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Transportation and Telecommunications Committee
February 03, 2014

[LB698 LB981 LB982 LB983]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, February 3, 2014, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB698, LB981, LB983 and LB982. Senators present: Annette Dubas, Chairperson; Jim Smith, Vice Chairperson; Lydia Brasch; Galen Hadley; Charlie Janssen; Beau McCoy; and Dan Watermeier. Senators absent: Senator Murante.

SENATOR DUBAS: Good afternoon. It is just a little after 1:30 so I will call this committee hearing to order and begin with some of our housekeeping duties, and hopefully the rest of our Senators will be showing up. So I would like to welcome you to the Transportation and Telecommunications hearing...committee, excuse me. My name is Senator Annette Dubas. I represent Legislative District 34 from Fullerton. I'll begin by introducing committee members who are here. To my far left we have Senator Lydia Brasch from Bancroft, and we have Senator Galen Hadley from Kearney. To my immediate left is Anne Hajek; she is the committee clerk, so it's her job to make sure that everything is recorded and transcribed accurately. To my immediate right is Joselyn Luedtke; she is the committee's legal counsel. Next to her is Senator Jim Smith from Papillion; he is the Vice Chair of the Transportation and Telecommunications Committee. We have Senator Janssen and Watermeier and Murante and McCoy. Senators are introducing bills in other committees so they will probably be coming in and out. I will certainly attempt to introduce them as they come in, but please don't be offended if senators get up and walk out while you're talking. It has nothing to do with what you're saying. It's just as I said, there's a lot of things going on with committee hearings this afternoon that take senators here, there, and everywhere. We are very fortunate to have a page program here at the Legislature and appreciate the work that our pages do for us. So the page for the Transportation and Telecommunications Committee is Jonathan Beck. He is originally from Centreville, Virginia, currently resides in Seward, Nebraska. He is a senior at UNL majoring in political science with a minor in communications. So again, thank you very much Jonathan for your service to the committee. The bills will be heard, I believe, as they were listed on the outside...sheet on the outside of the hearing door, so we'll be hearing LB698 with Senator Larson first, then LB981, LB983, and then LB982 in that order. When we have testifiers come forward, first, we'll have the bill introducer, then we have proponents, then opponents, and then neutral. If you plan on testifying for the committee...you're going to come forward to the table and testify, we ask that you fill out one of these green sheets. Then when you come forward, the page will pick that up from you. If you are here, you don't want to come forward and testify but you do want to register your support or opposition for any bill or confirmation, pink sheet is on the table back there by the door. You can put your name and information on that pink sheet. Ask that you speak clearly into the microphone, state and then spell your name. I know there's a natural inclination to kind of want to adjust the microphone, but it's very sensitive and it's much more for

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transcribing than it is for amplifying, but every time you adjust it, those noises make a little bit hard for our transcribers, so try to resist that urge to fiddle around with the microphone as much as possible. If you have handouts for the committee, we ask that you have 15 copies. If you don't, again give what you have to the page and he will make sure that those appropriate copies get made and distributed to the committee. Ask that you silence any electronic devices that you may have with you and if you have any conversations, please take them into the hall, again, just to kind of minimize any of the background noise or disruption within the hearing. I think we have gone through all of the housekeeping, and are ready to begin our hearing. So Senator Larson, LB698. Welcome.

SENATOR LARSON: Thank you, Senator Dubas and members of the Transportation Committee. I am Senator Tyson Larson, T-y-s-o-n L-a-r-s-o-n, representing District 40 and I'm here today to introduce LB698. LB698 makes a change to the statute that allows landowners to apply for permits to mow and harvest hay on the right of ways along state highways. Right now landowners can only apply for these permits every other year, and unless haying was allowed the year prior because of a drought or other declaration. This bill would change the statute to allow for landowners to apply for a permit every year regardless of the conditions of the year prior. This bill came out of the confusion a number of individuals in my district had this summer over whether last year was the permit year, or if the year had been a permit year, or if this year is a permit year because of the drought last year, etcetera. I also received questions as to why these landowners couldn't just mow or harvest the hay every year when they are willing and able to complete the permit process to do so themselves instead of the Department of Roads mowing on non-permit years which they currently do on many occasions. These calls prompted my staff to look and see what other states around us do about mowing and harvesting hay on the right of ways. As it turns out, Colorado, Kansas, Missouri, Iowa, and Minnesota, among other states, issue similar permits as Nebraska does, but issue them every year. I understand when this bill was originally introduced in 2007 there were issues regarding wildlife that make their habitat in these right of ways and steps were taken to ensure these habitats were protected. I believe this is why the permits cannot be issued until on or after July 15 and this bill does not change any part of that time frame. In fact, the states around us do not...also don't allow these permits to be issued before June or July for that same reason. However, based on other states practices and because these right of ways are often mowed each year anyway, I believe that we should allow Nebraska landowners to obtain these permits every year to mow and harvest the hay themselves. Thank you for your time and I can try to answer any questions you might have. [LB698]

SENATOR DUBAS: Thank you, Senator Larson. Are there questions? Seeing none, will you be staying for closing? [LB698]

SENATOR LARSON: Yes. [LB698]

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SENATOR DUBAS: Thank you. Proponents for LB698. [LB698]

JESSICA KOLTERMAN: Thank you. Senator Dubas and members of the committee, my name is Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I'm here on behalf of Nebraska Farm Bureau where I serve as the director of state governmental relations. LB698 would authorize farmers and ranchers to apply for a permit on or after July 15 to mow or harvest hay on right of ways along state highways in consecutive years regardless of the drought condition or other declarations the year prior. Nebraska law, as Senator Larson explained, currently restricts such haying activities to every other year. Nebraska Farm Bureau actually has policy that supports this proposal and it specifically opposes the right of ways being used for wildlife habitat. For a number of years we have repeatedly heard from our members who raise questions and frustrations with us regarding the every other year restriction. These members have explained that the haying of the roadside ditches is far from a walk in the park, often requiring the navigation of steep ditches and roadsides resulting in wear and tear and in some cases significant damage to their haying equipment. Given the risks, we feel that those members who have expressed the desire to hay roadside ditches in the every other year, do so because of the genuine need for the hay, sometimes to augment their livestock feed supplies which could be as a result of varying climate conditions, a disruption in the feed supply, or other reasons. LB698 helps to expand an alternative available to livestock producers to ensure stability and adequacy in the livestock feed and forage supplies. Therefore, we urge the committee to pass this legislation and we'd like to thank Senator Larson for introducing it. [LB698]

