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Transportation and Telecommunications Committee  
February 13, 2018

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[LB989 LB1031 LB1043 LB1063 LB1122]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, February 13, 2018, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1063, LB989, LB1122, LB1043, and LB1031. Senators present: Curt Friesen, Chairperson; Jim Smith, Vice Chairperson; Bruce Bostelman; Tom Briese; Suzanne Geist; Mike Hilgers; and Dan Hughes. Senators absent: John Murante.

SENATOR FRIESEN: Welcome, everyone, to the Transportation and Telecommunications hearing today. I'm going to cover a few things and start the meeting. I'm Curt Friesen, District 34. I'll be the chair of the meeting. I'd ask you all to silence your cell phones or other electronic devices, and we'll be hearing the bills in the order listed on the agenda. Now those testifying, they need to move to the front of the room to be ready to testify, and we have an on-deck chair up there so that you can come and sit down. If you will 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's very important that you clearly state and spell your first and last name. If you happen to forget this, I will stop you and remind you to do that. Please keep your testimony concise; try not to repeat what has already been said. I think we'll use the light system, and I guess my question on the first bill, on LB1063...how many people will be testifying? Okay, we'll just use the light system like we're...always do. We'll give you five minutes. When the amber light comes on, that means you have one minute left and then, when you have the red light come on, wrap it up. Those not wishing to testify may sign a sheet--there's a pink sheet by the door--on that you can indicate your support or opposition to the bill. When we take testimony, first we're going to take the proponents and then, after that, we'll take the opponents. So I will introduce...to my right here is Tip O'Neill, my legal counsel, and to my left is Elice Hubbert, the committee clerk. And we have...Lee-Ann Simms is our help--page--today. And so with that, I will let the senators introduce themselves, starting with Senator Briese.

SENATOR BRIESE: Tom Briese, District 41: nine-county area in central, reaching up into northeast, Nebraska.

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

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

SENATOR HUGHES: Dan Hughes, District 44: southwest Nebraska.

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

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

SENATOR FRIESEN: And Senator John Murante may be joining us at a later date--or time. Or a later date (laughter). With that, we will open the hearing on LB1063. Senator McDonnell, welcome. [LB1063]

SENATOR McDONNELL: (Exhibits 1, 2, and 3) Thank you. I have a handout from AARP. Also, I apologize; I do not have a handout of my testimony but, by the end of this day, you will have it. I am Senator Mike McDonnell, M-i-k-e M-c-D-o-n-n-e-l-l, from Legislative District 5, representing south Omaha. Today I'm introducing LB1063, to establish a cash fund for the research, community-based support, education, victim support for traumatic brain injury in Nebraska, with a one-time fee increase on certain drivers' licenses. This one-time fee increases would be a learner's permit, provisional operator's permit, and new Class O driver's license. This would also apply as a one-time fee increase to new motorcycle license; however, after discussion with the American Bikers Aimed Towards Education association, it has been clarified that motorcyclists would receive a double hit: the \$15.00 fee on their Class O license and the \$10.00 fee for their motorcycle endorsement, not a license. They are required to have the Class O license to have the motorcycle endorsement, so my office is working with them to remove this secondary fee, but to increase the Class O license fee to \$17.00. The one-time fee increases would be as follows: \$5.00 fee on learners' permits; \$10.00 fee on provisional operators' permits; \$10.00 fee for a motorcycle endorsement which, as previously discussed, would be removed; and \$15.00 fee for a Class O operator's license--as previously stated, this would increase to \$17.00. The revenue from the fees would be administered by the University of Nebraska Medical Center, who would contract with a community-based organization to support individuals and communities across Nebraska, to help individuals and their families who have experienced traumatic brain injuries. The University would only take 10 percent of the revenue generated to administer the cash fund. Citing the Centers for Disease Control, the risk for motor vehicle crashes is higher among 16- to 19-year-olds than any other age group. Per mile driven, teenagers--teen drivers--those 16 to 19 are almost three times more likely than drivers age 20 and older to be in a fatal crash. From the CDC in 2013, 15- to 19-year-old represented only 7 percent of the U.S. population, but they accounted for 11 percent, \$10 billion of the total cost of motor vehicle injuries. The National Highway Traffic Safety Administration states that motor vehicle crashes are a leading cause of death for those 15 to 20 years old. This is from the most recent data available in 2014 from the National Center for Health Statistics. Young drivers involved in fatal crashes, as of 2014 data, made up 40 percent of the fatalities from those crashes. Of passengers who died in the crashes where young drivers were behind the wheel, 66 percent were also 15 to 20 years old. UNMC would not be receiving any funds other than the 10 percent fee

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for administrative...administrating the cash fund. The rest of the fees would be utilized in ways that best support community-based support for traumatic brain injury. The needs may look different from community to community, but the one common thread is the lack of funding and support...to support traumatic brain injuries across Nebraska. Testifying behind me will be individuals who have personal experiences with traumatic brain injury. This was brought to me by Denise Gehringer, who is going to testify here shortly. I've known Denise since high school. Denise has four sons. One son has been challenged with intellectual delays. Another son was in a motor vehicle accident, was in a coma for a month, rehabilitation for a number of months after that. And with Denise's personal experiences, having one son that was intellectually delayed, having resources, getting to know the system, understanding the system, having people that would help her and organizations that would help her...that was available. When her second son had the accident, that was not available to her. Now she had experience that helped her and her family and her son navigate a little easier, but most families don't. My son, three weeks ago, turned 16 and started driving a vehicle, and on his own--had a learner's permit for the last year. Watching him drive out of the driveway the first time, knowing and looking at these statistics...looking at 24 other states that we can learn from and not be too proud to steal good ideas, they're giving these people--and it's not only motor vehicles--you start researching this and you look at the domestic violence issue and the people--and again, the majority women--that are in shelters that don't realize they have traumatic brain injury, and what's available to them? What's available in our communities, east, west, north, south, in the state of Nebraska? We're not saying that, with these funds, we will stop all of the problems and...but it's an opportunity for each community in the state to look and say: What is your need? Is it more on education? Is it more on the idea of the assistance to the family and to that individual that just went through a traumatic brain injury? What we're trying to do with this, have a sustainable fund. We understand the situation we are in the state right now, with being on Appropriations, and where we are with our concerns financially but, also, this is happening. It's happening and we believe that, with education, we can stop some of it. We also, though, believe when it does happen, with the proper assistance we can make it easier on the family and the individual to give them the best chance to come back and make sure they're back in society and doing the best they can to move on with their lives. Also you're going to hear from Amanda, and her son Johnathon is here today, and he might possibly testify. I can't do justice to what these families have gone through. I can't tell you all the things that's happened to them and the hurdles they've had to overcome. That's why they're here today. I'm here to try to answer any of your questions. I will be here until the end of the hearing and, if you have any questions now, I'd like to try to answer them. [LB1063]

SENATOR FRIESEN: Thank you, Senator McDonnell. Are there any questions from the committee? Senator Hughes. [LB1063]

SENATOR HUGHES: Thank you, Mr. Chairman. Thank you, Senator McDonnell, for bringing this bill. I've got just more technical questions. So the money generated to do this, this is a one-

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time fee on new licenses or a one-time fee on the next time I renew my driver's license?  
[LB1063]

SENATOR McDONNELL: One-time fee on the new license. [LB1063]

SENATOR HUGHES: So all the 14-, 15-, 16-year-olds are going to be paying this, and people moving to the state and getting a driver's license. [LB1063]

SENATOR McDONNELL: Yes. [LB1063]

SENATOR HUGHES: So it will not affect current citizens when they renew their license.  
[LB1063]

SENATOR McDONNELL: No, it would be a one-time fee on the new license. [LB1063]

SENATOR HUGHES: Okay, new license only. Okay then, my next question...there's a pretty significant amount of the population that probably will not seek treatment inside the boundaries of the state of Nebraska. Would this fund be available to those families who reside in Nebraska but choose to go to, say, Colorado or Wyoming for treatment of a brain injury? You know, I'm 200 miles from Denver, and I'm, you know, 380 from Omaha. It would make a lot more sense for me to seek that type of care in another state. Is it your intention that these funds be available to outside of Nebraska? [LB1063]

SENATOR McDONNELL: It is that; that's the intent, and I'll make sure that's clarified.  
[LB1063]

SENATOR HUGHES: Okay, thank you. Thank you, Senator. [LB1063]

SENATOR FRIESEN: Thank you, Senator Hughes. Any other questions? Senator Hilgers.  
[LB1063]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator McDonnell; I appreciate you being here and your opening. One question: Can you provide me with a little...either historical context or, if there is none, maybe just some background on the nexus with the University of Nebraska Medical Center, and why? Is it because they've done particular work in this area? Is it some just collaboration and discussion with your office? Maybe get some background on that piece, please. [LB1063]

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SENATOR McDONNELL: It's based on the idea that we thought, with UNMC and what they've done with their research and the things that they've worked on over the years, that this was a good fit for us, to reach out to them, look at them administering the funds. And based on that, based on their past history and their expertise in the field, that we thought that would be a good fit. [LB1063]

SENATOR HILGERS: Okay, thank you. [LB1063]

SENATOR FRIESEN: Thank you, Senator Hilgers. Any other questions? Senator Bostelman. [LB1063]

SENATOR BOSTELMAN: Thank you, Chairman Friesen. Thank you, Senator McDonnell, for being here today and for presenting this. Why the funding--you alluded to it a little bit in your opening--the funding mechanism that you're using, why are you using that funding mechanism versus another? [LB1063]

SENATOR McDONNELL: Based on the idea that to have that cash fund available, to know that, looking at what other states have done and the monies they've had allocated towards this issue, that we felt that it was sustainable, potentially, through this route versus other ways to look at funding it. But we thought, also, with the idea of the licensing, that it was a good fit to have those monies available for, potentially, a number of the people that were going to suffer on the roads through traumatic brain injuries. [LB1063]

SENATOR BOSTELMAN: Sure, thank you. And my understanding is counties will receive some funding through this. What's the purpose of that, and how is that going to be utilized? What's, what's... [LB1063]

SENATOR McDONNELL: Well, depending on the needs of...what we talked about was each county might be a little bit different. Each part of the state might be a little different on their needs. But with the process, it would still be administered through UNMC and then, based on the people coming forward saying that they need possibly more on education versus more on a possible...another avenue to help these people. It depends. We're just...we're leaving it pretty open, based on the monies being available and then going through the University system, or UNMC, as the administrator of it. [LB1063]

SENATOR BOSTELMAN: Thank you. [LB1063]

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SENATOR FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? What percentage of brain injuries, currently, do you feel are attributable to motor vehicles versus all the brain injuries that happen in Nebraska? [LB1063]

SENATOR McDONNELL: There is a physician, also here today, that is going to testify and be able to answer that question better than I can. [LB1063]

SENATOR FRIESEN: So this fund would be available to anyone, though, with a brain injury, no matter what...how it would... [LB1063]

SENATOR McDONNELL: Absolutely. [LB1063]

SENATOR FRIESEN: ...would happen (inaudible). [LB1063]

SENATOR McDONNELL: That's why I mentioned earlier about possibly some domestic abuse situations. [LB1063]

SENATOR FRIESEN: Okay. [LB1063]

SENATOR McDONNELL: So yes, it's not just for someone that possible had a traumatic brain injury in a motor vehicle accident. [LB1063]

SENATOR FRIESEN: Okay. I see no further questions, so thank you. [LB1063]

SENATOR McDONNELL: Yep. [LB1063]

SENATOR FRIESEN: Now we will open the hearing to proponents who wish to speak in favor of LB1063. Welcome. [LB1063]

DENISE GEHRINGER: (Exhibit 4) Good afternoon. Senator Friesen and members of the committee, I'm Denise Gehringer, D-e-n-i-s-e G-e-h-r-i-n-g-e-r. As Senator McDonnell mentioned, I'm a parent of a young adult that experienced brain injury from a car accident, and I'm here to request that you support LB1063, which provides funding to assist victims of brain injury. If you are a parent and have put a new driver on the road, you know and, if you're not, I'm sure you can imagine that your worst fear is getting that call that your inexperienced driver has been in a life-altering car accident. I have lived this nightmare with one of my four sons and would like to share with you a bit about our experience supporting a young adult and his

