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Transportation and Telecommunications Committee
January 19, 2010

[LB688 LB705 LB739 LB749 LB782]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, January 19, 2010, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB688, LB705, LB782, LB739 and LB749. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Kathy Campbell; Tim Gay; Galen Hadley; Scott Lautenbaugh; and LeRoy Louden. Senators absent: Charlie Janssen. [LB688]

SENATOR FISCHER: Good afternoon. I'd like to welcome you to the Transportation and Telecommunications Committee. This is our first hearing of the new legislative session. My name is Deb Fischer, I am the senator representing the 43rd District from Valentine, and I am Chair of the committee. At this time I would like to introduce you to our other committee members who are present. On my far right is Senator Kathy Campbell; she is from Lincoln. Next we have the Vice Chair of the committee, Senator Arnie Stuthman, he is from Platte Center. On my immediate right is our committee counsel, Mr. Dusty Vaughan. On my immediate left is our committee clerk, Miss Laurie Vollertsen. Next we have Senator Scott Lautenbaugh, he is from Omaha. And next to Senator Lautenbaugh is Senator Galen Hadley and he is from Kearney. Our pages this year, entering is Lisa Cook, she is from Omaha, and Antonio Pastrana, he is from Colorado, the Fort Collins/Loveland area. So we are happy that they are joining us this year. They are here to assist if you have any handout materials. When you testify, you can raise those up and the pages will come and distribute those to the committee members. We will be hearing the bills listed in the order that they are on the posted agenda. I would ask that those wishing to testify on a bill need to come to the front of the room and be ready to testify as soon as someone finishes testifying in order to keep the hearing going. Please fill out the yellow sign-in sheet at the on-deck table which is right there and have that ready to hand in when you testify. We do have a computerized transcription program that's being used so it's very important that you follow the directions on that sign-in sheet, and I would ask that you hand that sign-in sheet to our committee clerk before you sit down to testify. For the record, at the beginning of your testimony, please spell your first and last name and keep your testimony concise and try not to repeat what someone else has already covered. I do reserve the right as Chair to limit the time on the testimony. I don't believe we will need to today use the lights, but I ask that you keep your testimony at about three minutes. If it goes a little longer and you see me lean forward like this, that's your sign to wrap it up. If you don't want to testify, but you do want to voice your support or your opposition to a bill, you can indicate so at that on-deck table and there's a sheet that's provided there. This will become part of the official record of the hearing. If you want to be listed on our committee statement, however, as a testifier at the hearing, you have to complete that yellow sign-in sheet and actually testify, even if you just come forward to state your name and your position on the bill. If you don't choose to testify, you can still submit comments in writing and those will be read into the official record. At this time I would ask that you turn off all

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your cell phones. We do not allow cell phones on in this committee hearing and that includes texting. We like to be focused on the person who is here testifying and offer them the courtesy of listening. Thank you. At this time I would like to open the hearing on LB688 and Senator Wightman is here to present his opening so welcome, Senator Wightman. []

SENATOR WIGHTMAN: (Exhibit 1) Thank you, Chairperson Fischer, members of the Transportation and Telecommunications Committee. I'm John Wightman, J-o-h-n W-i-g-h-t-m-a-n, represent District 36. The current law on abandoned vehicles did not apply all...LB688 amends the law relating to abandoned vehicles, broadens the definition of vehicle to include any type of motorized vehicle that transports people or property, encompass all vessels which means every type of watercraft, other than a seaplane, and I don't think we have too many of those in Nebraska, but I haven't done an exhaustive study either, that transport...subject to the State Boat Act and include campers that require a permit under Section 60-1801 to 60-1808 of the Revised Statutes of Nebraska Supplement 2008. In 2004, LB560 included all-terrain vehicles and minibikes under the provisions of these laws as abandoned vehicles, even though they are not required to be licensed or to have a permit. LB688 would include all types of licensed vehicles, all types of motorized vehicles, all types of boats and campers that require a permit under the provisions and procedures of law, as other vehicles when they are abandoned and make the law uniform as to those vehicles. After the bill was introduced, and I want to call this to your attention, we discovered an error that may be corrected by adopting amendment AM1561. AM1561 makes the following change: on page 4, line 12, strike 'six hours' and insert 'thirty days'. So if you have your bill in front of you, I'll get into that more. The current law provides for a six-hour time period before certain vehicles are deemed abandoned vehicles if they are on public property. That would be awfully short on private property and just wouldn't be appropriate. Thirty days, we believe, is a more appropriate time period before certain vehicles are deemed abandoned if they are on private property. Obviously, six hours you couldn't even notify the owner in that period of time. On page 4, subsection (b), as amended, we would add the following to the law on abandoned vehicles: If left unattended for more than thirty days on private property with no license plates or no valid in-transit stickers issued pursuant to the Motor Vehicle Registration Act affixed thereto, no certificate of title issued pursuant to the Motor Vehicle Act or State Boat Act, or if inoperable, partially dismantled, wrecked, junked or discarded. This subdivision does not apply to operable all-terrain vehicles or minibikes which are not licensed. The issue that LB688 addresses was brought to me by the city of Gothenburg, which is within my district, it's in Dawson County. You will hear from representatives of the city of Gothenburg about the issues and see pictures of abandoned boats and campers. You will hear also from a representative of the League of Municipalities that the disposition of all types of abandoned vehicles, boats, and campers is a statewide problem. It isn't limited to Dawson County or Gothenburg. In summary, we feel you should advance LB688 because abandoned vehicles and boats, with and without motors, present a public

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health threat because they are breeding grounds, frequently, for rats, mice, and mosquitoes that transmit the various diseases including the deadly West Nile Virus. In 2003, in Nebraska, 1,994 people were infected with the virus and 27 people died from it. So a lot of times they may have a plastic or a tarp on them that collects water. And this does invite various types of threats, mostly mosquitoes in that instance, but a lot of times these have mice and rats in them as well. The process and procedure provided by provisions of the Abandoned Vehicle Act would be uniform for all types of vehicles, boats, and campers. The process for the disposition of abandoned vehicles set forth in these statutes has worked well. Cities and their residents have a vital interest in keeping their cities from becoming unsightly and unsafe. The lifeblood of communities is new citizens. No one wants to live in a neighborhood that has turned into a junkyard by abandoned cars, boats, and campers. No mother wants their children to be tempted to play in abandoned vehicles or boats, that by nature are a health and safety hazard. Cities, large and small, must be attractive to new residents and present a safe environment for children. I urge you to advance LB688 with the proposed amendment. I think the amendment is very important because I don't think anybody here would think that six hours is appropriate and we'd left that in when we initially drafted...or the Bill Drafter did and we didn't catch it. But six hours is fine on the public thoroughfare, but six hours, certainly, is not a very good answer for private property. So if you have any questions, I'll try to answer those. They may be better addressed to two representatives that will be here from the city of Gothenburg and from the League of Municipalities. [LB688]

SENATOR FISCHER: Thank you, Senator Wightman. For the record, Senator Gay has joined us. He is from Papillion. Are there questions for Senator Wightman? Senator Stuthman. [LB688]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Wightman, I truly support your amendment to it, that changed it from six hours to 30 days, but in the next section, it states: if left unattended for more than 7 days on private property, if left, initially without permission of the owner. Is that 7 days okay, or should that be a 30 days, or what..why is there a difference between the 30 days and the 7 days? [LB688]

SENATOR WIGHTMAN: Well, the 30 days would be if it was on the person's own property. Here we're talking about a special situation that probably the owner will be complaining because it was left on private property, but without the permission of the owner. So I think that is a separate case and probably should have a shorter time because if somebody left that boat, or whatever it may be, camper, or whatever it is, unattended and had no permission of the owner of the property on which it is situated, I think it is justifiable that that be a shorter time frame. [LB688]

SENATOR STUTHMAN: Yes, I truly agree with you there, I mean, I was looking at it initially and I thought, well, if you wanted to be consistent, you know, the 30 day, but this

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is a situation where it's on private property, the same as the other one, but one is, you know, that has permission and the other one don't. I mean... [LB688]

SENATOR WIGHTMAN: It may be on the person's own property on that. [LB688]

SENATOR STUTHMAN: Yeah, yeah, so, but the issue then, you feel, is the fact that, you know, it's on someone...it's somebody's property on...somebody's vehicle on someone else's property without permission or with permission, you know, then there would have to be the 30 days (inaudible). [LB688]

SENATOR WIGHTMAN: If anything, 7 days might almost be too long in that situation, but I think it's a middle ground. [LB688]

SENATOR STUTHMAN: Yeah, okay, thank you. [LB688]

SENATOR FISCHER: Thank you, Senator Stuthman. Are there other questions? I see none. Thank you, Senator Wightman. Will you be staying for closing? [LB688]

SENATOR WIGHTMAN: I will stay. [LB688]

SENATOR FISCHER: I think this is your first time before the committee, isn't it? [LB688]

SENATOR WIGHTMAN: You know, I believe it is too. But it's a great thrill. [LB688]

SENATOR HADLEY: You did an outstanding job. [LB688]

SENATOR FISCHER: And you did an outstanding job. With that I would ask are there any proponents for the bill? If you would like to come forward, please, and testify. Page. Good afternoon. [LB688]

RYAN RANDOLPH: (Exhibit 2) Good afternoon. Chairperson Fischer and members of the Transportation and Telecommunications Committee, I am Ryan Randolph, R-y-a-n R-a-n-d-o-l-p-h. I'm a police officer representing the city of Gothenburg, located in the 36th District. On behalf of Gothenburg, I personally want to thank our district senator, Senator Wightman, for the introduction of this bill. I believe Senator Wightman's career as an attorney and his experience in city government, both as a city councilperson and as a mayor, has provided him with the background to understand the complexities, and even sometimes the frustrations cities experience in dealing with abandoned and/or inoperable vehicles. I also believe Senator Wightman recognizes that these vehicles may at times ultimately be a question of health and sanitation to our citizens. LB688 provides for an expansion to already existing state statutes in regard to abandoned and inoperable vehicles. Under Nebraska Revised statutes, 60-1901, the standard is set forth to deal with the unlicensed and/or abandoned vehicles, of which those vehicles

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must be licensed under the Motor Vehicle Registration Act. What NRS 60-1901 does not currently cover are other types of mechanized or nonmechanized machinery beyond those currently covered by the statute. This machinery includes boats, campers, trailers, etcetera, or any other vehicle or vessel that must have a certificate of title issued pursuant to the Motor Vehicle Certificate of Title Act or the State Boat Act or with no permit issued pursuant to Sections 60-1801 to 60-1808. Many communities constantly struggle to enforce the abandoned vehicle statutes and city ordinances and Gothenburg is not an exception. Over the last 5 years, we have issued approximately 97 notices in which there are at times...those vehicles ultimately result in citations for cleanup or removal of unlicensed and/or inoperable vehicles. In the last 5 years, approximately 93 of those vehicles have been removed from the property or have been licensed and made operable. The remaining four property owners were issued citations, convicted by the county court and the vehicles were removed by the county court. I believe that the enforcement of this statute and city ordinance is important to any community wanting to protect their citizens against vehicles or other mechanized equipment from a health standpoint, a trash standpoint and overall common decency standard of living citizens expect of their friends and neighbors. LB688 provides for the expansion of current laws to cover boats, trailers, etcetera. As you will notice in picture number 9, there is a picture of a rather large boat and a motorized camper. The camper already meets the definition of a motor vehicle under the current statute. What is frustrating to our city...correction...what is frustrating to our enforcement of city ordinances is that under existing state statute and city ordinances we would be able to cite this property owner for unlicensed vehicles, if the vehicle was not registered in the state of Nebraska. In addition, we would also be able to cite the owner of this vehicle if the vehicle was licensed, but was inoperable, partially dismantled, wrecked, junked, or discarded. Conversely, the boat on the right is currently not required under state statutes to meet any of the requirements of the abandoned vehicle statutes or the inoperable vehicles statutes currently in place. The only regulation available to municipalities of the boat is through our nuisance ordinances which must meet a much higher standard of proof. It is our opinion that either of these mechanized pieces of equipment are ultimately the same when sitting in a backyard, or even worse, in someone's front lawn. Again, we believe both types of machinery should be treated equally under the state statutes. We believe LB688 is the right procedure for this community to issue and want to thank you for your consideration. I would be happy to answer any questions you would have of me. I again urge you to support the advancement of LB688 to the General File. [LB688]

