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Transportation and Telecommunications Committee
February 08, 2016

[LB799 LB872 LB973 LB996]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, February 8, 2016, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB799, LB872, LB973, and LB996. Senators present: Jim Smith, Chairperson; Lydia Brasch, Vice Chairperson; Al Davis; Curt Friesen; Tommy Garrett; Beau McCoy; and Les Seiler. Senators absent: John Murante.

SENATOR SMITH: Good afternoon and welcome to the Transportation and Telecommunications Committee. My name is Jim Smith. I'm the Chairman of the committee and I represent Sarpy County and District 14. I'd like to introduce some of my colleagues that are here with us today and I know we do have at least one absence that's excused. He is not here yet, but to my far left is going to be Senator Tommy Garrett representing Bellevue, Nebraska. Next, we have Senator Les Seiler from Hastings, Nebraska, and we have Beau McCoy from Omaha. And to the far right, we have Senator Curt Friesen from Henderson; Senator Al Davis from Hyannis; Senator Murante from Gretna will be absent today, and we have the chair person...the vice chairperson of the committee is Senator Lydia Brasch from Bancroft, Nebraska. To my left is Paul Henderson, our committee clerk; and to my right is Mike Hybl, legal counsel to the committee. And we have two pages with us today. We have Toni Caudillo from North Platte, Nebraska. Toni is a freshman at UNL. And we have Alex Brechbill from Aurora, Nebraska. Alex is a junior at Nebraska Wesleyan. We will be hearing the bills in the order that have been listed on the agenda and posted. If you are testifying, please complete the sign-in sheet and bring it with you to the table and hand it to one of the pages and they will get that processed for you. And at the beginning of your testimony, we ask that you both state and spell your name for the record. We have a smaller turnout today so we will not be using the light system, but I do encourage those wishing to testify either in support or opposition to try to limit your remarks to about five minutes. If you do not wish to testify but do want to voice your support or opposition to a bill, you can indicate so on that form and it will become part of the official record. I ask that you do silence your cell phones so we do not have distractions, and I appreciate your understanding that we are an electronics-equipped committee so some of our committee members will use their electronic devices to reference material on the hearing, so please do not take offense at that. It's just the age that we live in and some of us use paper and some of us use electronics. With that, we have four bills to be heard today and we are going to begin with LB799 to be introduced by Senator Bolz. It includes capital...it is to include capital acquisition costs in the Nebraska Public Transportation Act's assistance program. And welcome, Senator Bolz. [LB799]

SENATOR BOLZ: (Exhibits 1 and 2) Thank you, Senator Smith. I am Senator Bolz, that's K-a-t-e B-o-l-z, and LB799 is a recommendation of the Aging Nebraskans Task Force, and I'd like to thank Senator Davis for his service on that task force. It's intended to help support public

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transportation providers who specifically help individuals who are aged or disabled get where they need to go. It's a fairly simple bill. Currently, state matching dollars can only be used for operating expenses for public transportation like staffing or fuel. Under LB799 state matching dollars could also be used for certain capital purchases like new vans or buses. Currently, state, local and federal dollars all make up the funding needed for public transportation. The original dollars were allocated in 1975 and were specifically intended to meet the needs of the elderly and the disabled. These dollars are used community by community to meet local needs, including bus routes, vans, and shuttles between cities and transportation to and from major medical or shopping centers. The breakdown for operating expenses is 50 percent federal, 25 percent state, and 25 percent local. However, the breakdown for capital expenses is 80 percent federal and 20 percent local. Under LB799, 10 percent of the capital expenses could be state matching dollars. I want to note that the current funding method requires that rural communities needs are met first and then dollars flow to Lincoln and Omaha. I don't expect that this bill will dramatically increase the amount of dollars that rural communities are spending on transportation. I think that they will continue to work within their budgets, but I have brought you an amendment that strikes a little bit more of a balance by striking the ability in the original green copy of the bill for communities to spend money on facilities, and focuses on the true intent of the bill which is vans and buses. So, I would also note in closing that our most recent state budget has provided an overall increase in public transportation dollars. So, I think this flexibility would be well-received and would help meet local needs. Be happy to take any questions and I'll quickly note that I have three bills up in Appropriations today. It's quite a Monday, so I'll waive closing. [LB799]

SENATOR SMITH: Thank you, Senator Bolz. Do we have any questions for Senator Bolz? I see none. Are you going to remain for closing? [LB799]

SENATOR BOLZ: I'll waive closing. I've got a couple of other bills up, but my staff will be here and taking notes. [LB799]

SENATOR SMITH: Okay. We understand. Thank you. [LB799]

SENATOR BOLZ: Thank you. [LB799]

SENATOR SMITH: We now move to proponents, those wishing to testify in support of LB799. Welcome. [LB799]

MARK INTERMILL: Good afternoon. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here today on behalf of AARP to support LB799. As Senator Bolz said, this is a recommendation of the Aging Nebraskans Task Force and I am...I think the amendment also that

