

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
February 05, 2007

[LB279 LB349 LB358 LB466]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, February 5, 2007, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB466, LB349, LB279, and LB358. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Ray Aguilar; Carol Hudkins; LeRoy Louden; Mick Mines; and DiAnna Schimek. Senators absent: Dwite Pedersen.

SENATOR FISCHER: Good afternoon and welcome to the Transportation and Telecommunications Committee. If I may, I would like to begin with introductions. I am Deb Fischer, I'm the Senator for District 43 and chair of this committee; on my far right is Senator Arnie Stuthman, he is the vice chair of the committee; next we have Senator Ray Aguilar from Grand Island; to my immediate right is Mr. Dustin Vaughan, he is the committee counsel; on my left is Pauline Bulgrin, she is the committee clerk; next to Pauline is Senator Mick Mines from Blair; next we have Senator Carol Hudkins from Malcolm; and on the end we have Senator LeRoy Louden, and he is from Ellsworth. Our pages are Michael Schaeffer from Lincoln; and Kristin Kallsen from Big Springs. We will be hearing the bills in a different order than on the agenda today. Oh, Pauline told me she had changed the agenda to reflect that. We've been joined by Senator DiAnna Schimek of Lincoln. We will be hearing the bills according to the agenda. First will be LB466; second will be LB349, third, LB358; and our last bill will be LB279. We do have a change on the agenda. The order of the bills will be first, LB466; second, LB349; third, LB279; and our last bill will be Senator Hudkins on LB358. Those wishing to testify on a bill should come to the front of the room and be ready to testify as soon as someone finishes testifying, in order to keep the hearing moving. Please complete the yellow sign-in sheet at the on-deck table so it is ready to hand in when you are ready to testify. And we do have a new transcription program, and so it is very important that you fill out your sign-in sheet and hand it to our clerk, Pauline Bulgrin, before you begin to testify. For the record, at the beginning of your testimony, please spell your last name, and also your first name, if it can be spelled several different ways. Please keep your testimony concise and try not to repeat what someone else has covered. If there are large numbers of people to testify on a bill, it may be necessary to place limits on the testimony, and as chair, I will put those limits on your testimony. If you do not want to testify, but want to voice your support or opposition to a bill, you can indicate so at the on-deck table, on the sheet provided. This will be part of the official record of the hearing. If you want to be listed on the committee statement as a testifier at the hearing, you must complete a yellow sign-in sheet and actually testify, even if you just state your name and position on the bill. If you do not choose to testify, you may submit comments in writing and have them read into the official record. Please relax and try not to be nervous. And if you need a drink of water or anything else, please let me know and we'll get a page. Also, I would remind you to please turn off your cell phones. If I may, could I ask how many people are here to testify on the first bill we have today? Okay, thank

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you. And with that, welcome, Senator Chambers. You will be giving the introduction to LB466.

SENATOR CHAMBERS: (Exhibit 1) Thank you, Madam Chairman...Madam Chairperson. Members of the committee, I'm Ernie Chambers, I represent the 11th Legislative District. And before I launch into some testimony, I don't intend to be lengthy, but for the record I will have some comments to make. So if anybody wants to check the history of what was done here and why, I want to have said a few things. It was brought to my attention that around Central High, in Omaha, police were towing the cars of students. When the students would inquire why this was done, because they might have one of those transit, it would be a private sale, they would be told that that was not recognized; that pursuant to an Omaha ordinance, and I gave you a copy of the two ordinances that interface, that car could be towed. I had never heard such a thing, so I called the city attorney, who is Marty Conboy, and he sent me the letter with the two ordinances that you can see. And based on the way that these two ordinances interface, a car, a vehicle that is parked on the public streets which does not have a license or a dealer's transit, can be declared a nuisance and be towed. When complaints were made by the students or their parents, they would be told that it was possible for the student to park the car in one of the parking garages until such time as it could be licensed. And the response was that if they had that kind of money then they could afford to go ahead and have it registered and licensed. This provision, I found out from a gentleman who stopped me outside, happens not just around schools. His son had bought a car from a person, another youngster around the corner whom he knew. There was a loan outstanding on the car, so the father went with the youngster to the bank, paid the loan, got a cashier's check, and paid whatever the car was worth to the person he was buying the car from. When he was trying to get a transit sticker, he asked the bank, they said, we don't do that. And he asked, well, could he get it from the police? And he may have been told, well, you can try. And he was told, we don't do that either. So they made the transit. And when the father was driving the car, he never stopped. When the son drove the car, he was stopped about four times. So in view of the fact that that kind of situation was not just happening to one person, I decided that something ought to be done. And when Mr. Conboy pointed out to me that, yes, that can be done, whether it's fair or wise is beside the point. The city council had enacted these two ordinances. The car can be declared a nuisance, it will be towed, you have to pay the towing cost and storage, if you don't get it out right away. So what I did was to call Department of Motor Vehicles to make sure that the language that I was going to employ would do what I had in mind. There was no representation from the DMV that they support or have any opinion whatsoever on what it is that I'm doing. So I hope that by me mentioning that I consulted with them, I do not convey the impression that they said they support or are against it. But here's what the language is, and this is for the record, an owner of a motor vehicle or trailer purchased from a private party may post a visible notice on the motor vehicle or trailer that indicates the date of purchase of the motor vehicle or trailer and the owner's name. The notices are to be displayed on the

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front and rear windows, or the rear side windows of a motor vehicle, on the rear of a motorcycle, and on the front and rear of a trailer. Such notices shall allow such owner to operate the motor vehicle, or tow the trailer for a period of 30 days, in order to effect proper registration of the motor vehicle or trailer. I have always purchased my car new, because I was going to drive it a great deal, and I wanted to know its history from the day I got it until I got rid of it, so I would always be given a transit sticker when I bought the car. I just assumed that anybody who made a purchase from a dealer or privately would have that transit sticker to give him or her time to make arrangements to license, register, and do everything else that had to be done with the vehicle. I've told you why I'm bringing this bill. If you have any questions, I will answer them. [LB466]

SENATOR FISCHER: Are there any questions for Senator Chambers? Senator Louden. [LB466]

SENATOR LOUDEN: Thank you, Senator Fischer. Senator Chambers, I read through the bill there. And the part that was old stuff, you know, over here on page two, and where it talks about a dealer, and these are stickers that have a registration number and that sort of thing. And what I've known over the years, I think those dealers buy those and they guard them like a momma alligator guards the nest. So you can't hardly get one from them. But I agree, if you buy it from a private party the only thing you have is your certificate of title, and you've about got to carry it in your hip pocket to show that you're In Transit and you're within the 30 days. Is this just enough to have just this notice in there, or could this be something that somebody could, you know, put a new notice on every 20 or 30 days, or something like that? How would you control that on the language that you're putting in here? [LB466]

SENATOR CHAMBERS: Well, it says underneath that, in the existing language, "upon demand of proper authorities, there shall be presented by the person in charge of such motor vehicle or trailer for examination, a duly executed bill of sale therefor, a duly assigned certificate of title or other satisfactory evidence of the right of possession by such person of such motor vehicle or trailer." And that bill of sale should have the date when the vehicle was purchased. And they could count the number of days from that until the date where they stopped the person to see if it was within the 30-day period. [LB466]

SENATOR LOUDEN: Then you would actually be posting a notice on the vehicle that it's been sold or In Transit and that you are prepared to furnish a certificate or a title to the thing, I mean you're carrying the title for it? [LB466]

SENATOR CHAMBERS: You would have to do everything else just as anybody else with a licensed car or having a dealer's sticker would have to do. [LB466]

SENATOR LOUDEN: Now, if they are just driving by, what do you call them, county

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mounties, or local police people, or whoever, if they're just driving by and they question that, when you have that notice, nowadays with the machinery we have, should you have a copy of that title as part of the notice? Because, I mean, you could put the notice and the whole thing in a copy machine and put the whole thing up there. Would that be of any benefit? [LB466]

SENATOR CHAMBERS: I wouldn't want to put any more up for public view than is really necessary. Because on my transit, I don't even remember what was on it. But I don't think the title, I always had the title myself. But I didn't make a copy of it and put it up for public display. [LB466]

SENATOR LOUDEN: Usually, any of them I've ever had has your name and the date you bought it and who you bought it from, and then the registration or the VIN number of the vehicle and everything is right there. [LB466]

SENATOR CHAMBERS: Well, I don't want to do too much. What this will do, if a person is stopped, is first of all, establish that if this notice is there then the vehicle can legally be driven or parked, provided then this other material or information would have to be presented upon request. In the old days, and Senator Louden, I don't know if you remember, if you're old enough to remember this, but you used to have to have your registration visible. But then it developed that information was being taken off that registration and used to go into people's houses and do other things that should not be done. So now you just have to have it in your vehicle if you're stopped, but you don't have to display it where the public can read it. [LB466]

SENATOR LOUDEN: Oh, yeah, I remember when our county treasurers gave us these little things to wrap around the steering wheel. [LB466]

SENATOR CHAMBERS: That was it. [LB466]

SENATOR LOUDEN: So went to a lot of...thank you, Senator. [LB466]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? Senator Stuthman. [LB466]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Chambers,... [LB466]