SENATOR DUBAS: Thank you very much, Ms. Kolterman. Are there questions?
Senator Hadley. [LB698]

SENATOR HADLEY: Thank you, Senator Dubas. Ms. Kolterman, reading just a little bit about the bill, they talk about a compromise to try to...every other year for habitat for game birds and such as that. Is that not near the concern now, or do you have any... [LB698]

JESSICA KOLTERMAN: You know, I'm not an expert on that. I can't speak to that. I will tell you that I do believe that in some of these rural areas, you know, we're allowing...we've had special declarations by the Governor where, you know, in drought years they do allow the mowing anyway. You know, so they've obviously had to waive that at some point. Our members feel that that should not be the reason we're not allowing for this mowing. So I can't speak to the problem specifically, but. [LB698]

SENATOR HADLEY: Thank you. [LB698]

SENATOR DUBAS: Other questions? Seeing none, thank you. [LB698]

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JESSICA KOLTERMAN: Thank you. [LB698]

SENATOR DUBAS: (Exhibit 1) Additional proponents for LB698. Are there any opponents? Anyone in the neutral? You have a letter submitted by the Department of Roads in the neutral capacity on LB698. Seeing no further testimony, Senator Larson, would you like to close? [LB698]

SENATOR LARSON: Real short to just kind of touch on...it's my understanding Senator Hadley in 2007, when it was originally passed, the compromise was to only go every other year because of the concerns with habitat. It is also my understanding that since that time they've realized that the haying in the roadside ditches, especially during the specific permit time isn't...doesn't have a significant impact on that habitat. You know, I've worked with Game and Parks on that issue because they were actually one of the original opponents to the concept, but we've moved past that and feel that if we stay within the certain permit of time that it doesn't have that impact. And we're not trying to change the time lines. You know, it will be the same, but it's just every year instead of every other year. And as I said, a lot of these ditches are being mowed anyway, so I'd really feel that it would be, as Ms. Kolterman from Nebraska Farm Bureau said, would help benefit farmers and ranchers across the state especially in tough years or if something else happens that they need the hay. [LB698]

SENATOR DUBAS: Thank you, Senator Larson. Senator Brasch. [LB698]

SENATOR BRASCH: Thank you, Madam Chairman and thank you, Senator, for bringing this bill forward. If this is going to be allowed every year, why is there a permit? What is the purpose in the permit? [LB698]

SENATOR LARSON: That's an excellent question. I know...I'm not sure I can find out if other states do the permitting as well. In 2007, I guess I could look back on the legislative history. That's just how the process was set up. I think the permit is \$40. It's rather cheap. I think the fiscal note said that we'd get roughly about \$5,000 in permitting fees. I'd be okay losing the permit, but that's something that the committee would probably have to discuss with Department of Roads in terms of, you know, if they feel that they need a permit to keep track of it or anything like that. Then I'd be okay, you know, leaving the permit in there, but I definitely can understand those concerns. [LB698]

SENATOR BRASCH: When checking this, would you also check the cost of enforcement versus the permit revenues? I've been told that it costs more to enforce this rather than the permit allow. So I believe if we're going to have it annually, we want to look at both costs. [LB698]

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SENATOR LARSON: Yeah, and necessarily, I mean, without the...you know, with the...there probably wouldn't need to be the enforcement essentially if this moves to every year. And I've also heard along those same lines that in some years it's, I think, it's a \$500 fine if you mow the ditch in a non-permit year. I've heard that it's still more lucrative to mow the ditch and take the \$500 fine than to not mow the ditch. And so, I mean, that's another interesting thing that in tough years when you're really looking for feed, or a year or two years ago when hay was just skyrocketing. And there's contracts in O'Neill, a large haying community, that were sending...you know, one guy sent 150 trucks to Texas full of hay. So there's years that it's beneficial to just do it and take the fines, so. [LB698]

SENATOR BRASCH: Very good. I have no other questions. Thank you. [LB698]

SENATOR DUBAS: Any other questions? Seeing none, thank you very much, Senator Larson. [LB698]

SENATOR LARSON: Thank you, Senator Dubas. [LB698]

SENATOR DUBAS: And we have been joined by Senator Dan Watermeier, Syracuse. Welcome. That will close the hearing on LB698 and will open the hearing on LB981. [LB698]

SENATOR DUBAS: Good afternoon, committee members, my name is Annette Dubas--I represent Legislative District 34--and that is spelled A-n-n-e-t-t-e D-u-b-a-s. LB981 was introduced on behalf of the Department of Motor Vehicles to bring our statutes in line with federal laws regarding emergency vehicles and the use of cell phones by operators of nine to fifteen passenger vans and school buses. The department will testify and can answer any technical questions you may have regarding these changes, but to put it simply, LB981 puts us in compliance with federal laws. And if we are not in compliance, we risk losing \$13.7 million in highway funds in 2014, and \$27.4 million in subsequent years. Currently, commercial drivers are not allowed to text while driving. The federal law creating that ban also included a ban on the use of handheld mobile telephones which is contained in this bill. Those provisions were not included in previous bills, including LB751 from 2012. This ban...this bill bans operators of commercial motor vehicles, nine to fifteen passenger vans, and school buses, from engaging in texting while driving. And also bans them from using a handheld mobile telephone while driving except when necessary to communicate with law enforcement or emergency services. This does allow them to use Bluetooth-enabled hands-free devices. I know in the past the community has been hesitant to impede local school officials authority to ban texting for its school bus operators. But as I stated previously, this is a federal mandate and not complying with the mandate, will ultimately end up costing us millions of dollars, so this is something that's just bringing us into compliance with those regulations. Be happy to try to address any questions you may have. [LB981]

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SENATOR SMITH: Thank you, Senator Dubas for opening on LB981. Do we have any questions for Senator Dubas? Seeing none, thank you. We now will hear from proponents of LB981. Welcome. [LB981]