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recovery after a brain injury, and how LB1063 will help other Nebraska citizens and their families--the families that provide care and support for them, if they, too, find themselves in this situation. After a month in a coma, four months inpatient in a rehabilitation facility, two months outpatient therapy, and when insurance-covered therapy ran out, we were no longer connected with a facility or a provider. We found ourselves in an empty void. We quickly discovered that Nebraska is not one of the 24 states that takes care of its citizens with a brain injury. And that was quite concerning. The state of Nebraska desperately needs funding allocated to support people with brain injury, to complete their integration back into the community and to find the supports and services that they may need to get back to being contributing members of society. At whatever their ability level is, all people can be contributing members in some way. Without the funding that LB1063 would provide, the individual dealing with brain injury recovery is left floundering and on a path of dependence. If the supports that LB1063 would provide are in place, the person in recovery has a greater chance to get back to being a productive citizen, and their family caregivers can get back to their lives and work. I happen to work in the developmental disability field in the Omaha metro area. I have another son that experiences intellectual delays. I've been engaged and connected, for 22 years, with therapists, educators, employment services, as well as many other supports for those developmental disabilities. Even for me, seeking and searching for supports and services for my son that was recovering from a brain injury was an arduous undertaking. It was a full-time job; it really was. Without the connections I had to direct me to the services that he required, I'm not sure that he would have made the great recovery that he has, and then have gotten back to work and back to life. I cannot even imagine how difficult it would be for families in the more rural parts of our state. There are significant struggles to find supports and services after the individual is discharged and no longer connected with a rehabilitation provider. Caregivers must take substantial time away from their work and often leave their jobs to hunt for services and provide the necessary care and supports. And so that's a concern, as well. By providing the supports that families need, we can make sure that people stay in their jobs, contribute to the economy, et cetera. Any one of us could be faced with a brain injury due to a car accident. The chances are tremendously higher for inexperienced drivers. When a new driver gets their first license, it is very reasonable to ask them to make a one-time contribution of \$10.00, about the cost of a fast-food meal--I believe my fast-food meal was \$9.60--something the other day when I drove through--make this contribution to a brain injury fund so that, if their inexperienced driving record--or their inexperienced driving, excuse me--results in a brain injury, the necessary supports are available to them and their families. So in closing, I'm asking you to, please, vote to move LB1063 to General File. I believe it's the responsible thing for Nebraska to do for its citizens. I thank you for giving me a moment to share that with you, and I'd welcome any questions that you might have. [LB1063]

SENATOR FRIESEN: Thank you, Ms. Gehringer. [LB1063]

DENISE GEHRINGER: You bet. [LB1063]

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SENATOR FRIESEN: Any questions from the committee? What are some of the big differences between...you said you had services for your first son... [LB1063]

DENISE GEHRINGER: Um-hum. [LB1063]

SENATOR FRIESEN: ...but what are the big things that were missing? [LB1063]

DENISE GEHRINGER: So many individuals who are in recovery from traumatic brain injury face a lot of emotional situations. They face the struggle that they have living with their new normal. They may not be able to go back to the exact employment that they had previous to their car accident or to what they're pursuing, if they are in school at that time. And so they need the support to get through that piece and to get back to life. There's also...it's very easy for me to find people who specialize in developmental disability services, but it was not easy, even given my connections with...for so many years, to find people who...maybe a psychiatrist that specializes in folks with traumatic brain injury. My son was an independent fellow and he didn't want his mom in his business. And so he wanted to take care of some of those things on his own. Supports could be put in place so that someone could give him supportive direction and supportive education so that he can...could have gotten his life back together on his...in his terms. And oftentimes when you leave the hospital...and if any of you ever had a family member in the hospital you know that you're there, you know, you're surviving on no sleep and you're in crisis mode. And you get information from the providers, you get a packet of things, but it's until life starts to settle down a little bit before you start to realize that there's things that you didn't absorb, or there were things that you didn't particularly hear correctly in the hospital. And so, when we found ourselves in that place where we were, you know, we were doing okay but we still needed a number of supports because brain injury recovery can take one to two years, you know, or more if you are someone who is able to recover back to the life similar to what you had prior to your accident. And there just wasn't supports available for that. There was no one to really connect with to say: Hey, who do we go to? Where shall...where do we go next? How does my son self-direct his life? How does he make some choices with an educated, you know, with some, you know an educated decision and those types of things? [LB1063]

SENATOR FRIESEN: Did you feel that the insurance product that you had helped with most of the cost? Or how did that... [LB1063]

DENISE GEHRINGER: He...we had great insurance, but therapy does run out. [LB1063]

SENATOR FRIESEN: Okay. [LB1063]

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DENISE GEHRINGER: When therapy runs out, you are left to figure out how you're going to either provide this on your own, which is, you know, unless you specialize in that area, is not really possible...or some way to figure it out. And it really did feel like, when insurance ran out, when we were in a facility that remarkably, that we were well enough to be discharged, as well. So you are really kind of left into a...in a void. I can share with you quickly, there was a gentleman who was shoveling snow and fell and hit his head that was in a room next door to my son's and when he was in recovery. And this man was a single man who lived on his own. I would say he was probably in his early 60s, so a vary capable man, but fell and hit his head. He was literally sent away from the facility with no one to assist him. In the facility he had a monitor on him so that he could...the staff could be alerted when he went past a certain point because he would forget where he was going or he'd forget the decisions he was making. And so, because I'm a save-the-world kind of person, I was like, who will help this fellow if he leaves something on the stove or if he needs...you know, he was... [LB1063]

SENATOR FRIESEN: Right. [LB1063]

DENISE GEHRINGER: ...had some memory issues, and he was really being sent off to his home, in a smaller portion of Nebraska, by himself. And really needs to be some supports in place so that that fellow could have contacted someone and say: Where do I find supports? Where do I, you know, connect with people who can help me? [LB1063]

SENATOR FRIESEN: Okay. Thank you. Senator Hilgers. [LB1063]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you for being here and sharing your story. [LB1063]

DENISE GEHRINGER: You're welcome. [LB1063]

SENATOR HILGERS: I really appreciate it. Dovetailing a little bit off the question with the chairman, do you see the funding here more as sort of help with some of these gap services that you're talking about, where the insurance coverage isn't enough, or is it more of using UNMC to do some particular research that might be helpful, or maybe a combination of the two? [LB1063]

DENISE GEHRINGER: I see it more being education so that we can prevent these types of situations occurring. I see it being resource facilitation, where we have an organization that is available to connect people with the resources that they need; that's a serious lacking of that service, and we have that in...a number of states have that and we do not. That is where it left us in a huge void. I see it being data collection, being able to create and collect the statistics so that

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we can see if we're serving the correct people, see if we're making an impact, and to make sure that...to connect and see where there might be additional gaps in services and supports needed. I suppose there's always a research piece that can be put in there,... [LB1063]

SENATOR HILGERS: Um-hum. [LB1063]

DENISE GEHRINGER: ...but I don't believe that's the intent; I believe the intent is to maybe share some of the data that's collected through this effort potentially with the University, so that they could add that to their efforts, but... [LB1063]

SENATOR HILGERS: Sure. [LB1063]

DENISE GEHRINGER: ...from what I'm aware, it is not for any particular program at the University. [LB1063]

SENATOR HILGERS: Okay. [LB1063]

DENISE GEHRINGER: I believe it's for administrative costs. [LB1063]

SENATOR HILGERS: Thank you very much. [LB1063]

DENISE GEHRINGER: Um-hum. [LB1063]

SENATOR FRIESEN: Thank you, Senator Hilgers. Any other questions? Senator Bostelman. [LB1063]

SENATOR BOSTELMAN: Thank you, Chairman Friesen. Thank you, Mrs. Gehringer, for being here today,... [LB1063]

DENISE GEHRINGER: Yep, you bet. [LB1063]

SENATOR BOSTELMAN: ...for your testimony; I appreciate it...a learning experience for us. Could you tell me, is there a state/national organization that currently exists with traumatic brain injury that...is there something like that? [LB1063]

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DENISE GEHRINGER: Yes, there are national organizations that exist, but they operate on more of a national platform so they do things more national legislation and those types of things. They don't particularly trickle down to the states, as far as for programming or for this type of thing. So national organizations do exist, they're helpful for data collection and for statistical information, but they don't particularly provide any resources or anything of that sort to the local...to the state organizations. [LB1063]

SENATOR BOSTELMAN: And kind of following along with Senator Hilgers and Senator Friesen was talking about it, I think, a little bit, is trying to understand a little bit more about what the funds, the contracts--in state, out of state--just trying to understand what that need is and how that's going to be directed. Is that something that currently exists through Madonna, through UNMC, through another facility, that it's...that we have an idea, you know, what...how to manage this, what that contract looks like? [LB1063]

DENISE GEHRINGER: Yes. So yes, so we currently have the Brain Injury Alliance of Nebraska that operates programs that we're talking about: resource facilitation, education, awareness...those types of things. But they are not...they do not have the resources to be stretched across the state. We have a lot of concerns about the folks in the rural areas of the state who are not...you know, if they're not in the two metro, you know, two bigger areas, it's really difficult for them to find any connection to any types of providers. So the current organizations that exist don't have the resources to meet the needs of the area. And in the states that do have the resources, they are able to provide that funding and then we have people supported...they have people supported across their state for all of those things we mentioned--education. And this does, like we've talked about before, those services are available for anyone experiencing a brain injury. The brain injuries can be anything from strokes to domestic violence to falling and hitting your head when you're shoveling snow, you know, all the way to concussion situations. And oftentimes we don't realize that concussions can stretch...you know, the symptoms and the effects of that can occur for an entire year. I've known families who have been...their child has been out of school for an entire year because they couldn't come in to lit rooms because their concussion effects were so difficult. So this provides service for a lot of folks, not just folks that have experienced brain injuries through car accidents, but anyway... [LB1063]

SENATOR BOSTELMAN: Okay. Thank you very much. [LB1063]

DENISE GEHRINGER: You're welcome. [LB1063]

SENATOR FRIESEN: Thank you, Senator Bostelman. Seeing no further testimony, thank you for your testimony. [LB1063]

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DENISE GEHRINGER: You bet. Thank you for your time. Welcome. [LB1063]

KJELL CRONN: Thanks. My name is Kjell Cronn. I have a traumatic brain injury due to... [LB1063]

SENATOR FRIESEN: Would you spell your name, please? [LB1063]

KJELL CRONN: Sure. K-j-e-l-l--it's Swedish, that's where I say it's Swedish--C-r-o-n-n. And I'm a native of the state. I had a brain tumor. It presented August 4 of...August 8, 2006, and it was the size of two tennis balls. The two operations it took to save my life and to keep me going gave me traumatic brain injury, and I moved from Omaha to Lincoln in the year of 2010. I tried to organize my thoughts about what can cause this, but anybody can have a brain injury. Anybody can fall victim to these brain injuries. Falling and hitting one's head is enough to do it. The flyer for the brain tumor cancer support group at the Med Center is here; it comes every month. But really, all I wanted to say is that after I was going to live and they found that I was going to live, at Mayo Clinic, the subsequent years were pretty barren of any kind of help, aside from my wife's family in Omaha. And then, when my wife wanted a divorce in 2010, I was on my own. And luckily, there is the Brain Injury Alliance here, and Gina Simanek and Peggy Reisher...where did she go? There's Peggy. And the work that they do is tremendously helpful for people like me. And brain tumors, brain injuries, they come with a variety of difficulties and things they call deficits. Right now, if I saw any of you in the hallway in 20 minutes, I wouldn't recognize you. It would be really helpful to say: Oh, hey, it's Senator Hilgers, but I can't...I have face blindness. Without a lot of practice, I won't recognize someone. There are a lot of other deficits I could talk about, but my memory has been affected tremendously. I don't have a short-term memory any longer. And then, how is that going to...how is that going to function when you're on your own and you're looking for help in the government chambers or anything that's not your insurance? And it's really easy to forget what I was just thinking about or what I wanted to do today. So brain injury...it's just completely nonsensical most of the time. And I'm a native of Cozad, Nebraska. I graduated near the top of my class there, and I had a 4.0 here at UNL--a 3.9 here at UNL and a 4.0 at the San Francisco Art Institute for graduate school. So I have my terminal degree in my field, and I have this service dog here to remind me when to take my pills, and she does a good job at that. But it's a shame if this state does not support people like me who can't do it ourselves. If there's some kind of support group, then that's great. If there's some kind of nonprofit, that's even better, if BIA-NE got a little more funding to do a little bit more every week, every month, for the brain injury community, which is sizable in Nebraska...I've heard, I think John Ferrone said it was 70,000 possibly, people in the state with brain injury. And there are so many ways to have a brain injury. Mine is not as exciting as some other ones, but it's left me with brain injury. And so I would love to see LB1063 receive "yes" votes and, if the driver's license fee--additional fee--isn't the right way to do it, I think that there will be some other way

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to do this so that everyone in the state has a fighting chance, including people with brain injury. And that's all I've got to say. [LB1063]