SENATOR CHAMBERS: Yes. [LB466]

SENATOR STUTHMAN: ...currently with the transit sticker right now they've got the date on it that indicates when the 30 days are up. What you are trying to do is the date of purchase, which used to be the practice, you know, of having when you purchased it and then you just figured 30 days after that. Does this reflect any type of change in

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what's going on right now, because they put the date when the 30 days are up? Like you purchased it February 1, you know, it would be 3-1-07. [LB466]

SENATOR CHAMBERS: Well, by putting the date of purchase, it is not a situation of where somebody could just write an arbitrary date when the 30 days would be up. And if you have to produce the documentation that the bill mentions from the current law, that can be checked against the information written on that transit tag that you put on the vehicle. And again, this is not something that is uniformly enforced. There are people who make their transit tags, they make a private purchase. Most people don't know that the car will be towed. And they never get stopped. There are certain locations where nobody is ever stopped with them. But then there are certain areas where the stopping occurs, but even then it's kind of intermittent and spotty. Not every car with that kind of a transit tag will be stopped or towed. [LB466]

SENATOR STUTHMAN: Thank you. [LB466]

SENATOR FISCHER: Senator Aguilar. [LB466]

SENATOR AGUILAR: Thank you. Senator Chambers, it just occurred to me, when there's an exchange of title ownership, doesn't that usually have to be signed and approved by a notary public? [LB466]

SENATOR CHAMBERS: I don't think that's the case anymore. They used to do that. [LB466]

SENATOR AGUILAR: I was thinking that if that were indeed the case, there wouldn't be an opportunity for somebody to change that date around, because the notary would have it dated when that exchange took place. [LB466]

SENATOR CHAMBERS: But one thing that the titles were so small, maybe there was just not enough space. But the state was the one that determined that the notary didn't have to be involved. The only reason I know is because I had a car that I gave to somebody, because I had run the wheels off it, I thought, 400-something thousand miles, and I wasn't going to continue to drive it, but they would drive it within the city, so they were trying to find out if they were going to have to have a notary involved. And they were told no longer is that required. And I'd never transferred a title prior to that, because when I get rid of my car, I use it as a trade-in. So some of these things I don't have personal experience with. And I buy inexpensive cars, so I'm able to afford to do that. [LB466]

SENATOR AGUILAR: Thank you. [LB466]

SENATOR FISCHER: Other questions? I have a couple questions, Senator Chambers.

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Is it my understanding that currently there are individuals who are using these handmade In Transit stickers? [LB466]

SENATOR CHAMBERS: Yes. [LB466]

SENATOR FISCHER: And the problem is that in certain areas in Omaha those vehicles are being towed? [LB466]

SENATOR CHAMBERS: If they are parked on the street, yes, they're towed. [LB466]

SENATOR FISCHER: Wouldn't this bill cause more hassles for people who are using those stickers if the law enforcement is going to be stopping them, and asking for them to provide proof of ownership, the title, or... [LB466]

SENATOR CHAMBERS: They can do all that now. [LB466]

SENATOR FISCHER: Then why do we have this bill, if they can do it all now? [LB466]

SENATOR CHAMBERS: So if the car is parked, they won't tow it. Like I said in my statement of intent, it's like telling a pilot, you can take off and you can fly, but you can't land. So they won't tow your car if you're driving it, but if they see it parked, then they'll tow it. [LB466]

SENATOR FISCHER: What would happen under your bill, if it was passed, if the individual wasn't driving it, and it was parked, and they weren't in it? What would law enforcement do in that case? [LB466]

SENATOR CHAMBERS: It would be treated just as any other car that has a license tag on it. It would have, for that 30-day period, all the privileges that accrue to somebody with a car with license plates, those rights and privileges would accrue to the vehicle where a valid transit tag would be. And that would be valid, that transit, if it had the information and was within the 30-day period. [LB466]

SENATOR FISCHER: So no ticket would happen? [LB466]

SENATOR CHAMBERS: No. [LB466]

SENATOR FISCHER: What's to stop an individual in that case from making up their own transit stickers every 30 days? [LB466]

SENATOR CHAMBERS: They would have to show when the car was purchased, and then you count from the date...there are documents you have to have. And after 30 days, the car is going to have to be registered. [LB466]

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SENATOR FISCHER: But if you can't...if law enforcement can't ticket a car that is parked with one of these handmade In Transit stickers, and nobody is around, they can't check the date it was purchased on the title, so if someone is driving that vehicle and they're parking it, and they just change the In Transit sticker every 30 days, and law enforcement can't ticket them, and they can't question them because they aren't there, what happens then? [LB466]

SENATOR CHAMBERS: The transit tag that I got, when my car was new, I could have altered the date on it, if I chose to. I can have a car with no license plates of my own, and borrow somebody else's plates and put them on the car. So if somebody is of a mind to get around any law that we pass, that can be done. But this is for the ordinary run of persons who are going to be in this situation. So the only thing I think that would be fair, and I don't think it would be constitutional, is prohibit the purchase of a car from a private owner by another private owner. I don't know of any way, in other words, to stop anybody who's going to get around a law. [LB466]

SENATOR FISCHER: So if a person is innovative, they would be able to get around it? [LB466]

SENATOR CHAMBERS: Well, I'm sure. Just like I've seen situations where people would alter a number on their license plate with nonpermanent paint, and it would look like a number which it really wasn't. Like if you had a...something they did with the three, I don't know if they made it a six or a nine, but that little dip in the middle, they would obscure that. Then they would either take that loop on the bottom or on the top and convert it into a six or a nine. People do all kinds of things. And I don't know of any way you can stop all of those kinds of things. [LB466]

SENATOR FISCHER: Okay, thank you. Other questions? I see none. Thank you very much. [LB466]

SENATOR CHAMBERS: And I'll hang around to see what happens, if you don't mind. [LB466]

SENATOR FISCHER: Okay, thank you. Are there proponents for the bill? Anyone to speak in favor of the bill? I see none. Are there opponents to the bill? Anyone to speak against the bill? I see none. Is there anyone who wishes to testify in a neutral capacity? Welcome. [LB466]

JACK CHELOHA: Senator Fischer and members of the committee, my name is Jack Cheloha. The last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. After consulting with our city prosecutor, Police Department, other officials, the Mayor, and council's office, we decided to testify neutrally on this bill. We feel that the

ability to give a private party sale some tracking mechanism or a comfort level in terms of purchasing a car to be legally on the streets is a good idea. And so we like Senator Chambers' thought process in terms of providing for private party In Transit stickers. In fact, the city of Omaha, in the last ten years or so have pursued a similar avenue on this. We've...Senator John Hilgert introduced a couple of bills on behalf that did similar things, as well as Senator Pat Bourne. However, though we went a little further and kind of covered the point that you talked about, Senator Louden. We wanted them to be as similar as possible to the types that you get and are authorized at the dealerships. And so we wanted to have a way to have a number, if you will, or tracking system on them, and also to make them such that they couldn't be altered. And so we thought that was a better way to go. Obviously, the bills had hearings before this body, this committee. And there were still concerns with them regarding private party sales. I won't get into those at this time, unless you want to ask me about them. But I think it's necessary, or at least from law enforcement's point of view, we have to have some way to give them a comfort level, to know that this is a valid In Transit sticker, and at the same time it's a noble cause to want to have some official piece of paper for a private party sale, so that way you can drive your vehicle on the street with a comfort level, knowing that you're probably not going to be, you know, looked at with a strange eye by your fellow taxpayer or the law enforcement people. And so for those reasons, I think Senator Chambers is after the right idea here, to try and get some comfort level on these private party sales. But if this committee is inclined to do so, I think we need to follow maybe Senator Louden's lead or some other thoughts, and try to, you know, come up with some other stipulations so that law enforcement could track these and know that they're good for 30 days and go from there. So I'll try and answer any questions you might have. [LB466]

SENATOR FISCHER: Thank you. Are there questions? Senator Aguilar. [LB466]

SENATOR AGUILAR: Thank you. Jack, I like your idea. Who would be the person that distributes this In Transit sticker? [LB466]

JACK CHELOHA: Well, in the pervious bills that we offered, we thought it would be easiest to go to somebody who already had those. So we authorized private dealerships to give those, and although they may have been inclined to do that, it wasn't a sale that actually took place on their site, and so there wasn't any really incentive for them to provide that. And then likewise, as the bill evolved, we offered either maybe county treasurers, or even city personnel could issue them, as long as we could keep track of them going out, you know, know when the sale took place, things like that. But we ran into a little bit of extra work for the county treasurer. So then we even offered a payment, you know, a minimal payment to cover costs on them, you know, \$1 to get your In Transit for 30 days, or up to \$3, I forget what it was. And even at that, we just could never get over the hump to get the details worked out where this committee back then was comfortable enough to advance the bill. [LB466]

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SENATOR AGUILAR: Were the treasurers against it? [LB466]

JACK CHELOHA: I don't remember them officially testifying. But I know, you know, talking with the Douglas County Treasurer that they had concerns about the foot traffic and taking away time from their personnel to do other things, to take down the date of sale, just to do all the paperwork necessary for this. So they did have concerns about it. [LB466]

