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Transcriber's Office

Transportation and Telecommunications Committee
February 23, 2010

[LB998 LB1060 LB1065 LB1092]

The Committee on Transportation and Telecommunications met at 1:30 p.m., Tuesday, February 23, 2010, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB998, LB1065, LB1092, and LB1060. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Kathy Campbell; Tim Gay; Galen Hadley; Charlie Janssen; Scott Lautenbaugh; and LeRoy Loudon. Senators absent: None. []

SENATOR FISCHER: Good afternoon and welcome to the Transportation and Telecommunications Committee. My name is Deb Fischer; I am the Senator from the 43rd District, Valentine, Nebraska and I am Chair of the committee. I'd like to introduce you to our committee members. On my far right is Senator Kathy Campbell from Lincoln. Next we have Senator Tim Gay from Papillion. Next to Senator Gay is Senator Arnie Stuthman, he is the Vice Chair and he is from Platte Center, Nebraska. On my immediate right is our committee counsel, Mr. Dustin Vaughan. On my immediate left is our committee clerk, Miss Laurie Vollertsen. And next we have Senator Galen Hadley from Kearney. We do have some committee members who are not here yet. This is a time when we introduce bills in other hearings as well and so they will be joining us when they are available to come. And please don't be offended if other members happen to get up and walk out during the hearing because they are going to introduce bills at other hearings also. Our pages today are Lisa Cook from Omaha and Tony Pastrana who is from Fort Collins, Colorado. And if you have any materials to distribute or need help with anything, they will be happy to assist you. We will be hearing the bills in the order they are listed on the agenda. Those willing to testify on a bill should come to the front of the room and be ready to testify as soon as someone finishes testifying in order to keep the hearing moving. I don't plan to use the lights today. I don't think we have too many people here to testify; but I would ask that you keep your testimony from three to five minutes and I reserve the right to stop testimony at any time if it becomes lengthy. I would ask that you complete a yellow sign-in sheet at the on-deck table and have that ready to hand in when you testify. We use a computerized transcription program so it's very important that you follow the directions on that sign-in sheet. And I would ask that you also give that yellow sign-in sheet to our committee clerk before you sit down to testify. At the beginning of your testimony, please spell your last name and your first name and keep your testimony concise. If you don't want to testify, but you do want to voice your support or opposition to a bill, you can indicate so at sheets that are at that on-deck table and they will become part of the official hearing. However, if you want to be listed on the committee statement, you must come forward, state your name and at least state your position on the bill. If you would like to submit written comments, the committee is always appreciative of any comments you may have and so please turn those in and we will distribute those to the committee members. At this time I would ask that you turn off all of your cell phones and that means no texting. This is the Transportation and Telecommunications Committee, but we're not going to let you do it.

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So with that I will open the first hearing for the day on LB998 and Senator Gay, would you give the opening on your bill please. []

SENATOR GAY: (Exhibit 1) Thank you, Senator Fischer and members of the committee. My name is Tim Gay, I represent the 14th Legislative District here to introduce LB998. LB998 would make the Department of Motor Vehicles the exclusive issuer of driver's licenses and state IDs. As it stands now, the 93 separate counties act as agents of the state in a part of the issuing process. Under the bill, since the counties would no longer be part of this process, the counties would no longer receive a portion of the fees associated with driver's license issuance. LB998 does not increase any fees, but the dollars currently collected by the counties to assist with administrative costs would instead be remitted to the Department of Motor Vehicles Cash Fund. The bill would allow the DMV to establish regional centers throughout the state for the issuance of licenses and would allow the director of the department to determine the number of centers and their locations. What I understand through my conversations with the department, 14 to 19 centers could be established and only a very small portion of Nebraskans would have to travel more than an hour to get a license. That is provided that these people would actually need to go to a physical location for that license. Only the initial licensing right now has to be done on site. The license renewals, which are required every five years, can be done online. The department has been studying this issue and I would...and I will let the department go into more detail on how this would work and how much business it anticipates would be conducted online. LB998 removes obsolete language in Section 60-4,121. In his State of the State Address, Governor Heineman identified efficient delivery of government services as one of his top three priorities. During my term as a state senator, that has been my goal as well. Technology has improved and so should our delivery of these essential services. As I just mentioned, most license renewals will be able to be done online. It is no longer cost effective for 93 counties to be involved in this process. Having two governmental entities involved in a process that could be done by one is not good use of taxpayer dollars. I've provided you a letter; I'm going to read this letter, Senator Fischer, but I'll hand it out and I encourage you committee members to read it when I'm done. But I know right now, this bill probably...this late date in the stage is not prioritized, probably won't go anywhere. Tony, if you could hand that out. But I just wanted to bring this up because I do think that it is something that maybe might be deserving of an interim study or something like that. But I'd been...when I was with the county, we had brought this up and our treasurer, Rich James, in Sarpy County, the letter I'm handing out, is very informative of how the process works. But what he talked about, even more so now, from the new...the conversion of the latest system that we just did July 22, 2009. What we do now is it all comes to one center and goes out anyway. So you have two different people doing the same duplications of the process. The part that he really stresses in the letter and it makes sense to me is, so you have to train...when you look at the state's costs, but the county's cost is you're training people to do duplicate services of what the state is already doing. So they're a collector of fees and then the way we understand it,

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it's turned over...they get to keep a...like a little fee to do this process. Well, what he's saying, by the time you train everybody to do several of these items, it gets very inefficient. So when we look at costs, we're looking at the inefficiencies of his personnel. I've talked to Treasurer James; I've talked a little bit with Douglas County Treasurer Ewing, John Ewing, and they both are like, hey, well, some of that loss, it's not that big of a deal over lost revenue. And I don't want to...that's just a off the record conversation, but I think if we explored this a little more, we may not have as much angst about that loss of \$1.3 million. As I was thinking about it, if Sarpy County is already supportive and we could get some of the larger counties supportive of this, that \$1.3 million is a much smaller fee because they're the ones licensing most of the vehicles. So if they can live without doing this, then I think somewhat this fiscal note, when you look at it, of the \$1.3 million that would be lost by counties each year isn't near as bad as we're going to think it is because it would happen in many of the larger counties. Well many of these larger counties would probably be the same sites and where the DMV would probably locate. I don't know what they'd do because all this allows is the DMV to have the opportunity to explore options of how they could more efficiently deliver services. So, but I think, like I say, what I'd ask the committee is a little bit; and I know, like I say, this...I don't want to spend a lot of time on this, but if we could look at this and say, does it make any sense; after reading that letter, that something maybe that I could encourage interim study or something like that. So I know there's going to be...there will probably be testimony on this, but Treasurer James does an excellent job, I thought, better than I could do, describing this bill, after I read his letter at lunch time and it's like, it's exactly what I would say so with that, Senator Fischer, that's my introduction. Thank you. [LB998]

SENATOR FISCHER: Thank you, Senator Gay. For the record I would note that we've been joined by Senator Scott Lautenbaugh of Omaha and Senator Charlie Janssen of Fremont. Are there questions? Senator Stuthman. [LB998]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Gay, in this letter from Sarpy County and in there, you know, there are concerns and differences of opinion between some of the smaller counties and counties like Sarpy. In there it said, you know, smaller counties, you know, that have an examiner are available on a limited schedule which is very true. But if we make those regions, you know, so far, like you state, that could be 100 miles, you may have to drive 100 miles, is this going to be very receptive to some of those counties where they'd have to drive 100 miles to go to a regional place for an examination? [LB998]

SENATOR GAY: Well, Senator Stuthman, that would be up to the DMV. And 100 miles maybe is too much; but give them the flexibility to decide. What I'm saying is less than 93. Now other...I think we were kicking around other options where you could maybe limit that, it couldn't exceed 50 miles or something. I don't know. I think you do a study and let them decide that. But some of the...in your county in particular, I think that's a larger county in Nebraska, so it probably wouldn't be affected. When you get further

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west, of course, they're only going out there maybe a couple, like you said, a couple of times a week. I don't know all the details. But that's where we could find out what's really happening. But I think in some of these counties it may be once a month even. But more and more though, at the end of the letter, what I thought was kind of interesting and I never thought about this either, with the five year plates and licenses, I think it is, more and more people are doing this online. So I'd be interested to see what those numbers are to see where we're even at. I mean, in how we could encourage that. But I think more and more people, no matter where you live in Nebraska, are open to online opportunities. [LB998]

SENATOR STUTHMAN: Okay. I do support, you know, an interim study on it to see, you know, what would be...what would be the interest or the disinterest in it. Thank you. [LB998]

SENATOR FISCHER: Thank you, Senator Stuthman. Senator Campbell. [LB998]

SENATOR CAMPBELL: Thank you, Senator Fischer. Senator Gay, and I apologize, because I tried to look and find this in the bill, I was unsure; would these be new facilities? Would the state have to build new facilities? [LB998]

SENATOR GAY: I wouldn't think they'd have to be all new. What I'm saying, the DMV, by the way, has been very helpful. We're trying to work and this is a concept really that they've been very helpful. But I wouldn't think you'd need all new facilities in those places where it's working already, then maybe yeah; or they could explore that. So I'm saying let them decide; they're doing most the work right now anyway, in my mind, and you'd know from your experiences. But I think we allow them to be...do a professional job of whatever; but with the Real ID and in some of these security features they've got in place, it doesn't make sense again to add more people in the process. [LB998]

SENATOR CAMPBELL: And the purpose of the question is, I suppose in those places where there are multiple locations, I think the county, if my recollection is good, we had to provide the building and the facility, and so the question is then, would the county be expected to, you know, give it to the state to use or could lease it to them? [LB998]

SENATOR GAY: Well, I think the counties, if they don't own it are leasing it anyway. I mean, I think in our county we lease space. You mentioned you lease space. You know, realistically how this would work, some of the bigger counties, I assume, probably wouldn't affect them a whole lot. We got to make sure that we're not doing something to greater Nebraska in hindering; I'm not so sure we...that's what we don't want to do, but the concept to explore in the future, I think, is the gist of why I introduced the bill. [LB998]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB998]

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SENATOR GAY: Senator Fischer, I'm going to waive my closing too, okay? [LB998]

SENATOR FISCHER: Okay. Thank you. First proponent for the bill please. Are there any proponents? Are there any opponents to the bill? Anyone wishing to testify in a neutral capacity? Good afternoon. [LB998]

BEVERLY NETH: (Exhibit 2) Good afternoon, Senator Fischer, members of the Transportation and Telecommunications Committee. I am Beverly Neth, director of the Department of Motor Vehicles. B-e-v-e-r-l-y N-e-t-h. I'm here today to offer neutral testimony regarding LB998. In response to the federal law known as The Real ID Act, the department originally proposed assuming all duties associated with the driver licensing and state ID card...state issued identification card process and regionalizing the customer service centers. The draft version of the federal rule associated with The Real ID Act made compliance with the act virtually impossible without regionalizing service centers. However, the final version of the federal rule was significantly less prescriptive than the draft version making compliance possible without regionalizing services. Instead, the department was able to focus on changes that improved the security and integrity of the driver license process and systems to mitigate the opportunities for fraud, card counterfeiting and identity theft. Implementing LB911, passed in 2008, has resulted in the DMV assuming some of the duties previously done by the county treasurers' staff, namely taking the photo and producing the final documents. The duties that have been retained by the counties are processing applications for duplicate documents; receipting the fees; and printing the 30-day receipt that acts as an interim document while the final document is printed and mailed from the central production facility. There are a number of factors that challenge maintaining the status quo delivery of driver licensing and state ID card services. I'll just outline a few. Although we have moved forward with improving the security of our driver licensing process, it is important to note that The Real ID Act remains the law of the land. Full compliance date for Real ID remains May 11, 2011. The most costly provision of Real ID is the requirement to maintain either a hard copy or imaged copy of all source documents presented to establish identity. Implementing a statewide imaging system will be complicated, costly, and, in some instances, impractical due to the limitations of the available network bandwidth. With the goal of increased security, we are seeking to eliminate one-person exam stations across Nebraska. Having a minimum of two driver licensing examiners available at each station helps to ensure process and policy compliance and that adequate coverage exists for the delivery of uninterrupted customer service. A driver licensing efficiency study conducted in 2007 showed that in 30 counties more than 30 percent of the cardholders go to another county to access driver licensing services resulting in efficiency ratings in the range of 25 percent in some of the more rural counties and highlighting the challenge associated with balancing service and cost in our present service delivery model. The Federal Motor Carrier Safety Administration issued a proposed federal rule in 2005 related to the commercial

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driver licensing skills tests. The proposed rule applied in real world testing situations indicates that dedicated concrete for off-street skills testing facilities will be required. Dedicated off-street facilities are available and I...roughly 9 counties testing sites currently. The cost of dedicated off-street CDL skills testing facilities in all 93 counties would be considerable. The department will begin testing its online driver license renewal and duplicate system next week. with the goal of unveiling the system by mid-April. Our calculations indicate that roughly 150,000 Nebraskans will be eligible to use the service annually. With the exception of online vehicle registration, we are experiencing a customer adoption rate in excess of 50 percent in all our online services. This week we will begin a marketing campaign aimed at educating the citizens of the availability of DMV online services. We are inserting brochures into our daily mailing. The result will be that this year over 2 million inserts will be distributed to Nebraska. And I've attached a copy of those inserts to the testimony. I anticipate the online driver license renewal and duplicate system will be a very popular service with a high customer adoption rate. The result is likely to be that somewhere between 75,000 and 150,000 fewer customers will be involved in a face-to-face transaction in the very near future. Regionalizing driver licensing services will obviously be a change from the county-by-county delivery model that has always been in use. But as fiscal resources become more scarce, as the security needs grow, and as technology continues to provide alternative ways to deliver service, it may be time to study alternative customer service delivery methods for the future. I'll be happy to answer any questions you might have. [LB998]

SENATOR FISCHER: Thank you, director. Are there questions? Senator Stuthman. [LB998]

SENATOR STUTHMAN: Thank you, Senator Fischer. Director Neth, thank you for your testimony; it's always nice to see you here. The question that I have is, you know, you're seeking to eliminate the, you know, the one person exam across the state of Nebraska. The issue that I have is, you know, some counties they go once a week, some counties two times a week, or something like that, which, which, you know, that individual is taking care of quite a few. [LB998]

BEVERLY NETH: Um-hum. [LB998]

SENATOR STUTHMAN: Now, what is the plan to leave that individual in a separate spot and have everybody else come to them? [LB998]

BEVERLY NETH: Right now what we're looking at is adjusting our...our..the times we're in certain counties. When we look at a county like Arthur County, for instance, very small; we're there now, the examiner is there accumulative total of 75 hours they spend, I think they're there once a month, is what the examiner does, travels around a multitude of counties. That examiner, in that 75 hours, that examiner is spending 16

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hours actually processing applicants; very low efficiency rating for the times we're going there. So what we're doing is looking at county by county; what should the level of service be for that particular county? If 16 hours is what it takes us to process applicants, we could do that, realistically, by being there once a quarter. So we're trying to figure out; what's the best way, within the resources that we have, limited number of driver license examiners trying to decide how do we take what we have and distribute it differently. Not removing ourselves; right now we're not talking about regionalizing or removing our presence from every county, we would be there; we'll probably just going to be there less often in some counties than we currently are. Just to adjust ourselves better to the workload that is truly there. And when we have online service available, I think one of the big things that is important to note in the online services; the online service will be a really...renewals is a big part of that, but duplicates are a big part of what we hope to capture in the online. Right now we issue about 98,000 duplicates a year. That population, for the most part, are young...is younger people who, they lose their license for whatever reason. Once we get older, I guess we're better able to hang on to those documents for some reason. But that group is very, very comfortable doing their business online in accessing those services; so I think we'll see a very high adoption rate within the duplicates. [LB998]