SENATOR FISCHER: Thank you, Officer Randolph. Are there questions? Senator Stuthman. [LB688]

SENATOR STUTHMAN: Thank you, Senator Fischer. Officer Randolph, do you feel that with the law we have in place, on the abandoned vehicles, you've been fairly successful, like you stated, in removing them and cleaning up the area? [LB688]

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Ryan Randolph: Yes, Senator. [LB688]

SENATOR STUTHMAN: And by adding this, should help also get rid of some of those other vehicles. [LB688]

RYAN RANDOLPH: Yes, I believe it will. [LB688]

SENATOR STUTHMAN: Do you feel that there's certain parts of town where this is more of an issue than others? [LB688]

RYAN RANDOLPH: I would say that in general, it's a pretty common problem all over town. Towards the outskirts of town it does tend to get a little bit worse, where there's a little bit more of a rural type, you know, larger lots and such. [LB688]

SENATOR STUTHMAN: Well, I thank you, thank you for your testimony. I feel that this is something that needs to be done because I always say that your first impression of a community is your lasting impression and if you drive into a community and you see a lot of junk around, it never leaves your mind. [LB688]

RYAN RANDOLPH: I agree. Thank you. [LB688]

SENATOR STUTHMAN: Thank you. [LB688]

SENATOR FISCHER: Thank you, Senator Stuthman. Other questions? I have a question, Officer. How do you handle it now? If you seen an abandoned vehicle, does it have to be at the front of the property, the side of the property, in the backyard, just within sight? How do you handle that? How do you approach it? [LB688]

RYAN RANDOLPH: The way we have our city ordinance written is that if it is visible to the public, it has to be licensed or operable. The process we use is we go to the home of the person; verify that the vehicle is either unlicensed or inoperable; we issue them a 30-day notice to remove the vehicle. The person has the 30 days to get it removed. If they don't, we go back, we issue them a county citation where they go to the county court and the judge orders that they remove the vehicle in a designated amount of time or a fine is imposed. And the fine is a day-to-day fine for the vehicle. [LB688]

SENATOR FISCHER: Visible to the public; would that include if a vehicle has a tarp over it and it's in the back part of the property that someone owns and it's only visible if you go down an alley? Is that visible to the public? [LB688]

RYAN RANDOLPH: We still serve notices on those, yes. We would...the way our county judge has ruled and what he prefers is that they be in either an enclosed building or behind a enclosed fence. [LB688]

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SENATOR FISCHER: Okay. Thank you. Other questions? I see none. Thank you very much. [LB688]

RYAN RANDOLPH: Thank you. [LB688]

SENATOR FISCHER: Next testifier, proponent, please. Good afternoon. [LB688]

GARY KRUMLAND: Good afternoon, Senator. Senator Fischer, members of the committee, my name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB688. And I also want to thank Senator Wightman for introducing this bill. As you have heard, it has to do with the abandoned vehicle statutes. Those are the statutes that set the process where if a local government takes a vehicle...there's a process setup where if you cannot find the owner or the owner does not want the vehicle anymore, they, after giving certain notice in the statute, those sorts of things, waiting periods, then the local government can sell the property and dispose of the property. This bill is helpful because right now it applies just to motor vehicles and Senator Wightman mentioned a few years ago, all-terrain vehicles and minibikes were added to it. But there are other vehicles that are left on property, or left on someone else's property and boats, campers, trailers are included. So this will expand and give the local governments the authority they need to take care of this problem. If you talk to city and village officials, they say one of the major complaints, probably one of the top two complaints, is things like this left on the property, motor vehicles, weeds, those sorts of things, and this gives the city the tools they need to deal with that, to take these vehicles and to have them declared abandoned so that they can process them and get rid of them so as part of the clean up of the property. So we support the bill. I think it will be helpful, not just to Gothenburg, but to cities and villages across the state and we ask the committee to advance it. I'd be happy to answer any questions. [LB688]

SENATOR FISCHER: Thank you, Mr. Krumland. Are there questions? Senator Hadley. [LB688]

SENATOR HADLEY: Thank you, Mr. Krumland. Am I correct that if they are being abandoned and you follow through, the city would then tow them or take them out and then charge the owner the cost? [LB688]

GARY KRUMLAND: Well, there's I mean... [LB688]

SENATOR HADLEY: How does it work once they've gone past the dates that we have here? [LB688]

GARY KRUMLAND: There's a process where once the city takes possession, they're

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generally towed. They have to try to find the owner, I mean, sometimes these vehicles...whoever leaves them there takes license plates and registration and try...they don't want the vehicle anymore and so...so once you go through that process of trying to find the vehicle, you give notice to the owner they have so many days to come in and claim it, pay for any of the storage fees. And if nobody claims it or if the owner refuses, then the local government has authority to put it into auction or to sell the vehicle to try to reclaim some of those fees. [LB688]

SENATOR HADLEY: Thank you. [LB688]

SENATOR FISCHER: Other questions? Senator Gay. [LB688]

SENATOR GAY: Thank you, Senator Fischer. Does a community or the county, do you have to have an ordinance in place to do this or can anybody do this? If I lived in a small community with no ordinances or...planning... [LB688]

GARY KRUMLAND: Yeah, generally a city would have an ordinance. I guess I would have to go back and look to see if it's self-executing. There are state statutes that are fairly detailed, so I suppose...but...most of the cities and villages would adopt an ordinance to do that. [LB688]

SENATOR GAY: But do they have to then if we pass this? [LB688]

GARY KRUMLAND: Oh, I see, no, would they be forced to...no, it would be their discretion. [LB688]

SENATOR GAY: Okay. So it's an option by the city. Does this read counties too? [LB688]

GARY KRUMLAND: Yeah, I think the way that it's... [LB688]

SENATOR GAY: So cities and counties... [LB688]

GARY KRUMLAND: Yeah, it's local governments. [LB688]

SENATOR GAY: So, we're not mandating...it's been a big deal, obviously, so far. [LB688]

GARY KRUMLAND: No, that's not the... [LB688]

SENATOR GAY: It's a choice if you have an ordinance. [LB688]

GARY KRUMLAND: Yeah, that's not the intent. [LB688]

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SENATOR GAY: So people out in the communities would have a chance to go to their city council and say this is a crazy rule, we don't like it. They don't have to do that? [LB688]

GARY KRUMLAND: Yeah, or whether we don't want it enforced and that's a conversation that goes on in communities is how much enforcement do we want in this community? [LB688]

SENATOR GAY: And that's fine. But Senator Wightman's ideas aren't crazy, I'm not saying that. But they'd get the choice. Thank you, Gary. [LB688]

SENATOR FISCHER: Other questions? I have a question, Gary, on this. On page 5 of the bill, if you look at lines 2, 3, and 4, why are we expanding this to any political subdivision? You've crossed out municipality, we're seeing an expansion here on who is able to have an ordinance and then you also added, I don't know if you added this, but if you could give me a reason why we have ordinance or resolution? So first question, why are we expanding this from just municipalities to any political subdivision, as I read it? [LB688]

GARY KRUMLAND: Yeah, and I was not involved in drafting, but I can give you my interpretation. The...I'm just looking here, the specific language we're dealing with there was amended, I think, just a year ago, was added to that, and it was narrowly drawn just for cities and villages. And I think in looking at this whole thing, the law applies to more than just cities and villages, so to be consistent with the other sections, I'm assuming that's why this was expanded. I mean, the counties now have authority to deal with abandoned vehicles too. [LB688]

SENATOR FISCHER: Under this...under a bill, I believe it was Senator Price's last year. [LB688]

GARY KRUMLAND: Yeah, so they have authority and I think this is probably making the language consistent. [LB688]

SENATOR FISCHER: And why... [LB688]

GARY KRUMLAND: But I was...I guess I didn't... [LB688]

SENATOR FISCHER: That's a major policy shift, don't you think? [LB688]

GARY KRUMLAND: It could be. I wasn't involved in the drafting so I guess I... [LB688]

SENATOR FISCHER: Okay. And then why...do you have any idea why a resolution was

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also added: but through ordinance or resolution. Resolutions can be passed a little quicker than an ordinance at the city level, can't they? [LB688]

GARY KRUMLAND: Yeah, I don't know. Traditionally though, until the county ordinance bill was passed last year, the statutes, when they talked about cities and counties can do something, they usually include an ordinance or resolution because cities usually did ordinances, counties did resolutions. But that's my speculation on it. [LB688]

SENATOR FISCHER: Thank you. Other questions? Senator Campbell. [LB688]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Krumland, does this apply or would the owner have some recourse, I suppose if they didn't...they could show that...because some people work on cars and so they want, they want a car to part out. I'm sure you've heard of that situation. [LB688]

GARY KRUMLAND: Yeah, and that is the biggest reason that is given very often is that it's my hobby, I work on cars. And some cities, I think city of Lincoln is one of them, who have special ordinance that allows a hobbyist permit to say that if you're going to work on cars and to do this, you come in and let us know, get a permit to do so and so then you're excepted from these kind of statutes. So it gets...for somebody who is really serious about it, but not somebody who is just leaving parts around. [LB688]

SENATOR CAMPBELL: So at this point, it would be up to the individual cities whether they wanted to adopt the resolution that would exempt that type of activity? [LB688]

GARY KRUMLAND: Yeah, I mean that's one way to deal with this. [LB688]

SENATOR CAMPBELL: Okay. And counties? [LB688]

GARY KRUMLAND: (Inaudible). [LB688]

SENATOR CAMPBELL: Thank you. [LB688]

SENATOR FISCHER: Thank you, Senator Campbell. Other questions? I see none. Thank you, Mr. Krumland. Next proponent, please. Good afternoon. [LB688]

MIKE BACON: (Exhibit 3) Good afternoon, Senator Fischer. My name is Mike Bacon, M-i-k-e B-a-c-o-n. I am a city attorney for the city of Gothenburg; also representing a number of small villages. I'm a proponent for the bill. I've been asked by the Friends of Public Health in Nebraska to provide the document that's being circulated among you and ask that it be made part of the record. I've been a city attorney...first of all, thank you for doing what you do. You spend a lot of time listening to people who come and prater at you, and I understand that always isn't as pleasant as it might be. I've been a

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city attorney for 30-plus years. Thirty to forty percent of the calls that I get from my police officers are: what do we do about...and how do we make this go away? The community that I live in has done an outstanding job of growing its economic base. We've grown by...our taxable value by approximately 350 percent in the last 20 years. That's not bad for a town of 3,800 people. We're growing in population; our school is growing. If you take a look at the photographs that the officer shows, we have people that are collectors of boats, and having been a previous boat owner, I don't care what tarp you put on it, it's going to hold water. I don't care if you take the plug out. So there's the health issue. It just looks awful and right now we can do something about those vehicles, but we can't do anything about the camper shell; we can't do anything about the boat. That's all it does. No fiscal impact to the state. No fiscal impact to anybody that doesn't want to do something about it. An ordinance is generally the way we get to these items to try and get there with a...calling it a nuisance is very, very difficult. And with boats it's very difficult to find out whether or not they're licensed and that sort of thing. So we would ask that you advance this bill. We don't think it has a negative impact. It is enforced in each municipality as they choose to. I will tell you, I represent some municipalities that do not have daily law enforcement; this is still one of the bigger issues, other than dogs and children that drive up and down the street after school in the smaller towns, this is number three. So, I think...the last item I will tell you is that my practice takes me all over the state from Douglas County to Scotts Bluff County. I consult in probably 40 to 45 communities, not on these issues, but invariably before I leave they ask me how do we get rid of...so this is a hot button out there. We would ask that you forward this on so it can be voted on in the legislative body. I'd be glad to answer any questions. [LB688]

