH STOTHERT: Yeah. Yeah, well... [LB393]

SENATOR HADLEY: ...become a, you know, you literally can become a burden to society the rest of your life. [LB393]

JOSEPH STOTHERT: You can. And, as a matter of fact, when they talk about, you know, this is millions of dollars' worth of expense or income to the state if you travel through the state and stay at a hotel and get ten gallons of gas, that's probably a few million dollars. I can spend that on one patient, and have, to keep them alive and, sometimes, to send them to nursing homes. [LB393]

SENATOR HADLEY: Thank you. [LB393]

SENATOR DUBAS: Further questions? Seeing none, thank you, Dr. Stothert, for coming. [LB393]

JOSEPH STOTHERT: Thank you. [LB393]

SENATOR DUBAS: Next opponent. Welcome. [LB393]

PATRICK LANGE: (Exhibit 13) Welcome. Senator Dubas and members of the Transportation Committee, my name is Patrick Lange. For the record, it's P-a-t-r-i-c-k L-a-n-g-e. I am asking you not to vote in favor of LB393, repeal the helmet law. At one time, I was actually an advocate for the helmet law being abolished. The choice not to wear a helmet takes its toll on many people, especially in the case of the unforeseen. It affects the lives of a lot more people than just the rider. It affects friends and family especially. I'm not appearing to you today as a political party or a member of anybody. I'm just...I'm a dad. I'm a father. I'm a new husband. I was a widow because of a motorcycle accident. In May of 2010, my wife, Whitney, and I took our motorcycle on

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our honeymoon, and we rode up to South Dakota, where there is no motorcycle helmet law. We got married on May 8. We were hauling our way home on May 13, and an unforeseen incident caused the rear tire of our motorcycle to blow out going down the interstate. She was thrown off, landed on her head, and was killed. I totaled the bike--or the bike totaled me, however you'd like to look at it--put a big dent in the side of my head, broke multiple...several bones, spent 50 days in a coma, and just under \$1.7 million worth of doctor bills later. And I have to live with the thought every day, if I would have made the choice to put a helmet on that day, if there would have been something there to tell me, besides just good sense, that I should put a helmet on that day, would I have had to go through all that? Not only did my children have to watch their dad teeter on the edge of life and death, wondering if he was going to make it to the next day, because the doctors didn't know, it was just...they had no idea what I was going to do. They had to go to their stepmother's funeral that loved them like their own mother. They had to go to her funeral and wonder every day: is my dad going to make it? is my dad going to pull through? is he going to be there for me? is he going to teach me how to drive a car? how to ride a motorcycle? It's not the things that can be foreseen why we need to wear helmets. You know, as people we're automatically rebellious. We don't want to do things to make it safer or make us better. Sometimes we need those laws. You know, if we didn't have laws on the interstate telling us how fast we could go, we'd be doing 120, as fast as our car could go. But we have laws to tell us how fast we can go; we have laws to tell us we need to wear a seat belt in a car. And a car is a lot more safer than a motorcycle is, if you can have four wheels versus two, but we're supposed to wear a seat belt in that. And as a father, I want my kids to wear a helmet. I can't force them to, but it's our government's job as lawmakers to help us, give us a reason to make ourselves safer. I don't want to watch one of my kids go through what my mom had to watch me go through. You know, not just did it cost me \$1.7 million in medical, I had to learn to do everything again. I had to learn to walk; I had to learn to feed myself; I learned to write my name, all because I made a simple choice...possibly because I made a simple choice. There's no way to know, if I would have had my helmet on, what would have happened. But I do know for sure the world is less one good person because we didn't have our helmets on. And I'm lucky to be sitting here, very blessed to be sitting here. I ask you not to just think of the taxpayers' money that we could get if we don't...if we get rid of this bill. But how many little kids could go without a mom or a dad? How many husbands or wives could go without a spouse if we do get rid of this bill and something happens that we can't see is going to happen? That's all. Thank you. [LB393]

SENATOR DUBAS: Thank you, Mr. Lange. Are there questions? Senator Hadley. [LB393]

SENATOR HADLEY: Senator Dubas. Mr. Lange, I have...thank you for coming. I remember the last time you were here. [LB393]

PATRICK LANGE: Senator. [LB393]

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SENATOR HADLEY: I think you've made remarkable improvement since that time of a couple years ago. [LB393]

PATRICK LANGE: Thank you, sir. [LB393]

SENATOR HADLEY: I just have one quick question. You mention your medical bills of \$1.6 million. Did the state of Nebraska pick up any of those? [LB393]

PATRICK LANGE: They picked up a little bit towards the end. I still had insurance through my previous job. I worked for the Tenneco Automotive in Cozad. And due to the closure of the plant, they had some...part of my severance package was my medical being carried over into a different medical company for me. I don't think much of it...much of that, if any at all, really came out of Medicaid or Social Security or anything like that. [LB393]

SENATOR HADLEY: Your insurance covered it, okay. [LB393]

PATRICK LANGE: And I'm not sure if I have a cap or not. [LB393]

SENATOR HADLEY: Okay, thank you. I wish you the best. Thank you. [LB393]

PATRICK LANGE: Thank you, sir. [LB393]

SENATOR DUBAS: Other questions? Seeing none, thank you for coming forward today, Mr. Lange. [LB393]

PATRICK LANGE: Thank you, Senators. [LB393]

SENATOR DUBAS: Next opponent. [LB393]

ROSE WHITE: Thank you. [LB393]

SENATOR DUBAS: Welcome. [LB393]