SENATOR STUTHMAN: That is the thing that I was thinking about, is the fact that in those counties that don't have very much population and the fact that, what are they? They are elderly people in those counties and they're not the ones that are going to be doing the online, in my opinion. [LB998]

BEVERLY NETH: Well, I think you'd be surprised how many people will go online. Well, in that particular fashion, there is an age cutoff in the statute. We do say that the services can be accessed between age 21, I think it is, and age 65, is what the statute is currently written. So once you're age 21, once every five years you can go online and renew your driver license using the existing photos there. That opportunity then stops once you've reached your 65th birthday. We want to see you; we want to be able to access your physical abilities; your cognitive abilities, all those kinds of things and do an assessment of you prior to issuing that document for another five years. So, you're right, there is...it does cut off at that, but I think we really see in our other online services, every age group is accessing those services as they can. [LB998]

SENATOR STUTHMAN: Would you be receptive of raising that from 65 to 80? [LB998]

BEVERLY NETH: I think that you'd have to take a look at some...we'd look at the statistics regarding older drivers and once you really talk about how you serve that population and still maintain a public safety desire that we have to make sure that we're doing the assessments of drivers and making sure that they're able to capably operate a motor vehicle safely. [LB998]

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SENATOR STUTHMAN: Okay. Thank you, director. [LB998]

SENATOR FISCHER: Other questions? Senator Campbell. [LB998]

SENATOR CAMPBELL: Senator Fischer. I'm going go, Director Neth, the same question I asked Senator Gay and it's just because I'm curious. In the 93 counties, the department doesn't own any of the facilities do they; or do they? [LB998]

BEVERLY NETH: No, we do not own the facilities. We are the guest of the counties as the statute does say, the counties will provide the space to the DMV. [LB998]

SENATOR CAMPBELL: Thank you. [LB998]

BEVERLY NETH: In Lancaster County, for example, we have two...there are two facilities. And so when you look at how the department would...when we first reviewed this, we did look at trying to find existing facilities within a county or staying within the county facility itself and leasing that back from the county; however, it would be...I don't think, you know, really, building new facilities would be all that required. Except for, when you're looking at that dedicated concrete necessary for CDL testing; it's a very large space that you need. So in many counties we're limited to be able to provide that. For example, in Douglas County, we have repositioned many of our services in Douglas County, not having CDL testing in every branch in Douglas County, only those where we can...where the motor carrier trucks can access the facilities well and we have the opportunity to do the skills testing. [LB998]

SENATOR CAMPBELL: And there is a precedence in the counties continuing to do that. They wouldn't...they probably wouldn't be happy; we were never happy through the years when we had to do it, but when the state took over all of the welfare and it became the Department of, I think, Welfare at that point, or Human Services, the counties were still required to provide a space for them. And so there is a precedence for that, but it would be an issue that would have to be looked at. [LB998]

BEVERLY NETH: It's sort of a...it's a real balancing act, I think, from the department's perspective or from my perspective, anyway, when you talk about raising some of the issues of people having to drive a distance. When we reviewed a 14-customer service center model or a 19-customer service center model or a 21, or whatever the number might be, you do reach a threshold where outside 50 mile radius of 90 communities there are only 2 percent of the population. So you have to ask yourself, how far out, how many of those do you want. One of the things that...the drawback, if you will, of remaining within a county-owned facility is that the hours are limited. There is no Saturday service. You're limited to 8:00 to 4:00; 8:00 to 4:30, 7:30 to 4:00, whatever those hours might be. In looking at the DMV taking over the services, there would be an opportunity, I think, if they were in DMV facilities to expand those business hours. Many

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states offer Saturday services; they're closed Mondays to compensate for that, so you're staying within a 40-hour work week. So, there are some benefits to being in stand-alone facilities that could, I think, enhance customer service in the long run. [LB998]

SENATOR CAMPBELL: I wouldn't see it as inhibitive at all about that you don't own the facilities, I just think it's a little bit more of a challenge. [LB998]

SENATOR FISCHER: Thank you, Senator Campbell. Other questions? I have just a couple, Director Neth. [LB998]

BEVERLY NETH: Okay. [LB998]

SENATOR FISCHER: From two different perspectives here, I represent the 2 percent that have to drive a little further than 50 miles, currently, to get their licenses; but also from an urban perspective too, to begin with, how many counties just have one examiner currently? [LB998]

BEVERLY NETH: I think it is 32, I think is...we have one examiner; we have traveling teams, we have 15 teams that travel so there is...that is...and I think those 15 people are generally traveling by themselves. There may be 2 people with them. But I think we service 30 counties with one examiner right now. [LB998]

SENATOR FISCHER: And how are...often are those driver's license examiners in those counties? Say in Thomas County, how often is the examiner in Thedford? [LB998]

BEVERLY NETH: I think we're there once a month right now. [LB998]

SENATOR FISCHER: And in Hooker County, how often? [LB998]

BEVERLY NETH: Same, once a month. [LB998]

SENATOR FISCHER: In Cherry County? [LB998]

BEVERLY NETH: Cherry County, we're there more often, I believe we're there either every week or every other week in Cherry County. [LB998]

SENATOR FISCHER: Okay. In Blaine County? [LB998]

BEVERLY NETH: You're stretching me now. Blaine County, I might have a number on that. [LB998]

SENATOR FISCHER: Quiz time, quiz time. [LB998]

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BEVERLY NETH: I didn't commit all of those to memory. Where is Blaine? If you could help me out for a second. [LB998]

SENATOR FISCHER: It would be in my district. [LB998]

BEVERLY NETH: Is it with the Thomas in that same area? [LB998]

SENATOR FISCHER: It's south...it's south there of... [LB998]

BEVERLY NETH: It's in that county of six, isn't it? [LB998]

SENATOR FISCHER: No. It's not. [LB998]

BEVERLY NETH: Oh, it's not? [LB998]

SENATOR FISCHER: It's closer to Custer. [LB998]

BEVERLY NETH: Oh, I think we're probably in Blaine County twice a month I imagine. [LB998]

SENATOR FISCHER: It goes Thomas, Blaine, Custer on Highway 2. [LB998]

BEVERLY NETH: Okay, okay. It's a small county though, I imagine...if I... [LB998]

SENATOR FISCHER: Right. So, are there efficiencies? Are there efficiencies for the department in eliminating those courthouses? Because two, maybe it was three or four years ago, we looked at maps and with the 14 regional centers, with the 19 regional centers, you know, Valentine has one; O'Neill has one; Broken Bow has one; North Platte has one; they're few and far between. And are you really...are you really going to save anything if you have to lease a space if you're not using a courthouse? If you're going to be open more hours? If you're going to have more employees in those more sparsely populated areas in our state, do you believe the department will save money? [LB998]

BEVERLY NETH: I don't think that our original projections, when we looked at it, had a savings initially. There is a shift of revenue away from the counties and into the Department of Motor Vehicles to help defray expenses associated. Right now, my understanding of it, \$3.50 that goes to the counties for a regular five-year Class O license is to accommodate for those expenditures, the facility, the FTE. The challenge, and the reason why I think it would be, if we're going to look at this, really important for us to study it, I think the challenge becomes what is the appropriate level of service? Number one, what's the right number? So that we're making sure that we are covering

the vast majority of Nebraskans in a reasonable distance to travel for a service that you access once every 5 years or once every 10 years, whichever the case may be. And can it be done without additional staff? Can you accommodate the service levels you want without increasing staff? Again, I think when we look at other states, the way other states have expanded those hours is to compensate a Saturday opening by a closing on Monday recognizing that citizens and many times the e-mails I get from citizens are things like I have to take off from work; why can't you be open after hours; why can't you be open Saturdays? Those are the things they want from the department, that flexibility. So, I think there are certainly challenges and one of the big challenges would be, how do you find a savings in that program? It's simply...it simply costs X amount to deliver that service statewide and I'm not sure that you do get to a savings point. [LB998]

SENATOR FISCHER: From an urban perspective then, how do you accomplish any savings in larger communities? If you...if you're going to be eliminating county jobs, which I assume in the more populated counties in the state, jobs are going to be eliminated if the DMV takes over this process. In more rural areas, I don't believe you're going to eliminate any jobs because right now we have county employees who are the clerk, the assessor, the court person, they do the license, you know, we maybe have two employees, as we do in Blaine County, there's two employees in the courthouse. But in more urban areas, I think you're going to be eliminating jobs, county jobs. And I...and so, I guess, taxpayers will receive a savings there. Some people are going to lose jobs, but the taxpayers are going to receive a savings there because they won't pay for those county employees. But won't it take more state employees then to do the job and won't it cost the state more to have more facilities that they're renting or that they're building, or that they're buying in Lincoln and in Papillion and in Omaha and across these more populated areas in order that they can serve the large amount of people they will be serving? [LB998]

BEVERLY NETH: Well, when you look at a county like Douglas County, and we've had some conversations with John Ewing, the Douglas County Treasurer, about consolidating services even within Douglas County right now. There are four branch offices where you can access driver licensing services. There used to be five, but due to staffing issues, we did close one of those branches and they've now turned that into a dealer branch for licensing and titling...titling and registering of vehicles. We have talked specifically in Douglas County about a concept of a super center where Douglas County recently acquired the facility that was the Thomas Fitzgerald Veterans' Home, the piece of land, I think it's about 156th and Maple, which is a big piece of ground. We talked about building a super center there where we could do...have dedicated concrete for motorcycle testing; for CDL testing; and do all of our skills testings, including passenger car testing, out of that facility. John Ewing thought that was a great idea. We think it's a great idea. We think it...it gives the best opportunity to serve the public; even though they might be driving a little farther. What it gives us is the opportunity to concentrate staff. Right now we have 16 examiners in the Douglas County area. The largest

concentration is four in a facility. Those people go on breaks; they take lunches; they do all kinds of things; where many times you're really staffed with two people sitting there where you've got four counters. To me, when I look at how do you best deliver service, I think maximizing your staff into one facility; cross training them or specializing them, whichever the case may be, probably both, quite frankly, gives you the opportunity to process your customers the fastest. It also gives you the opportunity to look at one: whether you really need renewal-only branch facilities; if the online service is available to a vast number of people and if...and it will be there at a very reasonable portal cost of \$1.25. So I don't drive anywhere, I don't do anything for once every five years; I go online and I get my driver license that way. You take that online renewal business and you factor that into those people who would not be going to branches. You're looking only at those people who would be driving or skills testing and those kinds of things. I think you do have an opportunity to possibly, in the future, when you have a high adoption rate, reduce some staffing. You can help control your costs because you're not in multiple branches. Same thing would hold true for Lancaster County; right now, we're in two facilities in Lancaster County; one at West O where we do all skills testing and a renewal-only facility at 46th and R. Most likely, if there were a regionalization discussion, we would talk about one facility in Lancaster County rather than two, because renewals and duplicates could be accessed online. So, thinking...possibilities using the technology are great. We also have recently started looking at things like queuing systems. Queuing systems that could be implemented in our permanent facilities. Right now we have 13 five-day-a-week facilities across the state. They are across the interstate corridor, as you would imagine. We're looking at implementing queuing systems in those facilities that, citizens could go on line and see what the wait time is in a North Platte branch. As a matter of fact, we looked at one queuing system that will allow you to go on your mobile device, check the wait time at the branch and take a number if you want to take a number. Fifteen minutes out from your appointment, the device...your device is called and says, you're 15 minutes away from the front of the line, you should get yourself to the DMV now or you can ask for more time. There are all kinds of technologies out there that will help us help the citizens decide,; do I want to go to the DMV today or is there a...experiencing a very high wait time because maybe the mainframe is down or the connections are down, network is down, whatever the case may be; I'm going to wait until tomorrow, or do I want to take...make an appointment? What do I want to do? So, with the kinds of regional facilities that would be envisioned, you can use those kinds of technologies to help the customer make some decisions about whether or not that's when they want to go. [LB998]

SENATOR FISCHER: Okay. On another point, Director, you commented that the most costly provision of Real ID is the requirement to maintain either a hardcopy or imaged copy of all source documents presented to establish identity; is that also required under Pass ID? [LB998]

BEVERLY NETH: Yes, it is. It is still there in Pass ID, um-hum. [LB998]

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SENATOR FISCHER: Okay. Thank you. Other questions? Senator Stuthman. [LB998]

SENATOR STUTHMAN: Thank you, Senator Fischer. Director Neth, in reading over the bill, in Section 7 and it amends so that all the current license and card fees that are going to the county general funds will now be directed to the DMV cash fund, is that correct? [LB998]

BEVERLY NETH: Um-hum. [LB998]

SENATOR STUTHMAN: So is this going to be a tax increase for the counties if they're not receiving any funds? [LB998]

BEVERLY NETH: Well, when you look at driver licensing fees and driver licensing revenues, it really depends on what county you're talking about. For example, I think it is Deuel County, perhaps, issued...there are 497 cardholders in Deuel County. At \$3.50...and that's...that would be a five-year cycle, is 497 cardholders in Deuel County, they're making \$3,000 a year potentially. That's not paying anyone's...salaries or defraying any taxes, quite frankly. In a large county like Douglas County, where they are employing additional staff, and Senator Fischer is exactly right, in smaller counties there's a tipping point when you need that person, when you don't need the person; the driver licensing business is not driving that employee sitting there. That's really tax collection and motor vehicle registration and titling, now in the treasurer's office. It's not driver licensing business. But in Douglas County; Lancaster County; Sarpy County; Hall County; those places, there are dedicated staff to driver licensing functions. I don't know whether their...whether their \$3.50 defrays those costs or not. In Douglas County, you have both driver licensing and motor vehicle branches so they're not paying for all those expenses just out of those driver licensing revenues. I know at one point when we looked at it, it's not a...it's not a large sum of money; \$1.3 million, certainly I would not discount that, that is a large sum of money, but spread out across 93 counties, it's not a lot of money for several counties. [LB998]

SENATOR STUTHMAN: The other issue that I have and I'd like for you to explain like Platte County where the county provides the office place for the driver's examiners, does the county pay anything as far as the salary of that? No. Do they? [LB998]

BEVERLY NETH: No, the DMV examiners, their salary is all paid for by the DMV. All of the equipment, I think the important thing to point out as well is, all the equipment, both on the driver licensing DMV side and the county side is provided by the DMV. We do pay for that cost. That cost is paid for in the contract we have with our vendor and so that comes out of the DMV portion of the revenues. Counties don't pay for that equipment; printers and the hardware; nor do they pay for the system that is used to produce and process applicants. [LB998]

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SENATOR STUTHMAN: Okay. Thank you. [LB998]

SENATOR FISCHER: Other questions? I see none. Thank you, Director. [LB998]

BEVERLY NETH: Thank you. [LB998]

SENATOR FISCHER: Anyone else wishing to testify in the neutral capacity? Good afternoon. [LB998]

