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Transportation and Telecommunications Committee  
January 30, 2018

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[LB740 LB755 LB830 LB909 LB980]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, January 30, 2018, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB740, LB980, LB830, LB909, and LB755. Senators present: Curt Friesen, Chairperson; Jim Smith, Vice Chairperson; Bruce Bostelman; Tom Briese; Suzanne Geist; Mike Hilgers; Dan Hughes; and John Murante. Senators absent: None.

SENATOR FRIESEN: Okay, if we could get everyone to please take their seats, we will begin. We'll begin the hearing, please, if everyone would take their seats and please be quiet. I need to get my big rubber gavel out here. Welcome to the Transportation and Telecommunications Committee hearing. My name is Curt Friesen. I represent District 34; that's Hamilton, Merrick, Nance, and part of Hall County. And I'll begin with a few procedural items. I wish everyone would turn their cell phones off, and their other electronic devices, or turn them to silent. We will be hearing the bills in the order listed on the agenda. Those wishing to testify on a bill should move to the front of the room and be ready to testify. We have set aside kind of a reserve seat up there for an on-deck chair so that everyone can be ready to go when somebody leaves the seat. If you are going to be testifying, you need to legibly complete one of the green testifier sheets, located on the table just inside the entrance. Give the completed testifier sheet to the page when you sit down to testify. Handouts are not required but, if you do have a handout, we need ten copies. One of the pages will assist you if you need help. When you begin your testimony it is very important that you clearly state and spell your first and last names, and that's for the record. If you don't do that, I will stop you and ask you to do that. We are going to use the light system. There will be five minutes. When the yellow light comes on, that means you have used up four minutes and you have one minute to wrap up. When the red light turns on, it's time to quit. Those not wishing to testify may sign in, on a pink sheet by the door, to indicate their support or opposition to a bill. And with that, I will introduce the staff. To my left is Elice Hubbert, the committee clerk. To my right is Tip O'Neill, the legal counsel. And we have Lee-Ann Sims from Lincoln, a junior majoring in political science, with us today for a page. With that, I'll let the senators introduce themselves. Senator Briese will maybe join us later. Senator Bostelman.

SENATOR BOSTELMAN: Senator Bruce Bostelman from District 23: Saunders, Butler, and the majority of Colfax Counties.

SENATOR MURANTE: John Murante, District 49: Sarpy County.

SENATOR SMITH: Jim Smith, District 14 in Sarpy County.

SENATOR HUGHES: Dan Hughes, District 44: ten counties in southwest Nebraska.

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

Transportation and Telecommunications Committee  
January 30, 2018

---

SENATOR HILGERS: Mike Hilgers, District 21: northwest Lincoln and Lancaster County.

SENATOR GEIST: Suzanne Geist, District 25, which is the east side of Lincoln and includes the towns of Walton and Waverly.

SENATOR FRIESEN: Thank you, senators. For the record, any letters that are to be submitted on a bill need to be submitted to the clerk--the committee clerk--by 5:00 p.m. of the legislative day prior to the hearing. Letters received after the cutoff time will not be read into the record. With that, we will open the hearing on LB740. [LB740]

SENATOR LINDSTROM: Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. I am Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m, representing Legislative District 18 out of northwest Omaha. Today I'm bringing LB740, which amends my bill from 2016 that allowed public power districts with certain revenues to permanently license their fleet vehicles in the county in which the public power district is headquartered. At the time that bill--LB783--was introduced in 2016, we had discussions about adding metropolitan utilities districts, but ultimately decided to stay with the public power districts only. LB740 adds the metropolitan utilities districts, which license their fleet of vehicles under the Motor Vehicle Registration Act, in the same manner as public power districts. Currently Douglas County will be the only county affected. I believe you have received a letter from the Douglas County treasurer, in support of LB740, and representatives from MUD will be testifying behind me. With that, I will take any questions you may have. Thank you, Chairman. [LB740]

SENATOR FRIESEN: Thank you, Senator Lindstrom. Any questions from the committee? Seeing none... [LB740]

SENATOR LINDSTROM: Thank you. [LB740]

SENATOR FRIESEN: Those who wish to testify in support please come forward. [LB740]

RICK KUBAT: Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Rick Kubat, R-i-c-k K-u-b-a-t, here on behalf of the Metropolitan Utilities District. We'd like to thank Senator Lindstrom for introducing LB740 on our behalf. This is a super simple bill. All we're looking to do here is slap permanent metal license plates onto our vehicles so that once, every six years, we don't have to go through the process of flipping them over. It's simply a manpower issue. I know John Ewing, in the Douglas County treasurer's office, submitted a letter in support for the same reason, for the simplicity of

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

Transportation and Telecommunications Committee  
January 30, 2018

---

just manpower hours. That being said, I don't have anything really much to add. I did have a conversation with the Department of Motor Vehicles, as far as possibly moving the implementation date back on this bill and informed them that we're completely on board with whatever they want to do with this bill to make it cleaner. That being said, happy to answer any questions if you have any. [LB740]

SENATOR FRIESEN: Okay. Thank you, Mr. Kubat. Any questions from the committee? Seeing none, thank you for your testimony. [LB740]

RICK KUBAT: Thank you. [LB740]

SENATOR FRIESEN: (Exhibit 1) Any others wish to testify in support of LB740? Seeing none, anyone wish to testify in opposition to LB740? We have a letter from John Ewing, the Douglas County treasurer, and the letter is in support. Anyone wish to testify in opposition? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Lindstrom waives closing, and we will close the hearing on LB740. Next we will have LB980. Welcome, Senator Watermeier. [LB740 LB980]

SENATOR WATERMEIER: (Exhibit 1) Hi. Thank you. Chairman Friesen and members of the Transportation Committee, I am Senator Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r, representing District 1, located in the southeast corner of the state. And I am here to introduce LB980. Under 60-6,298, the Nebraska Department of Transportation or the Nebraska State Patrol may issue permits pertaining to exceeding the size or weight restrictions on certain vehicles or loads on the Interstate and highways under their jurisdiction. Under LB980 would authorize the transportation of hay bales not in excess of 12 feet in width on the Interstate during daylight hours. The current legal width on the Interstate is 102 inches, or eight and a half feet. I was approached by the...about the possibility of offering legislation to allow for over-width permits for hauling hay bales on the Interstate, during the middle of the session last year. I was told that South Dakota, Iowa, Colorado, and Kansas all allow oversized loads with the proper permit. As I worked on this proposal, I found out that the Federal Highway Administration is not opposed to these permits, nor is the Department of Transportation, the Nebraska department. The Nebraska Division of FHWA stated that width is "permissible" (sic--permissible) on the Interstate in Nebraska, as far as the FHWA is concerned. This applies regardless of whether or not the load is divisible. However, per-axle load limits--weight limits--would still apply. South Dakota allows for the purchase of extended permit...period permits to haul over-width baled feed, flax straw, or solid waste on a truck. The load may not exceed a width of 12 feet. Vehicles with divisible loads of hay, straw stover, or bags...livestock bedding not to exceed a width of 12 feet 5 inches, allowed in Iowa on the Interstate and state highways, with the appropriate permit. In Kansas a farm vehicle may be loaded with bales of hay not to exceed 12 feet in width, with

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

Transportation and Telecommunications Committee  
January 30, 2018

---

the proper permit. In Colorado, no permit is needed to haul a load of those loose hay, which includes loosely-bound, round bales not to exceed 12 feet. Currently, Nebraska allows loads up to 12 feet in width for baled livestock forage, off the Interstate, with no permit needed. I argue that the Interstate is a safer means of transportation than the highways despite an increased speed, as there are at least two wide lanes and a good shoulder. Therefore, I believe that Nebraska should get on board and allow this over-width permit, as it is not cost-effective or efficient to break up a load that is allowed in surrounding states. And I encourage your affirmative vote on LB980. I have had conversations with the Department of Roads, and I have a letter here that Director Schneweis didn't get in, in time, and I'd like you to read it into the record. He had asked me specifically to do this: Dear Chairman Friesen and members of the Transportation and Telecommunications Committee: The Nebraska Department of Transportation--the NDOT--supports LB980, a bill that would allow NDOT to issue permits for over-wide loads of hay on the Interstate. Permits are a tool for protecting the traveling public and minimizing risk and damage to highway facilities, while enabling the transportation system to support a vibrant economy. The Interstate's unique design advantages make it the optimal facility for long-distance movement of most out-of-the-ordinary loads, when prudently regulated by statute and permit. Senator Watermeier's bill would give the NDOT the proper means to facilitate long-distance movement of hay, particularly when drought conditions make this necessary. The restrictions in the bill, as introduced, prudently limit the extra allowance for width, while ensuring daylight visibility and avoiding holiday traffic. Thank you for your consideration, and feel free to contact me or Andy Cunningham, with the Department (sic--Division) of Government Affairs, for his manager, if you have any questions. Director Schneweis. So with that, I'd end my introduction and try to answer any questions. I have a few people that are here to testify in support of the bill. So I mean, I just think it's a common-sense approach. We're asking loads coming across from Iowa and Kansas to redirect off the Interstate and get broken down on the two-lane roads and really, to have a 12-foot wide road going down the two-lane roads is just really silly. [LB980]

SENATOR FRIESEN: Thank you, Senator Watermeier. Any questions from the committee? Seeing none... [LB980]

SENATOR WATERMEIER: All right, thank you. [LB980]

SENATOR FRIESEN: Any proponents who wish to testify in favor of LB980? Welcome. [LB980]

ALAN HANKE: (Exhibits 2, 3, 4, and 5) Welcome. Thank you. My name is Alan Hanke, A-l-a-n H-a-n-k-e. I own a small transportation company in Modale, Iowa, and we transport a lot of baled cornstalks, hay, and forage into the Nebraska area. And it would make it extremely easy if

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

Transportation and Telecommunications Committee  
January 30, 2018

---

we could just jump on the Interstate, coming from Iowa into the state of Nebraska. Saves a lot of time and a lot of expense. Nebraska should be able to recoup a little money through fees during...on this endeavor, but overall it will save a lot of money for everybody. I've enclosed a copy of my Iowa permit, and I think there's three letters from associates of mine that are in favor of this. That's all I really have. [LB980]

SENATOR FRIESEN: Thank you, Mr. Hanke. Any questions from the committee? So I understand you probably...these are the big, round bales that you're hauling? [LB980]

ALAN HANKE: That is correct; yes. [LB980]

SENATOR FRIESEN: Will the square bales typically fit on the truck? [LB980]

ALAN HANKE: Square bales are pretty much legal... [LB980]

SENATOR FRIESEN: Okay. [LB980]

ALAN HANKE: ...legal width. [LB980]

SENATOR FRIESEN: Okay. Any other questions of the committee? Thank you. Senator Hughes. [LB980]

SENATOR HUGHES: Yes. Thank you, Mr. Hanke, for coming today. Do you have to have any kind of a wide-load sign or any on the front or the back of the truck? In... [LB980]

ALAN HANKE: Wide loads on front and back, also red flags on each corner of the wide load. [LB980]

SENATOR HUGHES: Okay. Is that the way you understand the Nebraska law would look, at that point? [LB980]

ALAN HANKE: Yes, yes. [LB980]

SENATOR HUGHES: The same type of signage and flags? [LB980]

ALAN HANKE: Yeah. It's the same way in Iowa and South Dakota, the same way. [LB980]

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

Transportation and Telecommunications Committee  
January 30, 2018

---

SENATOR HUGHES: Okay. [LB980]

ALAN HANKE: Kansas, I think, is the same way, also. [LB980]

SENATOR HUGHES: Okay, thank you. [LB980]

ALAN HANKE: Yep. [LB980]

SENATOR FRIESEN: Thank you, Senator Hughes. Any other questions from the committee? Seeing none, thank you for your testimony. [LB980]

ALAN HANKE: Thank you for your time. [LB980]

SENATOR FRIESEN: Welcome. [LB980]

TERRY KEEBLER: Hi. Thank you, Senator Friesen and members of Transportation and Telecommunications Committee. My name is Terry Keebler, T-e-r-r-y K-e-e-b-l-e-r. I'm a farmer, former county commissioner. Today I'm testifying on behalf of the Nebraska Farm Bureau and Nebraska Cattlemen, in favor of LB980. LB980 is pretty straightforward. This bill would allow the Nebraska Department of Transportation or the Nebraska State Patrol to issue permits for loads of hay, not more than 12 feet wide, on the Interstate and highways during daylight hours. While we often see waivers provided for divisible loads during emergencies, those aren't the only situations when farmers and ranchers need bales of hay hauled in a timely manner. Surrounding states South Dakota and Iowa, as we've heard, have similar permitting system for baled livestock feed on the Interstate. It is our understanding the Nebraska Department of Transportation has looked into making this change, but believes the Legislature must act to allow such a process to move forward. We are hopeful, through incremental and meaningful changes like this, Nebraska's freight policy will continue to become more compatible with neighboring states and make it easier for ag businesses to compete. The Nebraska Farm Bureau thanks Senator Watermeier for bringing LB980, and encourages the committee to advance the bill. Be happy to answer any questions you might have. [LB980]

SENATOR FRIESEN: Thank you, Mr. Keebler. Are there any questions from the committee? Seeing none, thank you for your testimony. [LB980]

TERRY KEEBLER: Thank you. [LB980]

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

Transportation and Telecommunications Committee  
January 30, 2018

---

SENATOR FRIESEN: Any other proponents for LB980? Seeing none, anyone wish to testify in opposition to LB980? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, we'll close the hearing on LB980...oh wait. You wish to close? [LB980]

SENATOR WATERMEIER: (Inaudible). [LB980]

SENATOR FRIESEN: We'll close the hearing on LB980. Next we will have LB830. Suppose we ought to wait for Senator Vargas to show up. We moved rather quickly, so. Welcome, Senator Vargas. [LB980 LB830]

SENATOR VARGAS: Hey. Chairman Friesen, members of the committee, thank you for having me. My name is Tony Vargas, T-o-n-y V-a-r-g-a-s. I represent the District 7, the communities of downtown and south Omaha. I'm here today to introduce LB830, which would allow the direct sale of motor vehicles to consumers by a company that: 1) does not have, and has not had, a franchise in Nebraska; and 2) sells only the line-make of motor vehicle that it manufactures. But before I talk more about what we're hoping to accomplish with LB830, I think it's helpful to provide some context and a brief history of our current laws and why we have them. Now our current laws went on the books around the same time as many other states back in the 1950s. Back then, many car dealers had tenuous relationships with manufacturers who would often force dealers to sell cars as quickly as they came off the assembly line, a pace too quick for many markets. Manufacturers were also able to terminate dealer franchise agreements at will, without cause, if dealers refused any vehicle deliveries from factories, potentially jeopardizing a large capital investment on behalf of the owner or owners of the dealership or leaving employees without jobs. Additionally, manufacturers were in a position to compete with their own dealers, undercutting prices by selling directly to consumers. And that's why our current laws are really on the books, to protect dealers from competition with manufacturers. But times have changed, and so has the automobile industry. When our laws were put on the books 60 years ago, there were three major auto manufacturers. Now consumers are blessed to have lots of options to choose from, except for one, and that's because our laws in Nebraska don't allow auto manufacturers to sell their own products directly to consumers. There are new companies, like Tesla and a few others, that have business models that don't follow the typical dealer franchise model. They sell directly to consumers, giving them an additional choice of who to buy from. Now for Nebraskans who are considering purchasing a Tesla, that means they have to travel out of state to even see one in real life and test drive it. If they choose to purchase one, that means they're purchasing one in another state. And for Tesla owners, that means two things: That means they have to travel out of state to get their car serviced. This also means that the purchase they're making is happening in a whole other state, so sales tax is going to another state. Now historically, the automotive industry is unique in its sale practices. The dealer franchise model is not something that is used by any other industry. Companies like Apple and Dell, for example, sell their products on-line, in large electronics stores like Nebraska Furniture Mart and Best Buy,