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has been added also helps clarify the intent that this is intended to make sure that those rural transmit systems are able to get the equipment that they need to operate their transit systems. Transportation is a major issue for our membership, or some of our members who don't drive and who need to get to medical appointments and shopping and things of that nature. So, we're interested in making sure that we have public transit systems that are able to provide those services when they're needed in order to make sure that people have those opportunities. So we do support LB799 and I'd be happy to try to answer questions. [LB799]

SENATOR SMITH: Thank you for your testimony. Do we have questions from the committee? Senator Davis. [LB799]

SENATOR DAVIS: Thank you, Senator Smith. Good to see you, Mark. Do you remember when we were working with the Aging Task Force, as an issue in rural Nebraska, transportation was one of the top pieces, wasn't it? [LB799]

MARK INTERMILL: Absolutely, and we have about 60 transit systems operating across the state. One of the issues, I think that we need to address in Nebraska more thoroughly, is the coordination of those systems so that we can make sure that individuals who live in more remote areas of the state are able to get to those locations that we get some interoperability of some of our transit systems. Some of them only operate within city limits, so there is a need. If there's a need outside the city limit, we need to...there has to be some other provider that is able to do that. So it is, it was probably one of the top needs that...the unmet needs that we see in the state. [LB799]

SENATOR DAVIS: Thank you. [LB799]

SENATOR SMITH: I see no additional questions. Thank you for your testimony. [LB799]

MARK INTERMILL: Thank you. [LB799]

SENATOR SMITH: Next proponent of LB799. Welcome. [LB799]

MATTHEW ROQUE: (Exhibit 3) Hello, my name is Matthew Roque. That's M-a-t-t-h-e-w R-o-q-u-e. First of all, I'd like to thank Senator Bolz, who had to leave, for introducing this bill. My appreciation is also extended to Senator Smith and this committee for the work that they do on behalf of the citizens of Nebraska. I'm here today representing a group called ProRail Nebraska and have just a few short comments. This nonprofit advocacy group focuses on increased passenger rail services as well as other public transportation options within the state. Public

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transit agencies serve a wide variety of patrons from across the socioeconomic spectrum. There are many varied reasons why a person uses public transportation, from convenience to financial necessity. Often public transit authorities operate in an environment where they must compete for fewer and fewer tax dollars. LB799 will allow them to use state financial assistance not only for operating costs, but for capital acquisitions. These dollars are necessary to ensure continued safe, reliable, and convenient service to those who need it most. ProRail Nebraska supports your efforts in advancing LB799 from this committee. Thank you. And I'm willing to answer any of your questions. [LB799]

SENATOR SMITH: Thank you, Mr. Roque. Do we have any questions from the committee? I see none. [LB799]

MATTHEW ROQUE: Thank you. [LB799]

SENATOR SMITH: (Exhibit 4) Thank you for being here today. Appreciate your testimony. Next proponent, persons wanting to testify in support of LB799. I see none. Do we have any opponents wishing to testify in opposition to LB799? And do we have anyone in the neutral capacity on LB799? We do have letters for the record in a neutral capacity. Charles McGraw on behalf of RYDE Transit of Kearney. And I know Senator Bolz has waived her closing so that concludes our hearing on LB799. I thank Senator Bolz for testifying. We now move to LB872, and I know Senator Murante was to have testified. I believe he's got a substitute for him today and that bill introduction relates to changing a provision relating to the use of blue and amber rotating or flashing lights. Welcome. [LB799]

DYLAN FREDERICK: Thanks, Chairman Smith. Members of the Transportation Committee, my name is Dylan Frederick, D-y-l-a-n F-r-e-d-e-r-i-c-k. I serve as legislative aide to State Senator John Murante who represents the 49th Legislative District comprising of Gretna, Chalco, and northwest Sarpy County. Senator Murante apologizes for having to miss the riveting discussion today but he sends his best. I'm here today to introduce LB872. LB872 was brought to us by the Nebraska Department of Roads. The bill would permit the use of rotating or flashing blue lights while performing maintenance by Department, county, and municipality highway road and street vehicles. Currently these entities may only use the rotating or blue flashing lights during the removal of snow. The bill is permissive. There's no fiscal impact to the Department or counties and municipalities. The Department of Roads has told me that the only new vehicles that will be upgraded with the flashing blue lights will be those that are added to their fleets. In 2015 this committee heard and advanced LB181 which granted similar authority to vehicles owned by utility companies. The bill passed the full Legislature 47 to 0 and was signed into law by the Governor. I would ask that you direct any specific questions that you have toward the

experts that will follow me from the Nebraska Department of Roads, and kindly ask for your support of LB872. [LB872]

SENATOR SMITH: Thank you, Mr. Frederick. And are there any questions? I see none. Thank you. And we now move to proponents of LB872, those wishing to testify in support. Welcome, Director. [LB872]