LARRY DIX: Good afternoon, Senator Fischer, and members of the committee. My name is Larry Dix, L-a-r-r-y D-i-x. I'm executive director of the Nebraska Association of County Officials appearing today in a neutral capacity. A couple of comments that I want to point out and make in the discussion, the questions, a number of them with Director Neth here some of the things that I was really, really going to cover. Within our association, as you can imagine, there's sort of a line down the middle as to who supports this and who opposes this. I would tell you over the years, ever since we've been talking about Real ID, we've had a number of counties, the larger counties will say we would support the process of having Department of Motor Vehicles take over the complete motor vehicle examination; issuance of driver's license; collection of the money; the whole thing. That tipping point, you always sort of wonder well where is that at? I tend to think, at least from conversations; we haven't studied it, but at least from conversations that I've had with county treasurers, that tipping point probably is about the 15 largest counties. Everything beyond...below that there's probably no cost savings to those counties because once you get below that, they're not going to change any staffing. But you get to the 10 or 15 largest ones, they do have somebody that's dedicated to that. I know some of the counties would tell you that the amount of money, the amount of revenue that they receive probably does not cover the staffing and benefit costs in those larger counties. And usually when we look at the \$3.50 that comes back to the counties, I don't know of any time we've ever examined that to look at it covering the space that we provide. Usually it is only to cover the staffing of that. So, that's sort of where that split is. I would mention to you that this year the NACO board did vote to actually create their own internal committee to look at efficiency in government out over the next 10 years and this is one of the items that is sort of on that agenda that we have to look at and try to find out where do we go with that. Where that goes, we would, you know; I don't know where that committee will take it. I would tell you that when we talk to the smallest of counties, there's the argument to be made that it is more efficient for one person from DMV to travel to the counties than it is from all the citizens in a region to travel additional miles. So you look at that; maybe Thomas County will have one of these super centers that Director Neth was talking about and so everybody can come into that one location. But all in all, our organization is very, very split on this from large to small as you can imagine and even, what, two or three years ago when we had Real ID we were in neutral at that point in time on that bill also. So, with that, I'd be happy to

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answer any questions as to how this may impact the counties. [LB998]

SENATOR FISCHER: Thank you, Mr. Dix. Are there questions? Senator Campbell. [LB998]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Dix, I don't really have a question, but perhaps a suggestion; in the Health and Human Services Committee, when we met with the department, we talked to them about do they routinely look at facilities that they could jointly locate rather than everybody having separate, and so as you look at that, maybe some talk with the state to see whether they have facilities nearby that could be used. [LB998]

LARRY DIX: You know, since this discussion has been coming about and when we had the map of the 14 and the 19, or whatever that is. I know Director Neth and I have had some conversations that there is the potential in some counties where it would...where it makes sense. Counties probably have property already that it makes sense that we should enter into an agreement for the lease of that space. I think that's good government when state and county when we can work together. In some of the other ones, it just doesn't...it just won't make sense. Certainly Lancaster it makes sense where Lancaster County owns those two facilities, but in some other counties, maybe not. But I agree; I think it's a good...it is something that should be looked at county by county. [LB998]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Dix. Anyone else wishing to testify in a neutral capacity? I see none. Senator Gay did waive closing so I will close the hearing on LB998 and open the hearing on LB1065. And I see Senator Heidemann is here. Welcome, Senator, I think this is your first time this year before the committee, isn't it? [LB998]

SENATOR HEIDEMANN: I think that's probably correct. [LB1065]

SENATOR FISCHER: On our last...on our last hearing day, so welcome. [LB1065]

SENATOR HEIDEMANN: (Exhibit 3) That's never a good sign, is it? (laugh) Madam Chairperson and members of the Transportation and Telecommunications Committee, I'm Senator Lavon Heidemann spelled H-e-i-d-e-m-a-n-n, representing District 1 in southeast Nebraska. I'm here today to introduce LB1065. Currently a towing company is required to notify any lienholder appearing on a certificate of a motor vehicle within 30 days of towing the vehicle. LB1065 would reduce this time frame from 30 days to 5 business days. The legislation also requires the towing company to return possession of the vehicle to the owner, lienholder or any other person lawfully entitled to the possession of such vehicle upon payment of the towing and storage fees. The striking of the that word "motor" was a Bill Drafters suggestion to make it more consistent

throughout the statutes. This issue came to my attention when a constituent who is the president of a small credit union contacted me after he received notice from a towing company that they had towed and impounded a vehicle. His credit union was the lienholder of the vehicle; and the holder of the loan was in default. Unless the lienholder pays the accrued towing and storage charges within 90 days, the towing company will sell the vehicle at a close-bid auction pursuant to state law. The towing company is then allowed to take out their towing and storage fees from the sale. My constituent was also upset that the towing company's right to collection took precedence over the initial lienholder's rights; which we're not trying to address here today, I might add; although it may seem fair to the lienholder, I agree that the towing company should be reimbursed for their services. However, I am supportive of trying to reasonably limit the accrual of these fees, which either way, at the equity of the vehicle. Therefore, I'm proposing to shorten the time frame for giving notice; 5 business days, from 30 days previous. With today's technology, this shouldn't be a hardship for the towing company. Additionally, in some parts of the state, the towing company requires the lienholder to get a certified letter from the owner or a repossessed title to take possession of a vehicle, as well as a notarized hold-harmless agreement. This all takes more time adding to the storage fees and increasing the loss for the lienholder. In other parts of the state, this isn't problematic. The primary lienholder is simply required to present the proof of lien which the towing company knows they are the lienholders since they sent them the notice. I have tried to address this inconsistency throughout the state with the new language in subsection 1 and Section 10. The constituent that brought this issue to me was unable to be here today due to work conflict; however he did submit a letter for your consideration if we could get that distributed I would appreciate it. If you have any questions, I would be happy to try to answer them. There are people following me that may be able to answer more technical questions than I, but I will try. [LB1065]

SENATOR FISCHER: Thank you, Senator Heidemann. Are there questions? Senator Stuthman. [LB1065]

SENATOR STUTHMAN: Thank you, Senator Fischer. Thank you, Senator Heidemann, for bringing this bill. The question that I have is the fact that if it is towed to a storage place and in this bill it means that, you know, if the fees are paid and everything like that, the towing company is to deliver, to tow it back to the residence? [LB1065]

SENATOR HEIDEMANN: No. I think just give them the vehicle. I don't...no, there's no intent that I know of. [LB1065]

SENATOR STUTHMAN: The vehicle shall be returned to the owner. So that would mean, mean they would open the gate and let you... [LB1065]

SENATOR HEIDEMANN: Being able to have access. [LB1065]

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SENATOR STUTHMAN: Yeah, be able to open the gate and let them take it. [LB1065]

SENATOR HEIDEMANN: Yeah. [LB1065]

SENATOR STUTHMAN: So, okay, thank you. [LB1065]

SENATOR FISCHER: Other questions? I see none. Thank you, Senator. [LB1065]

SENATOR HEIDEMANN: Thank you. [LB1065]

SENATOR FISCHER: Will you stay for closing? [LB1065]

SENATOR HEIDEMANN: Yes, I will. [LB1065]

SENATOR FISCHER: Thank you. First proponent please. Good afternoon. [LB1065]

JERRY STILMOCK: Thank you. Good afternoon. Senators, my name is Jerry Stilmock, J-e-r-r-y Stilmock, S-t-i-l-m-o-c-k testifying on behalf of my client, the Nebraska Bankers Association in support of LB1065. We like the idea of the 5-day time frame, reducing it from 30 days; and also the ability of the towing company or storage company to be able to release possession of that vehicle to the person, whether it be the owner or the lienholder or another authorized lawfully entitled person of possession upon payment of the towing and storage fees. Not only would it be of assistance to our member-clients, but also to the consumer. It shortens up that time frame, instead of having the ability to wait for extended 30 days, it would be, as Senator Lavon Heidemann stated, 5 business days. And we'd support the effort of the Senator to shorten that time frame and ask the committee to advance it to General File. Thank you. [LB1065]

SENATOR FISCHER: Thank you, Mr. Stilmock. Are there questions? Senator Stuthman. [LB1065]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Stilmock, the issue of the 5 days compared to the 30 days, you know; if they have 30 days, you know, those 30 days will accumulate the storage fees, right? [LB1065]

JERRY STILMOCK: Yes, sir. [LB1065]

SENATOR STUTHMAN: So they may not notify them until the 29th day. [LB1065]

JERRY STILMOCK: Yes, sir. [LB1065]

SENATOR STUTHMAN: And they have accumulated storage charge which has to be paid prior to release of the vehicle, correct? [LB1065]

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JERRY STILMOCK: Right. [LB1065]

SENATOR STUTHMAN: Okay. So, you know, I support the 5 days, but, you know, there may be resistance by the storing companies...storage companies if they don't have a lot of lots, a lot of vehicles in their storage unit. Maybe they would just as soon keep them there 30 days to accumulate more revenue. [LB1065]

JERRY STILMOCK: You know, on this side of the table, I look at it as a policy decision is the way you phrase the question is like, well, there may be some behind me that are going to come in and say they're opposed to it. You know, we've had a chance to visit with some of our membership and we believe on the lending side of it, that 5 business days is going to be enough notice out to the banks in order to either try to rectify the situation with the owner of the vehicle; or if the owner of the vehicle is going to do a walk-away, that, you know, then the lender could come in and obtain the vehicle. But for the sake of economy to...in order to raise funds for the towing company or the storage company, as you phrased it, on the public policy side of it, I don't see that that's a benefit that...to keeping it at 30 days for that reason, as you've stated, Senator. [LB1065]

SENATOR STUTHMAN: Well maybe I...maybe I didn't phrase it quite right, but, you know, I truly support the 5 days, in my opinion, it should be within 24 hours of notification if they... [LB1065]

JERRY STILMOCK: Oh, now we're talking. [LB1065]

SENATOR STUTHMAN: Now, I mean, if they...if they, you know, retrieve the vehicle, put it in storage, I think there should be immediate notification of the owner or the finance company saying that I've got this vehicle in my storage yard and let's make some agreement to get it taken care of. [LB1065]

JERRY STILMOCK: I appreciate your point, Senator. I don't know that...that I particularly have a response to 24 hours. We're going to get into logistics of what the towing company physically can do. I mean, you take...whatever the facts are, I guess you and I could both create facts that would make 24 hours...pin that towing company into a situation that they wouldn't be able to respond to. I understand your point, Sir. [LB1065]

SENATOR STUTHMAN: They can respond. I was fortunate...or unfortunate to have my vehicle towed and within a half hour they picked me up and took me to the storage yard and I took it out. So, thank you. [LB1065]

JERRY STILMOCK: Yes, sir. [LB1065]

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SENATOR FISCHER: Other questions? Mr. Stilmock, how do you prove you have a lien if you're a lending company? How do you go to get the vehicle; what do you take for proof? [LB1065]

JERRY STILMOCK: The title with the lien noted. [LB1065]

SENATOR FISCHER: What's necessary now? A repossessed title? I'm reading from the letter that Senator Heidemann gave us. What is a repossessed title? [LB1065]

JERRY STILMOCK: I don't...I didn't...I don't recognize the term, Senator. I don't recognize the term "repossession title." [LB1065]

SENATOR FISCHER: Well if you don't, how can I then? [LB1065]

JERRY STILMOCK: I agree. [LB1065]

SENATOR FISCHER: Okay. Okay. But you...you would just take the title that you have. [LB1065]

JERRY STILMOCK: Yes, ma'am. [LB1065]

SENATOR FISCHER: Under current law, who has the prior claim on that then? Do you? Or does the storage company that...or the towing company that also would have a lien then on the vehicle? How does that work? [LB1065]

JERRY STILMOCK: The lien on the vehicle, that's going to have to be paid before they're even going to...the towing or storage company isn't even going to give me the time of day as the bank, because I'm going to take them out, because the...as...that lien is going to be...the lien by the towing company is going to be in a prior position so I'm going to have to pay that off as the lender. So it's...it's the lender's out there, there's no competition because the law recognizes and we're not debating today that that...the towing charges and the towing storage fees are prior. So they're going to have to be paid by the lender, by the owner in order to get that vehicle released. [LB1065]

SENATOR FISCHER: And as long as you have your title to the vehicle, then you would be able to get it out of storage, correct? [LB1065]

JERRY STILMOCK: Yes. [LB1065]

SENATOR FISCHER: And currently you cannot do that? [LB1065]

JERRY STILMOCK: The...I think it provides a clarity across the state. I think there's a

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question as whether or not...even if the fees are being paid, what type of proof is being required by the storage companies. And this would clarify, hopefully, that by presenting that title, noting the lien, that that would allow it to be released. [LB1065]

SENATOR FISCHER: Do you know specific problems that have happened besides the one Senator Heidemann has heard of? [LB1065]

JERRY STILMOCK: No, I'm not aware of any. I'm not aware of any, Senator, no. [LB1065]

SENATOR FISCHER: Okay. But you do feel this would provide some clarity? [LB1065]

JERRY STILMOCK: Yes, ma'am. [LB1065]

SENATOR FISCHER: Okay. Other questions? I see none. Thank you very much. [LB1065]

JERRY STILMOCK: Okay. Thank you, Senator. [LB1065]

SENATOR FISCHER: Other proponents for the bill? Are there other proponents? Any opponents to the bill? Good afternoon. [LB1065]

SARA SCHWARTZTRAUBER: (Exhibit 4) Good afternoon. My name is Sara Schwartztrauber spelled S-c-h-w-a-r-t-z-t-r-a-u-b-e-r. I'm a member of the Nebraska Towing Association and the owner of Capital Towing here in Lincoln. And we strongly oppose changing this to a 5-day law. I understand people are going to believe that it is because we want to get the additional storage. The truth of the matter is, it is impossible to do in 5 days. Last year we towed 3,227 cars from private property. Of those cars, 63 percent never had an owner come to get it. So we have to process them at that point. We have one employee in excess of 30,000 a year, that's all she does 45 hours a week is process abandoned vehicles. In Nebraska, you can pay a monthly charge to have access to owner information through the DMV, through the computer. Here's the problem: we tow a car from private property downtown; bring it to the storage lot. Within an hour or so, we report it to the Lincoln Police that we've towed it. We do wait about 20 days until we start processing it. So we go out to the car; there's no plates on the car. So we take the VIN and we run it through the Nebraska Department and they say that car has never been titled in Nebraska. Now we go back out to the car; we look for park stickers; we look for inspection stickers. On this particular car we found a park sticker from, say, Kansas, and an inspection sticker from Iowa. Now we have to send off written requests for any information from those states. Most of these states require us to at least wait three weeks for them to even send the information back to us. This car, both states came back and said that car was never titled in these states. Now we have to send somebody out to physically open the car and try to find something in the car that's

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going to tell us what state it came from. Nothing in the car. We ended up paying another \$12.95 per vehicle to run it through CARFAX hoping CARFAX has some information about where that car came from. No way, impossible, we can get that done in 5 days. But we can't do it. The questions the lienholders are talking about, as far as what information we require them to have when they come to get the car; we're just going by the state law. State law says lienholders have to follow certain steps in order to repossess a car. If they come and pick up a car from us, they are, in fact, repossessing the car. They have to send out a 10-day right to cure notice and that's all we ask them to have or a repossession title. A repossession title is when they go to the DMV; they sign a statement saying that they've done all the necessary legal steps to repossess the car and they get a title. We don't ask for any more than what the law tells us we have to ask for. But 5 days, the Lincoln Police Department just dealt with a vehicle and it's a 2007 towed by the Lincoln Police Department; so it wasn't even a private property tow, it was towed in for interfering with use of the street. It wasn't registered in Nebraska. They finally found it registered in Alabama. They got...two weeks later they got information; and now you have to understand, the Lincoln Police Department does send out letters within 5 days. So after 5 days they sent out the notice; Alabama came back and gave them owner information. The head of the property unit, the police department, was really concerned; this is a 2007, I'm worried there's a lienholder on it. She again requested information from Alabama. She told me the other day it took her 8 hours of man-time and 6 weeks to get a lienholder information from Alabama. If the police department can't do it; we're not going to be able to do it. It's impossible. I don't...if somebody wants to make it easier; California is completely computerized. They don't even have paper titles anymore. It took us two years to get information from California on a Bronco. We stored it all that time. I have 600 cars in my lot. I don't want to keep their cars for storage. The second problem on lienholders is, they come to my window and they say, I want to go out and look at this car before I pay the fees. No, we're not a car lot, you are. They want to pick and choose which cars they...which cars they pick up; which cars they pay for. Nebraska state law makes it illegal to abandon a car with us. But nobody is holding the vehicle owner responsible. Nobody gets ticketed for leaving their car on the side of the road. So we're against it. There's no way we can do it. Any questions? [LB1065]