ROSE WHITE: (Exhibit 14) Thank you, members of the Transportation and Telecommunications Committee. My name is Rose White, R-o-s-e W-h-i-t-e. And first of all, I just want to publicly thank Mr. Lange for being in here today and sharing his testimony. That's the reason why we're here. And I greatly appreciate the opportunity to be here today to represent AAA Nebraska. AAA is a firm supporter of effective legislation, which includes primary safety belt laws and all rider helmet laws. The information I'm providing you today in the yellow-covered packets covers many important issues. I hope you'll take the time to study the data carefully. If you have any

questions after reviewing the material, I would welcome the opportunity to respond. A few of the pages in the front of the book you may be interested in, Senator Price. It reviews, basically, details about all of the motorcycle fatality crashes that have occurred over the last four or five years. Now, a few points I want to stress today is our helmet law's impact on tourism. I'm always quite amazed when I hear reports about how this is going to improve tourism in our state by millions of dollars. You know, there hasn't been any baseline studies done that I'm aware of that actually show what its impact is on Nebraska right now, how many motorcycles are traveling through our state right now, how many hotel rooms are booked during the Sturgis week, before and after. Those baseline studies haven't been done, so it's a little bit, you know, pretentious to be able to say it's going to increase tourism millions of dollars when real, accurate, credible studies have not been done on this issue. In fact, if you look at a map of the United States, you can see that there's a small wedge, basically, from Texas up to Nebraska, of those motorcyclists who basically may decide to bypass our state because of our all-rider helmet law. The rest of the states around us, basically, there's a mixture of states who do have all-rider helmet laws. But basically, because of our interstate system, they're going to take I-29 or another interstate up through Colorado. In fact, if you go into any of the electronic, on-line MapQuest sites, so forth, you key in your starting point, your destination point, many times it will tell you the best route to get there is by taking one of those interstate routes. And clearly, it's also the safest routes for motorcyclists as it doesn't have head-to-head traffic; it doesn't have interchanges where vehicles can pull out in front of them and cause them to have to brake quickly; it's a very safe, effective, quick route to get there. In fact, if you even key in the cities of Omaha, Lincoln, a lot of other Nebraska towns, the best routes it'll tell you on these on-line systems is go to I-29, up, and then cut across South Dakota. So again, like I said, it's a little bit...you know, I don't quite understand all the reasons behind the economic issues and the impact. The other issue we have to realize with this is that, in those states that have repealed helmet laws, there has been a reduction of helmet usage. You know, usually between, I would say, if it's a 99 percent usage rate, it might drop down to 65 to 55 percent. And so with that we still have to calculate in there's still a high number of people who travel who are going to wear their helmets regardless. So again, all these things have to be factored into these types of studies, and none of that information is available. The other information I want to share with you is the healthcare cost, and it's impacting everyone's budget at every level of our society, from the family who is forced to choose to pay their rent or pay monthly insurance premiums, to the businesses who are struggling to remain competitive in their market while offering their employees family protection plans, to the state and federal agencies who are dealing with ballooning healthcare costs and dwindling budgets. With our aging population, high unemployment rates, and federal deficit issues, we should closely consider every issue that will impact healthcare costs. Now, I know earlier it was mentioned that in January we don't have to worry about this anymore; it's all going to be taken care of. That's the kind of thinking that's got this country in trouble. You know, somebody has to pay for it along the way. Whether it's the federal government, the state government, insurance

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carriers, somebody's going to be paying for those costs, and so it's all up to us to have reasonable legislation and responsible actions. We're all in this together, folks. You know, fiscal responsibility at all levels must be a priority. My counterpart in Michigan advised me that, after they recently passed the repeal of their helmet law, they've taken on three serious head-trauma cases, and each claim is already in the excess of \$1 million. And that was just within a couple months after their law was repealed. And unfortunately the healthcare costs will continue to mount with each passing year since they don't have any limits or caps in Michigan. Now with spring just around the corner, they anticipate that more cases will become their responsibility as they take on this new challenge in their state. Now in Nebraska, owners and operators of motorcycles and automobiles are not required to carry medical pay coverage, which would take care of their medical expenses if they are liable in an automobile crash, okay? Again, they're not...they don't have to carry medical pay coverage. That's an option. They are required to have liability insurance on their vehicles. And so, unfortunately, even with the basic liability insurance coverage and the low costs that we have here in Nebraska for insurance, we still have an uninsured motorists rate of 8 percent in our states. Eight percent of the motorists in our state do not have automobile insurance or motorcycle insurance. And so we need to evaluate all of these issues. We need to be very prudent in our choices. One other issue I want to bring to your attention is a study that was just recently done by the Nebraska Office of Highway Safety. They basically studied all crashes from January 1, 2012, through July 31, 2012. They took out basically any motorcycle operators who were out of state. But they found, of the 347 operators that were involved in injury crashes, 115, or 33 percent, were not properly licensed with the Class M motorcycle license. So this brings up another issue. I know we talked about how training is important. But with a third of those that were injured not having a Class M license, you know, we certainly have some serious issues that need to be addressed here in our state. And of the 347 operators, 45 were riding their motorcycle with a suspended, revoked, or impounded license, another issue we need to address. And so, rather than looking at repealing the helmet, I think we have other traffic safety education needs that need to be addressed. I just feel that repealing this law would remove the requirement for an essential piece of safety gear, and so that's basically where we stand on this issue. We want to keep our current law intact. And so again, if you'd like to look through the information, call me if you have any questions. At this point, I welcome your questions, and we again urge you not to advance this bill. Thank you. [LB393]

SENATOR DUBAS: Thank you, Ms. White. Questions? Senator Price. [LB393]

SENATOR PRICE: Thank you very much, Madam Chairperson. I like statistics. I like data. And I'm looking at the booklet, and just right away off the front I notice in the front parts that your data from '08, '09, and '10 carried no commentary on helmet usage or not. In 2011, we start to see helmet use reflected in the data set, of which there were only three fatalities, of which I believe at least one of them was improperly worn helmet. [LB393]

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ROSE WHITE: Um-hum. [LB393]

SENATOR PRICE: And then, from there on out, I didn't find any more fatalities without helmets. [LB393]

ROSE WHITE: Um-hum. I...yes. [LB393]

SENATOR PRICE: So I'm wondering what...either the data suggest that everybody adheres to that...the law. And I think you brought it up, a wonderful point, that it seems that most of this, the majority of them are, if the individual would stop drinking and doing drugs, they'd do a lot better. [LB393]

ROSE WHITE: Um-hum. [LB393]