SENATOR FISCHER: Thank you, Mr. Bacon. Are there questions? Senator Gay. [LB688]

SENATOR GAY: Thank you. Mr. Bacon, the officer handed out this and says...just in Gothenburg they gave 97 notices over five years. So this isn't like you just did...this is still work. You got to go through the process to do it. [LB688]

MIKE BACON: Oh, yeah. [LB688]

SENATOR GAY: It's not like you're just going to come in and remove these. [LB688]

MIKE BACON: No, no. [LB688]

SENATOR GAY: So I guess on that...and that's even in these small communities, you give them a notice and then they may get a citation and then if they still don't do something, may go to court. [LB688]

MIKE BACON: We still don't go in and yank it out, we then go to court and ask that the

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judge order them to do it and if they don't do it, then we are authorized in that order to manually go in and remove it. [LB688]

SENATOR GAY: How long would that whole process last? [LB688]

MIKE BACON: That whole process is going to take you probably 90 days by the time you get through it. One of those, I can't remember which number it is, it's really irritating because a fellow gets four notices a summer to mow his lawn, he won't do it, so the city has to go in and mow it when it's about three foot tall; we'd have to mow around the boat that's been there for ten years. So if nothing else, it would be nice to move that boat so they didn't have to mow around it. [LB688]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Bacon, for being here today. [LB688]

MIKE BACON: Thank you. Thank you, Senators. [LB688]

SENATOR FISCHER: Other proponents, please. Good afternoon. [LB688]

JON EDWARDS: Good afternoon, Senator Fischer, members. My name is Jon Edwards, J-o-n E-d-w-a-r-d-s and I'm here representing Nebraska Association of County Officials and we are here today in support of LB688. I think just a couple of general comments and maybe try to address a couple of specific questions. As we look at it, we feel like Senator Wightman has done a good job of clarifying the statutes as they currently are, make them a little bit more workable. So we feel like this will help in that area with definition of abandoned vehicles and making that determination. Also, Senator Wightman had mentioned that they're offering an amendment to expand that from six hours to 30 days. We would agree with that amendment. We think that's a good idea. As it was currently written, that was one thing that kind of raised a bit of a flag in our group in terms of the enforceability of that and how that might work and all the different issues that would be associated with that 6-hour limit. So we think that 30-day rule is...would be much better to have that in statute as 30 days. Just to address the question on the ordinance language, now we weren't involved in writing that language either, what I will say is that I think probably the intent here, as Gary mentioned, last year the Legislature approved the county ordinance language which was very narrow and only specific situations counties can pass ordinances to deal with certain things, and one of those areas is abandoned vehicles. And so I would imagine that this language that is currently in statute, that only as it currently speaks to municipalities, it would be necessary to clarify that and bring that up to date and harmonize it with the language that was passed last year. So I think that's probably the reasoning behind that. Granted, political subdivision pretty much covers all political subdivisions. If we need to narrow that language, you know, to cities and counties that seems reasonable sitting here today thinking about it. And I think that that resolution language is also included in

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that. Typically in the past, cities dealt with things through ordinances and counties had to deal with them through resolutions because they had no other solution in law but to pass resolutions. Now that we have the ordinance authority, it seems that...the only thing I would say is there may be some lagging resolutions out there that this language may be able to cover that are currently in place. So I'd be a little bit less, you know, quick to think that we would strike that, but certainly narrowing that political subdivision language, I think, probably, shouldn't be an issue. So with that, I won't take any more of your time other than we do support these changes. [LB688]

SENATOR FISCHER: Thank you, Mr. Edwards. Are there questions? I see none. Thank you very much. [LB688]

JON EDWARDS: Thanks. [LB688]

SENATOR FISCHER: Next proponent, please. Are there other proponents for the bill? Are there any opponents to the bill? Anyone wishing to testify in the neutral capacity? I see none. Senator Wightman, would you like to close? [LB688]

SENATOR WIGHTMAN: I'll take about a fraction of a minute. Though I've never done anything in a fraction of minute yet. [LB688]

SENATOR FISCHER: Well, we'll time you on that. [LB688]

SENATOR WIGHTMAN: Thank you, Senator Fischer. I guess a couple of issues that came up that I would like to address and I would point to page 10 where it discusses local authority, about half way down, and it may very well be limited to county and city and that was our intent, I might add that the resolution part was added by the Bill Drafter, we didn't see fit to take it out. But that was done by the Bill Drafter and it was not part of our original bill as proposed. But if you'll look, it says, "The local authority entitled to custody of an abandoned vehicle or vessel," on page 10, "shall be the county in which the vehicle or vessel was abandoned or if abandoned in a city or village, the city or village in which the vehicle or vessel was abandoned." So that may take care of it. You may want to review that a little more and see if maybe you bring the amendment that we had and make it part of a broader committee amendment and that's fine with us. I think she added resolution. We did, of course, last year, provide for ordinances in this particular situation, but whether a resolution would apply in this instance or not, I don't know. I'll let you make a decision on that before, hopefully, you advance the bill to General File. Thank you. [LB688]

SENATOR FISCHER: Thank you, Senator Wightman. Thank you for being here. With that I will close the hearing on LB688. We do have a change in our agenda. Senator Loudon is still testifying before another committee and we're going to move on to LB705 and Senator Haar is here to introduce the bill. Welcome, Senator Haar. [LB688]

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SENATOR HAAR: Madam Chair, members of the committee, before I start my introduction, I'd just like to register my complaint with the Transportation Department... [LB705]

SENATOR FISCHER: Be careful, Senator Haar. [LB705]

SENATOR HAAR: ...for all the potholes around the state. But I understand we can't do much about that. LB705 is a very simple bill. Currently you're allowed to register only one vehicle with the Disabled American Veterans license plate. And this simply...this bill simply allows you to register all your vehicles with the DAV plate and this makes it consistent with the Purple Heart plates. And I had a constituent who contacted me and said, you know, would you look into this and I think it's a simple change and a very worthy change, so. [LB705]

SENATOR FISCHER: Thank you, Senator Haar. Are there questions? I see none. Thank you. Will you be closing? [LB705]

SENATOR HAAR: No, I won't. Thank you very much. I appreciate it. [LB705]

SENATOR FISCHER: Thank you, Senator Haar. Are there proponents for the bill? If you would like to step forward please. Good afternoon. You want to bring it right up here. [LB705]

JOHN SCHWARTZ: Hi. My name is John Schwartz, J-o-h-n... [LB705]

SENATOR FISCHER: Go ahead and sit down so we can hear you on the mike. [LB705]

JOHN SCHWARTZ: S-c-h-w-a-r-t-z. [LB705]

SENATOR FISCHER: Thank you. [LB705]

JOHN SCHWARTZ: ...and I'm 100 percent disabled combat veteran. And a bunch of the guys...I'm always the one elected to, I guess, come forth and speak. And we would really like...I have more than one vehicle. You can get a Purple Heart plate, you know, you can get as many of them as you want and, you know, they say only one DAV plate. And this just covers 100 percent disabled veterans. And, you know, I mean...I don't know what...because they charge you an extra 5 bucks to get the DAV plate anyway. And it's just something that all the guys wanted me to come and see if we could get something done about it. And we would appreciate it. [705]

SENATOR FISCHER: Thank you, Mr. Schwartz. And thank you for your service to our country. We all truly appreciate that. [LB705]

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JOHN SCHWARTZ: You're welcome. I'm proud to serve our country. [LB705]

SENATOR FISCHER: And we're proud to have you here today. Thank you. Are there any questions? Senator Stuthman. [LB705]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Schwartz, how many people do you think this would affect that have more than one vehicle? [LB705]

JOHN SCHWARTZ: Hundreds. [LB705]

SENATOR STUTHMAN: Most of them then. [LB705]

JOHN SCHWARTZ: Yeah, right. [LB705]

SENATOR STUTHMAN: Would they just have two vehicles, or would they have more? [LB705]

JOHN SCHWARTZ: Some might have motorcycle, you know, they might have more. You know what I'm saying. [LB705]

SENATOR STUTHMAN: And they're willing to pay that extra \$5 so that they can... [LB705]

JOHN SCHWARTZ: Oh yeah. Yeah, to me it's...I haven't said anything for 40 years and I'm kind proud of my service as I look back at them. I am. I'm proud of what I've done for our country. And it's just... [LB705]

SENATOR STUTHMAN: Well, we really appreciate what you've done. [LB705]

JOHN SCHWARTZ: Well, thank you. [LB705]

SENATOR STUTHMAN: We really do. And that was a concern that I had, you know, are we passing something that, you know, the majority of the people don't want to pay that other \$5 or you're willing to do it? [LB705]

JOHN SCHWARTZ: We're willing to do it. We're proud to do it. [LB705]

SENATOR STUTHMAN: Okay. Thank you. [LB705]

JOHN SCHWARTZ: Thank you, sir. [LB705]

SENATOR FISCHER: Other questions? I see none. Thank you so much for being here

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today, appreciate it. [LB705]

JOHN SCHWARTZ: Thank you very much. I appreciate it. I appreciate you guy's time too. [LB705]

SENATOR FISCHER: Thank you. Are there other proponents for the bill? Any other proponents? Any opponents? Anyone in the neutral capacity? Senator Haar has waived closing. With that, I will close the hearing on LB705. Senator Louden is still missing in action here. So we will move on and I will open the hearing to LB782 and, Mr. Vaughan, would you introduce that please? Good afternoon. [LB705]

DUSTY VAUGHAN: Good afternoon, Senator Fischer. Members of the committee, for the record my name is Dusty Vaughan spelled V-a-u-g-h-a-n and I'm the legal counsel for the committee. LB782 requires distinct governmental plates for all motor vehicles and trailers owned, leased, or operated by the state or any political subdivision in Nebraska. The definition of governmental unit in the bill encompasses all known political subdivisions in the state. Current statutory law allows the Department of Motor Vehicles to create a distinctive license plate for a state, county, municipality, or school district vehicle. This narrow scope of distinct government plates allows many political subdivisions to use a standard county license plate, the same that is used by private citizens. In addition, the DMV currently has discretion to issue these distinct governmental plates. They are not strictly required. LB782 ensures that the public will be able to identify vehicles owned by the state or any political subdivision and paid with public funds. The bill does allow for exceptions for investigative and undercover purposes. Senator Fischer, I will close my testimony. [LB782]

SENATOR FISCHER: Thank you, Mr. Vaughan. Are there questions? Senator Gay. [LB782]

SENATOR GAY: Thank you. I've got a question, on the joint...when I was going on page 2, I was reading all the things and I think it's not a bad idea that when you get into that Joint Public Agency Act so what...give me an example of that..a joint entity created under the Interlocal Cooperation Act, joint public agency created under Joint Public... [LB782]

DUSTY VAUGHAN: That's a good question, Senator. I don't have a specific example. Bill Drafters, when they went through to create a governmental unit definition, went through the statutes and included anything they found in there. I could certainly get an example for you or DMV might have an example of that. [LB782]

SENATOR GAY: Thank you. [LB782]

SENATOR FISCHER: Senator Campbell. [LB782]

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SENATOR CAMPBELL: Thank you, Senator Fischer. As an example of that, the county of Lancaster and Ag Society went together and created joint public agency here for the Lancaster Event Center. So I'm assuming that any vehicle that would come under and be specifically used for the event center would carry it because it would come under a joint public agency. I don't think there's probably a lot of them, but they are very useful in the state. [LB782]

DUSTY VAUGHAN: Right, and I think that's a good example, Senator, and I don't know if this bill would apply because I don't know if an entity like that is going to be having a personal vehicle or one that they use. I would imagine that it's either covered under one of those groups, under the county, like you said, or under the other side, so. [LB782]

SENATOR FISCHER: Senator Gay. [LB782]