RHONDA LAHM: (Exhibit 2) Thank you, good afternoon, Chairwoman Dubas and members of the Transportation and Telecommunications Committee. I am Rhonda Lahm, R-h-o-n-d-a L-a-h-m, director for the Department of Motor Vehicles. I'm appearing before you today to offer testimony in support of LB981. LB981 is a bill that harmonizes Nebraska law with various federal rules affecting commercial driver license holders and commercial motor vehicles. None of these specific proposals have been introduced before. The bill is intended to keep Nebraska in compliance with the applicable federal rules so that the state will continue to qualify to receive federal highway funds for the Department of Roads and Motor Carrier Safety Assistance Program funds for the Nebraska State Patrol. The bill touches on three areas of federal compliance. First, the bill amends the Nebraska definition of emergency vehicle to match the federal definition of emergency vehicle. This change assures the federal exemptions applicable to operators of emergency motor vehicles apply in Nebraska. It will clarify that firefighters and other persons who operate commercial motor vehicles, which are necessary for the preservation of life or property or the execution of emergency governmental functions, will not be required to hold a commercial driver's license. Next, the bill proposes two new provisions related to medical certification requirements for commercial motor vehicle operators who drive in interstate commerce. In 2011, Nebraska adopted the general federal requirement that such drivers must self-certify they meet the medical requirements of the federal rules to show they are medically fit to operate a commercial motor vehicle in interstate commerce. The drivers are required to keep that self-certification current. In conjunction with that requirement, the federal rules were further amended to provide that any person who falsifies or presents fraudulent certification information shall be subject to disqualification of his or her commercial driver's license for 60 days. Nebraska statute already provides for a 60-day disqualification for fraud in the CDL application process. LB981 amends 60-487 to make it clear that the 60-day disqualification also applies to fraudulent medical certifications. The bill also contains a provision requiring that an examination for medical certification be performed by a medical professional listed on the National Registry of Certified Medical Examiners created by the federal government. The federal rule requires that on or after May 21, 2014, the state may only accept medical certifications performed by medical professionals listed on the National Registry. Lastly, LB981 contains provisions that adopt federal prohibitions against the use of handheld mobile phones by operators of commercial motor vehicles and provides for a disqualification for a violation by a CDL holder. The handheld mobile telephone prohibition in this bill is parallel to the prohibition against texting while operating a motor vehicle that Nebraska adopted in 2012 in 60-6,179.02. LB981 also contains an updated definition of driving, and provides for points and disqualification for those offenses. Federal law requires the

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state to have the handheld mobile phone prohibition provisions in place no later than January 3, 2015. In addition, LB981 adopts federal rules prohibiting the use of texting and handheld mobile telephones for school bus operations and by operators of motor vehicles designed to carry nine to fifteen passengers, not for direct compensation, including the driver. As this section applies to the nine to fifteen passenger motor vehicles, it does not include transportation of such motor vehicles for pay, but the Legislature could introduce a prohibition that is broader than the federal requirement. And as introduced, LB981 does include a broader definition of school bus operation than in the federal rule. LB981 applies the prohibition to any use of a school bus to transport school children or school personnel as a matter of safety for all children riding buses at anytime. Federal regulation only requires the prohibition when the school bus is operating from home to school and school to home. Please note that there are exceptions in the bill to the prohibitions which allow operators of commercial motor vehicles, school buses, and nine to fifteen passenger motor vehicles to use their devices to communicate with emergency services or law enforcement when necessary. All of the provisions in LB981 go toward keeping Nebraska in substantial compliance with the federal rules governing commercial motor vehicles and commercial driver's licenses. Failure to do so jeopardizes Nebraska's eligibility to receive federal funds. If the state is determined to be in noncompliance with these provisions, the federal government may withhold up to 5 percent of federal-aid highway funds the first year, and up to 10 percent each subsequent year, and withhold MCSAP funds. Senator Dubas, thank you for your time today, and I'm happy to answer any questions the committee may have. [LB981]

SENATOR SMITH: Thank you, Ms. Lahm for your testimony. Do we have any questions for Ms. Lahm? I do have a couple of questions myself. [LB981]

RHONDA LAHM: Sure. [LB981]

SENATOR SMITH: What, again, are the impacts of us not adopting these changes for our state? [LB981]

RHONDA LAHM: I mean, the two...if we're found to be out of compliance, then it places in jeopardy two different particular funds. One is the federal highway funds Department of Roads gets, and the second are the Motor Carrier Safety Assistance Program, I think...Assistance or Assistance Program, MCSAP, which funds a good share of the Nebraska State Patrol Carrier Enforcement Program. [LB981]

SENATOR SMITH: Okay. And then what are the current restrictions in law now before any changes would be adopted for mobile devices in commercial vehicles? Just in summary. [LB981]

RHONDA LAHM: The prohibition for them would be the same as for other vehicles, just

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other motor vehicles on the road. [LB981]

SENATOR SMITH: And is that only when they're in movement, or...? [LB981]

RHONDA LAHM: I think...it's my understanding the difference is for it's a secondary offense right now for passenger or all vehicles for mobile phone use, and this would make it a primary offense only for, if it's handheld. The wireless, or, you know, the Bluetooth are still accepted or acceptable by this. [LB981]

SENATOR SMITH: And it would be for any commercial vehicle. [LB981]

RHONDA LAHM: Correct. [LB981]

SENATOR SMITH: Commercial-rated vehicle. [LB981]

RHONDA LAHM: Right. Correct. [LB981]

SENATOR SMITH: Okay. All right. Thank you. [LB981]

RHONDA LAHM: You're welcome. [LB981]

SENATOR SMITH: I see no other questions. [LB981]

RHONDA LAHM: Thank you. [LB981]

SENATOR SMITH: We will continue with proponents of LB981. Welcome. [LB981]

LARRY JOHNSON: Good afternoon, Senator Smith and Senator Dubas. Thank you for having the opportunity to testify in favor of LB981. My name is Larry Johnson, L-a-r-r-y J-o-h-n-s-o-n, and I'm the president of the Nebraska Trucking Association representing the interest of 1,100 member companies across Nebraska. As I said, I'm here to testify in favor of the provisions of LB981. As Director Lahm has testified, the adoption of these provisions are necessary to comply with federal rules and prevent a significant loss of federal highway funds. As a whole, the trucking industry is in favor of safe and efficient roads as well as the rules that are consistent across state lines. The federal rules included in LB981 will accomplish this goal while at the same time preserve valuable highway programs in our state. Thank you again for introducing the bill, and to Director Lahm and her staff for the exhaustive research and hard work in dealing with the adoption of these federal rules, most of which we as an industry are already complying with either through best business practices or federal statutes already, so. Got any questions? [LB981]