SENATOR PRICE: Of course, we can't do anything about straightening out roads and curves and other drivers. [LB393]

ROSE WHITE: No. [LB393]

SENATOR PRICE: So that would probably equal a good 30 percent of the total, but...drinking and driving. But what struck me interesting is if I go back to your Nebraska motorcycle statistics, you actually start carrying...how many...is this data to 1982. [LB393]

ROSE WHITE: Um-hum. [LB393]

SENATOR PRICE: So I was wondering why the disparity there between the table in the front and the back? [LB393]

ROSE WHITE: Senator Price, I want to thank you for looking at that so diligently, and you are absolutely correct. Basically, the previous pages were information that I presented two years ago when this bill came up. And with the additional two years that were added--that was one more element that we added--I'd be more than happy to go back to get that information reported for those other previous years so that all of the information will be in front of you. [LB393]

SENATOR PRICE: I bet you, you don't have worry because I bet you, you'll notice, that it's...it'll be the same because we have a helmet law. [LB393]

ROSE WHITE: Um-hum. [LB393]

SENATOR PRICE: Thank you. [LB393]

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ROSE WHITE: Thank you. [LB393]

SENATOR DUBAS: Other questions? Seeing none, thank you for the information and your testimony. [LB393]

ROSE WHITE: Thank you, Chairman Dubas. [LB393]

JASON KRUGER: My name is Dr. Jason Kruger, J-a-s-o-n K-r-u-g-e-r. I'm speaking on behalf of the Nebraska Medical Association. I currently serve as president of the Nebraska chapter of the American College of Emergency Physicians. I'm a practicing ER doctor here in Lincoln at St. Elizabeth Hospital, and I'm currently the EMS medical director for Lincoln Fire and Rescue, along with Waverly, Bennet, Hickman, Hallam, Douglas, Palmyra, Beatrice. We're all the way up to 17 agencies right now. I love my job as an ER doctor. Most people I meet are having pretty lousy days, but it's fun to be able to try to help them in every way that I can. My absolute least favorite part of the job is informing family that their loved one has passed away despite everything that we could do. Motorcycle helmets save lives. They prevent permanent disability. There is a strong movement in this country towards preventing traumatic brain injuries. This seems like a giant leap in the wrong direction as no one seems to be trying to promote more traumatic brain injuries. I understand the desire for freedom, but we do currently have seat belt laws, speed limits, traffic lights, traffic signs, car seats. Beyond death and permanent disability, there is a significant fiscal implication for this. Injuries cost taxpayers money as people with permanent disabilities go on Social Security, Medicare, and Medicaid. I've heard this argument on Obamacare that everybody will have insurance. If you have..if the person has private insurance, it will simply make private insurance more expensive. If they are on the public dole with Medicare or Medicaid, it will simply cost the taxpayers more money. According to the CDC and the National Highway Traffic Safety Administration, in 2010 there were 4,502 motorcyclists killed in motorcycle crashes, and they made up 14 percent of all road traffic deaths, yet motorcycles accounted for less than 1 percent of all vehicle miles traveled. Helmet use consistently has been shown to reduce motorcycle crash-related injuries and deaths, and the most effective strategy is to increase helmet use in the enactment of universal helmet laws. During 2008 to 2010, over 14,000 motorcyclists were killed in crashes, 42 percent of whom were not wearing helmets. In the 20 states with universal helmet laws, only 12 percent of fatally injured motorcyclists were not wearing a helmet, compared with 64 percent in the 27 states with partial helmet laws and 79 percent of motorcyclists in the three states without helmet laws. By preventing motorcyclist deaths and protecting against injuries, helmet use is also translated into economic costs saved. In 2010, approximately \$3 billion in costs were saved as a result of helmet use in the United States. However, another \$1.4 billion could have been saved if all motorcyclists had worn helmets, according to the National Highway Traffic Safety Administration. Research has shown that when a state repeals its helmet laws or opts for

less-restrictive requirements, helmet use decreases in motorcycle-related deaths; injuries and costs increase. In 2000, for example, Florida changed its universal helmet law to a partial helmet law that covered only riders age 21 years and less and those with less than \$10,000 in medical insurance coverage. During the two years after the law was changed, the motorcyclist death rate per 10,000 registered motorcycles in Florida increased by 21 percent. Deaths among motorcycle riders age...under 21 nearly tripled, and hospital admissions of motorcyclists with injuries to the head, brain, and skull increased by 82 percent. In addition, gross costs charged to hospital-admitted motorcyclists with head, brain, and skull injuries in Florida more than doubled, from \$21 million to \$50 million. Studies that have examined nonfatal injury outcomes amongst motorcyclists who wore helmets and those who did not found that hospitalized riders who did not wear helmets incurred higher healthcare costs, riders who do not wear helmets were more likely to suffer from traumatic brain injuries, and median hospital charges for those with traumatic brain injuries were 13 times higher than those without such injuries. Riders who do not wear helmets are also less likely to have health insurance and more likely to require publicly funded healthcare. Helmet use is estimated to prevent 37 percent of fatalities amongst motorcycle operators and 41 percent of fatalities amongst passengers, according to the National Highway Traffic Safety Administration. It estimated that, in 2010, helmet use saved the lives of 1,544 motorcyclists, and an additional 709 lives might have been saved if all motorcyclists had worn helmets. Thank you very much for your time. I appreciate it. [LB393]

SENATOR DUBAS: Thank you, Dr. Kruger. Are there questions? Seeing none, thank you for coming today and for your information. [LB393]

JASON KRUGER: Thanks. [LB393]