KYLE SCHNEWEIS: (Exhibit 1) Good afternoon, Senator Smith and members of the Transportation and Telecommunications Committee. My name is Kyle Schneweis, spelled K-y-l-e S-c-h-n-e-w-e-i-s. I'm the director of the Nebraska Department of Roads. I want to thank you for allowing me to testify in support of LB872 today. The bill would permit the use of rotating or flashing blue and amber lights while performing maintenance by Department vehicles. The Department currently has vehicles that are outfitted with flashing blue and amber lights, but we are only authorized to use them during snow removal. During the remainder of the time when those vehicles are performing other maintenance tasks, the blue lights must be turned off. Flashing lights attract the attention of nearby drivers and pedestrians and provide those drivers with information about the situation as they approach the vehicles. A recent Texas DOT study showed that motorists are likely to proceed with more caution when encountering a vehicle with blue lights or another color combination, rather than with yellow or amber lights alone. In the study, responses received of a query of drivers demonstrated that those motorists associated less hazard or danger with just yellow flashing lights than they did with other color combinations. Equally important, the study verified that the use of flashing or rotating blue lights did not lessen the impact of the red and blue lights used by emergency vehicles. As Mr. Frederick stated in his opening, LB181 passed last year allowing utility companies to use blue and amber lights during routine maintenance operations. We at NDOR feel we should be afforded these same protections that are now authorized to provide for their workers. The bill has been drafted broad enough to also give counties and municipalities the authority to use blue and amber lights should they choose. Their road and street maintenance employees deserve the same protections that ours do. Please note that the bill is permissive, so vehicles are not required to use these lights, and because it's optional, we do not anticipate a fiscal impact to the Department. It's our intention only to outfit new vehicles with the blue and amber lights. Safety of the traveling public is very important and the ability to better alert them so they may exercise caution ahead is a worthy reason for this bill to advance. However, the safety of highway and street workers who may be putting themselves in harm's way while doing the very important job of maintaining our roads and highways is also paramount. Safety is one of our Department's eight strategic goals and this bill will help us carry that goal out. I urge you to advance this important safety measure and I'd like to thank Senator Murante for introducing the bill on behalf of the Department and I'd be happy to answer any questions that you have. [LB872]

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SENATOR SMITH: Thank you, Director Schneweis. Do we have questions from the committee? I see none. [LB872]

KYLE SCHNEWEIS: Okay. Thank you. [LB872]

SENATOR SMITH: Thank you. Next proponent of LB872. Welcome. [LB872]

BETH BAZYN FERRELL: Thank you. Chairman Smith, members of the committee, for the record my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials and I'm appearing in support of LB872. Our reasons for supporting this bill are essentially the same as what the director outlined. We see this as a tool for increased safety for our county workers. Anytime we can increase their visibility, that's a good thing. So I'd be happy to take questions. [LB872]

SENATOR SMITH: (Exhibits 2 and 3) Thank you for your testimony. Do we have questions from the committee? I see none. Thank you. Next proponent of LB872. We do have a letter for the record in support of LB872 from Gary Krumland on behalf of the League of Nebraska Municipalities. Do we have any persons wanting to testify in opposition to LB872? Anyone wishing to testify in a neutral capacity? We do have a letter for the record in a neutral capacity regarding LB872. It is Jo Hitz on behalf of the Professional Towing Association of Nebraska. And with that, we conclude our hearing on LB872. And I'm going to introduce LB973, so I'm going to turn the hearing over to Vice Chair, Lydia Brasch. [LB872]

SENATOR BRASCH: Thank you, Chairman Smith. We will now proceed to LB973. [LB973]

SENATOR SMITH: (Exhibit 1) Thank you, Senator Brasch and members of the Transportation and Telecommunications Committee. My name is Jim Smith, J-i-m S-m-i-t-h, and I represent the 14th Legislative District in Sarpy County. I'm here today to introduce LB973 on behalf of the public power companies in Nebraska and I want to start out by saying how much I appreciate the employees of the public power companies, especially those that are in the field and putting their life in danger every day to take care of our electrical grid in Nebraska. So we appreciate them very much. So why is this bill important? Well, it's a matter of public safety and the safety of those that are wishing to transport oversized loads up and down our highways. Electric lines are dangerous and should only be moved by a professional utility worker, and that's at the heart of the bill that's in front of you. In today's statutes, transporters of oversized loads must notify the local authority and the respective electric utility of the move in order that such utilities might coordinate the moving of electric lines along the path of that transporter. And the transporters are not permitted to move or to manipulate the electrical lines or the related electrical equipment themselves. And if they were to do so, and not follow the law, they're subject to a Class V