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

Transportation and Telecommunications Committee  
January 30, 2018

---

and also in their own standalone stores. They have the freedom to sell their products any way they want. Now why should it be any different for new companies like Tesla? A fundamental principal of free market competition is that consumers, not regulation, should determine what they buy and how they buy it. But that can't happen in Nebraska...for Nebraska consumers when it comes to their choice in purchasing a car, because our laws don't allow it. We should be encouraging competition and increasing consumer choice, just as numerous other states that are now allowing direct sales of motor vehicles. Now to be clear, it is not my intent to dismantle or harm the manufacturer dealer relationship. In fact, studies in other states that have changed their laws to allow direct sales show that there is no negative effect on the dealers. I've spoken to representatives from the Nebraska New Car and Truck Dealers Association, and I understand they have some concerns with LB830. I believe LB830 addresses many of their concerns because it's been actually drafted to only allow manufacturers who do not already have franchises in Nebraska to sell their products directly to consumers. LB830 is unlikely to have any noticeable impact on the enterprises of Nebraska's auto dealers, and there is no policy purpose for mandating only one distribution method for automobiles. If the distribution method is sustainable, it will be worked out through the market between manufacturers and consumers. Now the fact is consumers are going to purchase these cars; the question is whether they can purchase them in Nebraska. Failing to advance LB830 accomplishes two things: 1) It encourages a growing constituency of consumers to spend dollars in other states; and 2) for those businesses to invest in other states. I ask that you advance LB830, which is vital for protecting consumer choice and maintaining Nebraska's reputation as a business-friendly state. Thank you, and I'm happy to try and answer any questions you may have at this time. [LB830]

SENATOR FRIESEN: Thank you, Senator Vargas. Are there any questions from the committee? Senator Hilgers. [LB830]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator Vargas. I appreciate you bringing the bill, your opening, and I very much appreciate the conversations you and I have had about this bill. Just one initial question. I think you make a very compelling statement as to the value of competition, and we've seen a lot of different...a lot of different industries and the importance of having competition and a free market; I think that's what our country is built on. I think there might be two corollaries to that, that I would like you to comment on, if you might, that might be at play here. And one is that the government should not put into place a regime such that, when people are essentially competing, the cost on one is far less, or less--materially less--than the cost on the other, so that's principal one, where that's a governmental-imposed difference, because as I hear you today, this is not elimination of the entire franchise model; it would just be an exception. That's point one. And point two is the idea that having consistent rules, rules on which people have relied and spent maybe tens of millions of dollars building businesses, sort of speak to, you know, the policy justification, I suppose for lack of a better way

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

Transportation and Telecommunications Committee  
January 30, 2018

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to put it, of changing those rules in a way that might destroy that kind...their ability to compete. So if you wouldn't mind just kind of commenting on both of those and how they fit. [LB830]

SENATOR VARGAS: Yeah, I will do my best, Senator Hilgers. I would say, for the first one, for this question around the notion of cost...so the way I see this is actually kind of simple. I still have not received more information that tells me that the industry is going to substantially change as a result of an auto manufacturer that is new, within the last 15 years--50 years--that produces...last year produced 100,000 vehicles across the entire country. And that in some states, where we actually have seen legislation passed, or a law that was upheld, that allowed the direct sales, that there hasn't been any changes in sort of an impact to the dealers. And you can look at New Hampshire or you can look at Wyoming did just pass, but there are several other states where we've seen the change happen, and there hasn't been something that specifically changes, sort of, the dynamic of market competition for those states. To this sort of consistent rules, I don't inherently disagree that there are rules in place that have created or the conditions for certain markets. The opportunity, I think we have, is if we don't look at regulation, and sometimes regulation is outdated and maybe antiquated and not meeting the current needs of the market, and the market has changed. At what point do we, as a state--not as a country, as a state--review the legislation to then figure out a better way to allow for new markets, or new companies let's say like a Tesla, to be able to compete under the business model that they so inherently want to have? So that's...that's the piece where I don't know if there's a yes or no to whether or not it sort of outweighs this risk and how much millions of dollars, you know, people have put in to the dealer model. But if we haven't seen an impact in other states where legislation has passed and it hasn't impacted the dealer model, there are other countries that do not have the dealer model and they direct sell. And in this...in this country, as we currently see, the dealer model in the states where let's say in California, where they may be able to directly sell if they're are a certain amount of miles away, we haven't seen any of the auto manufacturers take advantage of that. I'm not seeing this upending the industry or destroying it, to your point. And in fact all we're seeing is a new market, a new product for consumers, and more choice. [LB830]

SENATOR HILGERS: So to follow up on your first point, I appreciate that, Senator Vargas. [LB830]

SENATOR VARGAS: Yeah. [LB830]

SENATOR HILGERS: Thank you very much. So on the first point, so as I under...so I take your point. It's essentially other states have done this and the volume has not been maybe significant enough to force any change, not that you're implying that there is a volume at which there would be change. But that's my follow-up question, which is: Do you foresee, for some of those states that have done it, in five-ten years is the trajectory such? And it's a little bit of speculation. I'm

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

Transportation and Telecommunications Committee  
January 30, 2018

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just...you've been in the weeds on this, so I'm curious of your thoughts as, do you see a point where the volume would be that you actually would see a significant change in some of these states? [LB830]

SENATOR VARGAS: Good question. It is speculation, but I like...I appreciate you saying that. I don't...I don't think any of us know. I think, when we're looking at changing regulations with new markets, and again, this is an auto manufacturer that is directly selling on-line to consumers, it's kind of hard to tell what is, or isn't, going to happen. But I would hate for us to say that we're creating a regulation that isn't trying to then build or create business, or somehow say that there's an end point to it and we're trying to hamper it. So I don't know what's going to happen here, from here on in. However, I do know what will happen if we don't pass LB830, that they won't be able to sell directly in our state, and we'll be losing out on revenue. We'll be losing out on a business and allowing consumers the choice to then choose what car they want to buy. [LB830]

SENATOR HILGERS: Thank you, Senator Vargas. [LB830]

SENATOR FRIESEN: Thank you, Senator Hilgers. Any other questions from the committee? Senator Bostelman. [LB830]

SENATOR BOSTELMAN: Thank you, Chairman Friesen. Senator Vargas, thanks for bringing this today. A question...you said that they can go to another state and purchase or pick up the vehicle. How does that work? [LB830]

SENATOR VARGAS: So some people might say that you can already purchase a Tesla. Now what that entails right now...and we will have individuals talking about their experiences purchasing a Tesla. But very high level, they're purchasing a Tesla on-line and you, then, are picking it up. You have to pick it up from where it is currently where we have a...where you can already directly buy it, and then that's legal. And so for example, in Missouri in Kansas City, you would pick up a Tesla in Kansas City, buy it there, and then drive it all the way back to Nebraska. [LB830]

SENATOR BOSTELMAN: But so what's that business model that's in Kansas City, that you pick it up from? [LB830]

SENATOR VARGAS: So there are service centers and there are showrooms where you can pick up the Tesla. [LB830]

SENATOR BOSTELMAN: Okay, thank you then. [LB830]

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

Transportation and Telecommunications Committee  
January 30, 2018

---

SENATOR FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? Seeing none, thank you. [LB830]

SENATOR VARGAS: All right. [LB830]

SENATOR FRIESEN: Does anyone wish to testify in support of LB830? Welcome. [LB830]

DANIEL WITT: (Exhibit 1) Thank you. Good afternoon. Chairman Friesen and members of the committee, thank you for the privilege of speaking before you today in support of LB830. My name is Daniel Witt, D-a-n-i-e-l; last name Witt, W-i-t-t, and I'm the senior manager of business development and policy for Tesla. For those of you who aren't familiar with our company, we're an American manufacturer of electric vehicles and, more recently, solar and battery storage solutions. Our vehicles have been honored with the Motor Trend Car of the Year, NHTSA's highest ever score for safety, and our company has been rated the highest in consumer satisfaction by Consumer Reports for the last three years running. Our latest vehicle, the Tesla Model 3, has an MSRP of \$35,000, and a range of 315 miles. With a wait list of roughly 450,000 people globally, many of whom are Nebraskans, we've also announced plans to bring to the market an electric semi truck capable of carrying 80,000-pound loads for up to 500 miles on a single charge. In Nebraska we've already invested millions of dollars in EV infrastructure in Sidney, Ogallala, Gothenburg, Grand Island, and Lincoln. But we are here in support of LB830 today because we're currently blocked by statute from investing more in the state. Tesla has never had any franchise dealers anywhere in the U.S. or globally. Instead Tesla has always sought to sell its vehicles directly to consumers, primarily because our cars are predominantly made to order and our stores are equal-parts education centers to inform our customers of the benefits of electric drive and energy-efficient practices. We are in support of LB830 because it provides businesses with the option of choosing its own destiny. Indeed, we're not the only ones who would be impacted by this legislation. It's designed theoretically to also apply to companies such as Waymo, Lucid Motors, Zoox, or any other start-up in its infancy that the committee or I have yet to hear about. It would not apply to GM, or subbrands like Genesis from Hyundai, or companies that previously used dealers, like Fisker, that have since gone out of business. As such, LB830 is not a threat to dealer interests in Nebraska, and I want to be especially clear about this point: Tesla is not here today to overturn the franchise system. Where we have advocated for these types of changes, we have similarly not been in the business of trying to shut down local businesses. Indeed, Tesla has operated, in a majority of the United States, for ten years without a single manufacturer following in its footsteps or, more importantly, without the loss of a single dealership attributed to its presence in the state. In truth, Nebraska's law is currently more restrictive than those in communist China or socialist countries in Europe. Tesla has been allowed to invest and grow in those places, unimpeded, for years. And just to provide one further detail which Senator Vargas touched upon, it's worth noting that in the largest car market in the United States, manufacturers of any size can receive a sales license for any facility

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

Transportation and Telecommunications Committee  
January 30, 2018

---

just ten miles away from their closest franchisee. Not a single location today is owned by a manufacturer in that state. The reason for all this is because manufacturers have been...these manufacturers made a choice some time ago about their method of distribution. We are simply asking Nebraska to afford us the same opportunity. The current system compels us to operate in a certain fashion that provides no additional benefits to the consumer. Indeed, allowing us to operate in the state will provide consumers with more choices, increase competition and investment opportunities for this state. You are likely to hear that there is ample interest from dealers around the state to represent our brand. However, none of these businesses--and due respect to the many, very profitable and illustrious owners in the state--they've yet to provide Tesla with a business model that demonstrates that it can provide a no-profit service model, like the one we currently afford our customers, without compensating by raising the cost of the car to consumers. This would not only put our company at a disadvantage in the open market, but artificially also...also artificially raises the cost for consumers. Finally, I'd point out that we've been asked by the opposition if we would just set up shop in Council Bluffs. I ask you if this is the will of the Nebraska Legislature. If so, I can guarantee that we will do exactly this, not out of any kind of spite for the state or for this body, but simply in order to fulfill the obligation to provide the best possible experience for our growing list of customers in the state. And what then? Do not the same terrible scenarios that have been put forward by the opposition exist just simply across from the Missouri River? The laws that Nebraska has put in place do serve a purpose and are sensible. However, their intention was never to block innovation or job creation from new companies entering a free market. To that end, we have sought the opportunity to compromise with the dealers on any language that would make them feel more comfortable, such that they would accept our business model and we could coexist. This has been done repeatedly in several other states. That offer remains open today, and I truly hope the committee will urge them to seek such a compromise. Thank you for your time today, and I would be happy to answer any questions. [LB830]

SENATOR FRIESEN: Thank you, Mr. Witt. Any questions from the committee? Senator Geist. [LB830]

SENATOR GEIST: Thank you, Mr. Witt, for your testimony. My question is: Can you tell me what it looks like if I own a Tesla and I have to get that serviced? [LB830]

DANIEL WITT: Certainly. Excuse me. So currently there's a couple of different options for Tesla vehicles, none of which involve, essentially, local service. Right now most owners, provided that their car is drivable, will drive their car down to Kansas City and ultimately have it driven there. Owners also have the option of purchasing, for an additional fee, what's something we call ranger service, which has us essentially bringing in more of a custom service operation but it's strictly a van, things that can be done out of a van directly to, potentially, customers' homes. This is a workaround for what would be a much preferred situation of being able to set

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

Transportation and Telecommunications Committee  
January 30, 2018

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up locally here in Lincoln or in the greater Omaha metroplex, in order to service our growing list of customers. [LB830]

SENATOR GEIST: Is there a typical service plan, as far as how regularly does a vehicle, like Tesla, have to be serviced? [LB830]

DANIEL WITT: Sure. So it's worth pointing out that our technology is 150 years old, but extremely advanced, but ultra-simplistic. There's over 1,000 moving parts in an internal combustion engine alone; there's one moving part in an electric motor. That means that there is inherently less service on a majority of the parts. We do have a warranty so, for instance, our Model S and Model X: There's a bumper-to-bumper warranty and then an extended warranty that comes standard on the power train, so the battery and the electric motor system. Routine service would be involved with a once-a-year checkup, any time your tire blows out, things of that nature. There's one fluid that's available for customers to adjust in the car; that's the windshield wiper fluid. And they rarely have to change their brakes because that's one of the more advanced pieces of technology utilized in the regenerative braking system. That's kind of like an engine brake but involves no sort of corrosion associated with the brake pads. [LB830]

SENATOR GEIST: Okay. Thank you. [LB830]

SENATOR FRIESEN: Thank you, Senator Geist. Senator Smith. [LB830]

SENATOR SMITH: Thank you, Mr. Witt, for your testimony. So I struggle a little bit as to why Tesla doesn't, you know, work inside of the dealer model that we have in our state, other than I know you mentioned the disadvantage that you feel that they would have. So let's go down that path just a little bit. Can you explain zero emission vehicle credits and how that works currently with your sales? [LB830]

DANIEL WITT: Sure. So in the United States, China, and Canada, there is a regulatory structure provided to certain entities. In the United States, going back to the Clean Air Act, California, specifically, was given the privilege to set its own air emissions regulations. There's something also called Section 177, within that statute, which enables other states to buy into what California has offered in terms of emissions reductions proposals. In the late '80s, California put forward a regulation called Low Emission Vehicle regulation, that has since gone through several different iterations, most recently memorialized in 2012, known as the Zero Emission Vehicle regulation. That regulation requires manufacturers--every manufacturer--to, essentially, place electric vehicles in that state. And then the Section 177 states have essentially the same requirement. It doesn't mandate that essentially the car be put on the ground in the state, but they have a credit system, much like cap-and-trade or other credit systems, cafe credits by which they

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

Transportation and Telecommunications Committee  
January 30, 2018

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set a requirement for every manufacturer who does business in the state. And that fluctuates, based on how many cars they've delivered in the state previously. So for instance, Toyota has a larger obligation than Ford does because Toyota sells more cars in the state of California. Those credits have a value that is determined by the business community. It's a free market system, and manufacturers can meet that obligation either by placing those vehicles into the market themselves, either...instead of robust business plans to satisfy their obligation, they can do the very minimal amount, which is known as a compliance car. So most manufacturers have done that in the early stages of the development of electric vehicles. And then there are those that opt to purchase credits in order to fulfill that obligation. And I believe what you're fulfilling...what you're asking is Tesla's particular interest in this. Because Tesla only produces electric vehicles, we have a surplus of credits, and the system was designed in order to incentivize businesses to, essentially, move towards this newer technology. So we have actually been able to fulfill the obligations of some of the larger manufacturers in Section 17 (sic--Section 177) states, for instance, where they have a harder time meeting the obligations that have been put on them by virtue of selling them credits. As I mentioned, those credits have a fluctuating value associated with them, but I don't mind telling you that, at various times, that has been on...for a new company like ours, with minimal revenue compared to the larger manufacturers, that has represented an outsized number, or a notable number, in terms of revenue on a quarterly basis. [LB830]

SENATOR SMITH: Do the credits vary by the model that you produce, or is it like a one, constant credit... [LB830]

DANIEL WITT: They... [LB830]

SENATOR SMITH: ...that is produced per vehicle? [LB830]

DANIEL WITT: It is predominantly based on the range of the vehicle. So every electric vehicle, or alternative-fuel vehicle, would get a certain credit, and that's subject to the regulation in terms of the specifics, but it's not one credit per car, if that's what you're asking. There are...it is based on something called the UDDS range, which is not five...five-cycle tests which NHTSA essentially helps to determine the true range of a vehicle. But anything above a 300-mile range, if memory serves...excuse me, I used to know a fair bit about this. It has been a few years, but suffice it to say I believe it's five credits per car that's delivered. So for instance, the Chevy Bolt, based on its UDDS range, would get the same number of credits as the Tesla Model 3. [LB830]

SENATOR SMITH: So the ability to produce the zero emission vehicles, it allows you an advantage in the marketplace when it comes to--especially in California--to where you actually

