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Transcriber's Office

Transportation and Telecommunications Committee
February 06, 2017

[LB54 LB83 LB275 LB310 LB368]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, February 6, 2017, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB54, LB83, LB368, LB275, and LB310. Senators present: Jim Smith, Vice Chairperson; Bruce Bostelman; Tom Briese; Suzanne Geist; Mike Hilgers; Dan Hughes; and John Murante. Senators absent: Curt Friesen, Chairperson.

SENATOR SMITH: (Recorder malfunction) Senator Curt Friesen, who is the chair of this committee, is called away into some other committee hearings today, so he is not going to be present. He may join us a little bit later. I think he does have a bill up on the agenda later. But let's go ahead and get started. Welcome to the Transportation and Telecommunications Committee public hearing. My name is Jim Smith; I represent the 14th Legislative District in Sarpy. I'm the vice chair of this committee, and I'm substituting for Senator Curt Friesen today. The committee will take up the bills in the order posted on the outside of the room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To best facilitate today's proceedings, I ask that you abide by the following procedures: First, would you please turn off your cell phones and other electronic devices so it does not interfere with people that are testifying before us today? Move to the chairs at the front of the room when you are ready to testify. There is a vacant chair at the front of the room. If you do want to use that, feel free to be in place where the person, when they finish their testimony. The order of testimony will be: the introducer of the bill at hand; next, proponents; then opponents; then those speaking in a neutral capacity; and finally, we will have closing remarks of the introducer of the bill. If you will be testifying, please complete the green form and hand that to the committee clerk when you come up to testify. If you have written materials that you would like distributed to the committee, please hand them to the page when you come up to the table, and the page will help you get those distributed. We will need 10 copies for all committee members and staff. If you need help making those copies, please let the page know; we'd be more than happy to help you. When you begin to testify, we ask that you both state and spell your name for the record so that the transcriber can get it into the record correctly. As you testify--we will have a number of people testifying today--we ask that you be concise. And we're going to use the light system and ask that you limit your testimony to five minutes. The green light will be on when you sit down and begin to speak, and that light--the green light--will be on for four minutes, after which time it will turn to amber for one minute and, during that period of time, we ask that you wrap up your testimony. Once it turns red, if you're still testifying, we do ask that you close out at that point. If you would like your position to be known, but do not wish to testify, please sign the pink form at the back of the room, and it will be included in the official record. The microphone at the front on the table, when you're testifying, is not for amplification; it's there for...to record your testimony for the transcribers. So you will need to speak well enough for others to hear you. And let me introduce committee staff.

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To my immediate left is legal counsel Mike Hybl, legal counsel for the Transportation and Telecommunications Committee. And then to Mike's left is committee clerk, Elice Hubbert. And committee members with us today: At the far...to my far right is Senator Tom Briese, representing Albion, District 41; next is Senator Bruce Bostelman from Brainard, representing District 23; Senator John Murante, to my right, representing Gretna in District 49; next, Senator Dan Hughes is absent--I believe he will be joining us a bit later--from Venango, District 44; Senator Mike Hilgers, representing Lincoln, District 21; and Senator Suzanne Geist, Lincoln, representing District 25. Our pages today are Heather from Miller, Nebraska, and Jade from Omaha, Nebraska. Again, our apologies for the inconvenience to you, but we will have Senators coming and going during the hearing. They have testimony in other committees as well, so we appreciate your patience with that. And I think that with that, we're going to begin our first bill, LB54--Senator Schumacher. And Senator Schumacher will be introducing LB54, relating to the...to changing the provisions relating to unattended motor vehicles. Welcome, Senator Schumacher. [LB54]

SENATOR SCHUMACHER: Thank you, Senator Smith and members of the Transportation and Telecommunications Committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22 in the Legislature, and here today to present LB54. LB54 is probably the simplest bill that I will ever introduce and, hopefully, the easiest one for you to advance so we can maybe, at some point, get it on consent calendar. But what it basically does is removes the necessity created by 60-6,168, that you remove the key and lock the ignition on vehicles that do not have an ignition lock or a key. And, as a result, it's just basically an update to our existing statutes. Attention to this particular matter was brought to me by the Columbus Police Department in that it had officers scratching their head, wondering how you enforce this law on a push-button starter or a remote-starter vehicle. I'd be happy to take any questions. [LB54]

SENATOR SMITH: Do we have questions for Senator Schumacher on LB54? [LB54]

SENATOR GEIST: Actually I do. [LB54]

SENATOR SMITH: Senator Geist. [LB54]

SENATOR GEIST: And just correct me if I'm wrong, but it says that the motor vehicle..."shall allow such vehicle to stand unattended on a highway." Is it just on a highway, or would this apply to any road? [LB54]

SENATOR SCHUMACHER: The definition of highway is any public road. [LB54]

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SENATOR GEIST: Okay, all right. Thank you. [LB54]

SENATOR SMITH: Further questions for Senator Schumacher? Senator Schumacher...public roads, not private parking lots or anything of that nature? Okay. All right; thank you... [LB54]

SENATOR SCHUMACHER: Yes. I guess I need to say that so the microphone will pick it up. [LB54]

SENATOR SMITH: Yes. [LB54]

SENATOR SCHUMACHER: Yes. [LB54]

SENATOR SMITH: Thank you. Thank you, Senator Schumacher. [LB54]

SENATOR SCHUMACHER: Thank you. [LB54]

SENATOR SMITH: Are you going to remain for closing? [LB54]

SENATOR SCHUMACHER: I think so; it should be a relatively short presentation. [LB54]

SENATOR SMITH: Okay. All right; thank you. We now move to proponents, those wishing to testify in support of LB54. Welcome. [LB54]

WILLIAM GUMM: Thank you, Senators. William Gumm, G-u-m-m. I'm the police chief in Columbus, Nebraska. I sent this to the senator after conversation with a number of my officers who reminded me, since I don't work the street a whole lot anymore, of this statute which prohibits persons to leave a vehicle on public roads with an engine running, unattended. They brought up the idea, the concept, that many cars now have automatic start, which there's no key required; the door is locked. The engine is allowed to run for a number of reasons: warm up the car; the secondary idea was diesel operators...many of those allow their vehicles to idle because of weather or because of cost. So this was just a suggestion to the senator that we could clean up that statute. Looks like that statute was maybe 1943, and so I don't know that it's caught up with the current technology. And I'm for the LB. [LB54]

SENATOR SMITH: Thank you, Officer Gumm. Do we have questions from the committee? I see none; thank you. [LB54]

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WILLIAM GUMM: Thank you. [LB54]

SENATOR SMITH: Next proponent of LB54? Seeing no additional proponents, we move to opponents of LB54. Opponents? Anyone wishing to testify in a neutral capacity? Seeing none, we invite Senator Schumacher, if he would like to close. Senator Schumacher waives closing, and that concludes our hearing on LB54. Thank you, Senator Schumacher. We now move to LB83, to be introduced by Senator Blood. Relates to allowing physician medical directors to display emergency vehicle lights. Welcome. [LB83]

SENATOR BLOOD: Thank you, Senator. Thank you to Senator Smith and the Transportation and Telecommunications Committee for hearing my bill, LB83, this afternoon. My name is Senator Carol Blood, C-a-r-o-l B-l-o-o-d, and I represent District 3 in Sarpy County, the fastest-growing county in Nebraska. LB83 is a noncontroversial bill because it brings a change to statute that fixes what has been an apparent oversight in past years. My bill looks to simply include a physician medical director to the very short list of people who will be able to outfit whatever vehicle they are driving with flashing emergency lights, as long as they are using those lights when they are en route to the scene of an accident or some other kind of emergency. Should this bill pass, it would mean physician medical directors would be in a group that is currently inhabited by volunteer firefighters and peace officers. For those who don't know exactly what a physician medical director is, they are qualified and board-certified physicians who are responsible for emergency care providers outside of a hospital or a clinical setting. In most cases these people work side by side with the local fire departments, and this position should also be looked at as someone who helps develop and maintain the emergency medical protocols used by other EMS personnel in the area--personnel in the areas where the medical director operates. With each emergency, this is an opportunity to save more lives, not only at the time of the accident, but in the future as well, because the protocols can be amended to improve services and potentially protect the public even further through this ongoing process. For this reason, it is very important that the medical director be able to reach an accident or other emergency as quickly as possible, to make sure the protocols are being followed. Protocols are being amended as needed, as well, as helping out and administering any aid that is needed. I should make it clear that LB83 is not a rubber stamp for the medical directors to get the flashing emergency lights on their vehicles but, rather, would allow them to use them --the lights--once they apply to their county sheriff's office and it is approved. The application to use the lights will need to be filed on a yearly basis and will need to be kept in the car when the emergency lights are being used. This is the same procedure volunteer firefighters and peace officers have to go through in order to use the emergency flashing lights in their cars. As I said, this is not a complicated bill, and it's not controversial. I believe there are some first responders, as well as a physician medical director, here to testify to give you a bit more background on what these heroes do, as well as why they feel the ability to have these flashing emergency lights on their vehicles is important. I would be

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appreciative if you advance this out of committee quickly and onto the floor for full debate. Thank you, and I will take any questions you may have. [LB83]

SENATOR SMITH: Thank you, Senator Blood. Do we have questions for Senator Blood on her opening on LB83? Seeing none, thank you, Senator Blood. We now move to proponents of the bill, those wishing to testify in support of LB83. Welcome. [LB83]

ERIC ERNEST: Thank you. Thank you, Senator Smith and rest of the members of the committee; good afternoon. My name is Eric Ernest, and I currently serve as the assistant professor of emergency medicine at the University of Nebraska Medical Center. And sorry--the last name: Ernest, E-r-n-e-s-t. I currently also serve as the state EMS medical director for the state of Nebraska, as well as medical director for Bellevue Fire Department in Bellevue, Nebraska, as well as Cass County emergency management. I also serve as the medical director of several volunteer BLS agencies within Cass and Saunders County. In addition, I also serve as the assistant medical director for the Omaha Fire Department, as well as Creighton EMS education. Of note, my views and opinions expressed here today are my own and do not reflect the University of Nebraska Medical Center or the state of Nebraska Department of Health and Human Services. I would like to thank you for the opportunity to come and speak to you this afternoon regarding LB83. I feel qualified to speak this afternoon, given my current involvement as a physician medical director for both urban and rural EMS agencies within our state. As EMS systems have continued to grow and evolve, the idea of a physician response in the field has grown, as well. Large cities throughout the United States have started to incorporate physician field response into their EMS systems. Physicians typically respond in a fully-equipped, quick-response vehicle to provide equipment and expertise generally not available to traditional EMS services. They have also been used for on-scene education of the prehospital provider emergency medical residents, as well as EMS fellows. The ability for a physician medical director to respond directly to the field, for both routine as well as high-acuity and high-profile EMS calls, is more important than ever. Being able to be in the field and to directly observe EMS providers administering care in the prehospital environment allows for direct and real-time feedback to EMS providers, as well as to give the ability for a medical director to directly observe the status of the system they oversee. This also enables the physician medical director to be in the field and act as a liaison between the field and the hospital setting, and has the ability to convey critical information and provide care in situations such as mass casualties and disasters. I hope that you will support this bill and its ability to provide physician medical directors the opportunity to directly respond to the field and play a more active role in the delivery of prehospital care. Thank you for your time, and I'd be happy to take any questions. [LB83]

SENATOR SMITH: Thank you, Mr. Ernest. Do we have questions from the committee? Senator Bostelman. [LB83]

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SENATOR BOSTELMAN: Thank you, Mr. Vice Chair. My question is, I guess: Explain to me how this...situations this is going to be used in. [LB83]

ERIC ERNEST: Sure. So in my current roles, as well as during my training, and in the state of Minnesota where I did my fellowship (inaudible), they had a far more active program that dealt with physicians in the field. And there's a couple points, the first of which being that you get to oversee your system. So the difference between doing quality assurance type activities and reviewing runs after they've been done and documented, is far different than actually observing your providers in the field. There's certain nuances about the scene, things that you see, smell, taste, and hear, that you can't otherwise reproduce on a run report, so being able to have that intimate knowledge, working knowledge of field operations, and to be able to know kind of what your providers are going through. There's also the opportunity to...for real-time feedback, so if there's a critical call or case, either to be directly involved in providing, you know, hands-on care or to be helping and assisting or advising your providers, and then also the opportunity to review with them what your observations were while seeing them provide care. And then, as mentioned in my testimony, the idea of acting as a liaison, especially in high-acuity, high-profile cases, mass casualties, disasters--that type of thing--being able to be out into the field quickly. And I'll give you a case in point. Just here within the past week, within Omaha, there was an unfortunate case of a driver who struck a fence and had a pole impaled through her chest. And I so happened to be in the area and was able to respond and assist with Omaha Fire, to be able to properly stabilize her and transfer her to the hospital. [LB83]

SENATOR BOSTELMAN: So was...this be in every incidence that there's a, that there's a emergency response? Or is it...is there...would there be a protocol put in place as to what is...I don't know...I won't...appropriate probably isn't the correct term, but would there be a... [LB83]

ERIC ERNEST: Sure. [LB83]

SENATOR BOSTELMAN: ...protocol in place as when this would be used and when this would not be used? [LB83]

ERIC ERNEST: I think there's some discretion needed. I mean I think there...I think it's not just looking at the high-acuity calls; it's also seeing what your providers do on a run-of-the-mill, day-to-day, you know, abdominal pain, a chest pain--how are they interacting with the patient--and others of those types of affective domains in patient care. So to answer your question, there's not a protocol in place as to what calls you do and don't go on. It would be more at the physician medical director's discretion, depending on what they're trying to observe in the field. [LB83]

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SENATOR BOSTELMAN: And the physician medical director is a person that's assigned to a district... [LB83]

ERIC ERNEST: So... [LB83]

SENATOR BOSTELMAN: ...or to a hospital or a facility? [LB83]

ERIC ERNEST: Sure. [LB83]

SENATOR BOSTELMAN: You know, there's a difference between, say, David City, Nebraska... [LB83]

ERIC ERNEST: Um-hum. [LB83]

SENATOR BOSTELMAN: ...and Omaha, Nebraska. [LB83]

ERIC ERNEST: Right. [LB83]

SENATOR BOSTELMAN: I'm just trying to understand who this individual or this person... [LB83]

ERIC ERNEST: Right. [LB83]

SENATOR BOSTELMAN: ...would be and how they interact within the community, the fire department, EMS. [LB83]

ERIC ERNEST: Sure. [LB83]

SENATOR BOSTELMAN: I'm just trying to understand that. [LB83]

ERIC ERNEST: So each EMS agency within the state of Nebraska has to have a licensed medical director overseeing their operations. And so the medical director of their agency would, you know, by what this bill is trying to grant, would be able to go out with their agency to go and observe the care of their providers. In a situation where you have a large urban area where there's maybe one or two physicians that oversee a multitude of agencies, it would be within a common, urban response-type thing going to multiple jurisdictions. [LB83]

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SENATOR BOSTELMAN: Okay; thank you. [LB83]

ERIC ERNEST: Um-hum. [LB83]

SENATOR SMITH: Additional questions from the committee? I see none. Thank you for your testimony. [LB83]

ERIC ERNEST: Thank you. [LB83]

SENATOR SMITH: We now move to the next proponent of LB83. Welcome. [LB83]

PERRY GUIDO: Thank you. My name is Perry Guido, G-u-i-d-o, and I am a proponent of this. First of all, thank you, Senator Smith and members of the committee, for having us here to talk. I want to echo exactly what the medical director said. He kind of stole my thunder, so there's not a whole lot I can add to that. But everything he said is so accurate. As a fire chief, you know, one of the things that I have to do constantly is see how people operate out in the field. They can take a test; we can sit there and do practice drills. But under real conditions, that's when you determine whether or not...what additional training, what tools that need to be added to it, what changes in your protocols. And I think that this is a very important tool. I'm pleased to death that we have a medical director that is as involved as ours is, and it's critical for him to understand how different situations can affect care. It's real easy to be in a controlled setting and begin to critique, based off of what you see in writing off of a run, and offer insights. But it's quite different when you're on an emergency medical scene...things that you really can't describe: the conditions. You know, an example would be, you know, why wasn't CPR started? Because you're on an airplane. And I have to tell you those are very, very difficult circumstances to be under. Weather conditions, chaotic scenes...all the different things that are very difficult to grasp how people will respond, unless you actually have some experience in that field. And I think that gives him better insights to reevaluate training procedures, reevaluate individual talents, and could change protocols. So I am a proponent of this; I think it's a good thing. It's quality assurance, in my opinion, at one of the highest levels. And so with that, I'll entertain any questions that you might have. [LB83]

SENATOR SMITH: Thank you, Mr. Guido. Do we have questions from the committee? I see none. [LB83]

PERRY GUIDO: Thank you. [LB83]

SENATOR SMITH: Thank you for your testimony. Next proponent of LB83. Welcome. [LB83]