SENATOR FISCHER: Okay. Thank you, Sara. Are there questions? Senator Stuthman. [LB1065]

SENATOR STUTHMAN: Thank you, Senator Fischer. Sara, thank you for your information. Now I want to know how many...now you said 63 percent of the towed vehicles never came back to get them. [LB1065]

SARA SCHWARTZTRAUBER: Private property tows. [LB1065]

SENATOR STUTHMAN: Private property towed vehicles. Okay. I'll give you a scenario

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if I had a grandchild that was going to the college here in Lincoln... [LB1065]

SARA SCHWARTZTRAUBER: Sure. [LB1065]

SENATOR STUTHMAN: ...and parked in a wrong place and was towed away. Do you notify that or does that student contact Capital Towing right away and say, my vehicle got towed, can I come and retrieve it? [LB1065]

SARA SCHWARTZTRAUBER: We're open 24-hours a day. Within an hour after we tow the car, we contact the Lincoln Police Department. We give them the make, model, year, plate, VIN, where it was towed from. Not only that, my company, especially, is very careful that every single parking lot we tow from has signs in it with our name and phone number on it. [LB1065]

SENATOR STUTHMAN: Okay. When the individual, let's just say my grandchild... [LB1065]

SARA SCHWARTZTRAUBER: Sure. [LB1065]

SENATOR STUTHMAN: ...would call your lot saying, you know, I think my vehicle was towed to your lot; do you have the information there to tell my daughter? [LB1065]

SARA SCHWARTZTRAUBER: Absolutely. [LB1065]

SENATOR STUTHMAN: Yes, it is here. [LB1065]

SARA SCHWARTZTRAUBER: We have someone in the office 24 hours a day. [LB1065]

SENATOR STUTHMAN: Twenty-four hours a day. So they can be retrieved in situations like that? [LB1065]

SARA SCHWARTZTRAUBER: Absolutely. [LB1065]

SENATOR STUTHMAN: Almost immediately. [LB1065]

SARA SCHWARTZTRAUBER: Immediately. [LB1065]

SENATOR STUTHMAN: Almost immediately. [LB1065]

SARA SCHWARTZTRAUBER: As soon as they can get there. [LB1065]

SENATOR STUTHMAN: Okay. The other question I have is: you stated that you wait 20

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days before you try to notify or see who's vehicle it was, or the lienholder or anything like that. [LB1065]

SARA SCHWARTZTRAUBER: Sure. [LB1065]

SENATOR STUTHMAN: Now, these vehicles, are they vehicles that somebody drove somewhere and it may be shelled out and they bought another vehicle and took off... [LB1065]

SARA SCHWARTZTRAUBER: They can be. [LB1065]

SENATOR STUTHMAN: ...and said, too bad, goodbye. [LB1065]

SARA SCHWARTZTRAUBER: They can be. One of the...one of the issues I have on the other bill that we're here on is the idea that most private property tows are running, driving vehicles. Simply not true. A lot of people will leave their non-running, driving vehicle in apartment house and move away. We get those too. The other thing, and I'm sorry I don't mean to change it, but as far as the lienholders were concerned, of those 3,200 cars we towed last year, only 4 were picked up by lienholders and only 2 after the 30-day period. It's not that big of an issue. It really isn't. Thirty-two hundred cars, we released 4 to lienholders. [LB1065]

SENATOR STUTHMAN: What type of a time frame do you have to go by to either sell that one or dispose of it or haul it to the recycle yard? [LB1065]

SARA SCHWARTZTRAUBER: Ninety-one days I can get a title on it. [LB1065]

SENATOR STUTHMAN: And you get a title on it? [LB1065]

SARA SCHWARTZTRAUBER: Um-hum. [LB1065]

SENATOR STUTHMAN: A repossessed title? [LB1065]

SARA SCHWARTZTRAUBER: We get a affidavit of storage title. [LB1065]

SENATOR STUTHMAN: Okay. Okay. Thank you. [LB1065]

SARA SCHWARTZTRAUBER: Um-hum. [LB1065]

SENATOR FISCHER: Thank you, Senator Stuthman. Other questions? Senator Campbell. [LB1065]

SENATOR CAMPBELL: The Lincoln Police Department notifies within the 5 days? Did

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I... [LB1065]

SARA SCHWARTZTRAUBER: They attempt to; very, very carefully, yes. [LB1065]

SENATOR CAMPBELL: They have to, but.. [LB1065]

SARA SCHWARTZTRAUBER: They do not have to. I don't know; I'm sorry. I don't believe they have to. I believe it's their policy to. I certainly can't speak for the police department. [LB1065]

SENATOR CAMPBELL: Okay. Right. But your...your company generally would wait the 20 days, you said. [LB1065]

SARA SCHWARTZTRAUBER: Well...and the reason I say 20 days, that's a generalization. With the number of cars we tow, she does it every single day. So it may be 20 or 21 days until she has time to get to that car. It's not that we purposely wait 20 or 21 days to do the car; it's when it falls into the time frame of when she can get to it. You know, the one thing that we need to understand, if this law passes, these tows are going to go up by \$75, because I'm going to have to hire another person at \$30,000 a year to process cars. If we have...if this law passes, if I tow a car on Friday, and a student is out of town and doesn't come back until Monday or Tuesday, I've already had to start the process; I'm going to have to start it at 3 days. Once I start that process, I have to pay the state for the information; I have to pay to send out a registered letter; I have to pay somebody to do all this; we're going to add a fee to the tows and they're going to go up. [LB1065]

SENATOR CAMPBELL: Thank you. I just wanted to continue, so the Lincoln Police Department has that policy. They have access to the information quicker or they're not...they're taking the information off the car before it is towed away? [LB1065]

SARA SCHWARTZTRAUBER: Correct. [LB1065]

SENATOR CAMPBELL: So the officer is writing all of this down and then calls you. [LB1065]

SARA SCHWARTZTRAUBER: Correct. [LB1065]

SENATOR CAMPBELL: And has the car towed away. [LB1065]

SARA SCHWARTZTRAUBER: Yes, ma'am. [LB1065]

SENATOR CAMPBELL: And so the officer at the police department then sends out...but do they send it certified mail also? [LB1065]

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SARA SCHWARTZTRAUBER: Yes, ma'am. [LB1065]

SENATOR CAMPBELL: Same procedure that you use? [LB1065]

SARA SCHWARTZTRAUBER: Yes, ma'am. They have a lot more access to information than we have. [LB1065]

SENATOR CAMPBELL: All right. Thank you. [LB1065]

SENATOR FISCHER: Thank you, Senator Campbell. Senator Stuthman. [LB1065]

SENATOR STUTHMAN: Thank you, Senator Fischer. I just...that initiated another question for me. But, Sara, before you tow a vehicle, does the police department have to be there and take information? [LB1065]

SARA SCHWARTZTRAUBER: Not on private property tow. [LB1065]

SENATOR STUTHMAN: Not on private property...private property, an owner can say, hey, this old vehicle has been here for 3 days, would you please remove it? [LB1065]

SARA SCHWARTZTRAUBER: Yes, sir. [LB1065]

SENATOR STUTHMAN: Okay, that's the process. Thank you. [LB1065]

SENATOR FISCHER: Other questions? I see none. Thank you very much for coming in today. [LB1065]

SARA SCHWARTZTRAUBER: Thank you. [LB1065]

SENATOR FISCHER: Are there other opponents to the bill? Good afternoon. [LB1065]

JOANNE HITZ: Good afternoon. Joanne Hitz, J-o-a-n-n-e H-i-t-z. I operate a business in York; it's towing. Also, I'm the president of the Professional Towing Association of Nebraska. I just want to give you a little background that actually most states do have a 30-day requirement notice. Five days is unheard of. The state of Tennessee does have a 15-day notification, but they found out that it's not working so they are actually legislating to change it back to 30 days because to obtain the information privately is difficult. We're obviously opposed to this bill just because there's no way you can do this in 5 days, especially the type of weather we've had. There's no way you could...we would have 5 days to...I mean, we've been working day and night. To find the time to do this would be impossible. [LB1065]

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SENATOR FISCHER: Thank you very much. Are there questions? Senator Stuthman. [LB1065]

SENATOR STUTHMAN: Thank you, Senator Fischer. Would you be receptive to 10 days instead of 5 days? [LB1065]

JOANNE HITZ: No. It...you got to understand, on the I-80 corridor where we operate, so many people abandon vehicles and you have no idea of knowing which state they've been licensed in. You have no idea...you cannot obtain the information online if you're not a resident of that state. It would be too difficult. [LB1065]

SENATOR STUTHMAN: Okay. Thank you. [LB1065]

JOANNE HITZ: Um-hum. [LB1065]

SENATOR FISCHER: Other questions? I see none. Thank you for coming in today. [LB1065]

JOANNE HITZ: Thank you. [LB1065]

SENATOR FISCHER: Other opponents to the bill? Any other opponents? Anyone wishing to testify in the neutral capacity? Senator Heidemann, would you like to close? [LB1065]

SENATOR HEIDEMANN: Thank you. Very briefly, I still think this is a common sense bill. I hope you give it consideration. It's always nice to hear the other side, I will say that. Senator Stuthman picked up on it though, they don't start the process for 20 days and they get it accomplished in 10. If you want to put an amendment on it that would make it 10, I think it would be very reasonable if you would do that. They said they're going to need another person if it does go down to 5 days or 10 days. My argument would be why? They're still processing 3,000 cars; they're not processing any more cars. If they would just do it in a timely fashion and move that time period up and start right away, they're not processing any more cars. And also, she stated that they're going to have to up the fees by \$75. They towed 3,000 cars a year; Appropriations Committee, number guys, that's \$225,000. I want that job. I still think this is a very common sense bill and I hope you give it consideration and if not, I would like some feedback to know why. Thank you. [LB1065]

SENATOR FISCHER: And thank you, Senator Heidemann. Questions? Thank you. Always good to see you. With that I will close the hearing on LB1065; open the hearing on LB1092. Senator Lathrop is here to introduce the bill. Good afternoon and welcome. [LB1092]

SENATOR LATHROP: (Exhibit 5) Good afternoon, Senator Fischer. Madam Chairman and members of the Transportation Committee, my name is Steve Lathrop, L-a-t-h-r-o-p. I represent the 12th District and I'm here today to introduce LB1092. And if nothing, I'm persistent. But, you know, I introduced this last year and then we had a study over the summer which I appreciate the taking the time of the committee and hopefully we learned more about this...what I perceived to be a problem. And let me tell you what I think the problem is. Two things about the statute as it relates to towing from private property. This only relates to towing from private property. The first thing is that a tow company is entitled to charge a reasonable fee. That reasonable fee is not defined. There is no measure in law for what is reasonable and that's really the substance of the bill. The second thing about the law is that it provides these tow companies with a lien. And what that means is they can tow your car and you don't get it back until you pay. And it's usually, you know, they're not just telling you what you're going to pay, they're going to tell you how you're going to pay so it's got to be in cash typically. The difficulty with where we're at now and the handout gives examples of different stories that we've heard since our interim study and there was a newspaper article on it, is the charges are beyond reasonable. We have left to the tow companies to decide what's reasonable and I think abdicated our responsibility as policymakers to define what is reasonable. LB1092 proposes to define what is reasonable by simply suggesting that in those communities where there has been a competitive bid for towing from the street that that should be a decent measure or that should be the measure for what's reasonable. It's pretty straightforward; it's pretty simple and it makes sense because right now there is nothing, nothing that stops a tow company from charging you \$250 to tow your car. As one person said, they got towed from a Creighton game in Omaha and the charges to tow it 7 blocks were like \$250; to pick it up the same night. I think it's important if we give a lien to tow companies and they can keep your car until you pay it. You don't have...there's nobody that you can appeal to. There's nobody you can go to and say this isn't fair. It's beyond reasonable, you simply have to pay it or you don't get your car. And the storage fees mount and they multiply and they grow. And as I listened to the last bill, I heard that they towed 3,270 cars last year. One operator towed 3,270 cars. Well what happens is they go through the car lots just...or they go through the parking lots looking for cars. Now I'll grant you, I'll be the first one to admit those people don't belong there and they deserve to have their car towed. That isn't the issue. Whether they deserved to have their car towed, the short answer is yes. They don't belong there, assuming there's proper signage, which is apparently an issue in some of these cases. But the question is reasonableness and we've turned that over completely to the people who we've given a lien to and it is not fair. And we are...we're not doing right by the people of the state by simply using reasonable in the statute and not defining what that is when it would be easily done by comparing it to the contract they have to tow the city. Now, I heard the last time I was here that well we have a bunch of abandoned cars on private property. They also have a lot of cars that get abandoned that are in wrecks where they're totaled and they sit in the lot and people don't pick them up because the cost to fix them is more than they're worth, right? So, that's already incorporated into the bid they give the

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city when they say to pull it from the street right out in front of the very parking lot would be \$80, but we're going to charge people \$130 to tow it from the private lot. So I think now that we've heard...had two hearings on this and an interim study it's time to move LB1092 out of committee so that it could be debated on the floor. Thank you. [LB1092]

SENATOR FISCHER: Thank you, Senator Lathrop. Senator Stuthman, question? [LB1092]

SENATOR STUTHMAN: Yes, thank you, Senator Fischer. Senator Lathrop, on these private lots, when these vehicles are towed from a private lot, who is the one that notifies the towing company that that vehicle shouldn't be there or is the towing company circling all the time to see there's one that don't, like, shouldn't be here? [LB1092]

SENATOR LATHROP: I think that's what's happening. And here's, essentially, how it works, Senator Stuthman. Tow company comes in and they say, if you own the grocery store in Lincoln, they say, we'll go through your lot after hours; you put...we'll put the sign up and it says: no parking here, violators will be towed, call Joe's Towing. Then what they do is they run the traps. It's not unlike trapping. They go through the parking lot and if there's a car there and it's not on their list, they pick it up and take it down to the tow lot. And that's what happens. These are not situations...I won't say that they're...none of them are situations where an owner calls, but generally it's a prearranged situation where they say, you're my tow guy, put the sign up and you can come through my lot and tow cars out of it. [LB1092]

SENATOR STUTHMAN: And the reason I ask this, Senator Lathrop, is the fact that say you had a student that was parking at an apartment complex and that student had a sticker on the vehicle and that was the right vehicle there; but maybe during that week, the vehicle had some mechanical problems and they took another member of the family's car and parked there and maybe they didn't have the sticker on. I'm wondering, you know, did that apartment complex notify the towing company or did the towing company have the contract to go through there and say, ah, I got me one? [LB1092]

SENATOR LATHROP: I think they have a contract to go through and say I got me one. That really...the situation you described is really between the tenant and the apartment complex, if they're going to bring a new car there and they want to park it there, then if the rules permit them to do that and they need a new sticker or a temporary sticker, they ought to have one. I really don't have an argument for not towing from private property if you don't belong there. And if you're breaking the rules of the apartment complex, by all means, let them tow. I do have a problem when they charge more than reasonable, because they're then imposing a penalty on the people and that's not their job. The law doesn't give them a lien so that they can penalize people; it gives them a lien so that they can charge a reasonable fee and we need a measure for what's reasonable.

