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Transcriber's Office

Transportation and Telecommunications Committee
February 11, 2014

[LB795 LB990]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, February 11, 2014, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB990 and LB795. Senators present: Annette Dubas, Chairperson; Jim Smith, Vice Chairperson; Lydia Brasch; Galen Hadley; Charlie Janssen; Beau McCoy; and Dan Watermeier. Senators absent: John Murante.

SENATOR DUBAS: Good afternoon and welcome to the Transportation and Telecommunications hearing. My name is Senator Annette Dubas. I am the Chair of the committee. I'm from Fullerton. I'll begin by introducing members of the committee. To my far left is Senator Lydia Brasch from Bancroft; Senator Beau McCoy will likely be joining us at a little bit later time. For the senators who aren't here, they'll be in and out. Bill introduction is still going on in committees and so they'll be coming and going, so please don't be offended if they get up and leave while you're talking. It has nothing to do with what you have to say. So then we have Senator Galen Hadley from Kearney. To my immediate left is Anne Hajek; she is the committee clerk. To my immediate right is Joselyn Luedtke; she is the committee counsel. Next to her is Senator Jim Smith from Papillion; he is the Vice Chair of the committee. Then we have Senator Dan Watermeier from Syracuse. I'm sure we'll be joined at a little bit later time by Senator John Murante from Gretna and Senator Charlie Janssen from Fremont. We're fortunate in the Legislature to have a great program of pages. The pages help us out on the floor upstairs as well as in our committee work. We appreciate all that they do to help keep us organized and things moving forward efficiently. The page for the committee today is Jonathan Beck. He's originally from Centreville, Virginia, currently resides in Seward. He's a senior at UNL, majoring in political science with a minor in communications. So thank you, Jonathan, for what you do to help the committee. The bills we'll be hearing today and in this order are LB990, Senator Nordquist, and LB795, Senator Harr. The order of testimony will first be the bill introducer, and then there will be proponents, opponents, and neutral. When you come forward to speak at the table, if you would have a green sheet filled out, and that sheet is on the table back by the door, have this filled out and the page will take it and hand it in for you along with any handouts that you may have. If you would have 12 copies of handouts with you, if you don't, we can get those copies made for you as well. If you're here today and want to be on the record as far as the bill that's being heard but don't want to come forward and testify, the pink sheet that's on the table back by the door, you can fill out the appropriate information on that pink sheet. Ask when you come forward to the table to state and then spell your name clearly for the record, and also to try to refrain from fiddling around with the microphone as much as possible. It's pretty sensitive and so the more you move it around it creates some distractions on the tape which makes it hard for our transcribers. Would ask at this time if you would please silence or shut off any cell phones or electronic devices, again to prevent any interference with the recording equipment and

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disrupting the hearing, as well as any conversations that you may feel you need to be engaged with, if you take those conversations out into the hallway, we would appreciate it. I think that's taken care of our housekeeping and we are ready to move forward with the first hearing of today. Senator Nordquist, welcome.

SENATOR NORDQUIST: (Exhibit 1) Welcome. Thank you, Madam Chair and members of the committee. My name is Jeremy Nordquist, N-o-r-d-q-u-i-s-t, and I represent District 7 which covers downtown in south Omaha. I'm here today to introduce LB990 which requires service providers to remit their full 911 surcharge...911 service surcharge within sixty days of a calendar quarter. If they fail to do that, they would have to pay a 10 percent penalty to the governing body. LB990 would also increase the amount of time service suppliers are required to maintain a record of the collected surcharges from one year to five years after the date it was billed. The bill was brought to me by Douglas County after they discovered a billing glitch with the service provider who did not want to provide information requested by Douglas County stating that they had provided more data than one year that was required by state statute. That is the essence of the bill. I have provided one amendment already which would give a service provider thirty additional days beyond the sixty if they give advance notification of a remittance delay, and the failure to remit payment without notice would instead result in a penalty of 5 percent net fees or surcharges due if the remittance is postmarked late by thirty days or less, and 10 percent if it was postmarked more than thirty days. There are a couple other suggested amendments that I think with these amendments the Telecom folks would be happy with and that would be taking the five years down to three years which, I guess, is the standard in some other reporting requirements that the records would have to be kept for a three-year period rather than one year which is under current law, or five years as proposed by the bill, and we would specify that the penalty for late payment would be on any unpaid amount not on any total amount. So if they made a partial payment, the penalty would just apply to the unpaid portion. So behind me there will be someone from Douglas County that can speak to their...the specific issue that came up in the county and why they would like to see LB990 advanced. Thank you. [LB990]