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STEVE LeCLAIR: Good afternoon, Mr. Chairman and members of the committee. Thank you for the opportunity to be here today to discuss LB83. I really...I think I got the good spot in the lineup here, batting third here. I think batter one and batter two just hit it out of the park. So to save your time, and to reduce any redundancy, I am Steve LeClair, L-e-C-l-a-i-r. I am president of the Omaha Professional Firefighters Association; sorry about that. I'll significantly reduce my testimony to avoid any redundancy and to avoid wasting any of your folks's time today. But one thing I did want to talk about, specifically. There are some...on a cursory review of the Omaha Fire Department's standard operating procedures, there were a couple of incidents where there was an automatic call-out, or an automatic dispatch, of the medical director: One is on a Level 1 mass casualty incident, which is more than 10, less than 25; and another one is when there's a firefighter down. And both of those types of situations would require an automatic dispatch of the medical director. And in those situations, as you can imagine, you know, minutes do matter, and anything that we can do to shave some minutes off of the medical director's response time, either to the ground--excuse me, to the incident--or to the hospital, is going to have a lasting impact on that interdiction. The other thing I want to talk about...there are...on a daily basis, things happen which I would call or I would categorize as high risk, low frequency, situations where you may be in an industrial setting and an employee or a worker has found themselves entangled in a piece of machinery, where it may be quite useful to have medical direction there on the ground. I believe that the firefighter, the EMTs, and paramedics in the city of Omaha have seen the gamut, have seen quite a bit, in terms of these types of incidents, but they are high-risk and low frequency. They don't happen every day, but when they do, it sure is nice to be able to have the ability to have that medical director there within a matter of minutes, as you're attempting to disentangle the individual. Another incidence that is also high risk, low frequency, would be, say for instance, an ice rescue. You know, there are many lakes and parks throughout the city of Omaha, and we're in a situation now where we've had a warming period. And those ice...those lakes and ponds may not be safe, and we do get a lot of children that are out there testing those limits and pushing the envelope. And again, in that type of a situation, because it is high risk, low frequency, I can't think of a better addition to the team on the ground, rescuing and performing those rescue services, than a medical director. The experience that our medical directors bring to the table is quite extensive, as Dr. Ernest has indicated. So with that, I'll close my testimony, and I would just like to urge you to, please, adopt LB83 and send it out for full debate. With that, any... [LB83]

SENATOR SMITH: Thank you, Mr. LeClair. Do we have questions from the committee?
Senator Briese. [LB83]

SENATOR BRIESE: Thank you, Senator. Thank you for being here. Currently how do these medical professionals get to locations? [LB83]

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STEVE LeCLAIR: If it's not one of the specific incidents that I referenced in the SOP under a cursory review, a lot of times it's through monitoring channels--radio channels--within the Omaha metropolitan area. Dr. Ernest indicated an incident that happened last--I believe last week--where I believe he was doing a ride-along, doing some quality assurance out in the field and happened to be in the area of where this terrible accident occurred, where the individual was impaled by a fence post. So right now, if it's not one of the two specific incidents that I've noted, it's usually by chance. [LB83]

SENATOR BRIESE: Transport themselves, then. [LB83]

STEVE LeCLAIR: Yes, sir. [LB83]

SENATOR BRIESE: And then the incidents of those areas you mentioned, they go with your units then? Are they transported by your units? [LB83]

STEVE LeCLAIR: Yeah. They're...they are transported by Omaha units. I guess, the way that I would envision this, Senator, on an automatic dispatch, where the medical director was dispatched to the incident, they would transport themselves there to the ground, and then they would ride in the Omaha fire transport vehicle to the hospital, providing prehospital care alongside the paramedics and the EMT-B. [LB83]

SENATOR BRIESE: Okay; thank you. [LB83]

STEVE LeCLAIR: Thank you, Senator. [LB83]

SENATOR SMITH: Senator Bostelman. [LB83]

SENATOR BOSTELMAN: Thank you, Vice Chairman. Mr. LeClair, I'm still not quite certain I understand the medical officer. That person is just from the local hospital? Or is he a fire department person? Or...he or she or EMS...they're coming from one of the hospitals in town? I'm just trying to understand... [LB83]

STEVE LeCLAIR: Sure. [LB83]

SENATOR BOSTELMAN: ...the position this person has... [LB83]

STEVE LeCLAIR: Sure. [LB83]

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SENATOR BOSTELMAN: ...where they're...you know, how it ties together. [LB83]

STEVE LeCLAIR: Sure. I can speak specifically for Omaha. Omaha has a team of medical directors that Dr. Ernest is part of that team. They are affiliated with the Med Center, but each paid professional and volunteer department that provides prehospital care, I believe, by state law, has to have a medical director overseeing those field operations. So they are not...they are not employees of the Omaha Fire Department or the city of Omaha, but they are affiliated with. [LB83]

SENATOR BOSTELMAN: Okay; that helps. [LB83]

STEVE LeCLAIR: And they may be responding...not always responding specifically from the hospital; there may be a situation where they're at home and they get the call-out at home and have to, you know, travel from home to the fire ground or to the incident. [LB83]

SENATOR BOSTELMAN: Okay; thank you. That helps a lot; thank you. [LB83]

STEVE LeCLAIR: Okay; thank you, sir. [LB83]

SENATOR SMITH: Other questions? Seeing none, thank you, Mr. LeClair. [LB83]

STEVE LeCLAIR: Thank you very much for your time today. [LB83]

SENATOR SMITH: (Exhibits 1-2) Next proponent of LB83? We do have letters of support, for the record, on LB83: The League of Nebraska Municipalities, the Nebraska State Volunteer Firefighters Association, and the Nebraska Fire Chiefs Association. All three wrote letters, for the record, in support of LB83. We now move to opponents of LB83, those wishing to testify in opposition to LB83. Seeing none, those wishing to testify in a neutral capacity, on LB83. Seeing none, we invite Senator Blood to close on LB83. [LB83]

SENATOR BLOOD: Thank you, Senator Smith. After listening to some of the testimony, I just want to add a little bit of clarification. I know we have several rural senators that are sitting here on this committee. The one thing I really want to stress is that the importance of that, that the further that you have to go, the more important the flashing lights would be, to get to the scene of the accident or the scene of the site in a timely manner. We kind of take it for granted in urban areas that somebody is going to be there quickly. The secondary benefit, and one of the reasons the League of Municipalities wrote a letter of support, is that response times and protocols are very important to things like what we pay for our house insurance. What...the way that a city

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becomes insured, and how they cover that insurance, is by making sure that the protocols that they have in place are ones that are efficient and protect the public. So there's a lot of secondary benefits to this bill, in addition to being something that's obviously going to benefit firefighters across the state so they have the medical directors there to support them. With that, again I ask that you please pass this bill to the committee, and I appreciate your time today. [LB83]

SENATOR SMITH: Thank you, Senator Blood. Remaining questions for Senator Blood on LB83? Seeing none, thank you. [LB83]

SENATOR BLOOD: Thank you. [LB83]

SENATOR SMITH: And that closes the hearing on LB83. We now move to...we'll let the room transition just a little bit here. We now will begin our hearing on LB368, to be introduced by Senator Lowe. It relates to changing the helmet provisions, changing passenger age limits, and requiring eye protection for operators of motorcycles and mopeds. Welcome, Senator Lowe. [LB368]

SENATOR LOWE: Thank you, Chairman Smith and members of the Transportation Committee, especially birthday boys. My name is Dave Bloomfield, oh, wait, wrong page. [LB368]

SENATOR SMITH: (Laughter) Now I understand Senator Bloomfield wants to drain the swamp, I got a partner in the Revenue Committee. [LB368]

SENATOR LOWE: My name is Senator John Lowe, that's J-o-h-n L-o-w-e, and I am the senator from District 37. I'm here today to bring LB368 in an attempt to remove the requirement for individuals 21 and older from having to wear a helmet when they are operating motorcycles. This bill would allow riders the alternative to wear eye protection instead of wearing a helmet. This bill will also prohibit children from under the age of six from being passengers on a motorcycle. A policy that reflects child safety seat requirements is in effect in Nebraska. Before I get too far into my opening statement, I want to thank the previous senators who have done so much work on this issue in the past, the most recent being...the most recent individual carrying this pro-freedom and pro-tourism idea is Senator Bloomfield, and he is sitting behind me today. Thank you, Senator. The way I see it, this bill is about two things: personal freedom and tourism revenue. The personal freedom arguments on this bill are pretty straightforward, individuals who choose to ride a motorcycle should be allowed to choose whether they wear a helmet or not. We, as a state, cannot regulate all personal conduct and we should not be regulating this personal choice. There are 31 states without the universal helmet laws, and our neighbor states the only one that does is Missouri. Colorado, Wyoming, South Dakota, and Kansas all repealed their universal helmet laws by no later than 1983. Iowa has never had a helmet law. Compared to the

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31 states without universal helmet laws, LB368 is stricter and/or as strict as all of the requirements of all but three states. Most of our neighboring states do not have universal helmet laws. We are actively discouraging tourism revenue coming through our state. This is especially true considering that the Sturgis Rally in South Dakota brings in roughly \$1 billion a year and many riders choose alternative routes to Sturgis to avoid Nebraska. That is a significant number of individuals who might otherwise buy hotel rooms, gas, merchandise, or food in our state. I also want to take a moment and address the fiscal note attached to this bill. It is a small one-time note in order to replace 60 signs on the state borders that read, "Buckle up and wear your helmet." This amount is so small that it would come out of cash funds and have no effect on the appropriates going to the Road Department. This small fee should not be the reason to kill this bill, as it does not have a major, or even budgetary, impact according to the Department of Roads. This policy change would respect the freedom of Nebraskans and encourage potential, significant tourism revenue, all while still requiring one of the strictest helmet laws in the region. I urge you to support LB368. Are there any questions? [LB368]

SENATOR SMITH: Thank you, Senator Lowe. Do we have questions for Senator Lowe on LB368? I see none, thank you for your opening. Are you going to remain for closing? [LB368]

SENATOR LOWE: Yes, I'm going to remain. [LB368]

SENATOR SMITH: Very good. All right, we are going to now open the hearing to proponents of LB368. And let me see just a quick show of hands of those wishing to testify on this bill either in support or opposition. Okay, gives me a good idea. Thank you very much. Welcome, Senator Krist. [LB368]

SENATOR KRIST: Thank you, Senator Smith, members of the Transportation Committee. Thank you for hearing me today and thanks for the courtesy of those that follow me to allow me to testify first and get back to my committee. And I appreciate that. It's been a long history of trying to repeal the helmet bill. Former Senator Jansen, now Auditor, carried it; I carried it; my hero, Dave Bloomfield, carried it most of all in recent history. And I think this bill represents a combination of all those that came in the past and probably the most reasonable fashion or form that this bill has taken. Oftentimes we took this bill to the floor and tried to tack on different things that made it more palatable for some and more unpalatable for others. I would hope that this year, unlike other years, this bill comes out of committee and goes to the floor, has a reasonable debate, and a good up or down vote. That would be my goal, that would be my objective, and I hope that it is yours. With that, I will take any questions, Vice Chairman. That's short and sweet. [LB368]

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SENATOR SMITH: All right, thank you, Senator Krist. Do we have questions for Senator Krist on LB368? I see none, I know that you've been a longtime advocate on this issue and as long as I can remember. So good to have you here today and thank you for your testimony. [LB368]

SENATOR KRIST: Thanks for listening, and again, thanks for the courtesy of those that follow me so I can get back to my committee. Thank you. [LB368]

SENATOR SMITH: All right, next proponent of LB368. Welcome. [LB368]

DAVE BLOOMFIELD: (Exhibit 1) Bet you thought you were shed of me, didn't you? Good afternoon, Vice Chairman Smith and members of the Transportation and Telecommunications Committee. My name is Dave Bloomfield, D-a-v-e B-l-o-o-m-f-i-e-l-d. I'm a former senator from District 17 in northeast Nebraska. I probably can't say a lot more than the introducer did, but I'm going to anyway. It's an honor to appear before you this afternoon in support of a bill that means a great deal to me. Most of you are aware that I carried similar legislation in the past. If I were carrying this bill this year, I probably would have subnamed it the "Rick Backer Freedom Restoration Act" for a good man and good friend who was killed last summer while riding on unfamiliar roads in Colorado where he could enjoy the freedom to choose, rather than riding close to home on familiar roads in Nebraska. And no, a helmet would not have made any difference, his fatal injuries were not to the head region. LB368, as presented by Senator Lowe, can do several things for the state of Nebraska. LB368 can encourage an increase in tourism from riders that usually skirt our state to avoid our restrictive and outdated helmet requirements. That increase in tourism will mean an increase in revenue and we all know that we need that. LB368 has a safety feature in it that prevents those under six years of age from being on a motorcycle. Far more importantly, LB368 restores the freedom to adult citizens of Nebraska, a basic civil right that should have never been taken from them. That right is the ability to decide for themselves what is best for themselves. I tend to take freedom rather seriously; my family has fought too many times to defend it for me not to. I'm going to run through a brief history. My great-grandfather fought in the Civil War for the north and was captured and held in Andersonville Prison camp in Georgia. He never recovered from his treatment there and died at the ripe old age of 37, but did manage to leave two children behind. My father served in France in World War I. I'm a Vietnam vet, and my youngest son came back from Afghanistan disabled. He's made adjustments to his life and is doing well. This service doesn't make me any better or any worse than anyone else; it just makes me realize how precious and how important every freedom we have is. And I cannot just sit idly by the wayside and watch freedom denied to Nebraskans...lost the page...who are wise enough and old enough and deserve to make decisions for themselves. President Ronald Reagan said, and I quote, "government exists to protect us from each other. Where government has gone beyond its limits is in deciding to protect us from ourselves." That's what happened a number of years ago when the states were bullied by the feds to enact overly restrictive laws in order to receive federal funds. Other states have long since

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repealed their strict requirements, Nebraska has failed to do so. I think it's time for you to change that. I have one more quote for you, this one from President John Kennedy. Quote, in giving rights to others which belong to them, we give rights to ourselves and our country, unquote. That is what I and thousands of Nebraska citizens are asking you to do. This state and nation are due for a rebirth of basic freedom; this is a good place to start. Thank you, and I would try to answer any questions. [LB368]

SENATOR SMITH: Thank you for your testimony. Do we have questions? Senator Hilgers. [LB368]

SENATOR HILGERS: Thank you, Mr. Vice Chair. Good to see you, Senator Bloomfield, down here. I didn't have the chance to serve with you, but good to see you down in the Transportation Committee this afternoon. [LB368]

DAVE BLOOMFIELD: Good to be here. [LB368]

SENATOR HILGERS: I have two quick questions for you and I think you mentioned one. So it's my understanding that the initial helmet law was passed as a result of the federal government mandating that states pass those laws as a condition of receiving federal highway funds, is that right? [LB368]

DAVE BLOOMFIELD: At the same time I believe that they mandated the seat belt use. [LB368]

SENATOR HILGERS: And that mandate... [LB368]

DAVE BLOOMFIELD: Has since... [LB368]

SENATOR HILGERS: ...is no longer there. [LB368]

DAVE BLOOMFIELD: That's correct. [LB368]

SENATOR HILGERS: Thank you. [LB368]

DAVE BLOOMFIELD: And the other states have repealed it; we just haven't. [LB368]

SENATOR SMITH: Additional questions? I see none; thank you for your testimony. [LB368]

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DAVE BLOOMFIELD: Thank you. [LB368]

SENATOR SMITH: Next proponent of LB368. Welcome. [LB368]

JAMES LORENCE: Thank you for hearing this case, Senators. And myself, my name is James Lorence, the last name is spelled L-o-r-e-n-c-e. I've been riding a motorcycle since I was nine years old in the state of Nebraska and I got into the insurance business in 1983 with Mutual of Omaha in the group marketing department. And predominantly in my career I've sold health insurance, whether it's on a group basis or an individual basis, life insurance. And as of about nine years ago, I got into the property casualty business. And I agree wholeheartedly with Senator Bloomfield in the right to choose, but I'm here to just basically let you know how I feel. And a series of things that I did on my own in the property and casualty business, in relation to premiums paid by nonhelmeted states. So I called Iowa, South Dakota, and Kansas, different cities, different insurance companies and told them that I was moving to their city and I rode a motorcycle and here's my personal information. I mean, everybody's car insurance or their motorcycle insurance varies on your driving record, your age, your education, and in a lot of cases your credit rating; that's how insurance companies do it. And in every case of those calls that I made to move to a town that doesn't have a helmet law the rates were less expensive than what I pay in the state of Nebraska, which kind of astounded me a little bit. But that study has been proven that it is true nationwide that states without the helmet bill have lower health insurance rates and lower auto and homeowners rates. Why? I couldn't really tell you. The other thing that I would like to relate is I live in Gretna, well, actually it's Elkhorn now. And if you want to have a successful poker run, charity run in our city, you better have stops in Iowa. Going east increases participation in those charitable events tenfold straight across the board because those guys don't want to ride 75-north or go west when it's 100 degrees and you have to have a helmet on. And most helmets are black and they absorb heat. Basically anyone of you can go to Beebeetown, Iowa, on a nice Sunday afternoon, and I have personally counted over 100 motorcycles parked in Beebeetown having lunch, having an adult beverage or tea personally. I mean, they're there. They're not in Wahoo, they're not in, you know, the little towns that I would love to ride to. Questions? [LB368]

SENATOR SMITH: Thank you, Mr. Lorence. Do we have questions from the committee? I see none, thank you for your testimony. [LB368]

JAMES LORENCE: Thank you. [LB368]