SENATOR FRIESEN: Thank you, Mr. Cronn. [LB1063]

KJELL CRONN: So can you make that thing turn off? [LB1063]

SENATOR FRIESEN: Is there any questions from the committee? Seeing none, thank you for coming in to testify. [LB1063]

KJELL CRONN: Thank you, Sir. [LB1063]

SENATOR FRIESEN: Welcome. [LB1063]

LORI TERRYBERRY-SPOHR: (Exhibit 5) Thank you. Good afternoon, senators. My name is Lori Terryberry-Spohr, spelled T-e-r-r-y-b-e-r-r-y-hyphen-S-p-o-h-r. I am the director of rehab programs, as well as a board-certified clinical neuropsychologist at Madonna Rehab Hospitals in Lincoln and Omaha. I am here on my own behalf to state my support of LB1063. LB1063 is important because it provides a mechanism to facilitate services, for persons with brain injury, beyond medical facilities that exist in our state, as well as provides for research, increasing awareness, education, and prevention of brain injury. Most of the individuals who will directly benefit from this legislation will not be here today to advocate on their own behalf. I'm glad that we have a few that can, as was very eloquently illustrated by the gentleman who just testified before me. But most of us must speak for the others, because they are unable to do so; they are not, perhaps, even as articulate as the gentleman that you just saw. Unfortunately, brain injury affects more persons than breast cancer, HIV/AIDS, multiple sclerosis, and spinal cord injuries, all combined. In teenagers, motor vehicle accidents are the leading cause of death and brain injury amongst those ages 15 to 19. And a study published in 2012 by Children's Hospital of Philadelphia and State Farm Insurance indicated that 30 percent of teenagers involved in serious car accidents suffer head injuries, including concussions, skull fractures, and traumatic brain injuries. It is clear from these numbers, as well as others that you will hear today, that a coordinated effort to provide for the needs of persons with brain injury is necessary in Nebraska. We need this legislation to better serve those individuals with brain injury throughout their lifespan, including the many individuals who are injured during their teenage years and have decades ahead when they will need additional supports and services well beyond the hospital setting. Resource facilitation is a mechanism for supporting those with brain injury that many other states have found cost-effective and a worthy investment. Individuals with severe brain injury usually suffer from cognitive impairments that affect their ability to remember, organize, and plan. They have difficulties with problem-solving and reasoning. They struggle with

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expressing themselves and are repeatedly misunderstood. They are overwhelmed by the complex systems required to apply for and obtain supports for housing, transportation, care, return-to-work training, etcetera. Even making the phone calls necessary to obtain the correct forms can be overwhelming and frustrating. I, myself, have spent several afternoons with a patient who did not have family to help them apply for a student loan waiver, and their disability check was being withheld, so they couldn't even pay for rent or buy their groceries unless someone helped them navigate the many public and private offices required to obtain and complete the correct forms to apply for dismissal of their student loans. This is not the role of a neuropsychologist, and I gave up patient care time with others to help this person. But someone had to do it or she was going to end up homeless or worse. Those individuals fortunate enough to have family support may be more successful, but families often find few people knowledgeable about what resources do exist. Most family physicians will tell you they received about three hours of training on brain injury during medical school, and that was only on physical management, not on the long-term needs of this population. In rural communities, physicians are the primary source of information, but they often do not know how to access services like employment support, respite care or housing, and they certainly don't have the time to help patients track down those types of services and supports. While our state has outstanding acute care, acute rehabilitation, and post-acute care, we lack the supports to help individuals with brain injury to navigate our systems, once they discharge from these facilities. As you will likely hear today, many families find navigating our system so challenging that they have to leave their jobs and, even then, feel their family member has fallen through the cracks. Past needs assessments, commissioned by the Legislature, have revealed a lack of public awareness of available funding sources, a lack of knowledge of the services and resources, and access to case management as large barriers to obtaining appropriate services. The study I mentioned earlier, by Children's Hospital of Philadelphia and State Farm, emphasized the need for more prevention activities with teenagers to encourage seatbelt use, reduce distraction, education on drinking and driving, etcetera. In addition to resource facilitation, funds from this legislation will help provide a long-term mechanism to stimulate research, increase public awareness, and promote education and prevention activities. We all know that the most cost-effective way to reduce the burden of brain injury in our society is to prevent it in the first place. A brain injury trust fund dedicated to resource facilitation, increasing awareness, education and prevention, as well as research, is a worthy investment in reducing the overall burden on our state resources. I ask you to support LB1063. Thank you. [LB1063]

SENATOR FRIESEN: Thank you, Ms. Terryberry-Spohr. Any questions from the committee? Seeing none, thank you for your testimony. [LB1063]

LORI TERRYBERRY-SPOHR: Thank you. [LB1063]

SENATOR FRIESEN: Welcome. [LB1063]

JOSEPH ACIERNO: (Exhibit 6) Good afternoon, senators. Senator Friesen and members of the committee, I am Joseph Acierno; that's J-o-s-e-p-h, Acierno is A-c-i-e-r-n-o. I'm a member of the board of directors of the Brain Injury Alliance of Nebraska and the former chief medical officer and director of the Nebraska Department of Health and Human Services-Division of Public Health. I'm here to testify in support of LB1063 which, in part, provides funding to assist and benefit those individuals who have suffered from a traumatic brain injury. And you are already hearing those stories. This bill gives the state of Nebraska the opportunity to support patients and families through resource facilitation, training, education, public awareness, prevention, and research. That is quite a number of things, but all are really required to tackle this issue. All these efforts are important and necessary. As you are learning, and you may already know, brain injuries are varied. They're complex, have multiple causes, including: accidents, blows to the head, falls, assaults, traffic accidents, and they impact people of all ages and can range from mild to severe. As a result, individual needs are unique and pose for significant challenges for the individuals and families impacted. The most well-known cause of brain injury has been concussion. Brain injury is more complex than concussion awareness, prevention, and care. Concussion awareness has appropriately increased public interest and assisted in placing traumatic brain injury in the spotlight. Brain injuries can also result from medical events, such as a stroke, as you heard earlier. So brain injuries run a continuum, and so you can have medical causes. We're talking quite a bit about traumatic, but we cannot forget those individuals who have medical causes because their brain is reacting in the same way as those who may have had a traumatic injury. And so a stroke is an example of a nontraumatic injury. The consequences of brain injuries are profound on patients, families, and caregivers. The impact is varied; it ranges from medical care and employment issues to financial burdens. They're a very complex issue. Unfortunately, the individuals may suffer in silence because the condition will really be misunderstood. This committee has, and will hear, perspectives of those individuals and families impacted by brain injury. Quite frankly, I can't do it justice, compared to the people who have been impacted by this issue. Traumatic brain injury has been a focus of public health throughout the nation over many years. There are a number of reports from government entities that outline issues brain injury patients are confronted with. They date back into the late '90s, and you will see studies that talk about various population groups. And I veer off...I'm a little off of my written remarks, but you will see them from domestic violence to our veterans who have brain injuries. Generally public health goals include prevention, medical care, and support for those with the injury. The more we know, the more we can prevent hospitalizations, emergency department visits, death, and assist individuals and family with accessing appropriate resources. And ultimately it's to improve outcomes, futures, and quality of life for everyone impacted. It's the hope that such efforts will also result in lowering the cost of care for these individuals. It's become apparent, through my prior work in public health, and now with the Brain Injury Alliance, that there needs to be predictable funding source to assist in resource facilitation, medical care, education, public awareness, and prevention. This bill allows for such a mechanism. National funding alone cannot be relied upon to maintain the infrastructure we

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desire and need. It will take assistance from the state of Nebraska. Thank you for your time today, and I respectfully request your support for LB1063. I'm happy to answer any questions; thank you. [LB1063]

SENATOR FRIESEN: Thank you, Mr. Acierno. Any questions from the committee? Senator Bostelman. [LB1063]

SENATOR BOSTELMAN: Thank you, Chairman Friesen. Thank you for coming and testifying today; I appreciate it. [LB1063]

JOSEPH ACIERNO: Sure. [LB1063]

SENATOR BOSTELMAN: We have national researches done. We have a...and we have trauma centers across the state of Nebraska, UNMC, and then we talk about rehabilitation through Madonna. I've heard a little bit about needing more research but then, also, just really the hands-on care locally with the patient once they're out. [LB1063]

JOSEPH ACIERNO: Correct. [LB1063]

SENATOR BOSTELMAN: Will you kind of talk...tell me a little bit where that separates out at, because does UNMC not have enough money to do the research? Is that what we're saying? What do... [LB1063]

JOSEPH ACIERNO: I don't know that to be the case, and I can't speak authoritatively on that, and I can't tell you what their desire is for how expansive that research would be. I think we're learning more and more about the brain every day, and so I think research continues and it will continue throughout, and after, my lifetime, because the more we understand, the more we know how to protect the brain. So I don't know to the extent where that's going. We have trauma centers and they are wonderful in this state, but trauma centers are taking care of, essentially...when I speak of a trauma center, it's a place for acute care. You're in the immediacy of the event and you're being stabilized, you're getting into a position, then, to go into a rehabilitation setting. And you may go into a rehabilitation setting, and that's going to be for a finite period of time possibly...depends. These are so unique that I don't know that you can say this person is always like this person, like this person. But once you start leaving the--I'll call it the formal constraints of facilities, what now? And I think that's the big issue. You're getting wonderful care when you're in the facilities; nobody is arguing that. But it's the what now happens to these folks. And again, I think it's, and it really is a family caregiver. It encompasses all the people, not just the patients. It's education for those who are around them, as well. I can't

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give you what...where UNMC is going with all of this, and I'll let them speak for themselves on that issue. [LB1063]

SENATOR BOSTELMAN: Fair enough; thank you. [LB1063]

JOSEPH ACIERNO: Sure. [LB1063]

SENATOR FRIESEN: Thank you, Senator Bostelman. Senator Geist. [LB1063]

SENATOR GEIST: Thank you. And thank you for your testimony. [LB1063]

JOSEPH ACIERNO: Sure. [LB1063]

SENATOR GEIST: It's interesting. Can you tell me about...for I assume, from what you just said, every patient is different. [LB1063]

JOSEPH ACIERNO: Sure. [LB1063]

SENATOR GEIST: But are you looking at a specific percentage of patients that need long-term help versus those that need a short-term help? [LB1063]

JOSEPH ACIERNO: Well, I'm sure that could be broken down in percentages. I can't give you that, but I would say...obviously what you will see from some of the individuals who have encountered this problem, or this condition, when you talk about continuing, you may have somebody who has a mild concussion and needs some care for a short period of time. You may have a profound concussion where you see some of the athletes, it continues on later in life. [LB1063]

SENATOR GEIST: Um-hum. [LB1063]

JOSEPH ACIERNO: And then you have individuals, well maybe, in an auto accident. I really can't give you the percentage of how many are going to require long-term. [LB1063]

SENATOR GEIST: Um-hum. [LB1063]

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JOSEPH ACIERNO: I think all you can really go by is whatever the national statistics show for the...for causes, and try to extrapolate from that. [LB1063]

SENATOR GEIST: Okay. [LB1063]

JOSEPH ACIERNO: So if there is, let's just say about 20 percent auto accidents creating, with a high incidence of death, we know that so many of those individuals are going to require care for a number of years. [LB1063]

SENATOR GEIST: Um-hum. [LB1063]

JOSEPH ACIERNO: But I can't give you, off the top of my...we could try to get you whatever information you need through the Alliance. We could try to provide you whatever statistics... [LB1063]

SENATOR GEIST: Okay. [LB1063]

JOSEPH ACIERNO: ...on that you'd like, sure. [LB1063]

SENATOR GEIST: That would be great. Okay, thank you. [LB1063]

SENATOR FRIESEN: Thank you, Senator Geist. Any other questions from the committee? Seeing none, thank you, Mr. Acierno, for your testimony. [LB1063]

JOSEPH ACIERNO: Thank you. Have a good afternoon. [LB1063]

SENATOR FRIESEN: Welcome. [LB1063]

AMANDA VICK: (Exhibit 7) Good afternoon. My name is Amanda Vick, A-m-a-n-d-a; Vick is V-i-c-k. And I am here, asking for your support on LB1063. I am the mother of a child with a severe traumatic brain injury, also know as TBI. My family's life started to abruptly revolve around brain injury when my oldest son here, Johnathon, was in a terrible car accident on August 31, 2016. It was just three short weeks after he turned 16. He had just started his junior year in high school, and he had suffered several injuries, but his brain injury was, by far, the most severe and extensive. Prior to his accident, he was an active teenager, participating in cross country, wrestling, track and field, and, the summer before, he was a top medalist on the swim team. After his accident, Johnathon was in a coma for two months. During that time, I was not only