SENATOR SMITH: Yes, are there any questions for Mr. Johnson? I do have a question

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for you. [LB981]

LARRY JOHNSON: Yes. [LB981]

SENATOR SMITH: So I notice in the statutes there's never a reference to a class of vehicle, or rather to commercial vehicles. Can you explain that to me a little bit as to, this would involve any class of vehicle that's rated commercial. [LB981]

LARRY JOHNSON: Yes and no. [LB981]

SENATOR SMITH: Do you know what I'm asking, kind of? [LB981]

LARRY JOHNSON: Yes, yes. Whether it would be a motor vehicle that would be over 10,001 pounds, or one that's 26,000 and above, or a combination thereof. And that's where we were concentrating on it as an industry, so I'm not sure... [LB981]

SENATOR SMITH: I think you just answered my question. [LB981]

LARRY JOHNSON: ...taxis or anything like that would be involved, so. [LB981]

SENATOR SMITH: Service vans, service trucks, routine service vans or service trucks that would be Class III type of vehicles, they would be covered under this or not? [LB981]

LARRY JOHNSON: I wouldn't know for sure on that, but I do know on 10,001 or 26,001, yes, it would be. [LB981]

SENATOR SMITH: Okay. All right. Very good. [LB981]

LARRY JOHNSON: Thanks for the question though, it's a good one, sorry. [LB981]

SENATOR SMITH: Thank you. I see no other questions. [LB981]

LARRY JOHNSON: Thank you. [LB981]

SENATOR SMITH: Thank you. Are there other proponents of LB981? Seeing none, do we have any letters that we want to read in? [LB981]

SENATOR DUBAS: (Exhibit 3) We do have a letter of support for LB981 from the Department of Roads. [LB981]

SENATOR SMITH: We will now move to opponents of LB981. Seeing none. Do we have any letters to read into the record? Okay. And those that are testifying in a neutral

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position on LB981. All right, seeing none. All right, we will...Senator Dubas would like to close. [LB981]

SENATOR DUBAS: (Exhibit 4) Just a point of information for the committee and I believe you should have in front of you an amendment to LB981 and this is just a technical change. There was apparently a punctuation, semicolon that was changed to periods and the word "or" was removed in some places and that basically changed some of the...how the language should read. So this amendment should address those technical changes and we can further discuss those in Exec Session when it's time to advance the bill. So with that, I appreciate your attention. [LB981]

SENATOR SMITH: Thank you. That closes the hearing on LB981 and Senator Dubas will now open on LB983. [LB981]

SENATOR DUBAS: Thank you, Senator Smith, members of the Transportation and Telecommunications Committee. My name is Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s. I represent Legislative District 34. LB983 was introduced on behalf of the Department of Motor Vehicles to bring our statutes in line with federal law as regarding commercial driver's licenses and learner's permits. So similar to the previous bill that we just discussed, this is bringing us into compliance with federal regulations. If we are not in compliance, again we will risk losing \$13.7 million in highway funds in 2014, and \$27.4 million in subsequent years. The bill is rather hefty and that was in large part due to the changing of a term that is frequently used in statute requiring the changes in many areas of the Motor Vehicle Operator Licensing Act. So currently in statute, we refer to a commercial learner's permit as an LPC. But to harmonize with federal laws, we are changing that to a CLP. So it's just having to change some letters around. Still talking about the same kind of a permit, just a rearranging of those letters. Many of the other provisions in the law ensure that holders of Nebraska licenses, permits, and IDs are who they say they are, to reduce fraud and ensure our state licenses are valid in other states. Again, the department will come forward and be able to fill in more of the details about this and answer any questions that you may have. Thank you. [LB983]

SENATOR SMITH: Thank you. Are there questions for Senator Dubas? Senator Janssen. [LB983]

SENATOR JANSSEN: Thank you, Vice Chair. How are you feeling today? [LB983]

SENATOR DUBAS: How am I feeling today? I'm feeling pretty good, thank you. [LB983]

SENATOR JANSSEN: Okay. I just wanted to get that on the record so it actually showed that I was here. (Laughter) [LB983]

SENATOR DUBAS: Oh, okay. [LB983]

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SENATOR JANSSEN: Thank you. [LB983]

SENATOR DUBAS: Thank you, Senator Janssen. I can handle those easy questions. [LB983]

SENATOR SMITH: All right. All right. I see no other questions. Thank you, Senator Dubas. We now open the hearing to proponents of LB983. Welcome, Ms. Lahm. [LB983]

RHONDA LAHM: (Exhibit 5) Thank you. Senator Dubas and Senator Smith and members of the Transportation and Telecommunications Committee, my name is Rhonda Lahm, R-h-o-n-d-a L-a-h-m, director of the Department of Motor Vehicles. I am appearing before you today to offer testimony in support of LB983. I would like to thank Senator Dubas for introducing this bill on behalf of the Department of Motor Vehicles. LB983 addresses the changes in issuance and testing procedures for commercial driver's licenses and for commercial learner's permits in order to comply with mandates imposed by the federal government. In an effort to respect your time and hopefully to simplify the provision of a bill this size, I will summarize the revisions into four categories: commercial learner's permits, commercial driver's licenses, non-domiciled applicants, and miscellaneous provisions. The following changes and provisions regarding commercial learner's permits are: The term for what is currently referred to as a learner's permit commercial or LPC is changed to commercial learner's permit or CLP. It requires that applicants possess a commercial learner's permit prior to the issuance of any new commercial driver's license and change of class from a Class B to a Class A commercial driver's license. Commercial learner's permits will be assigned different classes, A, B, or C. Commercial learner's permits will be permitted to have the following three endorsements: tanker, school bus, and passenger for those respective classes of vehicles. It allows for the following restrictions to be placed on a commercial learner's permit; intrastate commerce, no air brakes, operation with drivers with medical variance documentation, no passengers in commercial motor vehicle, and no cargo in tank vehicle. Commercial learner's permits will be valid for 180 days and may only be renewed once in a two-year period. Commercial learner's permits must be held for 14 days prior to testing for a new CDL, or upgrading to a higher class of CDL, or when adding certain endorsements, the school bus, passenger, and tank vehicle. Requires holders of commercial learner's permits to self-certify and provide medical certificates for interstate non-excepted driving. It applies the .04 alcohol level and test refusal disqualification to commercial learner's permits. Outlines the basic information elements which must be provided to be issued a commercial learner's permit separate from the general requirements outlined in 60-484 that apply to all other drivers. The following changes and provisions are regarding commercial driver's licenses. Provides for the following changes in restrictions to commercial driver's licenses: it eliminates the I restriction to exception from the medical waiver; adds an E restriction, automatic