SENATOR SMITH: Next proponent of LB368. Welcome. [LB368]

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BRAD CHRISTIAN: Good afternoon, committee. My name is Brad Christian, that's B-r-a-d, last name Christian, C-h-r-i-s-t-i-a-n, like the church. I'm a life member of ABATE, I'm a life member of the Riders Club of America, I'm a life member of the Harley Owners Group, I'm a member of the American Legion Riders, I'm a life member of the NRA, none of that means anything. 34 years in the insurance business, I could repeat a lot of what Jim just said. In fact, I helped him with some of those numbers. I ride about 10,000 miles a year on average. It is my opinion that riding my bike without a helmet should be my choice, I don't know if it should be elevated to a right or a privilege, but making a choice is certainly the correct path. Some friends, even my mother asks, but you'd wear one if you had the choice, wouldn't you? And I say, mom, if I'm going to the grocery store or out to eat, I might. Because falling over in the parking lot when your feet are on the gravel, it might make a difference. Those helmets are good up to 13 miles an hour. If you drop one from about this high, and I'm holding it about waist-high or a little above that, it will void the warranty because the helmet companies say there could be a crack and they no longer are valuable. As the family of Gabe Wilken, some of the people behind me know who this is, and I don't know if anybody in front of me knows, but he's a former parts manager at Frontier Harley Davidson. His family knows you can wear your helmet and it doesn't make any difference. He's riding home from work, they drag you for miles, the guy that hit you says, I don't know what I hit. He had his helmet on, he's still dead. I tell my mother, if I'm riding on the open road out on the highway, if it's your time to go, it's your time to go. The blunt force trauma will kill you, like it does in many car accidents. I have a friend that was riding home from vacation on the west coast and he was coming down I-80 near the Hastings exit. And a distracted or irresponsible driver turned between them, wrecking him, and killed his wife. After the autopsy, the doctor said the extra weight of the helmet caused her to snap her neck. Helmets seldom save lives; it's not like wearing a seat belt in an enclosed box that is designed to withstand a crash. Riding a bike is more like riding a horse or even rollerskating, both of which can produce a newsworthy cripple or two on occasion. Helmets will not save you from the blunt force trauma. I got a little more on the fiscal note that the senator talked about, he mentioned the \$23,000. I just want to say I doubt that would all happen at once, signs get replaced regularly due to being shot at and just wear and tear. And so I question if they would have to go out there immediately and replace all the 60 signs. If the word gets out that the people no longer need to wear a helmet in Nebraska, and we can help with that, they'll be driving through enjoying our scenery and driving up Highway 2 on the way to Sturgis, which segues into he mentioned that, Senator Lowe mentioned that, I just wanted to give a little more clarity as to the numbers in that fiscal thing. I live in Clatonia, that's a suburb of Wilber, near Lincoln. It takes 20 gallons of gas minimum to get from here to Sturgis every year. Most of the people that ride good bikes run good gas, and let's call that \$3 a gallon. Keep in mind that about a third and my, and I don't know, you guys know better than me, a third of that gallon is tax. A big portion of that \$3 a gallon is gas tax, so it's a minimum of \$60 of gas for me to get from right here to Sturgis every year. I know that every time I stop for gas I'm going to buy a bottle of water...and I'm not going to get done...and something to eat. On average there's at least a half a million people going to

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Sturgis, it's an easy \$3 million worth of revenue coming into the state one way. They got to go back home. People coming from other states--Arkansas, Tennessee, Ohio--they're going to also stop and get a room and eat, go out for supper. At a time when tax revenues are down, this would seem like an easy way to at least supplement those taxes. I wish the committee would please consider moving this bill to the floor. As much as you're able then as a committee coax it along to passage. [LB368]

SENATOR SMITH: Thank you, Mr. Christian, for your testimony. Do we have questions for Mr. Christian? I see none, thank you. [LB368]

BRAD CHRISTIAN: Thank you. [LB368]

SENATOR SMITH: Next proponent of LB368. Welcome. [LB368]

RANDY GEER: Welcome, committee. My name is Randy Geer, G-e-e-r. I'm a maintenance electrician and I live here in Lincoln, work for the railroad. First of all, I'd like to thank Senator Lowe for introducing LB368. I'm in support of LB368. I tried to compare fatalities. Our opponents are going to say that helmets save lives. So I went to neighboring states, I went to six states that neighbor us...or five states and Nebraska, and I went to the NHTSA numbers, from the National Highway Traffic Safety Association, and the latest data that they had complete was 2011 to 2014. And I took an average of those three...or those four years for the easiest way to track apples to apples and oranges to oranges is to use per hundred-thousand registered motorcycles because Iowa has three times as many registered motorcycles as Nebraska and Wisconsin has almost six times as many. So using just the data from the fatalities doesn't add up unless you figure out some way to break it down. But I broke it down by the states as far as fatalities per hundred-thousand riders, averaged for those four years. Minnesota had an average of 21.3 fatalities per hundred-thousand, South Dakota was second with 24.6, Iowa was third with 25.89, Wisconsin was fourth with 30.39, Nebraska was fifth with 37.34, and Missouri was last with 54.13. One thing about the top four states in that, all four of those top states have a right to choose, they stress prevention of the accident, rather than mitigating the damages afterwards. Nebraska and Missouri are the only two of those six that have mandatory helmets. Nebraska doesn't even have for the drivers ed drivers manuals, there's not even a page of the hand signals that we use anymore. How are kids going to learn how to...what a person is doing, because the turn signals aren't required on motorcycle in the state. If somebody is putting their hand like this and nobody behind them knows, it's...and I held up a right-hand turn sign, so. I also took the motorcycle fatalities for each state and I compared those to the nonoccupants, which would be bicyclists, pedestrians, and whatnot. And South Dakota had a third as many nonoccupants--pedestrians, bicycle riders--as they did motorcycles. Those people, you know...it was almost, it was 41 to 53 in Minnesota. Motorcycles was the 53 number and this was for five years, this was

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through 2015. Iowa there was 45.8 motorcyclists to 27 pedestrians, Wisconsin was 88.8 motorcyclists to 62 pedestrians, Nebraska was 20.8 motorcyclists to 14.6 pedestrians, and Missouri was 89.6 to 87.6. And these people on bicycles and pedestrians aren't required to wear Department of Transportation-approved helmets. I believe that prevention is more important than mitigating the damage afterwards. These top four states in this they have the awareness, they concentrate on that. And that is all I have. I want to thank you guys for allowing me to testify today. [LB368]

SENATOR SMITH: Thank you, Mr. Geer. Senator Hilgers. [LB368]

SENATOR HILGERS: Thank you, Mr. Vice Chairman. Thank you, Mr. Geer, for coming down here today. I know you're a constituent of District 21, my home district, so I appreciate you taking some time to come and testify in front of your committee. And thank you for doing the research on those numbers; that was very helpful. One point I wanted to ask about, maybe you could just relay this story to the committee. I know you and I have spoken door to door about this issue, and one of the stories that struck me in the past related to the economic impact and some of the vehicular traffic, or motorcycle traffic, that might divert from the state based on our helmet law. [LB368]

RANDY GEER: Sure. [LB368]

SENATOR HILGERS: And I was wondering if maybe you could just recount for the committee some of your personal observations on this. [LB368]

RANDY GEER: Okay, for one thing, I'm not an actuary. I crunched some numbers one day, I took 10 percent of our licensed drivers in the state and I took that number and if they left the state 13 times, so 13 weekends over the course of the year, that they would...and whenever I go out, I spend \$100 to \$125, I can count on that a day while I am out. It worked out to be almost \$15 million a year, of Nebraska dollars, that leave the state. And those worried about budget concerns, taxes, whatever, that's money from our state that leaves the state. I know we have great roads provided, if we'd open up our doors to motorcycle tourism we would benefit from that. Did I answer your question? [LB368]

SENATOR HILGERS: Yes, thank you. [LB368]

RANDY GEER: Thank you very much. [LB368]

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SENATOR SMITH: I see no additional questions. Thank you, Mr. Geer, for your testimony. [LB368]

RANDY GEER: Thank you. [LB368]

SENATOR SMITH: Next proponent of LB368. Welcome. [LB368]

GREG KOELLNER: Thank you. My name is Greg Koellner, K-o-e-l-l-n-e-r. I guess I'm here for a little different situation, I'm kind of an avid watcher of what goes on down here and every year I watch what goes on when the helmet bill comes up. And every year it seems like we hear how we're a drain on the system. I guess I felt like coming this year because a year and a half ago I went through something, it had nothing to do with a motorcycle, but I slipped getting out of my truck at work. I'm self-employed, so I obviously had no workman's comp. I do have health insurance, as a matter of fact, I have good insurance all around. But I got a staff infection from that pulled tendon, which turned into sepsis, which caused my femur to break, which caused me to have a partial hip replacement, cement coated. It caused basically pressure sores, anyway, it put me in bed for 10 and a half months. Lost a lot of weight, lost all my muscle. I guess the reason I tell you this is so...I was doing nothing out of the ordinary, other than what I did every day, and my medical bills were millions of dollars. I mean, I don't...the issue I have with it, I guess, is Obamacare came into effect, which is a requirement for everybody to have healthcare, and the one thing I hear is that we, as motorcyclists, are a drain on the system. There's a lot that goes on in everyday life, a lot more times it happens everyday life than it ever would on a motorcycle. And by law everybody has to have health insurance, so I kind of get confused on why a motorcyclist will be a drain to the system. And it sounded real good in my head when I discussed it as I was driving to Lincoln, you know, as far as what I wanted to say. It's hard for me to reciprocate everything that's bouncing around in my head, but I just wanted everybody to know that everybody I know, that I ride with, has health insurance. You know, I live in a small town, same deal. I live 24 miles from Colorado, 30 from Kansas, I'm in Senator Hughes's district. And when we have a run, we go to Kansas, we go to Colorado. We take 100 to 200 motorcycles out of the state because people want to ride without a helmet. And we'll have anywhere from two to three rides a year, take that times on the low side 100 people, you got 300 motorcyclists just from one town--one area--on that weekend leaving town. And if everybody spends say, \$50, \$75 to go on that poker run, or even \$100, that's money that leaves the state. And it's over something that to me isn't even...I grew up in northeast Colorado and so when I was 16 I rode without a helmet, I didn't have to ride with a helmet. And it's hard for me to understand why we're mandated to wear a helmet, I believe it should be the choice of the rider. When I go to Denver, I wear a helmet, even though it's not mandated in the state of Colorado. I go to Fort Collins, I wear my helmet. When I'm out around my hometown, I would love to take it off. When I go to Kansas or I go somewhere I take it off because we don't have the traffic. There are times a

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helmet is good, and I don't think this bill is mandating people don't wear helmets. This bill is simply to give people the choice to wear a helmet or not. So thank you. [LB368]

SENATOR SMITH: Thank you, Mr. Koellner, for your testimony today. Do we have questions? Senator Hughes. [LB368]

SENATOR HUGHES: Thank you, Greg, for coming in. It's good to see you again. Could you give me some kind of an idea what you or what you think the people you ride with the percentage of time that they ride with a helmet and the percentage of time that they don't ride with a helmet now? [LB368]

GREG KOELLNER: I would say I ride with a core group of probably 20 to 25 people and I would wager a guess to say even if we go to Kansas maybe 60 percent still wear their helmet. When it's 100 degrees out, that number might drop to 40 percent because it does affect you. I mean, I've rode from Norfolk to Lubbock, Texas, and when I got to Goodland I took my helmet off because my neck hurt, the sweat was dripping in my eyes, and it made a world of difference, you know? I would say on average 60 percent still wears a helmet. [LB368]

SENATOR HUGHES: So if we were to eliminate the requirement for helmet in Nebraska, would that number change a lot of percentage of when they ride with a helmet and when they wouldn't ride with a helmet? [LB368]

GREG KOELLNER: I don't think so. Because like I say, when we go to Kansas or we go to Colorado you've still got that 50 or 60 percent wearing the helmet, even though it's not mandated. And I seriously think if they're riding, it doesn't matter if they were in Nebraska or Colorado or Kansas, I think if they're comfortable wearing their helmet they're still going to wear it. [LB368]

SENATOR HUGHES: Okay. [LB368]

GREG KOELLNER: Which, you know, we've got people that have ridden for 60 years and he chooses to wear his helmet. But he's down here arguing against having to wear a helmet every year, every year that we're here. [LB368]

SENATOR HUGHES: Okay, thank you. One point of clarification why Mr. Koellner pays attention is his father-in-law is one of us. Thank you. [LB368]

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SENATOR SMITH: Any further questions for Mr. Koellner? I see none. I know you traveled a long distance to be here today, thanks for your testimony. [LB368]

GREG KOELLNER: You bet. Thank you. [LB368]

SENATOR SMITH: Next proponent of LB368. Welcome. [LB368]

GARY NEEMAN: Thank you. Good afternoon, Senators. I see we have some new faces and some old ones. I see you're still Chair. [LB368]

SENATOR SMITH: For today. I thought you were going to say I was one of the old faces. (Laughter) Welcome. [LB368]

GARY NEEMAN: I respect my elders. My name is Gary Neeman, N-e-e-m-a-n. And again, thanks so much for your time to present our position on this bill, LB368. I am for this bill. I am assistant state coordinator with ABATE of Nebraska, we bring this bill every year. And also I'm here as myself as an avid rider. It's time, when I say this, it's time for us to get in the game. It's time. And we're...we were circled around us, as you've heard from past testimony. We're losing out on revenue. Are we going to fix your budget shortfall? Absolutely not. Can we put a dent in it? You bet. You bet we can. I ride with a group of people and I love my state, but we go out of state to be able to enjoy and have the freedom to choose. So again, I just feel it's time. Do I believe in the safety aspect, yes, but we're not, you know, we're not getting that out there. You know, they're not letting us get that out there. We promote it in all of our meetings, every function we have we promote safety. If there was a way we could get our program instilled, stop classes, drivers ed, I'd be one of the front leaders to help you with that, to help with that. Education safety is a big part, we treat it with the kids, drivers ed, we could do it with the bikes. Plain and simple. They do have riders' safety courses, I understand that. They basically get through the bases to get your license and say, now go have fun. You know, time and time again we hear about it, people get their first bike, where did they go to learn how to ride? Black Hills. Not a good thing your first time out, not very safe. So the key is educate, educate, educate is my point. But hopefully, as you heard from Greg there, you know, we keep getting thrown under the bus about a medical drain. And I'm a taxpayer; I keep paying my taxes. When I hear about the unfortunate ones in car accidents, I hear the unfortunate ones that, you know, fell down in the shower, fell down off a roof. And I know you've all heard this time and time again, you know? But they haven't drained the system and neither have we, you know? So it's...I don't want to say it's a myth, I'm sure it's, you know, it could be a problem. But I just don't think it's the, you know, the ever-ending problem we're going to break the state of Nebraska. But with that, thank you for your time. I appreciate it. Any questions to me? [LB368]

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SENATOR SMITH: Okay. Questions for Mr. Neeman? Senator Briese. [LB368]

SENATOR BRIESE: Thank you, Senator. Thank you for being here. It was suggested earlier that LB368 is stricter than most of the surrounding states helmet laws would be. [LB368]

GARY NEEMAN: Yes. [LB368]

SENATOR BRIESE: Can you tell us why that is or describe the (inaudible)? [LB368]

GARY NEEMAN: We believe, you know, 21 and under. Okay, even though you can go into the service and fight for our freedoms at 18. But 21 and under we want to make sure, you know, that they're, because people do indulge unfortunately, they do. We don't condone it, but they do. So you have to be 21 to drink. Six years old is the federal guideline for car seats. So we don't want anything special, but we don't want anything less. We want to be treated the same. Eye protection, pretty well common there, you don't have a windshield, you don't need to get a bug at 60 miles an hour or something hitting you in the eye. So you protect your eyes, protect your vision. [LB368]

SENATOR BRIESE: The other six states that are more lenient, they don't require eye protection, correct? [LB368]

GARY NEEMAN: Some do, some don't. If you have a windshield then they don't, again, you don't have to wear glasses. Some states have windshield plus eye protection. [LB368]

SENATOR BRIESE: And how do they compare with the 21 under requirement? [LB368]

GARY NEEMAN: If I remember right, most are about the same. We're all right in there, we're all about the same there. [LB368]

SENATOR BRIESE: Okay; thank you. [LB368]

SENATOR SMITH: Other questions? I see none, thank you for your testimony. [LB368]

GARY NEEMAN: Thank you again. Have a great day. [LB368]

SENATOR SMITH: Good to see you. Next proponent of LB368. Welcome. [LB368]