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watching my son fight for his life, but I was also fighting with insurance companies to approve appropriate medical care; and it was a nightmare. After the doctors did all they could to save his life, we were left with insurance wanting to send him to our local nursing home, which was for the elderly. There was only one nursing home for children in Nebraska, and they had a three-month waiting period. Due to the level of his injuries, he needed more care than I could provide at home, and a nursing home placement for the elderly was just not appropriate. Our insurance finally approved for him to go to a program in Iowa. Although this wasn't a great option, it was our only option and it was over four hours from our house. He was approved through our private insurance to stay up to 60 days but, as soon as he got there, they started denying it, and it was a constant appeal to get those 60 days covered. When the 60 days were up, he had nowhere to go and he was, literally, stuck in Iowa. We had longed to be back in Nebraska in a program which would help him to regain his abilities. In January 2017, that wish came true. Johnathon was admitted to Madonna Rehabilitation Hospital in Lincoln, Nebraska. At Madonna they were able to address his issues of extreme tone and spasticity, his weight loss, and mobility, which is common after a severe brain injury. And although we began to see improvements, there were also setbacks due to infections and kidney stones and such. I'm thankful for the wonderful doctors, nurses, and therapists that were able to get him to a place where people looking at him could tell that he wasn't minimally conscious. I am frustrated on all the time limits and the progress needed to stay in the few places that are really beneficial to their recovery. After Johnathon did rehabilitation, he was still not ready to come home. He needed a specialized, skilled level of care. Although initially Johnathon was turned down two times, finally on the third attempt he was approved to go to QLI in Omaha, Nebraska. While at QLI, they continued excellent therapy, worked on him being able to communicate, eat, drink orally, and also train me on how to care for him. I'm thankful that they were able to show Johnathon that he could still live a quality life, while constantly encouraging him to do more. At this point, Johnathon still needs help with many things. He needs help with daily living tasks and anything that uses fine motor skills, orientation, ambulating, and communication. There are areas he needs continued therapies and to get resolved, like his strength, balance, tone, tremors, motor skills, and memory, to continue to reach his goals and continued progress. However, he can still do many things he loves with some adaptations and support. Brain injury is a terrible thing to experience, not only for the loved ones, but also for us parents. It has been difficult, time-consuming, and frustrating to find the resources we need to help Johnathon. We need access to the resources and professionals who understand the complex nature of the injury. Once we left the medical facilities, we also left that level of assistance behind. Now that Johnathon is home, it is up to me to advocate, educate, and train those that are working with him. I, along with other parents, sons, daughters, brothers, sisters, spouses, need help meeting the needs for our loved ones living with long-term effects of brain injury in our community. Funding from the LB1063 would begin to make that a reality in Nebraska. I know firsthand there is such a difference between being alive and living. I ask for you to please vote "yes" to move LB1063 out of committee, into the General File. Thank you. [LB1063]

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SENATOR FRIESEN: Thank you, Ms. Vick. Any questions from the committee? Seeing none, thank you for your testimony. Any other proponents for LB1063? Seeing none, does anyone wish to testify in opposition? Welcome. [LB1063]

RHONDA LAHM: (Exhibit 8) 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, and I'm the director of the Department of Motor Vehicles, appearing before you today to offer testimony in opposition to LB1063. As introduced, LB1063 proposes a fee structure which results in disparate impact to certain document holders and establishes precedence for the functions of the DMV to become a funding mechanism for state government operations. For example, a 15-year-old resident who applies for a learner's permit with a motorcycle endorsement will pay \$8.00 for their permit and \$15.00 in assessments for the brain injury fund. When that individual turns 16 and gets their provisional operator's permit with motorcycle endorsement, they'll pay \$15.00 for their permit and \$20.00 for the assessment. Then when they turn 17 and they're eligible for an operator's license with a motorcycle endorsement, they'll pay \$19.00 for their license and \$25.00 for the assessment to the brain injury fund, a total of \$42.00 for licensing fees and \$60.00 for assessments to the brain injury fund. For persons who are only eligible for a limited-term license, generally one or two years, they would pay \$5.00 for a one-year license and \$15.00 for the assessment to the brain injury fund. If that same person has a motorcycle endorsement, the license fee would be \$5.00 and the assessment for the brain injury fund would be \$25.00. For a person eligible for only a two-year license, the fee would then be \$10.00 for a license with a motorcycle endorsement and \$25.00 for the assessment to the brain injury fund. In addition, the bill exempts holders of certain documents: commercial drivers' licenses, commercial learners' permits, employment driving permits, seasonal permits, and ignition interlock permits. Persons who have their licenses revoked would be assessed the fee upon reinstatement of their license. Students and others who temporarily relocate to another state and are issued a document in that state and return to Nebraska would be subject to the brain injury assessment. Persons who let their licenses expire for more than one year would be subject to the brain injury assessment. The department has consistently taken the position fees collected by the department should be used to offset the cost associated with providing the services of the department. For the foregoing reasons, the Department of Motor Vehicles opposes LB1063. Thank you for your time. I'm happy to answer any questions. [LB1063]

SENATOR FRIESEN: Thank you, Director Lahm. Any questions from the committee? Senator Hilgers. [LB1063]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Director, for being here today. [LB1063]

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RHONDA LAHM: Um-hum. [LB1063]

SENATOR HILGERS: I just want to clarify. It sounds as if, but I just want to make sure that this is the case...are there any...it sounds as if there are no other fees that would be associated with obtaining any kind of license that would go to a purpose that would not be offsetting the cost associated with DMV services. That was probably a poorly worded question, but you get... [LB1063]

RHONDA LAHM: Currently, for each document, there's a document fee, and it's split between three different places, sometimes only two: the county general fund, because they're the ones who collect the money for the fee, so they generally get a portion; the Department of Motor Vehicles Cash Fund; and the General Fund. So that's where the fees are split right now. [LB1063]

SENATOR HILGERS: And there's no other example of an instance in which those fees might be split a fourth way? [LB1063]

RHONDA LAHM: The Ignition Interlock Fund--or the ignition interlock document--is a \$45.00 fee: \$5.00 goes to the DMV Cash Fund; \$40.00 goes to the Ignition Interlock Fund. When that's...when those was created, that specifically pays for, or is allocated to pay for, people who are indigent who can't afford the ignition interlock. So they make an application to us, and then we pay for the installation, the monthly fee, and the cost of the...out of that fund. [LB1063]

SENATOR HILGERS: Yeah, okay. Thank you, Director. [LB1063]

RHONDA LAHM: Um-hum. [LB1063]

SENATOR FRIESEN: Thank you, Senator Hilgers. Any other questions from the committee? Seeing none, thank you for your testimony. [LB1063]

RHONDA LAHM: Thank you. [LB1063]

SENATOR FRIESEN: Any others who wish to testify in opposition to LB1063? Welcome. [LB1063]

FRANK VELINSKY: (Exhibits 9 and 10) My name is Frank Velinsky, F-r-a-n-k V-e-l-i-n-s-k-y. I reside at 15221 Cedar Circle, Omaha, Nebraska. I am here representing myself. I'd like you to

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know that, in the fall of last year, I retired and sold my business. And for the last two decades I was providing in-home services to the elderly and disabled throughout the state of Nebraska and Iowa. And I mean all 93 counties were possible to be served under this program, and half of the 99 counties, in western Iowa, were served, serving those individuals primarily with the Medicaid waiver programs, who resided in their own homes or apartments, wherever they lived. We tended to specialize, I think, in the rural areas as we developed. We were able to do that under the waiver program because of the self-directed concepts that are part of the federal programs, that the choice that is also involved with the selection of caregivers. At the time of my retirement, we were employing a little over 400 caregivers, mostly part-time. They were serving approximately 600 clients in their own homes. As you may recall, the Medicaid waiver provides that an assessment needs to be done, prior to leaving a facility, and determining whether the person is nursing home eligible and, if so, they're giving an option of, if qualified, to either living in a nursing home or living in their own homes with a little bit of assistance from caregivers such as I had employed. The work that our caregivers did was assistance with the activities of daily living in the home. This is pretty basic work, such as: keeping the home clean and housekeeping of all sorts; meal preparation; some personal care, in terms of bathing and assistance; some ancillary transportation. That may be the only connection to this committee. However, LB1063 gave me some anxiety, when I first looked at it, because it strongly resembled legislation that had passed long ago in the state of Iowa. Over time the interpretations of that legislation in Iowa began to grow, in terms of its long reach into the community and, at one point, mandated brain injury training. LB1063 provides for training and education of all types. It does not specify what type of training. Had we not voiced our strong opposition at that time by hiring a lobbyist and a law firm and a PR movement, I think a great deal of the individuals in Iowa with a brain injury, under the brain injury waiver in that state, would've lost their services, simply because the caregivers who went into the homes are not computer-savvy. The training was on-line. Again, it was mandatory. They would have to travel down the road 7, 15 miles or more to the nearest town that had a library, get on the computer, assuming they could turn it on, and have the time to stay on the computer which took three hours to complete that training, which consisted of about four modules. That is not being proposed here; I realize that. But I can say that it resembles the law, and it had...these kind of things have a tendency to grow. One of the greatest threats that I think we're facing in this is that interest groups do see a threat to their models, which are largely the medical model, in the communities, and the in-home care, under the waiver programs. And some of our programs provide very inexpensive, very affordable assistance to the individuals. People who suffer a traumatic brain injury have some wonderful facilities to draw on in the community. We are very proud--I'm very proud myself--of all of the facilities, and we have worked closely with them. But for some reasons, we tend to neglect what happens when an individual leaves the facility, when the rehab is over with, when you're facing that door to your home and have to deal with the day-to-day activities. I fear that this type of legislation will grow some arms and start to prohibit these kinds of services that are essential to living independently with dignity and all of the good things that go with a lifestyle in the community. I have also noticed that, in Iowa, they

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use a term that is used here in this (inaudible) called community-based services. It's a very broad term, and it's hidden--I realize that--in here. I often said that our prison system is community-based. I think we need to have language in here that specifically applies to in-home services, if this legislation is to move forward. We need to protect it. You, as a Legislature, need to protect our taxpayers, as well as our citizens that are in homes and wanting to stay in that home. So I see I have a red light. I could go on forever with these...the problems that this is posing, and the anxiety it creates at every turn in this legislation. I am not doubting that it is needed. I am a member of the Nebraska Brain Injury Advisory Council. I am not representing them here, at this time, but this is...this is--or could be--a wonderful thing if we could expand the services in the in-home area without drawing in the medical model. That's where the crux is of rising costs and rising taxes, so I think that it is very important that we recognize that factor. And I would love to have a conversation with this, with the group, in promoting this legislation, but I certainly do not want to do that in its current form anyway. Thank you. [LB1063]

SENATOR FRIESEN: Thank you. Thank you, Mr. Velinsky. Any questions from the committee? Seeing none, thank you for your testimony. Any others wishing to testify in opposition to LB1063? Seeing none, does anyone wish to testify in a neutral capacity? [LB1063]

RANDALL GEER: Yes, sir. [LB1063]

SENATOR FRIESEN: Welcome. [LB1063]

KENT ROBERT: Chairman Friesen, members of Transportation and Telecommunications Committee, my name is Kent Rogert, K-e-n-t R-o-g-e-r-t, and I'm here today representing ABATE of Nebraska, in the neutral capacity. We thank Senator McDonnell for bringing this legislation. ABATE has always been, and likely always will be, in support of developing a brain injury fund. As Senator McDonnell mentioned in his opening remarks--and we thank him for the willingness to work with us--as currently drafted, it hits the motorcycle crowd twice, and we'd like to take a look at that and be a part of the conversation to develop a source of funds for the fund and contract language and direct grant application language, as we move forward throughout the process. [LB1063]

SENATOR FRIESEN: Thank you, Mr. Rogert. Any questions from the committee? Senator Bostelman. [LB1063]

SENATOR BOSTELMAN: Thank you, Chairman Friesen. Thank you, Mr. Rogert, for being here. Can you talk a little bit...our previous testifier talked about a little bit more specific areas. And you just spoke about contract...about the contract. Can you speak a little more to that, as far

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as what specific areas you're seeing or what things you're...you think need to be addressed in the bill? [LB1063]

KENT ROBERT: Currently, Senator, I think that's still up in the air. I think there are a lot of...there's a lot to be developed yet in that area, so UNMC, to my understanding, would be the facilitator of the grants. They would be in a contract with the state to manage the funds that go into the fund. That contract would say what they can and cannot use those funds for in their grant awards and probably narrow it down as to, you know, amounts, direction, and that sort. So I'm not quite sure exactly on the details, as we move forward, but happy to share those with you when we know. [LB1063]

