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Transportation and Telecommunications Committee
February 09, 2016

[LB668 LB669 LB768 LB795 LB989 LB994 LB1003]

The Committee on Transportation and Telecommunications met at 9:00 a.m. on Tuesday, February 9, 2016, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB989, LB669, LB668, and LB768. Senators present: Jim Smith, Chairperson; Lydia Brasch, Vice Chairperson; Al Davis; Curt Friesen; Tommy Garrett; Beau McCoy; John Murante; and Les Seiler. Senators absent: None.

SENATOR SMITH: Good morning and welcome to the Transportation and Telecommunications hearing. We have a full day of hearing, of course we have a group of bills we're going to be hearing this morning, break for lunch and then we'll be back this afternoon. I am Jim Smith, I represent the 14th Legislative District in Sarpy County, and I'm Chair of the committee. And I would like to introduce my colleagues that are here with me today. I do believe Senator Tommy Garrett from Bellevue will be joining us a bit later, he will be on the far end of the table to your right, my left. Next to Senator Garrett is seated Senator Les Seiler from Hastings, Nebraska. And Senator Beau McCoy I believe will be joining us a bit later, Senator Beau McCoy represents a portion of Omaha. To my far right, your left, we have Senator Curt Friesen. Senator Friesen is from Henderson, Nebraska. Next to Senator Friesen is Senator Al Davis from Hyannis, and Senator Davis is opening on another bill in another committee, he will be joining us a bit later. We have Senator John Murante from Gretna and the Vice Chair of the committee, Senator Lydia Brasch, from Bancroft. To my left, your right is Paul Henderson, Paul is committee clerk. And to my right is Mike Hybl, Mike is the legal counsel to the committee. We have two pages with us today that will be assisting you when you turn in your paperwork. We have Taylor Birdwell, Taylor is a junior at UNL and his hometown is Lincoln, Nebraska. And we have Alex Brechbill from Aurora, Nebraska. Alex, too, is a junior; he studies at Nebraska Wesleyan University. We will be hearing the bills in the order that's listed on the agenda. If you are testifying, I do ask that you complete the sign-in sheet and bring it with you when you approach the table, and one of the pages will take that from you and get it processed. At the beginning of your testimony I ask that you please state and spell your name for the record. If you do not wish to testify today, but do want to voice your support or opposition to a bill, you can indicate so on the sheet that you complete and turn in. That will become part of the official record of the hearing. Please turn off your cellphones so we don't have distractions during the hearing, and also keep in mind that committee members do use their electronic devices to research and reference information for the hearing. So if you see someone on their laptop or on their iPad, that's the reason for it. And we do want you to know that your presence here today is very important to our legislative process; we appreciate you being here. I do think that we will use the light system today. When we get to support and opposition, we will ask that you limit your remarks to five minutes. And there's a light system on the table, when it's green, that's good to go, when it turns amber, you've reached four minutes and you have one minute to go, and then the red light comes on at the end of five minutes and we just ask that if you're in the middle of a thought if you'd try to please wrap up the

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testimony at that point. We are going to begin with LB989, and that is Senator Murante's bill that he will introduce. It relates to changing the provisions relating to motor vehicles. Welcome, Senator Murante. [LB989]

SENATOR MURANTE: (Exhibit 1) Thank you, Senator Smith and members of the Transportation and Telecommunications Committee. For the record, my name John Murante, spelled J-o-h-n M-u-r-a-n-t-e, and I represent the 49th District, which includes Gretna and northwest Sarpy County. I'm here today to introduce LB989. LB989 is the cleanup bill that was brought to me by the Department of Motor Vehicles. As you can see in the statement of intent, it contains quite a few technical changes. In discussing with the Department of Motor Vehicles in light of the short session, we've decided to scale down the bill somewhat from what they had anticipated. Keeping intact Sections 10, 24, and then 37 through 41. What they are hoping to accomplish is the reduction from 500 to 250 as the minimum number of prepaid applications required for nonprofit specialty plates. A recodification error from 2005, which takes out the word "apportioned" and just use the word "motor" instead. And then several sections which allows for the replacement and issuances of certain CDLs on-line. So the DMV is here to answer questions they have for you, but I would also be willing to answer any questions you may have. [LB989]

SENATOR SMITH: Thank you, Senator Murante. Do we have questions from the committee? I see none, thank you. We begin with proponents, those wishing to testify in support of LB989. Welcome, director. [LB989]

RHONDA LAHM: (Exhibit 2) Thank you. Good morning, Chairman Smith and members of the Transportation and Telecommunications Committee. I'm Rhonda Lahm, R-h-o-n-d-a L-a-h-m, director of the Department of Motor Vehicles. I'm appearing before you today to offer testimony in support LB989. I would like to thank Senator Murante for introducing the bill on behalf of the department. And my testimony today is going to cover the bill as it was introduced in the green copy; however, we have visited with Senator Murante regarding the proposed amendment. LB989 is a multi-topic bill that touches several parts of the statutes which DMV administers. The bill is intended to harmonize statutes, remove outdated and unused provisions, correct a word omission from a previous recodification, embrace new technology, allow for the enhancement of on-line services, and address some operational functions of the department. A large portion of the bill removes language which has become obsolete for a variety of reasons, updates language, and harmonizes a definition. The term cabin trailer has been used inconsistently in the registration and title statutes. The term trailer has a general definition which includes all cabin trailers. LB989 standardizes the use of the term trailer by removing cabin in some instances and adding trailer or semitrailer in other areas without making substantive changes. It removes an ineffective date in the handicapped parking permit statute which has passed. It removes obsolete language requiring the director to appoint the motor carrier services

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administrator...this was left over from when the department acquired this function in 1996 and is out of step with the normal function of the department. The bill provides two changes resulting from the department's automation of paper processes...it eliminates the need for printing a title when removing a name from a multiple-name title, such as in the case of a divorce or death. This will allow for such name changes to be done solely electronically, saving the customer money and the frustration of completing a needless step in the titling process. Another provision eliminates paper forms, which have been replaced by electronic submissions from driver safety courses and CDL third-party testers. It removes two refund provisions for disabled vehicles which are unused...one is applicable to the IRP, International Registration Plan registrations, and one for vehicles registered at the county level. Refunds are handled by other provisions of law. An update is made to the unladen weight registration section to specifically cover Nebraska-based fleet owners. An update to the charter bus registration is made to be consistent with the internal registration plan, registering them as apportioned vehicles, thus allowing Nebraska-based carriers to travel through other member jurisdictions without other permits. This reflects current lawful practice of such carriers. Previously, during a large recodification, 60-3,202 was unintentionally changed. LB989 will restore the previous language. The DMV proposes to eliminate the Health Advisory Board, as the department has been unable to find physicians willing to voluntarily serve on this board for at least 10 years. As a result, the DMV has developed a formal process in which medical information is provided by the applicant's physician determining the applicant's ability to safely operate a motor vehicle. This process provides the department with a medical review of an applicant's medical condition, as was intended by the Health Advisory Board. The bill looks to enhance on-line services and embrace technology to provide additional customer service options. LB989 will allow the DMV to provide on-line services for some commercial driver's license holders, such as obtaining a replacement document, renewing their CDL, and obtaining their CDL after they have lawfully held a commercial learner's permit. A person with a hazmat endorsement would still be required to renew in person, per federal requirements. This adds additional customer service options for our CDL holders. Additionally, it amends the registration and title sections to allow for the use of technology to deliver automated services by dealers in the new VTR system. This would be voluntary for both the customer and dealer. In short, it would allow the opportunity for a buyer to complete titling and registration requirements and pay taxes and fees at the time of purchase. We value our past and present partnership with the dealers and look forward to working with them in building this customer service feature for future auto buyers. There are two provisions of the bill which address operational functions of the department, the first involves specialty organizational plates. The bill amends this statute, making the process more in line with what we see occurring with nonprofit organizations applying for these plates. It would lower the required initial number of prepaid applications from 500 to 250. This number would allow more groups to utilize the process already in place for specialty plates. The second gives the DMV the same authorization the counties now have to cancel a registration when insufficient funds are received for that registration. All notification requirements and reinstatement provisions for the owner would

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apply. The DMV is willing to work with the committee and interested parties to ensure language in the bill provides the intended outcome. Thank you for your time today and the opportunity to present LB989. I would be happy to answer any questions you may have. [LB989]

SENATOR SMITH: Thank you, Director Lahm. Do we have committee questions for Director Lahm? I see none. [LB989]

RHONDA LAHM: Thank you. [LB989]

SENATOR SMITH: (Exhibit 3) Thank you. Next proponent wishing to testify in support of LB989. We do have a letter for the record in support of LB989. It is from Robert Andersen, on behalf of Nebraska Cooperative Council. Mr...Loy, are you here in support? [LB989]

LOY TODD: Proponent, yes. [LB989]

SENATOR SMITH: Proponent, okay. [LB989]

LOY TODD: Thank you. Morning, Chairman Smith, members of the committee. My name is Loy Todd, L-o-y T-o-d-d, here appearing in favor of the green copy which, as has been indicated, we've been removed from. But I thought I would like to take the opportunity to thank the department for working with us on this and agree that Section 2 and the portion dealing with the potential for qualifying dealers to be able to assist customers in titling and registering vehicles at the dealership is going to be removed at this time, simply because I think it's premature. The new computer system is certainly down the road quite a ways, and taking the time and energy to address that portion of it, I think, would be inappropriate at this time. So the rest of the bill we certainly support...efficiencies and the improvement in the system, and we'll cooperate in any way we can. So I just wanted to be on the record in that regard, thank you. [LB989]

SENATOR SMITH: Thank you, Mr. Todd. Any questions from the committee? I see none, thank you. [LB989]

LOY TODD: Thank you. [LB989]

SENATOR SMITH: Other proponents of LB989? Proponents? Seeing none, anyone wishing to testify in opposition to LB989? Anyone wishing to testify in a neutral capacity on LB989? Seeing none. Senator Murante waives closing, and that concludes the hearing on LB989. Senator Bob Krist has the next bill up, and I think we're going to stand at ease for a moment for Senator Krist to arrive. Again, for those that have just joined us, I'm sorry for the delay. We're waiting on

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Senator Bob Krist to arrive to introduce the next bill, which is LB669. So we'll just stand at ease for a few minutes, until Senator Krist arrives. I don't know if I've ever heard the room this quiet; it must be the early hour. Yes, hold the applause. All right...well, Senator Krist has joined us, and we're going to resume our hearings. And the next bill up is LB669 that will be introduced by Senator Bob Krist, and it relates to an update of certain federal references and a change from a secondary to a primary offense, certain occupant protection system enforcement requirements. Welcome, Senator Krist. [LB989]

SENATOR KRIST: (Exhibit 1) Thank you, Senator Smith and the rest of the Transportation and Telecommunications Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th Legislative District in northwest Omaha, along with north central Douglas County, which includes the city of Bennington. I appear before you today in introduction and support of LB669. LB669 requires all vehicle passengers, all vehicle occupants to wear a seat belt, and treat seat belt violations as a primary offense. Nebraska law presently now imposes no seat belt requirements for the backseat passengers, with some exceptions, and I'll note those. In a crash however, those who are unbuckled in the backseat have proven to be the flying projectile going through the front seat. It seems logical that everyone in the vehicle should be belted. According to the Nebraska Department of Roads, there has been a notable increase in traffic deaths in recent years. Of those deaths, records indicate that Nebraska had 189 people killed in 2014, and almost 70 percent of those fatalities happened to a vehicle occupant who were not wearing a seat belt--189 people, 70 percent were not wearing a seat belt; those were the fatalities. As you can see on the handout that I'm going to provide you here in a second...as soon as I get a page to do that for you. According to the National Conference of State Legislatures, Nebraska is only 1 of 16 states that do not treat seat belt violations as primary offenses; 34 states, along with the District of Columbia allow police officers to stop vehicles solely for a seat belt violation. It is very apropos today that I can say that the only state in the union that does not require a seat belt is New Hampshire. There's probably nothing going on in New Hampshire today. We'll hear important testimony today about...and I think that you...I'll defer to that testimony. But highway crashes are the leading cause of death for people ages 5 through 34, and that's according to the National Transportation Safety Board. Those of you who have been on this committee or in the Legislature for a number of years have heard this issue brought up at least four times to my recollection. Some of those attempts have not gotten out of the committee or have been stalled on the floor. If we are truly about public safety, then we need to pay attention to those folks who are driving, and that attention is first of all and most importantly to change us to a primary offense. I'll stand for any questions. [LB669]

SENATOR SMITH: Thank you, Senator Krist, for the introduction. Do we have questions from the committee? I see none. I know you're planning to stay for closing because you have the next bill up. [LB669]

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SENATOR KRIST: Yes, sir. [LB669]

SENATOR SMITH: All right, thank you. We now begin with proponents, those wishing to testify in support of LB669. Welcome. [LB669]

ROSE WHITE: (Exhibit 2, 3, 4) Thank you, Senator. Good morning, senators, and thank you for this morning session. My name is Rose White, R-o-s-e W-h-i-t-e, and I'm here today representing AAA and the Auto Club Group. Without a standard of primary safety belt law, Nebraska lags sorely behind what other states have accomplished to reduce and prevent bodily injuries caused by car crashes. Currently, Nebraska is 1 of only 15 states in the US with a secondary enforcement safety belt law. Legislative leaders in other states have come to recognize that the implementation of evidence-based policies, such as primary safety belt laws, truly benefit the citizens of their state, and we hope you will do the same by allowing Nebraskans the opportunity to realize our law's maximum potential by moving it to primary. Our secondary enforcement law, which was enacted 23 years ago in 1993, when usage rate was only about 30 percent, has never been modernized and fails to recognize advancements in vehicle technologies that require the use of safety belts and specifically the airbag system. Airbags are built into the steering column, door frames, passenger side dashboards, and other passenger compartment areas. Engineers and scientists design the airbag system to work in tandem with safety belts. Failure to buckle up in vehicles equipped with airbags may result in injuries or death during even a minor crash. Now since airbags have been required since 1998, nearly all vehicles driven today are equipped with this safety system. A review of the vehicle occupant fatalities from 1993, when the law was first passed, through 2015 shows that 5,086 lives were lost on Nebraska roadways during this 23-year time frame. Of those who died from injuries sustained while driving or riding as a passenger, nearly 74 percent were unrestrained. Now that's in spite of usage rates being at 80 percent level for the last decade. Now tragically, many were ejected from their vehicle, and in studying car crashes, one cannot deny the laws of physics. An unrestrained vehicle occupant in a rollover crash will be violently tossed around the inside of the vehicle or ejected or partially ejected out of a window, sunroof, glass, or windshield. This issue impacts our children as well. Sadly, restraint use among young children often depends upon the driver's safety belt habits. Studies show that almost 40 percent of children riding with an unbelted adult driver were themselves riding unrestrained without the protection of a safety belt or child safety seat. Nebraska's child restraint law is primary for those five and under only. For children six years of age and older, the law is secondary enforcement. Even for our inexperienced, young, novice drivers...teens with a school permit, learner's permit, or provisional operator's permit, Nebraska's life saving law is weak, as it is forced as a secondary measure. Tragically, motor vehicle crashes are the leading cause of injury and deaths among Nebraska children, and is highest among youth ages 15 through 19 years of age. As adults, parents, and policy makers, we must take action to avert these tragedies. These deaths and injuries are preventable and the solution is simple. Supported by education and awareness efforts, we are confident that passage

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of LB669 will help to increase usage rates 10 to 12 percent, hopefully matching or exceeding the results of our neighboring Iowa state, which has a primary law. They are now seeing a 92 percent usage rate. Seat belt use reduces the risk of death in a crash by 50 percent and a rollover crash by 70 percent. And sadly, because pickup trucks and high-profile vehicles are very popular here in Nebraska, we do have an overrepresentation of rollover crashes here in our state. Looking back at 2015, had 100 percent of the fatalities injured unbelted vehicle occupants used their safety belts, there's a high probability that 84 would be alive today. Too many lives are lost or changed forever as a result of car crashes, it's time to make a positive change. We urge this committee to study the facts and review the compelling results experienced by other states. And we urge you to recognize the strong support behind the issue, demonstrated by public opinion surveys and observation studies showing that 80 percent of all Nebraskans currently use their safety belt. We encourage you to pass this legislation which will save lives and prevent countless injuries and needless suffering. It's just long overdue. Thank you, Senators. And if there's any questions, I'd be happy to answer those at this time. [LB669]

SENATOR SMITH: Thank you, Ms. White. Do we have questions from the committee? I see none, thank you. [LB669]

ROSE WHITE: Thank you very much. [LB669]

SENATOR SMITH: Next proponent of LB669. [LB669]