GARY HAUSMANN: (Exhibit 15) Good afternoon, Senators. My name is Gary Hausmann, last name spelled H-a-u-s-m-a-n-n. I am a 57-year-old Nebraska resident from Blair that was injured on September 1, 2006, in a motorcycle accident. I was and, fortunately, still am the chief pilot for Werner Enterprises in Omaha, Nebraska. As I drove home that afternoon from Eppley Airfield in Omaha, I was involved in a very serious accident. I was six miles from my home on a two-lane highway and approaching a car that saw me and was stopped waiting for me to get past her. As I approached her, 58 feet from her, they tell me, she was rear-ended by an SUV and pushed into my path. According to five adult witnesses--please understand I lost my memory from six hours before the accident until three weeks after the accident, so I'm going by the five adults that I talked to every one of them afterwards, much...a long time afterwards--I immediately applied the brakes, laid the motorcycle on its side, then jumped off the back of the motorcycle. Incidentally, I was wearing a very good helmet. The resulting impact with the car broke two cervical vertebrae, four ribs, crushed my sternum, collapsed my right lung, and dislocated my right shoulder. However, the most serious injury was an injury to my brain, termed diffuse axonal injury. According to medical experts, only 9

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percent of the victims survive this type of injury, and 92 percent of those that do survive are in a hospice facility the rest of their...the remainder of their life. After 15 days at the UNMC Med Center, 5 of those days in a coma, my wife was told that I should be moved the next day to a rehabilitation hospital. After an extensive search of facilities in the Omaha-Lincoln area and the Midwest, which included Denver, Dallas, and Chicago, my wife and children decided confidently that I should go to Madonna Rehabilitation Hospital here in Lincoln, Nebraska. I was transported to Lincoln by ambulance, unable to sit up, talk, walk, eat, or function. When first admitted, I could not identify an apple, dog, baseball, or a balloon in a children's first-grade book. With the guidance of their expert staff of nurses, therapists, and doctors, I began to improve at a very steady...very rapid pace. I was very fortunate, as experts suggested I might be patient there for several months. However, I continued to progress, and three-and-a-half weeks later, I was released to my home. I then attended regular rehabilitation sessions at Quality Living in Omaha for nearly three months after my release from Madonna. As I think back on my unfortunate turn of events on September 1, 2006, I can't help but realize how blessed I have been to have recovered to my present level. An interesting note is that in 2006 dollars, a motorcycle accident that involves head injuries--and lots of them do; several of them do--in 2006 the medical bills would be \$1.41 million. My medical bills totaled only \$383,000 the day I was released from Madonna. Would anyone here in this room wish to try and better that figure? How many people in this room have medical insurance or personal wealth to cover such a catastrophe? I've sat here most of the afternoon and have heard about the economic impact of us having a helmet law. I agree, there is an economic impact. Listen to this. Two years ago I sat at this table. An hour before I testified, a person who was an opponent to wearing helmets in the state of Nebraska said...he got up here and stated the very thing that's going to make such an economic difference for the state of Nebraska. And he sat here and said that a person riding his motorcycle through Nebraska to go to Sturgis, for example, would spend--now imagine this--\$118 per person going through the state of Nebraska. If you figure that \$118 was 100 percent profit, which we all know it's not, and divide that into \$1.41 million, 11,949 motorcycles have to go through this state to equate to the medical bills of one accident. Now I did...I just calculated that a few minutes ago, and it's...that's if it's 100 percent profit. So I'm not...it would make an economic impact. I'm glad they brought that up. But back to this...to my little speech here. Thanks very much for listening. Before I go, I have a very serious question for each and every person in this room. If your friend or spouse was planning on riding a motorcycle, would you insist that they wear an approved motorcycle helmet? If your answer is no, can you honestly call them a friend? Thanks for listening. [LB393]

SENATOR DUBAS: Thank you, Mr. Hausmann. Are there questions? Senator Hadley. [LB393]

SENATOR HADLEY: Mr. Hausmann, I remember you from a couple years ago and your story. [LB393]

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GARY HAUSMANN: Thank you. [LB393]

SENATOR HADLEY: And you're still a pilot? [LB393]

GARY HAUSMANN: Now it's not...yes, I am. It's not a story. It's the truth. [LB393]

SENATOR HADLEY: It's the truth, okay, the truth. [LB393]

GARY HAUSMANN: Okay. Yeah, I am. [LB393]

SENATOR HADLEY: You're still a pilot? [LB393]

GARY HAUSMANN: I am. [LB393]

SENATOR HADLEY: How often do you fly without a shoulder harness and seat belt?
[LB393]

GARY HAUSMANN: I never start the jet engines or...I fly a private airplane too. I never consider starting the engines, turning the ignition on, without a seat belt or shoulder harness on. [LB393]

SENATOR HADLEY: Why do you do that? [LB393]

GARY HAUSMANN: Safety. [LB393]

SENATOR HADLEY: Okay, thank you. [LB393]

GARY HAUSMANN: It's...I mean, yeah. It's a no-brainer. [LB393]

SENATOR DUBAS: Senator Brasch. [LB393]

SENATOR BRASCH: You must have been looking at my notes. That's what I was going to... [LB393]

SENATOR HADLEY: I can't see that far. (Laughter) [LB393]

SENATOR BRASCH: No. And basically, it is the same question. However, when I spoke to a lot of people, you know, everyone assured me that they would wear helmets at high speeds, that, you know, they would more than likely keep the helmets on, and the same thing about a seat belt. And this bill does say that it's...adults over 21 would have to...would be able to take their helmet off. If you're 21 or younger, then...and that is one of the reasons I do think that...we all make decisions, and you're believing that you

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may not have worn a helmet without the law? [LB393]

GARY HAUSMANN: Oh, no. [LB393]

SENATOR BRASCH: No. [LB393]

GARY HAUSMANN: I would have worn a helmet. [LB393]

SENATOR BRASCH: You would have worn it, okay. [LB393]

GARY HAUSMANN: I grew up on a ranch in northern Nebraska, and I've worn a helmet since I knew how to spell the word motorcycle. [LB393]

SENATOR BRASCH: Yeah, and that's where, I guess, you know, my thought is that adults will make a decision for the younger people that, you know, perhaps we need a little more training early on, on good practices. But you would not support, even for over 21, to make the decision to wear a helmet or not? [LB393]