SENATOR BOSTELMAN: Thank you. And do you...does anyone have an idea as to funding need? [LB1063]

KENT ROBERT: I think the initial look was...well, I think there's a need for funding beyond what we could possibly garner. I think our goal here was to get about \$1.5 million and continue to build that. From what I've seen and read and understand, I think, if we had millions in a fund, we would be able to use those millions. But we'll only...able to generate as much as, you know, seems reasonable. [LB1063]

SENATOR BOSTELMAN: Okay, thank you. [LB1063]

KENT ROBERT: Um-hum. [LB1063]

SENATOR FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? Seeing none,... [LB1063]

KENT ROBERT: Thank you. [LB1063]

SENATOR FRIESEN: ...thank you for your testimony. Any others who wish to testify in a neutral capacity? Welcome. [LB1063]

RANDALL GEER: Senator Friesen, my name is Randall Geer. I'm with ABATE of Nebraska. Senator McDonnell and... [LB1063]

SENATOR FRIESEN: Spell your name. [LB1063]

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RANDALL GEER: ...Mr. Rogert took a lot of the wind out of my sails, but... [LB1063]

SENATOR FRIESEN: Spell your name, please. [LB1063]

RANDALL GEER: Randall, R-a-n-d-a-l-l G-e-e-r. [LB1063]

SENATOR FRIESEN: Okay. [LB1063]

RANDALL GEER: Okay. At this time, ABATE of Nebraska takes a neutral stance on LB1063. We recognize the need for further research on TBIs and that the breakthroughs could be of great benefit to riders involved in crashes. I want to thank Senator McDonnell for his adjustments to the funding; that was my biggest issue before I was coming up here today. But I appreciate what he's done with the funding. I thought maybe we could help a little bit. We'd had an idea ourselves on the funding for this. If you put \$10.00 on every point of traffic violation, and make the people that break the law pay for this rather than the people that are abiding by the law, that was just a thought we had. But I was basically here for that. Two years ago, Senator Bloomfield proposed LB900, which would have created this TBI fund at that time. LB900 would've been administered through the Department of Health and Human Services, not UNMC. UNMC was one of LB900's staunchest opponents, arguing that the money generated would only be a drop in the bucket, not near enough. Now if they administer the fund, it's plenty--or not enough, but it suffices. LB1063, as written, only raises \$600,000 more than LB900. And you know what? I'm glad Mr. Rogert mentioned the part about what they could use to lobby with the money and what not, and I think something could be done with this in safety and awareness, also, if they did this program, that would...preferably motorcycle safety and awareness to prevent TBIs also. And that's all I have, unless you have any questions. [LB1063]

SENATOR FRIESEN: Okay. Thank you for your testimony. Any questions from the committee? Seeing none, thank you. [LB1063]

RANDALL GEER: Thank you. [LB1063]

SENATOR FRIESEN: Any others who wish to testify in a neutral capacity? Seeing none, Senator McDonnell, do you wish to close? We have a list of proponents...go ahead and come up and... [LB1063]

SENATOR McDONNELL: I just have a copy of my testimony and the information sheet. I waive. [LB1063]

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SENATOR FRIESEN: (Exhibits 11, 12, 13, 14, 15, 16, and 17) Okay. We have some letters, proponents: Dr. Scot Adams from Omaha; Kristin Mayleben-Flott, chairperson, Nebraska Planning Council on Developmental Disabilities; Andy Hale, David Slattery, Nebraska Hospital Association; Brett Hooegeven, the director of Contracting and Provider Relations, Quality Living, Inc.; Peggy Reisher, executive director, Brain Injury Alliance of Nebraska; Dr. Robert Rhodes, president, Nebraska Medical Association, and one letter of opponents: Frank Velinsky. With that, Senator McDonnell waives closing, and we will close the hearing on LB1063. Okay, we will now open the hearing on LB989. Senator Wishart, welcome to the Transportation and Telecommunications Committee. Senator Wishart? Welcome. [LB1063 LB989]

SENATOR WISHART: Hi. Well, good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Anna Wishart, A-n-n-a W-i-s-h-a-r-t, and I represent the 27th District in west Lincoln. I am here today to introduce LB989, to authorize the testing of autonomous vehicle technology on public roadways by a city of the primary class. I am excited to propose this enabling legislation that reflects groundbreaking and leading-edge technology in both transportation and telecommunications. With the presence of a research university and the emergence of Silicon Prairie, Lincoln is particularly poised for an autonomous vehicle pilot project which reflects Nebraska's pioneering spirit. I was briefed this summer on an autonomous shuttle that the city of Lincoln is interested in piloting this year. Testifiers following me will brief you in more depth about this exciting project. This legislation before you outlines rules and regulations to ensure safety. These rules include limiting testing to designated areas, speed limits, and insurance requirements. Transportation and communications technology is evolving at a rapid rate, and many cities, states, and institutions are already pursuing research projects to better understand and prepare for what is coming in the near future and, to a certain extent, is already here. Autonomous vehicle technology is full of promise in the area of safety, mobility, efficiency, agriculture, commerce, and economic development. I'm going to briefly outline the promise in these areas. First of all, safety: Safety remains one of my top priorities in the deployment of this technology. In a time where vehicular crashes and fatalities with crashes are on the rise, autonomous vehicle technology shows great potential in preventing injuries, saving lives, and reducing the cost of traffic crashes. An estimated 94 percent of traffic accidents are caused by human error. In terms of mobility, for people who cannot drive, autonomous vehicles increase their mobility options, providing access to good jobs, quality healthcare, and education, as well as make local public transportation systems even more flexible for our patrons. Fuel efficiency and environmental issues, "autonomation," and connectivity will also reduce fuel reliance and consumption, traffic congestion, and greenhouse gas emissions through their efficient operation. In 2016 Americans consumed 143 billion gallons of gasoline, even though the average owned vehicle sits idle 95 percent of the time, depreciating in value. And then, in terms of the agriculture in our economy, farming, as we all know, is also expected to be revolutionized by autonomous technology. In fact, we're already seeing it in the present in many ways. We'll see an emergence in self-driving tractors, self-propelled implements like

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sprayers in row crops, and advanced, automated technology for major farm activities like fertilizer applications, planting, and irrigation. Farm technology is predicted to become a \$250 billion industry for ag suppliers and manufacturers, with small automated tractor equipment making up a \$45 billion market on its own. So I believe LB989 is a great first step in moving Nebraska forward on this important technology. I'm happy to listen and work with interested parties and stakeholders to advance this important legislation, as this is a piece of legislation that is on my short list for priority designation. I thank you for your time, and I would be happy to answer any questions the committee may have. [LB989]

SENATOR FRIESEN: Thank you, Senator Wishart. I will tell you that I still want to go back and drive my tractor (laughter), but...any questions from the committee? Senator Hilgers. [LB989]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Senator Wishart, for bringing this; I think it's really interesting. One question: As I went through the bill--and I'm not sure if other cities have done this or if it's even necessary--but is there any sort of...have other cities had any kind of notice requirement--not necessarily a posted notice, but I think maybe more akin to, you know, a student driver, where the autonomous vehicle is driving and people know it's an autonomous vehicle, so they can sort of manage their expectations as they drive on the road. Is it...did it say anything in the bill on that? Do other cities do that? Do you think it's necessary? Can you speak a little bit to that piece? [LB989]

SENATOR WISHART: Actually that's a good point that you bring up. I believe those that are testifying and following will show you, maybe, some potential design for what the shuttle would look like in Lincoln, but I would have no problem including that in there, as well. I think it...I agree with you; that's a good idea. [LB989]

SENATOR HILGERS: Awesome, thank you. I really think this is going to be the future, so I appreciate you bringing it. Thank you. [LB989]

SENATOR WISHART: Yeah, yeah. [LB989]

SENATOR FRIESEN: Thank you, Senator Hilgers. Any other questions from the committee? Seeing none,... [LB989]

SENATOR WISHART: Okay, and I may be here for closing, depending on how my other bill goes. Thank you. [LB989]

SENATOR FRIESEN: Okay, thank you. Proponents for LB989. Welcome. [LB989]

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MIKI ESPOSITO: (Exhibits 1 and 2) Thank you. Good afternoon, Senator Friesen and members of the Transportation and Telecommunications Committee. My name is Miki Esposito, M-i-k-i E-s-p-o-s-i-t-o. I'm director of public works and utilities for the city of Lincoln, and I'm here to testify in support of LB989, to authorize the testing of autonomous vehicle technology on public roadways within a city of primary class. Thank you so much for this opportunity to speak with you today. One of the city's primary responsibilities is to provide safe and reliable transportation services to citizens who need access to jobs, education, and other important destinations, including healthcare. As you know, the landscape of transportation technology and infrastructure is changing at a rapid pace. So the question is: Are we going to be ready for the next generation of transportation technology and the arrival of this emerging industry? The city of Lincoln stands poised and ready to embark on a pilot project in downtown Lincoln that will help answer that very question. My colleague, Lonnie Burklund, is here to describe the project in more detail, and we are handing out the project plan and proposal to you. This project represents an opportunity to carefully investigate and understand the impacts, issues, barriers, benefits, and challenges associated with the technology. It's about knowledge acquisition and sharing that knowledge with other stakeholders. As Senator Wishart noted today, safety is our number one priority, first and foremost, and this project includes robust design standards and validation of the system's performance, onboard ambassadors, and virtual monitoring, as well as compliance, strict compliance with federal, state, and local rules of the road. The city will also obtain insurance in the amount of \$5 million or greater, to support the project, and we will procure vehicles that have a universal design so that they are accessible to all patrons, including those with mobility challenges. Transparency and information sharing will be critical for stakeholders and fellow communities. Therefore, the city will submit a detailed description and plan for the pilot project to the Nebraska DMV and DOT prior to deployment. We will also make that plan, and any final report of our research and findings, available to the public. Finally, we are committed to seeking private-sector partnership and/or grant funding to support the project. We are not asking the state for any additional funding. We are committed, and will contribute local revenue toward any expected match associated with the grant funds. In the end, this proposal represents an exciting, but logical, first step to proactively research autonomous vehicle technology. We want the technology to inform our judgments for the future, and we ask for your support of this legislation. Thank you for having me today. [LB989]

SENATOR FRIESEN: Thank you... [LB989]

MIKI ESPOSITO: I'm happy to answer any questions you might have, but I would reserve the technical for my traffic engineer. [LB989]

SENATOR FRIESEN: Thank you, Ms. Esposito. [LB989]

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MIKI ESPOSITO: Thank you. [LB989]

SENATOR FRIESEN: Any questions from the committee? Senator Bostelman. [LB989]

SENATOR BOSTELMAN: Thank you, Chairman Friesen. Question: What's...looking it through here real quick, there's a couple different ways, looks like, that these vehicles move around. One looks like it may be following, almost, a rail. Another one is completely autonomous. What's the cost that this potentially could be? [LB989]

MIKI ESPOSITO: So we have an estimate. We plan to lease up to four vehicles, and the cost of that, including any deployment of traffic engineering technology to support it, is about \$1.5-\$2 million. [LB989]

SENATOR BOSTELMAN: And I understand the city is...it's not on the state. So I was just kind of curious as to what the cost for this would be. [LB989]

MIKI ESPOSITO: Right. And so we'll do a lease of those vehicles because it is yet just a pilot project. [LB989]

SENATOR BOSTELMAN: Okay, thank you. [LB989]

MIKI ESPOSITO: Um-hum, yes. [LB989]

SENATOR FRIESEN: Thank you, Senator Bostelman. Senator Smith. [LB989]

SENATOR SMITH: Thank you, Chairman Friesen. Just a few questions. If you want to defer this to... [LB989]

MIKI ESPOSITO: To Lonnie. [LB989]

SENATOR SMITH: ...your traffic person, that's fine. So how would this work with potential congestion in...so I was looking at some of the pathways that it would be following, and those pathways are fairly congested at various times of the day and, also, they...I think they also have to compete with bicycle traffic. What would be the speed of this vehicle, and how would it coexist with the other traffic and not create more congestion? [LB989]

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MIKI ESPOSITO: Very good question, and I'll...I will defer the congestion management aspects of the sensor technology to the traffic engineer. But I will respond...I think you had asked...oh, I forgot your other question, not just congestion management, but... [LB989]

SENATOR SMITH: The congestion and also coexisting with bicycle traffic. [LB989]

MIKI ESPOSITO: Okay, yeah. Well, I'll defer to Lonnie... [LB989]

SENATOR SMITH: All right. [LB989]