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misdemeanor that carries a maximum fine of \$100. We are seeing more and more cases today where those penalties are not sufficient to prevent these transporters from attempting to either move or manipulate those lines or electrical equipment themselves or otherwise violate the law. This bill, as amended, and I'm specifying, as amended, because I do have amendments to hand out. I believe they're on my desk there, so I'm going to ask the page if they would distribute the amendments for me. So as amended...we did make some changes on the wrong portion of the statute, and it brought about an unintended consequence of being a bit too broad. So with the amendment, this bill increases the penalty to a Class II misdemeanor for violating the law. That carries a maximum of \$1,000. Also, a Class II misdemeanor carries a punishment of up to six months of imprisonment. And the reason we wanted to put that in there was, this is a very serious issue, and we want to make certain that our public is kept safe. The bill also requires that proof of notification must be carried by the transporter of those oversized loads. And that is basically what the bill is about. So, thank you very much. I appreciate your support of this legislation. [LB973]

SENATOR BRASCH: Thank you, Chairman Smith. Are there any questions from the committee? Yes, Senator Davis. [LB973]

SENATOR DAVIS: Thank you, Senator Brasch. Senator Smith, you'll have people following you on this bill? [LB973]

SENATOR SMITH: I believe I do. [LB973]

SENATOR DAVIS: So I might...I'll defer my questions. I guess my question is... [LB973]

SENATOR SMITH: If not, I'll close. [LB973]

SENATOR DAVIS: Is this a significant problem in the state? I mean, this seems like kind of a drastic upgrade of the fines. [LB973]

SENATOR SMITH: I believe, it is. And whenever it does become an issue, it becomes a serious life or death issue. But I do believe that somebody is going to follow me...yes, I'm getting the finger pointed at someone else over there. Okay. [LB973]

SENATOR DAVIS: Okay. Thank you. [LB973]

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SENATOR BRASCH: Are there any other questions from the committee? Seeing there are none, are there any proponents? If so, please come forward. Welcome. Please state and spell your name. [LB973]

KRISTEN GOTTSCHALK: Members of the Transportation and Telecommunications Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I am the government relations director and registered lobbyist for the Nebraska Rural Electric Association. And today I'm testifying on behalf of NREA and our 34 rural electric providers, both rural public power districts and electric cooperatives, and I'm also testifying on behalf of the Nebraska Power Association, which is a voluntary trade association for all of the Nebraska utilities, and today testifying in support of LB973. And what I wanted to do very quickly was give you a little bit of a history of our attempts to ensure safety when oversized loads are being moved across the state. In 2011, we passed LB164, and it was the first step in requiring notification anytime an oversized load, and that's anything over 15.5 feet and wider than the road...or wider than the roadway, was moving down a county or township road. But whenever those loads were to be moved, that the person moving the load had to provide notification to the electric utility at least ten days before. And this was (inaudible) on the fact that we were having grain bins and other large loads being moved down those roads without somebody making sure that the line crossings were going to be adequate to allow them to pass safely under. In fact, we have a number of situations where a load would pull down a ground or even a conductor wire which created a tremendous safety problem, or we found that somebody might sit atop their load with a wooden stick and try to lift that wire when they go under it. And a lot of people didn't realize that those wires are hot and not coated. So the real penalty in that situation could have been death. So that created the first, the failure to provide notification was Class III misdemeanor, which would be up to a \$500 fine. Then in 2012...you learn, as you go along in this, that maybe you need to take a different road...LB997 was introduced to address that secondary issue of the overhead...of people moving their...the overhead wires to accommodate their loads themselves. And so we went into the high voltage safety statutes. We're in Chapter 48, so that bill actually went to the Business and Labor Committee and it passed a section that required only qualified and authorized individuals as determined by the owners of those lines to be able to move or manipulate any of that infrastructure when an oversized load was moving. And at that time we didn't change the penalty in that section which would have been a Class V misdemeanor, I believe a \$50 fine, but not more than \$100. Maybe it's a \$100 fine, I'm sorry. But LB997 put another requirement on there, and this was more to go at the educational factor and that you had to check a box on your permit that said you affirmed that you have notified the electric utility that you'll be moving a load through their area and that they should be prepared for that move. But what we found was that, initially, we had a lot of calls at the NREA office when somebody was filing a permit to move an oversized load that, you know, okay, who am I supposed to contact, and we would facilitate that process of helping them find who they were supposed to contact. And all of a sudden the calls stopped. And I'll be honest when all the calls