SENATOR DUBAS: Thank you, Senator Nordquist. Are there questions? Senator Hadley. [LB990]

SENATOR HADLEY: Yes, Chair Dubas. Thank you, Senator Nordquist. I do appreciate though the amendments because I thought it was a little stiff to have a 10 percent penalty if you underpaid by a dollar and ninety-five cents, and your penalty is 10 percent of the total amount you collected, so I appreciate that. [LB990]

SENATOR NORDQUIST: Sure, sure. Yeah, I think that makes common sense, so thank you. [LB990]

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SENATOR DUBAS: Other questions? Senator Brasch. [LB990]

SENATOR BRASCH: Thank you, Madam Chairman, and thank you, Senator Nordquist. Is there a history or why are you bringing this forward? [LB990]

SENATOR NORDQUIST: Yeah, so and again, someone from Douglas County will testify behind me, but it was recently one instance in particular that they had to wrestle with the service provider a little bit to get the information and they didn't feel comfortable getting all the information that needed to make sure that they were getting the appropriate amount for the 911 surcharge. So this would just allow a little longer period to make sure that the county is receiving what they're supposed to receive from that surcharge, and if for some reason there's a late payment, there would be a penalty for that. So, but Douglas County can speak to their specific instance. [LB990]

SENATOR BRASCH: The frequency and... [LB990]

SENATOR NORDQUIST: Yeah, yeah. [LB990]

SENATOR BRASCH: Okay. Very good. Thank you. [LB990]

SENATOR DUBAS: Senator Smith. [LB990]

SENATOR SMITH: Thank you, Madam Chair. Senator Nordquist, what would be the...give me an idea of what the magnitude would be of this late payment. [LB990]

SENATOR NORDQUIST: I did have something here where I think at one point it was...and again this is probably testimony that they'll provide, but 174,000 from January 2012 to February 2013 was the amount that should have been collected that wasn't. [LB990]

SENATOR SMITH: Okay. And was it an intentional withholding, or was it an oversight, a mistake? [LB990]

SENATOR NORDQUIST: I think it was...I'm sure it wasn't intentional by any means, so I think...yeah. [LB990]

SENATOR SMITH: How did you arrive at that...at the 10 percent penalty? And, I guess, what is that penalty currently and why the punitive nature of this penalty? I'm just... [LB990]

SENATOR NORDQUIST: I think it's just...even if it's accidental, it's withholding dollars from...dollars that should go to the county. It would be detrimental to taxpayers that would have to make up any difference. So I do think there needs to be some penalty.

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I'm very open. You know, 10 percent is not by any means a magic number, but the Telecom folks...I know we talked to CenturyLink and I believe the association as a whole. And I don't know if they will testify neutral or anything, but I think they would be okay with that with that additional 30 days added on to it. So I don't think they saw it as overly aggressive either. [LB990]

SENATOR SMITH: Where's the current penalty? [LB990]

SENATOR NORDQUIST: My...I don't think there is one for a late payment. [LB990]

SENATOR SMITH: Okay. Thank you. [LB990]

SENATOR NORDQUIST: Yeah. [LB990]

SENATOR DUBAS: Other questions? You said that Douglas County brought this to your attention. Are you aware of any other counties that have had an issue? [LB990]

SENATOR NORDQUIST: Right. I have not heard of any others, so. [LB990]

SENATOR DUBAS: All right. Thank you, Senator Nordquist. [LB990]

SENATOR NORDQUIST: Thank you. [LB990]

SENATOR DUBAS: We've been joined by Senator Charlie Janssen from Fremont. Welcome, Charlie. Proponent? [LB990]