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[LB1092]

SENATOR STUTHMAN: Okay. Thank you, Senator Lathrop. [LB1092]

SENATOR FISCHER: Thank you, Senator Stuthman. Other questions? Senator Gay. [LB1092]

SENATOR GAY: Thank you, Senator Fischer. Senator Lathrop, when you came up with this: shall not be more than the amount that a city of metropolitan class would pay for public property; but just, I guess, one fee, so that adjusts throughout the state then because in Omaha you're going get a... [LB1092]

SENATOR LATHROP: I think we said if... [LB1092]

SENATOR GAY: ...it's going to be much more competitive than a...well I shouldn't say that. But that's probably the most competitive rate there is for that business. [LB1092]

SENATOR LATHROP: I think it would be the most expensive rate as among...the way we set it up, I believe, is that if your community has put it out to a competitive bid, Sarpy does, apparently, it would be Sarpy's rate. If there's no rate used, essentially the Omaha rate because I expect that would be higher than what the other communities would charge. [LB1092]

SENATOR GAY: Now see, I would say it the other way. I think it would be cheaper because you'd get a volume, you want that business so they...it's very competitive actually because they then tow all the accidents. They'd tow a lot of things if the sheriff calls them. So, in a way, the flexibility of seeing...I think you're going the cheapest way. [LB1092]

SENATOR LATHROP: I would be willing...I'd be willing to say the closest one...one of the same class. [LB1092]

SENATOR GAY: Or a percent over or something. I mean... [LB1092]

SENATOR LATHROP: If there is a good argument, based, in fact, on why it's more expensive to tow somebody or that they have more abandoned cars on private property than they do...throw a little something extra in there for it. I really don't care, but I just...I'm having trouble giving them no measure for what's reasonable. [LB1092]

SENATOR GAY: And then could I have a follow-up question. Here's the hard part for me is we set an arbitrary price what this is, and I don't know what the business is in Lexington or O'Neill or Papillion for that matter, but when you read these, some of these are just pretty horrendous, but if you get your car towed, it's not a pleasant experience,

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obviously, no matter who you are. So you're upset and you go to the towing, but some of these, like on the parade one where they had it set up and they were giving lifts to the towing agency, probably a little overboard, but, I mean, I guess, I'm looking, the hard part I have with all this is, is it a few bad actors out there that are then doing this to everybody and I just have a hard time saying we know best and...because a few bad actors may be doing something that are ticking people off and then we're going to take and change this whole industry. Concerns me. [LB1092]

SENATOR LATHROP: But what we did is we gave them a right to keep your car. And we gave them no...gave the citizens no measure for deciding am I being charged a reasonable amount or something way higher than a reasonable amount. There is no...you don't get to call the cops when they say it's going to be \$300 for your car that was towed a half hour ago and it went 6 blocks to the tow lot. [LB1092]

SENATOR GAY: Yeah, there's no...I understand what you're saying. The consumer has no...there's no one to complain to basically. [LB1092]

SENATOR LATHROP: That's it. [LB1092]

SENATOR GAY: You have my car. And that's, I guess, is the dilemma. I don't know if this...where we're at to fix that because I know what you're saying. If it's \$500 it's \$500. How was I supposed to know? [LB1092]

SENATOR LATHROP: It could be \$500. And it will be soon. [LB1092]

SENATOR GAY: But if I don't want you in my lot, I got a contract...I don't know. Maybe there shouldn't be...exceed a certain price. [LB1092]

SENATOR LATHROP: Let me answer the criticism that this is a private property issue and not something for the Legislature to involve itself in. The private property issue is the car doesn't belong there; it should be towed; we've addressed that issue, right? We've given people permission to tow a car without the owner's permission because the guy was parked where he shouldn't be. The question is, we've given the tow companies a lien and now they're using it to impose a penalty. And if you want to impose a penalty, have the police come out and ticket them; make them go through court where they pay a penalty and the penalty goes to the school district. But it shouldn't go to the tow company because they happen to arrive on the scene and have your car and have a lien for it. Now, you've suggested that there's an issue with the formula or how do we legislate what's reasonable. I'm open, I'm open to that. It just struck me that if, if you park your car in a lot at 11th and K in Lincoln and it costs \$50 to tow it from the street and they're going to charge you \$90 to tow it from the lot, there's something wrong. So whatever measure you come up with, I'll leave it to the wisdom of the Chair and the members of this fine committee. [LB1092]

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SENATOR GAY: But...on that one, I guess, you know, the problem I have, I don't know either, but you're the one to bring the bill. So I don't know what the answer is either. I'm looking for a little help here too. [LB1092]

SENATOR LATHROP: Then my answer to that is, I think we look to the contract that they...the city enters into with a tow company and what's it cost to tow it or what's the charge in a competitive bid process, what's the charge to...charge it from the street right in front of the parking lot. And if somebody makes an argument that you're persuaded by that there's more abandoned vehicles or it costs more for some reason, then add 10 percent to it. But we can't leave it unregulated and give them the lien in my judgment. [LB1092]

SENATOR FISCHER: Senator Campbell. [LB1092]

SENATOR CAMPBELL: Just a comment. Senator Lathrop, I can't remember this summer whether the association testified, but most of them must have a contract from some political entity if they're picking cars off the interstate and that kind of thing, so if we try to at least find out what that political subdivision is who's giving them a contract, that might be a way to determine the price. [LB1092]

SENATOR LATHROP: I'm not sure about what I'm going to say, but I'm going to suggest that it's probably true. There might be 5 tow companies in Lincoln, but only one has the contract with the city. Right? [LB1092]

SENATOR CAMPBELL: That would be correct. [LB1092]

SENATOR LATHROP: So if that's true, I would use whoever has the contract and what that contract is is the measure for what's reasonable. [LB1092]

SENATOR CAMPBELL: No. Maybe the lady who testified for the association will testify and we can ask that question. Thank you, Senator. [LB1092]

SENATOR FISCHER: Senator Janssen. [LB1092]

SENATOR JANSSEN: Thank you, Chairman Fischer. Senator Lathrop, this kind of came to me when we were talking about it and I know we had a bill, probably the same bill last year, and then...I think we IPPed it, if I recall last year. [LB1092]

SENATOR LATHROP: Pardon me? [LB1092]

SENATOR JANSSEN: Did we not kill this bill last year? [LB1092]

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SENATOR LATHROP: Oh yeah you did. [LB1092]

SENATOR JANSSEN: That's right. Okay. [LB1092]

SENATOR LATHROP: I think this is a little more improved, but. [LB1092]

SENATOR JANSSEN: Okay. Well but... [LB1092]

SENATOR LATHROP: So I'm optimistic, Senator Janssen. [LB1092]

SENATOR JANSSEN: So I was wondering why and, of course, I lived down here last year and I had one of those tow things up where I lived and after I heard your bill I was always concerned about getting towed because I did nothing on my vehicle and I never got towed, but I realized what my concern was with the bill. Being in private industry myself, when you start talking about setting prices based on a city contract, and I draw comparison and think of the outcry; in Dodge County we contract for legal services and we don't apply that. Now I use these same attorneys quite a bit, quite extensively, more than I'd like to in Fremont and I would love to get that price that they've negotiated with the county for the legal services. Do you think that's any more fair to ask than what we're asking of the towing industry? [LB1092]

SENATOR LATHROP: There's a difference. It's typically the same company and it's the same work. You probably couldn't...there's lawyers in your town that you couldn't get to do public defenders work, right? But you have some public defenders that will work for a smaller rate because of their skillset and they're doing different types of legal services. And so I think comparing a lawyer that has a contract to do work with the city and a lawyer that does a different kind of work, there's difference skillsets and there's a different market. These guys are doing the very same work. I mean, whether you're towing somebody from in front of a fire hydrant or you're towing them out of a private lot, it's the same tow truck, it's the same work, it's the same process. They take them back to the same lot and it's usually the same person. [LB1092]

SENATOR JANSSEN: You could probably help me with this then, sometimes I think it is the same work though, isn't it? When if you cannot afford an attorney, one will be appointed for you, that would be the same type of work. Well, say I can afford and say you can't; and it's the same work, but I'm going to pay more because I can afford it; and in most cases, I'm fairly certain, that they have a higher price that they're charging the general public than they have contracted with the county. So in that case it would be the same, apples to apples. [LB1092]

SENATOR LATHROP: Well, one thing I would suggest to you is that you can decide to hire that person or not. Here you don't have a choice, right? So what happens is your car gets towed, you don't get to negotiate the price before they leave with it, okay? So

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whether you use a public defender or hire a private attorney, you can make that decision, you can call up a half dozen lawyers and say what do you charge. These guys get a lien and you don't get to negotiate the rate; and I think that's the difference. [LB1092]

SENATOR JANSSEN: Thank you. [LB1092]

SENATOR FISCHER: Thank you, Senator Janssen. Senator Hadley. [LB1092]

SENATOR HADLEY: Senator Fischer. Senator Lathrop, a couple of questions. Does the owner of the lot that it's towed from, the apartment lot or whatever, do you think they ever get, I don't want to use the word "kickback", I mean, do they get remuneration from...that somebody parks in their lot and then they're towed away? [LB1092]

SENATOR LATHROP: That is a...it's a good question. I don't know the answer to that. If people come in and they say I'll give you \$20 a car if I get to be the exclusive guy that tows them out of here, I've heard people say that; I don't have any basis to say that's the case though. [LB1092]

SENATOR HADLEY: Secondly, I think...I am kind of intrigued with the idea that there isn't a choice; you know, if you go to a lawyer there's choices about who you go to and who is better and I was trying to relate this maybe to like a...do we regulate taxi cabs. Do you get in a taxi cab and you find out the price is what the driver wants to charge you when you reach your destination? I think those are regulated, aren't they, the, like, taxis? [LB1092]

SENATOR LATHROP: They are. The Public Service Commission, and I think that's a good example, a very good example, and one thought I had was to suggest that the Public Service Commission set the rate for these people and have the Public Service Commission review on some regular schedule what can be charged to tow people off a private lot. It's the very same principle. If you get in a cab, you can't negotiate that, I mean, you jump in a cab, they're all yellow or whatever color they are, you jump in them and the Public Service Commission has made sure that...because it's not a situation where you can call them on the phone and negotiate a rate. Public Service Commission sets their rates. [LB1092]

SENATOR HADLEY: I guess I was thinking that along the lines you were just talking about that, you know, some kind of a rate schedule, because we're trying to deal with the term, I think you used, "reasonable", is that correct? [LB1092]

SENATOR LATHROP: That's what the statutes says. [LB1092]

SENATOR HADLEY: The statute says, so maybe we need some kind of mechanism

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that lets somebody at least review and see what reasonable is and have some kind of schedule on a yearly basis or something that people know that your car is towed and then my car is towed a week later from the same place and that they're two different towing bills. [LB1092]

SENATOR LATHROP: It could be and as far as I'm concerned, we can make it a formula of some kind or another or we can turn it over to the Public Service Commission and let them set it. I don't have a problem that. [LB1092]

SENATOR HADLEY: Okay. Thank you, Senator Fischer. [LB1092]

SENATOR FISCHER: Other questions? Senator Gay. [LB1092]

SENATOR GAY: Thank you, Senator Fischer. Senator Lathrop, just following up with what Senator Hadley was saying; you can't have competition when you have no choice obviously. In these cases the consumer has no choice, they just get towed. [LB1092]

SENATOR LATHROP: That's true. [LB1092]

SENATOR GAY: When you were doing any research, was...is there any states that do like a tiered system where if you're...if I get in a fender-bender I probably...my insurance company would say use this company or...I don't know how that gets done, thank goodness I haven't had a rate, but is there a tiered system, maybe, that say, hey, if you're going to do this way, get a lien, you can only charge not to exceed something here. And then if it's just a free market deal, and I don't know the business that well, that's what worries me. I don't think any of us knows the business that well that you could do something that says, hey, this competition, you called me. I can charge you anything I want because if Senator Lathrop calls me, I'm going to charge \$200, all right, I'll pay that, but if you come take my car... [LB1092]

SENATOR LATHROP: If my car dies in the driveway. [LB1092]

SENATOR GAY: Right. [LB1092]

SENATOR LATHROP: If my car dies in the driveway and I can't get it started, you know, I can't...you know, I'm not going to replace the battery in my car. [LB1092]

SENATOR GAY: Call someone. [LB1092]

SENATOR LATHROP: I call somebody and the first guy says, well, it's going to be \$300. I can hang the phone up and say, I'm going to try the next guy in the phone book... [LB1092]

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SENATOR GAY: Check it out. [LB1092]

SENATOR LATHROP: ...that guy is going to do it for \$75. I can make those calls and get to it. Your question about do other states have a tiered system? The answer is I don't know. I think we can come up with whatever formula you think is fair, but somebody should be responsible for what's reasonable. [LB1092]

SENATOR GAY: But I guess that's...the point is, if you have no choice. You have, maybe, that the government should...could intervene, but if you have a choice, I don't think it's government should be sticking their nose into private sector businesses. So where's the balance here? Maybe the PSC thing is something; but that's not in the bill; maybe you could have someone...I hate to see you, say, keep working on it. [LB1092]

SENATOR LATHROP: Well, if it doesn't get out, I may put that in next year's bill. See if it... [LB1092]

SENATOR GAY: Persistent. [LB1092]

SENATOR LATHROP: ...see if it plays any better. [LB1092]

SENATOR FISCHER: Thank you, Senator Gay. Senator Lautenbaugh. [LB1092]

SENATOR LAUTENBAUGH: Thank you, Madam Chairman. You just increased my passion to come back next year; I can hear this debate again. [LB1092]

SENATOR LATHROP: Mine too. [LB1092]

SENATOR LAUTENBAUGH: I guess what I struggle with and I'm having a sense of deja vu because I think we had this conversation last year too. I can readily conceive that it would be possible to charge a lower rate to the city because you can be making it up in volume. There's always parking meters, there's unpaid tickets; you're always out there. How do we compare that to a private tow off of an apartment lot and how do we say that one rate is fair and one isn't? [LB1092]

SENATOR LATHROP: You know, it was funny, I had no idea what the volume was until I listened to the testimony on the bill immediately preceding this. A contractor sat in this chair and said they towed 3,270 cars in Lincoln last year. That's pretty good volume. [LB1092]

SENATOR LAUTENBAUGH: Now were those city or state...or city or private tow? [LB1092]

SENATOR LATHROP: That was from private lots. I...I...that's what I understood her

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testimony to be and I suspect she's here in opposition and you'll hear that or you can certainly ask that question. [LB1092]

SENATOR LAUTENBAUGH: I guess what I'm saying is I can understand why the rates would be different. How are we going to...how are we, or even the Public Service Commission, properly going to pass on what is fair from location to location from customer to customer? [LB1092]