SENATOR GAY: Thank you, Senator Fischer. I guess on that...I know what you're getting at and I think that's good, but I think if there's some of these agencies, I mean, I think you put public health in some of these, that there are other agencies that are created by county governments, or whatever, they're quasi governmental, are you looking at...is that kind of what we're looking at too. But I guess we can look into that as we discuss this further. [LB782]

DUSTY VAUGHAN: Absolutely. [LB782]

SENATOR GAY: Okay. Thank you. [LB782]

SENATOR FISCHER: I would say, Senator Gay, in introducing this bill, one of the purposes is for transparency so that citizens are aware of where their tax dollars are literally going as they travel down the road. Other questions? I see none. Thank you, Mr. Vaughan. Are there proponents for the bill? Good afternoon. [LB782]

NOELIE SHERDON: (Exhibit 4) Hi. Chairwoman Fischer, members of the committee, I'm Noelle Sherdon, I'm the legal counsel and also legislative liaison for the Department of Motor Vehicles. My name is spelled N-o-e-l-i-e and then Sherdon, S-h-e-r-d-o-n. I'm appearing before you today to offer testimony in support of LB782. Nebraska Revised Statute 60-3,105 currently provides for issuance of government plates for the state, counties, municipalities, or school districts. The statutory language states that the Department of Motor Vehicles may issue government plates to government-owned motor vehicles. The permissive nature of the statute and subsequent Attorney General Opinion have allowed some political subdivisions to register a percentage of their vehicles and trailers using standard county license plates, the same plate that is used by private citizens. LB782 seeks to bring transparency to local and state government by exclusively requiring all vehicles and trailers owned, leased or operated by all Nebraska

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governmental subdivisions to display government license plates. Currently, there are approximately 4,700 governmental vehicles and trailers that are plated as if they were owned, used or paid for by private individuals or businesses. Most of these vehicles and trailers are owned by public power districts and natural resources districts and other smaller political subdivisions. This bill creates a definition of governmental units. The definition of governmental units was added to encompass all Nebraska political subdivisions and will require government plates on all motor vehicles owned, leased, or operated by such units. The term "governmental subdivision" was selected because the statutes already contain a number of different definitions of political subdivisions. Also, LB782 does not change the manner in which undercover plates are issued to governmental entities. A governmental unit registering a motor vehicle with any type of government plate pays neither motor vehicle taxes nor motor vehicles fees nor registration fees. However, a political subdivision registering a motor vehicle with a standard private plate currently pays the motor vehicle fee and the registration fee associated with such a vehicle. Because the vehicles will no longer be plated with standard private plates under LB782, that will free the political subdivisions from paying these fees. Creating a new definition and requiring mandatory government plating of all vehicles owned, leased, or operated by Nebraska governmental units, such is currently used by the state, municipalities, school districts, would be a move toward transparency. While the vast majority of the 4,700 vehicles and trailers are likely marked or otherwise visibly distinguished as owned by a public entity, it is our opinion that plating such vehicles and trailers as private serves no useful public policy purpose and only creates confusion for the public. As anyone who has ever driven down the road or seen a publicly plated vehicle knows, such vehicles are held to a higher standard in the eyes of the public. I'm sure that you as senators have all fielded calls, just as we have as an agency, from constituents who allege misuse or other improper conduct of a state plated vehicle. Publicly plated vehicles are accountable to the public. I will be happy to attempt to answer any questions you may have. [LB782]

SENATOR FISCHER: Thank you, Miss Sherdon. Senator Campbell. [LB782]

SENATOR CAMPBELL: Thank you, Senator Fischer. And I just need a ball park estimate; how many entities would have the private license plate or they're paying...do you have any idea where they're paying a certain amount of the fee, but they're owned by them, and the reason for the question is I'm making the assumption that there will be some of those vehicles at the university. [LB782]

NOELIE SHERDON: Well, what we have right now is the approximately 4,700 that was the estimate that was included in my testimony. And I don't know whether the university would have any of those or not. We would have to check. I'm not sure exactly how we would do that, but we can try and come back with an answer. [LB782]

SENATOR CAMPBELL: Thank you. [LB782]

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SENATOR FISCHER: Other questions? Senator Stuthman. [LB782]

SENATOR STUTHMAN: Thank you, Senator Fischer. Miss Sherdon, with this bill, is that going to make it so that there's going to be less tax dollars, registration fees, coming into the subdivisions, to the counties, with this than there had been before? [LB782]

NOELIE SHERDON: Tax, motor vehicle taxes, no, because these governmental entities are exempt from motor vehicle taxes. As I understand it, they are paying the registration, the motor vehicle fee and the registration fee for the vehicle. There's three parts to that. This would mean that the government would no longer be collecting the motor vehicle fee and the registration fee, so that would be somewhat of a downturn. But the big impact is the motor vehicle tax and they're already exempt from those. [LB782]

SENATOR STUTHMAN: So these 4,700 vehicles are using the roads and everything like that, and hopefully they're paying gas tax. [LB782]

NOELIE SHERDON: I think...I don't know...I didn't brief myself for that. We can find out. [LB782]

SENATOR STUTHMAN: But the fact is, you know, those vehicles traveling down the road are not paying the vehicle registration then, in other words. [LB782]

NOELIE SHERDON: They are paying registration fees and motor vehicle fees, but not motor vehicle taxes. There's three parts to what you pay. [LB782]

SENATOR STUTHMAN: Okay, so they're not paying the taxes on that. [LB782]

NOELIE SHERDON: Uh-huh. [LB782]

SENATOR STUTHMAN: So in other words, what percent of this 4,700 are paying all the fees now and they would be exempt from that then? You know, because... [LB782]

NOELIE SHERDON: Excuse me, could you repeat the question? [LB782]

SENATOR STUTHMAN: Nebraska Public Power, they have a lot of equipment out of York, and they run the "17" license plate, a lot of them. So now would they get the government plate then, after that? [LB782]

NOELIE SHERDON: The bill is designed that all vehicles owned, leased, or operated by governmental unit as defined in this bill would be having a government plate on it.

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[LB782]

SENATOR STUTHMAN: So in other words, some of these entities would be receiving less revenue if this bill is passed than they currently have. [LB782]

NOELIE SHERDON: They would not get the motor vehicle fee or the motor vehicle tax. Excuse me, the motor vehicle fee or the registration fee, I misspoke. [LB782]

SENATOR STUTHMAN: So that's going to put more of a burden on the rest of the people in those counties? [LB782]

NOELIE SHERDON: That's the policy decision that needs to be made here. [LB782]

SENATOR STUTHMAN: Okay, okay, thank you. [LB782]

SENATOR FISCHER: Are there other questions? Senator Gay. [LB782]

SENATOR GAY: On that, could you look at it as one governmental entity just not paying another; it's all government money just transferring hands, wouldn't it be? Because if you had a tax paying...or a tax funded agency paying another tax...is it truly a loss of revenue then? I mean is there...it's all the taxpayers' dollars. [LB782]

NOELIE SHERDON: Well, that is...that is, I think an appropriate question. [LB782]

SENATOR FISCHER: Other questions? I see none. Thank you very much for being here today. Are there other proponents for the bill? Any other proponents? Any opponents to the bill? Is there anyone wishing to testify in a neutral capacity? Good afternoon. [LB782]

JOHN LINDSAY: Thank you. Senator Fischer, members of the committee, for the record my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of Omaha Public Power District. I've also been asked to share that my comments reflect the position of the Nebraska Power Association as well. The public powers, traditionally, follow a model, try to model itself after businesses operating in the private sector and competing in that energy environment. To that end, as you've just heard, they do things like the private sector does which includes paying motor vehicle registration fees, paying sales tax when they buy a vehicle. They don't levy a property tax or a sales tax, or use tax dollars for the purpose of purchasing cars, etcetera. They don't pass ordinances or other general rule making type things the way a city might. They are fundamentally different in their...the model, the way they have historically done business. Given that part of what public power suppliers do, is yes, register their vehicles in the same way that, maybe, other energy competitors would as well. When they register those vehicles, they are using dollars that are associated with the payment

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of electric rates and it is built as the market would...as you would expect the market to do. Those fees are built into the cost of providing the electricity, the market functioning the way the market should function. What we have...and we've had discussions with the committee counsel and proposed some language that committee counsel has that would ask that public powers, electric suppliers be exempt from the provisions of this bill if they pay vehicle registrations and sales tax. We think that is consistent with the transparency policy that the sponsor of the bill has referred to and that the testifier in support of the bill has referred to because it's...having government plates when you're not actually using taxpayer dollars to acquire the vehicle gives the public the wrong impression that their property tax dollar, or sales or income tax dollars are being used to purchase that vehicle. And it can fuel public anger towards something that is simply not existing. It's actually, we think, more transparent to use dollars that are being generated by the production and distribution of this particular commodity to use those dollars in the same manner that business does. To answer some of the questions that I think Senator Stuthman that you had; yes, there would be a cost to, of course I left my reading glasses somewhere, there is a cost to that. Just from OPPD's perspective, and you can kind of extrapolate to NPPD and the REAs, etcetera, get some idea, OPPD in 2009 paid \$155,000 in licensing fees and \$225,000 in sales tax. So for those 12 counties in the eastern part of the state, you'd have about a...a little over \$400,000 impact of combined state and local impact on fees that would no longer be there. With respect to, as counsel testifying, you mentioned that the property tax portion of that, I do not believe is included in that. But that is, as you all know, public power districts make a payment in lieu of the property tax that is established by statute that is intended to cover property taxes. And I'm sure at the times, its property taxes were not being paid on vehicles at that time that was taken into consideration by the Legislature at the time that rate was established. For OPPD, again, you extrapolate out to the rest of the state to add to that, but for OPPD and our 12 counties, \$22.4 million was paid in 2009 in lieu of property tax. Obviously, that's not all in lieu of motor vehicle taxes, real estate, etcetera. But that gives you an idea, I think, of the numbers that are being utilized. Given that, I'd be happy to answer any questions, and we would ask that the amendment that we proposed be adopted to the bill. [LB782]

SENATOR FISCHER: Thank you, Senator Lindsay. Are there questions? Senator Stuthman. [LB782]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Lindsay, you stated that there would be a \$400,000 loss in two counties; or was that one county? [LB782]

JOHN LINDSAY: There's 12 counties in the OPPD area. [LB782]

SENATOR STUTHMAN: Twelve counties in the OPPD that would have a shortfall of \$400,000. [LB782]

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JOHN LINDSAY: Well, it wouldn't necessarily be county; some of that would be state, would be highway trust. I believe sales tax on vehicles is paid to the Highway Trust Fund. And that...the sales tax portion of number, the \$400,000 number, would be \$255,000. How much of that goes to the highway trust and how that gets divided up back to the counties, I'm not familiar enough with the formula. [LB782]

SENATOR STUTHMAN: But since there's going to be that kind of a dollar impact, you know, that money has got to come from the rest of them that are paying, in my opinion. [LB782]

JOHN LINDSAY: Oh, yes, if there's a loss, somebody's going to make it up. [LB782]

SENATOR STUTHMAN: If there's a loss, I mean, it's going to add on to the others that are paying the full bill. [LB782]

JOHN LINDSAY: Yes, I would think so. [LB782]

SENATOR STUTHMAN: It's going to have an impact. [LB782]

JOHN LINDSAY: I would think so, yes. [LB782]

SENATOR STUTHMAN: Okay. Well, thank you for your testimony. [LB782]

SENATOR FISCHER: Other questions? Senator Gay. [LB782]

SENATOR GAY: Mr. Lindsay, I'm going to ask you, because you're there, but would that be like rural electrics, as well? I mean, because I understand that it's unique to Nebraska, of course, but what I was talking about is if Metro Community College not pay... [LB782]

JOHN LINDSAY: Right. [LB782]

SENATOR GAY: Okay, but on the...this says rural power districts, or something like that, they'd bill...would they be looked at the same as OPPD, or something like that? [LB782]

JOHN LINDSAY: Yes, yes. [LB782]

SENATOR GAY: So you're only including for your client, I understand that, but would that translate to them, too, then? [LB782]