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

Transportation and Telecommunications Committee  
January 30, 2018

---

are able to make money off of those vehicles in competition with the gasoline vehicles that are sold side by side. [LB830]

DANIEL WITT: Well, it's true that we have...as I mentioned before, we don't sell internal combustion engine vehicles, so the credit system admittedly did not envision a start-up manufacturer coming in and doing exactly that. So they didn't imagine, perhaps, a company coming in without an obligation, which is why there was an abundance of credits, essentially. But I think it would be...it would be incorrect to assume that we have somehow gamed the system. Every large manufacturer--GM, Toyota, Ford--is engaged in this marketplace and has sold or purchased credits, based on their own business plans and obligations. [LB830]

SENATOR SMITH: One more question. You're working inside of a regulatory environment in California that allows you to perform that way, and that's perfectly understandable. [LB830]

DANIEL WITT: Yeah...yes. And then, frankly, in a host of other states. [LB830]

SENATOR SMITH: All right. Thank you. [LB830]

SENATOR FRIESEN: Thank you, Senator Smith. Any other questions from the committee? Senator Hughes. [LB830]

SENATOR HUGHES: Thank you, Chairman Friesen. Thank you, Mr. Witt, for coming today. Is there some sort of a critical mass that Tesla would have to hit, of vehicles within a state, before they would come and put a service center in? Is that...and I don't need trade secrets, but... [LB830]

DANIEL WITT: Yeah. [LB830]

SENATOR HUGHES: ...but at some point. You know you have one in Kansas City. Was it...was it critical mass or was it a regional decision, or how did it... [LB830]

DANIEL WITT: I'd say there are a number of factors associated with it, but one of the biggest factors is the precise issue that we're talking about today because, as I alluded to in my testimony, we do not have a model that profits from service. So we are looking to set up in locations where we can have a profitable business, where we can have a business running in the black. So service is most often paired with a sales operation somewhere in the state in order to generate the business necessary to sustain our headcount and employment and investments. There are other pieces that go into it: the concentration of owners in a given population, which

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

Transportation and Telecommunications Committee  
January 30, 2018

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is...has a whole host of other factors to assume, but not the least of which is infrastructure that we placed in like the supercharging locations that we've put here in the state. [LB830]

SENATOR HUGHES: Does the cost of electricity ever figure into where you want to have an increased presence? [LB830]

DANIEL WITT: The cost of electricity helps to establish the value proposition associated with transitioning to an electric vehicle versus an internal combustion engine. Gas prices fluctuate all the time, but we have a sort of understanding of what that is at a nominal level. Similarly we know, via rate structures and so forth, what the cost of electricity is going to be. That provides a very definitive calculation in terms of the cost to own a vehicle versus sticking with your standard technology and your standard car. With regard to facilities, it's always something that we're looking at. And certainly, as we expand our investments in supercharging infrastructure, where there is...large currents of energy that are flowing there, we're looking...and that's a burden that we take on; that's something that we pay for, for our customers. We're certainly looking to find an efficiency there such that Tesla, as a company, is not paying an arm and a leg, but we're still providing a quality service to our customers. [LB830]

SENATOR HUGHES: Okay, thank you. [LB830]

SENATOR FRIESEN: Thank you, Senator Hughes. Senator Hilgers. [LB830]

SENATOR HILGERS: Thank you, Mr. Friesen. Thank you, Mr. Witt, for being here. I appreciate your time and your conversation, as well. Following up on Senator Smith's question, and correct me if this is wrong or if it was changed with the recent tax bill, but isn't there also a federal income tax credit for the purchase of electric vehicles? There might be a phase-out component. Can you speak to that? [LB830]

DANIEL WITT: Yes...yes to both actually. There's...and this was a credit that was initially initiated for hybrid vehicles like the Prius, and the phase-out is critical to this because that's why they're no longer participating in the program. So the phase-out says that after a manufacturer hits 200,000 vehicles in the United States that have received the credit, it begins a one-year sunset. Essentially at the end of that year, no credit. Electric vehicle technology is new enough that no manufacturer, including Tesla, has hit that mark, but the market has speculated--and I can't speak to exactly--but the market has speculated that Tesla, GM, and Nissan, in particular, who have been selling these vehicles and most earnestly, are likely to hit that mark of 200,000 sooner rather than later. [LB830]

SENATOR HILGERS: Okay, I appreciate that clarification. So...and I share Senator Smith's view that those are the rules of the game and you're playing by them, and that makes a lot of sense. My only other question sort of dovetails off my conversation with Senator Vargas,... [LB830]

DANIEL WITT: Um-hum. [LB830]

SENATOR HILGERS: ...which goes to this sort of uneven competition point, because I get competition. I get innovation. I think that values...provides tremendous value to customers at all levels really. But this idea that...two things are true: One is we're not starting over from scratch, right? We're not whiteboarding this thing and creating like what we think the best world would be; and two, the bill is not a...we're not taking out and dumping that whole system. And so what the bill does, as I see it, is it creates sort of two different types of competitors: the ones who are sort of the legacy car manufacturers,... [LB830]

DANIEL WITT: Hmm. [LB830]

SENATOR HILGERS: ...who might have additional costs that maybe the system imposed and maybe they would say that provides a lot of value for our customers in different ways, but it's additional cost; and then those who would fall under this bill, not just Tesla but whoever that might be, that wouldn't have those same costs structures. And so can you just...can you sort of talk it through with me or address that concern? In other words, the idea that this might create sort of a dual...provide a competitive advantage to... [LB830]

DANIEL WITT: Yeah. [LB830]

SENATOR HILGERS: ...albeit a new entrant, right? But I don't think there's a cap on volume here. So can you just kind of speak to that a little bit? [LB830]

DANIEL WITT: Sure. So I...admittedly, I think of the...I think of the crux of this being a little bit differently than setting up two different tiers, and I alluded to this in my testimony. But I fundamentally believe that every business...businesses make thousands of choices along their pathway to success or failure. Choosing their method of distribution to a customer is one of those decisions. Some of these automakers have grown to have illustrious businesses by virtue of partnering with dealers here in the United States. GM produces 10 million cars a year for the U.S. market. They've constantly reaffirmed their partnership with dealers...no objection there. They sell 10 million cars. Their inventory is taken off their hands immediately and landed on a dealer lot somewhere; it makes perfect sense. Our business is fundamentally different, which is

why we're seeking the option to make the same...have the same right to that decision. And just because it takes a different tack and moves us into a different method doesn't mean that we weren't playing by the same rules; it means we were afforded the same opportunity. I would submit to you that our presence...our business was fundamentally changed when we were able to purchase the former NUMMI factory in California which, for decades, was the largest manufacturing facility in the United States. For those of you who aren't aware, that closed down in 2008, as a result of the tremendous recession that we all faced. GM went into bankruptcy and offloaded their interest, and Toyota had moved their truck manufacturing to Texas. And so 4,000 people lost their job. We've been able to resurrect that facility and now have 10,000 people working in the city of Fremont and at that facility. But that's a facility which, frankly, we're capped at about 500,000 vehicles. That's more than what NUMMI, which was the joint collaboration, was pushing out of there. They were at a rate of about 463,000 vehicles per year. We think that we can get up a touch higher, but that's our capacity globally. We don't have any other factories, so when we talk about being a different business model, we mean it in very real terms. We don't have the capacity to build 10 million cars. We don't have the capacity to build 6 million cars, like Ford. We may hope to grow to that capacity in the coming years, and that will be by virtue of, essentially, our ability to, via competition, compel customers over to our technology and to our vehicles. But that is the American way. That is how we hope to expand. And if, by the way, we reach 6 million cars or 10 million cars, and we are blessed to have the same sorts of problems that GM has, I'm sure there are many economists that would suggest to us that the dealer model would make more sense. I think...we're not opposed to having discussions and, in fact, you may hear today from testimony that we have engaged in discussions with dealers directly, in order to try and explain our position. We're not...we will not ever shut the door on a conversation. It is just a matter of deciding when it makes the most sense. And then to your earlier question, and Senator Vargas's answer, it's probably very speculative, even for me, to suggest at what level of success that that would make sense. [LB830]

SENATOR HILGERS: Yeah. I appreciate that very much. And let me say I think what Tesla has done is amazing. I think the idea of getting into an industry that has such incredible fixed costs is very difficult, especially doing it on the electric side. I want to focus on one of your...follow up briefly on one of your...part of your answer, where you said that the dealers got to make their choice. And I...historically, I wasn't here when this...the statute was put in place, and so I might ask this question of the dealer when...if and when they come up. But it does...from my perspective, it doesn't appear that they made a choice. I mean the statute is what it is, and maybe they had some say in it when it got drafted a long time ago. But the statute doesn't give them a choice now. And so that...I think it's a little bit of...I mean, am I missing something there? I mean you've called it a choice a couple times in your testimony and now. And it's...am I missing something or is it...or is it in the historical record? Or... [LB830]

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

Transportation and Telecommunications Committee  
January 30, 2018

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DANIEL WITT: Well, I certainly don't want to appear disingenuous in what I'm saying, or obtuse for that matter. All I'm simply suggesting is that, historically...and Senator Vargas I think did a good job in terms of sort of giving the background on this. These laws have...do have origins in...forgive me for speaking ill of other parties, but they have their origins in abuses from other manufacturers with franchisees that they had current contracts with at the time. Before those abuses even occurred, they had...they made the decision to set up those contracts. And yes, so these decisions were made by the former CEOs, former CEO, former CEO...three, you know, three levels down. But they ultimately, at some point, even though...I mean Henry Ford. Henry Ford is a perfect example of this. Henry Ford took the Model T and went to, essentially, grocery stores around the country and asked them to, effectively, be their dealers. And most of those mom-and-pop stores eventually got out of hocking anchovies and pop, and moved into just selling automobiles. That's how far you have to go back for the decision for these manufacturers, who ultimately have been blessed with very good success the whole way through. But that's a choice that they were afforded. And what we're asking today is...I mean it's hard to compare Ford of 100 years ago to Tesla today. We're a little bit farther along the way than the Model T, but we are still in a very nascent stage, in terms of our development. We've gotten farther than Tucker or Fisker or DeLorean or, you know, those sorts of notable attempts, but we're by no means...by no means the...we like to think of ourselves as a small fish in a very big pond. [LB830]

SENATOR HILGERS: And that's probably true, a growing fish. [LB830]

DANIEL WITT: Yeah. [LB830]

SENATOR HILGERS: So just so I understand what you're--and this will be my last question, Mr. Chairman. But so if I understand sort of the historical record, and I appreciate that, is it the fact that the manufacturers sort of set up the dealerships way back when, and then enshrined that system later? Or was it forced...or was it forced upon them by the franchisees? Is it the former or the latter or something else? [LB830]

DANIEL WITT: I think the contracts came first, the regulations came second and were actually a result of dealers asking their legislators to offer them some protections against these abuses that I've talked about. Since then, I'd argue that it's been reaffirmed continually through the business practices that exist in the...between the manufacturer and dealer relationship. And forgive me, I don't have an intimate knowledge of those, but... [LB830]

SENATOR HILGERS: Understand. [LB830]

DANIEL WITT: ...there are certainly others here that can probably speak to that. [LB830]

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

Transportation and Telecommunications Committee  
January 30, 2018

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SENATOR HILGERS: Thank you very much, Mr. Witt; I appreciate it. Thank you. [LB830]

SENATOR FRIESEN: Thank you, Senator Hilgers. Thank you. Senator Murante. [LB830]

SENATOR MURANTE: Thank you for your testimony. I want to follow up a little bit of your question and answer with Senator Hilgers, as it relates to the rationale for creating an exemption, and an exception in this instance. And the challenge I'm having is that, although it's true that there's nothing in law that's explicit like the dealer model, there have been a number of different instances where there has been an industry with one regulatory scheme, there has been some sort of innovation that has taken place, and now legislators and policymakers are left to deal with how this new innovation is to be regulated. It's...in most instances, there are activities that are substantially similar,... [LB830]

DANIEL WITT: Um-hum. [LB830]

SENATOR MURANTE: ...perhaps not identical, and certainly this Legislature has been reluctant to create wholesale carveouts. That's not exclusively true, but to create wholesale carveouts where two companies that are doing something that is substantially similar, one is regulated at...under one matrix, and one is just not. [LB830]

DANIEL WITT: Right. [LB830]

SENATOR MURANTE: And the only rationale that I've heard you kind of say, is that the business model is different. And I'll sort of give you a concern, and then I'll give you an opportunity to respond. Like my challenge with that is even in industries where everyone is regulated the same way--I'll just throw out restaurants, for example, business models can vary dramatically within even that one industry. [LB830]

DANIEL WITT: Um-hum. [LB830]

SENATOR MURANTE: But the regulatory scheme remains the same, so I'm wondering how and why simply having a different business model necessitates a different regulatory structure. And I'll let you respond to that. [LB830]

DANIEL WITT: So I actually believe the intent of the bill is to not create a new regulatory structure; it's to place us in the existing regulatory structure. We agree that the existing regulatory structure makes a great deal of sense. It provides consumer protections. There's basic levels for overlapping on federal standards for safety. These are all good things which we are not privy to

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

Transportation and Telecommunications Committee  
January 30, 2018

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being regulated by presently. So we are asking the motor vehicle board to provide us a sales license, such that we provide them the credentials according to financing and a number of other factors associated with the application process, such that we, too, can essentially play by the same rules. That's the closest answer I can give. As it relates to why we have a different business model in the first place, fundamentally--and Senator Bostelman, I believe you asked this question earlier in terms of what the process is like--our customers--and there's actually a couple people here that can testify to their own experience--but our customers, more often than not, would kick the tires in a store location, go home and do their own research, ultimately place a deposit for a vehicle on-line, provide their credit card information at that point. That secures them a place on the manufacturing line. Closer to the date of manufacturing, they're...they are notified that they must complete their customization of the vehicle. At that point, they customize their vehicle to the nth degree: what kind of leather, paint color, so on and so forth, type of battery. And then the car is produced to that end. The consumer, in that case, has done all of the work associated with the purchase of the car, and the transaction for the entirety of the car occurs at that point. Asking us to utilize a dealer, in that case, creates the scenario by which the car has been destined for a specific individual from the very beginning, and then we're going to ship it to a dealer lot where rightly, if it were to take some presence on a dealer lot, they would...might seek compensation for that, only to have it essentially be an intermediary step before the end customer, who already customized the vehicle, essentially comes to pick it up. That's a profit area that we just...we just don't think makes sense for us right now. And again, we've had conversations with dealers. We're happy to have more conversations with dealers, but we've...when I say that the...we have the different business model, that's essentially what it comes down to. It really is based in, essentially, extracting the smallest profit possible on our side of the business in order to sustain and grow our business, while keeping us in direct competition with other cars that are in the marketplace right now. And it's a very sensitive market, especially as you come down in market into the mass market level where our current car, the Model 3, is at. I hope...I'm sorry if...I'm hoping I'm not dancing around the question. [LB830]

SENATOR MURANTE: Sure. I will stipulate that you have a different business model. [LB830]

DANIEL WITT: Yeah. [LB830]

SENATOR MURANTE: My question, fundamentally, is why should your different business model necessitate a different regulatory scheme, simply because it is a different business model? [LB830]

DANIEL WITT: So this may just be a difference of opinion, and it might be that Senator Vargas can speak to this more clearly than I but, fundamentally, we've tried to make this as unobtrusive as possible. We want...I mean there shouldn't be extra burdens on the state in order to

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

Transportation and Telecommunications Committee  
January 30, 2018

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accommodate us. So the same form that a dealer would receive when it applies for a sales license is the same form that we would envision signing, as well. So to me it's the same regulatory structure. [LB830]

SENATOR MURANTE: Okay, thank you. [LB830]

SENATOR FRIESEN: Thank you, Senator Murante. Any other questions from the committee? When you look at your business model and when you look at Nebraska, do you foresee putting out there 20 or 30 different service stations or storefronts in the state? Or are you going to be content to put one in Omaha? [LB830]

DANIEL WITT: I think we probably want to do something in the middle. I think for now we have an immediate need, and I will state it's an immediate need, given our existing customer base, to provide service. We also understand how many reservations--I've alluded to this before. There's a number of reservations for our newest vehicle, people who have put down \$1,000 deposits, who will have their vehicles placed in 2018 or early 2019. So our presence in the state of Nebraska is going to grow 4-5X just over that period, and necessitate our growth as a business. Whether that's two or five I can't honestly tell you. I've...to Senator Hughes' questions, I'm not privy to exactly what the calculations are, but it is not likely to be 30 locations. Even in California we don't have that many locations, I believe. [LB830]