MIKI ESPOSITO: ...because there is sensor technology that is very sensitive to reading its environment. [LB989]

SENATOR SMITH: Just curious also, do they have, on the inside and, I guess, maybe even on the outside, do they have an emergency shutoff? [LB989]

MIKI ESPOSITO: Yes, and actually we will deploy...so a big part of this is our partnership with our transit agency, StarTran. And we believe this will augment our services and manage growth a little bit more with respect to transit. So we plan to have ambassadors during the pilot duration, to have both people to answer questions and provide some customer service and some help to people who might need to onboard the shuttle. But more importantly, if the technology is breaking down or misoperating or malfunctioning in some way, we would have the ability to go ahead and intervene and have a professional driver who would operate the vehicle. That's called fallback. [LB989]

SENATOR SMITH: All right. And so I know you've already set aside traffic lanes for bicycles which does compete for surface space with other vehicles. How would this work? Would this be competing with regular traffic, or would it be competing with bicycle traffic, with shared space? [LB989]

MIKI ESPOSITO: It has a very delicate sensor reading ability to know what's going on around it so, if there are other users...but it's particular for vehicle-to-vehicle transportation, but it would be able to read other movements in the environment. [LB989]

SENATOR SMITH: Okay, thank you. [LB989]

MIKI ESPOSITO: Okay. [LB989]

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SENATOR FRIESEN: Thank you, Senator Smith. Any other questions from the committee?  
Senator Geist. [LB989]

SENATOR GEIST: Thank you. I do just have one question. About how many people will fit into  
one of these buses at a time--or shuttle? [LB989]

MIKI ESPOSITO: It depends on the one that we actually select, but up to 18...between 10 and  
18. [LB989]

SENATOR GEIST: Oh, okay, okay. [LB989]

MIKI ESPOSITO: Yeah. [LB989]

SENATOR GEIST: Thank you. [LB989]

SENATOR FRIESEN: Thank you, Senator Geist. Senator Hughes. [LB989]

SENATOR HUGHES: Thank you, Chairman Friesen. Thank you for coming today. [LB989]

MIKI ESPOSITO: Thank you. [LB989]

SENATOR HUGHES: So weather conditions, you know...what, you know, snow, rain, wind. Is  
this just a fair weather vehicle? Or do you...and who makes that call when it runs, when it doesn't  
run? [LB989]

MIKI ESPOSITO: Okay. I'll take the first question, and yes, yes, yes, those are the questions we  
want to know about. How does it behave in weather conditions? And that's part of the analysis.  
The typical person who might make the decision about when to not only deploy it...we want to  
work very closely with the Department of Motor Vehicles on a plan, pilot it on private roadway  
before we actually deploy it on a public roadway, make sure they're assured of its safety. But  
then, when we're ready to deploy it publicly, we have our StarTran system making those calls. So  
they would operate the system. [LB989]

SENATOR HUGHES: Have you thought about maybe just doing it on the University of  
Nebraska campus, where it is limited traffic? Certainly a huge number of individuals moving  
back and forth, you know...could be a service of the university or a small fee. That would seem  
like that would be a much safer environment, to not...to test drive it--no pun intended. [LB989]

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MIKI ESPOSITO: We are open to any routes. Those are also public streets and publicly maintained, but we are open to different routes that make sense for the user. [LB989]

SENATOR HUGHES: Thank you. [LB989]

MIKI ESPOSITO: You bet. [LB989]

SENATOR FRIESEN: Thank you, Senator Hughes. Any other questions from the committee? Senator Briese. [LB989]

SENATOR BRIESE: Thank you, Chairman. And thank you for your testimony. [LB989]

MIKI ESPOSITO: Yes, thank you. [LB989]

SENATOR BRIESE: You bet. These vehicles we're talking about here, how does their safety record compare to that of a bus or a car, in the event of a crash? [LB989]

MIKI ESPOSITO: Well, they do have fallback technology associated with them, and I might go ahead and read through some of the safety features that we would analyze before even putting it on a public roadway. But safety elements of this pilot includes, but is not limited to: robust safety design standards and validation of the system's safety features; hazard and risk analysis for vehicle design, operation, and type of transportation environment; software development and verification standards associated with the software; object and event detection and response; crash avoidance capability; minimal risk condition or fallback strategies--that's the strategy when it starts to decline in operation and an operator has to take over--vehicle cyber security standards and systematic ongoing assessment; occupant protection in post-crash behavior; education and training; onboard ambassadors and virtual monitoring; as well as compliance with state, federal, and local rules of the road. So these are sort of a national guidance, and we would have to check all of these boxes before the deployment on a public roadway, to feel comfortable with them. And I don't have data today. My colleague may... [LB989]

SENATOR BRIESE: Okay. [LB989]

MIKI ESPOSITO: ...about national data, but I'd be happy to get that to you. [LB989]

SENATOR BRIESE: Okay. You or I go to buy a vehicle and we get a four-star rating or a five-star crash rating. I'm just curious what...how these would be rated. [LB989]

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MIKI ESPOSITO: This...yeah, we'd be happy to provide that to the committee. [LB989]

SENATOR FRIESEN: Thank you, Senator Briese. Senator Bostelman. [LB989]

SENATOR BOSTELMAN: Thank you, Chairman Friesen. I want to follow up on Senator Briese's a little bit further. These get deployed and, if these would be deployed on the streets in Lincoln, and you have the public utilizing these vehicles now, what warning, or what information, does someone...if I was on the street and a vehicle comes by, it must be safe. It must not be a test. It must be proven. How am I going to know, as a public citizen, that if I get on that, you know, because this is a test that I'm getting on it, and I need to realize that and that this isn't something that I guess is commonly used yet. [LB989]

MIKI ESPOSITO: Um-hum. [LB989]

SENATOR BOSTELMAN: So you're kind of stepping into a little bit of a unknown, and then you're willingly participating in that. [LB989]

MIKI ESPOSITO: You bet. [LB989]

SENATOR BOSTELMAN: Can you talk to that a little bit? [LB989]

MIKI ESPOSITO: Okay. I think I would take note that Senator Hilgers provided about signage on these vehicles and allowing some education at the point of the pilot, where we're letting people know that this is an autonomous vehicle. We will do a lot of public education with our citizens to prepare for the deployment. We will really work to get the word out about these shuttles, what they look like in the downtown. In addition, this will be--and Lonnie will talk a little bit more about the technology to summon these vehicles through a cell phone technology--so they would be specific for certain patrons who are using their cell phones to actually summon the technology. Does that sort of answer some of your questions? [LB989]

SENATOR BOSTELMAN: Yeah, that's...yeah, just kind of, you know, the public is going to be using a public transportation system. [LB989]

MIKI ESPOSITO: Um-hum, yes. [LB989]

SENATOR BOSTELMAN: The public needs to know and be aware... [LB989]

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MIKI ESPOSITO: Yes. [LB989]

SENATOR BOSTELMAN: ...that, when they step on this, the risk that they're taking, because they could be taking a risk. [LB989]

MIKI ESPOSITO: I see what you're saying. So as part of the technology and the application and payment method, we would be having information about any associated risks. [LB989]

SENATOR BOSTELMAN: Will this be taking...replacing existing transportation, public transportation? Or is this going to be in addition to? [LB989]

MIKI ESPOSITO: Right. Absolutely not. And your question is so important for even the comfort of our employees, who we have a lot of faith in and believe in. We believe this technology, because of the limitations and the speed limits that it can go, it's very well-suited for a downtown area, or maybe even a residential area, but we believe that it would augment the growth of our system as our city grows. So we want to incorporate this into our transit system that currently exists today and even utilize our bus operators, our professional drivers, to stand as ambassadors to help with the technology and the change in trying this technology. [LB989]

SENATOR BOSTELMAN: Okay, thank you very much. [LB989]

MIKI ESPOSITO: Yes, thank you. [LB989]

SENATOR FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? A couple things that I'd like to know about a little bit more. You talked about \$5 million of insurance. And so, if you're carrying 10-15 people, is that enough coverage, or...we need to make sure that that's adequate, I guess. [LB989]

MIKI ESPOSITO: Absolutely. It is per claim, and it is per occurrence. [LB989]

SENATOR FRIESEN: Okay. [LB989]

MIKI ESPOSITO: So we would specify the city of Lincoln is self-insured and it carries liability and risk insurance for claims that are brought through the Political Subdivisions Tort Claims Act. [LB989]

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SENATOR FRIESEN: Would passengers require to wear a seat belt, or would this be like a bus? [LB989]

MIKI ESPOSITO: Not sure yet. I think it would be more like the bus, where you could stand or sit, and we haven't talked about safety features like seat belts. But that would be, certainly, part of the study; it could be. [LB989]

SENATOR FRIESEN: So when I look at the proposed route, you do cross, you know, O Street, which is...I don't know if it's considered a state highway when it's inside the city limits. [LB989]

MIKI ESPOSITO: It is a state highway, yes. [LB989]

SENATOR FRIESEN: But, so is...I guess my main question is the state and the county: Are they held totally liable, no matter what? Or how do you deal with that? [LB989]

MIKI ESPOSITO: We would be prepared to hold the state and the county harmless for the pilot, the duration of the pilot project, for any occurrences that happened on O Street. [LB989]

SENATOR FRIESEN: Okay. And you mentioned a little bit that this won't be really public transportation. It will be available only to certain people who can summon the vehicle? Or is this... [LB989]

MIKI ESPOSITO: Oh, no. It will be incorporated into our StarTran, our transit agency's operations as part of the system, specifically if it were to become long-term. However, the technology--and Lonnie can speak to this a little bit more--is a summoning through your...a cell phone app. That's kind of the current limitation that we have. We will try to explore other opportunities for people who don't have cell phones or, you know, don't want an app on their phone. But for now, and during the duration of the pilot, we would use this application through a cell phone. [LB989]

SENATOR FRIESEN: And so then it would stop at multiple places, wherever, and pick up riders? [LB989]

MIKI ESPOSITO: Right. You would actually have to summon it. It would be more by request than having a designated stop, yeah. [LB989]

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SENATOR FRIESEN: Okay. Well, seeing no further questions, thank you for your testimony. [LB989]

MIKI ESPOSITO: Thank you for your questions. [LB989]

SENATOR FRIESEN: Welcome. [LB989]

LONNIE BURKLUND: (Exhibit 3) Good afternoon, Senator Friesen and members of the Transportation and Telecommunications Committee. My name is Lonnie Burklund, L-o-n-n-i-e B-u-r-k-l-u-n-d. I'm the assistant director of transportation for the city of Lincoln, Nebraska. I'm here today in support of LB989, to authorize the testing of autonomous vehicle technology on our public roadways by a city of the primary class, and I thank you for the opportunity to provide testimony today on this exciting transportation technology. The city of Lincoln is on the move. We continue to prioritize and deploy transportation and communications technology to serve the public. This is evidenced by our recent implementation of Green Light Lincoln, major upgrades to our traffic signal system to increase safety and reduce travel times, and mass construction of broadband infrastructure. These efforts have allowed us to better collect data, operate, and manage our transportation systems. Just like your cell phones and your home security systems, the transportation systems of the future are smart systems. The city of Lincoln knows how to deliver transportation technology, and we want to learn with the state and other Nebraska communities in our next initiative. Pilot projects allow us to seamlessly embark on our next transportation technology initiative, a pilot project for autonomous microshuttles. This pilot project will safely and efficiently move people between major destinations within downtown Lincoln. Electric shuttles will provide demand-responsive service along a fixed route with up to 24 stops at key locations, one of which is just steps outside the west doors of this great building that we sit in now. The stops will take advantage of existing, safe pedestrian waiting areas and will be marked with signs and vibrant pavement markings. Riders will summon the nearest shuttles via a GPS-enabled app on your phone, based upon the desired destination, the pilot management software will deploy vehicles to minimize wait time and ensure efficient travel. The autonomous shuttles are high-tech, with onboard radar, lidar sensors, video cameras, and GPS systems, in addition to ultrasonic sensors on bumpers, similar to many of your vehicles today. They will traverse routes at low speeds in the downtown. And while it's important to test these autonomous vehicle technologies, it is just as critical, from our perspective, to test the impacts of this technology on our transportation system in a real-world environment with mixed traffic. The analysis of how this service impacts our on-street parking, our signal infrastructure, sign placement, and facilities needs will help us identify the upgrades and costs associated with delivering smart transportation systems of the future. Our engineering and field technician staff will gain valuable expertise on equipment installation and maintenance needs, with dynamic short-range communication radio systems at nearly 20 signalized locations and by monitoring impacts of this system in our traffic management center. Overall, through deployment of this

pilot project, we gain knowledge about general performance, operations and maintenance, citizen acceptance and ridership data, fare models, infrastructure impacts, security, liability, and compliance. Documenting these elements in a safe, low-speed test environment in the public realm will provide the much-needed data to allow for measured, yet a phased deployment of this transit service. The technology will improve mobility for a broad range of stakeholders, including young, aged, students, visitors, downtown workers, underserved populations, the visually impaired, and those with accessibility challenges. There is a time for this capitol city and the state of Nebraska to be a leader of innovation in this space. That time is now. We stand poised and ready to deliver this initiative. Your help is a first step toward providing high-quality, advanced transportation service to our customers, the citizens of Lincoln, and our state. We respectfully request your support to advance LB989 forward. And I'd be happy to answer any of those other questions. [LB989]