LAURIE KLOSTERBOER: (Exhibit 5) Chairman Smith and members of the Transportation and Telecommunications Committee, my name is Laurie Klosterboer, Laurie, L-a-u-r-i-e, Klosterboer, K-l-o-s-t-e-r-b-o-e-r, and I'm the executive director for the Nebraska Safety Council. We're a nonprofit organization, and our mission is to save lives and prevent injuries through safety and wellness education. Since our inception in 1961, safe driving education has been a main area of work for our organization, and the reason I'm here to testify in support of LB669. Today, we have an opportunity to strengthen our current seat belt law. The positives will outweigh any negatives that there might be. One, we will definitely see an increase in the number of citizens buckling up. We do know, from looking at the research done in other states that have moved their laws from secondary to primary, that they have seen the percentage of people wearing their seat belts has increased. We also know, from research done in other states that have implemented a seat belt law, that we've been able to save lives and reduce injuries. And in fact, in the states that have also moved from secondary to primary, specifically Minnesota. I've given you some information. Minnesota in 2009 had passed from secondary to primary seat belt law. They have done studies since then to look and see has it made a difference, and it has. More people buckling up, a reduction in injuries, crashes, fatalities. We will also see that our costs will decrease. I've provided you with some information that is specific to Nebraska, that has been put

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together by the Nebraska Health and Human Services injury prevention division that shows that there is a cost to the public when people are injured and killed that are not wearing their seat belts...that public dollars are being used in those instances. We will see those costs decrease. I've testified for many...I won't say many, that ages me, but I have been before this committee several times. And I have noticed that the room used to be packed with people opposing seat belt laws, and we just don't see that anymore. I think that folks are realizing that seat belts do save lives and that we should have folks buckling up, not only as adults, but children. It is a concern that we are losing not only young people, but we're also losing our working population because it is a high amount of folks that we lose that are of the working age. I think that's another thing that we don't take into account, besides the children. Racial profiling...I guess, some of the negatives that I wanted to focus on, because I know that's been a concern, not only in Nebraska, but in other states, that this is not an issue that has not been brought up and has been a concern. Again, there's information out there, research that's been done on those states that have not seen that there has been an increase in racial profiling, that there's actually measures that can be implemented in the law to try and not have that type of thing going on. As well, I would say that traffic crashes don't discriminate; it is all types of folks, all nationalities, all demographics that have traffic crashes. Lastly, what I would say about racial profiling, and I did include in my information...there was a letter that was sent when Minnesota was discussing this issue. And this was a representative of Minnesota in the House of Representatives who was writing in support of the law. And one of the questions that he has was...that he commented on was about civil rights protection and this issue of racial profiling. The question...do we have to have weaker traffic safety laws in order to gain greater civil rights protection? And I would say that racial profiling obviously is a terrible thing; we don't want that going on. But if we don't pass...we don't have strong safety laws because of this, I think that that's a band-aid approach, that we have bigger issues with racial profiling that we need to address that a traffic safety law is not going to take care of that. I would be happy to answer any questions on the information that I provided. With that, I would thank you for letting me testify in support of this bill. [LB669]

SENATOR SMITH: Thank you, Ms. Klosterboer, I appreciate your testimony. Senator Brasch has a question. [LB669]

SENATOR BRASCH: Thank you, Chairman Smith. And thank you for your testimony. I do have a question. When you had mentioned that the room here at the hearing is not filled with as many opponents, which we will see, but do you believe that through your education of your organization, other organizations, public information, that perhaps people just choose to buckle up without a government mandate, without us trying to...you know, individuals I know that's just a practice, you buckle up automatically. Do we need to make sure that the purpose of government is to punish those who are not buckling up? [LB669]

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LAURIE KLOSTERBOER: Well, I guess I think it's a minimum safety requirement for our vehicles that are on our public roads. I don't subscribe to the viewpoint personally that it's a right that you shouldn't have to buckle up. I think that...and from looking at...I know there's been court cases out there that have supported that, not only in Nebraska Supreme Court, but in the United States Supreme Court, that it's not a right. I would say that yes, I think that education helps. I think that there are people who buckle up because they do see that...they've looked at the data, they've been through classes, they recognize that. But I think we've also got a part of the population that maybe hasn't had the education or they just don't view it as important. And I think that, because they're operating on our public roadways, that if they have other passengers in the vehicle and they're driving, that that is a concern, because there's other passengers, especially children. We know that if children don't see parents buckling up that we see that then, when those children are older, that they're not buckling up. So I don't know if I...I'm trying to answer your question. I think education helps, but I don't think it's a government infringement. I think it's a minimum standard that we can impose for the safety of all and public dollars, because we do...I mean, there is proof public dollars are used for those. [LB669]

SENATOR BRASCH: Okay. I have no other questions, thank you. [LB669]

LAURIE KLOSTERBOER: Okay, thank you. [LB669]

SENATOR SMITH: Additional questions from the committee? You know, Ms. Klosterboer, I do have just a comment. And I don't know if it's necessarily a question, but you mentioned one of the concerns that opponents of this bill have is racial profiling. And I think probably I can speak for most folks that have some reservations on this bill that we have full trust of our law enforcement. We believe that they do a fantastic job, and it's more of an issue of the foolproof methods identifying that there is an absence of a seat belt being used. And how do we remedy that whenever there is a mistake or a bad call that's made, not necessarily dealing with racial profiling or anything, but just a mistake? How do we protect the driver or the vehicle, the occupant of the vehicle in that particular case? And so I think that's one of the things that maybe those that are watching this carefully, that's maybe the concern. If you'd like to speak to that, please do. [LB669]

LAURIE KLOSTERBOER: Well, and you know, with regard to the racial profiling, I get that that's a serious issue. And I certainly have no reason to speak, I'm Caucasian; I can't imagine what that is like. But again, I do know that we are killing all sorts of people in our crashes, and this is a way to save lives. And from looking at the research, I mean, I don't think we're coming up with any concerns that are not new or different from what other states have had that have dealt with this issue. So I think there's good reason for us to look at that to try and see how other states have handled those concerns. We do know it's working in other states, so you know again, I think

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trying to get some assistance from those other states that have dealt with this issue, that have moved forward with a primary and aren't seeing those type of things would be valuable. [LB669]

SENATOR SMITH: Very good, thank you. I see no remaining questions from the committee. Thank you for your testimony. [LB669]

LAURIE KLOSTERBOER: Thank you. [LB669]

SENATOR SMITH: We continue with proponents of LB669. Welcome. [LB669]

BEVERLY REICKS: (Exhibit 6) Good morning, Chairman Smith, members of the Transportation and Telecommunications Committee. I am Beverly Reicks, B-e-v-e-r-l-y R-e-i-c-k-s, CEO of the National Safety Council Nebraska, a nonprofit organization whose mission is to prevent injuries and reduce fatalities at the workplace, on the road, and at home. I appear today in support of LB669. I want to thank Senator Krist for sponsoring this important highway safety bill. In the interest of your time and being respectful of your long day, I'm going to be brief. Motor vehicle crashes are the leading cause of death for teens. It is troubling to see the unbelted rate among teen drivers and their passengers continue to rise. In 2014, 67 percent of teen drivers involved in fatal crashes were not wearing their seat belts. In 2015, the motor vehicle fatality non-safety belt use percentage soared to 75 percent. We saw too many teen fatal crashes where the teens were not wearing their seat belts. The loss of these young people devastated their families and friends and generally just made all of us feel bad. We know that effective laws and primary enforcement are essential to teens buckling up. I implore you to help us save lives of Nebraska's teens by advancing LB669 to the Legislature for general debate. I'll just make a couple comments that aren't part of my scripted testimony. Senator Smith, to your point, I think all of the safety advocates and most everyone here today would tell you that enforcement is truly not our primary objective with this bill. What we know, based upon evidence in other jurisdictions, when a state adopts a primary enforcement there is voluntary compliance from 10 to 12 percent increase in seat belt usage. So we could go from 79 percent to nearly 90 or 91 percent. We know that voluntary compliance will save lives. It certainly cuts the number of people then that law enforcement is looking to do enforcement with. I think the other issue that we want to be focused on, Senator Brasch, to your point is it's the unbelted fatality rate that is so troubling. 75 percent of the individuals involved in a fatal crash are not wearing their seat belts; that's a staggering number of individuals. And most troubling when it comes to the teens. We continue to see a rise in teen unbelted use. Teens have a difficult time in a peer-to-peer situation telling other teens to buckle up...maybe not so much...I don't have any problem telling someone in my vehicle to buckle up before I move, but that's a difficult conversation for teens to have with their peers. We know if it were a law the parents would be stricter about it, and the teens would

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be able to say it's the law, dude, buckle up. So we really think this is an important primary enforcement law that needs to be advanced to the floor. Thank you, Senator. [LB669]

SENATOR SMITH: Thank you, Ms. Reicks. Senator Davis has a question for you. [LB669]

SENATOR DAVIS: Thank you. And I apologize for not being here earlier, so this may have been discussed, but two years ago a friend of mine rolled over in a Suburban and was thrown out and is paralyzed now. We hear a lot about the deaths that are associated with non-seat belt use; do we have any data on permanent disabilities (inaudible) injury? [LB669]

BEVERLY REICKS: Certainly, Senator. I think we can get you that kind of evidence to speak to that same issue. It's rare that someone who is thrown from the vehicle will survive, but when they do, like your friend, they have devastating injuries. And that is another issue why we think seat belts are so critically important, particularly, as Ms. White talked about, SUVs and pickups. They are notorious for ejections in rollover crashes, and airbags alone won't keep a person in the vehicle. They need to be used in tandem with a seat belt, and it's just vitally important. But I can get you some of that. [LB669]

SENATOR DAVIS: That would be helpful, I think. [LB669]

SENATOR SMITH: Additional questions? I see none, thank you for your testimony. Very good comments, appreciate it. [LB669]

BEVERLY REICKS: Thank you, Senator. Thank you. [LB669]

SENATOR SMITH: Welcome. [LB669]

COLEEN NIELSEN: (Exhibit 7) Good morning, Senator Smith and members of the Transportation and Telecommunications Committee. My name is Coleen Nielsen, that's spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I'm the registered lobbyist for State Farm Insurance companies and the Nebraska Insurance Information Service, testifying in support of LB669. The letter that is being handed out to you also addresses LB668. For decades, State Farm has worked to reduce death and injury on our highways. The company's efforts include longtime partnerships with advocates for highway and auto safety and a partnership with the Children's Hospital of Philadelphia to undertake initiatives to reduce death and injury for children riding in vehicles. Motor vehicle crashes remain the leading cause of death among teen drivers. Teen drivers ages 16 to 19 have fatal crashes at 4 times the rate of adult drivers. To reduce injury and death from young driver-related crashes through scientific research and outreach, the Children's Hospital of

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Philadelphia and State Farm have been conducting research and providing evidence-based sources to stakeholders and families since 2006. The multidisciplinary research team at the Children's Hospital employs comprehensive, rigorous methods to understand and predict teen driver crashes in order to prevent them. Researchers examined a nationally representative sample of 3,126 high school students. The research showed that teens who live in states with primary seat belt laws were 12 percent more likely to buckle up as drivers and 15 percent more likely to buckle up as passengers compared to teens who reside in states with weaker secondary enforcement laws. The Children's Hospital Center for Injury Research and Prevention stated that although the use of seat belts in the learner's permit phase of licensure reported similar belt use regardless of whether their state had a primary or secondary law, driver seat belt use declined to 69 percent in the secondary states as teens advanced to unrestricted license, while seat belt use remained relatively steady at 82 percent in states with primary laws. The Center also reported that the main reason teens die in crashes is failure to buckle up. We are asking...State Farm Insurance companies and the Nebraska Insurance Information Service are asking that this committee consider that information and advance this bill to General File. I'd be happy to answer any questions. [LB669]

SENATOR SMITH: Thank you, Ms. Nielsen. Questions from the committee? I see none, thank you. Next proponent of LB669. Welcome. [LB669]

BRUCE BEINS: Good morning. I had to train my tongue to say morning, I just about said good afternoon. But my name is Bruce Beins, it's B-r-u-c-e B-e-i-n-s, I'm here representing the Nebraska Emergency Medical Services Association. We have over 2,500 members that provide ambulance services throughout the state, mostly volunteers. One thing that becomes very obvious...I've been a paramedic EMT in rural area for...this will be my 36th year. It becomes very obvious when you are an EMT, or a first responder, law enforcement officer, when you respond to these wrecks...like I say, it becomes very obvious right away if you're not a seat belt proponent, when you get into this profession, you will be fairly quickly. The injuries that we see, you know, you've heard a lot about the fatalities, but I've seen some really bad injuries and people that were hurt really bad in relatively minor accidents because they were not wearing a seat belt. I'm also kind of a news junkie; I like to find out what's going on around the rest of the state. And I tell you, there's hardly a week goes by that we don't see a story of some teenager, generally, killed on a county road because they weren't wearing a seat belt and they lost control and probably rolled over. And it's sad because those are preventable; it's very preventable. I don't see making this a primary offense as being a punishment, I'm pretty conservative, but one of the functions I think government has is to protect the public. And I see this as a protection of the public. You could argue that well, you know, should government protect you from yourself, and I think in some instances yes, we do need to protect people from themselves. If making this a primary offense acts as a deterrent and keeps even a few more people wearing their seat belts, then we could save some lives. And it doesn't take much rocket science to think about whether

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it's worth it when we can save some lives and save a lot of horrific injuries. So with that, I would sure answer any questions. [LB669]

SENATOR SMITH: Thank you, Mr. Beins. Questions from the committee? I see none. [LB669]

BRUCE BEINS: Thank you. [LB669]

SENATOR SMITH: Thank you. Next proponent of LB669. Welcome. [LB669]

MATT SCHAEFER: (Exhibit 8) Good morning, Chairman Smith, members of the committee. My name is Matt Schaefer, M-a-t-t S-c-h-a-e-f-e-r, appearing today on behalf of the Nebraska Medical Association. The page is handing out a letter discussing our support for both LB669 and LB668. After the paramedics that you just heard from, it's our emergency room physicians who next see accident victims, and as you've heard, there's strong evidence that measures like LB669 would reduce those accidents and injuries and fatalities. That's all I have. [LB669]

SENATOR SMITH: Thank you, Mr. Schaefer, for your testimony. Questions from the committee? I see none, thank you. Welcome. [LB669]

ROBERT CORNER: Senator Smith, committee, my name is Bob Corner, that's Bob Corner. I'm now a retired state employee, but I spent 36 years with the Nebraska Office of Highway Safety. There were many a time somebody from our office would have liked to have been here to testify, but as with most code agencies, we were told not to. But when you look at it, traffic fatalities are preventable. People do not need to die in most crashes, because traffic crashes, no matter your sex, your race, your gender, it makes no difference...your age. If you're in that vehicle and you get ejected or you're thrown about when that vehicle is rolling, you're either going to be severely injured or you're going to be killed. Nebraska has reached a plateau where it seems...actually our seat belt usage has actually gone down the last few years. So in answer to your question, Senator Brasch, education worked, but it only works to the people who want to absorb it and apply it. We reached a plateau now and we have a group of people that will probably never wear their seat belts unless it's a primary law. Law enforcement...I think I know a lot of police, sheriffs, state patrolmen over the years I work with. They treat secondary laws more or less as a joke, they really don't work. And I don't think a lot of the county attorneys apply seriously the law, if it's a secondary law, or even the judges. If you're going to have a law, don't make it a secondary law. All the surveys say, in each of the three legislative districts...over somewhere between 80 and 85 percent of the people always surveyed in each of the legislative districts support a primary seat belt law. Now I know, in a lot of cases, if you had 80 percent of your constituents calling up and say hey, pass this bill, I think the Legislature would probably pass it. I mean, that's almost unheard of, having that high a percentage of people supporting something, but they do. And as

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far as...we see also, I think somebody brought up racial profiling. Actually, minorities are overrepresented in traffic crashes and traffic deaths. More of them would be less injured or not killed had they been wearing their seat belts. The easiest thing we have is for people to wear their seat belts. We have a lot of families now, the kids grow up in child seats, it's automatically put their seat belts on. Yet, we see, especially that group of younger people, the teenagers, all the time in the paper. Over 70 percent of all people that die in crashes aren't wearing their seat belts. It's an easy fix, make a primary law to have people wear their safety belts. Actually, when you think about it, driving is probably the most regulated thing we have. When people say well gee, you know, I want freedom of choice. Well, do they want freedom of choice to run through a stop sign or to go 100 miles an hour on the highway? All I can tell you, once we get a primary seat belt law there will be more Nebraskans alive and less injured every year. And who knows what...you know, especially with those young people, what they could have become or what maybe happened if they had survived a crash. But peer pressure causes a lot of teenagers not to wear their seat belts, and alcohol and seat belts don't go together at all because people won't wear them. So I'll be happy to answer any questions. Thank you very much. [LB669]

SENATOR SMITH: Thank you, Mr. Corner. Senator Brasch. [LB669]