GARY HAUSMANN: Absolutely not. You know, Senator, on that same subject line, we're required to wear seat belts in cars. We have air bags, padded dashes, and safety glass installed, and I haven't heard anybody ever say we should get rid of those things. So why would we get rid of helmets when we're operating very successfully by wearing helmets? What, you know, what are we hurting? [LB393]

SENATOR BRASCH: Okay. [LB393]

GARY HAUSMANN: I mean, but thank you. [LB393]

SENATOR BRASCH: No, thank you for testifying today. [LB393]

GARY HAUSMANN: Sure. [LB393]

SENATOR BRASCH: And I'm glad to hear your recovery went well and life resumed and... [LB393]

GARY HAUSMANN: Well, yes, it's gone well. Not going to do it again, but it's gone well, so. [LB393]

SENATOR BRASCH: Okay, thank you. [LB393]

GARY HAUSMANN: Don't try this at home. (Laugh) [LB393]

SENATOR BRASCH: Okay. [LB393]

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SENATOR DUBAS: Further questions for Mr. Hausmann? Seeing none, thank you for coming forward today. [LB393]

GARY HAUSMANN: Thank you. [LB393]

SENATOR DUBAS: Appreciate it. Next opponent. [LB393]

LAURIE KLOSTERBOER: (Exhibits 16 and 17) Senator Dubas and members of the Transportation and Telecommunications Committee, my name is Laurie Klosterboer. Laurie is L-a-u-r-i-e. Klosterboer is K-l-o-s-t-e-r-b-o-e-r. I'm the executive director for the Nebraska Safety Council. We're a nonprofit organization, and our mission is to save lives and prevent injuries through safety education. We provide education to approximately 15,000 Nebraskans annually on how to drive safely, to work safely, and live safely in our homes and communities. In 2000, we trained approximately 150 motorcycle riders. We are opposed to LB393, which would repeal Nebraska's universal motorcycle helmet law. Based on results in other states that require riders age 21 and younger to wear helmets, fewer than 40 percent of minors killed in motorcycle crashes were wearing helmets, even though there was a law. Among young riders who were hospitalized after a crash, the risk of suffering a serious traumatic brain injury was 37 percent higher in partial-law states compared to universal-law states. Only the universal helmet law is proven to increase helmet usage. In Nebraska, only 1 percent of licensed Nebraska motorcyclists are under the age of 21. And, as I had just said above, in those states that do have it for the under 21, they're not wearing the helmets. They have a lower percentage of their youth wearing their helmets. States that have repealed their universal helmet laws have seen their fatalities and injuries increase. Kentucky, Louisiana, Florida, Arkansas, Texas, these states have also seen the percentage of motorcyclists wearing helmets drop significantly after repeal. There is public support in Nebraska for our universal helmet law. In a 2012 Nebraska traffic safety poll conducted by our organization in conjunction with the Nebraska Office of Highway Safety, the question was asked, should the Nebraska law requiring motorcycle helmets be repealed or continued? Eighty-three percent favored continuation. We would respectfully ask the committee to indefinitely postpone LB393. I do have additional...it was just my information. I wasn't...I didn't bring copies. But I will share it if you want to have those copies of a CODES project which was done in Nebraska, 2004 to 2008, that shows the difference between those wearing helmets and those not wearing helmets. And you'll see that the injuries, the cost is greater. And also we have...there was some question about the laws in surrounding states. This is from the Insurance Institute for Highway Safety and also the Governors Highway Safety Association that will provide you with all of the information about where there's universal laws, where there's no laws, and then where there is a partial law, which generally the partial law means that they have age under 21, that sort of thing, which is considered a partial law. So with that, I will take any questions that you may have for me. [LB393]

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SENATOR DUBAS: Thank you, Ms. Klosterboer. Are there questions? Seeing none, thank you for coming today. [LB393]

LAURIE KLOSTERBOER: Okay, thank you. [LB393]

SENATOR DUBAS: Next opponent. [LB393]

BRANDON JENSEN: My name is Brandon Jensen, B-r-a-n-d-o-n J-e-n-s-e-n. I am from Atkinson, Nebraska. On August 29, 2012, so about six months ago, the day before my birthday, I'm going to work, and I was on my motorcycle. The street that I was on is a 35-mile-an-hour speed limit. I was doing about 37. I started slowing down. The street curves to the left, and then there's an intersection. I started to slow down for the curve to make my turn, and my back tire hit some gravel, and I started sliding. I didn't lay the bike down. I was able to catch it, and I stood back up. But then I hit the curb because of my momentum, and I was already in that slight curve in the street. I flew up in the air, and there was a small tree that was about eight foot tall, and I could see my feet were about even with the tree. I ended up landing on my head first, still in the street, and sliding up onto the curb and into the grass. And as soon as I hit, I saw my bike flip over my top, above me. I've got my helmet here, and if you would like to see it up close, feel free to, like, pass it around. But it's DOT/Snell approved, so it's one of the better helmets. It was released in January of 1999, so it had well expired for the Snell rating at the time of the crash. And the only damage done is a few scrapes, and it broke my visor. I walked away. All I had was road rash slightly on my shoulder and a little bit on my left ribs, no medical bills. I spent \$70 on supplies at Walgreens, and I went home, showered, cleaned myself up, patched myself up. I went and played sand volleyball that night. I remember thinking that day, before I wrecked. It was really hot, and all I could think of was, it's really uncomfortable wearing this helmet, and I really wish I didn't have to. But looking back now, I'm really glad I had it on because I would have spent a lot more than \$70 had I not been wearing the helmet, and I might not even be here today. You know, I kind of think somebody was looking out for me that day too. But as much as I used to not want to have to wear my helmet, I'm really glad that I had to wear it that day because it was the law. And I'm very thankful for that. Thank you. [LB393]

SENATOR DUBAS: Thank you, Mr. Jensen. Are there questions? Seeing none, thank you for coming today. [LB393]

BRANDON JENSEN: Thank you, Senators. [LB393]

SENATOR DUBAS: Thank you for your testimony. Next opponent. [LB393]