SENATOR FRIESEN: Thank you, Mr. Burklund. Senator Hilgers. [LB989]

SENATOR HILGERS: Thank you, Mr. Chairman. Thank you, Mr. Burklund, for being here. I appreciate the work that you've done on this. I do have a question; I wanted to get your take on it. I mean, we have a system of traffic liability laws that are really premised on the idea that people are driving cars, so negligence, contributory negligence and the like. And I'm wondering how...if you've considered, sort of, how this would fit within those laws and if any changes need to be made. So as a for instance, if I were to rear end you, it's...I'm liable, more or less. I mean the general rule is I'd be liable; I'd get ticketed. But what if you're an autonomous vehicle? Is that...does that change the liability scheme? Do we look at something differently? Do we have to change our laws? Should we consider changing our laws? Have you...there are...that's one example of many. Could you first speak to how this might fit within that broader liability scheme? [LB989]

LONNIE BURKLUND: Well, I'm probably not the legal expert on a couple of those specifics but, you know, I think, in terms of this project effort that we're looking at, as a true pilot project, those are things that we're curious and needing more information about. You know, current testing that's been done by almost half of the states--22 or 3, I think, that are engaged in some of these similar projects on a mix of both private and public streets, are addressing those same kind of issues. What happens if there is a minor fender bender? Not a lot different than an occurrence that happens today. You know, local law enforcement would show up. You know, the interesting thing with these vehicles and the monitoring of them, and with the technology and the SPaT systems, which is the signal phase and timing information, we would actually be able to track more accurately maybe if the autonomous shuttle is at fault or another distracted driver that, you know, bumped into the shuttle, if something were to occur. [LB989]

SENATOR HILGERS: Yeah, I guess I'm just...and then part of this is just thinking out loud but, you know, if you've...but as the standards...I mean, I understand that there's liability insurance, but whether or not you could even make a claim is a threshold question. And so if you're not...I mean, does it change if there's not a person driving in front of you, how far back I have to be from an autonomous vehicle? Or vice versa, right? If they'd have had...but you know...do I need to make sure that the autonomous vehicle is far enough behind me for a quick stop, if they don't...you know what I'm saying? I mean I'm not sure what the answers are, but I think those questions...I think...I understand the goal of a pilot is to identify issues with the implementation, but I think some of these legal issues might be threshold questions that we should at least sort of tease out before we do a pilot. [LB989]

LONNIE BURKLUND: I think we totally agree, and I would say the good news about a project like this, in a low-speed environment in downtown, and with the sensors and the technology that are on these shuttles that I've ridden on and experienced firsthand, I would say that one of the most cautious drivers that we have in the entire city, they will probably be a little bit overcautious at times, what might be some of the analysis that we find, in terms of those efficiencies. The combination of the radar and the lidar and the GPS and those ultrasonic sensors, you know, they have a tendency to probably stop more on a dime than our current driving population does. [LB989]

SENATOR HILGERS: Um-hum. Okay, thank you. [LB989]

LONNIE BURKLUND: Yeah. [LB989]

SENATOR FRIESEN: Thank you, Senator Hilgers. Any other questions? Senator Briese. [LB989]

SENATOR BRIESE: Thank you, Chairman. Thank you for your testimony today. How foolproof is this technology? I mean, a little kid jumps out in front of it. Guaranteed to stop? [LB989]

LONNIE BURKLUND: I would say so, yes. I guess, as a licensed civil engineer and a traffic engineer, and from doing lots of projects around the country and, more recently, getting up to speed on some of this technology, and with our consultant team that produced this, in addition to experience and in riding these firsthands, as an example, we did a test case where there was a shuttle traveling probably somewhere in the neighborhood in the of 15 miles an hour. And then I was there from, probably, you-to-me away, as the vendor stuck his foot out in front of the bumper from kind of a side street access and, you know, the shuttle immediately came to a stop. And so I think the, you know, the sensors are robust, and the software management systems have

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come a long way in the last three to four years. And yeah, I'm very confident in their ability to traverse this route in a safe manner. [LB989]

SENATOR BRIESE: Um-hum. You haven't heard incidents in other tests, other states, other trials, of failure? [LB989]

LONNIE BURKLUND: You know--interesting--one of the recent blogs and things that was probably a few weeks or months ago, was on a pilot demo in Las Vegas. They had a shuttle that they put on a lane--a public street, but a lane that they had closed--kind of along the strip in Las Vegas. And like the second day that they rolled this program out, there was a minor fender bender with the shuttle and a delivery truck. And actually, because of the technology onboard, they were able to investigate it and, through talking with the driver of the delivery truck, they actually determined that it was the...it was not the shuttle's fault; it was the other distracted driver and human error, so. But otherwise, I'm not aware of, you know, significant crash experience with some of the other pilots that have gone on. [LB989]

SENATOR BRIESE: Okay. Well, let's assume we do have a problem, and a vehicle is going down, and crowding the center line or straddling the center line. How do we get it stopped if the passengers don't pay attention, and they're just riding along, straddling the center line? What shuts it down? [LB989]

LONNIE BURKLUND: Well, one thing--and I don't know if you picked up from the prior testimony--for at least the first six months, and likely longer, we plan on having an onboard ambassador, a StarTran operator, on these shuttles. And so, you know, while the technology, through our traffic management center and dispatch and, also, remotely, by the way, via the vendor and manufacturer, will be monitoring the path and the traversing that these vehicles are doing, there will also be an onboard staff person, if we need to, you know, stop the shuttle or if there's, I guess, some different types of activities. We've kind of fleshed out some plans for street closures or if there's a delivery vehicle parked in the street that we need to do and traverse around. So those are the types of things, absolutely, that we've been investigating. [LB989]

SENATOR BRIESE: And beyond that--it might be germane to autonomous vehicles in general--how do we stop a vehicle, a runaway vehicle, so to speak, if the passengers aren't paying attention? [LB989]

LONNIE BURKLUND: Well, certainly there are onboard mechanisms to do that and if, for some reason, that does not work or is not available...and I wouldn't imagine a scenario where we have a rogue 15-mile-an-hour shuttle traversing down the street. But if that were to occur, we could certainly shut that down from either our StarTran dispatch, from our traffic management

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center, most likely, and with the vendor support, remotely, as well. So there's several fail-safes there. [LB989]

SENATOR BRIESE: Okay, thank you. [LB989]

LONNIE BURKLUND: Yeah. [LB989]

SENATOR FRIESEN: Thank you, Senator Briese. Senator Geist. [LB989]

SENATOR GEIST: Thank you. Could you...you might have addressed this, or the previous testifier might have addressed this, but I missed it. Will there be a designated lane for the shuttle along the path? [LB989]

LONNIE BURKLUND: There will be, in terms of the route has been set up, and you don't have to pick through those in detail now, but in the report there are several different pages that show some versions of the designated route that we have... [LB989]

SENATOR GEIST: Um-hum. [LB989]

LONNIE BURKLUND: that uses 12th Street and 13th Street in a north-south pair fashion. It uses N Street and P Street east-west to get over to west Haymarket. We were pretty selective about the route, to hit some key locations, but also for what is the makeup of that street, in terms of one-way streets and additional lanes. So if there...if the shuttle is traveling a little bit slower than some of the prevailing traffic--which I think Senator Smith kind of alluded to with the congestion, although we don't see that as an issue--there would be opportunity for, you know, sharing of the road, so to speak, with these shuttles and other traffic. [LB989]

SENATOR GEIST: Um-hum. [LB989]

LONNIE BURKLUND: But we see this, you know, intermixing with regular traffic. [LB989]

SENATOR GEIST: So it's not designated just for this shuttle. [LB989]

LONNIE BURKLUND: No, absolutely not. [LB989]

SENATOR GEIST: Okay. [LB989]

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LONNIE BURKLUND: It will be in a lane with other vehicles. [LB989]

SENATOR GEIST: Okay. [LB989]

LONNIE BURKLUND: I might just answer that the bicycling question...again, due to the range of sensors and the capabilities and the sheer speed of these vehicles, with the bicycling community, I see less issues, honestly, with these shuttles than a lot of our current vehicles that are traversing those streets. [LB989]

SENATOR GEIST: Okay, thank you. [LB989]

LONNIE BURKLUND: Yeah. [LB989]

SENATOR FRIESEN: Thank you, Senator Geist. Any other questions from the committee? Senator Bostelman. [LB989]

SENATOR BOSTELMAN: Thank you, Chairman Friesen. Question is, that I have is: How much off-road traffic testing have these gone through? [LB989]

LONNIE BURKLUND: You know, there was a...I think someone alluded to the snow operations. Actually MnDOT--and I haven't seen the final work--just wrapped up a fairly large study on their MnROAD campus up north in Minneapolis-Saint Paul. I know some of the consultants that were working on that. They had a couple different shuttles that they were testing sheerly from a snow standpoint and winter weather, because they're curious to do this similar type of work. They actually rolled out a few of them. If anybody saw, during the Super Bowl in Minneapolis, they were shuttling folks back and forth; it was quite successful. And they get plenty of snow up there, as well. And I think, you know, we would certainly have days when we do not deploy these shuttles. We would leave them charging and in their bays if the street conditions were bad. But yeah, there is some newer research that's going on, on, you know, with their type of tires, how can they adjust to minimal snowfall amounts and temperature differences. [LB989]

SENATOR BOSTELMAN: Okay, thank you. And it also looks like it's a fairly low-set vehicle. So could you speak to--maybe someone has already--how this, with national transportation, as far as safety--vehicle safety...the bumpers seem pretty low. Maybe in this state, as in other northern states, you know, we have some large vehicles up and down the... [LB989]

LONNIE BURKLUND: Sure. [LB989]

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SENATOR BOSTELMAN: ...out on the roadways, whether it'd be trucks, whether it'd be, you know, whether it'd be dump trucks, whether it'd be our refuse haulers, whether...whatever it might be. Can you speak to that just a little bit, to the safety component of this vehicle, maybe how much it weighs, as well? [LB989]

LONNIE BURKLUND: Yeah, the shuttles that, you know, our combinations that we've been looking at from a couple of the major manufacturers, there's two to three that are probably under more serious consideration for this type of pilot project that are a bit more tried and true, and that we were very comfortable with in doing some of the prior research. They weigh somewhere in the range of 6,000-7,000 pounds. They're a fairly robust, heavy vehicle. A lot of that is due to battery weight, because they are all-electric and a very green type of vehicle. And so, yeah, but the bumper height...they're, you know, probably a little bit lower than what you would see on some of the standard cars. But again, I think the idea is that these vehicles, with their sensor technology, provide a buffer and a space between them and anything traveling adjacent to them. [LB989]

SENATOR BOSTELMAN: Thank you. And then, finally, how are they licensed? [LB989]

LONNIE BURKLUND: Well, we would license these as the city of Lincoln, and Ms. Esposito mentioned we're looking at a lease-based system. So we would be the operator of those four vehicles. [LB989]

SENATOR BOSTELMAN: Thank you very much. [LB989]

LONNIE BURKLUND: Yeah. [LB989]

SENATOR FRIESEN: Thank you, Senator Bostelman. Senator Hughes. [LB989]

SENATOR HUGHES: Yes. What would be the quickest implementation date that these would be on the road? Have you projected that far out? [LB989]

LONNIE BURKLUND: Well, we've talked quite a bit about that, as a group. We've got some different funding options. We're really looking at a primary goal to obtain some grants to do this, probably in an initial fashion. You know, probably realistically, it would be an early-2019 potential rollout. There was initial talk, in the report, of maybe looking at even fall of 2018, depending on some trial or grants and things like that. But we're going to take it at a measured pace and make sure that we do it right. We've got some minimal upgrades to make with some of our signal system technology. Fortunately we're one of those communities that has a very robust

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communications network, so we feel that we're really set up pretty well to launch into this technology. [LB989]

SENATOR HUGHES: Okay, thank you. [LB989]