SENATOR BRASCH: Thank you, Chairman Smith. And thank you, Mr. Corner. You know, I do find this very perplexing in the sense that I do wear seat belts. Typically, if you buckle up, so do your passengers. Education has been great. I started wearing seat belts back in the 1970s, when I worked at the state office building. An employee was in an accident on lunch break on the West O bridge. I mean, it was not high speed, it was...and I don't remember the details. Today, and for many years now, we put children in child restraint seats where, you know, with my grandkids, I almost have to take out the instruction manual. This crosses there and that latches there and you slip here. And I mean, they grow up until age 6. And when you talk about teenage drivers, we're talking about 16- to 18-year-olds basically, is what I'm guessing. Shouldn't we be focusing on that age group if that is the highest...you know, even education or...and I appreciate your expertise in coming forward. But I think the habit of wearing as an adult has been voluntary, so that's where...I think you focus on the problem and not just try to throw a blanket over the whole situation. [LB669]

ROBERT CORNER: Well, I would hope, Senator, as we all age and we get older, they say at 26 your brain is fully developed. So it could be part of that with the teenagers, but I can tell you, our office, we spent tons of money on education, trying to move that particular age group, and especially pickup drivers, which we have a lot of in this state...which I own a pickup and drive all the time...who fail to wear their seat belts. And you can tell them, you can educate them, but until they get into that habit of actually pulling that over and buckling that in, it just doesn't happen. And we seem to have reached a plateau. Like I said, one time we were over 80 percent with voluntary use, now we're at 79, 78 percent. It's going down, it's not getting better. Yet, we

have more and more education. But we've reached that plateau where I think people who are going to wear it are wearing it, but people who don't want to or because it's a secondary law say hey, I don't have to. If I'm not breaking some other law, nothing's going to happen, so they don't wear their seat belts. [LB669]

SENATOR BRASCH: And we do have additional laws for teen drivers, is that correct? We have done that. Could this not be... [LB669]

ROBERT CORNER: They have fewer points they can lose before they lose their driver's license, yeah. [LB669]

SENATOR BRASCH: Could this not be a part of what we're already imposing on that age group? [LB669]

ROBERT CORNER: Well, I think you're really putting a burden then on law enforcement. It's very tough sometimes to determine somebody that's 18 or 19. Yeah. If you're going to have a law, make it a primary law and have it apply to everybody. Don't single out one group here or another. It saves lives. It's proven over and over again, if you wear seat belts and you're buckled in a crash, you're liable to survive that crash. At least be less injured and probably not killed. It's a no-brainer to me, but like I said, I worked in highway safety for 36 years and saw all those reports coming across the desk of people injured and killed in traffic crash. And you read them you think why, what happened here? That's why we call them crashes instead of accidents. Accident you would think, you know, preventable. Well, usually if they're not preventable, you better wear your seat belt. Because if somebody else hits you, it's not your fault, you've done everything right, maybe violated no law. [LB669]

SENATOR BRASCH: I have no other questions. Thank you so much. [LB669]

ROBERT CORNER: Okay, thank you. [LB669]

SENATOR SMITH: (Exhibit 9, 10, 11, 12, 13) Additional questions from the committee? I see none. Thank you, Mr. Corner, for your testimony. Next proponent of LB669. Any additional people wishing to testify in support of LB669? Welcome. Are you testifying in support? Please. Another bill? Okay. We do have letters for the record in support of LB669. We have a letter from the Brain Injury Association of Nebraska, from Jacqueline Gillan on behalf of Advocates for Highway and Auto Safety, Ann Parr on behalf of the Nebraska Insurance Information Service, from Nicole Carritt on behalf of Project Extra Mile, and from Gerald Stilmock on behalf of Nebraska State Volunteer Firefighters Association and Nebraska Fire Chiefs Association. With

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that, we move to opponents, those wishing to testify in opposition to LB669. Opponents? Seeing none. Opposition to LB669? Please come forward. Welcome. [LB669]

GEORGE FEREBEE: Morning, Senators. My name is George Ferebee, G-e-o-r-g-e F-e-r-e-b-e-e. And you know, I was up here two years ago and I heard all these proponents testify, and you have to realize a percentage of them...yes, it's a requirement of their job, so they have to exercise their vocal cords to make it look like they're doing something. But you know, they forgot what the main problem is. It isn't necessarily that they're not wearing seat belts, and you just listened to these people today, it's people having accidents. And these young kids, why don't you spend some of the time and effort and teach them how to drive in adverse conditions. Their statistics are inherently flawed...oh well, there was this many people killed. Do they know that for sure or do they strap somebody in this exact same vehicle and see whether or not they survive. So their statistics are inherently flawed. And if you would...and I realize a lot of these kids in town and maybe even some of these in the small...don't have the opportunity that those of us out in the rural area, you learn how to drive a two-wheel drive vehicle out on the road. And when you learn, over time you respond to these conditions without even thinking. And we have a lot of younger kids that they were never given the opportunity. And you can only teach them so much by reading a book and telling them statistics, they're going to have to go out and actually drive. And the suggestion would be go out and get a vehicle that's back in the 1970s and 1980s that doesn't have all this technology that our federal government has mandated on these new vehicles. I honestly think it's creating more problems than it's causing. I have a new vehicle and it's got the anti-lock brakes, it's got electronic traction control, and you end up fighting it rather than doing how you're used to driving. And the younger generation, it gives them a false sense of security. They think they have all this technology they can drive just as fast on ice or loose gravel because they have all this. Well, they can, but they can't stop any faster. And you know, on all these ones that testified, you listen to the news media in regards to the airbags. If now some of them are blowing up and sending shrapnel into people's faces and killing them...did anybody mention that? So now we want to be strapped in a seat belt so we can't even duck, so I guess we can get full benefit of the shrapnel? And you know, I had...three or four years ago was in a situation whether it was my skill or whether it was 99 percent luck, I was coming home at dusk and a deer come up out of the road. And I swerved, hit the brakes and swerved and missed it. But there was a young lady coming from the other direction that wasn't so lucky. And I looked in the mirror after I got things straightened up and the deer went flying. And the next thing I see is the car driving across in my lane, luckily there was nobody right behind me or she would have hit it head on. But she ended up in the wrong road ditch, in the opposite road ditch before she finally stopped. Luckily it was a flat road ditch. And I turned around and went back to see if she was all right. And when I walked up to that car, you could not see her in that car through the side glass from all...I thought the car was on fire, and all it was was the smoke from that airbag. And she was going on that her wrist was hurting. But she...and the car was still drivable, it wasn't that she couldn't steer it. It had screwed up the front end and the hood and the front fender, it probably

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did several thousand dollars damage to the car. But I got to thinking, you know, how successful are really these airbags? Number one, it was a deer that caused the accident, but it was the airbag that probably stunned her and then she couldn't see where she was going that made her lose control. So how safe are some of these stuff that these experts have mandated that our cars have been put on there? It's kind of like our federal government mandating that these cars make better mileage. Well yeah, they can make them some aerodynamic, but the main thing they're doing is they're making them lighter. So it makes you wonder about the structural integrity of these vehicles. And if you have a lighter vehicle, it's going to be more prone to hydroplane in water, it's going to be less stable on ice. So is our government really helping us, and why do we need to set up a law that makes law enforcement walk a very thin grey line of whether they're doing their job or they're harassing law-abiding citizens? So with that...there's a lot of other things, but if you have any questions, I'd try to answer them. [LB669]

SENATOR SMITH: Thank you, Mr. Ferebee. Do we have questions from the committee? I see none. Thank you for your testimony today. [LB669]

GEORGE FEREBEE: All right, thank you, Senators. [LB669]

SENATOR SMITH: Do we have any other opponents of LB669? Opponents of LB669? See none. Do we have anyone wishing to testify in a neutral capacity on LB669? Neutral? Welcome. [LB669]

RICHARD REISER: Thank you, Senators, members of the committee. My name is Richard Reiser, R-i-c-h-a-r-d R-e-i-s-e-r, I'm appearing on behalf of the Nebraska Trucking Association. Just a couple observations listening to this testimony. First of all, I wanted to remind you all that commercial motor vehicles are required to wear seat belts, and, as a result of that, the last statistics I saw indicated that about 84 percent of our drivers wear seat belts. Also, there is a cost to our industry and to our society in general from people who do not wear seat belts. So when we're involved in an accident, if there is an unrestrained passenger, often that results in a claim against our members on behalf of the unrestrained passenger who, being free of negligence, can collect in many cases, even if the primary cause of the accident was the driver of the other vehicle. So there is an increased cost to our industry of having unrestrained people driving or riding. I listened also to the issue of racial profiling, which is an interesting issue in this case...this situation. But thinking about that, I really doubt if there is a rogue officer out there who wants to use racial profiling; they don't need a seat belt law to do that. I mean, as long as you have the, you know, failure to signal a lane change and some of those other things that are traditionally used, this law isn't going to really make a difference. Thank you. [LB669]

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SENATOR SMITH: Thank you, Mr. Reiser. Do we have questions from the committee? So, Mr. Reiser, what...if you can kind of tell me a little bit if your neutral testimony...what is it that's preventing your association from supporting this bill? [LB669]

RICHARD REISER: Only the fact that we have not met and I was not formally authorized to do so. [LB669]

SENATOR SMITH: Okay. All right, very good. All right, thank you for your testimony. Anyone else wishing to testify in a neutral capacity on LB669? Seeing none, Senator Krist is invited to close on LB669. [LB669]

SENATOR KRIST: I appreciate the opportunity to bring the seat belt question before you again. I know that many of you again who have been on this committee for awhile have heard the suggestion that we should make it a primary offense. I also want to thank legal counsel for helping me put this and the next bill together. The most compelling reason for me to buckle up happened on the intersection of Highway 31 and Highway 36. None of those people who were injured or died in that accident in the three cars that were involved were under the age of 18. They were all adults; they all understood. And one of them, very prophetically during his lifetime, had said if it was serious, they'd make it a law. So from that, I've come forward and realized that if we are serious about public safety, we need to make this a primary offense. Also, I would remind you that and to take a look at...Senator Davis talked about the rollovers, but the seat belt works in conjunction with the airbags and the restraining devices in the car. There is good statistic data that shows that, without being held in place, the bags can inject bodily harm and that's a part of that safety mechanism that's in place in newer vehicles. I would also remind you if a vehicle...there are exceptions if a vehicle is prior to a certain age; or if it doesn't have restraint devices installed in certain areas, this law would not apply. On the subject of the racial profiling, I'll say this: I have lived mostly in large cities all around the world my whole life. Some rural exposure, but what makes me so fearful is driving down anywhere in Omaha or the metropolitan area or even Lincoln, late night, and looking up and seeing more people than seat belts in a vehicle and the activity that goes on mostly from our teenagers. This bill would ensure that a driver who's licensed in the state of Nebraska would have to make sure that his occupants are belted in, and that's in the front or backseat of the car, and that there's enough restraint devices to go around each one of the occupants. So I ask you to take a look at this and I would ask you to put this forward for general discussion on the floor. Thank you, Senator Smith. [LB669]

SENATOR SMITH: Thank you, Senator Krist. Remaining questions from the committee. Thank you for bringing the bill, I know why you feel very passionate about that. And you know, just kind of as a personal story, as you're kind of preparing for your next bill, my daughter a few

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years ago was driving northbound on I-29 with a friend. She was in the passenger seat; they both were wearing seat belts. The driver lost control, went across the median, went across the southbound lanes, flipped several times, and they ended up upside down in their seat belts. No question in mind, they probably would have been killed in that accident without a seat belt. So seat belts do save lives, and I appreciate your sincerity in bringing that bill. [LB669]

SENATOR KRIST: If I could add just one other thing to that. I have his permission to talk about it; he couldn't make it here today. But those of you who served with former state Senator Chris Langemeier, he and his family were in a bit of a tussle with their large pickup truck and trailer behind, and they were blown over. All of the occupants were in seat belts and he was able to safely remove his two boys from the backseat with almost no injury to the family. So we're lucky to still have him on this earth and the children as well. Thank you. [LB669]

SENATOR SMITH: All right. Thank you, Senator Krist. And that concludes the hearing on LB669. And we move to LB668 which, too, is being introduced by Senator Bob Krist. It relates to changing certain federal references and provisions relating to provisional operator's permit restrictions, use of interactive wireless communication devices, and occupant protection system enforcement. Welcome. [LB669]

SENATOR KRIST: (Exhibit 1, 2) Good morning again, Senator Smith and to the members. For the record, my name is Bob Krist, B-o-b K-r-i-s-t. I represent the 10th Legislative District, which includes Omaha and north central portions of Douglas County and the city of Bennington. I appear before you today in introduction and support of LB668. LB668 updates the offense of distracted driving while texting from driving as a primary offense. The handout I've provided, which is a map of the National Conference of State Legislatures information underscores how important this is. I didn't realize before I started doing research how far behind we were the rest of the country. This is all telling, I don't have to introduce it anymore. Primary offense in black, secondary offense, grey, those that choose to do nothing in white. And even the state of Texas decided it was worth mandating school bus drivers not to do this. With that, I'll reserve any other questions for...my other comments for closing. And I'd be happy to answer any questions. [LB668]

SENATOR SMITH: Questions from the committee? See none, thank you. We now move to proponents of LB668. Those wishing to testify in support of LB668? Welcome. [LB668]

ROSE WHITE: (Exhibit 3, 4) Thank you, Senator. Thank you, Senators. My name is Rose White, R-o-s-e W-h-i-t-e, and I'm here today representing AAA and the Auto Club Group. And we're here to demonstrate our strong support of this legislative bill. I passed out two documents to you. The one that features the colored map basically shows you in one area where Nebraska is

ranking against the rest of the country as far as our traffic safety legislation. And this is a very important issue because it's our graduated driver's license law. And basically what this shows is that we only meet, basically, one of the important elements of other laws that other states have passed. But with consideration for the bill that's been introduced by Senator Krist, this would basically move us up to a category much more respectable. But it does basically indicate that there's strong elements of our graduated driver's license law, including nighttime driving restrictions, passenger restrictions, cell phone restrictions, all of those are enforced on a secondary level in Nebraska. In fact, if you look at some of our key most lifesaving bills, they're secondary enforcement. And what we're simply asking this committee and our legislative body to consider is removing secondary bills from our system, make all legislative laws primary. And if I could ask you then to turn to the other document that I've passed out to you, the area in yellow on the back page simply summarizes what this legislative bill will do. It will simply ask to move the safety belt law from secondary enforcement to primary enforcement, requiring all passengers to buckle up. And as you just heard from the previous bill, all of the positive things that could happen if that measure is passed. And then change the texting law for all drivers from secondary enforcement to primary. Texting currently is allowed when the vehicle is not in motion, but again, just moving it from secondary to primary. The important elements of the graduated driver's licensing law move all of those from secondary to primary enforcement. And of course one other element that would be added on, it's to ban the use of cell phones by school bus drivers when the vehicle is in motion...that the cell phones may be used when communicating with school dispatch centers. And I do want to advise you that we receive support from Nebraska School Bus Association; they actually helped us to draft the language that was included in this particular bill. But also with this newsletter summary...I apologize, I don't have the 2014-2015 numbers updated in this document. As you heard earlier, we had a very tragic year last year, with a substantial increase in highway fatalities. And as was mentioned, we've seen a plateau now of safety belt use in our state. But we do know, though, with a primary law we can increase that level. And thank you, Senator, for bringing up the issue with teens, and should we focus on that group. I can tell you that probably 80 percent of what I do is focused in on that age group, as I know with many of the other organizations that are represented. Teen education is very important to us. We work with the Nebraska State Patrol to do events at the Friday night football games where we do rollover demonstrations; we have different education programs asking them to create PSAs for us all about safety belt use. But again, it's a group that has short term memory. They may be impacted for a short term level, but we want that lifelong commitment to always buckle up and we know that that can't be done simply by making this legislation primary. We've seen it done in other states, and now what we're seeing, especially with the Alliance for Highway Safety just releasing their government report, Nebraska is one of those states that categorized in the red...the danger zone...in all these major categories. Where other states are seeing benefits of these laws, we know that it's going to take legislation to move us up to the next area. I've been involved with traffic safety education now for four decades in Nebraska. We've made great progress, but now we clearly see a plateau and now we know that

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we can't break that without your support behind these legislative bills. So I want to thank Senator Krist for bringing both of these bills to our attention, allowing us to provide information to you. And if you have any questions at this time, I'd welcome the opportunity to try to answer them. [LB668]

SENATOR SMITH: Thank you, Ms. White. I do have a question; do we have questions from the committee? See none. I'm looking at this chart that Senator Krist handed out; has that changed over the last couple of years? There's very few exceptions to the black colors on this, which shows that those states have primary offenses for all drivers. Has that changed recently? [LB668]

ROSE WHITE: And I'm sorry, Senator, I did not see a copy of that. Is that regarding texting? [LB668]

SENATOR SMITH: Texting while driving laws. [LB668]