JOHN LINDSAY: The amendment would cover electric suppliers as defined in 70-1001, so yes, it would cover those. [LB782]

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SENATOR GAY: Okay, you got that other part? Okay. I didn't hear that. [LB782]

JOHN LINDSAY: Yes. [LB782]

SENATOR GAY: Okay. Thank you. [LB782]

SENATOR FISCHER: Other questions? And you did state at the beginning that you were representing OPPD and also the Nebraska Power Association, correct? [LB782]

JOHN LINDSAY: Yes. [LB782]

SENATOR FISCHER: Thank you for being here. [LB782]

JOHN LINDSAY: Thank you. [LB782]

SENATOR FISCHER: Anyone else wishing to testify in the neutral capacity? I see none. With that, I will close the hearing on LB782 and open the hearing on LB739. And welcome again, Mr. Vaughan. [LB782]

DUSTY VAUGHAN: Thank you, Senator Fischer. For the record again, my name is Dusty Vaughan, spelled V-a-u-g-h-a-n and I'm the legal counsel for the committee. LB739 eliminates state oversight for driver training schools. Driver training schools are defined as a business enterprise which educates or trains persons to operate or drive motor vehicles or which furnishes education materials to prepare an applicant for a state licensing test and which charges consideration or tuition. The bill repeals Section 60-4,173 through 60-4,179. These statutes define what a driver training school is; establishes the Department of Motor Vehicles as the state's overseer and the licensing requirements for the schools. Currently DMV's oversight consists of an annual inspection of the driver training school's premises. Driver training schools should not be confused with driver safety schools. Driver training schools serve adults who need to learn how to drive or need a refresher course on driving, while driver safety schools teaches 14- to 16-year-olds, first-time driving skills and provide a waiver for the DMV's required testing in obtaining a license. Driver's ed courses is what we're talking about with the driver safety schools. And with that, Senator Fischer, I'll conclude my testimony. [LB739]

SENATOR FISCHER: Thank you, Mr. Vaughan. Are there questions? Thank you very much. Are there proponents for the bill? Good afternoon. [LB739]

NOELIE SHERDON: (Exhibit 5) Hello again. Chairman Fischer, members of the Transportation Committee, I'm Noelie Sherdon, I'm the legal counsel for Department of Motor Vehicles and also legislative liaison. My name is spelled N-o-e-l-i-e and Sherdon,

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S-h-e-r-d-o-n. I'm appearing before you today to offer testimony in support of LB739. The purpose of LB739 is to repeal statutes that require the Department of Motor Vehicles oversight of driver training schools. Driver training schools should not be confused with driver safety schools. Driver training schools serve adults who are learning to drive or need a refresher course. Driver safety schools teach first-time driving skills to 14- to 16-year-olds. The bill would not affect the driver safety schools. Regulation of driver training schools was formerly under the authority of the Department of Education, but was transferred to DMV some years ago. DMV's existing regulatory oversight consists of driver training school filing an approval application with the DMV and DMV conducting an annual on-site inspection of the premises of each facility. Attendance at a driver training school does not result in any waiver of any statutory requirement associated with driver licensing. With other types of driver training, such as the motorcycle safety course or a driver safety school, a student who successfully completes the course is granted a waiver by the DMV driver licensing staff from taking any written and drive tests at a DMV licensing station. It seems reasonable that the state has an interest in regulating the school that provides the student a waiver from the statutory licensing criteria. Regulation and oversight is important to ensuring that a student being granted a waiver has received the required training. However, in the case of the driver training schools covered by this bill when which the student gains no access to waivers, it seems reasonable to allow the marketplace to regulate itself. I will be happy to answer any questions that you may have. [LB739]

SENATOR FISCHER: Thank you, Miss Sherdon. Questions? Senator Hadley. [LB739]

SENATOR HADLEY: The comment about allowing the marketplace to regulate itself, how would the marketplace regulate as to whether they're receiving appropriate driving training and such as that? I guess, what does that terminology mean? [LB739]

NOELIE SHERDON: I guess what we are getting at is that anyone who comes out of the driver training schools that is covered by this bill, they have to still go and take the test at DMV when they get a license. And if they're unsuccessful, I don't think that the person would be returning to that training class nor would they be telling their friends to go to that class. [LB739]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB739]

SENATOR STUTHMAN: Thank you, Senator Fischer. Miss Sherdon, what we're trying to do here is, is to eliminate that adult training instruction that was just put into place, a couple two, three years ago... [LB739]

NOELIE SHERDON: No, not exactly. Actually... [LB739]

SENATOR STUTHMAN: The rules, regulations were adopted as the same for

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each...the driver's training for the under 18 and then the ones over 18. [LB739]

NOELIE SHERDON: No, the change that was made a couple years ago was that these schools, with the bill...the statute was broadened to bring in the adult classes that were also at community colleges. And this bill would in essence deregulate the adult classes at the community colleges and those that are a for-profit sort of a class by a individual proprietor. [LB739]

SENATOR STUTHMAN: So would this bill, in repealing that part of it, we will not, as a state, have any training program regulated by the state for an adult over 18? [LB739]

NOELIE SHERDON: That's right because the people who attend these classes don't have any particular benefit other than the learning that they have. In the other kinds of classes, the motorcycle safety classes, the driver safety classes, the student who successfully completes that class gets a waiver which release him from testing at a DMV licensing facility. These students of this particular kind of school still have to go through the complete testing process whenever they get done with their driver course. [LB739]

SENATOR STUTHMAN: Is there anything wrong with going through that complete testing program when they complete the course? [LB739]

NOELIE SHERDON: No, and that doesn't change under this bill. They still have to do that. [LB739]

SENATOR STUTHMAN: They still have to do that. [LB739]

NOELIE SHERDON: It's just that we won't be regulating the schools that teach them in any way. [LB739]

SENATOR STUTHMAN: Do you feel there's still going to be schools out there that have the adult training? [LB739]

NOELIE SHERDON: I think there seems to be demand. I mean, we do not solicit for schools to come to us. They have to apply for approval under the current law. This would just relieve those schools from having to apply. [LB739]

SENATOR STUTHMAN: Okay, thank you. [LB739]

SENATOR FISCHER: Other questions? Senator Louden. [LB739]

SENATOR LOUDEN: Thank you. [LB739]

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SENATOR FISCHER: And I would like to recognize that Senator Louden has joined us. [LB739]

SENATOR LOUDEN: Thank you, Senator Fischer. [LB739]

SENATOR FISCHER: He is from Ellsworth, Nebraska. [LB739]

SENATOR LOUDEN: I got in here on the tail end of your testimony, but I have looked some of this over. I guess the question I have, and you're talking about driver training or safety school, training school, I guess, anyway, at the present time, can a 14-year-old go into and get a driver's license or this whatever it is, waiver, permit to drive, as long as they're riding with an adult? [LB739]

NOELIE SHERDON: Okay. Fourteen-year-olds would be eligible to apply for a school permit after taking certain tests and they'd have to have training as well. But those are the driver's safety classes and it's the driver's safety classes that are not affected by this bill. Nothing for training youth is changed by this bill. [LB739]

SENATOR LOUDEN: Okay, but can they...what do you take now a days? Because I can remember when my kids were getting out of the eighth grade, they usually, when they graduated, they had to go to the county seat and they went down and got a permit to drive and they could actually drive home. [LB739]

NOELIE SHERDON: Oh, there's been some bills in the last couple years that have increased what you need to have for...to get a school permit and/or a learner's permit. Now you can get...fifteen...and I'd have to go back and look exactly what the requirements are. I don't have those on the top of my head. [LB739]

SENATOR LOUDEN: Okay, and a learner's permit, what are the qualifications to get a learner's permit? Do you have to take any kind of courses? [LB739]

NOELIE SHERDON: Yes, you have to pass the written...I know you have to pass the written test before you can get it and you have to have training to do that. I think it's the same thing for the school permits. [LB739]

SENATOR LOUDEN: I just wondered where you want to have oversight on these driver training schools and where you probably don't have that much oversight on what they do now if they can pass a written test they can go out and start driving around with somebody. Do you have any oversight over that? [LB739]

NOELIE SHERDON: On the driver safety schools that the young people attend, the 14- to 16-year-olds, those we do have regulation and we have regulations that deal with the curriculum criteria and all that. And we do actually do some very active training for those

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and active oversight for those. The driver training schools, we're talking about here, these go to adults or people who want refresher courses. And those...there's really very little in the statute. [LB739]

SENATOR LOUDEN: Okay. Thank you. [LB739]

SENATOR FISCHER: Other questions. Senator Hadley. [LB739]

SENATOR HADLEY: Senator Fischer, thank you. Just so I can clarify it, I think you're answering the question I was going to ask, is the oversight of driver training schools the same as driver safety schools? [LB739]

NOELIE SHERDON: No. [LB739]

SENATOR HADLEY: Could you explain what the...a little bit of the difference between what the statutes are now requiring. [LB739]

NOELIE SHERDON: Well, there are specific statutes that deal with the driver safety courses, the motorcycle safety courses and if not, these statutes. These statutes strictly, in the past, in the old days, referred to private entities that taught driving. A couple of years ago, they brought in the community colleges, but these are not the ones that young people take to get their driver's license. [LB739]

SENATOR FISCHER: Other questions? Senator Campbell. [LB739]

SENATOR CAMPBELL: Thank you, Senator Fischer. Do the schools currently advertise that they are approved by the DMV? [LB739]

NOELIE SHERDON: I don't know. [LB739]

SENATOR CAMPBELL: When...when we go...when your department goes into oversee the youths driving, I'm assuming that's far more complicated than just an inspection. [LB739]

NOELIE SHERDON: That would be correct. [LB739]

SENATOR FISCHER: Other questions? I see none. Thank you very much. Other proponents for the bill? Are there opponents for the bill? Good afternoon. [LB739]

WILLIAM MULHERIN: (Exhibit 6) Good afternoon. Members of the committee, it's good to be here. My name is Bill Mulherin, I'm representing the National Safety Council, Greater Omaha Chapter, out of Omaha. [LB739]

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SENATOR FISCHER: Would you spell your last name please. [LB739]

BILL MULHERIN: Yes. It's Bill, B-i-l-l Mulherin, M-u-l-h-e-r-i-n. We are a private not-for-profit based out of Omaha that has both a commercial driving school, which is the subject of this bill, and a teen driving school, which would not be affected by this bill. And we do so in a not-for-profit manner designed to train the kids to be safe. Our mission as a not-for-profit in the safety area is to provide programs, resources and education to prevent and reduce both the personal and economic loss associated with injuries, incidents and health hazards in accidents. And we're testifying in opposition to LB739. We believe, based on our analysis that repeal of this set of statutes does not bode well for a good outcome for the citizens of Nebraska and we really don't need to look too much further than the regulations, the statutes themselves. Taking a look at 41...60-4,174 it says that: the director, meaning the director of DMV, shall adopt and promulgate such rules and regulations for the administration and enforcement of the other sections, I'm paraphrasing, as are necessary to protect the public. And this language, protect the public, appears again in 41(sic) 4,176. The question, I hope when you go into debate, that you would ask is this: why now, after all these years, does the public no longer need to be protected in this particular area? In particular, why would we allow people who are training others, adults, to participate in really what amounts to a very dangerous activity of driving, to not meet minimal requirements which are outlined in 60-4,176: moral character, physical condition, knowledge of the courses of instruction, knowledge of motor vehicle laws and safety principles, previous personal, employment records and other matters as the director of the DMV may prescribe for the protection of the public? We feel that elimination of this statute will have a very minimal impact on the financial of the state. And in fact, that is in the public notice. The fiscal notice that's attached to the bill indicates that no real savings will be achieved by repeal of these statutes and we understand that barring a no vote from the committee this legislation will most likely pass. Revenues to the state will drop about \$2,500 which is essentially de minimis on the state level. But the fiscal notice does note that the state DMV workload will decrease, which we understand is important, but when it comes to protecting the public, we have to ask is decreasing DMV workload the new standard by which we're going to judge the importance of legislation. And briefly, we have solid proven legislation that has withstood the test of time. Our DMV has acted very graciously as a benevolent guiding hand ensuring that commercial driving instruction protects the public through the use of reasonable regulations. This has worked. We have a marketplace that currently has, as its floor, minimum standards that consumers can rely upon when choosing a trainer for an activity that is the most dangerous thing that we do. And I brought along some of the traffic crash stats just for Nebraska to back that up. On a national level, we see 42,000 fatalities a year; nearly 300 of which occur in Nebraska on average. Millions injured; billions of dollars in annual costs and an untold amount of pain and suffering. And these are the stats that are the improvements from previous years. Until we get to zero, these stats remain improvable. Both governments and safety advocates have and continue to advocate for safer highways, vehicles and