SENATOR AGUILAR: I would think that would be a better idea than the car dealers. The car dealers really have nothing to gain and... [LB466]

JACK CHELOHA: Right. [LB466]

SENATOR AGUILAR: And I'm afraid if they're busy, they're just going to keep the people sitting there, waiting until they're good and ready to issue them. [LB466]

JACK CHELOHA: Sure. Okay. [LB466]

SENATOR FISCHER: Other questions? Senator Louden. [LB466]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Who...where do these dealers get their stickers now? I mean if that number is registered on there and all that, do they buy them and then register those numbers with the county clerk or county treasurers first, or what? [LB466]

JACK CHELOHA: Boy, I'm sorry, Senator, I can't answer that for you. I'm not certain. But through talking with their representative, I'm trying to relate back to you what they have told me that they get them and each In Transit has a specific, if you will, serial number, that you can only track for that purpose. They are laminated, if you will. They have even seals on them so you can't just duplicate them or photo copy them, etcetera. I know they have those safeguards in them. But in terms of checking it, I think either they provide information to local law enforcement, or we can go and ask dealers for that information, but I can't tell you with certainty. Maybe off the record, we can talk to them later. [LB466]

SENATOR LOUDEN: Okay, thank you. [LB466]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB466]

JACK CHELOHA: Okay, thank you. [LB466]

SENATOR FISCHER: Is there anyone else who would like to testify in the neutral

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capacity? Senator Chambers, would you like to close? [LB466]

SENATOR CHAMBERS: Briefly. Madam President, Madam Chair, members of the committee, I'm back. Ernie Chambers. Senator Louden, in the existing language of the law, it says something about the dealer keeping a record of all these...at the bottom of page 2, in line 24, beginning, "Each dealer issuing such stickers shall keep a record of the registration number of each sticker or pair of stickers on the invoice of such sale." So when they are issuing one of these to a purchaser, they just keep a record as far as the stickers that they use, so that they don't have to license or register the car, I don't know of anything that requires them to register that anywhere. Because there are two things, two transits here in the existing law. And some dealers, by the way, Madam Chair, abuse this all the time. They're only supposed to use a dealer sticker to move it from point A to point B. That's all. But there have been documented cases of dealers putting these stickers, not only on cars that are to be moved from point A to point B as part of their business, but on cars that they and their employees regularly drive. So they're getting around that law. I've never tried to do anything to stop them, because I'm not law enforcement. But there are a lot of people who cannot afford to buy a car from a dealer; there are some people who could and I tell them don't go there because they're going to give you something that's going to fall apart maybe by the time you get home, if you're lucky. And you buy the car as is, you have no come back, nothing. So if you're going to buy a used car, and you know somebody who wants to sell it, that person might be honest with you, you may have seen the type of wear and tear put on it. But in any case many people who make these private purchases don't have a lot of money. And the 30 days that I can get because I can afford to buy a car should be extended to anybody who purchases a car legally, even if not from a licensed dealer. And with all due respect to what Mr. Cheloha was saying, nobody has been able to come up with a solution without some entity, which was going to be involved, saying we can't do it, we don't want to do it, and I don't think they're unreasonable. Why should they? The time and the work for just to be doing it, we should do this. And if there are a lot of abuses, that will let me know what kind of alteration in the law might be necessary. But currently if your car is stopped or if it's parked, they'll tow it. Not always. And the selective enforcement is probably what has allowed this to be under the radar so long, because if it was in certain parts of the city and those people's children had their cars towed, and by the way, they sell cars to each other, their cars were towed, they would do something about it. But their cars are not going to be towed in those neighborhoods in the first place. That's all I have. [LB466]

SENATOR FISCHER: Thank you, thank you, appreciate you being here. [LB466]

SENATOR CHAMBERS: And you can make me contended if you'll advance this bill. [LB466]

SENATOR FISCHER: For the rest of the session, I imagine. [LB466]

SENATOR CHAMBERS: We'll take it a step at a time. [LB466]

SENATOR FISCHER: (Laughter) Thank you, Senator. I will close the hearing on LB466 and open the hearing on LB349, Senator Stuthman. [LB466 LB349]

SENATOR STUTHMAN: Good afternoon, Senator Fischer and members of the Transportation Committee. LB349 is...talks about legal towing combinations. LB349 came out of a work group discussion during the Registration Act recodification project in 2004. The group on that project was to reorganize and modernize the Registration Act to make it more user friendly, but not to make any substantive changes in the law. A recurring question during this project was, what motor vehicle can pull what trailer? The legal towing combinations were scattered throughout the registration statutes, and not stated in any straightforward manner. The work group drafted a towing statute that was included in AM2660 to LB275 in 2005, a larger bill that was not...that did not become law. The proposed statute became LB349, which I am introducing here today. The proposed language will provide an easy reference in the statute for legal towing combinations for the use of the public administrations, county officials, and law enforcement. The intent of LB349 is to reflect current law and policy and not make any substantive changes. LB349 is enacted...if LB349 is enacted, it will provide a guideline for the public to use so that it will become easier to register motor vehicles and trailers correctly by the use of the owners intents. I will give you some of the sections that it does change. Section 1, it harmonizes language to add the new section to the Motor Vehicle Registration Act. In Section 2, this is a proposed statute section to specify the legal towing combinations in this state by listing the type of trailer, and then the types of motor vehicles that can legally tow that kind of a trailer. The section lists eight types of trailers: cabin trailers, utility trailers, farm trailers, commercial trailers, fertilizer trailers, pole and cable reel trailers, dealer-plated trailers, and trailers registered as part of an apportioned fleet under 60-3198, and provides a list of motor vehicles that can pull each of these trailer types. The term "properly registered" is included in the bill to cue the user of the statute that in order for the combination to be legal the motor vehicle must still be properly registered under the other applicable statutes. Dealer-plated motor vehicles and trailers are not registered to a specified owner as to other vehicles and other trailers, but may be operated on the roads where...when bearing dealer plates and used for purposes allowed for in the statute. The combinations provided for in this statute are intended to reflect current legal combinations in the statute, and current policy, and are not intended to make any substantive change in the current law. The last subsection provided that the motor vehicles and trailers may display dealer plates or in-transit stickers as provided in statute. Realistically, what we are planning to do here is have all of the combinations in one statute so that law enforcement can go to that statute and find what trailer can be towed by what vehicle. And it's, in my opinion, a very simple thing that people can understand. With that, those are my opening comments. [LB349]

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SENATOR FISCHER: Thank you, Senator. Are there questions? Senator Schimek. [LB349]

SENATOR SCHIMEK: Thank you, Madam Chair. Senator Stuthman, I just have one question. Are then these references still...I mean I don't see any striking of anything, so these are still referenced in other parts of the statutes? They're just listed here for purposes of ease? [LB349]

SENATOR STUTHMAN: What it is, is these are all listed, you know, as new in this statute. [LB349]

SENATOR SCHIMEK: Oh, they're all new? They're not taken from other... [LB349]

SENATOR STUTHMAN: They are taken from other statutes, and... [LB349]

SENATOR SCHIMEK: That's what I understood. [LB349]

SENATOR STUTHMAN: ...in Section 3 will be the repealer. [LB349]

SENATOR SCHIMEK: Oh, so Section 3 repeals all of the statutes that take care of all of these? [LB349]

SENATOR STUTHMAN: Yes, um-hum. It...it takes those out of those statutes that are referring to these, the way I understand it. And I'm sure I've got a testifier behind me that can give you the correct answer, if mine isn't appropriate. [LB349]

SENATOR SCHIMEK: Okay, thank you. [LB349]

SENATOR FISCHER: Other questions? Senator Mines. [LB349]

SENATOR MINES: Thank you, Senator. Senator Stuthman, the repealer just threw me off. I assumed that the definition of passenger car, farm truck, local truck, is defined elsewhere. My assumption, without checking, was that it was included in the original section. But now that that's repealed, are these clearly defined elsewhere in statute? [LB349]

SENATOR STUTHMAN: They were clearly defined in the statute,... [LB349]

SENATOR MINES: Okay. [LB349]

SENATOR STUTHMAN: ...the way I understand it. And they have taken everything out of those statutes. [LB349]

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SENATOR MINES: So the definition of passenger car, I assume, is somewhere else in statute? [LB349]

SENATOR STUTHMAN: The definition of passenger car is somewhere else in statute. [LB349]

SENATOR MINES: Yes, yes. [LB349]

SENATOR STUTHMAN: But the definitions of passenger car being able to tow something is all combined into this statute. [LB349]

SENATOR MINES: Okay, thank you. [LB349]

SENATOR FISCHER: Thank you. Senator Louden. [LB349]

SENATOR LOUDEN: Thank you, Senator Fischer. Well, I didn't get time to look up that 60-301, to see what you're repealing. But as I look this over, I mean this is about as close to catechism as I've ever seen anything in law, I think, because it describes about every particular instance you can think of, except some of these that aren't in there. For instance, is there anyplace that a tractor can tow a trailer? I mean where is that covered? Does this just cover licensed vehicles and licensed trailers? [LB349]

SENATOR STUTHMAN: Yes. [LB349]