ROSE WHITE: Texting while driving laws. Right now, Nebraska is one of five states that does not have a primary law. We have 41 states that have primary laws and the others do not have any law. [LB668]

SENATOR SMITH: Okay. [LB668]

ROSE WHITE: Now, there may be legislation that's introduced in this legislative session with those other states, but I would be happy to update that for you. [LB668]

SENATOR SMITH: All right, thank you. [LB668]

ROSE WHITE: Thank you. Any other questions? [LB668]

SENATOR SMITH: Senator Murante. [LB668]

SENATOR MURANTE: Yes, I have a question relative to the nature of the primary laws. This is...what Senator Krist has brought before us is similar to what I think Senator Riepe brought to us last year. But it appears to be broader. What we're doing here is just saying interactive electronic devices, you cannot use them if you're driving. [LB668]

ROSE WHITE: Hand-held. [LB668]

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SENATOR MURANTE: I'm not sure, is hand-held written anywhere in the... [LB668]

ROSE WHITE: Yes, it should be in there, Senator. [LB668]

SENATOR MURANTE: Any use of an "interactive wireless communication device." Is...so even if I'm not holding...this is an "interactive wireless communication device," would we agree with that? So if I had this on Bluetooth, I'm not holding it, I'm operating it with my steering wheel, am I prohibited from doing that under this bill? [LB668]

ROSE WHITE: In the language in the bill, I believe it indicates communicating, and has specific language regarding that, pertaining to sending or receiving messages. [LB668]

SENATOR MURANTE: Okay. And so using the Bluetooth in your view in this bill, I'm not seeing where that language is written here. Counsel can (inaudible). I remember that being in Senator Riepe's bill, but this seems to just say you cannot use any interactive electronic devices. There doesn't appear to be any exceptions. [LB668]

ROSE WHITE: And this was basically modeled after Senator John Harms' bill that he introduced, the Nebraska Roadway Safety Act. [LB668]

SENATOR MURANTE: Okay. Well, I may have these questions for Senator Krist a little bit later. Thank you very much. [LB668]

ROSE WHITE: Thank you. [LB668]

SENATOR SMITH: Thank you, Senator Murante. And thank you, Ms. White, appreciate your testimony. And we'll get clarification for Senator Murante. Welcome. [LB668]

LAURIE KLOSTERBOER: (Exhibit 5) Thank you, Chairman Smith and members of the committee. My name is Laurie Kolsterboer, L-a-u-r-i-e K-l-o-s-t-e-r-b-o-e-r. I'm the executive director for the Nebraska Safety Council and am here today in support of LB668. I wanted to focus on...we also at the Nebraska Safety Council do a lot of training. We teach drivers how to drive behind the wheel, and certainly would love to have mandated driver ed, which we don't have anymore. We would be in favor of that. We do annually...the Nebraska Safety Council...does a traffic safety survey in cooperation with the Nebraska Office of Highway Safety, and I did want to point out that one of the questions that we ask on this survey is if citizens would support or oppose a law that allows law enforcement to stop a driver and ticket them solely for texting while driving. And the support across the state is 90 percent. So I think there is

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a recognition amongst our citizens that texting while you're behind the wheel while you're driving is a dangerous activity and would support having our law switch from a secondary to a primary. With regard to the graduated driver licensing restrictions, we also would support that provision in the bill, again because we have teens that are novice drivers and we want to make sure that they are focused on their driving task at hand and to get that compliance that they're not texting behind the wheel or the novice talking on the phone, those type of things. So we would support that aspect of the bill as well. And I would happy to answer any questions. I did provide you just the list of what the laws are currently, this was as of February 2016, and this information came from the Governors Highway Safety Association. And just looking at those states that have texting as a primary law. [LB668]

SENATOR SMITH: Thank you for your testimony. Do we have questions from the committee? I see none, thank you. [LB668]

LAURIE KLOSTERBOER: Thank you. [LB668]

SENATOR SMITH: Next proponent of LB668. Welcome. [LB668]

BEVERLY REICKS: (Exhibit 6) Good morning again, Chairman Smith, members of the Transportation and Telecommunications Committee. I'm Beverly Reicks, B-e-v-e-r-l-y R-e-i-c-k-s, CEO of the National Safety Council of Nebraska, a nonprofit organization whose mission is to prevent injuries and reduce fatalities in the workplace, on the road, and at home. I appear today in support of LB668. Again, I want to thank Senator Krist for sponsoring this important highway safety bill. The National Safety Council Nebraska supports all four components of LB668. Today, I want to address how LB668 can help save lives, particularly the lives of Nebraska's teen drivers and passengers. In 2015, the AAA Foundation for Traffic Safety conducted the most comprehensive research ever into crash videos of teen drivers. The study found significant evidence that distracted driving among teens is likely a much more serious problem than previously known. Using unprecedented video analysis, the research showed that distraction was a factor in nearly 6 out of 10 moderate to severe crashes, which is 4 times as many as official estimates based on police reports. Researchers analyzed the six seconds leading up to the crash in nearly 1,700 videos of teen drivers taken from in vehicle event recorders. The results showed that distraction was a factor in 58 percent of all crashes studied, including 89 percent of road departure crashes and 76 percent of rear end crashes. NHTSA had previously estimated that distraction was a factor in only 14 percent of teen driver crashes. The most common form of distraction leading up to teens...a crash by a teen driver includes interacting with one or more passengers, accounting for 15 percent of the crashes, and cell phone use, accounting for 12 percent of crashes. Researchers found that teen drivers manipulating their cell phone, including calling, texting, or other uses had their eyes off the road for an average of 4.1 out of the final 6

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seconds leading up to the crash. The researchers also measured reaction times in rear end crashes and found that teen drivers using a cell phone failed to react more than half of the time before impact, meaning they crashed without braking or steering. This study makes the case and certainly underscores the need for primary enforcement of Nebraska's existing graduated driver licensing laws and distracted driving laws to ensure they provide as much protection as possible for teen drivers and their passengers. Senator Murante, I think I can clear up the issue that you're speaking to. The issue of interactive wireless device and the prohibition on that relates only to the POP holders or the graduated driver licensing issue. That does not relate to the existing texting law in Nebraska that applies to all drivers. So the use of the cell phone in calling, those kinds of things, are really only teen drivers that this bill affects. So this bill is not fashioned after Senator Riepe's bill, which was a broader cell phone ban; this really relates back to the bill that Senator John Harms introduced in 2013. I think with respect to the chart as well, I believe that chart is up to date. The last time we were here, Nebraska was one of four or five jurisdictions that did not have primary enforcement. And since then, there has been adoption in another jurisdiction, so we are one of three remaining jurisdictions without a primary enforcement...or there are other jurisdictions who have no enforcement whatsoever regarding texting. I think that's maybe five jurisdictions who have no bill whatsoever. I'd be happy to answer any questions. [LB668]

SENATOR SMITH: Thank you, Ms. Reicks. Do we have questions from the committee? You know, interesting New Hampshire not having any seat belt laws and yet they have a primary offense on this. Can you reconcile that? [LB668]

BEVERLY REICKS: Well, I think, with regard to texting and cell phone use, what we're saying is that polls nationwide are pretty clear that we view that as dangerous. Individually, we drivers think it's dangerous for other people to be driving around talking and texting on their phones. We see it as a threat to ourselves. Some people probably don't see seat belt use that way, that I'm not hurting anyone else if I don't wear my seat belt. But the fact is when people are polled about texting and cell phones, they can see very clearly that they are put in danger when others are driving and texting (inaudible). So I think that probably is the best I can give you in terms of reconciling that. It's a, you know, do as I say, not as I do perhaps kind of thing, in terms of how people see other people's behavior on the roadway. [LB668]

SENATOR SMITH: All right, thank you. I see no additional questions from the committee. Thank you for your testimony. [LB668]

BEVERLY REICKS: Thank you. Thank you very much. [LB668]

SENATOR SMITH: Next proponent of LB668. Welcome. [LB668]

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COLEEN NIELSEN: Good morning, Chairman Smith, members of the Transportation and Telecommunications Committee. My name is Coleen Nielsen, spelled C-o-l-e-e-n N-i-e-l-s-e-n, and I am testifying on behalf of State Farm Insurance companies and the Nebraska Insurance Information Service, both of which I am the registered lobbyist. We do support LB668. I don't have anything to add to the other statistics that have been testified to this morning except for that in 2015, State Farm did an on-line survey of teen drivers and they...44 percent of those teens admitted to texting, even though they know that it's very risky behavior. So I think that's a very striking figure. And with that, we'd ask that you advance LB668. [LB668]

SENATOR SMITH: Thank you, Ms. Nielsen. Questions from the committee? I see none, thank you. [LB668]

COLEEN NIELSEN: Thank you. [LB668]

SENATOR SMITH: Next proponent. Welcome. [LB668]

JILL BECKER: (Exhibit 7) Good morning, Senator Smith and members of the Transportation and Telecommunications Committee. My name is Jill Becker, spelled J-i-l-l B-e-c-k-e-r, and I appear before you today as a registered lobbyist on behalf of Black Hills Energy. And I'm here today to testify in support of LB668. You may be wondering why a natural gas utility company is appearing before you in support and is interested in our state seat belt and cell phone laws. The answer is really quite simple; it's safety. Our safety of our employees, our customers, and our communities that we serve is really everything that the work that we do is based on. We are concerned that these types of laws have a direct impact on our employees and our customers. In 2015, Black Hills Energy employees just in Nebraska drove over 2.8 million miles. That distance is equivalent to driving to the moon and back 6 times or 6,373 trips across Nebraska on Interstate 80. Our employees are constantly out on the roads serving our customers. We believe that we are uniquely qualified to weigh in on issues such as this. We want our employees to arrive to work and return home the same way that they arrived to work: safely. And one of the biggest risks to that happening is distracted drivers. Distracted...I'm sorry, driver distraction is a significant factor in crashes, as you heard from previous testifiers, and cell phones have played an increasing role as cell phone usage has grown. Our employees, and probably all of us, can share many examples of the distracted drivers that we have encountered. Our concern is that almost inevitably these distracted drivers will someday result in a fatal accident involving one of our employees. In our industry we talk about the safety pyramid, and that is the handout that the page distributed to all of you. In the utility industry, what this really amounts...well, and not just the utility industry, but really in just accidents generally, what this amounts to is that for every major injury there were likely many acts that preceded that major injury. So if you take a look at your chart, the way that this pyramid is developed, that base of unsafe acts leads to near-miss incidents, can lead to first

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aid injuries and perhaps even property damage, can result in recordable injuries, and then finally fatalities. Really, what this means is that unsafe acts consistently build up over time to that one disastrous result: a fatality. The sheer number of miles that our employees drive puts them at great risk for all of these unsafe acts. We as a company do many things that we can to try to ensure the safety of our employees and our customers, but the fact remains that we can only do so much. Those other drivers are out there doing unsafe things. We believe that LB668 can help lower that risk. LB668 is about changing behavior, it's not necessarily a criminal vocation that accounts for the majority of safety accidents, but it's the behavior of the individuals involved. We urge you to support LB668, and I'd be happy to answer any questions. Thank you. [LB668]

SENATOR SMITH: Thank you, Ms. Becker. Questions from the committee? I do have a...and as a former utility employee as well, that pyramid looks very familiar. And I don't think there's any questions that unsafe acts, if not addressed, can lead towards a fatality. I think that's...and that's why we try to create discipline with utility workers, to pay attention to the small things. So I've got a question here. Has your utility ever encountered a situation where you believe that an employee has been performing an unsafe act in texting while they're on the job, and how do you remedy that? [LB668]

JILL BECKER: I'm going to say yes, that we have had employees texting on the job. And actually, our company prohibits that and they have been disciplined for that. [LB668]

SENATOR SMITH: But how do you determine that it actually occurred? [LB668]

JILL BECKER: I can only speak of the instance that I know, and that's not to say that I know them all, they were observed by other people, whether it's somebody else within the organization or some member of the public. [LB668]

SENATOR SMITH: So I would assume that you determined...that there's a suspicion that they were texting and so you probably asked for their device to determine if actually it occurred or not. And they being an employee, they were on work time, it's a condition of employment that they have to conform and provide the texting device or the phone to see if they were actually texting. So you can determine whether that occurred or not. [LB668]

JILL BECKER: I can't say for sure, Senator, just because I was not involved in the management team looking at, you know, those specific instances. But I can tell you that it is through all of the training that we've had and, you know, our contracts with our employees. It is a condition of employment, yes. [LB668]

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SENATOR SMITH: So I get that, I think most employees would get that. And where I'm headed with this is now if you're just a common citizen and it becomes a primary offense and you challenge that and you say I was not texting...this is not for you to answer, but I think what I'm looking for is maybe some folks following you, how do we approach this enforcement situation with a common citizen? With an employee we get it as a condition of employment, with a common citizen, how do we address it? Do we confiscate the phone? How do we prove that? And I hope that maybe some following you will give some insights as to how other states deal with this situation. [LB668]

JILL BECKER: Yeah. What I can tell you, Senator, is that even when we have had accidents, you're right, it's very difficult to verify whether somebody was on their phone or not. Whether they admit to that or not...I've heard that the police may or may not ask you. The police forms may or may not have that little check box on it. So I don't really know that piece of information, but there are instances where we've had accidents and the other party involved may admit that they were on a phone and other times where we haven't been able to verify that or not. So certainly, that is an issue, but I guess I probably agree with a lot of the other testifiers that just having people know that they're not supposed to be on their phones probably goes a long way towards getting them to just hang up and drive. [LB668]

SENATOR SMITH: Okay. Thank you, Ms. Becker, and good hearing from Black Hills. [LB668]

JILL BECKER: Thank you. [LB668]

SENATOR SMITH: Next proponent of LB668. Proponent. [LB668]

BRUCE BEINS: Good morning, again. Bruce Beins, B-r-u-c-e B-e-i-n-s, with the Nebraska Emergency Medical Services Association. Our support of this bill is really simple: it's a deterrent. This issue especially, where it's not just the person in the car that we're wanting to protect, it's the person that's driving down the road that they may cross the center line and crash into. I think you can draw a lot of similarities between drunk driving, where you have somebody that's impaired. Well, this distraction rises at times to being impaired. I have a cell phone, my kids have cell phones, I am very much aware of what kind of a distraction those phones can be. Even a second or two is something that is really going to change the situation. I come from a very rural area, a town of less than 200 people. I hate driving in Lincoln, and boy, I just would avoid Omaha. If I have to go in and out, fine. If not, I try to get one of my kids to drive, because I just hate the traffic. Yesterday, here in Lincoln, I was driving in traffic and a young lady in the lane beside me had her cell phone up and was doing this one-handed. And I didn't pay much attention to her, because you see it all the time. And we come up to a stoplight and I stopped, and I heard tire sliding, and it was the young lady, because she was not paying attention, didn't

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realize the light had changed. And she stopped in time, you know, but she slid her tires coming up to that stoplight, because she was distracted. Another second or two, she would have been in the middle of that intersection and possibly could have caused that accident. Unfortunately, I didn't notice whether she was wearing a seat belt or not, but at least with a primary focus on this law, making it a primary offense, I think the deterrent factor would have an impact. And so I would encourage you to move this bill forward. I'd answer any questions. [LB668]

SENATOR SMITH: Thank you for your testimony. Do we have questions from the committee? I see none, thank you. [LB668]

BRUCE BEINS: Thank you. [LB668]

SENATOR SMITH: Next proponent of LB668. Proponent of LB668. Welcome. [LB668]

RICHARD REISER: Thank you, Senator Smith, members of the committee. My name is Richard Reiser, it's R-i-c-h-a-r-d R-e-i-s-e-r, appearing on behalf of the Nebraska Trucking Association. Commercial motor vehicle drivers are prohibited from texting while operating a vehicle. Research commissioned by the Federal Motor Carrier Safety Administration showed that the odds of being involved in a safety-critical event are 23.2 times greater for CMV drivers who text while driving than those who do not. Texting drivers took their eyes off of the forward roadway for an average of 4.6 seconds. At 55 miles per hour, that equates to a driver traveling 371 feet, or the approximate length of a football field with the end zones, without looking at the road. In our industry, texting while driving can result in driver disqualification, it can result in the driver being fined up to \$2,700, or a company that allows that use to be fined up to \$11,000. So it's a serious violation, taken seriously. We think it makes the roads safer if people are not texting. As a personal observation, I was driving near my home in Omaha, stopped at a traffic light behind another vehicle. When the light changed, the driver moved away slowly, didn't move at all for a few seconds, then slowly moved away. I went around the vehicle and as I did I looked over into the compartment to see the driver, who was holding a phone to her left ear, texting with the device in her other hand, and steering with her knees. And I felt like something needed to happen to that driver. So thank you. [LB668]

SENATOR SMITH: Thank you, Mr. Reiser. Questions from the committee? I see Senator Friesen has a question for you. [LB668]