SENATOR LATHROP: I suppose the Public Service Commission, if they're doing this, they look at the investment, you know, the trouble that...the easy cases, the difficult cases, whether you're talking about bones or you're talking about what cab rides, however they do that, and then come up with a number. Whether it's tiered; whether it's done by the Public Service Commission, I don't know that that's something beyond their ability or beyond their "wheelhouse". [LB1092]

SENATOR LAUTENBAUGH: And what we're talking about here, I mean, if you're wrongfully towed, you have a remedy against the person who towed you, you probably should be towed. [LB1092]

SENATOR LATHROP: No question about it. I'm assuming ever yone of these people deserved it. [LB1092]

SENATOR LAUTENBAUGH: And it's probably not something that people are going to encounter time and time again, is it? I mean, in your opinion. [LB1092]

SENATOR LATHROP: No, I think if somebody was going to encounter this time and time and time again they'd probably go get an injunction. [LB1092]

SENATOR LAUTENBAUGH: And maybe I misspoke. I'm talking about, not the ones that were wrongfully towed time and time again, I'm saying the ones who...that you indicated were the wrongdoers, didn't pay their tickets, didn't do whatever to get towed, that's probably not going to happen to them over and over. [LB1092]

SENATOR LATHROP: I wouldn't think so. [LB1092]

SENATOR LAUTENBAUGH: So do you see how that might be a distinction between taxi cabs which people can use time and time again and we do monitor the rates versus these isolated instances that may or may not happen in a person's life? [LB1092]

SENATOR LATHROP: They're isolated as it relates to the individual. I go to Chicago once a year with my law firm, I get in a cab three times a year. That makes that isolated, but for all the cabs in Chicago, it's not isolated. And for all the tow companies, 3,270 for one company, there's nothing isolated about how often they're doing it. So it sort of

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depends on the perspective you want me to take. If I get in a cab once a year, it's an isolated occurrence; but that doesn't mean the PSC shouldn't be setting what's a reasonable fare. [LB1092]

SENATOR LAUTENBAUGH: And even still, I would assume you use cabs more often than you get towed? [LB1092]

SENATOR LATHROP: Pardon me. [LB1092]

SENATOR LAUTENBAUGH: I'm assuming you, in your life, have used more cabs than times you've been towed. [LB1092]

SENATOR LATHROP: Certainly. [LB1092]

SENATOR LAUTENBAUGH: So compared to your cab usage, your towing experience is isolated even vis-a-vis you. Is that a safe statement? [LB1092]

SENATOR LATHROP: Sure. I'll go with that. [LB1092]

SENATOR LAUTENBAUGH: Thank you. [LB1092]

SENATOR FISCHER: Thank you, Senator Lauthenbaugh. Other questions? Will you be closing, Senator Lathrop? [LB1092]

SENATOR LATHROP: I think I will. [LB1092]

SENATOR FISCHER: Okay. I will wait and ask you some questions then. [LB1092]

SENATOR LATHROP: Very good. Thank you. [LB1092]

SENATOR FISCHER: Thank you very much. First supporter of the bill? Are there proponents? Please come on forward. Good afternoon. [LB1092]

RON WALL: (Exhibit 6, photos #1, #2, #3) Hello, Senator Fischer, and members of the committee. My name is Ron Wall, R-o-n, last name is W-a-l-l. I gave a written document to Senator Lathrop, but as I sit here, what I'm going to say only reflects part of that and I didn't bring enough copies for everybody else anyway. I'm here because I am a victim of being towed from a private lot. I moved to Lincoln in 2002. On the first Friday in February, I think we'd lived in Lincoln about six months; my wife, her sister and I decided to go downtown to the Haymarket and take advantage of the First Friday Art Walk. It was 10 or 12 degrees and snowing; it was a miserable night, we should have stayed home. We parked in a lot that is adjacent to what used to be P.O. Pears, is now called "9" or something, I don't know. And when we went in there we did not see any

sign that said that you couldn't park there. We even talked about it. We said, well, it's a private business; it's a little strip mall; it's got a little law office in there, a vet building in there, and another business, ECAD. And there are little curbs there that say reserved for the law office, reserved for ECAD. But down at the end there was a parking stall that had no such markings on it. And so the three of us decided that was a safe place to park. And we went to the art walk and on the way back we were trying to determine where we wanted to eat lunch...or dinner, actually, and went back to the car and, geez, it was snowing harder so let's just go back to P.O. Pears. We were the only car in the lot. There were no cars in the lot when we got there two hours before that. There were no lights in any of the buildings in the offices in that spot. We ate at P.O. Pears which I suppose took 45 minutes. When we came back to the lot, there was a Capital tow truck flatbed with a SUV on it and a tow truck was parked in front of my car. And I went up to the young man who was there; his name was Travis; and I said, well, you can't tow from this spot because you're not hooked up and secondly, I said, it doesn't say you can't park there. And he said, well, I can pretty much do whatever I want to; there's a sign here that says you can't park. And I said, well, I don't know where it is. And he said, it's up there by the building. And if you go back, which I did the next day, there was a tiny little sign, now this was seven years ago, a tiny little sign clear back up there that says: no parking, violators would be towed. Well, at dark in the night I didn't see that. I was probably naive, but I didn't see that. We had a very long talk with Travis and the guy from the other tow truck and it turned into a heated discussion with all of us involved. At the end I was finally offered this option: I could pay him \$96.10 and he would not hook up my car and tow it away. Now considering the fact that I live about seven miles from there at the time, I had no idea how I was going to get home and it was snowing and sleeting and 10 degrees, that seemed like a reasonable solution. But I get kind of obsessed with things and I didn't feel like this was the right thing that I should have to do. So the next week I went out to the tow truck company and talked to...I think Sara's husband, who in no uncertain terms told me he could do whatever he wanted to, charge me whatever he wanted to, and any idiot should know you shouldn't park in a place where it said no parking. Except he didn't say it quite that nicely. So for the next few weeks I went down to this business almost every day at certain times of the day and watched activity in this lot. There was never more than half the...half the stalls were filled and I never saw a tow truck in the lot during the day. Now I went into one of the office and they said, if you're going to park here for an extended period of time, you should get a little thing to put in your windshield that says you're doing business here. I never did that. I was probably there 30 times over a two-week period in the daytime, I never got towed. So, earlier when we were talking about predatory towing and I don't know if that's true or not, it seemed odd to me that on a Friday night at 8:00 at night or 9:00 at night in February when it was snowing that...and nobody was working in those offices, that that wasn't predatory towing and it cost me \$96.10. So I guess I'm unhappy about two things: I think the fee is exorbitant; I'm also unhappy with myself because I was naive enough to believe that when there's one stall that says no parking and that was my stall, which was a little naive as I think about it later; but I'm really unhappy with

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the way I was treated by the employees of Capital Towing. They were obnoxious, quite frankly. I wasn't hooked up. I found out later that if you're not hooked up they can't legally tow you; they did. It cost me \$96.10 and they were not nice to me. So I think if we could do anything to help innocent people get towed, although I wasn't totally innocent, I shouldn't have been there. I understand that, later didn't notice it tonight. I wasn't abandoning the car. And I know there are two sides to every issue and abandoned cars sound like a huge problem and I live in a nice neighborhood in Lincoln and sometimes there are cars that are left there until somebody turns them in or they get towed away. Why they're left there, I don't have any idea. So I think the issue is complicated. I appreciate all sides, but \$96.10 in 2002 seemed exorbitant to me when my car was never really towed. So, thank you for your time. [LB1092]

SENATOR FISCHER: Thank you, Mr. Wall. Where did you move from? [LB1092]

RON WALL: Central City, Nebraska. And I know you, of course.... . [LB1092]

SENATOR FISCHER: Yes. School superintendent? [LB1092]

RON WALL: ..because of the school superintendent. [LB1092]

SENATOR FISCHER: Correct. Nice to see you. Are there questions? Senator Stuthman. [LB1092]

SENATOR STUTHMAN: Thank you, Senator Fischer. Ron... [LB1092]

RON WALL: Yes. [LB1092]

SENATOR STUTHMAN: ...in your...when you were being attempted to be towed, you were the only vehicle in that lot. [LB1092]

RON WALL: No, there was another tow truck there, a flatbed and it had a tan SUV on the flatbed and there's another driver on that vehicle. [LB1092]

SENATOR STUTHMAN: Okay, but were there...was the parking lot full? [LB1092]

RON WALL: No, no. No. [LB1092]

SENATOR STUTHMAN: But there were several other ones maybe in the parking lot? [LB1092]

RON WALL: No. There was only the SUV on the flatbed and our car were the only two cars in there and the businesses were not open. [LB1092]

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SENATOR STUTHMAN: And your vehicle was not creating a nuisance or a problem or anything for that parking lot. [LB1092]

RON WALL: No. And nobody could argue that. It was creating no problem. There were no businesses open. [LB1092]

SENATOR STUTHMAN: That's the issue that really concerns me because of the business, you know, of spotting one vehicle and it is in a spot that there probably...it maybe it said no parking, but common sense would say that that vehicle is not, you know, an obstruction to business. It's not in the way. [LB1092]

RON WALL: It was in the farthest parking stall away from any of the businesses. And none of them were open. [LB1092]

SENATOR STUTHMAN: Okay. [LB1092]

RON WALL: I know I'm saying that over and over. [LB1092]

SENATOR STUTHMAN: Yeah. [LB1092]

RON WALL: (Inaudible) I looked around, and I'll leave these for you, if there had been a sign like this by the front entrance which says unauthorized vehicles would be towed 24-hours a day, and in the information I gave to one of Senator Lathrop's aides, I have lots of these pictures from downtown. Well I wouldn't have been stupid enough to go in this lot. [LB1092]

SENATOR STUTHMAN: Because you'd possibly be towed. [LB1092]

RON WALL: Yeah, possibly be towed or the other four (inaudible). Here's another one. That's right at the entrance, so I mean, I wouldn't go in there and park either unless I'm going to take my chances and be towed. But it was sort of innocent for us to go in this place when there...and I have been by there recently. As a matter of fact, I haven't been downtown on a cold night in February since that night. [LB1092]

SENATOR STUTHMAN: Do you feel, Ron, that the owner of the parking lot has contracted with the towing company and stating that if you see any car parked in there, tow it away that don't belong there? [LB1092]

RON WALL: I'm convinced of that. [LB1092]

SENATOR STUTHMAN: You're convinced of that. Okay, thank you. [LB1092]

SENATOR FISCHER: Thank you, Senator Stuthman. Mr. Wall, to focus on the policy

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decision that we're addressing in the bill, would you have had a problem if the fee would have been reasonable? You admit that you were in the wrong place. [LB1092]

RON WALL: I was in the wrong place. [LB1092]

SENATOR FISCHER: No matter the circumstances with signage... [LB1092]

RON WALL: Yeah. [LB1092]

SENATOR FISCHER: ...or whatever, you were in the wrong place. You know what we're trying to determine with this bill and with the policy decision is the reasonableness of a fee. Do you...would you have had a problem if the fee would have been reasonable in your mind? [LB1092]

RON WALL: I think if had been less than...fewer than \$50, I'd probably not been unhappy. [LB1092]

SENATOR FISCHER: If it would have been what? [LB1092]

RON WALL: Fewer than \$50, I probably would not have been too upset by it. I did have...if I can elaborate just for a second, I did talk to Patte Newman, who is the council person representing my district, she spent 30 hours on this and I think the time...I think the city charged \$33.25 or \$34.25 at that time. That seemed reasonable to me because of my stupidity not realizing I shouldn't have parked there. [LB1092]

SENATOR FISCHER: Okay, I was...that was... [LB1092]

RON WALL: Ninety-six dollars and 10 cents for not even having my car towed seemed unreasonable at the time and still seems unreasonable to me today. And it's gone up today. [LB1092]

SENATOR FISCHER: And, Mr. Wall, you said it was \$33 at the time in Lincoln? [LB1092]

RON WALL: It was in that vicinity, yeah. [LB1092]

SENATOR FISCHER: So you would have been...you wouldn't have had a problem with it at all if you could have paid \$33 which is what the Lincoln contract was? [LB1092]

RON WALL: Well, I'd have probably still had the problem with the fact that I wasn't hooked up to the tow truck, that the tow truck... [LB1092]

SENATOR FISCHER: I would think you would have been grateful you weren't hooked

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up to the tow truck myself. [LB1092]

RON WALL: Well he was going to make me...he was going to tow it and then told me I'd have to find a way to the tow yard. So this was a compromise. He let me drive my car home. [LB1092]

SENATOR FISCHER: Okay. [LB1092]

RON WALL: We were thankful for that. [LB1092]

SENATOR FISCHER: Yeah, I was going to say, I would think you would be grateful you weren't hooked up to the tow truck and so. [LB1092]

RON WALL: Because I had no clue how I was going to get home. [LB1092]

SENATOR FISCHER: No, you would have been stuck at P.O. Pears for awhile I think. [LB1092]

RON WALL: That's right. Because, you know, if you call a cab in Lincoln, they come three days later if you're lucky on a Sat...on a Friday...on a Friday or Saturday night. [LB1092]

SENATOR FISCHER: You can probably take that up with the Public Service Commission. [LB1092]

RON WALL: Yes. [LB1092]

SENATOR FISCHER: Senator Hadley, did you have a question? [LB1092]

SENATOR HADLEY: Senator Fischer. Mr. Wall. [LB1092]

RON WALL: Yes. [LB1092]

SENATOR HADLEY: Would you help me with...is there a legality of being hooked up to the tow truck or is it just they're going to tow you when they...when you're hooked up versus not being hooked up. [LB1092]

RON WALL: Well this article was in the paper by Nancy Hicks last summer and according to the...Senator Lathrop says that if you're not hooked up, they can't tow you. [LB1092]

SENATOR HADLEY: Is that right? If you're not hooked up to...can they charge you? [LB1092]

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RON WALL: I don't think so. [LB1092]

SENATOR HADLEY: Then obviously they must of, because they did. [LB1092]

RON WALL: They charged me. But that seemed like the best out. [LB1092]

SENATOR HADLEY: Okay, well that...thank you. [LB1092]

RON WALL: Taking full possession doesn't happen while they are putting the equipment in place to tow it, said Lathrop. [LB1092]

SENATOR FISCHER: Other questions. Senator Campbell. [LB1092]

SENATOR CAMPBELL: Thank you, Senator Fischer. Doctor Wall, thank you for coming to testify. [LB1092]

RON WALL: Yes. Thank you. [LB1092]

SENATOR CAMPBELL: Doctor Wall had contacted our office and we had indicated that we would have a hearing. We appreciate hearing from... [LB1092]

SENATOR FISCHER: Thank you, Senator Campbell. [LB1092]

SENATOR CAMPBELL: Doctor Wall, at any point, when you talked with the gentleman or even when you went back the next day, were you given any information in terms of these are our fees? As part of... [LB1092]

RON WALL: No, the towing fee was told to me by the tow truck driver, Travis. [LB1092]

SENATOR CAMPBELL: Nothing in writing? [LB1092]

RON WALL: Yeah. The fee I got for what they charged on city property was provided me by Patte Newman. [LB1092]

SENATOR CAMPBELL: Right. [LB1092]

RON WALL: And sometime within, I got...the next couple weeks. [LB1092]

SENATOR CAMPBELL: Thank you. [LB1092]

SENATOR FISCHER: Other questions? Senator Lautenbaugh. [LB1092]

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SENATOR LAUTENBAUGH: Thank you, Madam Chair. Sir, just briefly... [LB1092]

RON WALL: Yes. [LB1092]