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stopped, we assumed that it had something to do with the Power Review Board having created an on-line mapping system for all of the electric utilities in the state. Makes it very simple to go on line, very simply to find which roads are...would have the infrastructure from which electric utility. It's very detailed, and it's very accessible; you just have to know that it's there. So we had all those things in place. We thought that that would make a difference; and now, here we are, back to change the law. And it's not that we believe that because a law is not in force that we need to come in and make it stricter; we honestly want to improve safety and ensure what...that the statute is actually being followed. So combined with changes that we're proposing in LB973, we will once again undertake an educational effort including with our local customers so they're aware of what the law is in the notification requirements and the safety issues. But also coordinating with the State Patrol for an educational pamphlet, materials that they can share with law enforcement. Senator Smith...we are very grateful for him introducing this legislation. Increasing the penalties is meant to make it more meaningful. For some of these large companies that are moving loads through the state, they look at a \$100 fine or a \$500 fine and it doesn't seem very meaningful, but once you cross a \$1,000, it becomes more meaningful, and you will make sure that if you're checking that box that say you've notified the utility, that you will indeed notify the utility. But again to the educational aspects. Sometimes, you know, we have to assume that there's a little level of ignorance in the process and so part of what LB973 does is require the Department of Roads to put on that permit application language that says they know that they are required to notify and that they acknowledge that it is illegal for them to manipulate the infrastructure themselves. And so that's a little bit of the history. We worked with the Department of...excuse me, worked with the State Patrol to try and find out if there were better ways to make sure that the law is enforced because the ultimate enforcement, again, could be the penalty of loss of life. And when we see some of these vehicles come down the roads and they may have their own bucket truck going in front of them, we don't know what level of training that person may have. We've even seen loads where they put PVC pipe and arched it on the loads so that it would just skim under the wires. But again, you're making contact and there's a safety issue and also there's an infrastructure protection issue there. With that, I would conclude my testimony and I'd be happy to answer any questions you may have. And one of our assistant managers will also be testifying with some personal experience on this issue as well. [LB973]

SENATOR BRASCH: Thank you, Ms. Gottschalk. And Senator Tommy Garrett has just joined the committee. Any questions from the committee? Yes, Senator Davis. [LB973]

SENATOR DAVIS: Thank you, Senator Brasch. Thank you, Kristen. How many...how big a problem is this in Nebraska? [LB973]

KRISTEN GOTTSCHALK: It actually is a significant problem and I'm not going to be able to put a number on the problem because we do know that there are loads that are moving through that we're not aware of. And the ones that we are aware of, we're receiving notification from a

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neighboring utility to warn us that this load is coming down the road and that they should be notified ahead of time. [LB973]

SENATOR DAVIS: So what kind of loads are we talking about? [LB973]

KRISTEN GOTTSCHALK: The loads can be...and I will say, it's not everybody. The house movers local to the state of Nebraska are very good about making sure that they comply with the law and they're moving the loads in the most expeditious manner, but we're talking anything from grain bins to boilers. Even in some situations, although I would say not very often, the components of wind turbines will exceed that height limit and we're not getting the notifications that we need. [LB973]

SENATOR DAVIS: And is this primarily on county roads where the problem is, or is it on state highways also? [LB973]

KRISTEN GOTTSCHALK: It's on both. It's on both. [LB973]

SENATOR DAVIS: Are there instances where people have been injured when they manipulate the wires? [LB973]

KRISTEN GOTTSCHALK: There have been instances where people have been injured. One of my managers sent me notification that they had a young person using a fiberglass hammer to lift the wire and there was an electrocution in that situation. We've had...in some cases, I'd say this is a thankful situation where we've actually had wires become disconnected or broken from the system, but no injury has taken place. So as often...thank goodness that death has not been a common occurrence, otherwise I don't think...I think this would have been taken care of a long time ago, but damage to infrastructure is a very common occurrence. [LB973]

SENATOR DAVIS: And so then, the last question. Once the notice goes out, then they make arrangements with the electrical provider to be out there to lift the wires, and I assume there's a fee that's charged to them then. [LB973]

KRISTEN GOTTSCHALK: It would depend on the system, and it would depend on the route. The notification may give us the opportunity to go out and make sure that the clearances are okay, based on the height of the load, and they may have a utility vehicle and personnel there to monitor them passing under that. In some situations, if it does require lifting of the power line, there could be a charge. And since our systems are more concerned about the safety and integrity of the system, it's my understanding those charges are fairly low for what's in place. And more

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often than not, what will happen is we would recommend a route that would enable them to avoid passing under lower lines or passing under lines at all. It just depends. [LB973]

SENATOR DAVIS: Thank you. [LB973]

SENATOR BRASCH: Are there any other questions from the committee? Seeing there are none. [LB973]

KRISTEN GOTTSCHALK: Thank you. [LB973]

SENATOR BRASCH: Thank you. Any other proponents coming forward? Welcome. Please state and spell your name. [LB973]