transmission only; and a Z restriction, no full air brakes equipped commercial motor vehicle, and modifies the O restriction, no tractor-trailer. Requires that persons get a Nebraska Commercial Driver's License after being in the state for 30 consecutive days and also attending a driver training school. Provides for waiver of the written test if not more than one year old. Applicants for a Nebraska commercial driver's license must surrender their previous license from the other state, and requires the Department of Motor Vehicles to notify the other state. Outlines the basic information elements which must be provided to be issued a commercial driver's license separate from the general requirements outlined in 60-484 that apply to all other drivers. Requires applicants for commercial driver's licenses to self-certify and provide medical certificates for interstate non-excepted driving. Specifies the order in which commercial driver's license skills tests must be conducted: First, a pretrip inspection; second, the basic control skills; and third, the on-road skills. Prohibits moving on to the next test if one segment of the test is failed. Requires the completion of the skills test while the commercial learner's permit is valid. Requires that if the commercial learner's permit is renewed, all segments of the skill test must be retaken. Allows military personnel with commercial motor vehicle experience to waive all segments of the skills test. The following changes and provisions regarding non-domiciled applicants are: Non-domiciled applicants may be one of three categories, persons who reside in another state which does not issue commercial driver's licenses because the federal government has decertified their program, non-United States citizens with lawful status in the United States for work purposes, or non-domiciled persons attending driver training schools in this state to get a commercial learner's permit. Requires all applicants for a non-domiciled commercial learner's permit and non-domiciled commercial driver's license to provide proof of identity, proof of residence, and proof of lawful status in the United States. Requires the state to maintain records of non-domiciled applicants. Sets out that a non-domiciled commercial learner's permit or a commercial driver's license issued to a non-United States citizen will be valid until the expiration date of the USCIS documents presented. The document issued to a non-domiciled applicant must indicate the holder is non-domiciled. The following miscellaneous changes and provisions are set forth in LB983: Separates the requirements between Class O licenses, Class M licenses, and state identification cards from the requirements for commercial driver's licenses and commercial learner's permits; provides for disqualification of the holder of a commercial driver's license or commercial learner's permit for fraud related to the application process or the submission of medical examiners certificate; requires that any license surrendered have a perforated "void" stamp; allows for the waiver of written tests if they're not more than one year old; prohibits the masking of a law violation, deferring a law violation, or entering into a diversion program. Allows third-party testers to administer tests to drivers trained in another state. Requires nationwide criminal background checks for all persons administering commercial driver's license tests, both third party examiners and state examiners. Requires all commercial driver's license testers to have refresher training every four years. Sets out requirements for employers of commercial drivers. They cannot allow them to drive without the proper permit or

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license or if they are disqualified, or if they have multiple commercial driver licenses, or commercial learner's permits, or if they are subject to an out-of-service order, or to drive in violation of laws pertaining to railroad-highway grade crossings. Clarifies that disqualifications apply to both commercial driver's licenses and commercial learner's permits. Provides that a driver suspected of fraud in the issuance of a commercial learner's permit or a commercial driver's license must be recalled to retake tests. If the driver fails the test or fails to come in to take the test, he or she is disqualified, and the driver will have to complete a new application process with testing. Designates that if the holder of a commercial learner's permit or a commercial driver's license is convicted of fraud, they are disqualified for one year. Adds the commercial learner's permit to the revocation and appeals process, the reinstatement requirements, and the abstracting requirements. The effective date of the bill is July 8, 2015, except for some of the harmonizing provisions and the provision which allows for military waivers. I appreciate your attentiveness today. I have tried to be concise yet thorough with my testimony regarding LB983. I'm happy to answer any questions the committee may have. [LB983]

SENATOR SMITH: Are there questions for Ms. Lahm? I see none. Oh, Senator Dubas. [LB983]

SENATOR DUBAS: Thank you, Senator Smith. Thank you, Director Lahm. Just a few questions on the testing, changes in testing requirements. How much is this going to change the work load for your existing staff? [LB983]

RHONDA LAHM: We are anticipating a significant increase in work load and there's a variety of reasons for that. One is, the actual test itself is more lengthy because the skills test, they've changed the protocol. They've added one. There were three exercises they do, now, there's four. And because if they have to be done in order, we've done a little bit of a pilot project and we're seeing a failure rate that's a little higher. So, it's changing from about an hour and fifteen to an hour and thirty minutes, to about two and a half hours, two fifteen to two-thirty. So it's increased about an hour per test, the test time for a CDL, so that will be significant. The other thing that will be significant is the number of tests we have to give because, right now, if you have a Class A CDL and you want to add a tanker endorsement, you come in and take a written test. What will happen when this bill is enacted, if it is, is that you will come in and take a written test and then you will have to do all the skills testing in a vehicle representative of that tanker class. And it will be that way for tanker, school bus, and passenger vehicles. So that's a little bit of a change. It adds work load as well. And then the additional testing that will be required for the learner's permit, because of the learner's permit having a class and having endorsements, it is right now that you take the general knowledge test and you get a commercial learner's permit and it's good for any of the classes as long as the driver you're with has class...appropriate class license for that vehicle. But now if they want to get a Class A CDL, they have to get a Class A learner's permit which means they have to take additional tests before they get that

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permit. So those are some of the things off the top of my head that are going to be a significant work load increase. [LB983]

SENATOR DUBAS: So not only a work load increase, what is that going to mean for those people taking the test as far as getting their tests taken in a timely fashion and in and out? [LB983]

RHONDA LAHM: Right. Well, we're hoping that we're going to be able to, you know, handle as best we can. But, obviously, we can do so much with the people that we have. We're hoping that we're going to be able to get additional people to help with the work load. It also is going to make a difference with the commercial learner's permit. There's a 14 day wait now, I mean, in this bill. So once you get commercial learner's permit, you have to hold it for 14 days, so that has the potential to slow down our ability to get drivers out on the street to help on the commercial trucking industry as well. [LB983]