SEAN KELLEY: Yes, good afternoon, Madam Chair Dubas, members of the Transportation and Telecommunications Committee. My name is Sean Kelley, S-e-a-n K-e-l-l-e-y, appearing today as a registered lobbyist for the Douglas County Board of Commissioners in support of LB990. First of all, we'd like to thank Senator Nordquist for the introduction of this piece of legislation. Just to go into a little bit of the background where this bill came from, the genesis of it, as Senator Nordquist alluded to there was a routine audit with the service supplier. And the internal auditor of Douglas County would like to have proceeded past one year or calendar year which is in statute, and there was some resistance there. And best auditing practices, he wanted to go beyond that, which eventually I'd like to clear up that the service provider did cooperate and everything turned out just fine, but just from a policy standpoint, the Douglas County board thought it would be best to extend that. And as Senator Nordquist did allude to in his opening, we're certainly okay with reducing that number of five years to three years and reducing that penalty from 10 percent. That was, as you all know, you start with a number and find out where the best place to be is in the end. So we're certainly in agreement with the ideas and amendments brought forward through CenturyLink. And I'd be happy to answer any questions that you may have. [LB990]

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SENATOR DUBAS: Thank you, Mr. Kelley. Are there questions? Senator Brasch. [LB990]

SENATOR BRASCH: Thank you. Thank you, Mr. Kelley, for coming forward. I had asked earlier the frequency of incidents like this. Is this an ongoing problem? [LB990]

SEAN KELLEY: I wouldn't characterize it as an persistent ongoing problem, but I think overall the length of an audit would be better public policy for counties to be able to extend beyond that. And I think it's just a policy decision, but I don't think that this is a recurring problem, to answer your question. [LB990]

SENATOR BRASCH: It is not a recurring problem. [LB990]

SEAN KELLEY: Not...I don't believe so, no. [LB990]

SENATOR BRASCH: And do you believe it was intentional or unintentional, or...? [LB990]

SEAN KELLEY: I can't speculate as to that. [LB990]

SENATOR BRASCH: You don't know the causes for...? [LB990]

SEAN KELLEY: No, I wasn't privy to those conversations, so hate to speculate. [LB990]

SENATOR BRASCH: Would they have possibly given cause on what's being...for their action? Or you're just not aware of them, or was it just no response? [LB990]

SEAN KELLEY: I think there was just resistance to go beyond what was required in the statute. And frankly, if that's the law, I mean, that's perfectly within the rights of a service provider. However, I think it is a limitation for counties to not go beyond that, just in a routine internal audit. [LB990]

SENATOR BRASCH: Okay. Very good. I have no other questions. Thank you. [LB990]

SEAN KELLEY: Yeah. Okay, thanks. [LB990]

SENATOR DUBAS: Any other questions? Seeing none, thank you, Mr. Kelley. [LB990]

SEAN KELLEY: Thank you. [LB990]

SENATOR DUBAS: Further proponents for LB990. [LB990]

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BETH BAZYN FERRELL: Good afternoon, Senator Dubas and members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials testifying in support of the bill. I would just echo the comments that Mr. Kelley made. While this isn't a prevalent problem that we have heard from other counties, the bill would provide a tool if there is an instance where collections would need to be made. I'd be happy to try to answer questions. [LB990]

SENATOR DUBAS: Thank you. Are there questions? Senator Brasch. [LB990]

SENATOR BRASCH: Thank you, Madam Chairman. Did you say this is a one-time case? Have any other counties stepped forward? [LB990]

BETH BAZYN FERRELL: We've not heard from other counties, but that doesn't mean it hasn't...or wouldn't happen potentially. [LB990]

SENATOR BRASCH: But you're not aware of any others at this time? [LB990]

BETH BAZYN FERRELL: Not at this time, no. [LB990]

SENATOR BRASCH: Did you try to reach...is there a communication device, e-mail, or any...has it been asked of your counties? [LB990]

BETH BAZYN FERRELL: No, it hasn't. We did discuss it when our legislative committee met and no one else brought it forward as a problem at that time. [LB990]

SENATOR BRASCH: You did discuss it? When was that meeting? [LB990]

BETH BAZYN FERRELL: That was the end of January. [LB990]

SENATOR BRASCH: End of January, and at that point that went to your...all 93 counties and no one... [LB990]

BETH BAZYN FERRELL: Right. [LB990]

SENATOR BRASCH: ...from your counties... [LB990]

BETH BAZYN FERRELL: Right. And we also did discuss it at our county board workshop last week. No other county has raised at that point, but it was just a select group of county board members, not our full membership of county officials. [LB990]

SENATOR BRASCH: But in January was your full membership? [LB990]

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BETH BAZYN FERRELL: Correct. [LB990]