JOHN HOKE: (Exhibit 2) Thank you. My name is John Hoke, J-o-h-n H-o-k-e. I'm the manager at Niobrara Valley Electric Membership Corporation here in Nebraska. I'm not going to read my testimony since you just heard much of what I was going to say. I will cover the process a little bit for you. Usually, we are notified ten days in advance, or we're supposed to be. That allows us time to run the route, check the heights. We build our lines to a minimum height of 18 feet but if you get an ice storm, you get a cow rubbing up against a guy wire, sometimes those heights can change, so that's why we always want to run the route. We talked a little bit about what is charged, and I checked with managers in the state. We charge \$100 a crossing to offset the actual cost of doing the work. It's important that we get that ahead of time, because many times we can...as Kristen alluded to, we can reroute those loads and save everybody quite a bit of money. But dollar charge does offset the cost of actually lifting lines. If we don't lift the lines, we obviously don't charge it, so. It is a safety issue. I think the reason we don't have more fatalities in the state is simply because someone catches on that this is happening. We either have an outage, or we get a call from someone in the district or neighbors. And we drop everything we're doing and go out and lift those lines and take care of the issue. For us, and for every electric utility, safety is paramount. Power lines look very innocuous, very safe, but they have a lot of potential to do harm. We have had cases where we've had people lifting lines with 2X4s, and why they weren't killed we don't know, but certainly they were at risk of injury. So this is an important issue for us. We feel that the changes to the law, the moving to a higher penalty, having a notification of what the rules are on the permit is certainly beneficial because that's going to give law enforcement an opportunity to understand what is there. Plus, if you have to have a signed...signed off that we have been notified, it also gives law enforcement an opportunity to stop that load before they get too far down the road. But you have my written testimony. It also has a screen shot in there of the Power Review Board Web site so you can take a look at that, see what that looks like. It's pretty easy to use. I think, you know, five or six years ago before that was on board, it was hard for the transporter of an oversized load to really know

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where our lines...when they're moving from one district to another, that solves that problem nicely. But rather than repeat everything that's already been said, I'd be happy to answer any questions that you may have. [LB973]

SENATOR BRASCH: (Exhibits 3-5) Thank you, Mr. Hoke. Are there any questions from the committee? Seeing there are none, are there any other proponents? If there are, please come forward. There are letters for the record in support of LB973: James Dietz on behalf of Twin Valleys Public Power District; Bruce Vitosh on behalf of Norris Public Power District; Robert Andersen on behalf of the Nebraska Cooperative Council. Are there any opponents? Seeing there are none, is anyone here in the neutral? Seeing there are none, Chairman Smith waives closing. [LB973]

SENATOR SMITH: Thank you, Senator Brasch, for running the hearing on LB973. We now move to LB996, to be introduced by Senator Friesen. It relates to a change, changing provisions relating to the Motor Vehicle Industry Regulation Act. Welcome, Senator Friesen. [LB996]

SENATOR FRIESEN: Good afternoon, Chairman Smith and members of the committee. My name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n. LB996 is a product of the collaboration between Cummins, Inc. and the Nebraska New Car and Truck Dealers Association to technically correct a dealer statute that was put in place in 2009. The intent of the 2009 bill was to require major component manufacturers to adhere to certain provisions within the dealer statute. Particularly, the truck dealers wanted component manufacturers to be subject to the same warranty, reimbursement statutes, and dealer termination requirements that motor vehicle manufacturers must follow. In the process of updating this section of the code in several states to address these issues, the manner in which the statutes were drafted also inadvertently subjected engine, and other component manufacturer's, to dealer ownership prohibitions. During a restructuring of their North American distribution business, Cummins became aware of this prohibition. Cummins believes they're complying with the scope of the law intended by the Legislatures, but are seeking to amend the statute to reflect the current state of the market in that true intent. This is not an issue that a regulator or other third party brought to Cummins attention. They identified this issue on their own and are working with the Dealer Association to amend the statute because they want to continue to be the transparent, compliant, and trusted corporate partner here in Nebraska and other states and communities where it does business. Cummins is the last remaining independent diesel engine manufacturer in the United States where they have been based for nearly 100 years. They have nearly 25,000 employees in our country, and their impact creates many more jobs in communities in our state and across the nation. They have been working in our state and supporting many throughout Nebraska for a long time, and Cummins wants to continue to do so. They do not manufacture vehicles, and their distributors exist solely to support their dealer network and also to provide service for all their customers. While they provide roughly one-third of the heavy duty on-highway truck engines of the U.S., they also

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supply engines critical to applications that cannot be served by the traditional dealer network, making them vital to ensuring that certain vehicles are in service that we all rely on like our city buses, garbage trucks, cement mixers, and many others. LB996 only allows Cummins to operate just as they do today with two locations in Kearney and in Omaha and nothing more. Cummins would like...would just like this committee to consider updating the statutes to reflect the current state of the market in the on-highway heavy duty truck industry and allow them to continue doing business in Nebraska. Cummins has been a good citizen in our state, and this technical correction is good for our state and our business climate. With that said, I respectfully ask for your support of LB996, and I'm happy to answer any questions. And there will be a couple of people from Cummins that will testify after me. [LB996]

SENATOR SMITH: Thank you, Senator Friesen. Do we have any questions from the committee? I see none. We now move to proponents of LB996, those wishing to testify in support of LB996. Please come forward. Welcome. [LB996]