SENATOR LOUDEN: And if a...well a horse trailer, I mean there's places during storms and stuff I've seen them, you know, you can hook onto a horse and trailer and pull it around and pick up calves and stuff, pretty handy. You can go down a highway and do that. But anyway, if the tractor then was pulling a licensed trailer, does that tractor have to be licensed, or how does that come about? And if a pickup, a licensed pickup, is pulling an unlicensed fertilizer tank or trailer, where does that come about, or an unlicensed feed sled or something? This is where I have the problem, when you describe all of this, then there's stuff that isn't described, so I wonder how that's handled? [LB349]

SENATOR STUTHMAN: Well, the way I understand it, Senator Louden is a licensed vehicle, and this deals with licensed vehicles. You know a tractor isn't a licensed vehicle, that's a farm implement, a farm machine. And you referred also to the fact that a fertilizer tank isn't licensed. Well, realistically you're illegal pulling a fertilizer tank down the road that doesn't have a trailer license on it. Those fertilizer tanks all are to be licensed. [LB349]

SENATOR LOUDEN: What about a feed wagon? [LB349]

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SENATOR STUTHMAN: A feed wagon is farm implement. [LB349]

SENATOR LOUDEN: I mean it would be on the same chassis as a fertilizer trailer. [LB349]

SENATOR STUTHMAN: Yes, I can see your point there, but I don't think a feed wagon...and we use our feed wagon when we go down the road, pulled by an unlicensed tractor, an unregistered or unlicensed tractor. And I'm sure that a feed wagon would be the same thing. But I have never yet, in my life, ever seen a feed wagon with the trailer license on it. [LB349]

SENATOR LOUDEN: Yeah. Okay, thank you. [LB349]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB349]

SENATOR STUTHMAN: Thank you. [LB349]

SENATOR FISCHER: If I could have a show of hands, please, on how many plan to testify on this bill? Okay. We will begin with the proponents of the bill, please. Good afternoon. [LB349]

BEVERLY NETH: (Exhibit 1) Good afternoon, Senator. I do have my testimony as well. Madam Chair, members of the committee, my name is Beverly Neth, B-e-v-e-r-l-y N-e-t-h, director of the Department of Motor Vehicles, here today to testify in support of LB349. I want to thank Senator Stuthman for introducing the bill for the department. And I'm not going to read through my testimony, because I think Senator Stuthman must have access to my computer, because I think he plagiarized everything I was going to say. But I will say that it certainly did grow out of the recodification project. We had a number of conversations about this particular subject. What we did was in conjunction with the Nebraska State Patrol, Carrier Enforcement Division. They have this similar chart that they use to write citations for people improperly towing with a vehicle that may not be able, by statute, to tow a trailer. And so we worked with the State Patrol to try to identify those towing combinations that exist. And certainly there are a multitude of towing combinations, but there are some statutory exclusions from vehicles that cannot tow certain trailers. And so we wanted to, for the general public and for people who register motor vehicles, try to put forth what we think is a valid summation of the existing statutes and existing policies on how vehicles are towed today in Nebraska. And so I hope that will help. We do get a number of questions from the general public. We also get a lot of questions from the counties as to how vehicles can be registered to tow the vehicles they want to. And we hope that this will help, generally, the motoring public to be able to properly register their vehicles to tow the trailer they want to tow. So with that, I will try to answer some questions, if the committee has any. [LB349]

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SENATOR FISCHER: Okay, thank you, Director Neth. Are there questions? Senator Schimek. [LB349]

SENATOR SCHIMEK: Yes, thank you, Madam Chair. Director Neth, I want you to address the question that I asked earlier. I don't think we repealed anything, did we? [LB349]

BEVERLY NETH: No, we are not repealing Section 301, we are merely adding this statutory reference to that section. So there is no outright repeal. [LB349]

SENATOR SCHIMEK: Right, right. But this is just a way of maybe summarizing some of the provisions in the statutes and making it clearer for the general public and law enforcement. [LB349]

BEVERLY NETH: That is exactly correct. [LB349]

SENATOR SCHIMEK: Okay, thank you. [LB349]

SENATOR FISCHER: Other questions? Senator Louden. [LB349]

SENATOR LOUDEN: Then you are telling me that all of this stuff was scattered through the statutes someplace? But you're just putting it in one spot for kind of a recipe for the Patrol, or sheriff's office, or somebody to go over? [LB349]

BEVERLY NETH: That's right. It is there. In some instances it's not really clear. Like, for instance, I'll give you sometimes the definition of a particular vehicle defines what can tow...what that vehicle can tow. For instance, a farm truck includes language that would allow for towing of boats, and cabin trailers on the definition of a farm truck, on a limited basis you could tow a trailer, you could tow a boat, for parade purposes, different things that you normally wouldn't be able to tow behind a farm trailer. For something like a commercial trailer, that requires that the weight for that trailer be put on the pulling unit. So by the definition of where that weight rests, a passenger vehicle cannot tow a commercial trailer because you can't put weight on a passenger vehicle. It's really the practical application of the statutes as they exist today. In some instances it's clear what vehicles can tow what trailers, and in some instances it's just by the interpretation of the existing statutes by law enforcement and by the individuals who are registering motor vehicles. What we tried to do was follow, I believe to the exact letter of the law, the way the statutes currently exist, are currently enforced in Nebraska. [LB349]

SENATOR LOUDEN: Okay. If I call up the State Patrol and ask them if I can pull my feed sled down a highway behind my pickup, what are they going to tell me? [LB349]

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BEVERLY NETH: Well, they are probably going to tell you that unless your feed sled is registered, that you probably can't tow that. Unless you're registering that vehicle, I don't think you can legally tow it. Now whether or not you would be cited is an entirely different question. [LB349]

SENATOR LOUDEN: Now, if I put an SMV on it and drive under 25 miles an hour, can I pull it? [LB349]

BEVERLY NETH: You'll have to tell me what an SMV is? [LB349]

SENATOR LOUDEN: Pardon? [LB349]

BEVERLY NETH: I don't know what that is, the SMV? [LB349]

SENATOR LOUDEN: SMV? Slow Moving Vehicle, you are the guys invented them. (Laughter) [LB349]

BEVERLY NETH: I didn't invent a slow moving vehicle. We don't invent anything. Everything that's in the state statutes are there because state senators put them there, Senator. But we...if we have slow moving vehicles, I'm sorry, I'm not familiar with that in our statutes or if that's how...that probably is how you do transport those vehicles, I imagine. [LB349]

SENATOR LOUDEN: Well, this is what bothers me, because there a lot of feed wagons and feed trailers and that sort of thing that are pulled down highways. There are also a lot of licensed horse trailers that are pulled behind tractors at times. And, I mean, we don't want to start making things tougher for people to do business. We're supposed to be down here to make life more happy for the state of Nebraska. [LB349]

BEVERLY NETH: And, Senator, that is our goal with this as well. We're not trying to make it anymore difficult for individuals. I think existing practices are probably going to be maintained for the most part. We're just trying to clarify in the statutes for people who want to register a vehicle, what vehicle they can register to tow which trailers. And if we're missing the mark with this, we would certainly like to work with you to try to make sure it's clear. [LB349]

SENATOR LOUDEN: Okay, thank you. [LB349]

SENATOR FISCHER: Other questions? I see none. [LB349]

BEVERLY NETH: Thank you. [LB349]

SENATOR FISCHER: Thank you, Director Neth. Are there other proponents for the bill?

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I see none. Are there opponents for the bill? Would anyone like to testify in the neutral capacity? Senator Stuthman, this was easy. Would you like to close? [LB349]

SENATOR STUTHMAN: Thank you, Senator Fischer. In closing, all I would like to say is we're trying to simplify this, put it altogether in a two-page manual part, where you could have it posted in communities or anything like that, in co-ops or anything like that, you know, where you could find out very readily as to what you can pull behind what. Because I know I've been in the situation already where I was pulling a float from one community to another community and got stopped. I had my farm pickup pulling a farm trailer, but the trailer wasn't licensed and it was made into a float. And they said the only thing that I could pull that float with was with a commercial pickup, with licensed commercial. So I did not have to pay a fine, but that was just what was told to me. And I think this is very good that we have it laid out, the whole works, as far as what can be pulled by what. And I think that's very important. So I would ask for your support on moving this out. [LB349]

SENATOR FISCHER: Thank you. Are there questions? Thank you, Senator Stuthman. We will close the hearing on LB349. And, Senator Stuthman, I'll open the hearing on LB279, which is also your bill. [LB349 LB279]

SENATOR STUTHMAN: Thank you, Senator Fischer and members of the Transportation Committee. LB279 strikes the term "commercial driver" and inserts "driver" from Section 60-4173 through 60-4175 for the following reasons: this clarifies that the training schools in these sections are driver training schools. The word "commercial" is confusing because it implies that the schools are for commercial driver training only. Many of these schools offer driver training and other commercial driver training, such as adult driver training, motorcycle training, provisional operator's permit training. However, a driver training school must have a license for each area of instruction. Instructors must also be licensed to teach these training courses. LB279 also puts all driver training schools under the same rules and regulations issued by the Department of Motor Vehicles. And realistically, all we're doing is just taking out the words "commercial driver" and inserting the word "driver" so that it's very simple, and the perception would be that it's a driver training school and not just a commercial driver training school. [LB279]