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TODD MILLER: (Exhibit 2) Thank you, Senators. My name is Todd Miller, T-o-d-d M-i-l-l-e-r. It's good to see you, it's good to have the time to testify. I took a little time off work, but it's worth it. I come every year. Some old faces, I know you've seen me before. I am a quality engineer at Tenneco, I am a father, son, grandfather. I am also a chair for ABATE of Nebraska, I have been on the committee for 10 years, I am a lifetime member for ABATE of Nebraska. And I've been riding for some 40-plus years. Not once in those 40-plus years has a helmet saved my life or prevented an injury, and I've raced, I've rode, I've been down. Not once did the helmet make a difference. And if anything, there have been many times when a helmet has caused me more aggravation and pain than anything else. You heard them talk about heat, well, this is Nebraska, there is a lot of wind in this state. You get a 20 or 30-mile crosswind when you're riding a bike at 50 miles an hour and pop through a tunnel, it catches that helmet, it about rips your neck off. It happens all the time. There's been times as a group that we have made the decision that we were safer without that helmet even in Nebraska. We had to. Or pull over and take a break, one or the other. You're going to hear from our opponents that this is going to be a financial drain, you've heard this time and time again. I think several of you have talked about it. I've handed you out some information, the Kaiser Foundation did a study and it kind of compared insurance rates. This is from 2012. A study on the average daily inpatient hospital cost for state which had mandatory helmet laws, that average daily cost was \$2,047. This is for mandatory helmet law states. Those with freedom of choice, the other states, had \$1,987 average daily cost. That means it was \$60 more for all states that have a mandatory helmet law, average cost inpatient. Yearly health care premiums revealed similar data. In mandatory helmet use premiums were \$4,390, for those giving riders freedom of choice it was \$4,335. That's \$55 more for mandatory helmet states. Again, higher cost, not lower. If helmets are this great magic bullet to lower costs, why isn't it showing up on the data? I guess that's my point. We know that we trade possible head injury or neck injury every time you put that thing on. It happens. We've seen cases where peoples' necks been broken and they're paralyzed from wearing a helmet. At 55 miles an hour, a four-pound helmet becomes 200 pounds at a stop. That's a lot of pressure on your neck. I also included a handout from a medical industry actually in the back of your folder, that discusses just sitting at your computer desk and what leaning forward by one extra inch an 10 extra pounds of weight on your neck is throughout a day. And they warn that that's bad for you. And yet, they say there's no reasonable reason that this helmet can cause a neck injury. They contradict themselves. Senators, we have been putting up with this helmet law for 30-plus years. I've been fortunate enough to ride in this state long before we had a helmet law and I miss those days. I miss riding with my dad, riding with everybody else, going up Highway 2, instead of beelining out of state every weekend, because that's what we want to do, we want to be able to ride without our helmet. I know most of you probably don't ride or have ever ridden, but I want to ask you if any of you have driven a convertible. What difference would that experience be if you had to put a helmet on? It kind of defeats the purpose. That's all we're asking, is the same freedom. With that, I'll leave it to questions for you. [LB368]

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SENATOR SMITH: Thank you, Mr. Miller, for your testimony. Senator Hilgers. [LB368]

SENATOR HILGERS: Thank you, Mr. Vice Chairman. Thank you, Mr. Miller, for coming down. Another constituent in District 21. Two questions for you. One, this just appeared on my desk. [LB368]

TODD MILLER: Yes, that's the one I brought. [LB368]

SENATOR HILGERS: And does this contain, I haven't looked at it yet, is this the Kaiser... [LB368]

TODD MILLER: Yes, it is. [LB368]

SENATOR HILGERS: The Kaiser Foundation study? Okay. [LB368]

TODD MILLER: It's data they pulled from NHTSA as well and, you know, some information. [LB368]

SENATOR HILGERS: Okay. Thank you very much. The other question I had was you mentioned a couple of reasons for why a helmet might be in certain circumstances more dangerous than not having a helmet. I've heard heat mentioned, wind. Are there others, maybe field of vision or others that might impact? [LB368]

TODD MILLER: Field of vision is one but realistically it's more of just a deterrent, right? Like I say, when you catch wind--fatigue is the biggest problem, I think, of anything. When you're talking about 100 degree or 90 degree day, driving around on a motorcycle, that heat builds up inside that helmet and you get to the point where the top of your head--scalp--itches so bad. I've spent more time trying to figure out how to scratch my head than anything else. But that fatigue, that does really add to you because that's holding all of that heat into your head...into the top of your head. You can only do so much. [LB368]

SENATOR HILGERS: Thank you. [LB368]

SENATOR SMITH: Additional questions for Mr. Miller? See none; thank you for your testimony today. Next proponent of LB368. Proponent? Seeing no additional proponents, we now move to opponents of LB368. Those wishing to testify in opposition to LB368. Welcome. [LB368]

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GARY HAUSMANN: (Exhibit 3) Good afternoon, Senators and Chairman Smith. It's good to be here. I represent Madonna board of directors, I'm an opponent to LB168 (sic). My name is Gary Hausmann, G-a-r-y H-a-u-s-m-a-n-n. As I prepared for this meeting, I realized that I have been involved in this debate for at least nine years, nearly every year since my motorcycle accident 10 and a half years ago. I am still waiting to hear a good, legitimate reason for not wearing a helmet while riding a motorcycle. How many people have you heard about that have been involved in a serious motorcycle accident while wearing a helmet and they are disappointed that they had one on? No, me neither. Here's how my motorcycle accident happened September 1, 2006. I'm a corporate jet pilot for Werner Enterprises in Omaha, Nebraska. I was assigned a trip that Friday to drop some people off in the Lake of the Ozarks. After doing that, I put the jet back in the corporate hanger, changed clothes, and climbed aboard my Honda Goldwing motorcycle for my 16-mile ride home, which is 5 miles west of Fort Calhoun, Nebraska. Incidentally, I lost and have never recovered my memory from seven hours before until two and a half weeks after the accident. That's known as retrograde amnesia. And by the way, seven adults have told me the scenario of what happened at the accident site and I've had all kinds of adults tell me about things afterwards, so I'm not making this up. This is, even though I lost my memory, this is what everybody says has happened. I could have been on the moon for three weeks, I wouldn't know it. But nearly halfway home and allegedly traveling at five miles an hour under the speed limit, I was approaching a car that saw me and was waiting to turn across the lane of oncoming traffic. When I was less than 60 feet from the car, she was rear-ended by an SUV, pushed directly at me. I was unable to stop. I applied the brakes and laid the bike onto its side, then jumped off. I slid under the car, broke cervical vertebrae number six and number seven, broke the top two ribs on each side of my sternum, shattered my sternum, collapsed my right lung, dislocated my right shoulder, and was knocked unconscious. However, the most serious injury was a brain injury called diffuse axonal injury. It is widespread bruising and bleeding of the brain. Oh, one more thing, I was wearing a very good quality helmet. I've been told by dozens of experts that without my helmet I certainly would not be standing here today, sitting here today, to tell you the story. Please understand that I believe in personal rights as much as anyone. One of those is the personal right to pay your own medical bills. You see, in 2006, the average motorcycle accident that did involve head injuries accrued \$1.41 million in medical bills. It has probably doubled or tripled since my accident. Yes, my bills totaled only \$383,000 the day I was released from Madonna Hospital here in Lincoln, Nebraska. I was very fortunate to have recovered quickly, and by the way, my insurance paid 100 percent of my bills. I didn't leave the state of Nebraska with \$1 to pay. So how many people in this room have \$1.41 million in 2006 numbers in personal wealth and/or insurance coverage to cover your medical bills? I mean, everybody in this room, not you Senators. Remember, that's your personal right to pay your own medical bills. In nearly 10 years of testimony not one person has advocated not wearing seat belts or not using child restraint seats in autos or having auto manufacturers regress to nonpadded dashes or nonsafety glass in vehicles. Could it be that those requirements are already in place, they just

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make good sense? Voting no to LB368 really makes good sense, doesn't it? After all, it's a no-brainer. Thank you very much. Any questions? [LB368]

SENATOR SMITH: Thank you, Mr. Hausmann. Do we have questions from the committee? I see none. [LB368]

GARY HAUSMANN: That's it, huh? Thank you very much. [LB368]

SENATOR SMITH: Thank you for your testimony. Next opponent to LB368. Welcome. [LB368]

PATRICK LANGE: Senator Smith, my name is Patrick Lange, Patrick Lange. This will be the fourth time I've come up and talked to the senators in this committee. In 2010 I was riding through South Dakota, they do not have a helmet law, and I was on my honeymoon. And I was a good rider, I've had a lot of miles under my belt, been riding from a young age. We had a faulty tire and the tire blew out going down the interstate. My wife was killed, we did not have our helmets on. I suffered a severe traumatic brain injury, I spent 44 days in ICU and 56 days in a coma. I had to learn to stand up, walk, dress myself, feed myself. I am currently on disability with, I have short-term memory issues from the shearing on my brain, and I have muscle and nerve damage to the right side of my body. My children had to go to their stepmom's funeral and they had to wonder for weeks if daddy was going to live. I would appreciate if we kept this bill in place because I want my kids to not have the choice to not wear a helmet, I want them to have to. If some teenage boy shows up at my door, even 22, 23 years old, taking my 21-year-old daughter on a date on his Harley, I want to make sure that she has to put that helmet on. My medical bills, I had excellent insurance, I had Blue Cross Blue Shield of Illinois who had no cap. Medical bills that I saw copies of added up to \$1.7 million. I've had a taxpaying job since I was 15 years old. Yes, I rely on my disability as my only source of income. I have so many restrictions since my accident that I wouldn't wish them on anybody. Do I know for sure that a helmet would have saved my wife's life that day? No. Do I know for sure that I wouldn't be on disability if I would have had a helmet on? No. But I will wonder the rest of my life what could have happened if I went to the extra safety precaution that day to put the extra piece of safety equipment on. You know, we go to work in factories, I worked in a shock absorber place and we had to wear steel-toed boots as part of our requirement. You get in a car, you know, you're required by the law to put a seat belt on, and there's a contained area around you. There's four wheels on the ground. If you blow one wheel, you still have three wheels to depend on to safely steer your car to safety. A motorcycle there's only two wheels, you blow one wheel going 75 miles an hour, there's no steering that car to safety. Especially if the tire wraps around the swing arm, which is what the back tire balances on. I don't know how many of you up here have children, sons and daughters, granddaughters, grandsons. Senator Smith I'm sure you have at least a daughter, imagine 21 years old or a granddaughter 21 years old. Would you not feel better

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if her date showed up tonight to pick her up on a motorcycle, she just turned 21, yes, you still have to wear that helmet, sweetheart. For my peace of mind, your mom's peace of mind, your dad's peace of mind. I want to make sure I do everything in my power to get you home safe. I didn't think of that; I didn't get my wife home safe. I know it wasn't my fault, but I could have insisted that...and no, there's not a law that says I have to wear this helmet, we're going to wear our helmets. I didn't do that. If you could live inside my body, inside my head for one day, there would be no doubt in your mind that you would want to wear a helmet. Yes, I still ride. I can't ride like I used to, my body won't take it anymore. About 200 or 300 miles is all I can handle. But for the ones that can't speak today, help ensure our children's safety. Keep that safety measure in effect. Yeah, we might lose a couple dollars--\$1.7 million for one person. It's not even question of what's right or wrong, it's common sense. Safety first. Thank you for listening to me, I appreciate it very much. [LB368]

SENATOR SMITH: Mr. Lange, I remember your testimony from before. And on behalf of the committee, very sorry for your loss. I know it's very difficult for you to come and provide that testimony, so thank you for being here today. Do we have questions for Mr. Lange from the committee? Seeing none, thank you. [LB368]

PATRICK LANGE: Thank you, sir. [LB368]

SENATOR SMITH: Next opponent of LB368. Welcome. [LB368]

LORI TERRYBERRY-SPOHR: (Exhibit 4) Thank you. Senators, my name is Dr. Lori Terryberry-Spohr, spelled L-o-r-i, last name is T-e-r-r-y-b-e-r-r-y-S-p-o-h-r. I'm the director of rehab programs at Madonna Rehabilitation Hospital and I'm also a clinical nurse, psychologist, who's worked in the field of brain injury for over 20 years. Over that last 20 years, I've seen thousands of times the catastrophic impact of brain injury on patients and their families. Although most of the time when we discuss this issue, we tend to focus on acute healthcare costs, so much more is needed to understand the cost of brain injury. "A recent study of nearly 3,000 serious head trauma cases found that 52 percent of survivors were moderately to severely disabled at one year. Many patients never fully recover social independence, even though they may have no physical disabilities and a normal life expectancy. At four years post injury, most survivors lived with their families and neither worked nor attended school, imposing significant psychological burden on families who care for their injured relatives. Close relationships are at risk and many marriages and partnerships break down, increasing the risk of social isolation and subsequent psychological distress to the survivor. Mood disorders are very common during this period and there's a high risk of suicide. There is little evidence of improvement in psychological problems between two and seven years post injury, with survivors remaining largely dependent upon family support, thereby potentially imposing a lifetime burden on relatives." At Madonna

Rehab, we served approximately 800 patients with brain injury during this last year; many of those were from motorcycle accidents. But I have yet to have a patient say to me that they wish they weren't wearing a helmet, although many say they wish they would have been. They often didn't understand the lifelong ramifications or didn't think it would happen to them. And unfortunately, a brain injury isn't like a broken bone that just heals in time and life goes on. The long-term effects of these injuries are often devastating to the patient, their family, and in many cases their community. Fortunately, there is something we can do. Helmets laws help reduce the number of people that suffer these injuries. Unhelmeted motorcyclists are three times more likely to suffer critical brain injuries than helmeted riders in a crash. Nebraska repealed the law once before and then put it back in place. I'd like to offer a possible correction to some information that was provided previously. The first time we passed the helmet law was in 1967, right after in 1966 the federal funds incentive was put in place. When that federal funds incentive was removed in 19...I believe '76 it was, '77 we removed our helmet law and we were without a helmet law until 1989. When it was put back in place in 1989 that federal incentive was not in place; that was a decision based on the facts and the figures that were available at that time. And so I would like to offer that as some additional information that you can check on. Following Nebraska's reimplementing of the law in 1989, a study on hospital costs showed a decline in total acute medical charges of 38 percent and a 22 percent reduction in serious head injuries. In Florida, where they implemented the proposed change that requires helmet use by riders only under age 21, hospital admissions for head injuries increased by 82 percent and helmet use declined markedly, even amongst riders under the age of 21--because how do you tell if the rider is 21 or not--while fatalities increased by 81 percent and nearly tripled in the under 21 age group. In fact, according to the National Traffic Highway Safety Administration, (sic: National Highway Traffic Safety Administration) all states that have repealed their helmet law have seen the rates of death and serious injury increase. This is having an economic and social impact. And this year, Florida, along with three other states that had repealed their helmet laws, are now considering legislation that would reinstate their laws. They are looking to reverse it. To try and quantify how much that is impacting our society, the National Safety Council estimated in 2015 that the average death due to a motorcycle fatality cost \$1.5 million, while the average disabling injury cost \$88,500. If we consider that in Nebraska, since we reimplemented the universal helmet law, we saw our rate of injury cut to one-third of the previous rate, if we return to the rate that we had previously can we afford the over \$100 million in additional economic costs? Furthermore, that research the time we last reinstated our law indicated that 41 percent of motorcyclists injured in Nebraska lacked health insurance that was sufficient or received Medicaid or Medicare. Those costs are borne by all of us, not just those who choose to ride without the helmet. Finally, repealing the helmet law would be completely inconsistent with other laws recently implemented in our state, including the Concussion Awareness Act. Our goal is try to prevent long-term catastrophic outcome from brain injury. Why would we want to pass a law that we know without a doubt will increase the number of brain injuries in our state, resulting in increased economic burden and more pain and suffering? Furthermore, the majority

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of your constituents do not want this law repealed. Although there is a vocal minority that continues to try to persuade you otherwise, a recent survey in May of 2016 indicated that 73 percent of Nebraskans believe the helmet law should be continued. To put it simply, the facts tell us repealing this law will be costly and deadly and that's not what the majority of Nebraskans want, so why should we ignore that? I thank you for your time and I urge you to vote no to LB368. [LB368]

SENATOR SMITH: Senator Hilgers. [LB368]

SENATOR HILGERS: Thank you, Mr. Vice Chairman. And thank you, Doctor, for your testimony and for providing these numbers. I had a couple questions. First is on one part of your testimony you said that Nebraska reinstated their helmet law ban in I guess was it '89 or thereabouts? [LB368]

LORI TERRYBERRY-SPOHR: '89. [LB368]

SENATOR HILGERS: My understanding of how that federal process worked was that while the federal government did withdraw its really heavy-handed trigger that was instituted in 1967, as you mentioned, but there was a later sanctions period around 1990 that wasn't maybe as severe as the complete withdrawal of federal highway funds but was significantly heavy, that caused a lot of states to institute the repeal. Is that consistent with your memory? [LB368]

LORI TERRYBERRY-SPOHR: What I have read about is that we actually predated that encouragement by the Congress to go ahead and put laws back in place. We were one of the first states to put it back in place. And we looked at the facts and figures and we went ahead and did that in '89. In '90 the Congress did provide some encouragement, but the sanctions were not very strict at that point in time, based on what I read. [LB368]

SENATOR HILGERS: Okay. And I'm doing my research on this, so I appreciate that. [LB368]

LORI TERRYBERRY-SPOHR: Yeah, I appreciate that. Thank you for trying to be so informed. [LB368]

SENATOR HILGERS: The other questions I've got relate to your testimony and so these numbers, I don't think anyone would disagree that, you know, having brain injuries and the impacts of healthcare costs are bad things. So I don't mean to suggest that. However, you could take out the words helmet laws and put motorcycle usage, you could put driving cars, you could put a lot of different things that cause injury and cause healthcare costs. And so I think what