SENATOR DUBAS: The one point that you make in here specifies the order in which a commercial driver's license skill test must be conducted so it has to do the pretrip, then the basic control, and then the on-road. So they have to pass those in that order. If they would pass the first, not the second, do they have to go back and start all over again? [LB983]

RHONDA LAHM: Yeah. That is correct. That if they come and they go out and they pass the pretrip inspection, which has changed significantly. That used to be a written test and now it is going around the vehicle and checking a number--I have a list here of all the points--but it's probably 20 or 30 different places on the vehicle and saying what they're checking and why they're checking it. And so if they pass that and then they go on to the different exercises, maneuvering exercises, then they fill those. Then when they come in again, we have to spend time doing that pretrip inspection again, and then the skills test, and the road test. And if they would do the pretrip inspection and the skills test and get to the road test and fail, then they're still back doing pretrip inspection, skills, and then the road test. [LB983]

SENATOR DUBAS: How about if they pass every one of those but they didn't do it in that order? It's still considered.... [LB983]

RHONDA LAHM: They have to do it in that order. [LB983]

SENATOR DUBAS: In that order. [LB983]

RHONDA LAHM: We have to administer the test in that order. [LB983]

SENATOR DUBAS: Okay. It seems like I had one other question and it escaped my

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mind, so. If I think of it, I'll catch up with you later. Thank you. [LB983]

SENATOR SMITH: Any additional questions for Ms. Lahm? I see none. Thank you very much. I would like to recognize Senator Beau McCoy who has joined us. And I apologize for not recognizing Senator Janssen who joined the committee earlier. We're continuing on with proponents of LB983. Welcome, again. [LB983]

LARRY JOHNSON: Hi. Good afternoon, again. Thank you, Vice Chairman Smith and Senator Dubas and members of the Transportation Committee. My name is Larry Johnson, L-a-r-r-y J-o-h-n-s-o-n, and I'm the president of the Nebraska Trucking Association. I'm here to testify in favor of the provisions of LB983. As Director Lahm had testified, the adoption of these provisions are necessary to comply with the federal rules and prevent a significant loss of federal highway funds. As a whole, as I said earlier, the trucking industry is in favor of keeping the roads safe and efficient and these highway funds are important to the state, as well as keeping rules consistent from state to state. And this is a matter of adopting it, so we're part of the larger folks that do it. There is one area that I...that Senator Dubas brought up and that would be to make sure that that fiscal note in regard to the expenditures, we feel that it would be very important that because of the increases in time and things like that, that they would need those additional funds to get additional officers and budget for that. We worked with...in the development of the bill looking at some of the pretrip exercises and those kinds of things, and we think that she's estimated that the length of time and diligence on it will be necessary. I can't stress enough that the timely and efficient manner in which these tests are administered is of the utmost importance to everyone that owns and operates a vehicle that requires a CDL. From our four higher ag market carriers, the landscapers, fuel haulers, road construction operators, to our over-the-road haul truckers, in their world their time is money and they must keep the wheels turning in order to do that and bring in revenue. Any lengthy delays or backlogs for testing CDL drivers would be disastrous to their revenues and profits, and we're hopeful that everybody understands that the need for additional officers would be necessary. Thank you. [LB983]

SENATOR SMITH: Thank you, Mr. Johnson for your testimony on LB983. Do we have questions for Mr. Johnson? Senator Dubas. [LB983]

SENATOR DUBAS: Thank you, Senator Smith. How do you reach your membership when there are these kinds of changes made, especially in the area of testing to make sure they're prepared...very well-prepared so they don't have those extra failures? [LB983]

LARRY JOHNSON: Great question. We have a weekly newsletter that goes out via e-mail, mail, and also by fax that would disseminate that type of information. We also have Facebook and those social medias out there now that extend beyond our members. As many of you here, we have 13,500 trucking companies that are

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commercially licensed to go Interstate, so it's quite a number beyond what we have as members. So we try to get the word out that way. And also the Carrier Enforcement of the State Patrol, they do town hall meetings which have been very successful and we try to tag on to those as well to get our members there for that, so they do a great job in trying to educate and prevent that way. [LB983]

SENATOR DUBAS: Okay. Do you get calls into your office with a lot of questions on the testing? [LB983]

LARRY JOHNSON: Oh, yes, yes, yes. [LB983]

SENATOR DUBAS: I would imagine with changes like this there would be a lot of questions and uncertainty. [LB983]

LARRY JOHNSON: Yeah. [LB983]

SENATOR DUBAS: Thank you. [LB983]

LARRY JOHNSON: Thank you. [LB983]

SENATOR SMITH: Thank you, Mr. Johnson. [LB983]

LARRY JOHNSON: Anyone else? Thank you. [LB983]

SENATOR JOHNSON: Are there additional proponents for LB983? Seeing none, do we have a letter to read into the record? [LB983]

SENATOR DUBAS: (Exhibit 3) I do have a letter of support for LB983 from the Nebraska Department of Roads. [LB983]

SENATOR SMITH: We now continue on with opponents of LB983. Seeing none. Is there a letter that we have to read into the record? [LB983]

SENATOR DUBAS: No record. [LB983]

SENATOR SMITH: Seeing none. All right, we now would like to have testimony of those that would like to testify in a neutral position. Welcome. [LB983]

ALICE LICHT: Good afternoon, Senators, Senator Dubas. My name is Alice Licht. That is A-l-i-c-e L-i-c-h-t and I'm the executive vice president of the Nebraska Agri-Business Association and those are the people who haul fertilizer and chemicals and seed to farmers and also pick up those supplies at supply houses. We are here to testify neutral today. The past few years we have worked at the federal level on this issue. I believe

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when they started working on this, you heard the director speak about a learner's permit for a commercial driver's license. I believe they started it at 30 days. The 14 days is more palatable. It's difficult for us to find employees in the springtime when fertilizer season hits, so the 14-day thing will be difficult for us to deal with because it's slowing down the process. But as I say, we are neutral on this bill because there's not too much we can do about it at this point in time. So we would urge you to, I guess, pass the bill, and we'll try and live with the consequences. Thank you. [LB983]

SENATOR SMITH: Thank you, Ms. Licht. Do we have questions? Seeing none, thank you. [LB983]

ALICE LICHT: Thank you. [LB983]