SENATOR BRASCH: Correct? Okay. I'm just curious on how broad or focused this is, so. I have no other questions. Thank you. [LB990]

SENATOR DUBAS: Thank you. Any other questions? Thank you very much. Next proponent for LB990. Opposition? [LB990]

AMY PRENDA: (Exhibit 2) Good afternoon, Senator Dubas and members of the Transportation Committee. My name is Amy Prenda, it's A-m-y P-r-e-n-d-a, and I'm the executive director for the Nebraska Cable Communications Association, sort of doing a soft opposition, if I may. First of all, if I could clarify Senator Brasch's question, it's my understanding that the company brought this to the attention of Douglas County. It was an unintentional oversight as far as collecting the surcharge. They brought it to the attention of Douglas County with the intention of going back 15 months and assisting them with the audit so that the money could be collected to remit back to the county. At that time, after volunteering to go back 15 months, the statute only requires one year. That was when the request was to go back five years, but companies are only required to hold their records for one year. So there's a little bit of a gap in what records might have been available. So this was an unintentional oversight. The company was very open to assisting the county as much as they could to correct this oversight. Our...we were able to see the amendment that was brought by...or recommended by Senator Nordquist and that was one of our concerns was the 10 percent seems like a stiff penalty. And so the opportunity to have a sort of graded penalty, less amount, would be beneficial. The other thing that we would like to see is that the language not go into effect. If you're going to do three years or five years, three years, obviously, is preferable, but not to have the bill go into effect either until 2017 or 2019 so that companies would be in compliance as far as collecting the records. And then the final recommendation that we have has to do with recommended language that would prohibit a governing body from issuing a contract to audit funds whereby the auditor is paid on a contingent fee basis or based on the percentage of funds recovered. It's my understanding that this might be a common practice and the purpose of the audit is to correct a mistake or an oversight by a company, not for the purpose of digging for dollars. So those would be our recommended changes. If I can, I would be happy to answer any questions that you might have. [LB990]

SENATOR DUBAS: Thank you, Ms. Prenda. Are there questions? Did I hear you say companies are only...at this time are only required to keep their records for a year? [LB990]

AMY PRENDA: They only are required to look back, the current statute says one year, so the likelihood if you were to say three or five years with the audit, I'm guessing most companies probably keep them more than one year, but I just want to make sure that

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they are in compliance. So maybe an effective date that would allow them to make sure that they know that they need to keep them for a five- or a three-year look back. [LB990]

SENATOR DUBAS: Very good. Thank you. Any other questions? Seeing none. Thank you. Further opposition to LB990? Is there any neutral testimony? None. Senator Nordquist, would you like to close? [LB990]

SENATOR NORDQUIST: Just to say that I look forward...if the committee has any additional follow-up questions, be happy to work with you on that. I just think giving the counties the potential to audit back a few additional years beyond the one year is absolutely key, and I welcome your guys' input on the penalty portion of this. Thank you. [LB990]

SENATOR DUBAS: Very good. Thank you. Any other questions for Senator Nordquist? Thank you. [LB990]

SENATOR NORDQUIST: Thanks. [LB990]

SENATOR DUBAS: That will close the hearing on LB990. We will now move on to LB795. Senator Harr. Welcome. [LB990]

SENATOR HARR: Thank you. This is my first time in Transportation, so... [LB795]

SENATOR DUBAS: Well, we'll try to not be too hard on you. (Laughter) Maybe not. [LB795]

SENATOR HARR: Thank you. Chairman Dubas...Chair Dubas, members of the Transportation and Telecommunications Committee, I am Senator Burke Harr, H-a-r-r, and I represent midtown Omaha. In 2012, I introduced LR249. LR249 was a legislative resolution that took a comprehensive review of Nebraska's current statutes and policies regarding drinking and driving. This study examined the cost and prevalence of alcohol impaired driving, evaluated how Nebraska addressed the problem, compared their efforts to other states and provided suggestions to reduce drinking and driving and recidivism in Nebraska. In 2011, the previous year, Nebraska had passed...the Legislature and the Governor signed into law, LB667. One of the main ideas behind LB667 required individuals convicted of driving under the influence to install an interlock ignition lock device in their vehicles. If you are convicted of a third DUI or more, you are...you may have your license suspended for 15 years. Currently, if you've had your license suspended for 15 years, a revocation, you have to go at least seven years before applying for a pardon. LR249 pointed out a flaw in our current policy. The law does not allow drivers arrested prior to January 1, 2012, who have had their license revoked, to be eligible for an ignition interlock device. For instance, if you were arrested on December 31, 2011 and had your license revoked, you would not be eligible. If you