LORI TERRYBERRY-SPOHR: (Exhibit 18) Hello. My name is Lori Terryberry-Spohr, spelled L-o-r-i T-e-r-r-y-b-e-r-r-y-S-p-o-h-r. I am a clinical neuropsychologist and the

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brain injury program manager at Madonna Rehabilitation Hospital. I am here today on behalf of Madonna, as well as on my own accord, to strongly urge you to vote no on LB393. In the approximately 20 years that I have worked with patients with brain injury, I have been acutely aware of the catastrophic impact of brain injury on patients and their families. At Madonna, we see over 600 patients with brain injury each year, many of which who are injured on motorcycles. Of those with severe brain injury, almost all will suffer lifelong ramifications of their injury, including changes in their ability to communicate, think, and function independently. Nationally, only about 30 percent of those patients ever return to productive employment, and most are uninsured or underinsured and will require Medicaid for their lifelong care. The estimated lifelong cost of a severe brain injury is \$4.4 million, and there is no way to put a cost to the angst and frustration that families go through during the often two-year period of recovery and eventual acceptance of the lifelong ramifications of these injuries. If you have ever sat in a hospital room with a sobbing spouse, parent, or child as they come to terms with these injuries and the change it will mean to their family in terms of loss of income, change in roles, and becoming a lifelong caregiver, you realize there is no price that would make it worth it. Helmet laws help reduce the number of people that suffer these injuries. Unhelmeted motorcyclists are three times more likely to suffer critical brain injuries than helmeted riders in a crash. Nebraska has repealed its helmet law before. We first passed a helmet law in 1967, then repealed it in 1977. In 1989, we put the helmet law back in place. Why? Because it was obvious that our fatalities and catastrophic injuries were increasing at a rate disproportionate to the rate that the numbers of riders were increasing. Following reimplemention of the law in 1989, a study on hospital cost showed a decline in total acute medical charges of 38 percent and a 22 percent reduction in serious brain injuries. According to the National Highway Traffic Safety Administration, all states that have weakened or repealed helmet laws have experienced an increase in fatality and injury rates. Notably, licensed motorcycle drivers and motorcycle registrations have been steadily increasing in our state since 1996. In 1988, prior to the reinstatement of the helmet law, the rate of injury was 19.1 per 1,000 riders. Last year, the rate was 5.7 per 1,000 riders. With over 92,000 currently registered motorcyclists in our state, can we afford the additional cost of 1,232 injuries per year if we return to that same rate? If we extrapolate, based on the average cost of a motorcycle accident in 2011, that equates to \$101 million per year that we could potentially have in additional injury costs in our state. Even if only 5 percent of these are severe injuries, that is 62 additional people per year that will likely suffer lifelong effects of their injury. In addition, we don't have a brain injury trust or resource facilitation as the states surrounding us do. They've put more resources in place to support persons with brain injuries. We don't have either, so how will we care for these individuals? Finally, I'd just like to point out how inconsistent repealing the helmet law is with other work recently passed in the Legislature. It was just last year that we implemented the Concussion Awareness Act in our state, the purpose of which is to prevent long-term catastrophic outcome from brain injury. Some of the points that contributed to the passage of this were the long-term economic costs of brain injury and the need to

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prevent the pain and suffering that occurs as the result of brain injury. The Concussion Awareness Act is designed to try to prevent brain injuries by increasing awareness and appropriate management. Why then would we want to pass a law that we know, without a doubt, will increase the number of brain injuries in our state? If it is because we believe these are adults who can make their own decisions then, logically, we should repeal seat belt laws and other laws meant to protect adults. If it is because of economics, then we need to look at the real cost associated with brain injuries because the figures are staggering, and we will put increased demands on our Medicaid system at a time when we are trying to figure out how to contain healthcare costs. If it is because other states around us have done it, then we're going to have to consider how we are going to care for these additional injuries because they have more resources to do so. Besides, I believe we need to consider what is right based on the facts, ethical and financial. We already know those answers because we've been down this road before. And why would we want to repeat the mistakes of our past? Thank you, ladies and gentlemen, for your time. Again, I urge you to say no to LB393. [LB393]

SENATOR DUBAS: Thank you for your testimony. Are there questions? Seeing none, thank you so much. [LB393]

KATE KULESHER JARECKE: (Exhibit 19) Senator Dubas, members of the committee, my name is Kate Kulesher Jarecke, K-a-t-e K-u-l-e-s-h-e-r J-a-r-e-c-k-e. I'm the executive director of the Brain Injury Association of Nebraska and have the honor of advocating on behalf of the 36,000 Nebraskans who have a disability due to brain injury, and I'm here testifying in opposition. The proponents have said this is a freedom issue, and I get that. Senator Bloomfield and I have talked about this, and he reiterates that the state does not need to be a baby-sitter, and he's right, and I wish it were that easy. But the reality is that once a helmet law is repealed, helmet use will plummet from about 80 percent to less than 20, and brain injuries will increase, medical expenses will increase, and I am not looking for any new members for our association. We are one association that does everything we can to prevent new membership. With freedom comes responsibility. And frankly, it's not the Harley crowd I'm worried about. They tend to be older and wiser. But it is the Suzuki and Yamaha crowd that I'm worried about, although the crash data here, from Nebraska, shows that more fatalities are on Harleys. In Nebraska it's 48 percent compared to other bikes, but I would guess that's because the Kawasaki crowd is wearing better helmets at the moment. You take those helmets off and my guess is that you have a whole new set of data. And I've seen young riders on these bikes speeding in and out of traffic, doing wheelies down I-80, and then racing all the way down Yankee Hill all summer long. And I think, thank goodness, those kids have a helmet on. As for the economic development argument, the supporters have said that if we repeal the helmet we'll generate revenue. Two crashes can wipe out that completely. And then guess who has the responsibility to pay? We all do--the private and public payer mix. And generally, these injuries are so catastrophic that they become part of Medicaid and Medicare. And according to the data, half of the motorcyclists do