SENATOR FISCHER: Thank you, Senator. Are there questions? Senator Louden. [LB279]

SENATOR LOUDEN: Thank you, Senator Fischer. Senator Stuthman, then all this does is make it so that a driver training school can give other lessons besides driving semi's, I guess, or over the road trucks, or something like that? [LB279]

SENATOR STUTHMAN: Realistically, that is what they do already now. But the

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perception is that when it has "commercial driver training" it's for the CDL license is what people think, it's just a commercial driver training school. But if you wanted to get driver training in any one of these other classes, that is also taught in those classes already. [LB279]

SENATOR LOUDEN: Are these classes that are taught by like community colleges, or are they taught by regular commercial businesses that do just driver training, or... [LB279]

SENATOR STUTHMAN: There are people that are trained in this. And there's going to be a testifier following me that can answer that question totally. There are groups of people that have driver training classes. And that's something that is happening because we don't have the student...the driver's ed in schools anymore. There are driver training courses that some individuals work with and are licensed trainers for that. But there is a testifier behind me that will give you the low down on that. [LB279]

SENATOR LOUDEN: Okay, thank you. [LB279]

SENATOR FISCHER: Other questions? I see none. Thank you, Senator Stuthman. If I could have a show of hands of the number of people who plan to testify on this bill, please? Okay, thank you. Next, we will have the proponents of LB279. If you would step forward, please. Have you filled out a yellow sheet? [LB279]

WILLIAM SAXTON: No. [LB279]

SENATOR FISCHER: Okay. I need to have you do that before you begin your testimony, please. [LB279]

WILLIAM SAXTON: I signed the sheet, but I didn't realize there was a yellow sheet there. [LB279]

SENATOR FISCHER: Thank you very much. You're welcome. [LB279]

WILLIAM SAXTON: I'm sorry. Senator Fischer and members of the committee, I'm Bill Saxton of Road Ready Driver Training School, here in Lincoln. After nearly 30 years of service with the Nebraska State Patrol... [LB279]

SENATOR FISCHER: Excuse me, could you spell your last name, too, please. [LB279]

WILLIAM SAXTON: Saxton, S-a-x-t-o-n. I'm sorry. [LB279]

SENATOR FISCHER: Thank you. [LB279]

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WILLIAM SAXTON: I haven't done this for a while. [LB279]

SENATOR FISCHER: That's all right. Thank you. [LB279]

WILLIAM SAXTON: After nearly 30 years of service with the Nebraska State Patrol, I retired and opened a private driving school in Lincoln about ten years ago. As a matter of clarification, within driver training in Nebraska, and I think this may help you then, there are essentially four large groups which desire driver training of some kind. The largest group is probably the teenagers under 18 years old who are striving to get their provisional operator's permit or their POP license. This is the large change that was made about six or eight years ago, probably, that created another class of driver's license for the POP license. The second group then is those drivers who are training and testing for their commercial driver's license, or the CDL group, to drive trucks. Another group then are the motorcycle operators seeking the motorcycle class license on their operator's license. The last group then is for drivers who are beginning to learn driving but are over the age of 18, essentially, the adult driver. This group includes adults who, for whatever reason, never learned to drive. It may be the widow who always depended upon a spouse to do the driving, and now it's up to her; it may be the twenty-something person who was in a crash at an early age and just had no desire to drive; it could be the immigrant student who did not know how to drive, or at least not by American standards. It's this last group of students really that LB279 is primarily considering. The sections of law which are addressed in this bill would be directed at all driving schools or schools offering driver training which charge a consideration or tuition for those services. The other licenses, the CDL, the motorcycle and those are already addressed under other statutes that I don't think we need to mess with. This piece of legislation then adds the language which includes public or private educational facilities, which then brings all driver education institution into the same governing rules. Those rules are currently in place and are administered by the Department of Motor Vehicles. This bill would then lend more clarity to driver education in Nebraska, such as are we considering teenage driver education, adult driver education, or CDL training, whatever, motorcycle. Department of Motor Vehicles will be able to be more effective at distinguishing which is being licensed, examined, and inspected, and the public will be able to more easily question and receive answers about the specific license they are desiring. I thank you for addressing this issue. I'd be happy to try to answer questions. [LB279]

SENATOR FISCHER: Are there questions for Mr. Saxton? I have a question, Mr. Saxton. And I don't know if you would be able to answer it or not, possibly Senator Stuthman could address it. In the bill it's added "a public or private educational facility." [LB279]

WILLIAM SAXTON: Um-hum. [LB279]

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SENATOR FISCHER: Why was that included? [LB279]

WILLIAM SAXTON: This actually, Senator, is an excerpt out of an LB, which was LB249, which was asked for by DMV a year ago, and I think did not make it out of committee. This addresses just that specific issue. But the idea here is to bring all driver education under the same rules of driver education statewide then. So it would bring both public and private schools, am I saying that correctly? Yeah, public institutions and private companies, such as my own, under the same rules. [LB279]

SENATOR FISCHER: And you currently are not under the same rules? Is that correct? [LB279]

WILLIAM SAXTON: Currently, there are no rules for public institutions. So a public institution, essentially, can do whatever they want to do and there's no conformity, there's no standardization throughout the state on that, on teaching adults now we're talking, adults. The POP license is very structured, very standardized, very, very even across the state. Adult licenses, there's a lot of variance there. [LB279]

SENATOR FISCHER: And why do you think that it needs to be standardized then to teach adults? [LB279]

WILLIAM SAXTON: I think that regardless of when an adult comes in, for example, a private individual, through a public institution...no, I'm not saying that right, a person teaching through a public institution could accept an adult and say give them 30 minutes of training behind the wheel and say they've had driver's education. Most schools think, you know, I don't think that's adequate, you know, I think there ought to be a standard for that. I think DMV has some fairly good rules in place that cover adults and say what adults should be trained. But I think everybody needs to be doing the same thing, or at least similar to it. [LB279]

SENATOR FISCHER: Do you know any public institutions that are offering driver's ed courses for adults right now? [LB279]

WILLIAM SAXTON: You know, I'm not familiar totally statewide. I do have a list that comes out from DMV's web site, which lists commercial driver training schools, which includes like Alegent Health, Immanuel Rehabilitation Center Driver Education Program, and I'm not sure what that is, you know the Cornhusker Driving School, Custom Diesel Driver's Training, so we're really kind of all lumped into one thing, where this would create a separate group for adult training. I'm sure that there are technical community colleges that probably teach adults, and I'm making that assumption. Statewide, I don't know how many across the state do. I guess, I can't give you a good answer, I don't know. [LB279]

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SENATOR FISCHER: Okay. [LB279]

WILLIAM SAXTON: There is no...again, and that is one of the issues, is that there is no central repository that you can go to. If I were looking...if I were living in...can I give you a quick example of a personal event that happened to me? I had a man and his 13-year-old-son drive down from Schuyler because the man couldn't speak English. Because I happened to be listed on this web site, and you know I said, doesn't the Community College at Columbus or somebody teach adult training? He had no idea of where to go. There's no central group that says these people are licensed to teach, these are the ones you should go and see. [LB279]

SENATOR FISCHER: Okay, thank you very much. Senator Schimek. [LB279]

SENATOR SCHIMEK: Yes, thank you, Madam Chair. I was going to ask, before Senator Fischer asked the question, and then didn't, and think I need to follow up on her questions. Where does it say "adult" in here? How do I know that this is a driver training school only for adults? [LB279]

WILLIAM SAXTON: In the bill? [LB279]

SENATOR SCHIMEK: Well, or in current language. [LB279]

WILLIAM SAXTON: Currently, the way it's worded in the laws it talks about commercial driver training schools. Now when this law was written, who knows when, some years back, it was really developed for a school such as mine, actually, that was open for...it's a business. [LB279]

SENATOR SCHIMEK: Right. [LB279]

WILLIAM SAXTON: It's a commercial business that I run to teach driver training. And you know, since that time it's really just gotten really muddled. So, essentially, it would become driver training as everything, except POP, CDL's, and motorcycle. [LB279]

SENATOR SCHIMEK: Well, it does say, "school means a business enterprise conducted by an individual, association, partnership," blah, blah, blah. And then the part in here that's new I don't know exactly know how it fits in, "or a public or private educational facility." A private or public...that would be like a private school, like a Doane College, for instance? [LB279]

WILLIAM SAXTON: Ah, yeah, I suppose it could be that. [LB279]

SENATOR SCHIMEK: Well, now you're saying though that...I mean this could be somebody who trains for the POP, or for the learner's permit, etcetera, etcetera. How do

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we know... [LB279]

WILLIAM SAXTON: The POP, and the CDL, and the motorcycle are addressed under other statutes, other than this one. [LB279]

SENATOR SCHIMEK: Well, I'll have to reread this because it's not quite making sense to me the way it's worded here. The other question I was going to ask is, do you know, and I doubt that you have this information at your fingertips, but do you know how many of our public and parochial schools, high schools are teaching driver's ed anymore? Are any of them doing that? [LB279]