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were arrested the following day and had your license revoked, you would be eligible for an ignition interlock device. We as a legislative body have decided that using ignition interlock devices are good policy and I completely agree with that policy. So why would we not want to arguably, our most dangerous drivers...why would we not want our most dangerous drivers utilizing an ignition interlock device? These drivers have multiple DUIs and are high-risk offenders. In the Omaha World-Herald, May 29, 2011 article, it's found that 80 percent of drunk drivers with suspended licenses in Nebraska continue to drive. LB795 would allow for people who have had their driver's license revoked for 15 years because of the DUI convictions prior to January 1, 2012 to be eligible for ignition interlock permit. These drivers would apply to the Board of Pardons once a year for reinstatement for a \$100 fee. If the board agrees to reinstatement, the driver would be eligible for an ignition interlock device for the duration of their revocation period. It is important for this population to attend drug and alcohol education classes, pick up their children, and be able to make it to work. We want these citizens to remain viable members of our society. And outside metropolitan areas, it's often hard to find mass transit. Ignition interlock devices are not designed to or capable of changing a convicted offender's behavior directly. The purpose of the device is to control and monitor vehicles driven by convicted DUI offenders. I'd be happy to answer any questions, and I would ask that you please advance LB795. Thank you. [LB795]

SENATOR DUBAS: Thank you, Senator Harr. Questions? Senator Janssen. [LB795]

SENATOR JANSSEN: Thank you, Chairman. Senator Harr, I have a couple of questions. If you can't answer them, that's fine, I'll go find somebody else to answer them, but just...I recall we had this debate years ago. Senator Flood and, of course, we know we've got a big state and if you live in Omaha, things are a little closer, and he said something along the lines of, you can wait for a bus in Randolph to take you to Omaha in 2009 and you'd still be waiting today for that bus to get you there or whatnot, and how difficult it is for people to get from work, and like you mentioned, pick up their children. So that...and I appreciate you saying that. That's the genesis of this bill, I believe. [LB795]

SENATOR HARR: Yes. [LB795]

SENATOR JANSSEN: And I agree with that. In fact, the 80 percent I've heard about, people that will drive because you basically need to. Is that...I mean, in order to pick up kids, you're almost forcing people to run afoul of the law? [LB795]

SENATOR HARR: Yeah, well, you know, we love to say driving is a privilege and it is, but it's almost a necessity in our society in this day and age, and so they do. There isn't mass transit available and even where there is, it's not necessarily that good. [LB795]

SENATOR JANSSEN: Right. [LB795]

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SENATOR HARR: There is cab service, but it's not where I'd like it to be. And so that's the purpose is, to realize that people do need their vehicles. And if they're going to drive, we want to make sure that they're sober. And so these interlock devices not only do they test you, but they also take a picture when you blow into them. And so we know who is blowing into them and who isn't. So I think it's a safe, effective way of preventing drunken driving. [LB795]

SENATOR JANSSEN: Do you know how much they cost offhand? It's not a big deal but... [LB795]

SENATOR HARR: You know, there's someone coming up after who will have that specific information. [LB795]

SENATOR JANSSEN: Okay. And I know that we had a little deal that we would set aside money for people that were lower income that couldn't afford the interlocks. [LB795]

SENATOR HARR: Yeah. And thank you for bringing that up. I forgot to put that in here. I hadn't thought about it to be honest, but that fund currently has excess money in it. So we set aside a certain amount and there is always leftover money in it. So were worried about not having enough money; it has enough money in it and could support. And this would only add to it, by the way. [LB795]

SENATOR JANSSEN: I imagine that if they break down, they're available to be serviced somewhere, locally, or sold locally, but maybe whoever is coming after you could answer that. [LB795]

SENATOR HARR: Yeah, and someone can, yeah, talk about that specifically. [LB795]

SENATOR JANSSEN: Okay. Thank you, Senator Harr. Appreciate that. [LB795]

SENATOR HARR: Thank you. [LB795]

SENATOR DUBAS: Other questions? Senator Hadley. [LB795]