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proponents of the bill would say is yes, there might be some costs, there might be some costs. We've heard testimony on how in some instances maybe not having a helmet would be better. But how do you draw the line from a freedom perspective of saying well, we're going to let you drive, ride a motorcycle, for instance that might cause certain harm, but we're going to mandate that you have to ride...or have to have a helmet. I mean, how do you draw that line? [LB368]

LORI TERRYBERRY-SPOHR: Me personally. [LB368]

SENATOR HILGERS: Yes. [LB368]

LORI TERRYBERRY-SPOHR: Well, I think it's a valid question. And I'm not against individual freedoms, but I think this is really very analogous to seat belt laws. We know the statistics surrounding seat belt laws, we know what a difference it makes. We mandate them, we put them in place, we don't really debate much about it because we know what a difference-maker it is. It's another safety precaution that we know is a difference-maker. We've trialed it, we've got the research, there's been a number of states that have tested it. Some of the states have actually had enough of an impact they're going to have to consider reversing it. And so how is it really different from seat belts in my mind? [LB368]

SENATOR HILGERS: Well, and actually I think that's a good example because I would actually take a slightly different view and I would disagree that they're like seat belts. You know, I've heard a lot of testimony today about how the use of a helmet actually can cause...put a rider in a more serious potential situation with the fatigue, the heat, the wind. I mean, we've heard a lot of instances. We've also heard that helmets don't have as much of an impact say greater than 13, 15 miles an hour. They certainly have some impact under there, whereas a seat belt, I've never heard of anyone driving around the state so they could drive without a seat belt. Seat belts have been shown to help reduce injury and fatalities up to 40, 50, 60 miles an hour or more. And so I actually view that those would be slightly different. In fact, the questions I would pose to you is what I see is you've got folks saying hey, you know what, with helmets it could save...it could reduce injuries, reduce fatalities. But then I hear other folks saying hey look, in some instances not having a helmet can reduce injuries and reduce fatalities. Are you aware of any other instance, and I've looked and I've thought about it, so I seriously really would like your insight, where in that type of a situation where you have legitimate arguments on both sides, where the state or a governmental entity has mandated one versus the other? [LB368]

LORI TERRYBERRY-SPOHR: I think I'm probably not going to directly answer your question, because no, I don't have an example, but what I would like to counter with is if you're really trying to educate yourself on this and you really look at the research on this, the examples that were provided today were anecdotal. When the research has been done, there's absolutely no

evidence, and it's cited in the...I believe it's the National Safety Council's report, no evidence that helmets significantly impair vision or result in increased injuries to the neck. That's been debunked and it's published. And so I think although people want to provide these examples and they give those examples, they are based on their own opinion, they are not based in the evidence that we have in science and what we know to be true. [LB368]

SENATOR HILGERS: What was the...I appreciate that. What was the study, you said? [LB368]

LORI TERRYBERRY-SPOHR: I believe it's the National Safety Council, but I will be sure that you have a copy of that report. [LB368]

SENATOR HILGERS: Okay. Thank you very much. [LB368]

SENATOR SMITH: Other questions for...Senator Hughes. [LB368]

SENATOR HUGHES: Yes. Thank you, Dr. Terryberry-Spohr. And I have been to Madonna and toured your facility and it's a fantastic facility. [LB368]

LORI TERRYBERRY-SPOHR: Thank you. Thank you. [LB368]

SENATOR HUGHES: I've also been there as a parent of a friend who has been utilizing your facility. So in the brain injury department can you give us an idea of the range of activities that people are involved in when they show up to your facility? [LB368]

LORI TERRYBERRY-SPOHR: We see patients at our facility that are anywhere from still in a coma and in that restless kind of pre-coming out of the coma agitated stage, so their sleep-wake cycle is mixed up, they don't necessarily arouse to even pain at the point they arrive, all the way to those with very mild injuries who have had what many people like to refer to as concussive injuries when they come to us; so very mild injuries. [LB368]

SENATOR HUGHES: What activities were they doing to put them in that state I guess was my question? [LB368]

LORI TERRYBERRY-SPOHR: Oh, I see. What was the mechanism of injury? [LB368]

SENATOR HUGHES: Yes. [LB368]

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LORI TERRYBERRY-SPOHR: Oh, so many are falls, motor vehicle accidents are common, sports-related injuries are relatively common, we always see a few assaults and other types of things that result in injury. And that's just the brain injury population, we can talk about other populations as well if you like. [LB368]

SENATOR HUGHES: So is there a certain type of activity that you think we should change in order to reduce your workload or the amount of people that you see? And that's kind of counterintuitive, but, you know... [LB368]

LORI TERRYBERRY-SPOHR: No, it's not. [LB368]

SENATOR HUGHES: ...is there some specific activity that you're seeing a lot more of than other? [LB368]

LORI TERRYBERRY-SPOHR: I don't think it's counterintuitive at all, because if you work with these patients and families and you understand how much they suffer, you'd love to see less of them in all honesty. [LB368]

SENATOR HUGHES: Yeah. [LB368]

LORI TERRYBERRY-SPOHR: And so I think it's just a result of our work and our exposure to them that we understand we want to see less. You know, there are...this is something that I believe makes a difference, so every year I'm here fighting for it. Because I believe it does help and helps our state. And I listen to our medical professionals that live on the state lines and how many people come to them from Iowa, and you will probably hear from some today, who have suffered without helmets and ended up at the Med Center and things. Are there things that we can do to decrease falls? We are out there educating and working on fall prevention and things, and that's a major mechanism of brain injury, and we'll continue to do that. We've worked a lot on motor vehicle safety in the last 25 years. You've seen more steel reinforcements and cages and engineering and seat belts and all of those things have made a difference. We've improved our trauma systems of care, our response time is shorter. We have medical helicopters that help to decrease the impact of injury because people get care sooner. So I think we are doing other things. It doesn't really make sense to me that we want to reverse something that we know that works. Because we are doing efforts in all of these areas to improve what we do to care for these patients and decrease their incidents. [LB368]

SENATOR HUGHES: So are you seeing an increase in brain trauma or...increase or is this fairly... [LB368]

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LORI TERRYBERRY-SPOHR: There is an increase in incidence nationwide. It is debatable as to why that incidence is increasing because there has certainly been a lot of increased awareness since the Persian Gulf War and Operation OEF and OIF and then a lot of the concussion awareness related to sports-related injuries. And as a result of that increased awareness there is some theories that we are increasing our recognition and that's part of the reason why those numbers are changing and we're seeing increased incidence. But it is true that nationally the figures have gone up, not specifically only to motorcycle accidents like we're talking about today, but across the board. [LB368]

SENATOR HUGHES: Okay. Thank you very much for your testimony. [LB368]

LORI TERRYBERRY-SPOHR: You're welcome. Thank you. [LB368]

SENATOR SMITH: Senator Murante. [LB368]

SENATOR MURANTE: Thank you very much. And thank you for coming down today. My question is a little bit along the same lines Senator Hilgers was going. And this is now my fourth year in the...fifth year in the Legislature and we've heard this discussion in this committee the last three years, for myself anyway. And the issue that gets brought up is the issue of fiscal impact to the state and this becomes an issue, a matter of public policy, because of the fiscal impact and the fact that if we repeal this law it could cost the state of Nebraska a significant amount of money. What I have always found troubling with that argument is if we play it to its extension, which is to say any human activity which could potentially result in cost to the state gives the state the authority to regulate that activity. Gives us a blank check to regulate anything we want to because anything can be argued to be a potential cost to the state at some point. [LB368]

LORI TERRYBERRY-SPOHR: Sure. [LB368]

SENATOR MURANTE: And what the numbers we're talking about in your presentation pale in comparison to the fiscal impact of health policy relative to obesity. [LB368]

LORI TERRYBERRY-SPOHR: Sure. [LB368]

SENATOR MURANTE: And it seems to me that we would be going down the road of, you know, forced fitness programs and mandatory vegetable eating and things like that just to get that under control. So what I've asked over the period of years, and had some great meetings with the folks behind you as well, is give us parameters. What is the limits to that argument, because the

argument, in and of itself, which is just to say any human activity that has a fiscal impact to the state it's 25 members of the Legislature can ban that activity in its entirety. There's no parameters. So what I'm looking for is give me a limitation on what we can do while still effectuating what you're trying to accomplish. [LB368]

LORI TERRYBERRY-SPOHR: Okay. All right, well, obviously the reason why you're all sitting in those seats is you're asked to make discretionary decisions based on the best information that can be provided to you on the cost versus benefit of each of the things that's brought before you. We know that. There's not a clear and fast line or we wouldn't need legislation, you know? It would just be this is what it is, you know? That's a simple fact. In this case though, we know this makes a difference, we've got the science. Now do we know that there are things that will prevent obesity? Of course we do. Do we know that makes a difference? Of course we do, we work on education and things. But that would impact people everyday, all day, at every single decision they made. This is a simple protective device that we're asking people to apply when they choose to participate in this behavior, if they choose to participate in this behavior. It's different in my mind, it may not be different in yours. I understand that. [LB368]

SENATOR MURANTE: Sure. Well, let me expand on that a little, because it seems like the limitation that you were proposing was it doesn't impact things for all people every day. And that's certainly true, I'm a person who would never ride a motorcycle. I'm just a boring person by nature, so I don't do exciting things. And so... [LB368]

LORI TERRYBERRY-SPOHR: If you play football in the state of Nebraska, you will wear a helmet. [LB368]

SENATOR MURANTE: I didn't do that either, I was more of a golfer myself. Seemed safer. [LB368]

LORI TERRYBERRY-SPOHR: No, but it's the same. We legislate that, we mandate it. We say you have to, if you choose to play that activity, you choose to wear that protective equipment. If you don't want to play football, you don't have to wear a helmet. It's really not any different. [LB368]

SENATOR MURANTE: But so it seems that the restrictive standard then, based on your answer, is the amount of impact that the proposed regulation would have, both in terms to the number of people it's regulating and how often we are regulating that group of people. [LB368]

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LORI TERRYBERRY-SPOHR: You could interpret what I said to mean that, but that's not what I intended. [LB368]

SENATOR MURANTE: Okay, what did you intend? [LB368]

LORI TERRYBERRY-SPOHR: I really intended to say that you're choosing to participate in a behavior that is a known high-risk. We know how to prevent some of the cost-associated ramifications of that and allow you to still choose to participate in that activity. We're not saying you can't do it; you just have to do this with it. You have to wear that piece of protective equipment, no different than when you choose to participate in sports. So by making that choice, you make the choice to comply with what we know works. That's what I'm... [LB368]

SENATOR MURANTE: I won't belabor the committee, but I would love to talk about it with you later when we're not all here. And so thank you. [LB368]

SENATOR SMITH: Senator Bostelman. [LB368]

SENATOR BOSTELMAN: Thank you, Mr. Vice Chair. Simple question is do you...is there an age that you see this predominantly, patients coming in with head injuries from motorcycle accidents incidents? [LB368]

LORI TERRYBERRY-SPOHR: I haven't seen very many under driving age, it doesn't seem like it's related to passengers. But we know that only 1 percent of registered motorcycle drivers are under the age of 21 anyway in our state. There's only 1 percent, 99 percent of them are over 21 anyway. So, you know, that problem mitigates the number that we see that are younger, even in their teenage years. Most people are out of the house I guess before they choose to purchase their first motorcycle. So but I would say that a lot of them used to be in their 20s, but more and more we're seeing older riders and first-time older riders. And I think there's some statistics out there that I can't cite for you that say there's a lot more people starting to ride when they're older now, and we're seeing more and more people who have injuries in the older age groups, even related to motorcycles. [LB368]

SENATOR BOSTELMAN: Thank you. [LB368]

LORI TERRYBERRY-SPOHR: Yes, thank you. [LB368]

SENATOR SMITH: Additional questions from the committee? I see none...oh, I'm sorry. Senator Briese. [LB368]

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SENATOR BRIESE: Thank you, Senator. Thank you for being here. In your testimony you said something about you see 800 patients a year with traumatic head injuries, brain injuries. What percent or what number of those were from motorcycle accidents, do you know offhand? [LB368]

LORI TERRYBERRY-SPOHR: I would like to be able to tell you that number, and I've been asked that question before. We only track whether they're related to motor vehicle accidents, which includes motorcycle accidents, so I can't give you an exact percentage. [LB368]

SENATOR BRIESE: Okay. And then Florida repealed their helmet law, you cited statistics from when that happened. Do you know what date that was, what year it was? [LB368]

LORI TERRYBERRY-SPOHR: I would like to look it up to be sure I'm telling you right, but I think it was around 2012. But I might be confusing them with Michigan, so please don't hold me to that. I can get you that information. [LB368]

SENATOR BRIESE: Fairly recently, okay. It was in '89 you talk about Nebraska's history and our history is significantly different than Florida's there, but in terms of percentage increase or decrease in... [LB368]

LORI TERRYBERRY-SPOHR: Well, we cut our injury rate in a third and so when they went the other direction, they increased theirs by 80 percent, their injury rate. [LB368]

SENATOR BRIESE: That's why kind of a disconnect there as far as quite a difference anyway. Thank you. [LB368]

SENATOR SMITH: Thank you, Dr. Terryberry-Spohr, for your testimony today. [LB368]

LORI TERRYBERRY-SPOHR: Thank you very much. I appreciate it, Senators. I'd be happy to talk with you later. [LB368]

SENATOR MURANTE: Thank you. [LB368]

SENATOR SMITH: Next opponent of LB368. Welcome. [LB368]

NICK BRUGGEMAN: Hello. My name is Nick Bruggeman, N-i-c-k B-r-u-g-g-e-m-a-n. It's an honor to sit before you today. I am here today testifying on behalf of the Nebraska Medical

Association. I'm an orthopedic surgeon practicing in Omaha and one of my specialties includes orthopedic trauma at the University of Nebraska Medical Center, which is the flagship Level I trauma facility in that area. Each year, especially spring and summer, I care for many patients who are injured in motorcycle accidents. These are typically significant injuries, as you can imagine. From a statistical perspective, these are mostly young and middle-aged men and many of them would never have survived if they...if not for their helmet. The current legislation is impactful. From an individual and an emotional perspective, these are husbands...or the victims, rather, and people involved in these accidents are husbands, wives, fathers, mothers, brothers, sisters, sons, daughters, employees, and friends of your constituents, and this law saves lives. I cannot tell you how many times I've heard something along the lines of "that helmet saved my life." And I typically would respond, I believe you and I'm so happy it did. There are a lot of statistics, some of which have been reviewed recently. And the last speaker mentioned a 2012 repeal that was in Michigan and so that's a more recent state to change their law. And since then, since they repealed their law, about a quarter of motorcycle riders choose not to wear their helmets but nonhelmeted riders make up 50 percent of the fatalities, so a disproportionate number of people die. Another study out of Grand Rapids, Michigan, concluded that nonhelmeted motorcyclists frequently are more likely to die on the scene, spent more time in an intensive care unit, required longer ventilation support, which is the machine that breathes for you because your brain isn't telling your lungs to breathe, and encountered higher medical costs. We've heard a lot of anecdotal evidence today but when we studied more critically over thousands of cases, you are about 40 percent more likely to survive a motorcycle accident if you're wearing a helmet and about 70 percent more likely...or less likely, rather, to suffer severe head trauma. And I completely understand the concept of liberty, choice, and self-direction, and I struggle with government intervention. I'm sure some of you do as well. At some point we have to decide how our government apparatus can intervene in a reasonable and meaningful way. At some point we must decide at what cost are we willing to accept to preserve the liberty of these individual riders, which is important. Not lost in the debate, however, is the effect their individual choice has on society, that being family, friends, employers, taxpayers. The statistics on motorcycle fatalities and critical head trauma related to helmet use are, in my mind, clear. And I implore you to consider leaving this law intact. Thank you for your time. And if you have any questions, I'd be happy to answer. [LB368]

SENATOR SMITH: Senator Hilgers. [LB368]

SENATOR HILGERS: Thank you, Mr. Vice Chairman. I don't mean to be the first questioner on every one but I did want to note that it's Senator Murante's birthday today, so, you know. And along those lines I will ask... [LB368]

SENATOR MURANTE: I'll start singing, here we go (laughter). [LB368]

SENATOR HILGERS: I do want to ask a question that Senator Murante and I were both touching on that we...with the previous testifier which is there's a whole range of human activity that results in injury. Right? I mean we've heard people playing on ponds at the wrong time could be hurt. People on horseback could be hurt. People riding motorcycles with a helmet can be hurt. So where do you draw the line between where we decide to ban things versus where we decide not to ban things? [LB368]