SENATOR FRIESEN: So you're looking at it as a total different business model. In the manufacturing, I mean I've been trying to follow a little bit more and reading up on Tesla. And you mentioned in testimony here, or somebody did, that, you know, there's a wait list of a couple years. [LB830]

DANIEL WITT: Hopefully not that long, but we're trying. [LB830]

SENATOR FRIESEN: I mean, so I guess I struggle a little bit, too, trying to figure out why we should change our structure here yet, if you've not shown that you can, you know, meet your expectations for manufacturing. I know that that's a long wait list, but again, I don't see that we're inhibiting your ability to do business here just yet. But I...can you respond to that a little bit? Would it help sell more vehicles by opening a storefront in Omaha? [LB830]

DANIEL WITT: I can say with absolute assurance that yes, it would help us sell more vehicles. You could argue that maybe we don't need to sell more vehicles because we have a wait list. But... [LB830]

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

Transportation and Telecommunications Committee  
January 30, 2018

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SENATOR FRIESEN: If the wait list...I'm just saying it's two and a half years before you get the vehicle and, you know, the service center doesn't...isn't going to be the first thing you build, obviously. [LB830]

DANIEL WITT: Well, in this state it would be, because we have an existing customer base, and this is the immediate need that I spoke to earlier. [LB830]

SENATOR FRIESEN: Okay. [LB830]

DANIEL WITT: We have an existing ownership population, which we're only adding to, and so this has been an issue we've been aware of for some time. I do not mean this as any kind of a threat, except to say that we will have to look at Council Bluffs, or somewhere in that area, to satisfy that very particular need, which is currently being done from Kansas City. [LB830]

SENATOR FRIESEN: How many Teslas are in Nebraska currently? Do you keep track?  
[LB830]

DANIEL WITT: I think it's around 170 but, as I mentioned, Model 3 is where we see...that number will grow naturally for our two existing vehicles that we sell--the Model S and the Model X. The Model 3 is where we see the most growth, and that's that pent-up demand with the large reservation list. That car is being produced now at an increasing rate. There are very good early reviews from every and...every periodical that has actually had a chance to get its hands on it. And so we anticipate a majority of those reservations will, indeed, turn into orders and deliveries. And then we will face an overwhelming problem that we hope not to have to come to you with next year. [LB830]

SENATOR FRIESEN: Okay, thank you. Any other questions from the committee? Seeing none, thank you, Mr. Witt. [LB830]

DANIEL WITT: Thank you very much. [LB830]

SENATOR FRIESEN: Others who wish to testify in support. Welcome. [LB830]

NICK BOCK: Thank you. My name is Nick Bock, N-i-c-k B-o-c-k. I'm a local business owner. I own a company called Five Nines Technology Group that operates here in Lincoln with about 50 employees in Lincoln, 25 in Omaha, and about 5 in Kearney. I recently purchased two Teslas. My wife drives one and I drive one. Both of those we picked up in California, so I paid sales tax of about \$7,000 twice in California. And I don't think any of those dollars come here, which is

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

Transportation and Telecommunications Committee  
January 30, 2018

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frustrating to me. I'm a local business owner but, as I am...as I researched, California, it looks like, doesn't have a reciprocal sales tax agreement on cars, but they require me to pay sales tax there, but it's not coming back here. So I'm disappointed that something as simple as this restricts dollars from coming back to Nebraska. I validated that when I talked to the DMV to make sure they weren't going to charge me a second time for sales tax, which they didn't; so that was great. It also is frustrating, as a customer and a consumer, not to be able to lease a Tesla because I needed to register it in Nebraska. Obviously we've all read the occasional news articles of the guys that register their car in South Dakota, which is tempting for about half a second and then it's gone. But I couldn't lease a vehicle; I had to buy it because Nebraska does not have that agreement with Tesla. So nobody would finance a leased vehicle for a Tesla in Nebraska. It is frustrating to not have the convenience of being able to have my car serviced at a local area. That's been talked about significantly, so I don't need to go into the fun of driving to Kansas City, although it's a great place to go. As a business owner, Microsoft--you're all familiar with them--long sold only through companies like mine. A lot of their solutions were sold directly through resellers; there was not direct sales down to small- and medium-size businesses. About three years ago that changed. I was not disappointed that the Legislature of Nebraska did not protect my direct engagement with my clients. I simply had to do better. I had to make sure that I could delineate why I had value, and I had to compete. And I still compete and win against Microsoft all day long. But that's...that is our free enterprise system that we've developed. Nobody here ever brought up a bill to say let's keep Microsoft from selling to small businesses in Nebraska so that a local company like Five Nines can protect their margins; it never happened. And I wouldn't expect it to; it shouldn't. I am, as they said, certainly I think Tesla is going to grow, if you follow the company at all. I would hate to see everything for Tesla be in Iowa because Council Bluffs isn't far away. You know, that's where a small amount of what happens is from a team that's over in Council Bluffs, and it will just grow. But I don't like Council Bluffs any more than you guys do. So I'd much rather be able to go to Omaha or Lincoln or have...that's not on the record, right (laughter)? Fortunately we don't have much business there. All right, let me try this. I'll close with this: We have come a crazy amount as a city in Lincoln, Omaha, and even Kearney in greater Nebraska, and as a state, from being a place that is a flyover to being a place that is now being listed as best places to live. We have a really growing tech community in all three of the largest cities and yet, something as simple that when we try and convince people to move here, or to stay here, it's embarrassing to say a symbol that is certainly tied into technology you can't buy here. You can't do business with it here; go pay your money elsewhere. To me, we've worked really hard as a state to be progressive in a lot of ways we never used to be progressive on. And so it's very disappointing, when so many states throughout the U.S. have endorsed and have been able to figure how Tesla can coexist, that we haven't been able to figure that out. Thank you. [LB830]

SENATOR FRIESEN: Thank you, Mr. Bock. Any questions from the committee? Seeing none, thank you for your testimony. [LB830]

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

Transportation and Telecommunications Committee  
January 30, 2018

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NICK BOCK: Thank you. [LB830]

SENATOR FRIESEN: Welcome. [LB830]

ELDON BOLTON: I'd like to thank the committee for its time. My name is Eldon Bolton, E-l-d-o-n B-o-l-t-o-n. I'm a young professional and a cofounder of a small software development start-up. I originally moved to Nebraska in 2009. I was supposed to leave Nebraska in 2010. I was fortunate enough to get an internship with a technology company here and, after graduating, get thrown into the start-up ecosystem in the community here of developing technology and, for that reason, I stayed. I don't want to take up much of your time today, but I would like to say that, as a young entrepreneur and someone who's involved in innovative new business, the prospect of being able to purchase an electronic vehicle, specifically from Tesla, has always been exciting to me, and I feel that the reason that I've been attracted to Nebraska is because we've done a good job, in recent years, of creating this culture of growth, improvement, and innovation. And it's my personal and professional belief, basically, that any legislation that would prevent one competition with these new, innovative companies that are providing new technology that, frankly, many of the people in my generation are looking forward to being able to use, will detract from the immensely attractive aspects of life in Nebraska, specifically, like I said, for other people in my generation looking to develop new, innovative businesses and technologies. Thank you for your time. [LB830]

SENATOR FRIESEN: Thank you, Mr. Bolton. Any questions from the committee? Seeing none, thank you for your testimony. Welcome. [LB830]

MATTHEW WEGENER: Thank you. My name is Matthew Wegener. I represent a software company here in Lincoln, as well as a business incubator for a number of start-up companies. [LB830]

SENATOR FRIESEN: Will you spell your name? [LB830]

MATTHEW WEGENER: W...Matthew, M-a-t-t-h-e-w Wegener, W-e-g-e-n-e-r. First I'd like to say I had the opportunity to meet Mr. DeWitt--or Mr. Witt's boss here in Lincoln last Friday. Jon McNeill is a son of Nebraska; he's a Kearney native. He is now the president of global sales of Tesla, and I think I'd like to kind of present that as a point that, when we look at Tesla as this big, or potentially big, growing behemoth, it's not some outside organization; it also employs Nebraskans. It also is going to bring those resources back to Nebraska through our people that are working around the world for various companies. And I think it's good to personalize that we...we're all, we're everywhere. But there have been as many as 3,000 automobile manufacturers in the United States since the industry began some 125 years ago. Today there are

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

Transportation and Telecommunications Committee  
January 30, 2018

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about 60 U.S. automotive brands in existence and about two-thirds of those are owned by the big three. Today before you, LB830 is an opportunity to take a step forward in returning America to where it once was when the thrill of each new model filled the headlines. Supporting this legislation is a company whose brand, technology, and automobiles themselves are once again filling the hearts and minds of the American automobile consumers with a level of excitement perhaps not seen since Harley Earl released the Corvette in 1953. Though it's true that the existing franchise and dealership regulations were once necessary protections for locally-owned businesses, the world has changed since then. Now these regulations are forcing consumers to make buying decisions out of state, many of whom may feel even more pressure after driving hours to find a Tesla dealership. Many of them might feel that they've come this far, they'd just as well do it rather than having a less stressful opportunity to evaluate their options that both Tesla and the local dealerships could provide, if they were able to make those decisions locally. This also works in favor of the local dealerships. If a consumer travels out of state to buy a car, they will likely do so. But if they decide not to purchase a Tesla because there may be a two-year waiting list for one, they're in the buying mode. But it would be better to be across the street from that Tesla dealership than have them go across the street in Kansas City, say, and purchase an alternative vehicle. And so I think it is a lost opportunity for the local dealerships, as well, to not have a Tesla dealership here in the state. I think it's also important to note that these laws were not necessarily enacted to protect the interests strictly of the dealerships. They were enacted to protect the consumers, who were also being gouged by the manufacturers who did not support their vehicles, who did not warranty them, who did not service them later. And that's much of what has changed in the world with many other regulations that have been put in place to require the manufacturers to provide parts and availability for ten years, at least, for any vehicle that's put onto the road. In addition to that, I think, and I fully support, a right-to-repair law that would allow other service facilities and dealerships to service Tesla vehicles, were we to enact that in Nebraska as well. As an entrepreneur with a technology company in Nebraska, I can say, both personally and among my peers and employees, Tesla has a common theme of market disruption, revolutionary technologies, and visionary leadership. When a segment of entrepreneurs and technology workers survey the landscape in Nebraska and see limitations to their buying options such as we have, I think they begin to question if they're in the right place. Nebraska is a phenomenal state with much to offer our citizens and consumers, and I believe this is a decision that we must make in order to reduce obstructions, real or perceived, as we move forward as a state. As founder of Turbine Flats, an entrepreneurial community and start-up incubator, it's imperative for me to...and to the entrepreneurial community that we project to entrepreneurs, students who are considering to be entrepreneurs, and to many others that we are business friendly, and that businesses who are revolutionary, visionary, and high-tech are welcome in Nebraska and can compete in our state. Thank you. [LB830]

SENATOR FRIESEN: Thank you, Mr. Wegener. Any questions from the committee? [LB830]

MATTHEW WEGENER: Thank you very much. [LB830]

SENATOR FRIESEN: Seeing none, thank you. Are there any others who wish to testify in favor? Welcome. [LB830]

CLIFFORD MESNER: Senator Friesen, members of the committee, my name is Cliff Mesner, C-l-i-f M-e-s-n-e-r. I live in Central City, Nebraska. We do real estate development all across Nebraska and Kansas and, recently, some solar development across the state. Several years ago, my wife suggested that she would like to have an electric car, so we went out and started the process of looking for an electric car. The obvious choice, to me, seemed to be the Chevy Volt. It was designed to give me some electric use, but then it had extended range because of the motor. I went to get in a Chevy Volt, and I simply didn't fit. Tried the Cadillac ELR and had exactly the same problem. I knew I would fit in a Prius, but the plug-in Prius was only available in California so I couldn't buy it. I looked at a Nissan Leaf, I fit in the Leaf, it worked great, but the mileage was so short I literally couldn't go from my hometown to the next community and back; It was a urban vehicle. So finally we decided we'd make the trip to Denver and look for a Tesla. Drove out, looked at the Model S, and fell in love with the car. There were a lot of things we liked about the car, but one of the biggest factors was the fact that it's the safest car ever produced. And when we're talking about consumer protection, it's nonsensical to say that we're keeping people out of the safest car ever made in order...as a matter of consumer protection. We bought the car, brought it home, had a few small issues along the way. The Texas...the Tesla Rangers took care of us. We called them up; pretty soon we got a call from them. They called up, gave us their cell phone so we had 24-hour access to them. And they were just wonderful to take care of. Less than...a little while later, my wife said: Can you explain to me why we only have one electric car? We've got three cars--two gas cars and one electric. Why don't we have two electric and one gas? And I didn't have an answer for that, so we got in the car, went back out to Denver and bought a Tesla Model X. So now we drive two electric cars and we have one gas car. We ordered our Model X, and two years, five months, and ten days later, we got it. And I think that shows one of the problems that we have here. The truth of the matter is Tesla doesn't need dealers. The last thing they need is someone out there selling cars that they can't produce. They're producing...they're selling cars faster than they can make them in their factory right now. When you watch the Super Bowl this weekend, you will see advertisements from Chevy, you will see advertisements from Ford You won't see any advertisements from Tesla; they just simply don't need that. And the cars need almost no service. You don't change the oil on them. The brakes last forever because you really don't use the brakes much because the electronics do a lot of the braking. So that's part of the problem that we have here, is that they really don't need the dealership organizations the way other cars do. Now the downside of that is if I needed a car today, and I wasn't able to wait two years for that car, I have to go to a dealer, because that's what I would have to do to get a car delivered right away. If I have time, then I can wait for the other cars. But I think the point is, as consumers we need choices. I need a car that I fit in. I like the

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

Transportation and Telecommunications Committee  
January 30, 2018

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idea of putting my wife and my daughter in the safest cars made, and right now those are Teslas, and any other cars haven't been produced that match up with that. One other thing I would like to talk about briefly, because no one else here has mentioned it, is I've been doing work with the public power through the solar stuff, and I am a big public power advocate. And public power right now has been doing a lot of things to save us money by reducing the amount of electricity we use. They give us incentives to put in LED bulbs, they give us incentives to put in higher-efficiency heating and air conditioning systems in our home and, in many cases, they've actually reduced the electric load that they have. They need new load, and they're recognizing that electric cars provide a new load for them that really works out well, and it makes a lot of sense for them. But if we're going to promote that load for public power, we're going to have to promote the distribution system of chargers across the state. We've been doing some of that. We've made our charger available. We're doing a new office building. We're putting in both a Tesla charger for ourselves and another charger for people who don't have a Tesla, but have a different electric car. Senator Friesen, you probably noticed Aurora just put in electric chargers at the Edgerton Center. Many of the motels and other businesses across the state have been putting in chargers. The Nebraska Community Energy Alliance has been putting chargers in cities all across the state. A portion of the VW settlement is likely to go into electric car chargers across the state. But the truth of the matter is the group that's been leading the charge, the group that's put the most amount of money into putting electric chargers and promoting electric cars across the state is Tesla. They've done far more to promote that than anyone else. I realize that they're asking us to do something unique, to carve out something different for them. But we're asking them the same thing. We're saying: You need to operate differently in Nebraska than you operate in any other state in the union or in China or in Poland or Norway or wherever. And I think the people that are really getting hurt by that are Nebraska consumers, by having our choices limited. So I'm hoping that the Legislature can find a solution to that. I commend Senator Vargas for his attempts to bring something to the table, and I hope that there is a solution that can be made that will provide Nebraska consumers with a full choice of potential vehicles. Thank you. [LB830]

SENATOR FRIESEN: Thank you, Mr. Mesner. Any questions from the committee? Seeing none, thank you for your testimony. [LB830]

CLIFFORD MESNER: Thank you, Senator. [LB830]

SENATOR FRIESEN: (Exhibit 5) Are there any others who wish to testify in support of LB830? Seeing none, is there anyone who wishes to testify in opposition? We have one letter from Donald Cox of Lincoln, as a proponent. Welcome. [LB830]