SENATOR HADLEY: Thank you, Chair Dubas. Senator Harr, the revocation is generally not the only penalty that these drivers would face, is that correct? [LB795]

SENATOR HARR: Yeah. They...there's criminal prosecution as well, yeah. So, and there are really...there's the administrative, the ALR hearing, and this doesn't really get at that because that time has already been served. This gets at those who have had their licenses suspended for 15 years and continue to have their license suspended at

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this time. And what we'd like to do instead of having them...we'd like to get them under our better control and have interlock devices so we make sure they aren't drinking and driving, if they do indeed decide to drive, which probably 80 percent of them do. [LB795]

SENATOR HADLEY: Okay. [LB795]

SENATOR DUBAS: Other questions? I guess I'd like to kind of pick up where you just left off there. So you're saying about 80 percent of the people who have suspended license are still driving anyway? [LB795]

SENATOR HARR: Prior to our passing, that's what the World-Herald found in 2011. About 80 percent of people with suspended license or revoked licenses do continue to drive. [LB795]

SENATOR DUBAS: Okay. That's kind of a scary statistic. So you're talking about the third DUI suspension for up to 15 years. When would these people be eligible for the interlock that you're talking about now? [LB795]

SENATOR HARR: Currently? [LB795]

SENATOR DUBAS: Yes. [LB795]

SENATOR HARR: Two...I believe it's two days after they're arrested, they're currently allowed. [LB795]

SENATOR DUBAS: Okay. [LB795]

SENATOR HARR: And that's through the ALR hearing. And then depending on how long they're suspended there and when they're sentenced. But you do get credit for that time while you're on administrative suspension as well. [LB795]

SENATOR DUBAS: Okay. All right. Thank you. Any other questions? Seeing, none, thank you, Senator Harr. [LB795]

SENATOR HARR: Thank you. [LB795]

SENATOR DUBAS: Are there proponents for LB795? Welcome. [LB795]

SETH SPRATT: Thank you. My name is Seth Spratt, S-e-t-h S-p-r-a-t-t. I'm the owner of Ignition Interlock Company. We service ignition interlocks locally and in every probation district throughout the state of Nebraska. I'd like to thank the committee for your time. The benefits of ignition interlock allows people to continue their everyday lives such as work and family obligations in a safe manner. To date, we've prevented over thousands

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of positive alcohol starts. To your question how much it is? It's about \$2.50 a day. After talking to different clients, attorneys, law enforcement, I think that the mandatory 15-year revocation should be...allowed to be on the ignition interlock because frankly these people are already driving. One of your concerns, you know, my opinion, that number up to 80 percent is probably true. They're driving without licenses and insurance. I just think that we should broaden the use of ignition interlock whenever possible. Thank you. [LB795]

SENATOR DUBAS: Thank you, Mr. Spratt. Questions? And we've been joined by Senator McCoy. Welcome, Senator McCoy. Senator Hadley. [LB795]

SENATOR HADLEY: Yes, Senator Dubas, thank you. Just trying to think this through. [LB795]

SETH SPRATT: Sure. [LB795]

SENATOR HADLEY: If a...if they have the interlock they basically cannot use it when they're driving, is that correct? [LB795]

SETH SPRATT: Yeah, correct. So like every time you start the car, you have to provide a sample before the car will be able to start. If there's any alcohol detected, the car will not be able to turn over. [LB795]

SENATOR HADLEY: So, if a person wants to drink and drive, they will find a car without an interlock and drive. Would that be a fair statement? [LB795]

SETH SPRATT: I mean, that could be fair. I just think that, you know, some people, you know, you'll see different things that some people don't know that they're impaired even though you stop drinking at some point during the night. In the morning, you're still impaired. I think the more that we can do, you know, for the safety of our own roads is, if we already know these people are driving, to get an interlock on them to at least slow that car down or to completely stop it from ever starting with a, you know, ignition interlock in it. [LB795]

SENATOR HADLEY: Okay. Does the ignition interlock work on a breath type of system and...? [LB795]

SETH SPRATT: Yeah, it's on a fuel cell. It's the same technology they use in law enforcement. [LB795]

SENATOR HADLEY: And does it shut off the car for a certain period of time, or...? [LB795]