NICK BRUGGEMAN: Well, I use the word "reasonable" when I...you know, in my prepared talks and I think, would it be reasonable to ask the proponents of this law, to say, well, you have to go retrofit your helmet and put a big shield around and it's probably going to cost you \$50,000 and, you know, it's going to be a completely different experience? Would I say that's a reasonable thing to do? No, I don't think so. But I don't...and I don't know how much a good motorcycle helmet costs, but when you have this overwhelming evidence that they do make a difference, and I don't know if they cost \$100 or \$200, but is it an onerous thing to ask somebody to wear, you know, that wants to go out and ride a motorcycle to wear a helmet? I don't think that's onerous. Like I said, is it onerous to retrofit every motorcycle with some kind of a bubble around it? I don't think so. So I guess in a...you got to draw the line somewhere. What's reasonable and what's not? Was it reasonable to ask...you know, we know car accidents kill people. Right? Is it reasonable or how disruptive would it be to say, well, we can't have cars anymore? No, we don't do that. That would obviously be an unacceptable solution to the problem. But we say, well, you know, for \$500 these cars can be equipped with seat belts and they seem to be a pretty good idea. And, yeah, it's kind of annoying wearing them. But is that reasonable? Yeah. Do I think a helmet is reasonable? Yes. Do I think it's reasonable to say we can't have cars anymore? No. So I guess I use the word "reasonable." It's pretty subjective but I guess that's my perspective is this isn't an onerous thing that the Legislature is asking people to do. And along those lines, I would challenge anybody, and just because I don't know it doesn't mean it doesn't exist, but to provide me with a study that says that it's actually more dangerous to ride a motorcycle with a helmet. I really...and we might have a few people here and there say, well, yeah, I think it is, but you show me, you know, 5,000 helmeted drivers and 5,000 nonhelmeted drivers and after five years, you know, death rates in those two groups. And I doubt if you'd say it's more dangerous to wear a helmet. I think that's unlikely. [LB368]

SENATOR HILGERS: Well, you might...and I'm not sure whether...there's probably not a study that says exactly that, although I think part of the argument is you could tease out causation when you have...in other words, you could have instances where discretion matters, where not wearing a helmet could actually be worse, even if it's hard to tease out that causation. But to the line-drawing point, the problem I have with a lot of this--and I don't, like Senator Murante, I don't ride--but I don't...when I have a lot of people saying, hey, you know what, this is actually not reasonable to me, I do ride and this isn't reasonable, I don't have a lot of people saying to me, hey, making me wear a seat belt is unreasonable. But I do have a lot of people who ride who

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actually undertake that activity who say, you know, this is. And maybe they feel anecdotally that it puts them in an unsafe situation or they want the discretion to choose. So that's...in light of that, right, I mean, when you do have people who are disagreeing with your factual premise,... [LB368]

NICK BRUGGEMAN: Absolutely. [LB368]

SENATOR HILGERS: ...would you draw the line differently? [LB368]

NICK BRUGGEMAN: Yeah. I completely agree. I wouldn't argue that people say, I don't like wearing this thing. I can imagine it's hot. Maybe it...you can't see as well. It's heavy. The fatigue, I heard about that too. I don't disagree with that but I'll just tell you, you know, the statistics are pretty, pretty convincing and compelling. And just from a conceptual perspective, maybe it is unreasonable for us to say we have to wear a helmet, but me, personally, I don't think it is. [LB368]

SENATOR HILGERS: Fair enough. Thank you. [LB368]

SENATOR SMITH: Additional questions from the committee? I see none. Thank you, Dr. Bruggeman, for your testimony today. Next opponent of LB368. Welcome. [LB368]

JERRY STILMOCK: Thank you, Senator. Members of the committee, my name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association, in opposition to LB368. I'm unable to present any personal stories the way Mr. Hausmann, Mr. Lange. I can only tell you that the message that my members requested me to share with you is, as first responders throughout the state totaling about 8,000 men and ladies that represent volunteer fire and volunteer EMS, as those first responders, they're requesting that you consider leaving the law in place. They believe it's helpful. They see it firsthand and they're asking that the committee hold onto this bill. Thank you, Senators. [LB368]

SENATOR SMITH: Thank you, Mr. Stilmock. Questions for Mr. Stilmock? Seeing none, thank you. [LB368]

JERRY STILMOCK: Thank you. [LB368]

SENATOR SMITH: Next opponent, opponent of LB368. Welcome. [LB368]

ROSE WHITE: (Exhibits 5-7) Thank you. Good afternoon, Senators, and thank you. My name is Rose White, R-o-s-e W-h-i-t-e, and I'm here representing AAA and The Auto Club Group. First of all, I wanted to bring your attention to some of the comments about the economic losses of our helmet law. A news release titled 2016 Sturgis Rally Temporary Vendor Sales Tax Revenues released by South Dakota indicated that the total tax revenue that they generated during the 2016 rally was \$1.18 million. And that included the sales tax, municipal sales tax, gross receipts, and state tourism tax revenue. The Sturgis Rally organizers report that all the data in the official estimates attendance at this year's rally was 448,000. Now review of the enclosed U.S. map shows a listing of the major cities across the country. If you visit any major on-line mapping service and request a route from any of the cities listed to Sturgis, you will receive a recommended route that will bypass Nebraska. We are not being bypassed because we have a helmet law. The recommended routes are the quickest and safest routes to reach a destination, safer since vehicles moving in the same direction have limited risk associated with merging traffic. Even for those living in Omaha, Nebraska City, I-29 is the recommended route. Now travelers from Kansas, Oklahoma, and parts of Texas would receive a recommended route that takes them through Nebraska. Observation studies show that helmet use in these three states range from 30 to 50 percent. Knowing this, we can assume that a large percentage of riders would not be offended by our helmet law. In addition, a growing number of Sturgis Rally fans, estimated at 50 percent or more by the Sturgis Rally organizers, are hauling their motorcycles to South Dakota using RV units. They would not be concerned about our helmet requirement. Now some are even utilizing shipping services now. In addition, we need to keep in mind that hotel room availability on the north-south highway routes in rural Nebraska are limited during the peak summer months. For that reason, we need to base additional sales revenue projections on availability, not just numbers pulled from the sky. The group pushing for the repeal of the helmet law continues to throw ridiculous, million-dollar revenue figures in every state they target for repeals, all the while ignoring rising healthcare costs, business expenses, and societal costs associated with traffic crashes. Now we do not know how many Sturgis Rally fans travel through our state, but we know that many do. Our organization typically releases news information prior to the rally, reminding motorists to stay alert to the riders on the roadway because we do see noticeable traffic increase. While keeping our law, Nebraska has seen very positive growth in lodging tax revenues. For 2014, they're up 8.2 percent and 2015 up 7.1 percent. The Nebraska Tourism Commission reports collections for 2015 were at the highest amount since the tax was enacted in 1980. And although the 2016 numbers have not yet been released, early projections are showing continued growth with an increase of 4 percent through November compared to the previous year. We do not need to repeal our law to support our tourism industry. Now we encourage the state to offer more motorcycle events, races, and rallies. Now other states have shown us that we do not need to remove our helmet law to host successful events. All-rider helmet use states such as California, Nevada, Missouri, Oregon, Tennessee, North Carolina, Washington, and Georgia host big rallies and races that attract thousands of people. Even in the states that do have a motorcycle helmet law, a helmet is required for participants of sanctioned

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racing events. Why would they require this gear if they didn't believe in its effectiveness? The largest rally, based on 2016 attendance numbers, is Rolling Thunder, held in Washington, D.C., where helmets are required. Florida hosts several big motorcycle rallies in Daytona, but to get to Florida you have to wear a helmet as all surrounding states require helmets. Because the losses have been so extensive, the cost so high, Florida, along with three other states, are attempting to reinstate their all-rider helmet laws this year. The other states are Connecticut, Delaware, and Montana. California and Louisiana were two states that learned the hard way. Several years ago they reinstated their all-rider helmet law. In 2015, Florida, with 573,000 registered motorcyclists, had the highest number of fatalities in the country with 550 lives lost in motorcycle crashes. California, on the other hand, with 829,000 registered motorcyclists, reported 61 fewer deaths. Both states have similar climates. California, however, has an all-rider helmet law. Now I do want to mention that some of the questions that you had asked earlier are included in the information packet I just distributed and I do want to bring your attention that...to number 4 on Insurance Institute for Highway Safety Section. It says that claims have been made that helmets increase the risk of neck's injury and reduce peripheral vision and hearing, but there's been no credible evidence to support the arguments; in fact, there's been 12 studies done that dispute those findings. And so I think some of the questions that you asked earlier might be found in this publication here. Gentlemen, I notice my red light is on and so I will just allow you to finish the other information that I had distributed. Are there any questions at this point? [LB368]

SENATOR SMITH: Thank you, Ms. White. Do we have questions for Ms. White? Senator Hilgers. [LB368]

SENATOR HILGERS: Thank you, Mr Vice Chairman. I did give everyone a chance. Thank you for the information. I will look at all that. I just wanted to ask a question regarding... [LB368]

ROSE WHITE: Yes. [LB368]

SENATOR HILGERS: ...I think one of the first things you said which is that all roads...the point that all roads...the most direct route to Sturgis I guess goes through I-29. The basis for that is mapping services like MapQuest or Google Maps or something like that? [LB368]

ROSE WHITE: Correct, correct, um-hum. [LB368]

SENATOR HILGERS: Okay. Now anecdotally I believe it to be true that a lot of motorcyclists will avoid interstates because they want to take different routes for scenery or to enjoy the ride or not have as much traffic. Are you aware, and I don't know the answer to this question which is why I'm asking, are you aware of any data that might be motorcycle specific or any reason to

believe that the MapQuest data is the most likely traveled route for people from Nebraska?
[LB368]

ROSE WHITE: I believe that when you have a specific event where you need to get there in a certain time, that a lot of people will choose the best and quickest route possible. Not all will choose that route, of course, but I think there's something to be said about the I-29 pipeline for the motorcyclists. They enjoy that camaraderie that starts once they get in with that group of pack, if you would, that's traveling to the same destination. One other thing I do want to mention though. Michigan repealed its law in 2012. And prior to that, information was being shared by those who were fighting to repeal the law saying there's going to be a big increase in motorcycle sales and registration and so forth and basically what they've seen is a downturn in registration. In fact, revenues are down \$216,924 which means that there's about 10,000 fewer motorcycles that have been registered since the repeal. And then in addition to that, fatalities were up in 2015 to 140 compared to before the repeal which is at 112 and so...again, we're seeing, like it says, not the economies that are supporting some of these repeal efforts. And of course, with the four states now that are working to get the law back, that also shows us that there's just been a tremendous increase in economic cost to the states; otherwise, they wouldn't be doing it.
[LB368]

SENATOR HILGERS: One follow-up. Sorry. On the...I'm going through your graph. So the states that have repealed the helmet law, the mandating helmet, they've seen an increase in fatalities; they've also seen an increase in registrations. Is that right? [LB368]

ROSE WHITE: Not all. A lot of times what we have seen in tracking both fuel prices and highway safety issues, big times we've seen registration increase is when there's been a dramatic increase in fuel cost. And we've seen the reverse happen, too, when fuel costs have dropped, the registration numbers seem to fall. [LB368]

SENATOR HILGERS: In Michigan's case, do you know the proportion of increased registration as compared to increased fatality? [LB368]

ROSE WHITE: The registrations have dropped. [LB368]

SENATOR HILGERS: Oh, it's...okay. Okay. [LB368]

ROSE WHITE: Okay? They have dropped, um-hum. [LB368]

SENATOR HILGERS: Thank you. [LB368]

ROSE WHITE: Yes. [LB368]

SENATOR SMITH: Additional questions for Ms. White? I see none. [LB368]

ROSE WHITE: Senators, thank you very much for your time. [LB368]

SENATOR SMITH: Thank you. Next opponent of LB368. Welcome. [LB368]

COLEEN NIELSEN: (Exhibit 8) Thank you. Good afternoon, members of the Transportation and Telecommunications Committee. My name is Coleen Nielsen; that's spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I'm the registered lobbyist for State Farm Insurance Companies and the Nebraska Insurance Information Service, also referred to as NIIS, which is an association of property/casualty insurers. State Farm and NIIS oppose LB368. State Farm Insurance Company strongly supports requiring all riders to wear helmets as a member of the Insurance Institute for Highway Safety and the Highway Loss Data Institute. These organizations share in the mission to reduce losses, deaths, injuries, and property damage from crashes on the nation's roads. We've...many of the prior testifiers have talked about the Michigan law. And so I'm just going to highlight some things with regard to insurance. Michigan did repeal their law in 2012. Interestingly, their new law requires \$20,000 of medical payments coverage and that what they've found is that medical payments claim frequencies was 10 percent higher since the repeal and than would have been expected without the law change and the severity of the claims are 36 percent higher and overall losses are 51 percent higher. The National Highway Traffic Safety Administration stated in an article regarding helmet use the following: "It costs nothing to ride without a helmet as long as there is no crash." And: "It's true that wearing a motorcycle helmet will not prevent a crash. But when a crash happens, the freedom to ride unhelmeted is paid for in different ways,... The motorcyclist pays and the public pays through taxes, insurance rates, and healthcare costs." Lost costs drive insurance premiums. If there are more losses or losses that are more severe, those lost costs can translate into higher premiums for everyone. The bottom line is that the insurance industry has taken a strong position in favor of motorcycle helmet laws because it recognized that helmet laws reduced the most expensive injury in motorcycling: head injuries. I want to talk...I didn't...I don't have this data before me but I did hear a proponent talk about insurance rates and how unhelmeted states were the same, South Dakota was the same as Nebraska. And I think what's confusing about that is that what we're talking about in terms of rates is liability coverage. This isn't talking about medical payments coverage. This is talking about whether I as a motorcyclist, how many times I hit somebody due to my negligence and what kind of damage I cause in liability. It doesn't talk about how if a negligent driver hits me and what the costs of that might be. So in addition, we don't require medical payments coverage here in Nebraska. And so if a motorcyclist is injured, they're either paid by the driver that...a negligent driver that hit them

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or they're paid by their own health insurance and perhaps some medical payment coverage that they carry for themselves. So with that, I'd be happy to answer any questions. [LB368]

SENATOR SMITH: Thank you, Ms. Nielsen. Questions from the committee? I see none. Thank you. Next opponent of LB368. Welcome. [LB368]

DALE JOHNSON: Welcome. Thank you. My name is Dale Johnson, D-a-l-e J-o-h-n-s-o-n, from Lincoln, Nebraska. Good afternoon, members of the committee. You are looking at a very grateful man, a very grateful man. A year ago, I probably wouldn't have been able to say that with such conviction, but then a year ago I had two legs. March 20, 2016, it was a beautiful day. It was the first day of spring--that's coming up--beautiful day for a motorcycle ride on a bike that I bought about a month earlier. Middle of the afternoon, I'm stopped in traffic, south Lincoln. A 16-year-old doesn't see me and turns right into my lane, hitting my leg on the left...hitting my left leg and changing my life forever. My 800-pound bike hits the curb and sends me flying 21 feet. Most of you here today drive maybe a Chevy Suburban, maybe a Ford F150 pickup. That's less than 20 feet. Many of you will drive home tonight and park in your two-stall garage. That's 20 feet wide, gives you a sense of how far a human being shouldn't fly. Surgeon tried for four hours to save my leg but my wife decided that my life was more important. I was in intensive care for three days with my left leg amputated above the knee, my left arm broken at the shoulder, and my bruised...my ribs were bruised. But I had no head injury, none. Was it because I was wearing a helmet? Maybe, possibly. Maybe I was just lucky. But I like my odds with a helmet. Because my brain was not injured, my hospital stay was only 11 days. I was back to work at precrash level exactly 90 days. I was fit enough and aware enough of my surroundings to be able to climb Inca ruins in Machu Picchu six months after my crash. Some unfortunate riders are still in rehab six months after they crash learning how to retie their shoes or opening a door or relearning their colors. But me, I woke up and I see you recognizing my beautiful wife, my loyal son and family, my grandkids, my friends, and my coworkers, free of brain injury, and I thoroughly enjoy life. I'm a productive citizen. I'm able to pay my higher-than-I-would-like property taxes (laughter). The loss of a leg, ladies and gentlemen, that's easy to handle. That's easy to wake up and live with the loss of a leg compared to the torture of no memory and not being able to remember faces. Mark Twain wasn't talking about helmets, but his wisdom certainly applies here. "Twenty years from now you will be more disappointed by the things you didn't do than by the things you did (do)." So because I can drive, I own another motorcycle and I plan to go to Sturgis in 2018 wearing my helmet. Thank you all very much. Do you have any questions? [LB368]

SENATOR SMITH: Thank you, Mr. Johnson. Questions from the committee? I see none. Very good for you and it's good to have you with us today. [LB368]

DALE JOHNSON: It's good to be here. [LB368]

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SENATOR SMITH: Thanks for your testimony. [LB368]

DALE JOHNSON: Thank you. [LB368]

SENATOR SMITH: Welcome. [LB368]

DAVID HALEN: Hi. My name is Dave Halen, first name spelled D-a-v-e, last name spelled H-a-l-e-n. New faces this year but, John, happy birthday. We've had this conversation on my doorstep too. I'm pretty sure I remember. [LB368]

SENATOR MURANTE: Indeed, we did. [LB368]

SENATOR SMITH: On his birthday? [LB368]

DAVID HALEN: I don't know. Were you...no, I think it was before your birthday. [LB368]

SENATOR MURANTE: We always talk helmet laws on my birthday. I don't know why. [LB368]