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drivers. I certainly wouldn't get in a plane where a pilot had not proper training, and I would hope that the state would regulate both the trainer and the trainee and the same thing with medicine, law enforcement, education and the list goes on and on. We believe we should not subject the most vulnerable citizens, the people that are coming for adult driver education, to a marketplace that will, by default, sink to the lowest level if it's left to its own devices. And for these reasons we urge you to kill this bill while it's here in committee. Thank you. [LB739]

SENATOR FISCHER: Thank you, Mr. Mulherin. This bill was brought to me by the Director of DMV. The schools can still function, correct? This is...this bill does not eliminate your school from still providing classes to people that are coming to the school, right? [LB739]

WILLIAM MULHERIN: Absolutely not, and we will continue to do so. [LB739]

SENATOR FISCHER: When you have students now attend your school, they still have to go to DMV and get their driver's license and they still have to pass the test there at the Department of Motor Vehicles, correct? [LB739]

WILLIAM MULHERIN: They have to go and get a learner's permit at the very minimum. And then with the learner's permit, which requires proof of identity, age, and a written exam, then they can come to us and we can drive with them behind the wheel. We also provide them with a classroom component as well. [LB739]

SENATOR FISCHER: But in order to get their driver's license, they still have to pass tests at the Department of Motor Vehicles. [LB739]

WILLIAM MULHERIN: When they finish our program, before they're licensed, yes, they will have to go to DMV and take the DMV's behind-the-wheel test. [LB739]

SENATOR FISCHER: Right. I guess my interpretation is that the statute would still be met for people to meet those minimum requirements in order to receive their driver's license and you quote them in your testimony: the moral character, the physical condition, knowledge of the courses of instruction, would you agree with that? Obviously not. [LB739]

WILLIAM MULHERIN: They may need to be met on paper, but without the regulatory oversight of the DMV failing to approve a school because they did not meet those, there would essentially be no enforcement, there would be no mechanism for enforcement. [LB739]

SENATOR FISCHER: What does DMV do now for an inspection? When they come to your school, what do they do? [LB739]

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WILLIAM MULHERIN: The DMV will come and actually do a physical inspection of the facilities; make sure that we are in compliance with all the state laws and DMV regulations. They also do an annual... [LB739]

SENATOR FISCHER: I'm going to interrupt you on that. Regulations like what? DMV regulations like what would be included on this physical inspection? [LB739]

WILLIAM MULHERIN: They review our curriculum, both behind the wheel and classroom to ensure that it meets the minimum qualifications. They make sure that our classrooms meets minimum standards in terms of being able...learner-centric and suitable for adult learning, principles. They have the right to look at our vehicles and make sure that our vehicles are both road worthy and appropriate for the training that is being done. And they also can look at our back office operations to ensure we have proper recordkeeping, our certificates are posted, and other type of administrative functions. The goal of which is to provide protections to the consumer. [LB739]

SENATOR FISCHER: And I would assume that you folks are not going to change anything whether this law passes or not in the service that you are providing; the product you are providing to the consumer. [LB739]

WILLIAM MULHERIN: Our organization would not do that. We would always stay above and beyond. [LB739]

SENATOR FISCHER: How many schools are there? Who are some of your competitors? Are there other private...? [LB739]

WILLIAM MULHERIN: Across the state or just in the Omaha area? [LB739]

SENATOR FISCHER: Yes, well either, if you would know that. [LB739]

WILLIAM MULHERIN: You know the commercial driving school program existed before the POP legislation was passed and came into place back in 1998, so at one point all driver schools were commercial driver schools. Since the POP has come in, I'm not sure who has switched over to the POP or the teen driver schools and who has maintained their commercial driver school certification. I would imagine that most of the major driver ed providers in the Omaha area have also maintained their commercial driving school status. If for no other reason, once you're in place, it's not difficult to do and it does provide that degree of comfort level to the public to know that there is some oversight. [LB739]

SENATOR FISCHER: About how many people attend your school a year? [LB739]

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WILLIAM MULHERIN: On the commercial end, probably fewer than 100, I would have to say; it's a small component that makes up the number of people coming on the commercial driver school. [LB739]

SENATOR FISCHER: And do most of them attend, and I'm not picking on you, this probably will come out wrong and I apologize in advance, do most of the people attend your school to be more comfortable driving or Senator Campbell, I thought, brought up a...at least I took it that she brought up an idea that maybe people attend this thinking that they get some kind of certificate or something that helps them then get their driver's license. [LB739]

WILLIAM MULHERIN: Well, we're very clear that they have to test... [LB739]

SENATOR FISCHER: And I didn't mean to imply otherwise. [LB739]

WILLIAM MULHERIN: No, I understand. We're very clear that you still have to test at DMV and I think that anybody that's legitimately in the business is going to do that. But you bring up an interesting point about the types of people that are coming for commercial drivers school. We do both driver preparation, we also do evaluations. The people we see coming for driver preparation are maybe youths who did not complete their driver education prior to turning 18, so they need to do this this way. We see a lot of folks coming in from other countries that may have a language barriers in terms of being able to learn how to drive and being taught how to drive. We see people, the elderly coming in who may not have had a driver's license in some years and now their spouse who they relied upon to drive them around is now deceased or a divorce or something along those ways. Those are the types of situations we have coming in. And those are the types, what I like to call vulnerable population, that are protected by at least there being some sort of minimum level of entry to get into this market to help these folks learn how to drive. [LB739]

SENATOR FISCHER: And did I hear you correctly in your testimony that you are a nonprofit? Do you charge people to come to your school? [LB739]

WILLIAM MULHERIN: We charge people to come and take classes. Otherwise you'd really be putting the "non" in nonprofit. But our goal... [LB739]

SENATOR FISCHER: But you are a nonprofit organization, correct? [LB739]

WILLIAM MULHERIN: Yeah, we're a not-for-profit 501(c)(3), yes. And the goal, of course, is to take any monies we may make beyond and then put it back into the program and be able to provide more...we provide reduced fees for indigent folks that may need help, things along those lines. [LB739]

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SENATOR FISCHER: Thank you very much. Are there other questions? Senator Campbell. [LB739]

SENATOR CAMPBELL: Thank you, Senator Fischer. To your knowledge, has there been any school that was inspected and failed the inspection? [LB739]

WILLIAM MULHERIN: I would have no knowledge of that. That would be solely contained within the DMV. [LB739]

SENATOR CAMPBELL: But you've always...how often do they come? Once a year? Annually? [LB739]

WILLIAM MULHERIN: It's an annual, yeah. [LB739]

SENATOR CAMPBELL: And you've never had any problems passing the inspection? [LB739]

WILLIAM MULHERIN: No, we've never had problems that caused us to fail, no. And I don't know of any either, if that's what you're asking. I don't know of any. The standards that the DMV enforces are minimum standards, and if you're a little bit conscientious and fastidious, they're relatively easy to comply with. But not everybody that knows that; and some of our fear, to be honest with you, is that, you know, somebody may wake up one morning and say, you know what, I'd like to teach somebody how to drive and charge them money to do it. Well, you know, we carry protections for the public that include liability insurance designed for this; people that are trained as instructors on how to do this. I mean it's actually pretty difficult to teach someone how to drive. We also, you know, the regulation has us pulling our motor vehicle records on our instructors on at least an annual basis so that we know if people are maintaining good driving records themselves because the last thing we would want is, say, somebody with, you know, a DUI, reckless driving and a bunch of speeding tickets out training someone how to drive. And this regulation also provides for that type of oversight as well. [LB739]

SENATOR CAMPBELL: I'm going to follow up the question that Senator Fischer alluded to, do people advertise that your school is approved by the DMV? [LB739]

WILLIAM MULHERIN: Yeah, I think we do and I say it that way because the majority of our advertising is geared towards the teen drivers; the 14-, 15-, 16-, 17-year-olds that are coming in to get their provisional operator's permit. And there we do say that we're approved by DMV because that is appropriate for that, and I believe that there is some bleed-over into the commercial market that way. So when people ask, we do tell them that we are approved by DMV to provide driver training. [LB739]

SENATOR CAMPBELL: Thank you. [LB739]

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SENATOR FISCHER: Other questions? I see none. Thank you very much for being here. [LB739]

WILLIAM MULHERIN: You're welcome. [LB739]

SENATOR FISCHER: Are there other opponents to the bill? Welcome. [LB739]

WILLIAM SAXTON: Thank you. Senator Fischer, committee members, I'm Bill Saxton, one of the owners and manager of Road-Ready Driver Training School here in Lincoln. I opened the driving school some 12 years ago after retiring... [LB739]

SENATOR FISCHER: Could you spell your last name, I'm sorry? [LB739]

WILLIAM SAXTON: I'm sorry. Saxton, S-a-x-t-o-n. [LB739]

SENATOR FISCHER: Thank you. [LB739]

WILLIAM SAXTON: I just explained that I opened our driving school about 12 years ago after retiring from a career of about 30 years with the Nebraska State Patrol. I do come before you to express my opposition of LB739. Driver education in Nebraska, as has been kind of talked here, is essentially in three areas: the youthful driver education, the teen driver education for the new teen driver; commercial driver's license, and I suppose we could also include motorcycle license also in there, none of those are being addressed by this bill. The one we're looking at here is the adult driver education schools. These statutes were originated in about 1967 and I'm assuming with the purpose of ensuring Nebraska citizens would have access to driver instruction with some credibility to the schooling. The statutes do give the Department of Motor Vehicles the authority to prepare rules governing the operation of the driving schools and the instructors for adult driver education. Those rules, obviously, can be modified, increased, decreased, whatever the Department of Motor Vehicles would want determined through the rule process then. In fact, just two years ago, I enlisted Senator Stuthman's help in presenting legislation to bring all schools that teach driver education for adults under the same rules for continuity of instruction. There was some discrepancy of what a community college or what any college or what a high school could teach as opposed to private schools, and that goes back, again, from those years early on when driver education was probably under Department of Education yet at that time, I would suppose. That bill passed with no dissenting votes after review of that legislation then. I think these statutes continue to be important to Nebraska citizens and potential citizens, and I say potential citizens because a large portion of the adult students that come to our school are immigrant students who are coming to the United States, who have unusual driving skills, if any driving skills from their home country. And as the previous testifier pointed out, sometimes this isn't the easiest way to teach; many