WILLIAM SAXTON: Some are, some do, yes, some also outsource. We teach for Lincoln Christian, for College View, for East Butler High, for some of the other schools as well. [LB279]

SENATOR SCHIMEK: Does the school contract with you... [LB279]

WILLIAM SAXTON: Yes. [LB279]

SENATOR SCHIMEK: ...and pay for that service then, or does the student? [LB279]

WILLIAM SAXTON: Well, actual...no, the students actually work with us directly. We're allowed to go into the school and teach is primarily the way it works. The school just simply... [LB279]

SENATOR SCHIMEK: Oh, you go into the school? [LB279]

WILLIAM SAXTON: Yeah, the school just simply asked us if we would come into the school and teach; the students basically contract with us to do it, though. [LB279]

SENATOR SCHIMEK: You're talking private schools? Any public schools that you know of? [LB279]

WILLIAM SAXTON: East Butler High in Butler County is the only one that I deal with that's a public school. [LB279]

SENATOR SCHIMEK: Well, I'm asking because this has come up in conversation more than once. And there are a lot of people who feel that we should never have undone the public schools' role in this. But it was done as a budgetary manner at the time. [LB279]

WILLIAM SAXTON: I don't know that the laws really undid anything out of the public schools. The public schools had an option. What the law really did, now I'm speaking to POP now, not this adult class, but the POP... [LB279]

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SENATOR SCHIMEK: Right. [LB279]

WILLIAM SAXTON: ...was it gave more structure to the driver's education. It stipulated what had to be taught. And one of the big changes that came about was the testing process became part of driver's education. That had never been done before, with the testing part of it. Some schools, for whatever reason, just elected to just back away from that whole thing. A lot of it, I think, has to do with expenses, probably, budgets. [LB279]

SENATOR SCHIMEK: And I'm trying to remember, but I think the state took away some funds from the schools for that, if I'm not mistaken. I could be wrong. [LB279]

WILLIAM SAXTON: Okay, you're going back to like 1988, when...or thereabouts,... [LB279]

SENATOR SCHIMEK: Whenever it was. [LB279]

WILLIAM SAXTON: ...when school funding, yes, school funding, yeah. [LB279]

SENATOR SCHIMEK: Yeah. Okay, thank you. [LB279]

SENATOR FISCHER: Other questions? [LB279]

WILLIAM SAXTON: We'll really cloud the issue, if we can here. [LB279]

SENATOR SCHIMEK: Right. [LB279]

SENATOR FISCHER: I'm cloudy right now on it. So thank you very much. [LB279]

WILLIAM SAXTON: Okay, all right, thank you. [LB279]

SENATOR FISCHER: Are there other proponents? Are there opponents to the bill? Would anyone like to testify in the neutral capacity? I see none. Senator Stuthman, would you like to close? [LB279]

SENATOR STUTHMAN: Thank you, Senator Fischer and members of the committee. In closing, we just wanted to clarify by taking out the word "commercial" and put the driver training in there. I would like to also comment a little bit on the portion that was discussed with the new language, on page 2, in line 6, where we added "or a public or private educational facility which educates or trains persons to operate or drive motor vehicles". I think, and I'm not totally clear on this, but I think we added this into here with the possibility of the other bill that I had introduced of having driver's education back into the schools. And that way this would make it consistent with materials, you know, for the

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driver training classes, or if they were private organizations that wanted to have driver training in these schools and had a contract with the schools, so that all of the information was consistent with driver training. [LB279]

SENATOR FISCHER: Any questions? I guess, I would ask you, Senator Stuthman, first of all, what's the number of your other bill? I assume that would be before Education Committee, is it? [LB279]

SENATOR STUTHMAN: LB66. [LB279]

SENATOR FISCHER: Okay. [LB279]

SENATOR STUTHMAN: Yes, and that was held in front of...I testified on that already in the Education Committee. [LB279]

SENATOR FISCHER: Do you know the status of that bill? [LB279]

SENATOR STUTHMAN: It's still in committee. [LB279]

SENATOR FISCHER: Thank you. If that bill would not advance from committee, could we delete that language on lines 6 and 7, on page 2? I guess, that language bothers me because my first reaction is that it would apply to a public K-12 school and almost require them to offer driver's ed. [LB279]

SENATOR STUTHMAN: Realistically, in my opinion, Senator Fischer, it doesn't direct the public or private schools to have the educational program. It just says that a public or private education facility which educates schools, which educates or trains the people. Now some of them may decide that they don't want to educate them. It doesn't mandate the school to have driver's education. But if they have driver's education, and allow driver's education in their facilities, then we want to have it consistent with the education given by other instructors, by other...the program and the information will be consistent. [LB279]

SENATOR FISCHER: Okay. Who would set up that program then under this bill on how the instruction would take place? [LB279]

SENATOR STUTHMAN: Those rules are set up in my bill and issued by the Department of Motor Vehicles. [LB279]

SENATOR FISCHER: Would this bill then, in effect, allow the Department of Motor Vehicles to establish the curriculum that a public high school would have in their driver's education course? [LB279]

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SENATOR STUTHMAN: Yes, that is my intent. Because in this bill, LB279, it puts all driver training schools under the same rules and regulations that are issued by the Department of Motor Vehicles. But maybe your question is, you know, do they have to follow those rules, a public school? Was that your question? [LB279]

SENATOR FISCHER: Do they have to follow them already? Is there a certain course...are there certain classes of course work that a public school has to follow right now, if they offer driver's ed to students? [LB279]

SENATOR STUTHMAN: Senator Fischer, I can't...I don't know, honestly. But I think there are guidelines that they're supposed to follow. And those are probably set up by the Department of Education, though, and maybe not set up by the Department of Motor Vehicles, because they would be under the school administration as to driver's education course administered by the Department of Education. [LB279]

SENATOR FISCHER: Okay, thank you. Senator Schimek. [LB279]

SENATOR SCHIMEK: Thank you, Madam Chair. And, Senator Stuthman, I'm not...this may be a discussion for Exec Session, I don't know. But I don't see where these public and private educational facilities fall under business enterprise. They're not a business enterprise. And that seems to me what we're talking about in this statutory language here. So I think it's something we at least need to explore and talk about in the Exec Session. It just doesn't...it's just not falling together right, somehow, I don't think. But I know what you're trying to accomplish. I'm not opposed. [LB279]

SENATOR STUTHMAN: Well, I think this is something that if we need to discuss it, we may need to amend it in Exec Session. [LB279]

SENATOR FISCHER: Other questions? I see none. Thank you very much, Senator Stuthman. [LB279]

SENATOR STUTHMAN: Thank you. [LB279]

SENATOR FISCHER: With that, I will close the hearing on LB279, and we will open the hearing on LB358. Senator Hudkins. Hello. [LB279 LB358]

SENATOR HUDKINS: Senator Fischer and members of the committee, good afternoon. I am Carol Hudkins, C-a-r-o-l H-u-d-k-i-n-s, and I represent the 21st Legislative District. In 2005, Congress enacted the United...I'm sorry, Unified Carrier Registration Act of 2005, which became effective January 1, 2007. This was a part of the larger comprehensive safety bill. And the act creates the Unified Carrier Registration System as a clearinghouse for information with respect to the safety ratings and information on financial responsibility for all motor carriers, motor private carriers, brokers, freight

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forwarders, and others required to register with the Department of Transportation. This bill is intended to authorize Nebraska to participate in the Unified Carrier Registration plan and agreement required by the federal act. So what we're doing is just allowing us to take part in the federal act. And rather than confuse you with all kinds of initials, and acronyms, and dates, and amounts, I believe Director Neth is here and she will explain the bill so that we can all understand it. [LB358]

SENATOR FISCHER: Thank you, Senator Hudkins. Questions? I see none. Thank you. Could I ask how many people are here to testify on this last bill? Okay, thank you. We will begin with the proponents. [LB358]

BEVERLY NETH: (Exhibit 1) Madam Chair, members of the committee, I'm Beverly Neth, B-e-v-e-r-l-y N-e-t-h, director of the Department of Motor Vehicles, here today in support of LB358. And thank you, Senator Hudkins, for introducing the bill. This bill is being offered in response to changes in the federal law governing motor carrier financial responsibility filings. In August of 2005, Congress enacted the Uniform Carrier Registration Act, known as UCR as a part of the comprehensive transportation bill, known as SAFTEA-LU. The passage of the UCR Act and the creation of the corresponding UCR agreement and UCR system replaced the current system, known as the Single State Registration System, or SSRS. The UCR Act created the UCR Board of Governors. The UCR Board is required to set the fees to be collected by states and to issue the rules and regulations which will be collectively known as the UCR Agreement. Once the UCR Agreement is in place, each participating state is required to submit its UCR plan that will indicate how the state intends to implement the UCR Agreement and utilize the UCR system. The UCR system will be a clearinghouse for information regarding safety ratings and filing of financial responsibility information for all foreign, domestic motor carriers, motor private carriers, brokers, freight forwarders, and others who are required to register with the DOT for operation in interstate commerce. The UCR Board is required to set the fees to be collected by the states and to issue the rules and regs. The intention of the UCR Act and the board of governors is that the fees collected under UCR will be revenue neutral. The total amount of fees collected by all participating states will be equivalent to the fees collected pursuant to the total amount of fees collected by SSRS states. The UCR board is using the total fees collected in 2004 as its benchmark. In 2004, the Department of Motor Vehicles collected approximately \$750,000 in SSRS and bingo fees, which were deposited to the state's General Fund. Therefore it is anticipated that Nebraska will receive an equivalent amount when the UCR is fully in place. That is not to say that the fee will remain the same. Preliminary indications are that the fee will increase significantly for some carriers, and decrease significantly for others. Effective January 1, 2007, the UCR Act nullified current Nebraska Statute Sections 75-348 through 75-358, that authorized participation in the Single State Registration System and the "bingo stamp" programs that governed the financial responsibility filing requirements in Nebraska. The UCR board has not yet issued the new federal rules and regulations to govern UCR. When