DAVID HALEN: Yeah. So I'm a repeat testifier. Welcome, newbies. I'm a motorcycle safety instructor and I listened to all the statistics and stuff. I'll try and stay away from that. I've been riding 48 years. I've always worn a full-face helmet. It doesn't hurt my head. It is hot. They're right. But I wear one with holes in it so the air goes through and it's not so hot; doesn't look as cool as what they wear, but it does the job. It has to give me so much peripheral vision by federal law. I don't have any problem seeing. To me, this is a real basic public safety issue and it affects something that we all do every day: drive a car, drive a motorcycle. So motor vehicle, probably the most highly regulated activity in our lives. I don't think the state is intruding one bit in asking me to wear the single most important safety gear a motorcyclist can wear. Maybe visibility might help, too; this is the color of my jacket. I can tell you that every state that's repealed their universal helmet law has immediately the following year had increased fatalities and brain injuries and it's just...doesn't make common sense to do what this bill proposes doing. I'll give you one bit of anecdotal story since I teach people how to ride. People fall off motorcycles a lot. We make them wear helmets. It's part of our insurance agreement with the Motorcycle Safety Foundation. I listened as heads hit the ground from April 1 till the middle of October every year of my life for the last 25 years. If those people weren't wearing helmets, I'm pretty sure they'd have a problem with saying the letter "m" like my friend Patrick (phonetic), or remembering their family or what have you. And I ask that you please don't, don't repeal our helmet law. They say it's a strong law. But as a couple of women before me here, Madonna, the lady from

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Madonna said, only 1 percent of our population is less than 21. What's the point of a law that talks about 21 years of age? So if you have any questions about helmets or training, be glad to answer them; if not, thanks for your time. [LB368]

SENATOR SMITH: Thank you, Mr. Halen. Do we have questions from the committee? I see none. Thank you. [LB368]

DAVID HALEN: Thanks. [LB368]

SENATOR SMITH: Next opponent of LB368. Welcome. [LB368]

ANDY HALE: (Exhibit 9) Good afternoon. Vice Chairman Smith, my name is Andy Hale, A-n-d-y H-a-l-e, and I am vice president of advocacy for the Nebraska Hospital Association. What we're handing out right now is one of...a letter from one of our member affiliates, CHI, so, as obviously opposed to this bill. The Nebraska Hospital Association is an influential and unified voice for the Nebraska hospitals and health systems, providing leadership and resources to enhance the delivery of quality patient care and services to Nebraska communities. Our hospitals employ over 42,000 people and provide care to more than 11,000 patients each day. On behalf of our members of the NHA, I ask that you oppose LB368. The truth of the matter is that helmets save lives and lower costs. National Highway Traffic Safety Administration estimated, if you are involved in a motorcycle accident and wearing a helmet, your chances of survival increase by 37 percent if you're a driver and by 41 percent if you're a passenger. Thirty percent of motorcyclists who experience an accident suffer a head injury. Those who survive motorcycle accidents often rely on state and federal programs to cover expensive long-term care costs. Studies show unhelmeted riders involved in crashes are less likely to have insurance and more likely to have higher hospital costs than helmeted riders. The total charges for all of Nebraska riders hospitalized as a result of a motorcycle injury from 2008 to 2014 was over \$74 million. Since the helmet law has been in place, the Nebraska hospitals have seen a decline of 38 percent in total acute medical charges. Our hospitals are continually focused on the education and prevention of injuries. Requiring all motorcyclists to wear a helmet is a simple preventative law that makes a proven difference in the cost and type of care necessitated by a brain injury patient. Thank you for your consideration and the Nebraska hospitals urge you to oppose LB368. [LB368]

SENATOR SMITH: Thank you, Mr. Hale. Questions from the committee? I see none, thank you. [LB368]

ANDY HALE: Thank you. [LB368]

SENATOR SMITH: Welcome. [LB368]

LAURIE KLOSTERBOER: (Exhibit 10) Good afternoon. My name is Laurie Klosterboer, L-a-u-r-i-e K-l-o-s-t-e-r-b-o-e-r, and I'm the executive director for the Nebraska Safety Council. I'm testifying today in cooperation with my colleague Beverly Reicks from the National Safety Council-Nebraska in Omaha. We are here today to oppose LB368. We are both educational organizations. And I think most of everything that has been said today I'm not going to repeat for you. There were a couple of things that I did want to talk about. Since we are an educational facility, we do teach motorcycle riders in Lincoln. And I did want to let you know one thing about...there was one comment about educate, educate, educate from one of the proponents of the bill and that's how we should get folks to wear their motorcycle helmets, which I couldn't agree more. That's what we do. However, I will let the committee know that we are seeing that there's been a decrease in the number of folks that are going through not only our motorcycle program which, just as an example, in 2015--let's see, I think it is--there were 1,718 folks that had taken a basic rider course. In 2016, that fell to 1,520. And so we have seen this happening since about 2012 that our numbers are decreasing. As well, we're one of the providers of STOP programs in Nebraska and we have also seen that number decrease. And as far as driver's education and teaching teens how to drive, we are also seeing those numbers dip as about 50 percent of teens, their parents train them on how to learn how to drive behind the wheel. So we definitely believe in education and would certainly welcome if this committee would like to require our motorcyclists to all take a motorcycle safety course so that we can provide them with education on the value of wearing their motorcycle helmet. As well, one of the other things I wanted to point out is that in Nebraska from 2008 to 2014, ages 45 to 54 was the ages that had the highest fatality rate in Nebraska. So when we talk about that age 21 and younger, really that's, besides being only 1 percent of the registered motorcyclists, they're also not the ones that are having the high fatality rate as it is those baby boomers, of which I am one of those. The other thing that I would like to point out is, and I know, Senator Murante, we have talked about the fact that there is a cost to the state and that's...certainly we've looked at that because the many years that I have come before this committee and testified, that was one of the requests that we had from previous senators is, well, what is...is there a cost to the state or is this really just a personal issue? And we have gone back and looked and there is a cost to the state for those motorcyclists without a helmet. And in the document that I have provided to you, it does show you that in looking from 2008 to 2014, total charges for all riders hospitalized as a result of motorcycle injury was \$74 million; \$6 million, or 8 percent, was charged to Medicare or Medicaid. And we do feel that if this would be voted out of the committee and to the floor and if the bill would be passed, that we will see that number increase. And as a safety organization, we think that requiring our folks to wear a motorcycle helmet is really a minimum requirement for this type of activity. I think most people would realize that riding a motorcycle is more dangerous than vehicles and certainly we're not asking that people not be able to ride their motorcycles. But we feel that this is a piece of safety equipment that is a way to minimize the

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risk and the injury. And so we would ask that the committee not vote this out to the floor and that we keep our helmet bill as is. And I would be happy to answer any questions that you may have. [LB368]

SENATOR SMITH: Thank you, Ms. Klosterboer. Do we have questions from the committee? Senator Hilgers. [LB368]

SENATOR HILGERS: Thank you, Mr. Vice Chairman. Thank you for your testimony. I have two questions for you. The first is, you know, one of the complaints I hear pretty consistently is the lack of education or insufficient education not of motorcyclists, although that may be so, but of drivers, teaching them how to share the road with motorcyclists. So my first question is, can you generally describe what educational tools we currently use to help teach drivers to share the road with motorcycles that could drive down motorcycle fatalities? [LB368]

LAURIE KLOSTERBOER: Well, we certainly, we do provide education on defensive driving and which covers topics like distracted driving and weather and the driver because the driver obviously is, the majority of the time, the problem on the road. So we do, we do teach those courses. But most of it is, well, through the STOP program. If you have a minor traffic citation, you can take a defensive driving course and have that ticket dismissed. Even with that kind of an incentive, we still...we don't have a lot of folks that are taking our defensive driving courses. I would ask, how many of you on this committee have been through a refresher defensive driving course within the last five years, not STOP related (laughter), on your own, Senator, there was no one requesting you to take it? [LB368]

SENATOR GEIST: Well, it was at a request but (laughter)... [LB368]

LAURIE KLOSTERBOER: Therein lies part of our problem. [LB368]

SENATOR HILGERS: So my second question...I think mine was outside of five years but I have. My second question is, are there...do other jurisdictions, other states have pieces of their curricula that are motorcycle focused that have been proven to push down motorcycle accidents or fatalities that we could be doing here in Nebraska that we don't currently do? [LB368]

LAURIE KLOSTERBOER: Boy, that's a good question, Senator, and I'm going to have to do some research on that. I don't know the answer to that. Certainly in our defensive driving courses we do incorporate not only motorcyclists but talking about all the different types of vehicles that are on the road. I will tell you that this seems to be an annual thing that we're always discussing before this group. But the Nebraska Safety Council in cooperation with the Nebraska

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Department of Roads' Highway Safety Office does an annual traffic safety survey on a number of traffic safety issues and we do that in all three districts so that we're trying to be equally represented in those three districts. And in May of 2016 was our last survey; 73 percent of Nebraskans support retaining our helmet law. ABATE is an excellent group at their grass-roots efforts to help senators get elected and their issue. But in the years that I have been testifying before this group, it is the ABATE group that comes. I don't see other motorcycle groups. And again, it's not a public issue according to the traffic survey that we are doing in Nebraska that it is something that is supported. So it seems that it is more before a committee and the very vocal and very great at grass roots ABATE motorcycle group. [LB368]

SENATOR SMITH: Senator Murante. [LB368]

SENATOR MURANTE: Thank you very much. Good to talk with you again. You advocated the establishment of a motorcycle safety course or a mandate for that. If there were a motorcycle safety course and every motorcyclist were mandated to take a course and they were given the pros and the cons and they were allowed to make an informed decision about whether or not to wear a helmet, at that point, would you support the repeal of the helmet law? [LB368]

LAURIE KLOSTERBOER: I think that we would still support keeping our law just because we know that good enforcement, great education, those two things really do go together to make sure that we have a strong law in Nebraska. [LB368]

SENATOR MURANTE: Okay, thank you. [LB368]

SENATOR SMITH: Other questions? Seeing none, thank you for your testimony. [LB368]

LAURIE KLOSTERBOER: Thank you. [LB368]

SENATOR SMITH: (Exhibits 13-18) Next opponent of LB368. We do have letters for the record in opposition to LB368: Dr. Scot Adams of Omaha, Nebraska; Advocates for Highway and Auto Safety; James Harper of Omaha, Nebraska; Nebraska Academy of Family Physicians; Nebraska Physical Therapy Association; and Friends of Public Health in Nebraska. These folks sent letters for the record in opposition to LB368. We now move to neutral testimony, those wishing to testify in a neutral capacity on LB368. Seeing none, we invite Senator Lowe to close on LB368. [LB368]

SENATOR LOWE: (Exhibits 11 and 12) This has been a great debate today. I appreciate everybody who showed up. And it does show we have great medical care here in Nebraska. I just

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want to be clear that ABATE did not bring this bill to me. I went and I contacted Todd Miller when I started my campaign. I drove over to Hastings and talked to him. And for your information, the surrounding states, their ages, they're 18 and under, so it will be less. Nebraska's will be more restrictive. I rode a bike back in college. I rode a 750 Virago. I wore a helmet and I found out it reduced two of my senses, my sight and my hearing, two very important senses when you're riding or driving. I lost quite a bit of peripheral vision because on the side it was a little blurred because of the plastic. And I used peripheral vision when I'd come to corners. I lost hearing where I could hear the cars coming or on my side because I wore a full helmet. I stopped riding the motorcycle partially because of that and partially because of weather elements and I thought a convertible would be much more comfortable and, at the time, I could take more ladies with me when I went riding. We've heard today from quite a few opponents. Some of them, the facts were not exactly right. I was being handed a lot of information along the way. Last year during the hearing, an individual from Madonna testified that at Madonna we see over 600 patients with brain injury each year; many were injured on motorcycles. That was the quote. In reviewing the independent 2015 Year in Review that was published by Madonna, of the 1,292 patients that were seen by three Madonna facilities, only 244 were treated for brain injuries. Sturgis' revenue for 2015 was \$434 million, which was twice what was reported. So there was more revenue created for the state. As we have heard today, there are a lot of people that are interested in LB368. I want to thank all the proponents and the opponents who came here today to testify. Personal freedoms are very important to me. This bill returns freedoms back to the segment of our society that I'm proud to sponsor the bill for. Nowhere in this bill does it say you are forced not to wear a helmet. You are still able to wear a helmet for your safety if you would like. I wanted to reply to some of the bill concerns. We have heard many people talk about the increase in traffic fatalities (sic) that this will cause. But one of the clearest examples of refuting this concern is Louisiana. Louisiana passed a universal helmet law in 2004. Since then, the number of motorcycle traffic fatalities have actually gone up compared to before when they had a partial helmet law. This data can be confirmed through the National Highway Traffic Safety Administration. Other concerns we have heard about are the long-term costs of how individuals suffer an injury. But we have also heard about how a majority of those injuries can happen anywhere and at any time, so why shouldn't motorcyclists be singled out? Increased revenue for our state through tourism dollars is vital, especially during the current budget forecast. And I'd like to read a few names: Hebron, Geneva, York, Aurora, Grand Island, Ravenna, Ansley, Broken Bow, Merna, Wood River, Shelton, Gibbon, Kearney, Elm Creek, Lexington, Cozad, Gothenburg, North Platte, Paxton, Ogallala, Merna, Dunning, Halsey, Thedford, Seneca, Mullen, Whitman, Hyannis, Bingham, Ellsworth, Lakeside, Alliance, Lewellen, Oshkosh, Bridgeport, Chadron, Valentine, Cody, Gordon, Rushville, and Hay Springs. These are all towns, cities that are on the route from Houston, Dallas, and Wichita coming up Highway 81, the most direct route to Sturgis for these major three cities, four cities along the way. That is a lot of revenue that could be passing through our state that may be going around it through Denver or up I-29. I'd like to end with two short stories, and it is great timing for this hearing. This last Friday, there

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was an accident just outside Kearney where five people were traveling to a young man's house for the evening. They were traveling on a gravel road that this young man had traveled down hundreds, if not a thousand, times before. He ended up in a ditch. The car flipped many times, or the vehicle flipped many times. Passengers were thrown. Two died. The young man driving walked to a farmhouse not far away. The person living there was not around but had left the keys in the vehicle. Thank God. They were able to drive to the next-closest farmhouse and get the farmer up and they called 911 and they got paramedics to the accident. That young man that was driving drove back to the accident with the farmer and he collapsed there because he had a broken hip and he had walked to the farmhouse. Two people died in that accident and the rest of them went to ICU. My next story is it was my youngest son's birthday this weekend. He was playing hockey here in Lincoln and so all three of my sons were here in Kearney. It was a great weekend for our family to get together. My oldest son, if my son would have...if my youngest son wouldn't have been at the birthday party, would have been with these people in the car. They were his best friends. Not even a car can save lives. Brain injuries happen. Accidents do happen. Thank God we have great medical facilities here in the state of Nebraska to save those that do survive. Any questions? [LB368]

SENATOR SMITH: Thank you, Senator Lowe, for your closing on LB368. Do we have any remaining questions from the committee? I see none. Thank you. And that closes our hearing on LB368. We're going to let the room transition here for a moment and then we're going to take up LB275. All right. We're going to begin the next hearing here shortly so if I could have the folks that want to leave the room to go ahead and move out to the hallway so we can get started on next hearing. All right, we're going to take up LB275. LB275 is introduced by Senator Hughes. It relates to providing duties for law enforcement officers and rights and duties for private property owners regarding abandoned vehicles. Welcome. [LB275]

SENATOR HUGHES: Thank you, Mr. Vice Chairman. Members of the Transportation and Telecommunications Committee, for the record, my name is Dan Hughes; that is D-a-n H-u-g-h-e-s, and I represent the 44th Legislative District and I am here to introduce LB275 and wish Senator Murante a very happy birthday as well. This bill allows for private property owners to have an abandoned vehicle towed from private property. It is important to note that the term "abandoned" is defined in statute already. Section 60-1901(1)(d) provides that abandoned means left without permission for at least seven days. An example of a situation this bill helps with is when a tenant has abandoned a vehicle in a leased garage, at an apartment community, or in a parking lot of an apartment community. We are aware of instances in Lincoln and Omaha, and I'm sure other places, where law enforcement was asked to remove a vehicle only to be told by law enforcement that they will only remove a vehicle if it is left on public property. Currently the only time a private property owner can legally have the car towed away is if the parking is restricted and there are signs which state that only authorized people can park in the parking stall and if they are in violation they will be towed. The sign also has to state who to contact for

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information regarding a towed vehicle. Posting such signs in a manner to satisfy the law's requirement in a large parking lot may be nearly impossible. Once an abandoned vehicle is towed under LB275, the bill would make the vehicle subject to the lien statute set forth in Section 52-601.01 which would allow the towing company to have a lien and dispose of a vehicle under existing Nebraska law in Sections 52-601.01 to 52-605. The tow company may sell the vehicle after giving notice, proceed to the sale, satisfy the tow company and other holder of a security interest, and then the remainder is deposited with the county treasurer and be held for five years. If never claimed by the owner, the county treasurer gives remaining proceeds to the support of schools. In summary, LB275 allows law enforcement or the property owner to have a vehicle towed by a private towing company and then the towing company can dispose of the vehicle in accordance with existing Nebraska law. I have an amendment that I would like the committee to consider. It's AM171 and I've provided a copy for the committee. The amendment is basically the same as the introduced bill; it just recognizes the subsection slightly for clarity...reorganizes the subsection slightly for clarity and it substitutes "law enforcement agency" for "officer." There are some people who will be following me who may be able to answer more specific questions, but I would be happy to try and answer any questions that you may have. Thank you. [LB275]