SENATOR FRIESEN: Thank you, Chairman Smith. Mr. Reiser, how do you enforce your drivers from texting? What method do you use or how do you prove that they did it? [LB668]

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RICHARD REISER: In the trucking industry, a lot of the problem was related to communication devices installed in the vehicles by the companies. That was how the companies communicate to the truck, in other words on the tracks or those kinds of devices that allow you to send messages and receive messages from the truck. Technology is such now that those can be disabled and prohibit the driver from texting or receiving a message while the vehicle is in motion. So that's one of the big accomplishments I guess there to make the roads safer. It's more difficult obviously if the driver is using their own personal communication device. You know, other than receiving reports, or if the driver receives a violation...if they receive a violation for that, the trucking company will find out about that. If they're doing it and not receiving a violation, it's very difficult to know. [LB668]

SENATOR FRIESEN: I mean, even if a citizen would observe it and call in and say that it happened, it's one person's word against your driver's word. How do you...what's his defense if that happens? Somebody reports him as using his phone while driving...I mean, I've seen car drivers very upset with truck drivers at times and they may just call someone in and report it and they haven't really done it. How would your company deal with that? [LB668]

RICHARD REISER: My experience with that is that motorist complaints are taken very seriously by most trucking companies. When they receive those complaints, they will talk to the driver about it. You know, as you point out, it can be a my word against theirs kind of a deal. But certainly if you receive more than one complaint about a driver, it starts to tell you that something is happening. You talk to that driver, try to stress the significance of what they're doing, and ultimately, if you conclude that the driver is willfully violating the law and is going to be...if you receive more than one complaint about them, you can terminate the driver and move on. Now unfortunately, that means in many cases they just go down the road to another company and start driving again, but disciplinary action is taken on the basis of citizen complaints. [LB668]

SENATOR FRIESEN: So the driver, I mean, he has no recourse really, other than to try to convince you that it didn't happen. There's no court going to look at it, there's no process that he may use to vet the complaint, to make sure it's valid? [LB668]

RICHARD REISER: Really not any formal process other than just talking about it. [LB668]

SENATOR FRIESEN: Okay, thank you. [LB668]

SENATOR SMITH: (Exhibit 8, 9, 10, 11, 12, 13, 14) Additional questions from the committee? I see none, thank you, Mr. Reiser. Other proponents of LB668? We do have letters for the record in support of LB668 from Ann Parr, on behalf of the Nebraska Insurance Information Service;

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Nicole Carritt, on behalf of Project Extra Mile; Dr. Wayne Stuberg, on behalf of the Nebraska State Board of Health; from Julie Harris, on behalf of Nebraska Bicycling Alliance; Omaha City Council member Garry Gernandt; Jacqueline Gillan, on behalf of Advocates for Highway and Auto Safety; and from Gerald Stilmock, on behalf of Nebraska State Volunteer Firefighters Association and Nebraska Fire Chiefs Association. We now move to opponents of LB668, those wishing to testify in opposition to LB668. I see no opponents. Anyone wishing to testify in a neutral capacity on LB668? Neutral capacity? Seeing none. Senator Krist, you're invited to close on LB668. [LB668]

SENATOR KRIST: Another consent calendar item. I just want to touch on a few questions and make sure...did you get an answer to your question? Okay. And there's a specific reference on Page 8, just for the record. Page 8, Line 27, where it specifically talks about wireless, and the testifiers were absolutely correct, this is based upon the John Harms legislation, not specifically on Senator Riepe's from last year. Then just a few other comments, as far as Senator Friesen's question, in protection it also goes to the prosecution. If you're suspected of being on...you're texting on your cell phone, if I'm able to give you the exact minute plus or minus a few, I can go right back to the cell phone company and I can prove that I was not on my phone or they can prove that I was on my phone. That has been done several times with youth that have been texting and had admitted it or someone has said that they have been texting during an accident and they have proven simply by the cell phone bill, if you will, or the ledger that they were or were not on their phone. And then the last part of that, I guess from Senator Smith's question and the validation of the most current numbers, when I handed out the map, I also handed out the NCSL matrix, and those numbers on that map is directly related to...is a depiction of those numbers. As with everything else I guess, you have to believe in a piece of legislation before you're ready to bring it forward. No one asked me to bring this forward. Several people helped me bring it forward, a lot of research involved with it, again thanks to legal counsel and to others behind me. We had a lady who was distracted driving, who ended up not even applying her breaks before she ran into the back of a parked car and cut off the legs of a woman in Omaha. That is distracted driving by definition. We have to put the phones down and start driving the car. I know as a helicopter pilot they used to say, you know, you're able to use both your hands, both your feet, chew gum, and talk on the radio at the same time. That's in the air and there's nobody to run into and there's nobody to run into you, hopefully. But we need to pay more attention to what we're doing and we need to start that process by making sure that it's an offense that is a serious offense. And I believe this is the right way to do that. I ask for your favorable consideration, and thank you. [LB668]

SENATOR SMITH: Thank you, Senator Krist. Senator Murante. [LB668]

SENATOR MURANTE: Thank you, Senator Krist. Thank you for clearing that up. It seems to me right now that under your bill, primary offenses will have basically two separate standards as

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I understand it. If I'm incorrect on any of this, let me know. So we have learner's permits, school permits, and bus drivers in one category, who cannot use interactive wireless devices at all. And then another provision that says commercial motor vehicles, if you're a driver you cannot read, type, or send written communication. So how is a law enforcement supposed to know first, whether the person driving the car has a learner's permit or just a regular driver's license? Well, I'll let you answer that one first. How is law enforcement supposed to know whether they're under a learner's permit, a school permit, or they're just a normal driver with a license? [LB668]

SENATOR KRIST: Well, currently right now, no matter what license you're driving under, that law enforcement officer, look it's the point is, cannot pull you over for suspecting to do this, because it's a secondary. The point of doing this is to allow them to pull you over for safety reasons and then let's wash the laundry afterwards. Let's figure out which kind of a permit or license you have. And in that case, you would deal with people differently, you're right. And that depiction that I would give you is that I think there's a lot of communication devices in a commercial vehicle that may or may not be available to a regular driver, so there has to be some differentiation there. [LB668]

SENATOR MURANTE: So under your bill, someone could get pulled over, but the law would say that you were supposed to get pulled over if...someone with a learner's permit is talking on their phone like this, there is no prohibition against someone who has a normal driver's license, so a 19-year-old can use their cell phone that way. My question is by what basis would a law enforcement officer make the decision to pull that car over in the first place. [LB668]

SENATOR KRIST: By the now looking at activity that could be illegal and a primary offense. And then the discretion of the law enforcement officer, as always, has to play into what ticket or what offense he or she would be charged with, if any. [LB668]

SENATOR MURANTE: Okay. Now then we get into the second matter of some judgment call made by law enforcement that we have certain activities which people can do on their cell phones and certain activities...so you can surf the internet... [LB668]

SENATOR KRIST: No. No, this law is very specific. Using a two-way communication device, you're not supposed to be entering data or getting data off of that system. And I can walk through this...you can walk through it in the Exec Session and you can see how it's written basically to protect people from folks who are either entering in data or getting data off of a wireless device. So you can't surf, you can't get information, you can't text information, you can't ask for information. And in fact, it's very specific to a wireless device. My argument was I drive a vehicle that has a GPS system in my car, okay? The first thing that comes up when I'm trying to

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enter data on my system is don't play with this stupid, you're in motion, or some words therefor. And I would have extended it to that point, but right now it's just a wireless device. [LB668]

SENATOR MURANTE: So reading from the statute, it's "no person shall use a hand-held wireless communication device to read a written communication, manually type a written communication, or send a written communication while operating a motor vehicle which is in motion." [LB668]

SENATOR KRIST: Correct. Which surfing would entail to me. [LB668]

SENATOR MURANTE: You're communicating with someone? [LB668]

SENATOR KRIST: You're entering information into a device while you're in motion. Otherwise, are you watching TV? I mean... [LB668]

SENATOR MURANTE: You could, you could watch videos. [LB668]

SENATOR KRIST: Yeah, well that would be in the next bill I guess. But right now, I'm just concerned with people who are looking at and texting or entering data. [LB668]

SENATOR MURANTE: Okay. So I'll probably have a questions for legal counsel as to what communication means. But in any event, it still permits people to use their cell phones for certain activities and prohibits them from using their cell phone for other activities. So I'll ask the questions again, how is someone...how is law enforcement supposed to know whether the person who is using their cell phone is using it for a permissible activity versus an impermissible activity? [LB668]

SENATOR KRIST: I guess I'd have to talk to you about specific situations that you would have questions about. If a car is rolling down the road and the person who is inside the car is doing this, it's clear. And how the law enforcement officer then reacts to the person who is inside the car for doing this after he or she pulls them over...an argument could be made that they need to apply some judgment. If a person is sitting on their cell phone like this, this bill doesn't touch them right now, unless that person is of an age that they shouldn't be on the phone. In which case, when they're pulled over, we're going to find that out. And again, the law enforcement officer is going to have to apply some judgment. But in either case, if there is distracted driving going on and you're doing something inside the car, then the law enforcement officer is going to pull you over and make a judgment at that point. So I mean, as we go through this, I believe the

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statute covers distracted driving: entering, receiving, or sending data or receiving data on a hand-held mobile device. [LB668]

SENATOR MURANTE: Okay. So you and I are separated by a few feet right now, well-lit conditions, as good as you could ask for. And I think we can both agree that if this bill passes that individuals can use their cell phones to make phone calls on it if they don't have a learner's permit, generally speaking. [LB668]

SENATOR KRIST: Right. [LB668]

SENATOR MURANTE: So you and I sitting two feet apart...or a few feet apart right now. Am I using my cell phone for a permissible activity or an impermissible activity? [LB668]

SENATOR KRIST: Are you a distracted driver? Because if I'm a law enforcement officer and you're swerving while you're doing that, I'm going to pull you over. [LB668]

SENATOR MURANTE: Okay, then I'm not swerving. [LB668]

SENATOR KRIST: And then if you want to fight that in court, I go back to the same thing I say with Senator Friesen. If all you're doing is entering a phone number, that's a grey area in the law and you're not guilty of distracted driving. If you're entering data into that phone and you're distracted doing something, then a case could be made that you shouldn't have been doing that because you're not capable of doing that. I think 99 percent of us who are on any kind of phone today made in the last four or five years I would say don't dial a number into our phone. And if we do, we probably pull over to do that. We most likely either hit the Bluetooth and say call John Murante...I'm sorry, call Senator John Murante, or I... [LB668]

SENATOR MURANTE: That's how I'm in your Bluetooth? [LB668]

SENATOR KRIST: That's it. Or I hit one button on the machine and say call Senator John Murante. Always respectful, Senator. [LB668]

SENATOR SMITH: I bet you're not in there as Senator John Murante. [LB668]

SENATOR KRIST: How much you want to bet, Senator? [LB668]

SENATOR SMITH: Senator Friesen. [LB668]

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SENATOR FRIESEN: Thank you, Chairman Smith. Well, I mean, I'm very familiar I guess with what we're talking about here. Last year, when I was leaving the session one day, headed to Grand Island, we got T-boned in an intersection here in Lincoln. When I looked up...I was in the passenger side...I saw the driver coming, it was the only car on the street. Their head was looking at their crotch, they ran the stop light and hit us broadside. He was obviously texting. The ticket was for running a red light. And so under your law, what would be different? What would happen differently in that situation, under your current statute? [LB668]

SENATOR KRIST: The Chairman of Judiciary is here and also a practicing attorney, and he can correct me if I'm wrong, but there would have been probably an additional charge on the ticket. It would have been distracted driving and running the light. How the judge would have dealt with that in court is...and what the fines would have been, because there's a prescription for fines for distracted driving along with the fact that they broke the law and ran the red light. So I think the two of them would have to be dealt with individually. But law enforcement may not pile on the ticket or they might. But obviously that person was guilty, in this case, with this law passed, of two infractions. [LB668]

SENATOR FRIESEN: Could they have done anything differently in my situation? Was there no...did they break no laws? Distracted driving laws? [LB668]

SENATOR KRIST: We are a fair nation, and the judicial system, I trust if he hit you and he ran the red light then that's probably what he's going to face. Now if he didn't hit you, he hit a tree and swerved around you and he was still guilty of doing something, then the distracted driving may have kicked in. And that again is discretion for law enforcement and the judiciary. [LB668]

SENATOR FRIESEN: Thank you. [LB668]

SENATOR SMITH: Additional questions from the committee for Senator Krist? I see none. Thank you for your closing on LB668. [LB668]

SENATOR KRIST: Thanks for your time and patience. [LB668]

SENATOR SMITH: And that closes the hearing on LB668. And we're going to take just a moment to transition, and we will invite Senator Garrett to open on LB768. Wait just a minute as they transition here. Okay. Senator Garrett, I think we're good to go. Welcome. [LB668]

SENATOR GARRETT: (Exhibit 1) Great. First of all, let me start off by saying happy birthday, Senator Smith. You probably don't want me saying that. Happy birthday. Chairman Smith,

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members of the Transportation and Telecommunications Committee, I'm Senator Tommy Garrett, T-o-m-m-y G-a-r-r-e-t-t, and I represent the people of District 3, which includes parts of Bellevue, Papillion, and Sarpy County. Thank you for allowing me the opportunity to come here today to introduce LB768. Last summer, while on a business trip to Washington, D.C., I took time out to attend one of Grover Norquist's center right coalition meetings at Americans for Tax Reform. One of the individuals I met at this meeting was from a group called Choose Life America, and I learned that 29 states and the District of Columbia offer these Choose Life license plates like the one I have before me here. I think Choose Life license plates are a positive way for Nebraskans to exercise their right of free speech to promote a culture of life. Sales of these specialty plates would allow Nebraska to join other states such as Iowa, New Jersey, Florida, Texas, Montana, and 24 others that also promote a culture of life, while funding programs that support the ideals of the state. LB768 as amended, with the amendment I've just handed out, would also create the Choose Life Prenatal Care Fund. This fund would be administered by the Department of Health and Human Services to fund prenatal care for Nebraska mothers and their children. What could be more pro-life than helping Nebraska families take precautionary steps to treat and avert unforeseen health issues that arise in the child during the mother's pregnancy? The bill would create alphanumeric Choose Life license plates that would be made available with up to five characters and no county designation. In addition to all other fees required for registration under the Motor Vehicle Registration Act, Choose Life license plates shall be accompanied by a fee of \$5 for initial issuance and renewal. Personalized messaged plates with up to five characters and no county designation may be obtained after paying an additional fee of \$40 for initial issuance and renewal. The extra revenue for the bill would go to the Prenatal Care Fund are estimated to be \$21,000 for the first year and \$47,000 for the second year. In Alabama alone, the Choose Life license plate program has generated over \$2.8 million to date. I humbly ask for your support for the Choose Life license plate and to make Nebraska the 30th state that offers the plate. I would gladly entertain any questions that you may have. [LB768]

SENATOR SMITH: Thank you, Senator Garrett, for introducing LB768. Do we have any questions from the committee? I see none. I think you have an important guest joining you today. We're going to be honored to have Lieutenant Governor Mike Foley testify, right? [LB768]

SENATOR GARRETT: Yes, indeed. Thank you. [LB768]

SENATOR SMITH: All right, thank you. Welcome, Lieutenant Governor. [LB768]

MIKE FOLEY: Good morning, Chairman Smith, members of the Transportation and Telecommunications Committee. As an alumni of the committee, it's a pleasure to be back again. For the record, my name is Mike Foley, Mike in the usual way, and Foley, F-o-l-e-y, testifying

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today on behalf of the Office of the Governor and the Office of Lieutenant Governor of the state of Nebraska. I'm here today in strong support of LB768, which would allow the state of Nebraska to join 28 or 29 other states that provide motorists the option of placing a Choose Life license plate on their vehicles. The bill before you this morning is modeled after LB474, regarding mountain lion protection, advanced by the committee last year and now sitting on final reading. LB768 would follow the pattern of laws in most states which give recognition to the inherent dignity and sacredness of human life. While the laws in the state of Nebraska providing legal protection for unborn children were struck down 43 years ago, with the issuance of the Supreme Court's infamous Roe versus Wade decision, an extraordinary number of Nebraskans continue to maintain that every effort should be made to defend the rights of unborn wherever possible. Needless to say, the opportunities to do so are very limited under today's laws. The language of the green copy of the bill directed the \$5 fee for these specialty plates to the Pregnancy and Adoption Fund administered by the Department of Health and Human Services. However, after discussion with a variety of interested parties, Senator Garrett has offered an amendment that will direct the funds to be used with the division of Prenatal Care Services. We support the bill in either the original or the amended form. The encouragement of adoption services or prenatal services performs a tremendous public service and contributes to the construction of a healthy culture of life in our state consistent with our proud history. In summary, this legislation advances sound public policy while enabling citizens to pay for the option of expressing their support for the dignity and humanity of unborn children. We encourage advancement of the bill from the committee and urge its final passage into law. Thank you, Mr. Chairman. [LB768]