times it's through a translator to get that person. But we know that eventually they have a desire of becoming a citizen and will do their best, usually, to try to drive our best for us. I feel that a person asking for instruction to learn how to drive should have the same assurance of authenticity as a person hiring a licensed realtor, as hiring a licensed plumber; a licensed barber or beautician, and the list goes on of the various things that we license in the professions and occupations that we take a look at to ensure that we have a safeguard for Nebraskans going into those things. As I was discussing the other day with an instructor about this particular bill, we were discussing that we could probably go next door and have our neighbor pull our tooth, but it would probably be better to go to a licensed dentist and know that we were going to get proper treatment with that tooth. So, those are the kinds of things, I guess, that I strongly look at with this bill that are...where is the oversight there? I think there are about 20, 25 schools licensed in Nebraska; roughly 75 instructors who are licensed under this bill. Each year the school does have to pay \$50 for the school to be licensed and \$10 for the instructor to be licensed. So it's not a big financial burden, I don't think, to the school and probably has very little fiscal impact on Department of Motor Vehicles. I think that, probably, it carries the weight of a piece of paper that says that we're licensed, that they are going to review and take a look at us. Many times the inspection, the look at our school, at least, is done at the same time that they come out and do a review for the provisional operator's permit inspections. So there's really no additional driving to our school to have to do an additional inspection or anything. They do them at the same time. Without these laws in place, as was just mentioned, anyone, basically, having a shingle over their door could offer driver education with no training, no verification of knowledge, no practical experience. The instruction vehicles would not be required to have the safety equipment of an instructor brake on them or signs alerting the public that it is an instructional vehicle. Again, and that person could be charging and holding themselves out as a potential instructor. And someone who didn't know any better would probably go to that person. While any licensed driver could probably teach how to start and steer a vehicle and most of the rudiments of traffic law, a student hiring an instructor should be able to expect more. Would they receive the instruction on the risks of driving; the appropriate signs, lines and signals; bad weather driving; skid control; anti-lock brakes; electronic stabilization control; are those things going to be covered in a school that would have no oversight, no input from the state as to how and what they were going to teach, whatever? Today, DMV rules require that a training school teach a minimum of six hours of classroom and six hours behind the wheel. The classroom time does afford some minimal time to address topics not experienced in all times of the year. It's difficult to teach winter driving in the summertime, you know. We've had a good year to teach winter driving this year, that's for sure. A couple of side items...comments that I would just make; a few years ago, Texas removed the requirement for teenage driver education from commercial and public schools to a parent-taught program. The National Highway Traffic Safety Administration found that as a result of those changes, citations, crashes and fatalities all went up for that age group. Whether this would happen with us in this age group or not, I don't know, but I think it is something that is worthy of taking

note of as well. They are now moving back to professional driver training education in schools and private schools as well. As I reviewed another state's criteria, a statement of ensuring the instructors were mentally competent appeared. I'm not sure how you would judge that, and sometimes I question my own, but it does seem like a reasonable comment, perhaps, to have in the statutes or at least in the rules. By repealing these statutes, then I believe that Nebraska is sliding backward on the safety ascent. Some states require driver education be tried before a driver of any age is allowed to test for the license. While we're not probably reaching for that requirement in this legislation, at least we can continue to offer novice drivers some assurance that their hired instructor is from a business which is under review of state government. The Department of Motor Vehicles has a mission statement which in part says: they are to promote public safety through education and regulation of drivers and motor vehicles. The request of this agency to have these statutes repealed seems counterproductive toward this population of beginning drivers. I sincerely ask that you not move this legislation forward and continue a statement to citizens that you are concerned about the quality of their driver ed instruction and the safety of all Nebraskans. I appreciate the opportunity of letting me testify before you today. I'd be happy to answer any questions that you might have or at least attempt to answer them. [LB739]

SENATOR FISCHER: Thank you. Thank you. Senator Hadley. [LB739]

SENATOR HADLEY: Thank you, Senator Fischer. Sir, we have driver training schools and driver safety schools. Could you just kind of quickly tell me how they would differ in the training they would give, because they could both have beginning drivers. So what kind of training, how would the training be different in the two? [LB739]

WILLIAM SAXTON: I don't like those terms because they are confusing to most everybody. I think if you think of the driver safety schools as being towards teenagers, brand new teen drivers, the 14-, 15-, 16-year-olds, basically, 17-year-olds, whatever they are, getting their first driver's license. The driver training school is aimed more at the adult learner. And surprisingly enough to me, I was amazed at how many drivers that we have that come in their 20s and 30s that have never had a driver's license, never had the desire, maybe were involved in a traffic crash and decided not to drive until they were a little older. But basically that's the difference between those two terms that you're asking about--the safety school is for the teenagers, the training school is for the adult. Now, the difference of training in there, but the youth...the POP license, the safety schools is very specific in the criteria that is laid out by rules as to what will be taught in any school applying for POP instructor school, must show how they're going to meet those determinations. The adult training rules are somewhat broader than that. They suggest that we...they don't suggest, they mandate that we have six hours of training in class and six hours of driving behind the wheel. The curriculum within that six hours is really not detailed out as it is with the driver's safety school. I think that's perhaps the question you're asking is what would be the difference. I know that some

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schools across the state, in visiting with them, tell me that they don't really offer an adult training program. They will allow an adult learner to come in and sit through the same classes that they teach for teenagers, which is more than we would get with the six hours and six hours. [LB739]

SENATOR HADLEY: Now a follow-up question to that, so is right now the state primarily coming in to see that you do meet the requirements of six hours and six hours at a minimum, is that...what does the state do when they come out and walk in your door? [LB739]

WILLIAM SAXTON: Primarily they're just following up on the licensing application. We have applied to the state for the license; we have offered our services and documented our driving records of our instructors, our background checks and so on to them. When they come in and do an inspection, the inspection, at least in...visually in our school, does not include those, I'm assuming that they're probably doing a review of those things at DMV before they come out. The physical inspection at the school is more, if we're providing them a classroom, are we providing a facility; are we providing recordkeeping, etcetera, etcetera. The background check, I'm assuming in all of that, is probably done at DMV before they come out. But it does promulgate that being happening every year, or whenever they determine to pull out that record. [LB739]

SENATOR HADLEY: I guess I've tried to weigh what the state is doing versus the fact that there's a certificate, or whatever you're getting, that you could advertise and such as that. Is there an appropriate oversight by the state that really means that the certificate is a value to a student who looks upon that as something that the state has approved? [LB739]

WILLIAM SAXTON: I think I understand what you're asking, Senator, and the statutes at least allow Department of Motor Vehicles that ability to review and determine to what extent they're going to review and take a look at the curriculum and so on, I think. By removing these statutes, we take away that authority of Department of Motor Vehicle to even begin doing that. And so then essentially, as was pointed out before, anybody could, you know, say I'm going to be a driver-ed teacher today. [LB739]

SENATOR HADLEY: Thank you. [LB739]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB739]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Saxton, are there more people attending these adult training schools now than there were five years ago or ten years ago? [LB739]

WILLIAM SAXTON: I would say yes. And part of it, I suppose, is because of reputation;

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part of it is, I think also, need. Last summer we had a class of 25 Burmese refugees went through our school. I just think the environment in the world, I guess, right now and the number of refugees that we're seeing coming into the United States, the number of immigrants coming in, tends to mandate that. Along with that, I do think, and I guess I can say this proudly, but I think the reputation of our school here in Lincoln has...is out there and that we do get adults that say, well, I talked to somebody else and they went through the school and that kind of thing. So yes, our volume has increased over the 12 years that we've been in there. It's hard to judge whether the need is there, but I feel that it is. [LB739]

SENATOR STUTHMAN: The way I look at this is, you know, I truly support those driver training schools and the environment that we're in right now with a lot of immigrants and we have a situation where I get a lot of my constituents call me about unlicensed drivers, no insurance and stuff like that, maybe that should be a court system recommendation that if they're picked up with no driver's license or no proof of insurance, that they need to attend this adult driving class. I mean, because, what happens, in my opinion, is they get that and they buy another clunker vehicle and they're still driving. [LB739]

WILLIAM SAXTON: Yeah, like I said, some states have actually mandated now that anybody of any age must have driver education before they get a driver's license. Some states are mandating it only from the written drive test that at least they've done some schooling and I think Louisiana, when I visited with them, was like a four-hour class that they had to go through before they went to get a learner's permit. So I think there are some things that are, I think, a lot of states are looking at this whole situation, I guess. I don't think Nebraska is unique in these areas, probably. [LB739]

SENATOR STUTHMAN: But with the repeal of this, we'd be kind of, just, not worrying about the adults. [LB739]

WILLIAM SAXTON: The DMV has no authority to really look at anybody with repealing these and I really...yeah, I guess I really truly disagree with that. That I think the DMV has a fair set of rules now, I think they can be improved upon, but at least without these statutes, they lose the rule-making ability to even govern adult training schools. [LB739]

SENATOR STUTHMAN: And in my opinion, maybe it would be your opinion also, the fact that, you know, whether they're a youth, teenager, an adult, if they have no training or never driven before, the issue is the same. [LB739]

WILLIAM SAXTON: Yes, I would fully agree with that. [LB739]

SENATOR STUTHMAN: Okay, thank you. [LB739]

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SENATOR FISCHER: Other questions? Senator Campbell. [LB739]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Saxton, in your experience have there been any schools that have been denied a license? [LB739]

WILLIAM SAXTON: I can't speak to a denial. I know of at least one situation that a person was advertising that they were a driver training school and they were not licensed by the state. And I believe the state wrote them a letter to cease and to desist, basically, until they did go through the...and they no longer operate. They just faded away. [LB739]

SENATOR CAMPBELL: So of the companies that you talked about in the state, 25 licensed schools in the state, how many are unlicensed? [LB739]

WILLIAM SAXTON: Nobody would know, I guess, unless somebody, you know, complained or at least were aware of them in...you know. As was mentioned before, there's no governing body that's looking at it other than DMV, I guess. Unless it's brought to DMV's attention, you know, I seriously doubt they have DMV police walking up there...going up and down the streets looking for them, so. Unless somebody brought them to their attention, they no way would know how many would be out there, I don't think. [LB739]

SENATOR CAMPBELL: Do you advertise as a licensed school? [LB739]

WILLIAM SAXTON: Yes. Yes. And again, I think that's important for the consumer who is looking for a driving school to know that that school is a licensed school, that we have met the application process through the Department of Motor Vehicles, that all of our instructors have met that approval as well. [LB739]

SENATOR CAMPBELL: Thank you. [LB739]

SENATOR FISCHER: Other questions? Senator Hadley. [LB739]

SENATOR HADLEY: I need to start the year by asking just one quick question, (laugh). [LB739]

SENATOR FISCHER: There you go. [LB739]

SENATOR HADLEY: Right, Senator Campbell? [LB739]

SENATOR CAMPBELL: I have it down. [LB739]

SENATOR HADLEY: Are most driver safety schools, would that be offered through, like,

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high schools and such as that? Are there private driver safety schools? [LB739]

WILLIAM SAXTON: Yes. [LB739]

SENATOR HADLEY: That actually... [LB739]

WILLIAM SAXTON: We are one. Yeah, Lincoln Public Schools, as an example, Lincoln Public Schools, within the public school system itself, does not teach driver education. There are three private schools here in Lincoln that teach within the school system or teach students here in Lincoln. [LB739]

SENATOR HADLEY: And they are the driver safety schools... [LB739]

WILLIAM SAXTON: For teenagers, that's correct. [LB739]

SENATOR HADLEY: ...that allow the student, then, if they are under successful completion to get some of the things waived? [LB739]

WILLIAM SAXTON: The waiver form, yes. [LB739]

SENATOR HADLEY: The waiver form, okay. [LB739]

WILLIAM SAXTON: The schools would actually do the testing for Department of Motor Vehicles, so to speak, issue them a waiver form which is taken to Department of Motor Vehicles then for them to issue the license. Yes, and on the adult side we do not do that. We do not do the testing. We can prepare them for the testing; prepare them for an idea of what the examiner will do, but the actual exam is given by Department of Motor Vehicles, not the school. [LB739]

SENATOR HADLEY: I guess a person should never ask a question if they don't know the answer, but why do we treat 14- to 16-, or 14- to 17-year-olds differently than we treat an 18- or 20- or 25-year-old when it comes to this kind of...why wouldn't your schools eventually be set up as driver safety schools so that we would know that they are more completely regulated and the people could get their licenses? Does that make sense? [LB739]

WILLIAM SAXTON: I'm not sure that I understand what you're asking. [LB739]

SENATOR HADLEY: Well, you know, driver safety... [LB739]

WILLIAM SAXTON: There is a difference between...okay, go ahead, I'm sorry. [LB739]

SENATOR HADLEY: Should we have driver safety schools for any person? [LB739]