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

Transportation and Telecommunications Committee  
January 30, 2018

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LOY TODD: (Exhibits 2, 3, and 4) Thank you. Chairman Friesen and members of the committee, my name is Loy Todd; that's L-o-y T-o-d-d. I'm the president of the Nebraska New Car and Truck Dealers Association. I want to speak to you regarding this bill. The first thing I want to mention and point out is that what we're talking about here is not technology. We're not talking about disruption. What we're talking about is motor vehicles. We're talking about basic transportation. We're talking about the second largest purchase that most people ever make. And it's necessary in a state like Nebraska; it's a rural state. And so how did we get where we are? When you want to provide transportation, motor vehicles for a state like ours, it was found early on that the most efficient way to do that was through the franchise system, that is, to end up with trying to have as many vehicles out there as possible for consumers to purchase and to take care of. And so how did...how did that work in Nebraska? Well, that first handout I have, the one with the blue on it, that's who we are. We have an industry with about 8,000 employees in the state of Nebraska, about 170 dealers. We are one of the best employers in any given community. We're statewide; we're in small towns, we're in medium-size towns, we're all over. And we are serving our customers and serving the people of Nebraska well. We are locked in to the franchise system, not just because it's the state law, but also because it's the most efficient. All other manufacturers are complying with it. All the dealers are complying with it. And now we have a suggestion that somehow it's not working or that it needs to be changed in order for one company that has one distinction, beyond all the others that you've heard, and that is they simply don't want to have a dealer. They want to be the dealer. They want to be both the manufacturer and the dealer, which...you know, one of the things that we accomplish through our industry is great competition. National studies have shown that competition among dealers in the same brands reduced the price of a vehicle by about \$500. If we have the lineal--or linear distribution system where there's only one manufacturer, no matter how many Tesla stores there are in the United States, there's one price. There is no competition. Whether you buy that car in Kansas City or in Nebraska or you buy it in California, there's one price, and all the profit goes to Tesla. It doesn't go to...it doesn't go to a distribution system of some other type. Now what...and the notion that this will work and just be a carveout terrifies us. And the reason for that is simple. Motor vehicle manufacturers, many of them, would also like to sell direct to their customers. We've had that...we've had experience in Nebraska in that regard. The statute that I handed out to you, where the Legislature made the findings that the franchise system was the right way to go, was sort of the situation all along. And then in the year 2000, things changed. Ford Motor Company announced the Ford collection. Ford announced that they wanted to go into competition with their dealers. They wanted to have retail stores, and they did that. They selected a couple of cities in the United States as the experiment, and they opened factory stores, in direct competition with their dealers. And the result of that was that we...all over over the country, states like ours passed laws to prevent that from happening. Tesla acknowledged; everyone else has acknowledged. My dealers cannot compete with their manufacturer. There is no way for a Chevy dealer to buy their vehicles, parts, and other required expenditures from the factory and compete with the factory store. It simply can't be done, and they will be eliminated. And I can tell you that it is also no

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

Transportation and Telecommunications Committee  
January 30, 2018

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secret that the manufacturers would like to be rid of a lot of the rural dealers. We see it all the time. And a perfect example of that, and we'll have some witnesses that will testify to that...during the bankruptcies, when the downturn in the economy happened, manufacturers ended up taking a bankruptcy; Chrysler and GM took a bankruptcy. That superseded the franchise laws in the states. And what did they do? They terminated 30 dealers in Nebraska, summarily terminated them, eliminated that employment, eliminated those dealerships. We went back to Washington and we lobbied like crazy, and we did find a way to get some of those reinstated. But that's what the manufacturers would like to do. And as far as a no-profit dealership, look at...warranty work is an expense for a manufacturer. It is not something that they relish doing; it's not something they want to do. It's a profit center for an independent dealer, and so that's what my dealers do. They want to fix your car, they want to take care of you, they want a customer for life. They've invested in their communities, and they've invested in everything. This bill...we've looked at it. Quite frankly, if I thought it would do what they say it would do, we wouldn't be here. But this is an exception that's going to be worked by everybody. These manufacturers, current manufacturers, will simply form another corporation. There will be a new company that's never had dealers. I've seen it countless times. I've seen it with Saturn, when GM did Saturn...different company, different product. It would fit nicely under this bill. Right now Hyundai has got a Genesis as a product. What they're doing is terminating all of the Hyundai dealers, starting out with a new product, never had a dealer before; they would fit into this. It's just simply a sidestep, and it's something that we feel we shouldn't allow in Nebraska, simply because one manufacturer wants to be the dealer itself...not cut out the middleman, but be the middleman. And we just don't think it's a good way for this state to proceed. And as far as the taxation, I've heard some things that I've never heard before. I certainly would not quarrel with anybody that tells you that some tax law somewhere is some way but, quite frankly, these vehicles bought in Kansas City, if they are, they come to Nebraska, pay Nebraska sales tax. If my dealer sells a car in Omaha to an Iowa consumer, that person goes to Iowa, they pay Iowa sales tax. If we buy...are in Iowa and bring it to Nebraska and register it, we pay Nebraska sales tax. The notion that there is somehow some border bleeding that's going to place is just simply not accurate. And then when I constantly hear that people can't buy a Tesla, there are 140 registered Teslas in Nebraska and, if you look at the third handout I gave you, this is off Tesla's Web site, "How Ordering Works." And you can read it for yourself, but it's just: Ordering your Tesla is just like any buying experience on the Internet. Simply choose your options, enter your contact information. Your Tesla will be custom built at our factory in California and delivered to your nearest service center for pickup. If you live more than 160 miles away, we'll deliver it to your door. Now that doesn't sound like such a horrible burden to anybody. They're here, they're doing business here, they can continue to do business here. And we want to serve the state of Nebraska, and we want to stay there. We want to serve our communities and we do not want the Legislature to risk 8,000 jobs, 170 independent businesses contributing 15 percent of the sales taxes in the state of Nebraska, for this whim. And they can comply with the law same as anybody else; they simply don't want to. Thank you. [LB830]

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

Transportation and Telecommunications Committee  
January 30, 2018

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SENATOR FRIESEN: Thank you, Mr. Todd. Any questions from the committee? Senator Hilgers. [LB830]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Todd, for being here. One question, based on my conversation with Mr. Witt earlier. You may have heard some of the back and forth regarding the history of the dealer franchise model here in Nebraska. Could you elaborate a little bit on that history and sort of what led to the model that we have today? [LB830]

LOY TODD: Well, I'm not as old I look, but I...so I can't go quite back that far (laughter), but I can tell you that, as far as setting up a method of distribution of vehicles where you want to reach all kinds of areas, rural areas and as well as population centers, a franchise system works very well that way because no company would be rich enough or have enough capital to invest in multiple locations all over the place. And so the way to do that is to invite local entrepreneurs, local investment, to those dealerships or to...all across the country. And that's what we traditionally had...a lot of family dealerships. When I took over it was unusual to have anything other than a small family dealership around the state. And so it was worthwhile to invest there for the sales and service and the warranty work and the parts and all the kinds of things you had there on a local basis, because it was local investment. And that's what happened. And then...and then eventually, because of and, as Mr. Witt indicated, some abuses because manufacturers are so large and so powerful that no one dealer can stand up to them. No one dealer can go nose to nose with them and then survive. And so because of that, states...every state passed franchise laws to regulate that relationship between dealers and manufacturers. And it goes further. When we set up those kinds of laws, you know what else we did? We required every dealer to do warranty work by statute. And so, and even when these manufacturers have failed--when you had Yugo go down, when you had Saab go down, when you had Fisker--you have to notice the dealer was still there to take care of the consumer, to provide parts and service and to find product and to trade for product and to keep going. If when Yugo went down they'd have simply locked the doors, where's the consumer left? Nowhere. We had the dealers there to pick up the pieces, and so that's how we got there. And then this next step is the other statute that I mentioned, and that's in 2000, when the manufacturers decided that they wanted to be that middle profit center. That's when you ended up with the next phase of these laws where it is to say, in that case, a manufacturer may not own a retail outlet. We did that, not for sole protection of the dealers, we did that for the protection of the community because, when that happened, when manufacturers started opening dealerships around the country, GM announced they wanted one dealership and they wanted it in Omaha, and that was it. And that's what you'll have if you get rid of the franchise system, you get rid of our law. If they...when they find a way around it, you're going to have...you're going to have stores. You're going to have them in Omaha, you're going to have them in Lincoln, and everybody else is going to get to travel. [LB830]

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

Transportation and Telecommunications Committee  
January 30, 2018

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SENATOR HILGERS: So if I have this right...so the statute gave us the first...the legislative findings was from LB768, 1971, and then you're referring to the 2000 change that was in response to the Ford initiative to do manufacturer-owned stores. Is that right? [LB830]

LOY TODD: That's correct. [LB830]

SENATOR HILGERS: And in both cases, if I'm hearing you correctly, that was at the impetus of the dealers to put in these protections? In other words, both cases were to help protect against manufacturer-owned dealerships. Is that right? [LB830]

LOY TODD: The 2000 change was the direct result... [LB830]

SENATOR HILGERS: Okay. [LB830]

LOY TODD: ...of that initiative by the manufacturers to then go into the retail business, in competition with their dealers. [LB830]

SENATOR HILGERS: So...okay. So that...that's really helpful because I think there's two...I think there's two ways that you could possibly look...well, there's probably more than two, but there's two ways that one could characterize the history: One is, and only one, I think is true. One is that the dealers and the manufacturers sort of built up this regime and then, in order to keep their competitive moat, they passed restrictive laws that basically made it impossible for people to compete with them. The other possible, likely story is that dealers put in these laws to protect themselves from predatory manufacturers who might undercut them and basically eliminate their business. One story speaks of a very anticompetitive sort of restrictionist regime and the other story speaks to something that's more: Hey, we're just trying to make sure that these...the manufacturers don't totally wipe us out. It sounds like that's the second. Is it fair to say that that's the second story of what happened? [LB830]

LOY TODD: Senator, like everything else, I think there's some of both involved because the justification for these laws is not protection of dealers. It's to protect the communities and the consumers to make sure that for the second biggest purchase they ever make, for the transportation they need, that there are sales and service opportunities available within a reasonable distance from where they live. And so the justification for these laws is not protectionist of a dealer but, instead, of the consumer. And look what's going on right now, there are probably somewhere between 150,000 and 200,000 cars in Nebraska subject to recall right now. And the network of accomplishing that is my dealers. And my dealers are tracking people down; they're out there trying to get the work done and do the work. It's a loss for the

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

Transportation and Telecommunications Committee  
January 30, 2018

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manufacturer to do that; it's a profit center for my dealer to do that. My dealer wants to do your warranty work, they want to do the recall, they want to do that kind of thing. And who's the beneficiary of that? The consumer...the consumer that bought that vehicle that then ended up in a recall situation. Nobody intended on it; that's where it is. And I can...and I don't want to... [LB830]

SENATOR HILGERS: (Inaudible) and I... [LB830]

LOY TODD: ...disparage anybody's product, but I can tell you Tesla is not immune. Okay? High satisfaction, but not such great scores on other little things. [LB830]

SENATOR HILGERS: Well, so I appreciate the history. So I think that's important. I just want to briefly follow up, if I might. You mentioned two things that I've heard that I want to make...and there might be more than two things. So you mentioned warranty work mandated by statute that dealers have to perform, as well as recall. The recall...is recall services, is that something that's mandated by statute for dealers? [LB830]

LOY TODD: No, not by any law that I know of. The only thing that would happen is, if it also overlapped with warranty work. [LB830]

SENATOR HILGERS: Are there any other...any other mandates on dealers, for the type of consumer protection or services, that they might have to offer by statute? [LB830]

LOY TODD: I'm trying to think of anything right off hand. Obviously, if they want to...if you want to terminate, there is a statutory provision that there has to be someone there to pick up the pieces, basically someone to provide that continuing service. And also there are statutes that require you to have a service facility within the county where you're located. That's also required by statute in order to get a license so that there is repair work and those kinds of things available, are two that come to mind. [LB830]

SENATOR HILGERS: Okay, and so those...and the way you read the bill, at least the green copy, those mandates, for lack of a better word, would not apply to someone who fell under the exception carveout here? [LB830]

LOY TODD: Oh, no. I think if they got a dealer license, they'd be subject to the same sort of things. I just don't know how it would work because they're not a franchisee. I mean our whole law is set up toward, for a franchise or in a franchisee, doing these kinds of things. And Tesla is well known for wanting to have it both ways. In some states they go and say: Well, those laws

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

Transportation and Telecommunications Committee  
January 30, 2018

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don't apply to us; we're a manufacturer...and even so far, in some instances, as the lemon law not applying. But... [LB830]

SENATOR HILGERS: So you think...I'm sorry... if LB830 did pass, do you think that, as is, would those laws, mandates for lack of a better term, would they apply to a company like Tesla? [LB830]

LOY TODD: I think, to the extent that the statute referred to a dealer, it would apply. I think, to the extent it talked about a franchisee, I think there would be nothing. [LB830]

SENATOR HILGERS: Oh, I understand. [LB830]

LOY TODD: And so a total rewrite may be the thing but, as I indicated, our fear is not this immediate presence. Our fear is the manufacturers will absolutely find a way around this because they want to find a way around this. And here's what they're going to be beating on you about in the future. I'll predict your future. If this passes, then the Alliance of Motor Vehicle Manufacturers, and all the big three, and the rest of them are going to say: You're letting them do it; we want to do it, too. If you're letting them do it, we should get to do it. We should have the same rights. And you will end up with this two-tier and inefficient system for the consumer. [LB830]

SENATOR HILGERS: Thank you, Mr. Todd. Very good. [LB830]

SENATOR FRIESEN: Thank you, Senator Hilgers. Any other questions from the committee? Seeing none, thank you, Mr. Todd. [LB830]

LOY TODD: Thank you. [LB830]

SENATOR FRIESEN: Welcome. [LB830]

JOHN LINDSAY: Chairman Friesen, members of the committee, for the record, my name is John Lindsay, J-o-h-n L-i-n-d-s-a-y, appearing on behalf of the Alliance of Automobile Manufacturers. The Alliance is a trade association representing 12 of the world's leading manufacturers, including BMW, FCA--or Fiat Chrysler, Ford Motor Company, General Motors, Jaguar Land Rover, Mazda, Mercedes-Benz, Mitsubishi, Porsche, Toyota, Volkswagen, and Volvo. We're here today in opposition to LB830. As automakers, we work...we work very closely with our dealer network. Sometimes it can be a contentious relationship, it can be a very good working relationship, because we have different interests. But the reality is that that relationship

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

Transportation and Telecommunications Committee  
January 30, 2018

---

is governed by a complex set of statutes, not just in Nebraska but throughout the country. Those rules can sometimes be horrors, in our view. Sometimes we've been before this committee. I think the auto dealers had a bill that we worked with Mr. Todd on to reach agreement, but had it before this committee last week, perhaps the week before. And some of these...some of these laws can be onerous for manufacturers, but it works. In the marketplace where competition between brands is as fierce as it is in automobiles, all the participants must at least operate under the same set of rules. LB830 would provide differing sets of rules. The...well, the testimony we've heard has been primarily about Tesla, but we would suggest that this bill is much, much larger than that. There are certainly...right now it's true that this bill would allow Tesla to market directly to consumers and, at the same time, prohibit all of our manufacturers from doing the same thing. It would also open the door for any number of manufacturers, from start-ups to existing manufacturers...and right now there's 23 manufacturers--significant manufacturers--who operate, sell cars in the world but not in the United States. This would open the door to them. It would open the door to start-ups that we haven't envisioned yet, that would be able to compete on a different set of rules than we must compete. It would open up the doors to some of the large tech companies that are spending a lot of money right now trying to get into the automotive industry. Again, they would be able to compete under different rules than we are required to compete. LB830 would split the marketplace. You'd have those that operate under the existing model and those that would be able to operate unconstrained with the existing model. We think that is fundamentally unfair. The...while Tesla is certainly a niche company, it's not unique. Their product, the zero emission vehicles, are in the marketplace. There's a significant number of them. Traditional automakers currently offer 32 different zero emission vehicle models for sale here in the United States, including pure electric vehicles like Tesla's current three vehicles. Seven more zero emission vehicles from traditional automakers are expected this year, dozens more in the production pipeline, with over 70 models of zero emission vehicles projected by the model year 2021. Zero emission vehicles come in all shapes and sizes, from...everything from minicompacts, two-seaters, subcompacts, compacts, sedans, minivans, station wagons, SUVs. There's a wide variety of opportunities for zero emission vehicles that are available and will continue to be available. Because of that, it doesn't make sense now to create a different path to the marketplace for manufacturers who are offering, fundamentally, the same product. I need to make...remind the committee that there is nothing, other than Tesla's self-chosen business model, there is nothing that prevents Tesla from franchising in the state and selling their vehicles here. And all they're required to do to sell vehicles in Nebraska is to simply comply with the rules that every other manufacturer complies with. I'd be happy to answer any questions, Mr. Chairman. [LB830]