SENATOR SMITH: Thank you, Lieutenant Governor. Do we have questions from the committee? I see none. [LB768]

MIKE FOLEY: Thank you very much. [LB768]

SENATOR SMITH: Thank you for your introduction...or for your support on this bill. Next proponent supporter of LB768. Welcome. [LB768]

BOB BLANK: Good morning. Thank you, my name is Bob Blank, B-o-b B-l-a-n-k, and I am the chairman of Choose Life Nebraska, and we're a division of Living Word Ministries, which is a nonprofit Nebraska corporation. I'm also here representing Nebraskans for Founders' Values, I'm the political action committee chairman for Founders' Values. For 10 years I've been trying to get Choose Life license plates into Nebraska; and thank you, Senator Garrett, for introducing this, but it has been possible...Living Word Ministries was approved to sell and to offer the Choose Life plates. We've been doing that at our own expense for years. And money is not the issue here for us at all, the issue is getting the message out. Under the prior law, 100 percent of the money

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over the cost of doing the plate would have gone to the highway fund. No pro-life organization or...would have received any funds from that. And that was okay, because that was the only option that we had. And under the old law, it took 500 people to...they had to send in their \$70 literally in advance. And then when we got \$500, then we could turn them in and get the plates. Well, in the 10 years that we've been doing it, we've spent several thousand dollars of our own money. I've been in literally every newspaper in the state of Nebraska and in churches throughout Nebraska and pro-life organizations and we're under \$100 total during that time. People did not want to spend that much money every year for the plate. So this will make the plates available to everybody and the cost isn't prohibitive. My concern is that...well, you heard when Governor Bush was in the debate the other night, he mentioned the pro-life license plates in Florida. And that's where they started, was in Florida...Russ Amerling is the head of Choose Life America. Governor Bush said that they had provided over \$4 million for adoption services in Florida. That's great, but when I read the language here that was just put in, it said that the money would go to organizations that did not perform abortion. I would suggest that that be expanded to say did not perform or refer for abortion. There are several organizations throughout the state that do not perform abortions themselves, but do refer for abortion. Planned Parenthood clones that...even Planned Parenthood itself might not perform abortions in the specific clinic that they have, and they may be eligible for this money. It would break my heart after working on this for 10 years, and I believe the hearts of pro-lifers throughout Nebraska, if even \$1 of this money went to any organization that promoted, supported abortion. I think you could just add that one line, I think that would make all the difference in the world. If it couldn't be done, if there was a possibility that Planned Parenthood would get the money, I would rather see the money go to the highway fund, like it was going to go to before, than have any pro-lifer know that the money that they were spending was going to support abortion in any form whatsoever. Thank you. [LB768]

SENATOR SMITH: Thank you for your testimony, Mr. Blank. Do we have questions from the committee? Senator Davis. [LB768]

SENATOR DAVIS: Thank you for coming. Thank you, Senator Smith. So I certainly understand your position, but I do have a question. So if a health provider is asked by a woman where she could go for an abortion, you're suggesting that they would not be eligible for this funding, is that right? [LB768]

BOB BLANK: I'm suggesting...there are health providers that...yes. [LB768]

SENATOR DAVIS: So there are active people who can say I'll refer you for an abortion to someone else, but the other case could be a clinic where an individual doesn't normally do that but if asked are they under an obligation by law to do so? I mean, I think you're maybe getting into a little bit of a grey area here. [LB768]

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BOB BLANK: I understand what you're saying. The key is that there are organizations out there and many of them that will not refer for an abortion under any circumstances. Those, for this money...and this, according to what I've heard, this is not a lot of money. We're talking about raising a net of \$37,000 in two years, that's less than \$20,000 a year. Just the idea that there's a possibility that the money would go to pro-abortion organizations I think would break my heart. And that would be a deterrent to people buying those. I think that that should be a criteria when the Health and Human Services division is determining who gets this \$20,000. [LB768]

SENATOR DAVIS: And I understand your position. I'm just not sure they have the ability to say no, if someone asks the question. And I imagine that's a question for legal counsel actually. [LB768]

BOB BLANK: I understand. [LB768]

SENATOR DAVIS: Thank you. [LB768]

SENATOR SMITH: Additional questions? And I'm hoping that Senator Garrett will close, and maybe he talk about his amendment as well on this. That may address some of the questions from Senator Davis. Thank you for your testimony. [LB768]

BOB BLANK: Thank you, Senator. [LB768]

SENATOR SMITH: Additional proponents on LB768. Welcome. [LB768]

NATE GRASZ: Thank you. Good morning, Chairman Smith and members of the committee. My name is Nate Grasz, N-a-t-e G-r-a-s-z, and I represent the Nebraska Family Alliance. I'm here today to express our support for LB768. We feel that this is a wonderful and important opportunity for the citizens of this state to voluntarily promote a positive message about life that reflects the support for the protection of Nebraska's children, pregnant women, and those in need of prenatal care. All states allow specialty license plates to promote and raise funds to support various nonprofit organizations and causes within their state, and choosing life and supporting pregnant women in need should be an option that is available to Nebraskans. And the U.S. Supreme Court has affirmed this. Just this last summer, the Supreme Court reversed a lower court decision that barred Choose Life license plates in North Carolina. Legislators in North Carolina petitioned the U.S. Supreme Court to review this decision, and the Supreme Court ruled in favor of the Choose Life license plates in Bilger v. ACLU of North Carolina. The bottom line is that the citizens of Nebraska have the freedom to promote messages on their vehicles that their Legislature has adopted through license plate legislation, and LB768 simply allows the citizens

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of Nebraska to have the opportunity to voluntarily raise funds for a worthy and important cause, supporting and uplifting children and pregnant women while expressing a positive message. Choose Life license plates are available in 29 other states and we wholeheartedly encourage this committee to allow Nebraskans to have the same opportunity to support and raise funds through the sale of specialty license plates. Thank you. [LB768]

SENATOR SMITH: Thank you, Mr. Grasz. Any questions from the committee? You mentioned, Mr. Grasz, the other states that have this set up. Can you tell us some of the nearby states? [LB768]

NATE GRASZ: I know they have it in Iowa, in Texas, New Jersey. I don't have the list in front of me, but I know it's available in many Midwestern states, and I'll be happy to provide the full list to you and everyone on the committee. [LB768]

SENATOR SMITH: Okay, thank you. Thank you for your testimony. [LB768]

NATE GRASZ: Thank you. [LB768]

SENATOR SMITH: And we will continue with proponents of LB768. Welcome. [LB768]

TOM VENZOR: Hello, Chairman Smith and members of the committee. My name is Tom Venzor, T-o-m V-e-n-z-o-r. I'm the associate director for Pro-Life and Family for the Nebraska Catholic Conference, and I'm here on behalf of the conference in support of LB768. The Nebraska Catholic Conference represents a mutual interest and concerns of the Catholic bishops serving in Nebraska. The Catholic Church consistently and strongly supports the fundamental reality that every human being from its beginning at conception has inherent dignity and is endowed by our creator with the inalienable right to life. As such, the church opposes any number of attacks on the dignity of the human person that occur in today's society, especially those against the unborn child. In the church's support of the fundamental right to life of each and every human being, the church also maintains a keen focus on building a culture of life. LB768 supports a culture of life through two important means. First, it allows Nebraskans to voice their support for children, both born and unborn, in the beauty of choosing life, through supportive personalized license plates. Second, it creates a unique opportunity for supporting the prenatal health care of pregnant women. The more society can provide for the needs of pregnant women, the less likely it becomes for women to resort to abortion because their most basic needs have not been met. In closing, LB768 provides an admirable opportunity for the Legislature and the people of Nebraska to continue to provide protections for the life of the unborn child whenever possible, as provided by Nebraska Revised Statutes Section 28-325. We urge you to advance LB768 to General File. Thank you. [LB768]

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SENATOR SMITH: Thank you, Mr. Venzor. Questions from the committee? I see none, thank you. Next proponent of LB768. Welcome. [LB768]

VICKI HAHN: Thank you. My name is Vicki Hahn, V-i-c-k-i H-a-h-n, and I am representing myself. So I'm just here to tell you that I'm an advocate. And an advocate is a person...I volunteer at the Assure Women's Center in Omaha, and I've been there for 12 years now. And so I go in about three times a month for my shift and I work with young ladies who come in, who are scared, they're nervous, they don't know what to do, they're looking for solutions. And what we do is we bring them in, we get their information, and we educate them, we give them information on all three options, which are abortion, adoption, and parenting. Then we give them a pregnancy test if they would like one and then also offer them an ultrasound. Everything that we do is very nonjudgmental and very loving. So we want them to feel secure and confident in the information that we're giving them. And we do this because we know that it's not natural for a woman to abort her baby. And so if that woman goes and sees the ultrasound and they can see at six weeks, an actual beating heart, the majority of those women choose life. So it doesn't take any pressure on our side, it just takes facts and information, and that's what we provide. And we work with these ladies. If they do choose life, we have parenting classes, we have Bible study classes, and we offer prayer. And I can't tell you how many women, when I sit with them one on one and I ask them is there something I can pray for you about, and they almost always say pray for my baby, pray for the health of my baby. So I just...I'm so thrilled that this bill has been brought to your attention. And thank you, Senator Garrett for doing this, because I am excited to be able to have a license plate on my car that says choose life. So I just want to thank you for what you're doing here today. And God bless all of you. Any questions? [LB768]

SENATOR SMITH: Just a moment, let's see if we have any questions from the committee. Senator Davis. [LB768]

SENATOR DAVIS: Thank you, Senator Smith. Thank you for coming, Ms. Hahn. I appreciate your comments and completely agree with you. You heard my question of Mr. Blank. So if a young girl comes to your facility and decides she wants to have an abortion, what do you do in that situation? [LB768]

VICKI HAHN: We have young ladies who come and say that...you know, we ask them at the end of their time with us, what is your choice? And if they say abortion, that's fine, they go on their way. Now you did bring up a question before. I've had young ladies if we could refer an abortion clinic to them, and this has happened many times, and I just say no, we don't refer for abortion. [LB768]

SENATOR DAVIS: And that's kind of where my next question was going to be. [LB768]

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VICKI HAHN: Yeah, and you know, the young ladies that do have abortion, we have a prayer chain that goes out and we pray for those women. We pray that they would change their mind and many have, so we address it from that channel. But we always want her to feel safe to come back to us, because we also offer post-abortive counseling, because many times, young ladies who have chosen abortion...we have young ladies who, you know, I've served women who have had three or four abortions and they're still coming back to us because they find that we're a safe place to go and they get good information. [LB768]

SENATOR DAVIS: Thank you. [LB768]

SENATOR SMITH: Thank you, Ms. Hahn. Thank you for your service to our communities. Other proponents of LB768? Proponents of LB768? Do we have any opponents, those wishing to testify in opposition to LB768? Anyone wishing to testify in a neutral capacity on LB768? Seeing none. Senator Garrett, would you like to close on LB768? [LB768]

SENATOR GARRETT: Yes, thank you. It was an honor and a privilege for me to bring this bill. Like I say, I met this Choose Life license plate organization representative who set this meeting back in Washington, D.C., and it seemed like a great way to promote something positive. I have a niece who is incapable of having children...she lives in Michigan...and her and her husband have adopted, about two years apart, two different babies that I guess euphemistically would be called crack babies. And for each adoption, they had to pay about \$30,000, for babies that had very serious issues. But they're loving and caring parents. And the purpose of this license plate originally is to...the original bill would have been to go to 501(c)(3)s that promoted adoption and supported adoption, so I felt pretty passionately about that. And once we got going on this, and I've already used my prioritization for another bill, we really wanted to get this passed, so we were hoping to maybe get a speaker priority or get it on consent calendar or whatever. We talked to a lot of disparate organizations, the Catholic Conference, the Planned Parenthood people, we've talked to a lot of folks and we tried to get this language, get this amended to where it was agreeable to everyone. And I have to thank Governor Ricketts and Lieutenant Governor Foley, who is extremely passionate about pro-life issues. And this Choose Life license plate is an opportunity for folks to demonstrate on their license plates how they feel. It's...we've gotten everyone to come together and agree on this, and the way the amendment is, it supports, you know, prenatal care for folks who otherwise can't afford it. And that includes everything from pap smears to fetal open heart surgery to amniocentesis, ultrasounds, HIV screening, and then prenatal examinations. You know, taking care of the mother. And so this is a good solid bill, it would be a great thing for us to have out on the streets of Nebraska. And you asked about adjoining states, Iowa is definitely one of the states, Missouri, North Dakota, South Dakota, Montana, Utah, Arizona, Texas, Oklahoma, Arkansas...29 states. There are quite a few and there's others considering it. [LB768]

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SENATOR SMITH: Very good. Thank you, Senator Garrett. Senator Brasch. [LB768]

SENATOR BRASCH: Thank you. And I do like this bill. I think it's a great bill and I hope it does get on consent calendar. The only question that runs through my mind is there's some really good license plate bills coming forward, and you're a veteran, so...and then we have the sesquicentennial, so are we going to buy multiple plates and kind of have our bumper spread with plates or change plates out or rotate? How do you...this is a great bill. [LB768]

SENATOR GARRETT: I'm going to be politically incorrect here, I don't like our current license plate. I liked our old one that had red, white, and blue colors. But I've been to states that have a myriad of different license plates and it allows people to express their individuality and their pride in these organizations, as long as they're not distasteful or anything else. And it's a way for us to generate revenue for worthwhile causes. And this is something that, you know, we create this new fund...this prenatal fund in HHS. And you know, if people want to support this and it goes for a positive effect, I think I'm all for it. I could care...you know, if we had 50 different Nebraska license plates, that's fine by me. I mean, as long as they're tasteful and they support causes. [LB768]

SENATOR BRASCH: So can a person own multiple plates and just trade them out? [LB768]

SENATOR GARRETT: I don't believe so. I think it's you get one plate per vehicle. [LB768]

SENATOR BRASCH: It's not like an accessory? [LB768]

SENATOR GARRETT: Law enforcement might not like that. [LB768]

SENATOR BRASCH: We'll generate some revenue. Here we go. All right, but thank you, it is a very good bill. [LB768]

SENATOR DAVIS: I see a bill in your future, Senator. [LB768]

SENATOR SMITH: Additional questions from the committee? I see none. Thank you for closing on LB768, Senator Garrett. And that concludes the hearings for this morning. And we will resume after lunch with additional hearings. [LB768]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, February 9, 2016, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of

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conducting a public hearing on LB989, LB669, LB668, and LB768. Senators present: Jim Smith, Chairperson; Lydia Brasch, Vice Chairperson; Al Davis; Curt Friesen; Tommy Garrett; John Murante; and Les Seiler. Senators absent: Beau McCoy.