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SETH SPRATT: They can retest within 15 minutes of a positive sample. Every time that...anytime you started...you know, to try to start the car, my unit...all the units that are available, it puts it in the log. There's a hard drive associated with it so you can tell what time it started and what the actual physical BAC was when that individual tried to start and continue to...if they continued to blow into it or to try every 15 minutes, it would show the BAC coming down. [LB795]

SENATOR HADLEY: And is that ever given to law enforcement, or...? [LB795]

SETH SPRATT: Yeah. I provide that every day to the state. [LB795]

SENATOR HADLEY: Is that right? Okay. [LB795]

SETH SPRATT: So every morning we send an individual report with the person's name and if they've had any violations. [LB795]

SENATOR HADLEY: Okay. Thank you. [LB795]

SENATOR DUBAS: Thank you, Senator Hadley. Senator Brasch. [LB795]

SENATOR BRASCH: Thank you, and thank you for coming forward today. [LB795]

SETH SPRATT: Sure. [LB795]

SENATOR BRASCH: I'm very curious when you said it's \$2.50 a day, basically \$900 a year. [LB795]

SETH SPRATT: Yep. [LB795]

SENATOR BRASCH: Do they pay by the day or what do they...? [LB795]

SETH SPRATT: We do...it's \$70 a month... [LB795]

SENATOR BRASCH: Okay. [LB795]

SETH SPRATT: ...so with tax you're looking at \$74.90, which works out to about \$2.50 a day. [LB795]

SENATOR BRASCH: Okay. Do they purchase a unit or...? [LB795]

SETH SPRATT: No, I purchase the units and then they lease them from me. [LB795]

SENATOR BRASCH: They're just leasing them from you. Okay. Very good. [LB795]

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SETH SPRATT: So they have to be recalibrated every thirty days, so when they come back, it downloads all the history of all their starts. [LB795]

SENATOR BRASCH: And that's what this \$70 a month is? [LB795]

SETH SPRATT: Yeah. Correct. [LB795]

SENATOR BRASCH: And then I'm curious too, when the state has a fund, how many are self-pay, how many are public funded? [LB795]

SETH SPRATT: There is an indigent fund. I'd say...my clients, I'd say like less than 10 percent are indigent fund. Most people...you know, I don't see that that end, I just know that when they come the state has a fund set up and if they're in those guidelines to be considered indigent, then I'm paid at the very end. So they get a pretty much a free interlock throughout their term of a year and then a check is cut to me. [LB795]

SENATOR BRASCH: And we have 93 counties in the state. Are there 93 locations or how...? [LB795]

SETH SPRATT: It's set up to 12 probation districts. And I have, you know, available shops or audio shops to put in or install ignition locks in all 12 probation districts. [LB795]

SENATOR BRASCH: Very good. Just very interested in how the operation is, so. [LB795]

SETH SPRATT: Yeah, sure. [LB795]

SENATOR BRASCH: I have no other questions. Thank you. [LB795]

SENATOR DUBAS: Additional questions? You said that the information is downloaded and that you send that to local law enforcement or probation or who gets that information? [LB795]

SETH SPRATT: It goes to the DMV, Nebraska DMV. [LB795]

SENATOR DUBAS: DMV, okay. What do they do with that information? [LB795]

SETH SPRATT: It's up to their discretion. If some of it gets passed along down to probation, they get an install report or removal report and a violations report. [LB795]

SENATOR DUBAS: So if, say, it showed that someone tried to drive repeatedly, they

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were under the influence, while they couldn't drive, that information could get to the probation officer; they could use that for something. [LB795]

SETH SPRATT: Absolutely. Absolutely. It highlights in red and shows what the violation was. It was either a missed rolling retest or a positive alcohol sample. [LB795]

SENATOR DUBAS: Okay. All right, thank you. Senator Brasch. [LB795]

SENATOR BRASCH: One more question that I thought I heard him say, it has a camera too? It takes a picture? [LB795]

SETH SPRATT: Yeah, it does, yes. [LB795]

SENATOR BRASCH: Okay. And those pictures are also...? [LB795]

SETH SPRATT: Currently the providers keep the photos on record and then only ask if the...you know, the probation of the DMV would want further use to look at the photos. [LB795]

SENATOR BRASCH: Okay. I have no other questions. [LB795]

SENATOR DUBAS: Any other questions? Thank you very much for coming forward. [LB795]

SETH SPRATT: Thank you. Appreciate your time. [LB795]