SHANNON HEIDER: Thank you. Good afternoon, Mr. Chairman and members of the committee. Thank you for allowing me to speak in favor of LB996. For purposes of the record, my name is Shannon Heider, S-h-a-n-n-o-n H-e-i-d-e-r, and I am the director of state government relations with Cummins, Inc. I am also joined by my colleague, Rick Gomel, who is a vice president within our distribution business operating out of Omaha. I'd like to thank Senator Friesen for offering this legislation and Loy Todd for the Nebraska New Car and Truck Dealers Association for his willingness to work through...with his membership through our concerns with the dealer franchise statute. Cummins, Inc. is a nearly 100-year-old company founded and headquartered in Columbus, Indiana. As Senator Friesen stated, we are the last remaining independent diesel engine manufacturer in the U.S. Cummins manufactures engines for light, medium, and heavy duty on- and off-highway vehicles. We also provide power and support for the marine, rail, and power generation industries. We operate through a three-tiered distribution system which is made up of our factory, our company-owned distributors, and our vast network of independent dealers. Our system currently functions very well. We have distribution locations in Kearney and in Omaha, and we employ over 120 people in the state through our two locations. Through this system we provide backup technical support, parts logistics, tooling, and skills training needed by dealers across North America; and we have contracts in place to ensure we support those dealers. We believe this kind of training and support is best provided by our factory-owned distributors because it is highly specialized, requires high investment, and must be available whether there is one customer, like for specialized marine applications, or for many, like on-highway truck. We are different than the dealers because we serve hundreds of on- and off-highway customers with Cummins engines, some who do not have a traditional dealer network to rely on. These applications that Senator Friesen mentioned, are things like school buses, dump trucks, fire trucks, cranes, and delivery trucks that keep our cities running smoothly. As Senator Friesen mentioned in his opening, we recently discovered an issue in Nebraska code.

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Currently under the code, engines and other major component manufacturers are defined as motor vehicles. We are included in the definition of motor vehicles to ensure we are complying with warranty reimbursement statutes, dealer termination provisions, among other protections for the dealers. However, due to engines being defined as motor vehicles, we were also submitted to the portion of dealer statute that prohibits a motor vehicle manufacturer from owning their service facility. Once we discovered the statute at issue, which is present in a handful of states, we worked closely with the local dealers associations and the National Auto and Truck Dealers Association to develop a technical correction bill. We've worked together diligently in the interim to come to a resolution, and LB996 is representative of that collaboration. Under LB996, Cummins reserves the ability to operate our two distributor branch locations in Nebraska while also ensuring truck dealers are receiving the protections originally intended under the statute. Again, thank you, Mr. Chairman and member of the committee for consideration of this legislation. And if it's okay, I'd like to turn it over to Rick Gomel with our distribution business. Is that okay? [LB996]

SENATOR SMITH: Okay. Let's see if there's any questions from the committee for you. Thank you, Ms. Heider, for your testimony. Senator Davis has a question for you. [LB996]

SENATOR DAVIS: Thank you, Senator Smith. So a fairly technical issue, but if a Cummins motor is in a diesel pickup, wouldn't that be covered by the dealer? [LB996]

SHANNON HEIDER: Correct. So we do do engines for the Dodge Rams and Nissan Titans. And, Rick, you can correct me if I'm wrong, but under those agreements in the past car industry, the whole vehicle is certified together, and the warranties are one and the same. When you get into on-highway truck, the engines are separately warranted. So that's why we were placed into the statute. So if you drive a Dodge Ram or a Nissan Titan, you would go to the Nissan dealer or the Dodge dealer. If you have a Freightliner truck, then you could either go to Freightliner or you could come to Cummins for service. And then, we're in the statute, so when there is a warranty reimbursement claim filed, we are reimbursing the dealers for the...under the same kind of scheme that the dealers get on pass car. [LB996]

SENATOR DAVIS: So a motor goes bad in a Freightliner truck. He has the opportunity of either going to you for remedy or to Freightliner? [LB996]

SHANNON HEIDER: Correct. Yeah, but generally what we see is we exist more as a backstop to the dealers. If we were to liken ourselves--and Rick will talk of this--about the healthcare industry. We view our dealers as kind of the primary care docs and then we are their specialist in the industry. So there's generally a premium to come into our doors and get your service done. [LB996]

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SENATOR DAVIS: So what you're trying to do with this is just be able to carve out the service piece that with this, correct? [LB996]

SHANNON HEIDER: We still want to continue to do the service on our vehicles. [LB996]

SENATOR DAVIS: And that's why we need to do this bill? [LB996]

SHANNON HEIDER: Correct. [LB996]

SENATOR DAVIS: Okay. Thank you. [LB996]

SENATOR SMITH: Additional questions from the committee? I see none. Ms. Heider, thank you for testifying. Your company has a great heritage in our country and we really appreciate your company's investment in the country and in Nebraska and the jobs it creates; so thank you. [LB996]

SHANNON HEIDER: Thank you, Mr. Chairman. [LB996]