SENATOR SMITH: Good afternoon and welcome to the Transportation and Telecommunications hearing. I am Jim Smith; I represent the 14th Legislative District in Sarpy County. And I'd like to introduce my colleagues that will be here with me today. To the far end of the table to your right, my left, will be Senator Tommy Garrett from Bellevue. I believe Senator Garrett will be joining us in just a little bit; there are other hearings underway, so some of the senators will be coming and going from this committee. Next to Senator Garrett's seat is Senator Les Seiler; Senator Seiler represents Hastings. Senator McCoy will be absent from the hearing today. To your left, my far right, is Senator Curt Friesen from Henderson, Senator Al Davis from Hyannis. Senator John Murante just stepped in; he'll be right back...Senator Murante represents Gretna. And the Vice Chair of the committee is Senator Lydia Brasch, and Senator Brasch represents Bancroft. To my right is Mike Hybl; Mike is the legal counsel to the committee. And to my left is Paul Henderson, and Paul is committee clerk. We have two pages with us today. We have Toni Caudillo from North Platte, Nebraska; Toni is a freshman at UNL. And we have Alex Brechbill from Aurora, Nebraska; Alex is a junior at Nebraska Wesleyan. We will be hearing the bills in the order listed on the agenda that's posted on the outside of the door. If you are testifying, please complete a sign in sheet and bring that to the table when you come to testify. Hand that to the page and they'll process that for you. If you do not wish to testify, but want to voice your support or opposition to a bill, you can indicate so on the sheet provided. It will become part of the record. I'm looking at the number of people we have here and I don't think we will use the light system today. But I do ask that if you're testifying in opposition or support or in neutral if you would keep your remarks to about five minutes. Please silence your cell phones and be mindful that we do use our electronic devices around the committee table here to look at the bills, look at information on the bills. So if you see us looking at our computers or our iPads, please understand that we're using that for the purpose of the committee. And with that, our first bill up is LB795, that will be introduced by Senator Burke Harr. It relates to the establishment of the Wireless in Nebraska Program, under the Nebraska Telecommunications Universal Service Fund Act. Welcome, Senator Harr. [LB795]

SENATOR HARR: Thank you, Chairman Smith, members of the Transportation Committee. My name is Burke Harr, H-a-r-r, and I represent Legislative District 8, located within the confines of Douglas County. I am here on LB795 which, as Chairman Smith stated so eloquently, establishes the Wireless in Nebraska or WIN Program under the Nebraska Telecommunications Universal Service Fund. The intent or the purpose of LB795 is simple, as we always say; it is to merely codify the Nebraska Public Service Commission's current policy on the construction of cellular wireless towers. It is a way for us in the legislative body to give our stamp of approval of what is already going on. The reason I introduced this bill was, over the summer I sent...and everyone

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has probably heard this...drone on this before, but for the record, I sent a letter to small town newspapers asking: how do we make Nebraska greater? Meaning, how do diversify our economy so we have people who live in greater Nebraska who may not own land? The old saying is you used to have four families to a section, now you need four sections to a family. So we have to learn how to grow our economy and how to make it, maybe, related to agriculture, but not owning the property. And really, three things came back, and one of those was improved cellular reception for wireless communication. And I know I personally experienced it. I went down to Tecumseh to visit our prison, which is about an hour and 10 minutes south of Omaha, and I was shocked. Maybe I'm a little naive...and I'm traveling on I-80, where you get crisp reception the whole way, but you don't get that along the highways, some of our rural highways...clear reception. And so I wanted to have a conversation about what can we do to improve that. And that's the intent of this bill. For the record, I don't plan to prioritize it, but at the same time, I don't want to just, you know, figuratively drop a bomb. I do want to have a conversation about how we can improve telecommunication across this state so we can grow as a state. Cellular reception, or wireless communication, is getting up there with...at least figuratively with food, water, and shelter of being able to survive in our current society. So we have to figure out a way to make sure all our citizens are cared for. And with that, I would entertain any questions you may have. [LB795]

SENATOR SMITH: Thank you, Senator Harr. Do we have questions from the committee? I see none, thank you for your interest in this subject matter and for bringing the bill. [LB795]

SENATOR HARR: Thank you. [LB795]

SENATOR SMITH: Will you hang around for closing if...are you going to hang around for closing? [LB795]

SENATOR HARR: Yes, I plan to. Yes. [LB795]

SENATOR SMITH: Thank you. All right, we now move to proponents of LB795, those wishing to testify in support of LB795. Okay. Do we have anyone wishing to testify in opposition to LB795? Opposition? Welcome. [LB795]

ERIC CARSTENSON: Thank you, Senator Smith and members of the committee. My name is Eric Carstenson and I'm president of the Nebraska Telecommunications Association. The NTA is a trade association that represents the local telecommunications companies throughout Nebraska. I'm a registered lobbyist here today to present our opposition to LB795. Before I sat down, I handed a green sheet to the page, and on that sheet I had to check off if I supported or opposed this legislation. I wish there would have been another check mark that said darn good idea, just

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not this way. Within LB795 are some valid ideas: a wireless fund for rural broadband development is a good idea. And it's such a good idea that the Public Service Commission is already doing this for projects where it makes sense. Many NTA members have supported and testified in favor of a wireless fund before the Public Service Commission. It's an idea with merit and it serves the people of the state well. Nebraska has a strong deployment of broadband throughout the state. Is it perfect? No, of course it isn't, but it's one of the best in the country. Why is Nebraska doing so well? It's doing well because of the public policy that this committee, the Nebraska Legislature, and the Public Service Commission have worked together to create. And it is working well. LB795 is a well-intentioned approach to continuing the development of the network. Today, the public policy environment, within which the telecommunications industry must make 20-year investment decisions, is extremely turbulent; and there are many different moving parts at the federal level and at the state level. The Public Service Commission has got the experience and the resources to appropriately direct the finite Universal Service Fund to the areas where they get the highest return for that investment. And they're successfully doing that today. In short, LB795 opens up an important policy discussion. However, it only focuses on one aspect of that policy discussion, in consideration of all the problems that have got to be carefully considered and balanced. And that concludes my testimony. [LB795]

SENATOR SMITH: Thank you, Mr. Carstenson, for your testimony. Do we have questions from the committee? Senator Friesen. [LB795]

SENATOR FRIESEN: Thank you, Senator Smith. Just curious, what kind of percentage of the state does not have cell phone service yet, other than the pockets? Are there areas that do not? [LB795]

ERIC CARSTENSON: You know, cell phone is...we represent the local exchange carriers, and I could answer the question if you were asking me about that. I know that the Public Service Commission does have a map that indicates how much cell phone coverage is available for data around the state. And it's significant. I mean, if you look at the shapes of the maps, there are most of the states covered now. You and I both know that if you're driving down a road and you go down a valley and you get beneath where the hills are, you're very likely, in some parts of the state, to lose coverage. So is it everywhere? No. [LB795]

SENATOR FRIESEN: So as far as the service that you provide or your companies provide, I mean, the wire services I take it, data coverage is pretty good, too, already. There's some speed issues at places, but those are being addressed at the time? [LB795]

ERIC CARSTENSON: Let me respond this way. It's...the network is constantly evolving. And we're very proud of our network in Nebraska, and it's among the very best in the country. As

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evidence of that, there recently was a request for proposals for schools. And of 208 schools, they could all receive one gigabit...if they wanted to buy it, they could all receive one gigabit. Now that's pretty good broadband deployment in Nebraska. [LB795]

SENATOR FRIESEN: That is, thank you. [LB795]

SENATOR SMITH: Senator Davis. [LB795]

SENATOR DAVIS: So if I can sum up your testimony in just a few words, it's if it ain't broke, don't fix it. Would that be what you're saying? [LB795]

ERIC CARSTENSON: Could I add to that? I would accept that summary and add to it. As things are changing both at the federal level, state level, and because of technology, we're going to have to continue to keep working on it. And we'd like to do that going forward. [LB795]

SENATOR DAVIS: Thank you. [LB795]

SENATOR SMITH: Senator Brasch. [LB795]

SENATOR BRASCH: Thank you, Chairman Smith. And thank you as well. We've had a dialogue going on six years now...plus...and, granted, there has been improvement. But in our rural areas, yes, our schools are hardwired, our hospitals are hardwired, our county government, but when you get out into even 10 miles outside of town, students cannot take on-line courses. I personally know of a situation where farmer x had a video cam system on one of their farm sites and farmer y wanted it. And I tried to work with two separate companies to come out and give farmer y a bid, and they said they would get...this was back in December...they'd get back to me in January. Didn't hear a word from any of the vendors on it, so I don't know that the vendors are really actively engaged and follow through. You know, it's...and out of curiosity, I just was not going to even try to reach out to the vendors again and see if they ever get back to farmer y. Because farmer x, not that far away, had one of the vendors deliver. So the services are not equal even within one district. And I know as the towers go up, and you've worked very hard, and I know you said the profit is not there to wire up. I don't know what our other options are. Are there other options? [LB795]

ERIC CARSTENSON: Frankly, Senator, I think you just underscored the point I'd like to make in my testimony. And I guess two things occur to me. One, that does underscore that the network, as technology changes and as what regulation and legislation these companies respond or have to deal with change, it is always evolving. Now obviously we want everybody to receive

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all the broadband that they can consume at every moment. Today, that isn't possible every single place in the state. Most of it, a good portion of it, and probably one of the best in the country. But then also listening to...so what the point is, is that we're ahead of the pace in Nebraska because of the work of this committee, but more work remains to be done. And I think this illustrates that we need to continue to work on evolving that, but the deployment in Nebraska is good. Now if you'd like to visit with me privately, maybe we could verify who those vendors are and see what we can find out, because I'm sure there's an explanation. [LB795]

SENATOR BRASCH: I was curious on the time lines and this is where I'd prefer not to see how the time lines work out naturally and not by...and you have been excellent in giving nudges along the way. But it should be a nudge-free environment, I believe. [LB795]

ERIC CARSTENSON: The NTA members want to serve the customers and I know they're working hard to do that. [LB795]

SENATOR BRASCH: All right. Very good, thank you. [LB795]

SENATOR SMITH: Remaining questions from the committee? I see none. Thank you, Mr. Carstenson, for your testimony. Next opponent of LB795. All right, we move to those wishing to testify in a neutral capacity on LB795. Neutral? Seeing none, Senator Harr, you're welcome to close on LB795. [LB795]

SENATOR HARR: Thank you. Just quickly, I guess I won't make consent calendar. I want to thank Mr. Carstenson for his testimony and for giving me the heads up beforehand that he was going to testify and what he was going to. I probably should have awarded him the same privilege before I introduced this bill. But there is a problem, as Senator Brasch pointed out, and Senator Friesen and Senator Davis. I don't want to go so far as to say we should hold our wireless carriers to the same high standards we hold our local telephone, where everyone has to have a line and have access. I don't think we can do that. But what I do want to see is if we are such a high tax share, especially on mobile phones and cellular communication...or wireless communication, we should expect the best. And that's what I'm trying to figure out is, where is that balance? You know, it used to be required a tower every 15 miles, now with 4G it's every 8, which is really every 7.5 miles. So it's doubling and I understand there's a huge cost. And so I want to see how can we work together using public private partnerships to improve this state so that we are the Cadillac that everyone looks and tries to be. And that's what this bill is looking to do. And there was an article in last Sunday's Lincoln Journal Star, and I know it is the prerogative of the chair to look into this a little bit more over the summer, and I appreciate that and I want to thank him and I want to thank his staff, especially Mr. Hybl, for their assistance in

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educating me in an area that I was and still am very deficient in but learning more and excited to help in any way I can. [LB795]

SENATOR SMITH: Okay. Any remaining questions from the committee? I see none. Again, thank you for bringing the bill and we'll keep talking about this, I'm sure. Thank you. [LB795]

SENATOR HARR: Thank you. [LB795]

SENATOR SMITH: And that concludes the hearing on LB795. I am going to introduce LB1003 and I'm going to turn it over to Senator Lydia Brasch. [LB795]

SENATOR BRASCH: Thank you, Chairman Smith. [LB1003]

SENATOR SMITH: Thank you, Senator Brasch and members of the Transportation and Telecommunications Committee. For the record, my name is Jim Smith, J-i-m S-m-i-t-h, and I represent the 14th Legislative District in Sarpy County. I'm here today to introduce LB1003, and LB1003 would amend the Prepaid Wireless Surcharge Act to change the manner under which the Universal Service Fund surcharge is collected and remitted. So if you think of it, each of you have a cell phone and you pay your monthly bill and you pay these charges post-billing. So basically, the Universal Service Fund, the wireless E911 charge, and the Telecommunications Relay System charge, those three charges appear on your regular bill. But a large portion of our society and a growing part of our society uses prepaid phone cards. They go to a local store, they buy their phone, and they buy their prepaid service charges. And today, the Universal Service Fund is handled differently in the way it's collected and remitted than the wireless E911 and the Telecommunications Relay System. So currently, with respect to the Universal Service Fund, the wireless carrier must determine the appropriate amount of the surcharge owed per prepaid product sold and remit those funds to the Public Service Commission directly. However, the other two charges, the wireless E911 and the Telecommunications Relay System, are collected from the prepaid consumer by the retailer at the point of sale. LB1003 would change collection of the USF surcharge to the point of sale and mirror the collection of the other wireless surcharges. The retailer then submits the funds through the Department of Revenue, similar to the remittance process of the sales tax. The Department of Revenue then transfers the funds to the state treasurer for credit to the appropriate PSC fund. For their troubles, today the retailer retains 3 percent of the wireless E911 and the Telecommunications Relay System; and the Department of Revenue retains 2 percent. So what we're asking here is that...well, because LB1003 proposes to include the Universal Service Fund, the amount of funds retained by retailers in the department does increase. So we know that that's going to happen whenever they start handling the USF in the same way. The annual prepaid collections of the USF is about \$5 million annually. To lessen the loss to the pertinent PSC funds, it is my understanding that an

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amendment may be offered to reduce the percent retained by retailers and the Department of Revenue to .5 percent and .75 percent respectively. Even with this reduction, both the retailers and the department will still receive more funding for collecting the additional surcharge. LB1003 is a simple bill that streamlines the process for collecting the Universal Service Fund, mirroring the way that wireless E911 and Telecommunications Relay System funds are collected. And that concludes my opening. And I'm willing to answer any questions you have, and there will be people following me today, both in support and opposition. Understanding that the opposition is because there is potentially an impact on the Universal Service Funds in a negative way and that negative impact is due to the retailers and the Department of Revenue are keeping a portion of that money for handling. [LB1003]

SENATOR BRASCH: Thank you, Chairman Smith. Are there any questions from the committee? Senator Davis. [LB1003]

SENATOR DAVIS: So what's the reason for the bill then, Senator Smith? [LB1003]

SENATOR SMITH: The reason for the bill is to kind of streamline the process from the perspective of the prepaid phone companies and the wireless companies. It's really not to necessarily provide a windfall to the retailers, although we do want to make certain the retailers are compensated for their handling of the collections and remittance. It's not intended to diminish in any way the amount of moneys collected by the PSC for the Universal Service Fund, the intent is basically to treat the USF collection process for prepaid in the same way the other charges are handled. [LB1003]

SENATOR DAVIS: So do you know when a retailer sells a prepaid phone card, is the only profit they get this percentage? Do they get other profit? I mean, we're dealing with a... [LB1003]

SENATOR SMITH: I suspect there will be a retailer or two following me today, not in perhaps in...opposed to the bill. I would encourage you to ask them that. My understanding is that the money they make is the percent that they make on the sale. [LB1003]

SENATOR DAVIS: Thank you. [LB1003]

SENATOR BRASCH: Are there any other questions from the committee? Seeing there are none, thank you. We are ready for proponents. Anyone in favor of this bill please come forward. Welcome. [LB1003]

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KATIE SPOHN: Thank you. Good afternoon, Vice Chairman Brasch, members of the committee. My name is Katie Spohn, S-p-o-h-n, and I'm here today on behalf of my client, TracFone Wireless. We're here testifying in support of LB1003. TracFone believes that this bill is critical to help streamline collection of the Nebraska Universal Service Fund surcharge, or the NUSF surcharge, for prepaid wireless customers. In addition, the bill levels the playing field for prepaid and postpaid wireless customers. Under LB1003, the NUSF surcharge would be collected from prepaid customers at the point of sale or at the time when they make their purchase. This point of sale system, as Senator Smith testified, is already used today to collect the E911 and the telecommunication relay system surcharges for the prepaid wireless customers. So our retailers are already doing this. The point of sale solution is the most accurate and equitable method for collecting the NUSF fee from prepaid wireless customers. Prepaid wireless providers generally do not have a direct and ongoing billing relationship which would allow them to collect the NUSF, that's because they're largely completed at these third party retailers, such as TracFone sells a lot of their product at Walmart and has no direct contact with those purchasers. Since there's no direct or ongoing billing relationship, the prepaid...we simply cannot collect them directly from those prepaid customers. Under the point of sale system, the surcharge is collected directly from the customer at the time that they purchase the service, just like any other tax or fee that would be on those goods and services. And what's more, like we mentioned, E911 and TRS surcharges are already being collected. I wanted to touch very briefly on the fiscal note that's been submitted for LB1003. With all due respect to the commission, these numbers are based on a best estimate of the total prepaid wireless NUSF, and unfortunately, all it can be is an estimate. And that's because TracFone frankly is the only company that submits exclusively prepaid NUSF remittances. Most of the other wireless customers, if they have prepaid, they submit both the prepaid and the postpaid NUSF funds at the same time, so there's no exact way of knowing any other company's prepaid remittance or how it's calculated. TracFone has run the numbers and actually believes that by streamlining the process and going to point of sale collection that the NUSF funds may actually increase, and would be supportive of trying to work out perhaps even a sunset provision that would allow to try this for two years and ensure that the legitimacy of the fund is protected and the funding is there. But to streamline this protection...or to streamline the process in so doing. With that, TracFone believes that NUSF point of sale collection levels the playing field, is the best and most accurate way to be collecting the NUSF, and we would ask for the committee's advancement of LB1003. [LB1003]

SENATOR BRASCH: Thank you, Ms. Spohn. Are there any questions from the committee? Seeing there are none, thank you. Are there any other proponents? If there are, please come forward. I think we just have that group leaving. Are there any opponents? If so, please come forward. [LB1003]

KATHY SIEFKEN: I have another hearing going on upstairs, so I'm trying to bounce back and forth between hearing rooms. So I'm wired here. Good afternoon, committee members. My name

is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, representing the Nebraska Grocery Industry Association, here in opposition to the bill because we currently are the point of sale and we are collecting it. Back in 2012, when the collection point changed from the providers to the retailers, we didn't understand what kind of a nightmare it would turn into. And now we're there, and I actually have copies of bills that my retailers have sent to me. And their names are on them, so I really don't want to use them as handouts and I don't want them part of the public record. But if anyone would like to see them, I would be happy to share them with you. We are actually paying the Department of Revenue, some locations 96 cents per month. It's not unusual, I've got bills here for \$1.66, \$2.30, \$1.81, \$1.71, the highest one out of all of these copies of bills is \$28.29 and that comes from a very large retailer. The people that are collecting large sums are probably the large discount box stores. We do sell prepaid phone cards in our grocery stores and we do sell TracFones, but when you get into rural Nebraska, there is a request for these products, so we carry them in our stores. But there's not a high demand. Every time the state of Nebraska asks our members to collect another type of tax, we have to go through a software upgrade or a change, and there are only so many different bins that you can program. So when we went through this, everyone of our retailers back in 2012 had to go through a software upgrade. And so...and we didn't realize how miniscule these collections would be. They're very labor-intensive, even though the system at POS tracks them, you still have to log on to the Department of Revenue's web site and you have to report it, and you have to do this monthly. So it's one more thing that you have to keep track of. However, we're going to run out of things...we're going to run out of bins. And then it becomes an issue of an entire system upgrade. We're talking about small retailers in rural Nebraska that are being asked by TracFone and prepaid phone card providers, they're asking us to be the point of collection for these sales taxes. My point is we had an efficient method that worked and we collected these taxes from maybe 200 to 300 providers. If you talk to the Department of Revenue today, we are collecting...the state of Nebraska...from thousands of providers. One of the comments that was made is that it...the new system would allow us to collect more taxes, and that's not true. This is a self-reporting system that we are using right now, and I contend that we've got a lot of people out there that are not self-reporting because even though the Department of Revenue contacted them and told them that they were required by law to do this; not everyone is going to turn in taxes for 96 cents. I think there's a lot of small mom and pop retailers out there that may not be remitting these taxes, only because they may not even know about it. They're small mom and pops for a reason. The idea of establishing this, excuse me, with a sunset is even more troublesome, because what that would cause us to do is change our software programs for this period until the sunset hits and then what? It doesn't work, so we're going to flip them back? So for those reasons, we're opposed to making any more movements in this direction. And I think that the proper thing to do would be to go back to the way we were in pre-2012 and collect those taxes from the providers, not at the point of sale. It's much more efficient; you know who your providers are. We would have to go through and change our software back the way it was, but in the end it would be a savings to anyone.