SENATOR FRIESEN: Thank you, Mr. Lindsay. Any questions from the committee? Senator Bostelman. [LB830]

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

Transportation and Telecommunications Committee  
January 30, 2018

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SENATOR BOSTELMAN: Thank you, Chairman Friesen. Mr. Lindsay, I'm reading back here, and you made a comment to it. I don't know if you have any other information. It talks about...in the statement it says that this would be motor vehicles, motorcycles, or trailers. Is that any motor...and it's not in the stats here. I'm reading something else I have. [LB830]

JOHN LINDSAY: Oh. [LB830]

SENATOR BOSTELMAN: So it's any, not just vehicles, automobiles. So we're talking motorcycles or any type of trailer coming in from this country or other countries. Is that what...was that understanding what you were saying before? [LB830]

JOHN LINDSAY: That's...well, that's how...yes, that's how you read it. Now we represent automobile manufacturers, so I don't have information regarding the others. But as I read it, yes, it would expand there. [LB830]

SENATOR BOSTELMAN: Okay, thank you. [LB830]

SENATOR FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? Seeing none, thank you for your testimony. [LB830]

JOHN LINDSAY: Thank you. [LB830]

SENATOR FRIESEN: Welcome. [LB830]

MICKEY ANDERSON: Good afternoon. Chairman Friesen and members of the committee, thank you for giving me the opportunity to speak. My name is Mickey Anderson and, along with my sister, I am the co-owner of Baxter Auto Group. [LB830]

SENATOR FRIESEN: Spell your name, please. [LB830]

MICKEY ANDERSON: M-i-c-k-e-y A-n-d-e-r-s-o-n. So interestingly, the Baxter Auto Group, my company, like this legislation we're discussing, is 60 years old. And I hope, just by virtue of being 60, it doesn't mean that we're out of touch or obsolete. We currently employ 1,500 Nebraskans at our 17 Nebraska dealerships, and we represent ten different manufacturers. I've served on multiple dealer councils for the different manufacturers we represent, and one thing I heard in the opening remarks from Senator Vargas that I just want to clarify is this notion that kind of the conditions that existed back in the '50s, this kind of contentious relationship between

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

Transportation and Telecommunications Committee  
January 30, 2018

---

manufacturers and the communities that are served, is somehow different today than it was back then. It is dangerously naive. I can assure you, from being on these different dealer councils, that Tesla is not alone in their recognition that avoiding having a local franchise allows them to maximize revenue and minimize investment in the communities that they're selling. And every manufacturer recognizes that. Every manufacturer, like Tesla, recognizes that maintaining local franchises requires a bit of a profit share. So not only do they get to make corporate profits, but they're also reinvesting in the communities that they're selling and servicing vehicles in. If you could recapture that, or claw that back, it would improve every manufacturer's bottom line. And to kind of echo the remarks of Loy Todd, from the Car and Truck Dealers Association, I would tell you that, if this loophole, or accommodation, is allowed, you can expect to have a lot more folks coming in front of you in the coming years. And I can tell you, from working in the car business my entire life, I don't think that that's what serves Nebraska, or any--to be honest with you--any community or any consumer the best. It's really not about the sales. So we...in our company, interestingly, last year in Nebraska we sold about as many cars as Tesla sold nationally. And I can tell you it's not about the sales model. We sell on-line, we sell electric vehicles, we'll deliver...we do essentially everything that Tesla offers. And it's not about electrification or technology. Tesla has got a great product, but they are certainly not the technology leader in the automotive space. The bigger companies, that have bigger R and D budgets, are doing so many more innovative things, so it's not how technology plays. Well, we sell electric vehicles through almost every manufacturer that we represent and, over time, that will probably grow. We also sell compressed natural gas vehicles and flex-fuel ethanol-powered vehicles, and we sell diesel vehicles. We sell hybrids, and we're even selling now fuel cell vehicles. So there's a lot of neat technologies that are out there. But it's not about sales. It's really more about the ongoing support of the vehicle. The average age of the vehicle on the road today is approximately 11 years old. So it's north of that, but the average vehicle out there is about 11 years old. If these Teslas are of the quality that I understand them to be, they're going to be around for a long time. And they're going to be handed down and resold, and it will end up, you know, kind of throughout the community. And those people will be using them the way I use my car. I have six kids, and I use my car to take them to soccer practice and school, and drive around the city. It's really important that we have a network established to make sure that those cars are safely maintained, to make sure that I have good confidence that the car will continue to be serviceable and, that if I invest my hard-earned money, especially again for...think about a working class, used-car customer. If I invest in this vehicle, that I can obtain parts and that I can continue to maintain it and use it to move my family around in. So this really becomes about service. The service piece is the most expensive piece. I just built two new dealerships here in the city of Lincoln. We opened them three months ago, and the combined investment from my company here in Lincoln was about \$25 million. Most of that is for lifts, and for service bays, and for parts storage, and for the storage lot to hold and maintain these cars. There's a big investment involved. But it's more than just the capital investment. There's a workforce investment that's really important. And in Senator Vargas' district, we're investing a lot of money

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

Transportation and Telecommunications Committee  
January 30, 2018

---

right now with students at South High School, to pull them through Metro Community College's south campus, train them to fix these vehicles so that they will be there in the future to maintain the fleet that operates here in the state of Nebraska. That's a big investment, and I will tell you we demand that our manufacturers participate with that. Toyota just made a...just committed a significant amount of money to support that very program, to take our young people, teach them how to fix these Toyota and Lexus products, and then make sure they have employment at our dealerships, and for a long time. So there is no doubt that our current franchise model requires a significant commitment to the communities that they hope to sell and service vehicles in. There's no question that it has a...it kind of has a deterrent effect for anyone that would want to be kind of a tourist, to hope to maybe sell a few cars and hope to be making some money, and maintain whatever minimal presence they possibly need to, to maximize their revenue. This bill certainly safeguards the state from that behavior, and I would tell you, on behalf of my 1,500 employees, and the thousands and thousands of customers that we represent, I mean that's a really good thing. I think it's as relevant now as it was 60 years ago when it was made. [LB830]

SENATOR FRIESEN: Thank you, Mr. Anderson. Any questions? Senator Hilgers. [LB830]

SENATOR HILGERS: Thank you, Mr. Chairman. And thank you, Mr. Anderson, for being here. I wanted to follow up on some of my comments with Senator Vargas earlier. I sort of outlined two of my concerns with the bill: One is this idea that you can have an unequal playing field, right, where you've got someone competing and spending less, or being able to undercut books because they have a different...there's a different regulatory model, right? And then on top of that, this idea that when you're making significant investments, you want to do it when you've got a stable...stable rules. And that you know that, over a 10-, 15-, 20-year time line, your rules aren't going to change on you. So what I...I guess my question for you is...certainly Baxter has been very involved in this community. You've touched on a couple of these decisions that you've made on the investment side. Can you speak to how...how some of the rules have influenced your decision-making process for making investment in the community? [LB830]

MICKEY ANDERSON: Yeah, absolutely. I mean...so I'm a second gen dealer, and I can tell you that my father, before my sister and I, and then my sister and I, going forward, you know we really are making decisions that can only be justified by having a very long view. So when you build a dealership like the ones that we just completed here in Lincoln, or we're building three right now in Omaha, you have to have confidence that you can support those for decades to come because that's where the payback really lies. It's a significant investment, and I will tell you that this law gives us the confidence to make that investment. And you need only look at...it was referenced before, but I just want to remind you all that, in bankruptcy, when this law no longer was applicable or had been suspended relative to the two bankrupt parties, the first thing they did was trim their dealer count, and primarily in rural communities like we have here in Nebraska, because they felt that the investment that they needed to make to continue to service those

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

Transportation and Telecommunications Committee  
January 30, 2018

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communities didn't really justify...it wasn't justified by the number of sales that they were achieving. So it is this law that allows us to continue to reinvest. [LB830]

SENATOR HILGERS: Thank you. [LB830]

SENATOR FRIESEN: Thank you, Senator Hilgers. Any other questions from the committee? Seeing none, thank you, Mr. Anderson. [LB830]

MICKEY ANDERSON: Thanks very much. [LB830]

SENATOR FRIESEN: Welcome. [LB830]

THOMAS McCASLIN: Thank you, Senator Friesen and committee. Thomas McCaslin, T-h-o-m-a-s M-c-C-a-s-l-i-n. In June of 2009 I was a victim of GM in their bankruptcy. The bankruptcy suspended our franchise laws that were put into place to protect us. Because I'm a small town, rural dealership, they decided that I was not viable enough to move forward with the new GM. We had Chevrolet, Buick, Pontiac, and Cadillac franchises. At this point, we had been in business for...in Broken Bow at our current location, for 35 years. We were profitable, and we were selling new GM vehicles, along with many other makes and models of used ones. Not only did we sell them, but we also serviced them. When GM sent me the letter informing me that they were no longer going to honor our dealer agreement, many things went through my mind. What are we going to do? What are my employees going to do? What are my customers going to do? Not only are the 13 families that I employed going to be without a job, we have thousands of customers that, where are they going to go now? A business that they had trusted to take care of them after they had purchased a vehicle, and service from it, was no longer there. At this point the word spread through town, and many of our concerned business people and citizens of our small town, came to me and said--excuse me: What can we do? Broken Bow rallied behind me. I don't know if anybody remembered, in 2009, the commitment that Broken Bow made to the dealership. But everybody got behind me, we sent letters to our Senators, we got our voice in Lincoln. And the next thing you know, they reinstated us. So it was because of the great group of people, and the people in Broken Bow that got behind us, that put us back in place. One of the things that we can't compete with, especially rural Nebraska, is a factory store. And with a factory store, I can promise you we'll be the first ones that they come after. [LB830]

SENATOR FRIESEN: Thank you, Mr. McCaslin. Any questions from the committee? Thank you for your testimony. Welcome. [LB830]

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

Transportation and Telecommunications Committee  
January 30, 2018

---

JOHN ERNST: Good afternoon, Senator Friesen and committee. My name is John Ernst, J-o-h-n E-r-n-s-t. I'm from Columbus, Nebraska. I'm the dealer principal of Ernst Auto Center and Ernst Toyota. I'm a third generation dealer, and we've been in business there in Columbus--my family--for 59 years. I'm also presently, currently the chairman of the Nebraska New Car and Truck Dealers Association. Thank you for having me today. The traditional manufacturers, for many years, have been trying to reduce the number of small and rural dealers. Nebraska, like virtually every state, has franchise laws which level the field and help keep from terminating dealers. My family has been serving our community and customers with sales and service of not only the vehicles which we sell, but used vehicles of every type, for three generations. As difficult as it is to understand, some manufacturers would like to compete directly with their dealers or simply eliminate them altogether. As proof of that, during the bankruptcies of GM and Chrysler, the franchise laws were suspended as being preempted by federal bankruptcy laws. At that time GM took advantage of the opportunity to eliminate my family's Cadillac franchise, and terminated every Cadillac dealer between Omaha and Denver. We lost our Cadillac franchise, and our customers lost their source of sales and warranty service. We employ over 100 people in our dealership and provide good pay and benefits. We create sales and income tax, we pay property taxes and support our community in many ways, directly and indirectly. The franchise system has served our customers, our employees, and our communities well. We fear that allowing factory stores in Nebraska will eventually open the door to allow any manufacturer to compete with its franchise dealers. You can't possibly compete with your own factory store. A Tesla exemption on the franchise laws will open the door for the other manufacturers to begin the process of demanding an equal opportunity to open factory stores. Thank you for your time and your consideration. [LB830]

SENATOR FRIESEN: Thank you, Mr. Ernst. Any questions from the committee? Seeing none, thank you for your testimony. [LB830]

JOHN ERNST: Thank you.. [LB830]

SENATOR FRIESEN: Welcome. [LB830]

RON SEDLACEK: Chairman Friesen and members of the Transportation and Telecommunications Committee, for the record my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k. I'm here today on behalf of the Nebraska Chamber of Commerce, in opposition to the legislation before you. And what I'd like to do is try to bring something new to the table. I had a number of written testimony that essentially is the same that you've heard already, and I don't want to be repetitive and waste your time in that regard. Rather try to bring out some other reasons why we, as a state chamber, have concerns regarding the legislation. And we'd like to talk particularly about some of the economic advantages of the longstanding franchise model. That's always been

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

Transportation and Telecommunications Committee  
January 30, 2018

---

the preferred way of doing business in the industry, and there's a number of reasons why we would support that model. Try to give a little bit--a short list first, and that is that dealers, we believe, facilitate cost competition in all aspects of the car buying and ownership process. They give that opportunity throughout the state of Nebraska. You may have to drive a little from one dealership to another, but there's always the opportunity to see what competition brings to the table. And it's in all aspects because one dealer in one area may have a different financing option, local financing and so forth, than another dealership can have. So there's that effect on the economy. Secondly, dealers really do support local communities in ways that an out-of-state manufacturer doing direct sales may not. The fact of the matter is that dealers are invested in their local communities, they enrich the local communities by creating jobs that generate additional revenues, primary as well as secondary. Third, dealers provide local support, local service to car dealers that some automakers can't provide with limited operations. And we feel that there is a particular issue in regard to not only warranties, but also recalls. Dealers are more than likely to identify problems and to report those problems. That may not happen as often with a direct manufacturer because, although dealers may see a profit in that regard, the manufacturers, as I think Loy Todd had mentioned, it's always a losing proposition. But when we look at the industry as a whole, and these are two-year figures that were provided, dated in 2016, including all of 2016, it's estimated the number of new vehicle dealership employees in Nebraska rank what is about 7,942, the average number of employees per dealership around 50, and the average earnings...annual earnings per dealership employee is over \$50,000, and the annual payroll of new vehicle dealerships, in total, is about \$410 million. So we're looking not only at the effect on local communities, but overall effect on the state: the sales tax revenues, corporate tax revenues, and payroll taxes. And our concern is also that, we begin erosion of this system, it's going to continue and, in the future, there will be economic dislocations that follow. And we're concerned about that from an economic standpoint throughout the state. And that's my testimony. [LB830]

SENATOR FRIESEN: Thank you, Mr. Sedlacek. Any questions from the committee? Seeing none, thank you for your testimony. [LB830]

RON SEDLACEK: Thank you. [LB830]

SENATOR FRIESEN: Any others wish to testify in opposition to LB830? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Vargas, do you wish to close? Welcome back. [LB830]

SENATOR VARGAS: Thank you very much. That's why I didn't go too far. Okay. So furiously taking notes. This way we can have a good discussion. I have a lot of different things I want to be able to respond to, to be able to dispel some myths. First of all, I want to start off again by