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the board...when the rules are promulgated, LB358 will allow Nebraska to submit its UCR plan to the board of governors, promulgate the necessary state regulations and implement UCR in Nebraska. It is for this reason that LB358 is structured to allow the DMV to select the implementation date in Nebraska. I will attempt to answer any questions you might have about this bill. [LB358]

SENATOR FISCHER: Are there questions for the Director? Senator Stuthman. [LB358]

SENATOR STUTHMAN: Thank you, Senator Fischer. Director Neth, who or how many are on this UCR Board of Governors, or what group of people is that? [LB358]

BEVERLY NETH: I don't know the exact... [LB358]

SENATOR STUTHMAN: Have they been appointed? [LB358]

BEVERLY NETH: They have been appointed. They were appointed by the Secretary of Transportation, United States DOT. I don't know the exact number of individuals on the board. But it's makeup is both from industry, representatives of the insurance companies, exempt carriers, nonexempt carriers, brokers, private carriers, there are also state representatives who represent both the Departments of Motor Vehicles, as well as PSC's, and Public Service Commissions. In some states this program is still regulated by PSC's. In Nebraska it was moved over to the DMV in 1997. So those are basically the makeup of the board at this time. [LB358]

SENATOR STUTHMAN: Director Neth, that necessarily isn't...that whole board is not from Nebraska. [LB358]

BEVERLY NETH: Oh, no... [LB358]

SENATOR STUTHMAN: It's from the United States. [LB358]

BEVERLY NETH: It's from the United States. There is not a representative from Nebraska on the board. [LB358]

SENATOR STUTHMAN: We have no representative on it? [LB358]

BEVERLY NETH: That's correct. [LB358]

SENATOR STUTHMAN: Okay, thank you. [LB358]

BEVERLY NETH: Um-hum. [LB358]

SENATOR FISCHER: Other questions? I have a couple, please. In your testimony you

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talked about a Bingo Stamp Program, and the SSRS, and I just love this stuff. [LB358]

BEVERLY NETH: Um-hum. [LB358]

SENATOR FISCHER: How is the UCR system different from those programs? [LB358]

BEVERLY NETH: Well, maybe it would be better if I explained what SSRS and bingo are. [LB358]

SENATOR FISCHER: That would be really great. Thank you. [LB358]

BEVERLY NETH: SSRS, right now, Single State Registration System in Nebraska and across the country, those states that participate, there are currently I believe 38 states that participate in SSRS. And they cover for-hire motor carriers, those motor carriers that are required to have federal authority or a motor carrier number issued by DOT. Those carriers specifically, my understanding is, transport nonexempt commodities. And they pay the Department of Transportation, I believe, \$300 to have the MC number issued to them. What that program does is we verify the financial responsibility of those carriers in SSRS. Currently, a carrier pays us \$3.50 per truck for the verification of that insurance information. They have insurance on a federal level, they also come to the state to verify their insurance with the Department of Motor Vehicles. The Bingo Stamp Program is, Nebraska is somewhat unique in the Bingo Stamp Program. Sometime in the seventies, Nebraska decided that a carrier is a carrier is a carrier for insurance purposes. So the Bingo Stamp Program requires insurance...a proof of insurance for private and exempt carriers. An example of a private carrier would be someone who is hauling their own product, like a Coca Cola franchise, hauling their own Coca Cola product, or Beatrice Foods that hauls their own product. An exempt carrier, and this is where it really gets confusing, in my opinion, what's exempt and what's not exempt, but as a general rule exempt carriers are carrying unprocessed ag products. For instance, cattle on the hoof are an exempt product. But cattle that have been slaughtered and now you're transporting refrigerated slabs of meat are a nonexempt product. And so I understand that the federal government issues a very thick book where you can go and reference whichever product it is and determine if the carrier is registered correctly. Those two programs exist in Nebraska, carriers are required to come to us and show us, provide us their proof of insurance that they carry currently. What UCR will do is replace those two programs in Nebraska with the Uniform Carrier Registration program, which requires carriers to come to whatever state, UCR is a little bit different because it doesn't...my understanding is that if Nebraska were to choose not to participate in UCR, Nebraska carriers would still have to go to another state and register and show that...and register through this program. So by eliminating the program...if we were to eliminate the program in Nebraska, our carriers are still required to go through the process and pay the fee. The fee is to be uniform throughout the country, and all carriers are required to participate in the program. [LB358]

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SENATOR FISCHER: You mentioned that this UCR board hasn't issued any new federal rules and regulations to govern it. Does it have current rules and regulations? [LB358]

BEVERLY NETH: No, it has no rules regarding UCR. [LB358]

SENATOR FISCHER: Do you...I mean, I see a similarity here with the Real ID Program that we're required to do something by the federal government and there's no rules and regulations on it yet. So I guess I'm asking, what's the hurry in getting this bill out? [LB358]

BEVERLY NETH: The only hurry in getting the bill out would be to position the Department of Motor Vehicles to be able to comply when the rules do come forward and to begin to collect the fee. Right now, with the elimination of SSRS and bingo, we have also eliminated the authority to collect the \$750,000 that currently flows to the General Fund. That fee is not being collected this year. Those programs were eliminated as of January 1 of this year. So that revenue stream has effectively been eliminated. If the UCR board is able to issue its rules, let's say September of this year, and this bill were to pass, the department would have the authority to begin the UCR program and begin collecting the prescribed fee from carriers, which could in effect replace that revenue stream. And that is the reason to go forward with the bill at this point. [LB358]

SENATOR FISCHER: Are we collecting money now? [LB358]

BEVERLY NETH: No, we are not collecting any money, because SSRS and bingo were eliminated as of January 1. We collected money in the 2006 year, but not in 2007. [LB358]

SENATOR FISCHER: Is any other state collecting money now? [LB358]

BEVERLY NETH: No, no, not that I'm aware of. The federal law eliminated all of those programs. [LB358]

SENATOR FISCHER: What are other states doing then? [LB358]

BEVERLY NETH: Other states are probably doing the exact same thing we are, is attempting to seek legislative authority to comply with the UCR, those states that wish to comply. There are, I believe, now, as of 2007 there were 37 states that have expressed their interest in complying with UCR. Two states have...California and North Carolina, I believe, have said that right now they're not sure if they want to go forward. They were SSRS states. And one state has expressed its desire to go forward, Oregon, who's never been an SSRS state. So instead of 38 states, there are 37 now. [LB358]

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SENATOR FISCHER: Okay, thank you very much. Other questions? Senator Louden. [LB358]

SENATOR LOUDEN: Does this need an emergency clause on it, if it's passed out? [LB358]

BEVERLY NETH: Well, certainly there would be some programming that the department would have to do, so we probably would need a little bit of time. I think if we would leave the effective date, effective 90 days after the law is passed, that would certainly give the department enough time to program and be able to put together forms and notification and those kinds of things. So it's current date is probably...probably positions the department best to comply. [LB358]

SENATOR LOUDEN: Then did I understand your testimony to say that we're leaving money on the table, if we don't get this implemented in a timely manner? [LB358]

BEVERLY NETH: Well, there certainly is...that is the big issue right now, is if this isn't implemented, and that really comes to play if the UCR board comes forth with their rules in this year. If the UCR board fails to promulgate these rules in 2007, then all states have missed out on their opportunity to collect the revenue, because we would be in a new calendar year, a new cycle for carriers to receive their authority from us. And so unless they make some kind of provision for that in their rules for us to go back and collect a fee, which I think would be extraordinary, we may miss out on the entire 2007 fee collection anyway. [LB358]

SENATOR LOUDEN: Then we're relying on this...whatever this one board is then for them to get their work done, too? [LB358]

BEVERLY NETH: Yes. [LB358]

SENATOR LOUDEN: What's the chances of them being done in a timely manner? Are you a gambler? Can you tell me the odds? [LB358]

BEVERLY NETH: (Laugh) I wouldn't give you any odds on that, Senator. I certainly don't know at this point. The board was, in my opinion, appointed fairly, not in a very timely fashion. Although the board has had several meetings, and I think the board is actively attempting to promulgate the rules. There are, as I said, a number of state representatives on there, and those states are also losing their revenue. And I can assure you there are states who currently and will, going forward, get more revenue from this program than we do. There are states that get millions of dollars of revenue from what was their SSRS. Many states charge the maximum fee, which was \$10 per truck; we charge \$3.50, so there are states that really they have millions of dollars at