SENATOR SMITH: We'll continue with those that want to testify in a neutral position on LB983. Welcome. [LB983]

ANTHONY AERTS: Good afternoon, Senator Dubas, Senator Smith, and other members of the Transportation Committee. My name is Anthony Aerts, A-n-t-h-o-n-y A-e-r-t-s. I'm the assistant director of the Nebraska Farm Bureau Federation and I'm here today on behalf of the organization to testify in a neutral capacity on LB983. As you've heard from the other testifiers that have come before me, the changes that would be adopted by this bill would make obtaining and holding a commercial learner's permit for 14 days a precondition for then obtaining a CDL, additionally the bill would modify certain testing requirements around the issuance of CDLs in a way that could be construed as potentially more rigorous or more burdensome. As Nebraska law currently reads, farmers and ranchers engaged in everyday trucking activities using truck, tractor, semitrailer combinations, are currently required to have CDLs and therefore the changes made by this bill would impact them as well. However, as an organization we obviously acknowledge the need to recognize and implement changes that are made at the federal level, especially in order to avoid the loss of federal highway funding. But we would like to bring up that a similar bill LB249 was introduced last session and heard before this committee. LB249 would implement the covered farm vehicle CDL exemption that was also mandated by a change at the federal level and which is also tied to a loss of federal funding if not successfully implemented into state law. This exemption would not be applicable to agricultural operations whose scope and distance of trucking activity resembles that of commercial outfits, nor would it be applicable to individual farmers and ranchers who wish to engage in commercial trucking activities outside of the normal course of their operations. However, it would be applicable to farmers and ranchers who wish to efficiently, safely, and responsibly haul their own products to market in the modern day agricultural economy, which sometimes requires traveling greater distances to find the best prices being offered on a commodity market. LB249 was kicked out to General File at the end of last session, and we would like to thank the committee for all of its hard work on the bill up to this point. So if LB249 is

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passed by the Legislature this session, as we hope that it will be and have every reason to believe that it will be, the covered farm vehicle CDL exemption fully implemented into Nebraska statute and the changes made by LB983 would have very little impact on our family farm and ranch members. However, if for whatever reason the covered farm vehicle exemptions are not successfully adopted this year, then the regulatory changes made by LB983 would be a little bit difficult for our members to swallow. So with that being said, I'll end my testimony and be happy to take any questions that you guys might have. [LB983]

SENATOR SMITH: Thank you, Mr. Aerts, for your testimony. Do we have questions? Seeing none, thank you. Do we have anyone else that would like to testify in a neutral position on LB983? Seeing none. Senator Dubas, you waive closing? All right. And that closes the hearing for LB983. Senator Dubas will now open the hearing for LB982. [LB983]

SENATOR DUBAS: Good afternoon, Senator Smith, members of the Transportation and Telecommunications Committee. My name is Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s. I represent Legislative District 34. LB982 seeks to update the definition of an all-terrain vehicle and a utility-type vehicle. The bill allows for titles to be issued for innovative new products that don't currently fit the ATV or UTV definitions in Nebraska. The proposed ATV definition increases the weight limit from nine hundred to twelve hundred pounds and updates the tire terminology by inserting non-highway tires to allow for the non-pneumatic tires. In the utility type vehicle definition, the bill strikes the weight and width ranges, simply keeping the current maximum weight of two thousand pounds and maximum width of seventy-four inches, and updates the tire terminology to include non-highway tires. I know that there's a potential amendment that could be coming our way. The particular industry that I've been working with on this issue is Polaris. I know that there are a lot of changes in our UTVs and ATVs and I guess when this was brought to me, I thought, well, it's good for the committee to have this discussion and see what our statutes need to look like as we continue to work to make sure that statutes stay current with what technology and what types of vehicles we have at our disposal. So that was the reason for the introduction of LB982. [LB982]

SENATOR SMITH: Thank you, Senator Dubas, for your opening on LB982. Do we have questions for Senator Dubas? Senator Janssen. [LB982]

SENATOR JANSSEN: I do. Not this time for my attendance at all, but is this an expansion, or...? I had a bill last year that extended ATVs in part and... [LB982]

SENATOR DUBAS: Well, I think it's similar to what you introduced last year just because of the changes in how these vehicles are being manufactured, their sizes and their changes. [LB982]

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SENATOR JANSSEN: Right. And it was too long last year and I had a dealer in my...well, in Fremont that had bought these, but they weren't legal to drive. And I know we had changed the law. I think it passed unanimously, not only through this committee but on the floor, so I was just curious if that was something... [LB982]

SENATOR DUBAS: Following along that same vein. It's just the changes in these types of vehicles. [LB982]

SENATOR JANSSEN: Thank you, Chairwoman. [LB982]

SENATOR SMITH: Any other questions for Senator Dubas? Seeing none. Thank you. We now open the hearing to proponents of LB982. Welcome. [LB982]

LYNDA CHILSTROM: (Exhibits 6 and 7) Senator Smith, Senator Dubas, and members of the committee, my name is Lynda Chilstrom, L-y-n-d-a C-h-i-l-s-t-r-o-m. I represent Polaris industries. Thank you for your time today. I'm here to testify in support of LB982. In a 2012 study by the Western Governors' Association identified that Nebraska consumers spend \$5.7 billion annually on outdoor recreation, including \$621 million specifically for off-road motorcycles, ATVs, and recreational off-highway vehicles, used and new vehicle purchases, accessories, services and trip-related spending. Additionally in Nebraska, the outdoor recreation industry provides \$1.7 billion in wage and salary income, generates \$396 million in state and local tax revenue, and directly supports 74,000 jobs, including 22 independently owned Polaris dealerships which provide job and tax revenue for the state. The key to these small businesses continuing to thrive is ensuring they can offer new innovative products that meet their consumers needs. Over the last several years traditional ATV sales across the country have declined while side-by-side sales have increased dramatically. In reaction to consumer demand, Polaris introduced the trail accessible 50-inch side-by-side Ranger Razor in 2008 and added a second 50-inch model in 2010. Arctic Cat introduced it's first 50-inch side-by-side model in January. Even though these vehicles are very similar in size to traditional straddle and handlebar ATVs, the Razor is currently considered a utility-type vehicle in Nebraska due to the statutory seating and steering specifications. These statutory specifications can limit access to trails and cause confusion for consumers who travel outside of Nebraska with their vehicles. What's been handed out to you is a proposed amendment that addresses some concerns that Polaris and the Department of Motor Vehicles have as the bill was originally drafted. And so I will speak to the bill as if it were amended. Polaris is an ORV industry leader. And it is one of only three domestic manufacturers competing in a marketplace filled with foreign giants like Yamaha, Honda, Kawasaki, and BRP. Polaris is an extremely innovative company which is constantly developing new vehicles and technologies in reaction to consumer demand. Ten days ago, Polaris announced its newest off-road product. It's called the Sportsman ACE. The ACE combines the center seat position of an ATV with a sit-in bucket seat riding experience, steering wheel, seat belt, and enclosed ROPS