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WILLIAM SAXTON: Well, I suppose that's a policy issue to be decided by the Legislature whether we want to...I would certainly hope that we wouldn't reduce the provisional operator's permit standards that we have. Nebraska's are fairly minimal compared to other states. Would we...then I guess your other question is, would we want to expand what we do for teenagers to adults? Is that what you're asking? [LB739]

SENATOR HADLEY: Yeah, to adults, so that if I come, you know, if I come to this country that I know I'm going to a school that will give me the proper training that they will then certify that I can get my license. I just... [LB739]

WILLIAM SAXTON: Yeah. I think there are a lot of issues to be dealt with when you deal with adult students and I guess I'm just thinking with some empathy toward the immigrant students coming in that most of them are working some sort of a shift-work job and they're trying to make ends meet, you know, for their family and stuff. And then if we tend to mandate too many hours of instruction, that really puts a hardship on their family too, more so than what they've already got. [LB739]

SENATOR HADLEY: I guess I...I was just concerned. [LB739]

WILLIAM SAXTON: It would certainly be an issue for debate, yeah. [LB739]

SENATOR HADLEY: We go from one...we're going...where we're saying we're not going to regulate at all, and then obviously, the other extreme could be complete regulation like a driver safety school, so, and right now we're someplace in the middle. [LB739]

WILLIAM SAXTON: Yes, yes, I would agree with that. [LB739]

SENATOR HADLEY: Okay, thank you. [LB739]

WILLIAM SAXTON: At least the potential is there within the rule-making process of the Department of Motor Vehicles that could be increased or decreased depending upon their view of need. [LB739]

SENATOR FISCHER: Other questions? Mr. Saxton, on the driver's safety schools, do you also operate one of those? [LB739]

WILLIAM SAXTON: Yes. [LB739]

SENATOR FISCHER: And the students who attend that school, would you agree that they are receiving a direct or a concrete benefit when they take the courses at your school because they're able to go to DMV then and they have that waiver when they go

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for their license? [LB739]

WILLIAM SAXTON: Yes. [LB739]

SENATOR FISCHER: On the driver training schools, even though the state is inspecting them, are the students receiving any direct benefit from the state as a result of attending the school? They don't receive a waiver, correct? They still have to go to DMV and take the test at a driver training school? When adults... [LB739]

WILLIAM SAXTON: The teenagers...the adults, the driver training...okay, I'm sorry... [LB739]

SENATOR FISCHER: No, when adults are attending the driver training school, they're becoming more comfortable. [LB739]

WILLIAM SAXTON: I understand, yes. [LB739]

SENATOR FISCHER: They're becoming more educated about the laws and more comfortable behind the wheel and more comfortable in different driving situations. But even though these schools are inspected by the state of Nebraska through Department of Motor Vehicles, the person attending that school has no direct benefit that they receive from the state as they do with the driver safety school. [LB739]

WILLIAM SAXTON: That's correct. They would not receive any...there's no waiver process or anything like that. All of our invoices when they're put out to the students have right on them that they're not guaranteed a license, that they will have to prove themselves as a driver, you know, regardless of... [LB739]

SENATOR FISCHER: And about how many students, if I can ask you this, you don't have to answer, about how many students do you have a year in your driver training schools? The adults? [LB739]

WILLIAM SAXTON: The adults...probably, it varies from year to year, probably 50-75; 30-75, just depends on the year, I guess. As I pointed out, last year, you know, we had one class of like 25 Burmese students of their own. As your comment was made that they...the big benefit, I think, to the student coming through the driving school is that, yes, they do become more confident, they know that we are licensed by Department of Motor Vehicles; that the education we're offering out, hopefully, is something Department of Motor Vehicles would approve of as they're going through. And so their confidence level is coming up, which, I think, makes for a better ability to be tested, that they're going to show better in a test. I just recently had a lady who moved here from Iowa, she's been driving for ten years in Iowa, could not pass Nebraska's test when she came over, went through our school in process and is relicensed again. And so, we

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have those success stories. [LB739]

SENATOR FISCHER: Good. Good. Well, thank you. Appreciate you being here today. Thank you very much. [LB739]

WILLIAM SAXTON: Thank you very much. [LB739]

SENATOR FISCHER: Are there other opponents to the bill? Any other opponents? Anyone wishing to testify in the neutral capacity? I see none. With that I will close the hearing on LB739 and we will return to Item 2. Senator Louden has had a busy day and I will open the hearing on LB749. And Senator Louden you are recognized to open. [LB739]

SENATOR LOUDEN: Thank you, Senator Fischer and members of the committee. My name is LeRoy Louden, I represent District 49 and the last name is spelled L-o-u-d-e-n. And today I bring before you LB749 and it's a bill to designate the road leading to the Nebraska Veterans Cemetery in Box Butte County as a recreational road. Now the reason I introduced this bill is so that there could be a revenue source for maintenance on that road. At the present time all the maintenance has to be funded by Box Butte County or some of the other entities out there, such as the city of Alliance, if they so desire. But it is a county road at this time. And my vision would be to be able to source another means of revenue so that money could be included with some county money or other grants. I don't expect the money for the entire maintenance of that road to come out of the recreational road funds, but it would be someplace where they could get additional monies to do something to maintain that road. And the way it is now, it's an all-weather road; it's an oiled road that goes in there. It goes into the golf course and it also leads to the airport so there are other uses for that road and that's the reason there are other entities that could help fund maintenance on that road. And usually by maintenance, it would probably have to have an overlay or something like that at the present time. The city of Alliance has the airport out there and also their golf course. So that was mostly what I envisioned this bill. And as I mentioned it, I put it in with the recreational roads because that is a fund there; it doesn't take any money out. It just, probably, distributes what is there in a few more various ways. I talked to the Game and Parks about this earlier if they had a problem with it, and I was told they didn't have any problem with it. So I drew up this simple bill and went from there. With that I would be willing to answer any questions. [LB749]

SENATOR FISCHER: Thank you, Senator Louden. Are there questions? I see none. Thank you very much. Are there proponents for the bill? Any proponents? [LB749]

LARRY DIX: Senator Fischer, members of the committee, for the record my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials, spelled D-i-x. I'm here only to, certainly, go on record because this road, I believe, is a county

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road out there. And I have had conversations with the Department of Roads out there and some of the board members and they, too, feel this would be beneficial to their county and especially to the state's veterans cemetery since it is a unique facility that sets out there, so. I'd be happy to answer any questions anybody would have. [LB749]

SENATOR FISCHER: Thank you, Mr. Dix. Senator Stuthman. [LB749]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Dix, is this going to be the only road, is this the only veterans cemetery or is there others throughout the state that this could affect? [LB749]

LARRY DIX: I believe this is the only state veteran's cemetery that has a county road leading up to it. [LB749]

SENATOR STUTHMAN: This is the only one? [LB749]

LARRY DIX: The only one that I'm aware of. [LB749]

SENATOR STUTHMAN: Okay. Thank you. [LB749]

SENATOR FISCHER: Other questions? Mr. Dix, do you think this opens it up for any number of counties to look at the State Recreational Road Fund for maybe purposes to help them save their local people property tax dollars at the expense of state projects? [LB749]

LARRY DIX: Right now, even, you know, without this bill, I think there's a process you could go through to look at using Recreational Road Funds primarily. It's Game and Parks roads and things like that. As you know, there are a number of parks in our state that one of the means to get to those parks are going to be a county road. Most of those parks, I would tell you, are state highways to get to them. But there are some situations where you do go on county roads to get to those. And so, when you look at this, I think the possibility that somebody would ask that question, I think that possibility is there. The way this bill is written, it's written specifically for that state veterans cemetery. [LB749]

SENATOR FISCHER: Do you know, do you have any knowledge of federal funds that are available for recreation roads? Aren't there counties across the state that have certain roads, gravel roads even, that at one time were designated as federal recreation roads? [LB749]

LARRY DIX: Very well could be, but I'm not aware of any of those specifically. [LB749]

SENATOR FISCHER: You and I will have to research that; because I'm thinking three

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or four years ago somebody brought that up to me at that time, but maybe we could look into that. [LB749]

LARRY DIX: Yeah, there are...three or four years ago we had a bill in here to take state roads on the state highway system that were gravel roads and turn them back to county roads. [LB749]

SENATOR FISCHER: Right. [LB749]

LARRY DIX: That I do remember. But I don't know...I don't know what the federal...I don't know what the federal tie was into those. But that certainly would be my thought on that. [LB749]

SENATOR FISCHER: Do you think that this bill could lead to expansion for other counties--I'm rewording my first question to you--for other counties to look into accessing these funds for possibly helping them maintain roads to state recreation areas that are on county roads because there are a number of those? [LB749]

LARRY DIX: Because there are a number of those, as I stated before, and I think when somebody looks at it, I think once you open the door, you know, anybody can look at anything, as far as that goes. [LB749]

SENATOR FISCHER: So maybe the committee members want to go back to their office and look at a map and see how many of their county roads that we can amend onto this. You don't have to answer that, Mr. Dix. [LB749]

LARRY DIX: Thank you. [LB749]

SENATOR FISCHER: Thank you. Are there other questions? I think Senator Louden had a good idea, I might use it. Thank you, Mr. Dix. Are there other proponents for the bill? Any other proponents? Any opponents to the bill? Anyone wishing to testify in a neutral capacity? Senator Louden, would you like to close? [LB749]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. [LB749]

SENATOR FISCHER: Watch out. [LB749]

SENATOR LOUDEN: As I mentioned before, this was a simple bill and some of the questions that was...you've asked and if you notice in there it says a state veterans cemetery in Box Butte County. Now there's only one state veterans cemetery in Nebraska that has a road to it. The other state veterans cemetery is the one that is in Grand Island that's all part of the grounds. So it was written for that cemetery. The other part of it, as far as accessing this, you have to notice in the bill it was already wording in

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legislation that such eligibility shall be determined by the Game and Parks Commission. So they still have control over whether or not they want to release any money for this particular road. So they still have control of it and when you mention other counties trying to access money for their recreation area, I've been working all summer long with Sheridan County and the Game and Parks Commission with Walgren Lake up there. And that was supposed to have been a federal road done project; supposed to have been paved with oil, and the whole bit, 15 years ago and it's, you know, nothing ever happened. It's a mud road; people can barely get through. And what we've done in the meantime, Game and Parks Commission is willing to put some money in it, but we've been...since they rolled up the railroad, that Chicago/Northwestern Railroad up there, we've been over there trying...making some ways to haul the rock off of that railroad that ballast and put on that road, because the Game and Parks inherited that railroad. So it's their rock and would you mind it...what do you call it, the...the administrative services over here, had a fit about that because you got to put a value on that rock when you take it from the Game and Parks and take it over here and put it on a county road some way or another, you got to have some paperwork to show that there was a value on the rock. I don't know why the hell you couldn't go out there and blade it up and doze it up and haul it over and build a road, but that was way too simple, I guess. But anyway, counties do access that money if they can and there is cooperation between the counties and the Game and Parks to get some of that done. So that's the reason we tried to write this bill so the eligibility, the Game and Parks still had control over that money, that's what it was meant for. But it was some type of a revenue source to take care of the road into the veteran cemetery. It's about a mile is what the distance of the road is. And as I pointed out before, there's other entities that...the golf course is on the end of that road; the airport, so there are other entities that could help with it; but if there is money available...I think I talked to Craig Lind and I think he looked at it. He said it needs a...needs to be milled and an overlay there and he figured, I think, \$300,000, \$500,000, I forget, one or the other, but it's already been a graded road and the shoulders and everything are there. But it will need maintenance sometime and as we speak, we are building quite a veterans cemetery in that area there. It is coming along in great shape and we'll probably be ready to open it here sometime this summer, 2010. Any other questions? [LB749]

SENATOR FISCHER: I see none. [LB749]

SENATOR LOUDEN: Okay. Thank you. [LB749]

SENATOR FISCHER: Thank you, Senator Louden. With that I will close the hearing on LB749 and close the hearings for the day. Thank you all for attending. [LB749]