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

Transportation and Telecommunications Committee  
January 30, 2018

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saying that the intention of this legislation is not to curtail or change the current model from scratch. It was an attempt to be a compromise. That's very much modeled off of what has happened in other states, where there has been some level of compromise around, not a two different regulatory frameworks, but that Tesla or a new auto manufacturer would be treated the exact same way as a dealer under this law. They would be held to the same rules and regulations. The only difference is that, in addition to them being able to be following everything in the law, they would also be able to directly sell. And we are more than happy to make the language more clear, so manufacturers current can't recreate new laws to skirt the law, which is what we heard about--this inherent fear again, and a fear based off of something that hasn't happened, but a real fear that something might happen. We're happy to work on language that would avoid any of that happening; we can do that (inaudible). And also, we wouldn't be the first ones to do that. There have been other states that figured out mechanisms to make sure that we are not opening up the market to something that, again, hasn't happened, but people are afraid might happen. We heard a conversation, or some testimony, around if, you know, this is the most efficient way. And so I think there's a little bit of just a question I have in my head on whether or not it's the most efficient mechanism right now to use the dealer model, not necessarily the current model, but whether or not this model works for a new model, a business model like Tesla's. If it is truly the most efficient, and if it's also the best for consumers and also the best for the bottom line, let's say, of auto manufacturers, then if we were...if the law was to change, and people were to, let's say, have the choice, they would still ultimately...some manufacturers would choose to then work with the dealers because it's the most economical for them. And I think that is what we've heard in some of the testimony, that it is...it is too hard to build an entire...they're not going to do it in every place. You're not going to do it every rural place. You may do it in some city centers but, even if it's been attempted in some places, why haven't we seen any of these...General Motors creating direct sale across the country? Or why haven't we seen them introduce legislation in states at a very, you know, rapid pace across the country in different states? I mean, we have many different constituents come for small issues, trying to then bring legislation to then make a change. They haven't come to then make that change and I believe, from what we heard, is they're happy with the model that currently exists for them, which is great. We don't want to touch that model. But if it doesn't exist, doesn't currently work for a new auto manufacturer that has a different business model, why are we then trying to then fit this square peg into a round hole? Round. Did I...sorry...round peg into a square hole, whatever. Why are we trying to do that? It doesn't really make sense to me. And I think we're hearing on one side from consumers, saying that this is something that they want. They want more access to something, want more servicing; they want the choice. But then we're seeing from dealers that there's a whole other side of this, where they're really afraid. Again, we're willing to work on that. Another piece that I heard is that this is to protect the consumers and the community; it's not to protect the dealers. These laws were inherently created, and I think this is where the back and forth, Senator Hilgers, you had was...came from the dealers. For whatever the reason was, we can't necessarily surmise. But it...one component of it was to then make sure that it wasn't individuals or manufacturers

trying to take advantage of the system. However, what we're seeing over the last 50-60 years, that things have changed, not necessarily in that relationship, but in having a new market. We have new markets emerging all the time. Amazon chooses to then sell things directly on-line. Like I said in the example before, Apple chooses to sell its product directly. The markets do change, and the rules have changed to then make sure that consumers have a choice, or there weren't rules in place, in the first place, that make it so difficult for an individual to then have that choice. And so I think that this notion of it's to protect the community, when we had community here saying that they want something like this available to them and they want the choice, it doesn't seem to completely mix; it doesn't add up, to me. The second piece is around recalls. I do want you to know that what we have seen the data show, as Tesla has the highest rate of completion of recall services of any auto manufacturer. It is not the intention of Tesla to then skirt any system or not be held to the same regulations...quite the opposite; they want to service their cars. Why? Because it's in their best interest to then make sure that their customers are happy, which is what we heard...they're happy. They just want the servicing to be more amenable to them and it be convenient, as opposed to not driving three and a half hours to go to a service station outside of their state. And they're actively making sure that they address recalls because, again, it's their product. Who else is going to know their product better than the auto manufacturer themselves, especially if the product is newer and is along the lines of this newer wave of electronic vehicles? And again keep in mind, not that we're seeing an evolution of some auto manufacturers have both electric vehicles and also have gasoline vehicles--combustion. This is the one, the one that, in the last 50 years...the American, most successful manufacturer that is only electric vehicles. And so this is one of the reasons why we're coming to this notion of, how is the model different? It's because the model that they've been operating off of and have created, and believe is the best for consumers in terms of price point, servicing, and knowledge of their own product. Let's see. There's a question about opening the doors. Again there's been significant research in all the states that have had any legislation passed. We haven't seen any negative impact to the dealers. I'm not saying there's not a cause for concern from dealers afraid of what might happen. But we're not seeing any impact on whether or not dealers are being impacted negatively or auto manufacturers are trying to then find an avenue to then directly sell, as a result of changes in legislation that, you know, makes a way for new auto manufacturers. There's this notion of nothing is stopping Tesla from franchising with dealers. Procedurally there's nothing stopping Tesla from franchising with dealers. But whether or not it's in the best interest of Tesla, a business, to then utilize the dealer model, or work with a dealer for their product, is a whole other question itself. What we've seen in consumer reports, some like secret shoppers, is that the dealers...people are coming in to try to buy an electronic vehicle, and they're then talked out of buying an electronic vehicle. We've seen that...I think it's...the rate is about 30 percent that we saw from a couple different research points, and people were being forced to then not purchase an electronic vehicle. We have to remember that, if servicing really is an important aspect of the dealer model, which I understand it is, these electronic vehicles...and if it's an entire auto manufacturer of electronic vehicles, it is...servicing is not a component of their profit model that

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

Transportation and Telecommunications Committee  
January 30, 2018

---

they're really pushing forward. And I think we heard that from Tesla. So it's really not in the best interest of a dealer to be selling a car that's inherently needs to be serviced, that doesn't need to be serviced as much as a combustion vehicle. So is it in the best interest of Tesla to then make their business model fit and work within the dealers, if they're not really getting the same competitive advantage? I don't see that. I also think it is...I know we heard a little bit around there's nothing stopping us from franchising with dealers. I think it's a little naive of us to believe that society, the economy, and market and innovation is the same as it was 60 years ago. Things have changed, and either I think we're going to change with it and get with the times and figure out, as a state, especially in Nebraska where we are supportive of businesses and doing everything we can to be innovative...or we're not. I really, truly don't want us to be the last state that goes down a route to then figure out a mechanism to allow consumers to have the choice for electronic vehicles, or new auto manufacturers under this model. And again, the intention is to provide a pathway for people that have a different business model, that want to be held to the same regulatory framework that people are currently being held, as dealers. This question about servicing, I...again, this is back to servicing vehicles is part, inherently, of a model of combustion gasoline vehicles. For electronic vehicles it's really not part of the model. The intention really is to get the same price point and have people be able to choose that car and it not have to be serviced that much. And what we heard is Tesla is going out of its way to make sure that they are servicing it, so that they're happy. And that's something we want to make sure to keep in mind. Who's role is it, and this is more of a question. I think we heard a little bit around the changing in the markets, making sure that auto manufacturers are not going to potentially undercut dealers. And once again, that is not the intention, but I do believe that...is it necessarily our role to then look and continue to decide who should be the most successful under the current model? Rather than look at outdated regulations, review them, which we are doing in a lot of different other committees for different businesses, and figure out...is it the right model for where we currently are right now? And if it isn't, how can we make it better to meet the emerging markets of these new, different businesses we're seeing? I think that's where we are right now. Let's see...we buy on-line. One real important aspect of this, and you heard, is that this car...we're buying it directly on-line. Part of these new, emerging markets is not something new we're seeing in just auto manufacturing. We're buying things on-line all the time. So again, why are we trying to create a framework to then fit this specific, new auto manufacturers like Tesla, to then fit the model that we currently have, instead of figuring out a mechanism to then help them be able to operate and be effective and grow their business? In conclusion, I believe that we should be doing everything that we currently should be able to, within the statute and the law, to encourage American innovation and entrepreneurship, and not discourage it through outdated regulations for new and emerging businesses. I think what we are hearing is that there's a need to change, or look into, this legislation and meet the needs of both sides because, if we're not, there's going to be a whole slew of consumers that don't have the choice to then buy a new Tesla, or other auto manufacturer that has a different model, and they're going to buy it in another state. And I believe, in the next three-four years, we're going to see more states follow suit and find a compromise, and I would

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

Transportation and Telecommunications Committee  
January 30, 2018

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really hate for Nebraska to be the last one to do that, because I don't believe that we want to be the last ones in providing innovation in our state. And I think what we currently...we still hear from the Governor's Office, and we heard in the State of the Union, is we want to be on the forefront of supporting businesses and being entrepreneurial. And I believe the only way that we can do that is by taking time to review statute and making it work for new and emerging markets. I welcome any questions that you all have. [LB830]

SENATOR FRIESEN: Thank you, Senator Vargas. Senator Hilgers. [LB830]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator Vargas. I think there's been a very illuminating discussion. I want to touch on a couple points, if you don't mind, that you just raised,... [LB830]

SENATOR VARGAS: Let's do it. [LB830]

SENATOR HILGERS: ...sort of in the order that in which you took them. One is I thought...I thought two things: one thing I thought I heard you say and then one thing that I heard from the testimony. One thing I thought I heard you say was: Hey, look. If this was such a...if this was such a good thing, why wouldn't, or why would've we seen the manufacturers want to change these laws, like if these...if this was something they really wanted to change? But isn't...but I heard the testimony from Mr. Todd that Ford tried to do this in 2000, and the reaction was: Holy smokes, they're going to try to undercut us and wipe out these dealers. So we need to go and make sure that that doesn't occur, and protect our communities. So can you...is...did I...I think I heard that testimony right. Can you comment on that? [LB830]

SENATOR VARGAS: Yeah. [LB830]

SENATOR HILGERS: Because we have seen it. [LB830]

SENATOR VARGAS: Yeah. I mean, to my knowledge, we don't have any legislation that Ford or GM has brought forward, in the last several years, that says they want to direct sell and then not work within the dealer model. I'm not saying that...that there might...the fear might not be there and, obviously, the fear for change in their...the way their model works...their business model for dealers works. But we haven't seen that legislation, in the state of Nebraska, come. We haven't seen them...I mean I haven't heard that from them in the last couple years. It's not something that, from my time watching the Legislature, it become an issue. And it's not something that we're seeing in other states. [LB830]

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Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2018

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SENATOR HILGERS: So I guess if you and I...so if I'm hearing you correctly, you would say: Hey, look. I'm not denying that the manufacturers may want to sell directly but they haven't tried to change the law in Nebraska recently. Is that...is that fair? [LB830]

SENATOR VARGAS: I think it's more fair to say we haven't seen evidence. And we have to be as data driven as possible. There has been no evidence, that I'm seeing, of substantial changes in the behaviors of auto manufacturers to try to then become directly selling to consumers across the country, in a way that it is clearly apparent and also is as a result of changing this specific legislation to accommodate and sort of be up with the times for a new auto manufacturer. We just haven't seen it. So based on what I've seen, I'm not...I'm...history...I'm looking at the history. I don't believe that that's necessarily what's going to happen. That doesn't mean that people can't have the fears or concerns because it's their market, but we just have no data to support that notion. [LB830]

SENATOR HILGERS: So that sort of leads me to my next point, which is this idea that we haven't seen yet, in other states, that, you know, this big erosion of dealers in rural communities, for instance, or just the erosion in the dealer base. And so...but I want to tie that in with some of the testimony we heard from some of the dealers themselves, and they put a little more detail on some of the points I was making. Generally in your opening, which is these are significant commitments, I think...I think I heard, from one of the testifiers, \$25 million. I mean those things...when you kind of invest those kind of dollars, those things don't pencil out in three or five years, right? That is a 20-, 25-, 30-year time commitment, or more, in order to see the return on investment, to justify it. So I get...I understand what you're saying when you say we want to be open for business. But that does...that's not exclusive to just businesses outside of our state that want to compete; it's also to those that want to lay down significant investment that are 20-, 30-year time horizons. So can you sort of...can you kind of combine that fact, which is, hey, we need certainty, or dealers testifying we need certainty over 20-30 years, with this sort of uncertain idea that, yeah, maybe we won't see anything in three years or five years but, I mean, what does the world look like in 20 years if we go down this road? [LB830]

SENATOR VARGAS: Yeah. I mean I'll do my best. Again, this is prefaced with...I want to pacify the concerns of dealers that, if there's a way to then codify into law, or protect, to keep the regulatory model the way it is for those that don't want to change it, but then also provide an avenue for people to then qualify to be new auto manufacturers and directly sell, and make sure that there's no loophole to hold the manufacturers to entering the market in some way, we'd be more than happy to work on that. Now to answer your question, I mean there have been, let's say, instances. I think there was a case. There was an instance in Texas in the late '90s where GM was trying to directly sell. It was either GM or Toyota. And they were trying to directly sell, but it didn't work. Their model, the way it existed, was really predicated off of the way that they work with dealers, and the quantity of cars they sold. That again, to my knowledge, that is what

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

Transportation and Telecommunications Committee  
January 30, 2018

---

happened. And so they realized directly selling didn't work for them, which I...again, I'm making a huge assumption. That's why we haven't seen them lobby so hard in state legislatures, to then directly sell, because it has worked for them. So they choose that model, and it's great for them, and it's the one they're operating under because it's the statute they have to operate under. But for new auto manufacturers, if it doesn't work for them because they haven't built up to that capacity to be able to then do that type of production, we're forcing them to then operate that way. That's the part that I'm...doesn't sit right. And hope...I hope it gets a little bit to your question because I can't say whether or not, in three to five years, there's going to be some huge change. In three to five years we could see absolutely no auto manufacturers again, because we haven't seen that...that like any, or that I can see in this state or neighboring states, trying to do this. We could still see that happening in three to five years. I can't say whether or not more will...some will do it. But it will not be as the result of the variables of changing legislation to allow Tesla, which we haven't really seen, so I don't think that's something that we could say is going to happen, based off of the data that we've seen in the past. Now under this...what I heard from some individuals, some dealers, around during a time of bankruptcy, I think that's a very specific, you know, nuanced area, but does...is outside of what we're talking about for this specific statute. Didn't come as a result of that; that came as a result of different conditions. Yeah. [LB830]

SENATOR HILGERS: So that is the perfect segue to my last point,... [LB830]

SENATOR VARGAS: Yea. [LB830]

SENATOR HILGERS: ...although I will say I do struggle with sending a signal to businesses in Nebraska, or other businesses who want to invest in Nebraska, spend significant dollars to invest in Nebraska. And I think it's important to send...send a signal of stability to our rules and regulations over that kind of time horizon. I do struggle with what signal it sends...just sort of undermine that system. But I think that's a good segue because I...to my last set of questions, if that's okay, Mr. Chairman. You pointed out a couple times where this is...we need to get with the...or I mean I'm not trying to quote it. [LB830]

SENATOR VARGAS: I said it that way, yeah. [LB830]

SENATOR HILGERS: But I'm trying to describe it. You're...let's get this idea of like let's get with the times. Let's reward innovating. And I did...I absolutely agree, from everything I've seen, Tesla is a very innovative company. And I...as I told Mr. Witt, I mean I think what they're doing in the car technology field is incredible, and it's really amazing what they're doing. I mean the technology that they're doing and the pace of innovation is amazing. But...but I don't think that is the same thing as saying that this business model is innovative, right? The idea of cutting out the middleman and selling direct to a customer and keeping all that profit to oneself is sort of a...it's

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

Transportation and Telecommunications Committee  
January 30, 2018

---

sort of a business model that is as old as there's been capitalism. And so when it...when I view the point of the bankruptcy, it's not that this is the same set of laws and, if we change the law, then all of a sudden everything is going to get wiped out. What I...as I took the point on bankruptcy is: Hey, these rural dealers, especially...boy, once we start selling direct, these manufacturers are going to say forget it. Right? [LB830]

SENATOR VARGAS: Yeah. [LB830]

SENATOR HILGERS: And so my question is then, as we see in other places where, you know, we've seen significant disruption in impact on Main Street, like through Amazon, for instance, we hear a lot of, you know, stores closing in small-town Nebraska. From a policymaker perspective, does that give you any concern to say, hey, look, if we do this, we are undermining our greater Nebraska in our rural communities? [LB830]

SENATOR VARGAS: Senator Hilgers, so whether or not this undermines, we...we don't know. I truly believe that, all right, because we...we don't have data that tells us that this is undermining. We make decisions all the time. You...then, by that same standards, when 50 years ago, or 30 years ago, when we...1970s, when this was put into...people could say that the dealers were potentially undermining the auto manufacturers by putting in, and that's not the case. I think they were trying to make their case for what is, at that moment, better for consumers in that moment, or better for...for stability in...at that time. Stability does...isn't a constant, right? At least in my interpretation. And what we are seeing is stability in this market doesn't necessarily mean everything stays the same; it means are we always reevaluating how new and emerging markets are going to be able to be successful, while other ones can also be successful. Right? That...that it's not an either/or proposition; it's not black or white. I truly believe that's what this is. I understand the fear behind people, that they're afraid. But we don't see that being...at least again, I don't see, and you can look. Again, in the last ten years, we haven't had legislation brought for people trying to direct sell. And you would think that GM, with the millions of dollars that it has, and its production at 10 million, if it was a profitable, you know, way to go down, it would have potentially done it. I mean we see people do that all the time here in different...for different reasons, trying to find better ways to support business. But we're not seeing that. So I don't think, when we talk about stability for this, we're talking about keeping things the same, just because. We have to evaluate whether or not it's the best for both the consumer and whether it's also the best for the business. And that's not an easy, black or white answer. And it also doesn't mean that we're either supportive of the dealers, or we're against them when we change something in this law, again, which we're willing to work with. And whether or not this is innovative, I would disagree. I think it, in a sector where you can't direct sell, it is innovative to then work with dealers in other states and find a mechanism to then direct sell, and then not be in direct competition, fully in a direct competition, with other auto manufacturers. And that's what we've seen. In other states, they exist, and they're not being...it's not a...auto manufacturers in other