SENATOR LAUTENBAUGH: I hope you understand what the discussion we just had with you about what you felt was reasonable and what you felt was unreasonable. It's kind of a fine line between \$33 and \$50; or \$33 and \$60; or \$50 and \$60. Do you understand why it might be difficult for us to determine what reasonableness should be? [LB1092]

RON WALL: Yes, and I said there are two sides to every issue including this one and I understand that. [LB1092]

SENATOR LAUTENBAUGH: And also...well I understand that the lot may not have been used during...one of my colleagues was questioning about this; that wouldn't necessarily be a defense if you were injured on the property and tried to hold the property owner liable. Do you understand that as well? [LB1092]

RON WALL: Yes. I can understand that. [LB1092]

SENATOR LAUTENBAUGH: Okay. Thank you. [LB1092]

SENATOR FISCHER: Other questions? Senator Gay. [LB1092]

SENATOR GAY: Thank you, Senator Fischer. You mentioned...did you talk to...you did research with who... Patte who? [LB1092]

RON WALL: Patte Newman who is a city council representative. [LB1092]

SENATOR GAY: City council member? [LB1092]

RON WALL: Yes. Member. Uh-huh. [LB1092]

SENATOR GAY: But I guess in that research; I'm from Papillion, La Vista, we don't have any problems like this; and I bet other communities this isn't a huge problem. Did she tell you it was absolutely state issue then? Couldn't... [LB1092]

RON WALL: It was absolutely what issue? [LB1092]

SENATOR GAY: Couldn't an ordinance or something...to me this sounds like a...every time I hear this, it's mostly going on in Lincoln. There's a few examples in Omaha, but I go to Omaha a lot and I don't see these kind of problems. Maybe I'm misguided, but it seems around here it seems more prevalent than other places. But was there a city

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remedy maybe that...the hard part for me is to get a statewide law that deals with something I know nothing about. [LB1092]

RON WALL: Well I was told recently at this...she didn't tell me this, because I kind of forgotten about this until recently, to tell you the truth, can't dwell on things forever obviously, I'd kind of forgotten about it. It isn't that I couldn't afford the \$96.10; you know, that isn't exactly the issue. [LB1092]

SENATOR GAY: It's the principle of the thing. [LB1092]

RON WALL: Yeah, it's the principle of the thing, that's right. Although, when I was at Capital Towing, there were two ladies there who were in line to try to get their car back. They said they lived in Omaha and they come to Pershing Auditorium, the first time they'd ever done this, Pershing Auditorium for a concert. And when they got out to go to their car, it was gone. They assumed it had been stolen and they said it's an old enough car, it doesn't have security in it, so it would be fairly easy to steal and they called the police and the police had no record that it had been stolen so they found out sometime within the next week; and I don't remember all the details, that it had been towed. Well they said by the time...that was at a private...it was in a private lot and with a \$17-a-day storage fee I think they owed \$350 or something like. And of course they had to get a ride back to Omaha with a friend and then they had to have a friend bring them back down to get their car. So they were really unhappy. I think \$400 to these two young ladies was probably a huge amount of money. Now yeah, they shouldn't have parked...they realized that later. They came back in the daytime, they saw, too, well we shouldn't have parked there. People make silly mistakes, but I don't think we should punish them inherently because they make silly mistakes. So...I got sidetracked, I apologize. It is my understanding that city council can pass an ordinance restricting the amount that tow companies charge. If that's true or not, I was told that today. I don't know if that's true or not. [LB1092]

SENATOR GAY: Well thanks. I mean, you've done the research, so that's why I asked you. [LB1092]

RON WALL: Yeah. [LB1092]

SENATOR GAY: Thank you very much. [LB1092]

SENATOR FISCHER: Other questions? I see none. Thank you, Mr. Wall, for coming in today. [LB1092]

RON WALL: Yes, thank you all. [LB1092]

SENATOR FISCHER: Other supporters of the bill? Are there other proponents? Are

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there opponents to the bill? Good afternoon. [LB1092]

JOANNE HITZ: Good afternoon. I'm Joanne Hitz, J-o-a-n-n-e H-i-t-z, owner of Hitz Towing, York, Nebraska, and also president of The Professional Towing Association of Nebraska. I guess I wanted to jump in here before the next person because...since she's probably going to cool off here a little bit. Something I wanted to bring out that is probably concerning to me and Senator Gay brought that out also is that I represent towing across the whole state of Nebraska and I'm very concerned about what something like this would do to people...to the other 91 counties or maybe 90 counties of people who do private property towing and how this is going to affect what they're doing and they're in areas where the towing rate is not regulated at all on a municipality level. So that is definitely a concern. And I feel that this is a municipality problem that we're hearing and so I'm just curious why these can't be regulated within the municipality where the problems are occurring. And the reasonable fee...I'm truly confused on what...because what I would consider a reasonable fee because I'm out working in the blizzard, I'm sure is something totally different than what a person sitting at home in a blizzard watching out their window what they would consider a reasonable fee. So the ambiguity I understand the issue and I know that some people would like a dollar amount put to a reasonable fee. But I think that what...that would be a very difficult to determine. I know that Senator Lathrop is concerned because there's no choice. Well, I go back to...and I don't see this in my area, but I still go back to, that person made a choice by parking where they parked. I'm concerned about, you know, what is the property owners' place in this equation? You know, a lot of heat is coming back to the person that's trying to enforce what they want enforced; where's their responsibility lie? Private property towing versus law enforcement towing, there is an obvious and distinct difference between the two. Private property...if we do law enforcement towing anywhere in the state of Nebraska, there is a law enforcement official there at the time that you remove the vehicle. I don't care what you say, when there's a cop there, there's a buffer and that eliminates any...defuses anything between people and what's going on because it's done at a lawful command. When you have a private property tow, there is not that buffer there. You're opening yourself up as a tower for the liability of anything that can be done and we're talking physical damage, because I've had somebody fall out of my truck and get hurt so I could be sued. You're talking about property damage to the vehicle that you're removing. Your exposure is just highly significant compared to when you're doing it for law enforcement. There is a distinct difference. Unfortunately, it is a higher cost to be towed off of private property than it is for a law enforcement tow. I think those are the only things. I just have a real concern about what this...what this would do across the state for everybody that is in towing. And, you know, what is that going to do to "Joe Blow" in Valentine that's towing for his little city up there, you know, overall, this mess that's going on in the cities, I guess? That's my only concern. [LB1092]

SENATOR FISCHER: Thank you, Joanne. Do you charge mileage being from a smaller

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community? [LB1092]

JOANNE HITZ: Yes. [LB1092]

SENATOR FISCHER: What do you charge for mileage? [LB1092]

JOANNE HITZ: Depends on what wrecker I go out with. [LB1092]

SENATOR FISCHER: When you have...I guess a political subdivision hires you and that would be the reason that you'd go out to Interstate 80, say from York, or do you go out on private towing too? [LB1092]

JOANNE HITZ: I would go over to the Waco truck stop which is in my county, but out of my city, and tow a vehicle that's been abandoned in their parking lot. [LB1092]

SENATOR FISCHER: And on your contract, I assume you contract. [LB1092]

JOANNE HITZ: I have no contract. [LB1092]

SENATOR FISCHER: With that truck stop you don't? [LB1092]

JOANNE HITZ: Nope. [LB1092]

SENATOR FISCHER: They just call you? [LB1092]

JOANNE HITZ: Yep. [LB1092]

SENATOR FISCHER: When they have a vehicle. [LB1092]

JOANNE HITZ: Yep. [LB1092]

SENATOR FISCHER: And do you negotiate a price? [LB1092]

JOANNE HITZ: It's of no cost to them. [LB1092]

SENATOR FISCHER: It's no cost to them. [LB1092]

JOANNE HITZ: Um-hum. [LB1092]

SENATOR FISCHER: And so you recoup your entire price from driving to Waco from York from the person if and when they pick up their vehicle? [LB1092]

JOANNE HITZ: Correct. If I can identify who the owner or the lienholder of that vehicle

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is. [LB1092]

SENATOR FISCHER: Correct. Would you...how many...do you have an example of how many vehicles, maybe, you've driven out to Waco and picked up that nobody's ever picked up from you? [LB1092]

JOANNE HITZ: I was just going to say, it's different for me than what you're seeing...what you're hearing from Lincoln because the majority of the vehicles that I'm picking up off private property are abandoned vehicles. [LB1092]

SENATOR FISCHER: So that's just one of the differences that we're seeing between more urban and rural areas in the state with regards to towing? [LB1092]

JOANNE HITZ: Correct. [LB1092]

SENATOR FISCHER: Thank you. Senator Lautenbaugh. [LB1092]

SENATOR LAUTENBAUGH: Thank you, Madam Chair and hello again. It's been a year already. You raised a point that I want to elaborate on a little because I hadn't considered it. I previously thought of the difference between the cost of doing it for a municipality versus private towing would be the regularity of the city contract and the volume might be able to let you reduce the rate. I think you were indicating there's differences regarding the security of it too. And what you're saying is, when you go out there on a private tow, you don't have law enforcement along necessarily, so you're taking the risk of something going horribly wrong. [LB1092]

JOANNE HITZ: Correct. [LB1092]

SENATOR LAUTENBAUGH: And you think it's only fair you should be compensated for that risk? [LB1092]

JOANNE HITZ: Correct. [LB1092]

SENATOR LAUTENBAUGH: Thank you. [LB1092]

SENATOR FISCHER: Thank you, Senator Lautenbaugh. Other questions? Senator Campbell. [LB1092]

SENATOR CAMPBELL: Thank you, Senator Fischer. Joanne, is there a set fee on the law enforcement or is it just different across the state? [LB1092]

JOANNE HITZ: There is no set fee for law enforcement towing in my area. There are two tow...there are three towers in my area and each of us does law enforcement

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towing at our own rate. [LB1092]

SENATOR CAMPBELL: Oh, okay. That you agree upon with the... [LB1092]

JOANNE HITZ: No, because if we agreed on it, we'd be in violation of Federal Trade Commission of bid setting. [LB1092]

SENATOR CAMPBELL: Oh no, I'm sorry, I meant that you agree upon with the police department. [LB1092]

JOANNE HITZ: No. They don't ask what my rate is; they just ask if I'll provide the service. They have no idea what my rate is. Hence, how could you enforce...the three of us have three different rates in our own area, in our town. [LB1092]

SENATOR FISCHER: Thank you, Senator Campbell. So you're saying when you...there are three towers in your area that law enforcement can call and they call all three of you and it's whoever is available to go out and help remove a vehicle. Within the community of York itself, is a contract awarded to a tower... [LB1092]

JOANNE HITZ: No. [LB1092]

SENATOR FISCHER: ...or do they...they just call whoever is available? [LB1092]

JOANNE HITZ: It's called a rotation. [LB1092]

SENATOR FISCHER: Do you know how many communities do have a contract with towers? [LB1092]

JOANNE HITZ: I'm...that's...I'm saying of the 93 counties that you're legislating right here, I think there's only, probably, you know, your Omaha metro area, probably has contracts; Lincoln, obviously, has a contract. I believe Grand Island does. I'm not sure about Fremont, it's minimal. There is no contract rates. So if you're going to tell me that I'm going to be paying a reasonable fee of what they're getting in Lincoln; I'm telling you, I'm not taking what they're getting in Lincoln, you know. [LB1092]

SENATOR FISCHER: You travel a lot more miles. [LB1092]

JOANNE HITZ: Exactly. And because we have large wreckers so we actually travel outside our...we cover a 50-miles radius. [LB1092]

SENATOR FISCHER: I would assume you also assist drivers who are having problems along the interstate or along highways and you would have larger equipment to deal with semis and things like that, wouldn't you? [LB1092]

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JOANNE HITZ: Correct. [LB1092]

SENATOR FISCHER: And you do have to make a profit in order to pay off your debt on those large wreckers, wouldn't you? [LB1092]

JOANNE HITZ: Correct. We are for profit. [LB1092]

SENATOR FISCHER: Thank you. Other questions? Senator Janssen. [LB1092]

SENATOR JANSSEN: Thank you, Chairman Fischer. Hello again. [LB1092]

JOANNE HITZ: Hi. [LB1092]

SENATOR JANSSEN: I just wanted to respond to your question. The county of Dodge County doesn't have a contract. The city of Fremont does have a contract with Nielsen Towing and it used to be rotated around, now it's just with one. Pulling off of memory, I think it...it is under \$100 for that type of a tow. And not that...just so, not everybody gets the impression that tow truck drivers are all evil out there; Groenke Towing in Mead was very nice to drive out on a cold day this morning...this year and winch me out of a big ditch and get me back up on the road on Highway 66 and the guy charged me \$60 for it and I was happy to pay it and get on my way down here. So, it is a valuable service and I do understand you're for profit. [LB1092]

JOANNE HITZ: Thank you. [LB1092]

SENATOR FISCHER: Thank you, Senator Janssen. Other questions? I see none. Thank you for coming in. [LB1092]

JOANNE HITZ: Thank you. [LB1092]

SENATOR FISCHER: Next opponent to the bill please? Welcome. [LB1092]

SARA SCHWARTZTRAUBER: Hello. I told myself I'm going to try really hard this time not to let this get personal. [LB1092]

SENATOR FISCHER: I hope you will and then I won't have to stop you. [LB1092]

SARA SCHWARTZTRAUBER: Okay. [LB1092]

SENATOR FISCHER: Thank you. [LB1092]

SARA SCHWARTZTRAUBER: So I'll answer a couple of the questions that have come

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up. [LB1092]

SENATOR FISCHER: Thank you. [LB1092]

SARA SCHWARTZTRAUBER: First of all, not all private property is patrol... [LB1092]

SENATOR FISCHER: I need you to state and spell your name please. [LB1092]

SARA SCHWARTZTRAUBER: I'm sorry. It's Sara Schwartztrauber, S-a-r-a
S-c-h-w-a-r-t-z-t-r-a-u-b-e-r. [LB1092]

SENATOR FISCHER: Thank you. [LB1092]

SARA SCHWARTZTRAUBER: (Exhibit 7) I have 486 clients right now for private property towing. Of that, I have 14 that are at the patrol towing where we're talking about just driving through and towing vehicles that don't belong there; 14 out of 486. Most of them call us when they want a car towed. Second thing is, as far as property owners getting any money off the tow, state law prohibits it. It's against the law to give kickbacks. My company doesn't do it. I don't hear a lot of it going on. It may in a rare instance, but there's not a lot of it. If you'll give me two minutes to go back to the last bill; just to answer one question because...it was brought up that we're not going to be processing any more cars at 20 days than at 5. [LB1092]

SENATOR FISCHER: I need...I can't have you speak to another bill. [LB1092]

SARA SCHWARTZTRAUBER: Okay, okay. [LB1092]

SENATOR FISCHER: If you want to send us written information on that. [LB1092]

SARA SCHWARTZTRAUBER: Okay, perfect. [LB1092]

SENATOR FISCHER: That would be helpful. [LB1092]