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stake. So I'm sure they're just as interested as we are. And some of those states are represented on that board. [LB358]

SENATOR LOUDEN: Those people, or truckers, whoever had to pay the fees then, are they paying the fees in? [LB358]

BEVERLY NETH: No, not currently. Those fees were eliminated as of January 1. [LB358]

SENATOR LOUDEN: They've gotten a free pass here lately? [LB358]

BEVERLY NETH: Yes. [LB358]

SENATOR LOUDEN: Thank you. [LB358]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB358]

SENATOR STUTHMAN: Thank you, Senator Fischer. Director Neth, this is just another way to get some fees, another way to issue rules and regulations. But first of all, I want you to explain the federal law governing motor carrier financial responsibilities. What does that entail, and what we've had in the past, you know, as far as what they have to do as far as a motor carrier and his financial responsibilities? What does that take in? [LB358]

BEVERLY NETH: If I understand the program correctly on a federal level, the carriers are required to file their proof of financial responsibility with the U.S. Department of Transportation. And I think the carriers, I'm not sure if they have...the current levels are the same. But I believe under UCR the levels would be the same, that the carriers have to have liability insurance, I believe it's \$750,000 and maybe \$1 million, those are the levels, and everyone would be subject to those levels under this program. So what a carrier does is they actually file that proof with the U.S. DOT, and then they come to the state and they pay a fee under the UCR, that is what's going to be happening. [LB358]

SENATOR STUTHMAN: Okay. But it's so that...it's realistically so that all the motor carriers have got the wherewithal that they have the responsibility for insurance coverage and everything? [LB358]

BEVERLY NETH: That is the intent on the federal level; that certainly is the intent, um-hum. [LB358]

SENATOR STUTHMAN: Thank you. [LB358]

SENATOR FISCHER: Other questions? Senator Hudkins. [LB358]

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SENATOR HUDKINS: Thank you. Director Neth, what you're saying is that this bill would make every state uniform in all of their reporting requirements and so forth, rather than having the potential of 50 different sets of rules? [LB358]

BEVERLY NETH: Well, yes and that is essentially what SSRS does now. There is uniformity among the states, among the states that participate, the 38 states that participate in that program. There are other carriers that...states that don't participate, and so there's no fee collected. I think that there's probably uniformity that exists because all those carriers who are running, who have the DOT authority, are still filing their federal...their proof of financial responsibility at a federal level. Whether or not the state has its own individual program is the other question. [LB358]

SENATOR HUDKINS: Thank you. [LB358]

SENATOR FISCHER: Other questions? I see none. Thank you, Director Neth. [LB358]

BEVERLY NETH: Thank you. [LB358]

SENATOR FISCHER: Are there other proponents? Welcome. [LB358]

MIKE HYBL: Madam Chair, members of the committee, for the record, my name is Mike Hybl. That's spelled H-y-b-l. I'm the registered lobbyist for the Nebraska Trucking Association, testifying in support of LB358. I'll just add a little bit to what Director Neth has told you. First of all, I'd encourage you that this legislation, I think, is something that needs to get passed this year. The chair raised the issue of the federal REAL ID Act. There are some frustrations I've had over the year. This is one of those issues where the Congress has elected to legislate. And unfortunately, I think, when you take into the scheme of what has to be done in 50 states on this program, the fact that the board that was going to do the rules and regulations to implement this was late getting formed, we really are in a situation where, particularly states like Nebraska, we need to have the authority for the department in place. But we don't know what that authority is. So I think at a minimum this language at least puts the state in the ability to respond, hopefully, yet this year. We may have to come back next year, once we actually know what the program looks like, what it is the DMV implements, to make sure that the statutory authority underlying the program is properly implemented. There was an attempt, I know, at the end of the last Congress to at least keep the program alive for a year, the old Single State Registration System in place so that we had the ability to get the underlying program designed and in place, and then give the states an opportunity to respond. I think the Congress sometimes fails to realize that the state Legislature's operate on a different timetable and generally under different rules. When they throw out implementation dates that are 18 months long, sometimes it only gives a state Legislature one shot to get something done. And that's part of the position we're in here.

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To a certain extent, we are lucky. First of all, all interstate motor carriers do show proof of federal financial responsibility through the federal government. So that particular piece still is in place, carriers are still doing that. Depending on the commodity that is being transported, the minimum liability requirements range anywhere from \$750,000 for a vehicle, I think up to about...I think it's \$10 million for certain hazardous materials that are being transported. So the industry is running with and proving that financial responsibility. The people that are in a bind right now are the states, because we're in this position where states don't know what to administer as far as their side of the program. To the extent this is General Fund in Nebraska, I know that there are a number of states, Louisiana particularly, they receive several million dollars under this program, and it was what they were using to fund their basic highway safety programs. And without a lot of ability to respond to this, I know they've been cut off from that particular funding source. So what we would encourage you to do is we could have better language if we knew what the language was to put in. But I think what the bill does give us is the ability that hopefully, when we know what the rules of the game are late this year, DMV is to label, to implement yet in 2007. With that, I'll close and take any questions. [LB358]

SENATOR FISCHER: Thank you, Mr. Hybl. Questions? Senator Schimek. [LB358]

SENATOR SCHIMEK: Thank you, Senator Fischer. Mike, can you tell me just succinctly why it's going to be good for us to have this as opposed to the old system? And I think Director Neth did give us some idea, but would you just tell me what you think about this program? [LB358]

MIKE HYBL: First, at the national level what it does do is basically cover all carriers. [LB358]

SENATOR SCHIMEK: And that's not true now? [LB358]

MIKE HYBL: Right now, Single State Registration System doesn't pick up the private carrier. So it does bring a larger group of carriers in. One of the advantages of going to the UCR, and this is a, without giving you too much history, it's something that has been evolving over the decades. It is an easier...UCR, when implemented, will be an easier system for the industry to make the filings with the state. Part of the discussions leading up to UCR at the federal level took several years because there was a discussion between both the federal Motor Carrier Safety Administration states and the industry as to primarily dealing with the issue of how states were going to be able to maintain the revenue that they are generating from the program. And so once we know what the rules are once we get the rules implemented, I think you have a system that at the federal level it gives them what they want, it gives the industry a more easy system to operate in, and it protects the interests of the states from using...for protecting the particular revenue base. Single State Registration, when we implemented that, almost

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15 years or so ago, was an improvement over the previous system we had. [LB358]

SENATOR SCHIMEK: So you don't think that we are going to lose any significant amount of revenue under this new system? [LB358]

MIKE HYBL: The guarantee to the states under UCR is that they will not lose revenue from where they were under Single State Registration. [LB358]

SENATOR SCHIMEK: Thank you. [LB358]

SENATOR FISCHER: Other questions? I see none, thank you, Mr. Hybl. [LB358]

MIKE HYBL: Thank you. [LB358]

SENATOR FISCHER: Other proponents? Are there any opponents to the bill? Would anyone like to testify in the neutral capacity? Welcome. [LB358]

JERRY VAP: (Exhibit 2) Thank you. Good afternoon, Chairperson Fischer and members of the committee. My name is Commissioner Jerry Vap, that's J-e-r-r-y V-a-p. I'm a members of the Nebraska Public Service Commission, representing the 5th District. I'm here today to offer an amendment to LB358, and a copy of the amendment is attached to my testimony. We really are in a neutral position on the underlying bill itself. We have no objections to it. The commission's amendment would repeal sections of law that require intrastate motor carriers of freight to file proof of insurance with the commission. This requirement only applies to vehicles with a gross weight rating that exceeds 10,000 pounds, and which are not otherwise required to register with the commission. We estimate that roughly 40,000 vehicles would be affected. The operators of these vehicles are already required by law to carry liability insurance. Many will be required to carry additional insurance under the Unified Carrier Registration, or UCR. To avoid duplicate requirements, these provisions have not been enforced for quite some time. The law is obsolete. Moreover, the commission, since the mid-1990's, has had no regular authority over the freight carriers in question. Requiring them to submit to the commission's jurisdiction solely for the purpose of enforcing insurance requirements is really not very good policy. Since these provisions are opened up by LB358, we respectfully request that the committee adopt the amendment as we have offered it. It will bring the law up-to-date with current practices. After discussions with officials from the Department of Motor Vehicles, we do not believe there is another state or local agency that is suited to enforce these requirements, they should therefore be taken off the books. Should you advance LB358, I respectfully ask that you adopt the amendment we have proposed. I'd be happy to answer any questions you may have. [LB358]

SENATOR FISCHER: Are there questions for Commissioner Vap? I see none. Thank

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you very much. [LB358]

JERRY VAP: Thank you. [LB358]

SENATOR FISCHER: Are there others who would like to testify in the neutral capacity? Senator Hudkins, would you like to close? Senator Hudkins waives closing. And with that, we will close the hearing on LB358 and also the hearings for the day. Thank you very much. [LB358]

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Disposition of Bills:

LB466 - Indefinitely postponed.
LB349 - Advanced to General File.
LB279 - Held in committee.
LB358 - Advanced to General File, as amended.

Chairperson

Committee Clerk