SENATOR DUBAS: Additional proponents for LB795? Is there any opposition? Anyone in the neutral? Welcome. [LB795]

NICK PADEN: Thank you. Good afternoon, Madam Chairperson Dubas and committee members. My name is Nick Paden, spelled N-i-c-k P-a-d-e-n. I'm a registered lobbyist for LifeSafer Ignition Interlock Company. I intended on coming up here neutral to answer some of the questions. A lot of those have been answered already, but just wanted to offer myself as a resource. If there are any more questions, I'll do my best. If there's things that I need to find out and get you more information, I'd be glad to do that as well. [LB795]

SENATOR DUBAS: Good. Senator Janssen. [LB795]

SENATOR JANSSEN: I came up with one and I probably should have asked the previous testifier, but if these were to break down, if you had one...would a person be able to utilize the vehicle, is there a place to service it, would that be acknowledged? I'm kind of looking for a fail-safe on that. [LB795]

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NICK PADEN: Absolutely. As the previous testifier mentioned, there are locations in each probation district. And I had visited, actually, our location which is in Lincoln and when something like that were to happen, the individual can bring the car into the location or even call the location and say, I'm having a problem with this, can you come out, and they'd be glad to do that. [LB795]

SENATOR JANSSEN: Thank you. [LB795]

SENATOR DUBAS: Other questions? Senator Hadley. [LB795]

SENATOR HADLEY: Senator Dubas, thank you. Nick, a constituent called me this summer and I wanted to see if this is correct. He said that his son was under an interlock agreement and through some circumstances in helping a friend move, the last trip in the pickup truck didn't have an interlock system on it and had an expired plate on it, pulled over. His son was driving and this is a felony charge then if you're caught basically driving a car that doesn't have an interlock system? [LB795]

NICK PADEN: Currently, it is a felony. And it's funny you asked that. Last week we were in this room and Senator Karpisek had brought a bill to reduce that to a misdemeanor, but currently, yes, it is a felony. [LB795]

SENATOR HADLEY: But he thought, you know, I mean it was his son and it was quite a consequence. [LB795]

NICK PADEN: Yeah, and there...we have seen or heard some of those stories where either someone had a DUI and had a device and whether it was a child that got behind the wheel and tried to tamper with the device or in this case, it was just the mistake of, you know, just trying to help a buddy move and whether it was a truck or a U-Haul, whatever they're driving, and they get pulled over, and yeah, so. But yep, there's actually legislation right now to address that. [LB795]

SENATOR HADLEY: Thank you. [LB795]

NICK PADEN: Sure. [LB795]

SENATOR DUBAS: Any other questions? Seeing none, thank you, Nick. [LB795]

NICK PADEN: Absolutely. The only other...I forgot. I came up here because the question was asked, our company as well, we average \$2.50 to \$3.00 a day and I wrote that down and I wanted to mention that, so I think that's pretty consistent. [LB795]

SENATOR DUBAS: Thank you. [LB795]

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NICK PADEN: Thank you. [LB795]

SENATOR DUBAS: Any other neutral testimony? Seeing none. Senator Harr, would you like to close? [LB795]

SENATOR HARR: Yes, quickly. Thank you. Thank you very much. In my opening I forgot to thank the Department of Motor Vehicles who were very helpful in providing us the legal nuances we need to make sure this is a good and well-written bill. This doesn't change policy that we already have in place. We already allow individuals whose license has been revoked for 15 years to use the interlock. All we're doing is giving the Board of Pardons the option if somebody applies, whose license was revoked prior to January 1, 2012, to have an interlock device. Something that we as a body have already decided is good public policy. We're just expanding that. That's all this bill does. To answer your question, Senator Hadley, about the felony, I believe there is a piece of legislation that was introduced this year that said it would be a felony only if the underlying driving during suspension was a felony. And so it would match the suspension or the fine with the suspension. I don't know the status of that bill, but I know it was introduced. With that, I want to thank you and ask that you please advance LB795. [LB795]

SENATOR DUBAS: Thank you very much, Senator Harr. Any follow-up questions for Senator Harr? Seeing none, thank you very much. [LB795]

SENATOR HARR: Thank you. Appreciate it. [LB795]

SENATOR DUBAS: That will close the hearing on LB795 and we'll close the hearings for the committee for the day. Thank you for coming. [LB795]