SARA SCHWARTZTRAUBER: Perfect. Then we'll talk about reasonable cost. Not one person has come to us and asked us what it costs us to tow a car. I have the city contract in Lincoln. I've had it for 14 years. It's never been \$33 since I've had it. It's actually gone down since I've had it and regardless of why, it did go down a little bit. Several reasons it costs more to do a private property tow. First of all, if this bill passes, you'll see the next city contracted over \$100. I only bid the city contract so I can have the city land. The city contract doesn't pay for itself. If I didn't do private property tows at the cost I do them, I certainly couldn't do the city at the cost I do that. This bill costs the city money. Last year we towed just short of \$9,000 worth of tows for the city of Lincoln at no charge. That's part of our contract. Any vehicle that's owned by the city of Lincoln

we tow at no charge. We unlock every car that has a child locked in it at no charge. It's not part of our contract; it's just something we do. These are things we couldn't do if we didn't do private property tows. Police ordered tows, number one, as she stated, there's an officer there, leads to the safety. It's a quicker tow. The driver gets there; he hooks; we go. If somebody wants to argue about the tow, they argue with the officer. They don't argue with us. On a private property tow, we can be there for half an hour arguing with somebody waiting for them to call the police to get there; waiting for the police to tell us to go. On a city-ordered tow, or a police tow, they process the car; they find out who the last-known owner is; they send out the certified letters; they prep it for auction and they sell it. I have to do all of that on a private property tow. The damage claims on a private property tows are horrendous. I'm always fighting false damage claims. If it's a city-ordered tow for a police department, the officer is already there; they've already made out the property report; they've already noted all previous damage to the car. People try once in a while to come back and say we did it; but it's already on the police property report; they can't argue with that. When there's no officer there, if that car has been curbed every time they pull up to a curb for the last five years, I guarantee they're going to say it happened during towing. So I end up in court and I end up paying a lot more lawyer fees. These tows cost me double what a city tow costs. Omaha, their tow is almost twice what ours are; yet they get paid for every single tow they do; we don't. If the car doesn't pick up and it...how can I...if nobody ever comes to retrieve a car that the police department tows, the police department will sell it at auction. Very rarely do I get my tow and storage out of it; because they don't sell for enough to cover the bill. Omaha, they get paid for every car they tow, because the city of Omaha owns the impound lot and they work in the red every year. If they work in the red; I work in the red. If I didn't do private property tows, the city of Lincoln would be paying a whole lot more money. The second thing is, the Senator kept pushing was the fact, you don't have a choice, you don't have a choice. You do have a choice. Don't park illegally. And if you want to park illegally, every property should have sign on it on which company tows that lot. Call around and find out who's the cheapest and park in their lot. (laughter) I mean, if you want to park illegally, you do have a choice. You can park in the cheapest lot there is. There's no personal responsibility for a vehicle owner. It's not all the tow companies. I think...did anybody have any other questions that the senator brought up that I could answer? [LB1092]

SENATOR FISCHER: Thank you, Sara. Are there questions? Senator Campbell. [LB1092]

SENATOR CAMPBELL: Thank you, Senator Fischer. Sara, the question...let's go back to Mr. Wall's testimony and I think he was forthright in saying, you know, I didn't see the sign, it was my error. [LB1092]

SARA SCHWARTZTRAUBER: Sure. [LB1092]

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SENATOR CAMPBELL: The question I had is, is that a standard...is there a standard fee for when the car is not on the tow...is \$96.10 standard? Is that something that, you know, the person said, okay, we'll just settle for this? [LB1092]

SARA SCHWARTZTRAUBER: The driver wouldn't have a job anymore if he did that. Nebraska state law... [LB1092]

SENATOR CAMPBELL: So you got a standard fee? [LB1092]

SARA SCHWARTZTRAUBER: Nebraska state law gives us the right to be paid whether we tow the vehicle or not; as long as we are completely and fully attached. I understand Mr. Wall said we weren't; I'd argue it; because if I ever caught one of my drivers charging somebody when we weren't attached, they wouldn't have a job. One tow isn't worth losing my creditability. The other point I would make as far as the cost of private property tows: every one of my apartment houses asks me how much my rate is, because these are their tenants that are getting towed and their tenants' friends and if I told them I was charging \$250, I wouldn't be working for them. So in a sense, it is kind of a low bid situation too. [LB1092]

SENATOR CAMPBELL: Thank you. [LB1092]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB1092]

SARA SCHWARTZTRAUBER: Thank you. [LB1092]

SENATOR FISCHER: Are there other opponents to the bill? Any other opponents? Anyone wishing to testify in the neutral capacity? Good afternoon. [LB1092]

JD GANGWISH: Good afternoon. My name is JD Gangwish, J-D G-a-n-g-w-i-s-h. I don't necessarily have any opinion one way or the other against this other than I'm a business owner and to me this sounds like you're going to start telling every business what they can charge to do whatever service they have. I don't think you can do that. You're against free will of the state. That's all I have. [LB1092]

SENATOR FISCHER: Thank you, Mr. Gangwish. Are there questions? I see none. Thank you for taking the time to come in today. [LB1092]

JD GANGWISH: Thank you. [LB1092]

SENATOR FISCHER: Appreciate it. Anyone else in the neutral capacity? I see none. Senator Lathrop, would you like to close? [LB1092]

SENATOR LATHROP: Yes, I would. Thank you, Madam Chair, and I appreciate the

time of the committee in listening to the bill and those who have testified. I've a couple thoughts and maybe I'll start with the last guy first, JD, who said, boy, this sounds like government is going to start getting in the way and regulating what people can charge. And my answer is, we're not going to regulate what people can charge, except for when we give them a lien, right? We're giving them a lien; they get to keep your car. That's different than what McDonald's wants to charge for hamburgers or what somebody wants to charge for lawyer fees. We're giving them a lien. When I listened to the testimony of the owner of Capital Towing and she says, they have a choice, don't park in the parking lot; or what happened to personal responsibility? They're missing the point. In fact, what they're doing is reaffirming exactly what I've been saying for three hearings now and that is, these people are imposing a penalty. It isn't their job to impose a penalty. Any penalty imposed in this state goes to the school district. They're not sending money over to the school district for the difference between what they're charging and what is reasonable. The difficulty with my bill is that it's difficult to determine what's reasonable. We can all agree on that. What's the formula? How do we do it? Maybe it is to send it over to the PSC, the Public Service Commission and let them listen to folks talk about what it costs me to run my business, what's a reasonable profit. But to have them come in and simply say: you can't come up with a formula that's going to be fair in all circumstances so don't do anything, let the lien sit there and we'll charge what we want or continue to charge what we want. The stories that this committee has heard should convince you, should convince you that people are charging more than what's reasonable. The question is, what's the solution? I'd be happy to work with the committee on a solution; but the fact that there's a problem should be evident to the committee, I believe. So I'll work with you on a solution. Maybe it is the Public Service Commission and treat this as they do cab fares. As long as we're giving them a lien, I think the state has an interest in it and to suggest that we should send it to the cities, well, it's a state lien. The cities didn't create the lien, state statute did and therein is the problem. [LB1092]

SENATOR FISCHER: Thank you, Senator Lathrop. Questions? Senator Lathrop, how are we going to, as with any policy decision in a state this size and this diverse, how are we going to account for the differences across the state if we step in instead of letting local political divisions handle this? [LB1092]

SENATOR LATHROP: First, I'm not sure how big of a problem towing from private property is. My guess is, if I parked in any parking lot in Valentine, no one would charge me, right? And maybe that's true in Kearney and it might be true, probably true in Ellsworth too. If you are...if you get outside of these metropolitan areas, I don't even know that it's an issue. It's a practice that's happening in probably cities of first class, the primary and the metropolitan areas, most of which have city councils that are bidding the work. [LB1092]

SENATOR FISCHER: But you're going to...if we look at...if we can, and if...I guess we

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can do whatever we want, but if we look at turning this over to the Public Service Commission and they come up with rules on this, it will affect smaller communities. It will affect those businesses in those smaller communities on what they can charge without taking into consideration, possibly, the miles that they're going to be traveling to handle the jobs that they're assigned to do or that they chose to do, it will affect them. [LB1092]

SENATOR LATHROP: I think if mileage... [LB1092]

SENATOR FISCHER: It may not affect me as a consumer, because I'm not...I'm not going to be parked at the Waco truck stop and Joanne is not going to come and tow me from York. But it will affect her if there's a certain price put on a service that she provides. [LB1092]

SENATOR LATHROP: I think that you can...if you had a hearing before the Public Service Commission, they could come in and tell you what goes into the cost of towing a vehicle. If it's mileage, then add mileage, you know. The stories we're hearing are from Lincoln and Omaha primarily and what...and primarily Lincoln, frankly. And if that's...if it's mileage that distinguishes somebody from York or somebody from Valentine versus somebody that's in Lincoln that only has four or five miles to take a car to the tow lot, then they can work mileage into the formula. I don't have a quarrel with it. I just...it's a situation we can see people are charging more than what's reasonable and we're letting them do it and keep the car until it is paid. However we address that issue whether it's in front of the Public Service Commission and say, you set a rate that takes into account the fact that some of the tows will happen in a place like Lincoln and some of them will happen in a place like Valentine. [LB1092]

SENATOR FISCHER: I think the challenge we face with this...this situation, and I do admire your persistence,... [LB1092]

SENATOR LATHROP: Thank you. [LB1092]

SENATOR FISCHER: ...but the challenge we face with this situation is that each of us defines reasonable in a different way. Would you agree with that? [LB1092]

SENATOR LATHROP: I think it is such a subjective standard that it invites that. So I would have to agree with you. And frankly, I suspect that that's true at tow companies too. There are probably some of them out there that don't charge anything more than is reasonable. But, yeah. I may have overstayed my welcome so. I'll answer... [LB1092]

SENATOR FISCHER: Never, never. [LB1092]

SENATOR LATHROP: Okay. [LB1092]

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SENATOR FISCHER: Senator Lautenbaugh, question? [LB1092]

SENATOR LAUTENBAUGH: Thank you, Madam Chair, and far from it, Senator Lathrop. I mean, isn't the problem, like with anything, scarcity? Since there are more cars in Omaha and Lincoln, isn't that where you'd expect the parking issues to arise? [LB1092]

SENATOR LATHROP: Frankly, I think it's because in Omaha and in Lincoln and maybe in Sarpy County, we have more of a problem with people parking where they don't belong. There's probably fewer apartment complexes in Valentine and there's not a scarcity of parking stalls and so we have a different environment in a more metropolitan area. [LB1092]

SENATOR LAUTENBAUGH: And you stated earlier that you felt some of these charges were so unreasonable that they were actually penalties. What was the testimony regarding that today? [LB1092]

SENATOR LATHROP: I passed around a sheet of examples. [LB1092]

SENATOR LAUTENBAUGH: And because you felt the numbers were unreasonable, you're deeming them to be penalties? [LB1092]

SENATOR LATHROP: Well, I'll tell you a story, okay? I came out of a place at 72nd and Blondo, a business, and there was a sign on the wall that said: private property, you'll be towed at your own expense, minimum charge of \$185 and the tow company is six blocks down the street. Now if these guys are doing it for \$125 or whatever they charge, somebody is overcharging. You don't even have to accept that \$125 is an overcharge, but when the guy is doing it for \$185 or somebody is towing you from a Creighton game downtown, six blocks, they keep your car for an hour and a half and charge you \$250 which is what I heard from somebody after the interim hearing, somebody's charging too much. [LB1092]

SENATOR LAUTENBAUGH: That's a good hypothetical, I guess, for my point. How much do you think would be fair to pay someone to go to 72nd and Blondo and confront an angry person and take their car away? [LB1092]

SENATOR LATHROP: That's interesting that you bring that up because after the interim hearing, there was a lot of people that commented on this subject matter and one of the concerns that was expressed on a particular radio show was, the guy didn't have my car all the way hooked up and I tried to get it back and the guy said, that's not true, it only takes us 30 seconds to hook it up. Well, we're not talking about something that's taking an hour and a half to do. I don't know, frankly. If somebody came in here with facts and

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said: this is what it costs to make payments on a tow truck. This is how many tows they can do in a year. This is a reasonable profit and these are our risks, but you didn't hear anybody say they had a confrontation with any of these people they're towing. They just said, generally, we have police there if we're towing from the street and we don't from a private lot, but no one told you that they had a confrontation. [LB1092]

SENATOR LAUTENBAUGH: I may be bringing my own personal knowledge to bear and I didn't testify so I'll stop; but thank you. [LB1092]

SENATOR LATHROP: Sure. [LB1092]

SENATOR FISCHER: Senator Louden. [LB1092]

SENATOR LOUDEN: Thank you, Senator Fischer. Well, Senator Lathrop, I wasn't here for all of the testimony, but I've had cars, not necessarily towed, but hauled to the shop out where we are, and AAA and them all have a certain rate, why can't that type of rate be incorporated on towing in towns; so much to load them up and so much a mile to haul them? [LB1092]

SENATOR LATHROP: I'd be happy with that. [LB1092]

SENATOR LOUDEN: And, I mean, that's the way it works out there. And I don't know, is it...it depends on how far they haul them. But yeah, you get one of these pickups with an automatic transmission, you tear something out of it, you don't hook on to it and tow it to town unless you want to buy that transmission, so you have to haul them. And there's guys out there that make a nice living hauling with their tow trucks or their pickups haul. Why can't we come up with some type of a rate that perhaps AAA does or somebody like that? Is there...they must study that thing because they're the ones that give you the insurance and even insurance companies have rates that they pay for towing vehicles. I mean, wouldn't you look on your car insurance you probably, perhaps, have a towing rate on that insurance. [LB1092]

SENATOR LATHROP: Sure, I'd be happy with that without even knowing...not...without even knowing what it is, I'd be happy with it. [LB1092]

SENATOR LOUDEN: Okay. Thank you. [LB1092]

SENATOR FISCHER: Other questions? I see none. Thank you, Senator Lathrop. [LB1092]

SENATOR LATHROP: Thank you for your courtesy. [LB1092]

SENATOR FISCHER: With that I will close the hearing on LB1092 and open the hearing

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on LB1060 and Senator Janssen, you are welcomed to open on your bill. [LB1092]

SENATOR JANSSEN: Thank you, Senator Fischer. Fellow members of the Transportation and Telecommunications Committee, for the record my name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent District 15, which is Fremont and all of Dodge County and I appear in front of you today to introduce LB1060 which I believe is the final bill we're going to hear this year. [LB1060]

SENATOR FISCHER: It is, it is. [LB1060]

SENATOR JANSSEN: So, thank you for thinking so much of my bill that I get the last one; stage all of its own. LB1060 would require vehicles traveling upon the roadways having two or more lanes for traffic moving in the same direction in Nebraska to drive in the right-hand lane except: when overtaking and passing another vehicle proceeding in the same direction; when traveling at a speed greater than the traffic flow; when moving left to allow traffic to merge; when preparing for a left turn at an intersection, at an exit, or into a private road or driveway when the left turn is legally permitted. I brought this bill for our consideration to suggest that we could better codify our Rules of the Road...rules of the work...excuse me, how our Rules of the Road work for some highways. Our present flow of traffic provisions regarding some multilane highways are somewhat unclear. LB1061 (sic) would delineate the four circumstances in which it would be advisable to travel in the left-hand lane. I think it is important that we remember that our roads maintenance budget is always under great pressure. Keeping the passing lane unoccupied unless needed for passing will help stretch out the limited roads department resources. I thank you for your consideration of LB1060. [LB1060]

SENATOR FISCHER: Thank you, Senator Janssen. Will you be closing? [LB1060]

SENATOR JANSSEN: No. [LB1060]

SENATOR FISCHER: Okay. Thank you. Are there proponents for the bill please? Are there opponents to the bill? Anyone wishing to testify in the neutral capacity? [LB1060]

SENATOR LOUDEN: Do we get to ask questions? [LB1060]

SENATOR FISCHER: Doesn't look like it? (laughter) Senator Janssen? Senator Janssen waived closing. With that, I will close the hearing on LB1060. [LB1060]