not carry health insurance, so their care becomes our responsibility. Speaking of responsibility, once these folks are injured it becomes a state responsibility. We debated this legislation for weeks the last couple times it got out of committee, and it was determined that there was not an insurance product out there that could cover the cost. There was not a way for folks to sign a waiver saying they wouldn't take Medicare; they promised they wouldn't, as was suggested by some proponents. We have state-of-the-art brain injury rehabilitation here in Nebraska. In fact, we've become the center of excellence with folks from around the country coming to Madonna and Quality Living in Omaha. But the folks that go back to Kansas, Iowa, and Colorado have a far better chance postrehabilitation than Nebraskans do. Every state that has repealed their law has put into place mechanisms to care for those with brain injury. There are a few typical ways, and Lori mentioned them earlier: a trust fund, TBI or a traumatic brain injury waiver for Medicaid, and resource facilitation. States mentioned by the proponents as states to emulate are indicative of this. Colorado has a trust fund of \$1.5 million and slots for 500 on their TBI waiver to the tune of \$9 million a year extra on top of their Medicaid. Kansas services 250 on their waiver for \$5 million. And Iowa, our friend Iowa, has 774 slots and spends \$11 million a year, and, in addition, they also appropriate a state appropriation of a half million dollars for resource facilitators to handle all the brain injuries. Anyone want to guess how many slots Nebraska has? We have 48. We service 23 because there's not enough room at QLI to handle everybody, and they've been about the same 23 since 1991. But there is a need, and we have folks who are served on the aged and disabled waiver, as other states do, but they do not get brain injury-specific services. One of the biggest issues we face in the state is that we will not pay for out-of-state services like neurobehavioral health, which is one-to-one that a lot of our folks postinjury need. Our neighbors in the other states that I mentioned will send them to treatment in Oklahoma, Illinois, or Wisconsin. We won't add services because it's seen as Medicaid expansion. If you vote to get this bill out of committee, you must also ensure that we take care of our injured bikers and that they get the appropriate care, which means Medicaid expansion. Right now, what generally happens to these folks, they call around to nursing homes to see if they'll take them. So these folks are fed their meds, and they're parked, at the age of 24, in a nursing home, and they are there for 40 years. Then...if they live that long. Then, it really does become a matter of freedom. I'm sure any of these guys will tell you they wish they had the freedom to ride their bikes with their helmets back to their families. And so Senator Bloomfield is right, the state shouldn't be a baby-sitter, and I wish it didn't have to be. Thank you. Any questions? [LB393]

SENATOR DUBAS: Thank you, Ms. Jarecke. Questions? Seeing none, thank you for your testimony. [LB393]

KATE KULESHER JARECKE: Thank you. [LB393]

SENATOR DUBAS: Further opponents for LB393? [LB393]

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BEVERLY REICKS: Chairwoman Dubas, members of the committee, I'm Beverly Reicks, B-e-v-e-r-l-y, Reicks, R-e-i-c-k-s; CEO, president, of the National Safety Council of Nebraska. The National Safety Council's mission is to provide program services and education that would help reduce and eliminate the economic and personal consequences of safety-related injuries. We are an organization that provides traffic safety education to thousands of individuals annually, as well as motorcycle rider safety. In our motorcycle rider safety courses, we require that our riders have all kinds of safety headgear: the helmet, the eye protection, long pants, boots, all kinds of things that would protect them in case they suffer from some kind of an unintended accident while they're taking our courses. We believe the helmet law is a critically important safety measure in the state of Nebraska. You've heard a lot of statistics, a lot of data, and we certainly support all of that information, and there's no need for me to reiterate it. One thing I would like to just say is that there's been a word...or there's been some discussion of freedom of choice and also a word thrown around that I have a right to the pursuit of happiness...life, liberty and the pursuit of the happiness, as expressed in the constitution. I want you all to just keep in mind that driving is not a right; it is a privilege. And you as lawmakers have the obligation to make laws that protect us all as members of society and make good public policy for the citizens of the state of Nebraska. The Safety Council endorses the current helmet law and asks you to indefinitely postpone the bill in front of you today. [LB393]

SENATOR DUBAS: Thank you, Ms. Reicks. Questions? Seeing none, thank you for coming forward today. [LB393]

BEVERLY REICKS: Thank you. [LB393]

SENATOR DUBAS: (Exhibits 20-32) Any other opponents for LB393? I do have a list here: Dale Michels, State Board of Health; Jacqueline Gillan, Advocates for Highway and Auto Safety; Deborah Hersman, National Transportation Safety Board; Dr. Kipton Anderson, Nebraska Academy of Family Physicians; Bonnie Shearer, Nebraska Academy of Physicians (sic) Assistants; Bruce Beins, Nebraska Emergency Medical Services Association; Millicent Palmer, Nebraska Academy of Eye Physicians and Surgeons; Gerald Stilmock, Nebraska State Volunteer Firefighter's Association and Nebraska Fire Chiefs Association; Ann Parr, Nebraska Insurance Information Service; Bruce Rieker, Nebraska Hospital Association; the Nebraska Nurses Association; Bradley Meurrens, Disability Rights Nebraska; and Donna McElvain, Nebraska Nurses Association. Those are all in opposition to LB393. Do we have anyone in the neutral capacity? Anyone in neutral? I have a letter from Rhonda Lahm, director of the Nebraska Department of Motor Vehicles in the neutral for LB393. With that, Senator Bloomfield, you're welcome to close. [LB393]