traditionally found on a side-by-side vehicle. The Sportsman ACE is 48 inches wide and weighs 835 pounds, so it is very similar, identical footprint actually of a standard straddle ATV. Under current statute, this new vehicle doesn't fit into the ATV or UTV definition in Nebraska. Nebraska's County Treasurers' title ATVs and UTVs, but a title cannot be issued for an off-road vehicle which does not fit into one of these definitions. If a vehicle cannot be titled, it cannot be sold or used in the state. This situation will cause significant problems for Polaris dealers, Polaris consumers and banks that loan money for a vehicle purchased but can't be named as a security interest on the title because a title can't be issued. In addition to changes to the seating and steering requirements in the definition, we are requesting a change to the tire description. In April of 2012, Polaris acquired resilient technologies where this tire was developed and is being manufactured. Polaris defense is a division of Polaris industries which produces vehicles used by the U.S. and allied forces in more than 23 countries throughout the world. The non-pneumatic tire, never flat tire technology, increases the survivability in a hostile situation and the vehicle handling in rugged terrain. The NPT, non-pneumatic tire, is composed of a central polymeric web surrounded by a rubber tread band which allows continuous operation even if up to 30 percent of the tire is damaged. An NPT was driven more than 5,000 miles with a 50 caliber bullet hole. Additionally, a railroad spike has been driven into an NPT and that vehicle has been driven in excess of 1,000 miles and is continuing to operate. These scenarios are impossible with an air-filled tire. In December, Polaris introduced the new Sportsman WV850, which is a work vehicle suitable for agriculture and commercial applications. The WV850 is manufactured with these tires. This vehicle isn't an ATV by Nebraska's definition simply because the ATV does not have low-pressure tires. These tires have no pressure. A title cannot be issued for the WV850 in Nebraska. Off-road vehicle manufacturers are committed to meeting the needs of their consumers who benefit from the variety of options that enhance the rider experience. ORV riders include older adults, disabled people who enjoy trail riding and hunting. Their convenience necessitates machines with different seating configurations and additional safety features. Side-by-side vehicles accommodate people who may not be comfortable in control of their own vehicle, or want a more comfortable alternative to straddle seating. Polaris has been working to update ATV definitions in several states across the country so that there's consistency among the state definitions and manufacturers can react more quickly to consumer demand. During 2012 and 2013, nine states removed seating and steering specifications from their off-road vehicle definition. Polaris is currently working in eleven states to modernize ATV and UTV definitions. On behalf of Polaris industries, I respectfully urge your support of the recommended definition changes for LB982 and I'm happy to answer your questions. Thank you. [LB982]

SENATOR SMITH: Do we have questions for Ms. Chilstrom? I see you have something over here. Can you kind of point out to us what you have? [LB982]

LYNDA CHILSTROM: Sure. That is the non-pneumatic tire that Polaris is

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manufacturing. They're manufacturing it in Wausau, Wisconsin. That tire originally was created for Polaris defense and Polaris has a couple defense contracts, and so these vehicles are shipped into Iraq and Afghanistan and the tires help with survivability in hostile situations and on rugged terrain. So now, Polaris has taken this tire technology and is moving it into ag and commercial applications. We just passed a definition change in Wisconsin so that this tire is legal where it's being manufactured so that additional testing can be done for potential application on...for trail-riding type vehicles. The suspension on an ATV needs to be significantly modified when you're using this tire. Current tires on ATVs handle the rugged terrain or going over logs or rocks, that kind of thing. However, this tire is much more rigid and so the suspension has to be beefed up in order to enhance the handling of the vehicle. [LB982]

SENATOR SMITH: And so one of the components of this legislation is to redefine the terms of all-terrain vehicles to allow for that tire. [LB982]

LYNDA CHILSTROM: Right. We're using the term non-highway tire, which is the term that we've used in several states. The term that was used in Wisconsin was non-pneumatic; we were more specific. [LB982]

SENATOR SMITH: All right. Thank you. Senator Brasch. [LB982]

SENATOR BRASCH: Thank you, Mr. Chairman, and it's good to see you here again, Ms. Chilstrom. When we spoke earlier this morning, I had indicated that in our district there is requests on ATVs being used for medical purposes by first responders, and you had indicated at that point, you're talking military, agriculture. And so there's another community that they're also being addressed is emergency vehicles, correct? [LB982]

LYNDA CHILSTROM: Certainly. Polaris manufacturers modified vehicles, specifically the Ranger that can be outfitted to have backboards specifically installed, and also fire retardant equipment or applications that are needed deep in areas where a larger truck can't navigate. [LB982]

SENATOR BRASCH: And that was very interesting to learn that you are manufacturing them specifically towards that need. So thank you for coming here from Minneapolis to testify today. [LB982]

LYNDA CHILSTROM: Thank you. Thank you. [LB982]

SENATOR SMITH: I see no additional questions. Thank you, Ms. Chilstrom, for your testimony on LB982. [LB982]

LYNDA CHILSTROM: Thank you. [LB982]

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SENATOR SMITH: And we will continue with proponents of LB982. Seeing none. Do we have any letters to read into the record? [LB982]

SENATOR DUBAS: No letters. [LB982]

SENATOR SMITH: No. We will now continue with opponents of LB982. Seeing none. We will continue with those that would like to testify in a neutral position on LB982. Seeing none, I do have a letter to read into the record. [LB982]

SENATOR DUBAS: (Exhibit 8) I do have a letter in the neutral capacity on LB982 from the Nebraska Department of Motor Vehicles. [LB982]

SENATOR SMITH: Thank you. And now we will go to closing on LB982. Senator Dubas waives closing and that concludes our hearing on LB982 and our hearings for the day. Thank you. [LB982]