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

Transportation and Telecommunications Committee  
January 30, 2018

---

states, and some dealers in other states, have actually come to the table to say: Okay, we get it. We're going to grandfather you in. We're going to have you be part of this, and then we're going to close the loop over future ones, because we understand what you're selling us, what you're telling. So I don't think it's fair to say that it's not innovative. I get the process of cutting out the middleman, in your words, isn't innovative. But the process of relooking at whether or not this model is the best for consumers and then also looking at their model and the 80 percent vertical integration that's happening in their business, which is very, very different from a lot of gasoline manufactured cars, is inherently very different. It's an all-electronic vehicle manufacturer that has crazy, amazing vertical integration--80 percent, very different from auto manufacturers, normally. And they want to direct sell because they feel like they know the product the best, which is, again, a very different product, electronic vehicles, than most people. They feel like they can be able to talk to it the best, and then educate people. And they want to keep the price point very, very low, and the same for consumers. That sounds like a big win. And they also...and I'm repeating this...don't want to infringe on the fears that people have, that dealers have, and are willing to work to find a mechanism for them to then coexist. That sounds like a win-win, but that's only if this committee sees it in their policy heart, to then figure out a mechanism for them to exist and to sell directly in the state. [LB830]

SENATOR HILGERS: I appreciate it, Senator Vargas. Thank you. [LB830]

SENATOR FRIESEN: Thank you, Senator Hilgers. Any other questions from the committee? This is what happens when we have two attorneys discuss it (laughter). Thank you, Senator Vargas. [LB830]

SENATOR VARGAS: You know I'm not an attorney, right? That's okay. Thank you very much, Chairman Friesen. Thank you, members of the committee. [LB830]

SENATOR FRIESEN: With that, we'll close the hearing on LB909 (sic--LB830)...or not...LB830, I'm sorry. We'll wait until everybody clears the room before we get started. Okay, we will open up the hearing on LB909. Welcome, Senator Bostelman. [LB830 LB909]

SENATOR BOSTELMAN: (Exhibits 1 and 2) Thank you, and good afternoon, Senator...or Senator Friesen...Chairman Friesen and the Transportation and Telecommunications Committee members, or what's left of them. My name is Bruce Bostelman, B-r-u-c-e B-o-s-t-e-l-m-a-n. I proudly represent District 23, and I'm here to introduce LB909. LB909 is a bill which amends several sections of statutes regarding assembled and kit vehicle titling provisions to provide a process to, and allow for the branding of, certificates of title as reconstructed or replica. This legislation is a result of multiple discussions between my office, the Department of Motor Vehicles, as well as car clubs and individuals concerned with the process and ability to obtain

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

Transportation and Telecommunications Committee  
January 30, 2018

---

title and registration for antique, modified, and specialty assembled vehicles. The DMV has worked with my office on ways to address such concerns on developing the particular process and specific language used in this bill. Currently there are four main categories that are used in determining the titling and registration process that must be followed for an assembled motor vehicle, as shown on your handout--the main handout. What this bill does is further break down the assembled motor vehicle category by separating out the requirements and titling designations available for assembled vehicles. These areas are highlighted on your handout, in yellow. This bill would provide changes for two of the current assembled motor vehicle categories and create an additional new category. An assembled motor vehicle is a vehicle that has been materially altered from its construction by the removal, addition, or substitution of a new or used major component part. Major component part is defined in Nebraska Statute 60-2601, and includes an engine with or without accessories, a transmission, cowl, door, frame, body, rear clip, or nose. The area of the title that identifies the make of the vehicle for titling purpose, purposes of an assembled motor vehicle, is "assembled," and the year is a current year. Let me go back over that again. On your title, the make is an assembled vehicle, and the year is the current year. The issue with titling in this manner is that it does not differentiate between types of assembled vehicles which are dissimilar. For example, under current law, a 2005 van with a transmission replaced and a 1965 Ford Mustang with an updated engine would be treated exactly the same, and both would be titled as a 2018 assembled vehicle. But LB909 would...would change that by distinguishing between assembled vehicles originally manufactured less than 30 years and those that were originally manufactured more than 30 years prior to assembly. This bill would therefore define assembled vehicle as a vehicle manufactured or assembled less than 30 years prior to application for a certificate of title that is materially altered from its construction by the removal, addition, or substitution of new or used major component parts, unless such component part was replaced under warranty by the original manufacturer of the vehicle. The make would be "assembled," and the model year would be the year in which the vehicle was repaired or changed. The assembled vehicle category would cover the 2005 van with a replaced transmission scenario. A new category created by this bill is the assembled historical vehicle. An assembled historical motor vehicle is defined as a motor vehicle which was manufactured or assembled more than 30 years prior to application for a certificate of title, with one or more major component parts replaced by replacement parts other than replacement parts which are essentially the same in design and material to parts originally supplied by the manufacturer, for the specific year. The make and model of the vehicle: the year, make and model would be the original year, make, and model of the vehicle. The title issued would carry the brand "reconstructed," and this category would cover the 1965 Mustang with an updated engine scenario. LB909 would also make changes to kit vehicles, a type of assembled vehicle. A kit vehicle would be defined as a vehicle assembled by a person other than a generally recognized manufacturer of vehicles, by the use of replica reassembling...resembling a specific manufacturer, make, and model, which is at least 30 years old, purchased from an authorized manufacturer, and accomplished...accompanied by the manufacturer's statement of origin. The

year, make, and model would be the year, make, and model the vehicle resembled. The title issued would carry the brand as a replica. LB909 would also set out the specific set of steps and evidence necessary when applying for and obtaining a title in each of these newly created or changed categories. This bill would help individuals and car clubs involved in working with these types of vehicles by separating out and treating differently assembled vehicles, assembled historic vehicles, and kit vehicles. The changes in definition language in this bill also has Nebraska following the American Association of Motor Vehicle Administrators best practices by separating out those assembled vehicles, 30 years or older, from those newer vehicles. There is one small amendment, which you have. The amendment is AM1695. The amendment simply deletes the words "and section 10 of this act" on page 5, line 22 of the bill. Adding section 10 to this portion of the bill is not necessary and may make changes to the...changes that to the law that were not intended by changing where you can obtain certain titles from the county to the state. Removing this language will simply keep the current law and practices in place, in regards to the section. The current fiscal note does not reflect the amendment. Adoption of the amendment would change the fiscal note because it would keep the ability to obtain these titles at the county level, as is the current practice. LB909 is a bill to help make our titling law as convenient and precise as possible for both the individual applicants and the Department of Motor Vehicles. Again, the Department of Motor Vehicles has worked with my office on the concept and language of this bill. LB909 would help individuals obtain the most useful and accurate title for their assembled vehicles, and is consistent with best practices. Therefore I ask for your support of LB909 and its advancement to General File. I will try to answer any questions that you may have. [LB909]

SENATOR FRIESEN: Thank you, Senator Bostelman. Any questions from the committee? I've got one, maybe, for you. And so you went through a lot of stuff there. So if you...if you decide to assemble a car, does it have to meet current...as the year that's on the title, does it have to meet safety and emissions requirements of that year? [LB909]

SENATOR BOSTELMAN: I would defer to Director Lahm, who is going to be coming up shortly. I think she might be able... [LB909]

SENATOR FRIESEN: Okay. [LB909]

SENATOR BOSTELMAN: ...to answer that better than I would. But I would think it would have to be current emissions or safety standards. It wouldn't... [LB909]

SENATOR FRIESEN: Because you're changing the date sometimes, of... [LB909]

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Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2018

---

SENATOR BOSTELMAN: Yeah. Well, you know one thing to keep in mind and what...when you're trying to explain what this is. So if you have, in the case of, say, that 2005 van, and you put a new transmission in it...well, you...you're supposed to get a new title. And that title makes that 2005 van now a 2018 van. And what this does is allow that to go back to 2005. If it's the older vehicles, it allows it to go back to those, as well. I don't believe that you're going to be able to...you could replicate it back to the original of what that...say, it's a model, you know, it's a 1960 whatever, and you would have to...as long as it goes back to the original designation and/or configuration of that vehicle, I believe is what you would have to do. [LB909]

SENATOR FRIESEN: Okay. [LB909]

SENATOR BOSTELMAN: But I believe Director Lahm will be able to...might be able to answer that more accurately than I would. [LB909]

SENATOR FRIESEN: (Exhibit 4) Okay. Thank you, Senator Bostelman. Proponents who wish to testify in favor of LB909. Does anyone wish to testify in favor of LB909? We have one letter: Scott Blackburn from Nebraska Rod and Custom Association. [LB909]

RHONDA LAHM: This one. [LB909]

SENATOR FRIESEN: Okay. Seeing that's there's no one wanting to testify in favor...do you want to testify in favor of LB909? Please come forward. Welcome. [LB909]

GREGORY LARSON: Mr. Chairman, my name is Gregory Larson; that's G-r-e-g-o-r-y L-a-r-s-o-n. I do a lot of messing around with old cars and whatever, to try and...I am definitely in favor of this because there's a lot of automobiles out there that people work on, in car clubs and such, and they change them, you know, and you can't get the original part, like the original type motor on many of them. So they have to put in other types. And a lot of them do it just to make different type of vehicles, too. As for the question that came up on the...I would like to address the emissions portion of it. The...it would be virtually impossible, on the older ones, to put the computers and all of the emission control stuff in that is on the...on the newer ones...that it's just a completely different category of vehicles and altogether different things. That's...but I am definitely in favor of this LB909. [LB909]

SENATOR FRIESEN: Okay. Thank you, Mr. Larson. Are there any questions from the committee? Seeing none, thank you for your testimony. [LB909]

GREGORY LARSON: Thank you very much; thank you. [LB909]

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

Transportation and Telecommunications Committee  
January 30, 2018

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SENATOR FRIESEN: Any others wish to testify in favor of LB909? Seeing none, does anyone wish to testify in opposition to LB909? Seeing none, anyone wish to testify in a neutral capacity, LB909? Welcome, Director Lahm. [LB909]

RHONDA LAHM: (Exhibit 3) Thank you. Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Rhonda Lahm, R-h-o-n-d-a L-a-h-m. I am the director of the Nebraska Department of Motor Vehicles. I'm here today to offer testimony, in the neutral capacity, on LB909. I want to thank Senator Bostelman for including the department in the conversation. Senator Bostelman approached the department about a year ago, seeking input on how we could improve, and make more efficient, the process for the issuance of titles for vehicles being restored. At the request of the senator, several meetings and conversations have resulted in the bill before the committee today. The provisions of LB909 were developed by reviewing industry best practices and consultation with other states. The proposed changes will maintain the necessary safeguards to deter fraud in the titling process, while making it more efficient for those who participate in the restoration of cars, to get them titled. Also, I'd just like to note we're aware of the amendment and we support that amendment. In fact, it was at our request that we worked with him on that. Thank you for your time today. I'm happy to answer any of the questions you may have. [LB909]

SENATOR FRIESEN: Thank you, Director. Any questions from the committee? I was just curious. When you create a vehicle, as according to federal laws then, do you have any comments on how they may have to meet safety or emissions requirements? [LB909]

RHONDA LAHM: You know, I'm going to...actually I want to look and get back to you. But generally, it's my understanding that in the federal laws, it's applied to the manufacturers, and that they have to comply with them. So kit vehicles are a little bit of a different bird, and so let me double-check and get back with you. But I do acknowledge and concur with what Senator Bostelman said, and the other gentleman, and that, when you have a vehicle that was designed and manufactured in 1960 or '61, and then you put a title on it and call it a 2018, that presents some challenges. And so part of what Senator Bostelman's bill does is to address some of those inconsistencies and issues. But I wrote myself a note, and I'll double-check it and make sure that I get you correct information. [LB909]

SENATOR FRIESEN: Thank you, Director. Any questions from the committee? Seeing none, thank you for your testimony. [LB909]

RHONDA LAHM: Now you know why all that complicated processing explained why it's difficult to get the new system in place. [LB909]

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

Transportation and Telecommunications Committee  
January 30, 2018

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SENATOR FRIESEN: I can see that. Anyone else wish to testify in a neutral capacity on LB909? Seeing none, Senator Bostelman, will you close? Senator Bostelman waives closing. We'll close the hearing on LB909. We'll now open the hearing on LB755. Welcome, Senator Brewer. [LB909 LB755]

SENATOR BREWER: (Exhibit 1) Thank you, Chairman Friesen and fellow senators of the Transportation and Telecommunications Committee. I am Senator Tom Brewer, for the record T-o-m B-r-e-w-e-r. I represent the 43rd District, which is 13 counties of western Nebraska. I'm here to introduce LB755, which makes a minor change in law that allows cities and towns, who choose to do so, an opportunity to enact a city ordinance that allows all-terrain vehicles, also known as four-wheelers, to operate on city streets at night. A constituent, who is on the Mullen Village Council, brought this need to me as a bill...need for this bill. Just about everyone in my district owns or operates an ATV. They are a very popular mode of transportation in western Nebraska. The problem is the current state law prohibits their operation at night. The way it's said is it's from sunset to sunrise. If you take a look at the law with me, on page 2, line 23-25, page 4, line 2-4, the language is stricken. It's all this bill does. This law was enacted in 1987, when most ATVs were three-wheelers, many without lights. Now they not only are two- and four-seaters, but they have heaters, windshields, and many lights, to include signal lights with some. The bill is really just a clean-up bill because it's updating law to keep it with current technology. I did find it strange that existing law already exists that calls for ATVs to have headlights and taillights, but prohibits the use at night. LB755 would make life a little easier in cities and towns like Mullen, who would like to enact ordinances to allow the operation of ATVs on streets at night. They're also used for snow removal, early morning, so the combination of the different capabilities of that four-wheel platform is what has generated this. I'd like to make this small change in the law and leave the decision up to the city councils. Besides updating an old law, I think this reflects our respect for the philosophy of local control. I think it's a good idea and I would appreciate your support. Subject to your questions, this concludes my testimony. Thank you. [LB755]

SENATOR FRIESEN: Thank you, Senator Brewer. Any questions from the committee? Seeing none... [LB755]

SENATOR GEIST: May I? [LB755]

SENATOR FRIESEN: Senator Geist. [LB755]

SENATOR GEIST: May I... [LB755]

SENATOR FRIESEN: Senator Geist. [LB755]

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Transcriber's Office

Transportation and Telecommunications Committee  
January 30, 2018

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SENATOR GEIST: ...ask a question? I do have a question, just because your testimony here specified city streets, and there's no restriction driving an ATV on your land. Or on...or does this law currently also restrict driving an ATV on your own land at night? [LB755]

SENATOR BREWER: No, but it would be a county call if you were on county roads driving it. So... [LB755]

SENATOR GEIST: Okay. And does this speak to that, what you're wanting? [LB755]

SENATOR BREWER: As far as... [LB755]

SENATOR GEIST: Does it... [LB755]

SENATOR BREWER: Well, I think, the way it is right now, it's a generic Nebraska law, so I guess it would apply to everywhere. [LB755]

SENATOR GEIST: Um-hum. [LB755]

SENATOR BREWER: And then the way that this is worded is that it would...it would strike it from sundown to sunrise, so I guess that would be across the board. [LB755]

SENATOR GEIST: Okay, thank you. [LB755]

SENATOR FRIESEN: Thank you, Senator Geist. Any other questions from the committee? Seeing none, any proponents that wish to testify in favor of LB755? Is there anyone who wishes to testify in opposition to LB755? [LB755]

SENATOR BREWER: I waive closing. [LB755]

SENATOR FRIESEN: Seeing none, is there anyone who wishes to testify in a neutral capacity on LB755? Seeing none, Senator Brewer waives closing. We will close the hearing on LB755. I'd entertain a motion to open Exec. Session. [LB755]

SENATOR SMITH: So moved.

SENATOR FRIESEN: Is there a second?

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

Transportation and Telecommunications Committee  
January 30, 2018

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SENATOR HILGERS: I second it.