SENATOR SMITH: Thank you, Senator Hughes, for your opening on LB275. Questions for Senator Hughes? I see none. We now move to proponents of LB275, those wishing to testify in support of LB275. Welcome. [LB275]

GENE ECKEL: Welcome. Mr. Vice Chair, members of the Transportation and Telecommunications Committee, my name is Gene Eckel. That's G-e-n-e; last name, E-c-k-e-l. I'm on the board of directors for the Nebraska Association of Commercial Property Owners and on the Association of Nebraska...Apartment Association of Nebraska. So first we want to thank Senator Hughes for introducing this legislation. As Senator Hughes very eloquently stated, this does allow a private property owner to have an abandoned vehicle removed from private property either by law enforcement or by a private towing company. Currently the state statute for abandoned vehicles only allows a law enforcement agency to remove the vehicle. And as Senator Hughes indicated, we've had the situation where the property manager or the landlord says, you know, we have this abandoned vehicle left by the tenant or we don't know who it belongs to, what do we do? And the state statute says, look, it's got to be a local agency or a state agency that can remove it. So that leaves the landlord in the position of either we violate the statute or we have a private towing service remove it and then they're liable for anything that happens to the vehicle. So with that being said, we just believe that LB275 is an important piece of legislation for private property owners and that, you know, we'd just urge the committee to advance this to General File. I'd be happy to answer any questions that any of you may have. [LB275]

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SENATOR SMITH: Thank you, Mr. Eckel. Do we have questions? Senator Bostelman. [LB275]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. What determines an abandoned vehicle? [LB275]

GENE ECKEL: Well, under current statute, that if that vehicle has been left there for seven days, that, by statute, is going to...and no one comes back to pick it up, it's deemed as abandoned at that point. That's local. That's always been statute. [LB275]

SENATOR BOSTELMAN: So the owner of the property, if it's a rental property or whatever, they're the ones who determine that. What if it's...does it apply to private property as far as like if I own the property and I had something stored there, someone thinks it's an eyesore, does it apply to that? [LB275]

GENE ECKEL: It could but when you say it's an eyesore, is that because the private property owner left his own vehicle on the property? [LB275]

SENATOR BOSTELMAN: I have my own property. I have tractors, whatever it might be. [LB275]

GENE ECKEL: Yeah. This would probably not apply to that because that would be something where maybe a city ordinance would be saying, okay, this is an eyesore and someone has made a complaint. And so the local authority is going to contact the property owner. [LB275]

SENATOR BOSTELMAN: And where I'm getting at is, you know, determining factors as the law exists now and as this may change. How does that shift as far as determining...who determines if that vehicle should be towed or not, you know, past to now? Does that make sense where I'm at? [LB275]

GENE ECKEL: Yeah. So let me...I hope I'm answering the question here. It can either be law enforcement that's going to make that decision, or it's going to be the property owner who is going to say, look, this vehicle has been left on my property, I don't know who it belongs to, or I do know who it belongs to, I've tried contacting them, they haven't come back to pick it up. [LB275]

SENATOR BOSTELMAN: If there's a verbal dispute I would say between...or not a verbal but I mean if there's a dispute between the property owner who owns the property and the item, the

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vehicle itself, if they're at disagreement, what applies there as far as....you see what I'm saying? So the person has, say it's an apartment complex or a rental property. [LB275]

GENE ECKEL: Um-hum. [LB275]

SENATOR BOSTELMAN: And a person has a car that's sitting there and it's a car they're working on or they're going to use for...they're going to move it into another...into a garage or something for parts or whatever it may be. So there's a disagreement between the owner of the...the manager, or the owner of the property, and the person who actually owns the vehicle itself. And there's a dispute between the two. One says we want it removed; the other one says I don't want to because it's in my spot, in my parking spot and I'm going to fix it up or whatever. At what point is there...does this shift the timing, I guess I'd say, of when that vehicle could be towed? [LB275]

GENE ECKEL: It wouldn't shift the time because currently under normal, the statute as we have it today, if there was that dispute, the property owner would call law enforcement. And if law enforcement came out, they would have to resolve the situation at that time. But usually if it's going to be abandoned, then there wouldn't be a dispute. The person just left the vehicle and walked away. If, in your situation, the person is already there, their vehicle is there, everyone knows who it belongs to, there's just a dispute about moving it to another spot. [LB275]

SENATOR BOSTELMAN: Okay. [LB275]

GENE ECKEL: Did that answer the question? I hope so. [LB275]

SENATOR BOSTELMAN: I think so. [LB275]

GENE ECKEL: Okay, thank you. [LB275]

SENATOR SMITH: Additional questions? I see none. [LB275]

GENE ECKEL: Thank you. [LB275]

SENATOR SMITH: (Exhibits 1 and 2) Thanks for your testimony. Next proponent of LB275. We do have a proponent of LB275. Okay, we do have a couple of letters for the record in support of LB275. The League of Nebraska Municipalities and Seth Perkins of Omaha, Nebraska, both

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sent in letters in support of LB275. We now move to opponents, those wishing to testify in opposition to LB275, opponents. Welcome. [LB275]

DAVID VOLLMER: Senator Smith and members of the committee, my name is David Vollmer, last name V-o-l-l-m-e-r. I'm a member of the Omaha Early Ford V8 Club and a car collector and have some concerns about LB275 as written. The explanation just provided, if it was clear that it was limited to an owner removing other...someone else's vehicle from his property would have less of a problem. But the way it's written, it seems to leave enough room that an individual collector could be forced by law enforcement, depending on how this bill would be enforced, to remove their own vehicles and would prohibit them from storing them on their property for their own use. I have some problems on...for basically an owner to use their own property if they do not provide harm to others. I guess to be sure that this bill could not be used, if passed, to affect the private owners and their own vehicles and their pursuit of a hobby, to include revised language to the effect that an abandoned vehicle would not include licensed vehicles, vehicles stored in a well-maintained area that is located away from ordinary public view or screened from ordinary public view, and then define the screening measures, private-type fencing owner, or trees and/or shrubbery or equivalent measures and that would be stored by the owner of the vehicles. [LB275]

SENATOR SMITH: Okay. [LB275]

DAVID VOLLMER: So then that would basically constitute my testimony. [LB275]

SENATOR SMITH: Thank... [LB275]

DAVID VOLLMER: Going through the bill is, in my opinion, it's not written clearly enough to specifically state and make it clear to law enforcement that we're talking about an owner, a commercial enterprise, whatever, who has a vehicle on his property that he does not want or that he does not own. And if the language could be clarified on that, my objection would go away and I think of the collectors. [LB275]

SENATOR SMITH: (Exhibit 3) Okay. Thank you, Mr. Vollmer, for your testimony and for expressing your concerns about the bill. Let's see if we have any questions from the committee. I see none, thank you. Other opponents of LB275? We do have one letter in opposition that was submitted, again, from David Vollmer from Bennington. Do we have anyone wishing to testify in a neutral capacity on LB275? Seeing none, Senator Hughes, you're invited to close on LB275. [LB275]

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SENATOR HUGHES: Thank you, Mr. Vice Chairman. I will be brief. This bill is once a vehicle has been abandoned in a...on private property for seven days. So if it is a collector vehicle or there is no contact from the owner of an apartment building or a parking garage, then the property owner can call law enforcement to have it towed or he can authorize that himself. So I don't see that we have the possible unclearness of what this bill is intended to do. So I'd be happy to answer any questions. [LB275]

SENATOR SMITH: Thank you, Senator Hughes. Remaining questions from the committee? Seeing none, thank you. That concludes the hearing on LB275. And our last hearing of the day is on LB310. It looks like Senator Friesen is going to have counsel introduce the bill. It relates to changing provisions relating to bridge carrying capacities and weight limits. Welcome. [LB310]

MIKE HYBL: Senator Smith, thank you. And, Senator Smith and members of the committee, for the record, my name is Mike Hybl; it's M-i-k-e H-y-b-l. I am the legal counsel of the Transportation and Telecommunications Committee. And Senator Friesen has asked that I do the introduction on the bill for you today. LB310 was brought to Senator Friesen by the Nebraska Association of County Officials and the Nebraska Association of County Engineers, Highway Superintendents, and Surveyors. The highway superintendents had concerns about when weight limit signs should be posted on county bridges. Currently statutes require that signage be posted on every county bridge showing the weight of the bridge...showing the weight that the bridge will safely bear. LB310 would amend current statute to require counties to post such signage only on bridges that will bear weight limits less than the limits for a legal load as found in Section 60-6,294. Currently, Section 39-1412 requires that any person who drives a vehicle over posted weight limits shall be guilty of a Class III misdemeanor and shall recover no damages from the county because of an accident or an injury caused by operating an overweight vehicle on a county bridge. Section 60-6,294(8) places responsibility for damages with the owner of the vehicle. If a vehicle is overweight but a sign is not posted, the driver of the vehicle could recover damages from the county and also would not be responsible for damages. The bridge capacity is calculated and shown on a load-rating summary sheet for all bridges over 20 feet long. There are almost 11,150 county bridges over 20 feet long in Nebraska, of which approximately 1,400 have a capacity less than the legal load on the roadway. These 1,400 bridges have restricted weight capacity signs posted at each end. For bridges 20 feet or less, it would cost \$750 to \$1,500 on every such bridge to determine its weight capacity. There are approximately 22,000 of these shorter bridges in Nebraska. This number includes a number of culverts that meet the definition of bridge over 20 feet, and fall under existing statutory authority posting requirements. Counties already post weight limits on all bridges that will not carry legal loads. Without the changes in LB310, counties will have to decide what weight limit to post on the approximately 9,700 bridges where the bridge has a higher capacity than a legal load outlined in the statutes. Counties will also have to calculate capacity on the estimated 22,000 bridges or structures under 20 feet and post weight signs on them. It is estimated over 31,700 bridges would need signs posted.

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Thank you for considering LB310. I will take any questions you may have but I believe there is a county engineer here today that can explain the technical aspects of LB310 and weight limits on bridges. [LB310]

SENATOR SMITH: Questions for Mr. Hybl? I see none. Thank you for the opening on LB310. We now move to proponents of LB310. Welcome. [LB310]

STEVE RIEHLE: Vice Chairman Smith and members of the Transportation and Telecommunications Committee, my name is Steve, S-t-e-v-e, Riehle, R-i-e-h-l-e. I'm the Hall County Engineer and I'm past president of the Association of County Engineers, Highway Superintendents, and Surveyors. I'm appearing here in support of LB310. I want to thank Senator Friesen for introducing the legislation. And I don't want to add to or duplicate anything that was part of the introduction, but I do want to add a few speaking points, or talking points, about bridges in Nebraska and some of what battles we're up against and quantify some of that with dollars even. Nebraska has two types of bridges that we track. It's over 20 foot bridges and 20 foot and under. An over 20 foot bridge by federal requirements falls under the National Bridge Inspection System (sic) Standards and we're required to inspect that bridge at least every two years. If it's a fracture-critical bridge, which is critical and it might fracture and fail, then it's inspected sometimes more frequently, but it has to be at least once every two years. And that's for the bridges that are over 20 foot long. There's approximately 11,150 bridges that are over 20 foot long that are in the county system. We also have bridges under 20 foot on the county system. Many of them look just like a bridge. They might be a timber bridge or a steel bridge; they might even be a concrete bridge. And there's no formal requirement for inspecting a bridge that's under 20 feet because the potential damage if it does fail is significantly less than a bridge over, say, the Grand Canyon. So there's no formal inspection system although many counties have a system. And because it's not as severe of a structure, not as severe of a potential for severe failure, it doesn't get the same level of inspection and it's sometimes rather informal, as makes sense when it's a lot smaller bridge. But a bridge by statute today that's under 20 foot would have to be posted with a capacity sign and that's problematic for us. And for a bridge under 20 feet, for us, that's not just a bridge, what we consider a normal bridge where you've got a steel beam. If you've got a group of culverts that are placed together and from the first culvert to the last culvert is over 20 feet, that also qualifies as a bridge. In Nebraska we've got an estimated 22,000 of those structures across the state. And I say estimated because we don't have the same records on those as we do on the National Bridge Standards bridges with the 11,150 county bridges. So on our roads and on our bridges, we've got State Statute 60-6,294 that covers what's a legal load on a bridge. It's measured using axle configuration, axle spacing, axle weight, total weight of the vehicles, and stuff. And it's, in a sense, a set of tables that commonly in the industry we call them the bridge tables or the bridge law, because the longer your bridge, the longer your axles are apart, the less likely that truck might be to be on that bridge, so we call it the bridge law. And we apply those to roadways and to bridges. So we take those tables that are in statute that have a lot

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of consistency across state lines and we rate all the bridges that are over 20 feet. Then again, those are required to be inspected by the National Bridge Inspection Standards and we rate those bridges and we prepare, as was part of the introduction, a load-rating summary sheet by a load-rating engineer and calculate those bridges. And so we've got capacities on all of our bridges. And of those 11,150-almost county bridges, we've got 1,400 of them that are posted. So what a vehicle driving down the road sees is, if there's no sign on that bridge and my load is legal, I can continue across that bridge. If there's a sign on that bridge, then I need to make a decision. Does my load meet the posted or restrictive requirements that are on that sign? We do not have load ratings. Some counties have load ratings on some of their bridges that are under 20 feet. But as a general rule, we don't have them on the under 20 foot bridges. It's not as big of a risk if it fails and it's not as big of a potential for damage if a vehicle collapses on that, so we do not have them. But there are a lot of those bridges in our state. If the statute changes...if the statute does not change, then there's approximately 9,700 bridges that currently are not posted which, for us, what we consider an industry standard, the Department of Roads considers, Federal Highway Administration, and all the other states, if a bridge is not posted, that means there's not a weight restriction and we've not placed a sign or posted a sign. We'll have to post 9,700 bridges with a sign that shows what the weight restriction is for that bridge. I believe it's redundant because that weight restriction would be the same weight restriction as on the road. We've estimated the cost to post those 9,700 county bridges that are over 20 feet that are not restricted currently at over \$775,000. That's just for signs. The under 20 foot bridges, since there's not a requirement to calculate the capacity of that bridge, there's 22,000 of those in the state, estimated. We've talked to consulting engineers and they've said for a load-rating engineer to calculate the capacity of those under 20 foot bridges is between \$750 and \$1,500 each. For those bridges just to calculate the capacity could be up to \$33 million and then another \$1.75 million to put up signs on those bridges. I believe posting a sign on every bridge showing the capacity when it meets the legal load is redundant and unnecessary. I believe counties and road users, as in the automobiles or the trucks using our roads, they're better informed if they know that they meet the legal weight restriction on a roadway or a bridge if there's not a sign posted and that it matches what federal highway requirements are, it matches what other states do. I think we don't want to add another 32,000 signs on county roads across the state. I think it's a lot of money that's unnecessary and it actually hurts and makes it harder for us to do things like address the county bridge problem as we're working on now through the County Bridge Match Program. I urge you to advance LB310 and I will answer any questions if you have any. [LB310]

SENATOR HUGHES: Are there any questions? Seeing none, thank you very much for your testimony. [LB310]

STEVE RIEHLE: Thank you. [LB310]

SENATOR HUGHES: Any other proponents? Welcome. [LB310]

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JESSIE HERRMANN: Thank you. Members of the Transportation and Telecommunications Committee, my name is Jessie Herrmann, J-e-s-s-i-e H-e-r-r-m-a-n-n. I'm here to testify today on behalf of Nebraska Cattlemen in support of LB310. Nebraska Cattlemen has always advised our members that if you are overweight on a bridge and it breaks, you are responsible for paying the cost to repair. We support this bill. It eliminates redundancy and it will...and we will continue to instruct our members to be responsible users of county roads and bridges. We recognize that this is not directly mentioned in the bill, this is probably more of an enforcement issue, but we are concerned that culverts are not explicitly defined in Statute 60-6,383, weight and load limits for implements of husbandry. A culvert as I know it is a cement structure that allows water to flow under a road and it looks very similar to a bridge. However, others may interpret a culvert to be a 12-inch pipe under a dirt road. Many drivers don't even know where these culvert pipes are located or if they are driving over them. As a result, this concern is something we'd like to bring to the committee and address. Thank you. Happy to answer any questions. [LB310]

SENATOR HUGHES: Okay, thank you. Are there any questions? Seeing none, thank you. [LB310]

JESSIE HERRMANN: Thank you. [LB310]

SENATOR HUGHES: Other proponents? Welcome. [LB310]

LARRY DIX: Good afternoon, Senator Hughes. Members of the committee, my name is Larry Dix, L-a-r-r-y D-i-x, executive director of the Nebraska Association of County Officials, appearing today in support of LB310. Since we asked Senator Friesen to introduce this bill on behalf of NACO, I thought it only appropriate that NACO show up on the committee statement in a support position. But with that, I'd be happy to answer any questions you'd have. [LB310]

SENATOR HUGHES: Any questions for Mr. Dix? Seeing none, thank you. Any other proponents? Seeing none, any opponents? Seeing none, anybody wishing to testify in the neutral position? Seeing none, that will close the hearing on LB310 and finish up the work of the committee today. There were...excuse me. There were no letters one way or the other. Okay, thank you very much and we are done. [LB310]