SENATOR BLOOMFIELD: Thank you, Chairman Dubas and colleagues. I took a few

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notes while I was sitting back there. The first one I had, Senator Brasch, goes to your question of size, age-appropriate. I'd be more than willing to discuss that. I think there's something that we could certainly look at there. Senator Hadley, you asked about the Medicaid and Medicare. There's some questions now or lack of questions due to the Obamacare. But we have people end up there from cigarette smoking all the time. We haven't outlawed cigarettes. We haven't forced them to put a piece of plastic over the end of the cigarette. And Senator Smith and Senator Price, you both asked about people riding across Nebraska. The husband of my former LA and his friend left Lincoln to go to Sturgis. It was 100-and-some degrees the day they left last year. They didn't ride north to get to South Dakota where it was cooler. They rode south into Kansas where it was even hotter and then rode west to Kansas...through Kansas and up across the other end of Nebraska, not because they enjoyed the warmth, but just to get away from Nebraska and the helmets that they're required to wear here. And Senator Smith and Hadley both of you asked about tourism. And we've been...we've passed bills here to try to increase tourism. Here's a way to do it without having to spend money advertising to come to Nebraska. If we repeal this bill, more people will come to Nebraska. I thought that's what we wanted. I think this is a great way to do that. And we did, in fact, pass a bill to help reduce brain injury. I worked on that bill with Senator Lathrop a little bit. We had some amendments on it. We didn't require basketball players to wear helmets, and we didn't outlaw football. You know, there are chances people take. LB393 reflects my strong belief that as free Americans and free Nebraskans, adults should be able to make decisions that affect their lives and do not interfere with the lives of others. We have, by law, denied a particular segment of our population, and certain individuals from outside our state, that ability. The eight senators on this committee are given a great deal of power. There were over 92,000 licensed motorcycle operators in Nebraska in 2012. With a no vote on this bill, you can simply say to all of them, we know better than you do what they should do. With a yes vote, you could give them a chance to regain the freedom to choose, and let the full Legislature, after full and fair debate, decide this issue. This issue deserves to be debated on the floor where all 49 of us can be involved in a decision that affects so many in our state. Ninety-two thousand is not a number to be taken lightly in Nebraska. President John Kennedy said, quote, in giving rights to others which belong to them, we give rights to ourselves and our country, unquote. I think it is time we give these free men and women back their right to decide whether or not wearing a helmet is something they want to do. We're not talking about children here. We're discussing mature, thinking adults. Many of these folks made the decision when they were younger to serve our nation in the military, putting themselves in harm's way to protect and defend our rights. Now we're telling them they do not have sense enough to decide whether or not to wear a protective device and that we, the state, know better than they do, and we must protect them from themselves. Give me a break. Now let's give them a break. The Declaration of Independence says life, liberty, and the pursuit of happiness; not conformity, control, and a safe cocoon. Again, I would like to make this my priority bill, providing that it is advanced out of the committee to the full Legislature. And I will leave you with words of

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President Ronald Reagan, quote, government exists to protect us from each other. Where the government has gone beyond its limits is in deciding to protect us from ourselves. End quote. Thank you. [LB393]

SENATOR DUBAS: Thank you, Senator Bloomfield. Questions? Senator Hadley. [LB393]

SENATOR HADLEY: Senator Dubas. Senator Bloomfield, just a quick question. The Nebraska Safety Council said that they did a survey with the Office of Public Safety, and 83 percent of the Nebraskans favored keeping the helmet bill. How do we justify then telling 83 percent of the citizens of Nebraska we think they're wrong? [LB393]

SENATOR BLOOMFIELD: I think we go back to the idea that we're not telling anybody they can't wear their helmet. We talk about minority rights all the time. If you don't want to wear your helmet, I don't believe we should force them to do it. And I will add to that, Senator Hadley, as we heard before, statistics will tell you whatever you'd like to hear out of them. [LB393]

SENATOR DUBAS: Senator Brasch. [LB393]

SENATOR BRASCH: Thank you, Chairman Dubas. And thank you again, Senator Bloomfield. And yes, I would like to be assured that children have age-appropriate helmets. [LB393]

SENATOR BLOOMFIELD: We can certainly discuss that. [LB393]

SENATOR BRASCH: But I do...and I agreed with this bill saying that over...you know, if you're younger than 21 then there should be a helmet on there. I'm hoping that everyone, regardless, choose safety, but I do think that Senator Avery's bill has merit because as parents, as adults, we help children. We mandate safety. And you're right, there are freak accidents with kids that happen, but getting on the back of a motorcycle is not a freak accident. You know, we put safety medicine caps on bottles. We put children in car seats. And if there's going to be a child placed on the back of the motorcycle I think there should be some sort of elevated safety, you know, moving forward. That's something else I would like you to consider if this bill does move forward, that younger children especially could have substantial harm. [LB393]

SENATOR BLOOMFIELD: I would have to look at Senator Avery's bill a little closer to see what we can do there, but I'll certainly look into it. [LB393]

SENATOR BRASCH: Thank you. [LB393]

SENATOR DUBAS: Senator Smith. [LB393]

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SENATOR SMITH: Thank you, Senator Dubas. And Senator Bloomfield, thanks for, you know, bringing this bill forward and introducing. You gave a very passionate closing there, and I appreciate your words. I tend to agree with you when we talk about the role of government. But I just want to make sure, and I know it's not your intention, but those that came and spoke in opposition to the bill, just as much as those that spoke in support of the bill, are very passionate. Had some caregivers in the audience. I know there were a couple of physicians that have seen a lot of suffering and they sacrifice in their own right in providing care. And it's not a black and white issue. It's a gray area. And there's no right or wrong, and the people are not good or evil that are in support or in opposition to this. This is a very emotional and very difficult topic, and I know you don't take it lightly, and I know that you are not in any way dismissing those that spoke in opposition. That they are just as strong of Americans as those that are in support of it... [LB393]

SENATOR BLOOMFIELD: Yes. [LB393]

SENATOR SMITH: ...and I'll let you speak to that. [LB393]

SENATOR BLOOMFIELD: And Senator Smith, had this been an easy issue, it would have been solved several years ago. We would not have been coming back to readdress it again and again. I think it's time to put this one to rest. [LB393]

SENATOR SMITH: All right. Thank you. [LB393]

SENATOR BLOOMFIELD: Thank you. [LB393]

SENATOR DUBAS: Other questions? Seeing none, thank you, Senator Bloomfield. [LB393]

SENATOR BLOOMFIELD: Thank you, good people, for sticking around. [LB393]

SENATOR DUBAS: (See also Exhibits 33 and 34) And that will close our hearings for today. Thank you all for coming and testifying. [LB393]