SENATOR SMITH: Next proponent of LB996. Welcome. [LB996]

RICK GOMEL: (Exhibit 1) Thank you very much. Good afternoon, Mr. Chairman and members of the committee. Thank you for the opportunity to speak today. As Shannon stated, my name is Rick Gomel and I serve as a vice president within our distribution business and I'm located...my family and I are located in Omaha, Nebraska. [LB996]

SENATOR SMITH: I'm going to ask you to spell your name for us, please. [LB996]

RICK GOMEL: Excuse me, thank you. My first name, Rick, R-i-c-k, last name, Gomel, G-o-m-e-l. I've been with Cummins for 33 years, and I'm very proud of our company, the way we conduct business, serve our customers, and support our communities. The values of the company are the one reason that I have been with Cummins my entire career. The company is committed to doing the right thing in making our customers as successful as possible. Cummins' presence in Nebraska dates back to the 1950s. We currently employ 120 people in our Kearney and Omaha branch facilities, and we support 30 truck OEM dealers across the state. Cummins distributors support dealers in many ways, to include technical training for technicians, and product and sales training for their sales representatives. In addition, we maintain approximately \$2 million in Cummins parts inventory to supply dealers for resale to their customers. Additionally, we

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provide warranty training and certification support, and we also administer a warranty claim reimbursement process for dealers. When our dealers are effective and successful, so are our customers, which is our highest priority. The way we are set up allows all partners to thrive. On the sales side, we assist truck dealer sales representatives with on-going product and application questions, as well as engine performance, and specification-related questions. When requested, we often attend sales calls with dealer representatives to key customers. We maintain a very close long-term working relationship with the dealers and their customers throughout the state. Over my 33 years, I am proud to call John Plagman of Cornhusker Truck, Trey Mytty of the Truck Center Companies, and the Brown family of Nebraska Truck Center, friends and close business partners as an example. We have many relationships across the state because of the service and support we strive to deliver to our customers and dealer network. While we currently provide warranty service to all customers, including on-highway truck, heavy duty truck customers, we generally charge a premium rate for our service. If you would compare our industry to healthcare, we believe our authorized dealers serve as the primary care doctors, and we serve as specialists. We exist as a backstop for our dealers and for complex repairs and overflow. As Shannon also highlighted, we serve those customers that fall through the cracks that cannot be absorbed by the traditional dealer network. These include our customers in refuse, bus, fire truck, and the construction industry that many of our communities rely on to be in service at all times or during times of need. Today, we are simply asking for the ability to continue our presence in the state of Nebraska to serve our customers and our dealer network. It has been a privilege to work at Cummins for the past 33 years and to call Nebraska my home for the last 18 years and to work with many of our customers and our dealer network over the years, many of whom I can call friends and close partners. We thank you in advance for your consideration, and I am happy to take your questions. [LB996]

SENATOR SMITH: Thank you, Mr. Gomel. Do we have questions from the committee? I see none. [LB996]

RICK GOMEL: Thank you very much. [LB996]

SENATOR SMITH: Thank you for being here today. Next proponent wishing to testify in support of LB996. Welcome. [LB996]

LOY TODD: Senator Smith, members of the committee, my name is Loy Todd, L-o-y T-o-d-d. I'm the president of the Nebraska New Car and Truck Dealers Association, representing approximately 200 franchise new car and truck dealers in the state of Nebraska. I'm not going to repeat the excellent testimony that's been given. Cummins found this misfit under the current Nebraska law. Their current practices certainly are in cooperation and conjunction with my dealers. I vetted this with them. They instructed me to support this legislation. We certainly don't

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want an outstanding company like this inadvertently being outside of the law, and we would urge the committee to advance this legislation and cure this hiccup. [LB996]

SENATOR SMITH: Thank you, Mr. Todd. Do we have questions from the committee? I see none. I especially thank you and to your dealers for working behind the scenes with Cummins to get this taken care of. [LB996]

LOY TODD: Thank you. [LB996]

SENATOR SMITH: Next proponent of LB996. Seeing no additional proponents, we move to opponents, those wishing to testify in opposition of LB996. Anyone wishing to testify in a neutral capacity on LB996? Seeing none, Senator Friesen, would you like to close? [LB996]

SENATOR FRIESEN: Thank you, Chairman Smith. Just a couple of comments. I am a diesel technician by trade when I graduated from Milford Technical College, and so I do know quite a few mechanics who, when they're working on engines and the latest models come out, do depend on the Cummins reps to really help them out on the new products and stuff. So I think in the past they've shown that they've worked well with the dealer industry that's here, the network; and it's just a fix and allows them to continue doing what they're doing, so. Thank you. [LB996]

SENATOR SMITH: Thank you, Senator Friesen. Any remaining questions from the committee? I see none. Thank you, Senator Friesen. That concludes our hearing on LB996 and it concludes our hearings for today. Thank you. [LB996]