[LB1003]

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SENATOR BRASCH: Very good. [LB1003]

KATHY SIEFKEN: So if you have any questions, I'd be happy to try and answer them.
[LB1003]

SENATOR BRASCH: Senator Davis. [LB1003]

SENATOR DAVIS: It's a fairly technical issue, you know. So prior to 2012, the TracFone itself would do the reporting and pay that in? [LB1003]

KATHY SIEFKEN: Yes, yes. [LB1003]

SENATOR DAVIS: And why was it moved to the grocers then...or the retailers? [LB1003]

KATHY SIEFKEN: Well, I asked my members and, apparently, I didn't ask the...it was a mistake on our part. It was just an error. I asked my members; I apparently asked the wrong ones, because the people I asked said meh (phonetic), that's not a big deal. We'll get 3 percent, that's okay. I learned my lesson; that was a tough lesson for me to learn. It's probably the biggest mistake that I have made in lobbying for the grocery industry, was to not oppose that. [LB1003]

SENATOR DAVIS: So have you considered about a bill to amend it and go back to the way it was. [LB1003]

KATHY SIEFKEN: I would love it if you would introduce that next year on our behalf.
[LB1003]

SENATOR DAVIS: Thank you. [LB1003]

SENATOR BRASCH: Are there any other questions from the committee? Seeing there are none, thank you, Ms. Siefken. [LB1003]

KATHY SIEFKEN: Thank you. [LB1003]

SENATOR BRASCH: Are there any other opponents? Please come forward. Welcome.
[LB1003]

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JIM OTTO: (Exhibit 1) Thank you, Senator Brasch and members of the committee. My name is Jim Otto, that's J-i-m O-t-t-o. I'm president of and a registered lobbyist for the Nebraska Retail Federation, and I'm here to testify in opposition to LB1003. I do want to say that had...if it were not for the amendment that Senator Smith mentioned, which we don't presently have a copy of, but it is my understanding that the amendment will take away the 3 percent that the retailer receives for collecting and remitting this...if it were not for that amendment, we would be neutral on this bill. We are neutral on the bill as drafted; we strongly oppose the bill if the amendment to take away the 3 percent for collecting and remitting is adopted. To go back as to what happened and maybe answer some of Senator Davis' questions, when the E911 fee was...the bill to shift that from the prepaid wireless carrier to the retailer to collect...we fought that very, very hard in state after state. But we started losing it in other states and, finally, more so than just in Nebraska, it was finally agreed that if we, I guess, reluctantly took our medicine and started collecting that, that we would receive 3 percent for collecting and remitting. And I've heard the phrase, not in testimony, but in other conversations, that this 3 percent is going to amount to a windfall to the retailer because they will receive this huge fee for collecting and remitting. And what I don't think that people understand is the fact that retailers...at least 60 percent of sales are either on credit cards or debit cards. And it's anywhere from 3.5-4.5 percent that goes to the credit card company for collecting that fee. So the 3 percent is at best a break even for the retailer in collecting the fee for those that go on credit cards and debit cards. What I handed out to you is a fiscal note on a bill that was introduced back in 2009 by Senator Karpisek, and that bill...Senator Smith is very familiar with this, because we've been through it on other bills. That bill was simply to reimburse the retailer for the amount that the credit card companies took of sales tax. In other words, when you collect the dollar of sales tax and it goes on the credit card, the retailer only gets somewhere around 96 cents, 97 cents. So what we asked Senator Karpisek to do was introduce that bill, not because we thought it could pass, it would have been a nightmare to implement, we just wanted the state to give us a fiscal note on how much the collectors and remitters of sales tax were remitting in excess of what they were getting. In other words, if the state only reimbursed the retailer or the collector and remitter of sales tax for the credit card fee on the sales tax portion, it would cost the state somewhere around \$10 million this year. So I would plead to the committee that we're already getting the shaft on sales tax; we've been fighting that forever. Occupation tax, we were able to get it...the city of Omaha, city of Lincoln, on their occupation tax they pay 2 percent, on this they pay 3 percent, on sales tax you get nothing after the first \$75. The 3 percent is not a windfall, it's essential, if you want the retailer to collect it, for the retailer not to lose money on the fee. And with that, as I said, we were neutral on the bill, but with the amendment we would be strongly opposed. [LB1003]

SENATOR BRASCH: Thank you, Mr. Otto. Are there any questions from the committee? Seeing there are none, thank you. Next opponent. Welcome. [LB1003]

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ERIC CARSTENSON: Thank you, Senator Brasch and members of the committee. My name is Eric Carstenson, and previously I forgot to spell it. It's E-r-i-c, Carstenson is C-a-r-s-t-e-n-s-o-n. I am the president of the Nebraska Telecommunications Association, a trade association representing the local exchange industry in Nebraska, registered lobbyist. I'm here to present our opposition to LB1003. It's the fiscal note. Until we saw the fiscal note, I didn't know which way I would testify today. But according to the fiscal note, the collection mechanism in LB1003 will lead to a decline in the Universal Service Fund. While the NTA supports collecting the USF surcharge from all appropriate entities, and we believe that all entities should be treated the same, because of the impact on the Universal Service Fund, we have to oppose LB1003. That concludes my testimony. [LB1003]

SENATOR BRASCH: Thank you, Mr. Carstenson. Any questions of the committee? Seeing there are none, thank you again. Any other opponents to this bill, please come forward. Any testifiers in the neutral? Welcome. [LB1003]

JERRY VAP: (Exhibit 2) Thank you, Senator Brasch, members of the committee. My name is Jerry Vap; I'm a commissioner with the Public Service Commission, representing the 5th district in Nebraska. My name is spelled J-e-r-r-y V-a-p. I'm here today representing the commission in a neutral capacity on LB1003. LB1003 amends the Nebraska Telecommunications Universal Service Fund Act by removing the direct assessment of Universal Service Fund contributions by prepaid wireless carriers from the commission and moves the collection and remittance responsibilities to the retail-selling agent. In doing so, 5 percent of surcharge revenue would be diverted away from the Universal Service Fund, thereby lowering the amount available to be distributed. We estimate a 5 percent diversion from the fund to be about \$275,000 in the upcoming fiscal year. Remittances to the Universal Service Fund, not taking into account this legislation, continue to decline by about 6.5 percent annually, due to falling carrier revenues. This decline appears to be largely driven by the bundling of services subject to any USF assessments with services which are not subject to the assessment. The reduction which will likely result from the enactment of the bill would increase the decline and remittances next year to about 7 percent. Meanwhile, universal service challenges, which include extending and accelerating fixed and mobile broadband deployment in Nebraska, have increased. The commission is working on reforms to align state support with the federal universal service support, stabilize the contribution mechanism, and ensure continued accountability from the companies that receive support. However, until these reform efforts are complete, the pressure on the fund stability will continue. The reduction resulting from this legislation would have a considerable impact on the commission's programs. For example, this reduction would equate to one less cell tower being built this year, one fewer broadband project being implemented, or the funding necessary to keep thousands of low-income subscribers connected. The commission identified other concerns with the legislation as drafted. These include ensuring the availability of sufficient information, to enable prepaid wireless remittance to be audited in accordance with

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state law and consistent with the oversight on all other remittances. The commission has worked with supporters of this bill and other interested parties to come up with an amendment to resolve our concerns. Unfortunately, there's just not enough time to work out an agreement on these issues. In the event the bill does not pass, the commission commits to working with the prepaid wireless carriers, the retail industry, and other stakeholders in an effort to obtain a compromise for future legislation. I'd be happy to answer any questions you may have. [LB1003]

SENATOR BRASCH: Thank you, Mr. Vap. Are there any questions? Yes. [LB1003]

SENATOR DAVIS: Thank you, Senator Brasch. Good to see you, Jerry. You say this decline appears to be largely driven by the bundling of services subject to NUSF assessments, with services which are not subject to assessments. So can you enlighten us as to what you're talking about? [LB1003]

JERRY VAP: Well, there's a phone service called VoIP, voice over internet protocol. By federal rule, we cannot apply the surcharges to anything connected to the internet. It has more...the devices are used for telecommunications of that type, the less money is going to come in. [LB1003]

SENATOR DAVIS: So these are things that are outside of the control of the state of Nebraska. [LB1003]

JERRY VAP: That's correct. That's correct. [LB1003]

SENATOR DAVIS: It's just that this is an ongoing...this...that we're going to be dealing with for some time. Thank you. [LB1003]

SENATOR BRASCH: Are there any other questions from the committee? Seeing there are none, thank you, Mr. Vap. [LB1003]

JERRY VAP: Thank you for your time. [LB1003]

SENATOR BRASCH: Thank you. Are there any others who would like to testify in the neutral? Seeing there are none, Chairman Smith, would you like to close? [LB1003]

SENATOR SMITH: Yes. Thank you, Senator Brasch, and thank you, members of the committee. And thank you, Senator Davis, for your questions; we appreciate your engagement on it. And

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appreciate Senator (sic: Commissioner) Vap being here today and testifying, giving some clarity. Also in the audience is Commissioner Schram, so I appreciate Commissioner Schram being here as well as Commissioner Vap. Just a real quick recap here. The purpose, the intent of the bill is to streamline. We have different charges being handled different ways today. We heard from the retailers that they're not happy with the way that the retailer's involvement today with wireless E911 and Telecom Relay System. But that's not the issue that's in front of us. The issue that's in front of us is a bill that would try to streamline and make everything handled the same way by treating NUSF collections in the same way we have wireless E911 and the telecommunication relay system charges. The challenge we have is that, indeed, there is a fiscal note to the PSC because of the way we apply collection charge to the NUSF rather than remitting that directly to the PSC. The tradeoff though, is to reduce that fiscal note we then reduce what we are compensating the retailers for their troubles. So that's the balance that we're trying to address here. I did mention an amendment; obviously I don't have an amendment to hand out because I haven't seen that amendment. It's only been discussed that there could be one coming, I'm not even sure from whom that amendment may come. But to give some perspective as to what that involves, assume today that someone goes in, they buy a prepaid card with a phone, and on that prepaid card, regardless of what the number of minutes they purchased, the retailer is going to get probably about a penny-and-a-half per transaction of a card. Because again, they're not collecting anything on the NUSF, that's being handled by the wireless provider, so that retailer is getting about a penny and a half. That's not a lot of money and that's what you heard discussed here. Just hardly worth their time, especially if their volume is low. If we were to have the retailer collect on the NUSF and they would keep some handling charges there, let's assume it's \$100 worth of minutes that they purchase. In that particular transaction, in my bill, that penny-and-a-half that the retailer would collect would grow to about a quarter, about 25 cents, so you would increase that by about 20 times what the retailer would be compensated. Still, in a single transaction not a lot, but if you're dealing with greater volume, it begins to make it worth their time to do that. The problem is that that creates a fiscal note with a PSC. If you were to reduce that down, which is what I'm...again I'm hearing as a, you know, possible amendment out there to try to reduce that fiscal note. If you were to reduce that down to the neighborhood of .5 percent, that's still going to be around 4 cents, as opposed to a penny and a half. So you know, we're somewhere in between there. I think we will look to see what anyone brings in terms of an amendment from here. But in terms of this bill adding to or removing or potentially removing the collection troubles of the retailers, it doesn't do that. They're still going to have their collection troubles on their wireless E911 and the telecommunication relay system. We're simply trying to make things consistent here and compensate the retailers for doing it. So that concludes my closing. Thank you. [LB1003]

SENATOR BRASCH: Are there any questions from the committee? Seeing there are none, that concludes the hearing on LB1003. [LB1003]

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SENATOR SMITH: We're going to pause here for just a moment, while people transition. All right, we're going to move to...and again, thank you, Senator Brasch, for running the hearing on LB1003. We now move to LB994, that will be introduced by Senator Davis. It relates to change in provisions under the Motor Vehicle Registration Act, relating to financial responsibility as applied to nonresident owners. [LB994]

SENATOR DAVIS: Good afternoon, Chairman Smith and members of the Transportation Committee. I'm Senator Al Davis, A-l D-a-v-i-s, from District 43. Today, I would like to visit with you briefly about LB994. Very simply, the chief of police in Chadron, Nebraska, came to me with a problem he has repeatedly had in his border town and his college town. The current law doesn't extend financial responsibility laws to out-of-state drivers. In other words, if a driver is pulled over for a traffic violation, the law requires that the driver provide proof of financial responsibility. However, our law doesn't apply to those licensed in other states. I understand that is because of an interstate commerce issue, but I believe we can strengthen the law a bit, without it running afoul of those constitutional guarantees. LB994 simply adds language to treat the out-of-state driver the same as the Nebraska driver, by requiring the out-of-state driver to comply with the proof of financial responsibility laws as they would in their own state. So if this bill would pass, the out-of-state driver could be ticketed for failure to provide proof of insurance and then prove insurance is in place by the means his or her home state allows. So for example, if the home state allows for electronic transmission of the proof, the driver could show the county attorney the electronic transmission and the ticket would be dismissed. What happens if the nonresident driver does not provide financial responsibility? The laws we have on the books currently would apply. Basically, under Section 60-4,102, the out-of-state driver is treated the same as the Nebraska driver in seeking enforcement of the law. In this case, the director of motor vehicles sends to his or her home state a certified copy of the judgment of conviction. In conclusion, this bill would allow our law enforcement professionals to ticket the out-of-state driver for failure to prove financial responsibility. He or she would then be allowed to prove it as per the law governing in the state where their license is granted. And in the event he or she does not prove financial responsibility, then the ticket could be enforced and any judgment would be forwarded to the home state for enforcement. This concludes my testimony. I'd be happy to answer any questions. [LB994]

SENATOR SMITH: Thank you, Senator Davis. Do we have questions from the committee? Senator Seiler. [LB994]

SENATOR SEILER: Under that federal agreement that you...the home state applies, do all states require financial responsibility? [LB994]

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SENATOR DAVIS: So I honestly can't answer that question, Senator Seiler, but we're in this compact with other states. And Mike has visited with me about that, and Mike probably would be the best person to answer that question. [LB994]

SENATOR SEILER: Okay. [LB994]

SENATOR SMITH: (Exhibit 1) Other questions from the committee? I see none. Thank you, Senator Davis. We're going to move to proponents. Proponents of LB994. We do have a letter for the record in support of LB994 from Chief Tim Lordino, representing the city of Chadron Police Department. Anyone wishing to testify in opposition to LB994? Anyone wishing to testify in a neutral capacity on LB994? Senator Davis, would you like to close? You'll waive closing. Okay. Thank you, and that concludes our hearing on LB994 and it concludes our hearings for the day. [LB994]