SENATOR FRIESEN: Thank you, Senator Hughes. So I finally get to ask the question: So... [LB989]

LONNIE BURKLUND: Yes, sir. [LB989]

SENATOR FRIESEN: We all know Lincoln drivers are fairly aggressive (laughter). So how easy is it to program these things to run that yellow light just at the last second? [LB989]

LONNIE BURKLUND: These will not be running yellow lights. I love all Lincoln drivers; in fact, we get phone calls from many of them every day as we've been rolling out our Green Light Lincoln and new signal timing initiatives and projects (laughter) but, you know, these things will be directly tied in to the traffic signal controllers at each location, and they'll have an understanding, as they're approaching those intersections, of the exact remaining green time, yellow and red change intervals. They will be the most cautious driver that we have in the city; I can guarantee that. [LB989]

SENATOR FRIESEN: They are going to impede traffic. [LB989]

LONNIE BURKLUND: Well... [LB989]

SENATOR FRIESEN: Okay. [LB989]

LONNIE BURKLUND: We might treat some improved behavior. [LB989]

SENATOR FRIESEN: Nah, I doubt it (laughter). No further questions from the committee...thank you for your testimony. [LB989]

LONNIE BURKLUND: Thank you very much. [LB989]

BRUCE BOHRER: Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. Bruce Bohrer, appearing on behalf of the Lincoln Chamber of Commerce. For the record, my name is spelled B-r-u-c-e B-o-h-r-e-r. The Lincoln Chamber

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supports LB989, to provide legislation for an autonomous vehicle pilot project in certain...under certain conditions in Lincoln. We view LB989 as looking ahead, anticipating and embracing new technology. Obviously the overall goal is to test an on-demand autonomous vehicle, along a fixed route, to safely and efficiently move people between major destinations and landmarks. We view this, also, as developing partnerships in dealing with emerging technologies, testing feasibility. We contract with the county to operate our Convention and Visitors Bureau. So the Convention and Visitors Bureau obviously has an interest in this. We have a fairly compressed downtown area, a lot of attractions you can move visitors to. I would also say our visitors--or our Convention and Visitors Bureau--would probably play a part in informing members of the public and visitors about the pilot, as well. We view this as positioning Lincoln and Nebraska at the forefront of using new technology for the benefit of our people, poised to increase mobility options, as was already talked about. And finally, I'm just going to talk a little bit about the buzz and the interest that this creates. I think Senator Wishart had mentioned Silicon Prairie and kind of the perception of Nebraska sometimes that we work against, as far as for economic development, perception that we're behind the times. This certainly tries to rebut that, or helps in rebutting that image. We're embracing new technology and getting out in front of it. I've got a military affairs committee that I staff at the Chamber, and these guys always like to say, about issues that they don't know much about, we need to get smart. And that's the way I look at this issue of pilot programs, saying we need to get smart, we need to figure out some things, we need to get ready for this. And the benefits that we've already talked about here are just kind of gravy along with it. It's something definite...definitely it's something that's coming along, and we need to embrace it and be prepared for it. So with that, I will be...I'll conclude my remarks and be happy to answer any questions you might have. [LB989]

SENATOR FRIESEN: Thank you, Mr. Bohrer. Any questions from the committee? Seeing none,... [LB989]

BRUCE BOHRER: All right, thank you. [LB989]

SENATOR FRIESEN: ...thank you for your testimony. Welcome. [LB989]

RICHARD SCHMELING: (Exhibit 4) Thank you, Senator Friesen and members of the Transportation Committee. I've been before you many times on many of the legislative bills, and I certainly enjoy coming down and hearing all the testimony and the deliberations. [LB989]

SENATOR FRIESEN: State and spell your name, please. [LB989]

RICHARD SCHMELING: My name is Richard, R-i-c-h-a-r-d; last name Schmeling, S-c-h-m-e-l-i-n-g. I'm here today, not representing any particular group. I'm here as a private citizen. As you

know, I am a student of transportation, and my original field of expertise was railroading. However, I have become involved with the StarTran city bus system, and I've learned a lot about buses the last three or four years. If you had talked to me a year ago, I would've said that I'd probably be down here opposing a bill like this. I'm a skeptic; I'm a hard sell. But I'm here supporting the bill because I feel this is a wonderful way to edge into this new technology. You're going to hear another bill about autonomous vehicles later this afternoon, but we really need to edge into this. It's the great unknown; we don't know enough about it. And if we take baby steps and we start with this pilot project, we're going to learn and that will help us then when we want to take a bigger step and have a system that's expanded. I met with Mike Davis, the transit manager for StarTran, and Lonnie Burklund and Miki Esposito, and I've really quizzed them about this pilot project. I'm satisfied that they've dotted their "I"s and crossed their "T"s. And I'll give you a couple examples. The question has come up: What happens if an autonomous vehicle misbehaves? Well, you're monitoring it, and you've got a kill switch, and you could shut it down. I also like the provision in the bill that the autonomous people are going to work with law enforcement so that, if an autonomous vehicle is involved in an accident, they will be able to shut down the vehicle and access the data, and find out what happened with the accident. And I think it's very important that the law enforcement and the emergency responders be able to understand and interface with the system. Senator Hughes raised an interesting question: Do we put them in the busy downtown area? And there is another possibility, which I've thrown out, that is that StarTran could use some feeder buses that would circulate in remote neighborhoods, out in the community, and feed passengers to the major routes. That would be another possible way that these autonomous vehicles could be used. I...there are questions, there are things with the development of them, that tell me that we need to go slowly but, on balance, I'm satisfied that this pilot project is the way to go. And so I strongly urge you to go ahead and take this bill out of committee and that it be adopted. I'd also indicate that my conversations with the city indicate we currently have a Star Shuttle manned bus that goes in the downtown area. That will not disappear when the autonomous vehicles come. That Star Shuttle will continue to operate, so this system is going to supplement existing service rather than replace it. And with that, the yellow light has come on, and that means I need to conclude. So I'll just simply say thank you for visiting with me, and I'll entertain any questions that you might have. [LB989]

SENATOR FRIESEN: Thank you, Mr. Schmeling. Any questions from the committee? Seeing none, thank you for your testimony. [LB989]

RICHARD SCHMELING: Thank you. [LB989]

SENATOR FRIESEN: Other proponents of LB989. Welcome. [LB989]

BRAD MOLINE: Good afternoon. My name is Brad Moline, B-r-a-d M-o-l-i-n-e, and I represent Allo Communications. I'll be brief. Allo Communications is making a rather significant investment in fiber in this community, and I support the city, as well as anything that can be done to enable our fiber. Our fiber isn't required for this project, but what I'd like to say is, as we put fiber in communities--and this is...Lincoln represents our seventh community and Hastings will be our eighth this year--we enable the citizens of Nebraska and the communities of Nebraska to develop smart cities. And so I encourage the senators and the chairman to develop this project with the city. And I'm a proponent of LB989 because, at the end, not only will we develop something for this city, but I'm hoping, eventually, it not only covers this city, but also our rural communities. Allo has fiber in places like Bridgeport, Ogallala, Alliance, Gering, Scottsbluff, North Platte, and, as I mentioned, Hastings, as well, not only for transportation, but also for agriculture. To me this could be one of those projects that's just the beginning of developing not only smart cities, but maybe a smart state. So with that, I'll sum it up and open it up for questions. [LB989]

SENATOR FRIESEN: Thank you, Mr. Moline. Any questions from the committee? Seeing none, thank you. [LB989]

BRAD MOLINE: Thank you. [LB989]

SENATOR FRIESEN: Any other proponents? Seeing none, we'll take anyone who wishes to testify in opposition. Welcome. [LB989]

CARLA JACOBS: (Exhibit 5) Thank you. Good afternoon, Chairman Friesen, members of the Transportation Committee. My name is Carla Jacobs, C-a-r-l-a J-a-c-o-b-s. I'm with Uber Technologies, the head of public policy for Uber Nebraska. Before I share Uber's testimony, I want to submit a letter to you from the Self-Driving Coalition for Safer Streets, which was a coalition formed by Ford, Lyft, Volvo Cars, Uber, and Waymo, which was formerly Google's self-driving car project. The coalition is comprised of companies with expertise and experience in technology, automobile, and transportation network sectors. And despite the different backgrounds of the companies, the coalition was formed to bring potential safety benefits of autonomous vehicles to consumers in a safe and swift manner. The coalition is opposing both of the self-driving bills, as currently drafted, and they outline additional details on their position in the letter. So I want to first thank Senator Wishart for sponsoring the bill. It's really encouraging to see interest in the issue of self-driving technology and to hear more about the work that the city of Lincoln is doing on the shuttle. I think it's very important for the general public, and for lawmakers like yourselves, to hear more about what's going on in this space, to see the incredible safety benefits that it provides. I think that one aspect of all this that's often overlooked is public engagement and education. If the technology evolves and, you know, citizens are not

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comfortable using it, then it's just going to be a waste, so I appreciate the dialogue here today. While we're really excited about the conversation and the interest from the state on this topic, we...I would encourage you to not rush forward with proposals that may have unintended consequences. We're opposing the legislation because, by just authorizing one single pilot program, the state is essentially signalling to broad industry groups, like the ones included in the coalition, that they're supporting the single entity that will be a partner with the city, instead of broadly supporting testing the best and most innovative technologies in this space. And in contrast, the states that...where there's currently testing on the roads today, including Pennsylvania and Arizona where Uber is testing, those states actually haven't moved forward with explicit regulations. Their language allows for the technology to operate on the roads today. And I think our read of the Nebraska statute would do the same and so, by signalling to one pilot that that is the direction that Nebraska wants to go, it would essentially be signalling preference and priority for that project over, you know, broad support. And so I would encourage you all to look closely at the language. The senator and, I think, the city of Lincoln have both expressed a desire to work with stakeholders, and we'll certainly continue to take them up on that. We've had really productive conversations today and hope to continue those. And so I appreciate the opportunity to share some information about our position and look forward to continuing the dialogue as the weeks continue. I'm happy to take any questions. [LB989]

SENATOR FRIESEN: Thank you, Ms. Jacobs. Are there any questions from the committee? Seeing none, thank you for your testimony. Welcome, Director Lahm. [LB989]

RHONDA LAHM: (Exhibit 6) Thank you. Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. I am Rhonda Lahm, R-h-o-n-d-a L-a-h-m, director for the Department of Motor Vehicles, appearing before you today to offer testimony in opposition to LB989. I'd like to thank Senator Wishart for bringing the committee a relevant and timely topic, and for including the department in the conversations regarding LB989. However, the department continues to take the position that a statewide policy will best serve our state. Autonomous vehicle technology will have a significant impact on the safe operation of motor vehicles in Nebraska and will be an integral part of achieving the Road to Zero goal of zero fatalities by the year of 2050. Therefore, the department encourages the use of technology in that regard. The goal of the department has been, and continues to be, to establish comprehensive policy regarding the operation of autonomous vehicles statewide. For several years, the policy recommendations resembled more of a moving target. With input from a broader array of stakeholders representing the federal government, state government, law enforcement, motor vehicle industry, highway safety advocates, and public and private sectors, the recommended standards and guidelines are now becoming more static. I would like to update the committee on the conversation surrounding autonomous vehicles at the national level and locally. Last year we shared with the committee the American Association of Motor Vehicle Administrators was working in conjunction with other stakeholders to produce a best practices

document. In lieu of that document, the work of AAMVA and other stakeholders in conjunction with the National Highway Traffic Safety Administration resulted in their publication titled Automated Driving Systems 2.0: A Vision for Safety. This document provides a broader spectrum of guidance. The contents make suggestions as to what would be the appropriate role at the federal level, as well as the responsibility of the states. The document further addresses safety elements of the vehicles, best practices for highway safety officials, and general policy areas to be addressed by the states, for example: licensing, registration, enforcement of traffic laws, safety inspection, vehicle insurance, and requirements for testing. Based on the information contained in the publication by NHTSA, the American Association of Motor Vehicle Administrators is continuing to develop more specific guidelines for the states. These guidelines include uniform definitions, specific recommendations for titling and registering autonomous vehicles, driver skill testing and endorsements for autonomous vehicles, requirements for testing/piloting, and enforcement of traffic laws...scheduled for publication late spring or early summer of this year. At the state level, discussions with internal government stakeholders are underway to lay a foundation for policy which will be cascaded to stakeholders within the industry and the public and private sector for input. This process will result in recommendations for a comprehensive statewide policy on autonomous vehicles consistent with that of other jurisdictions. Thank you for your time today, and I'd be happy to answer any questions you may have. [LB989]

SENATOR FRIESEN: Thank you, Director Lahm. Are there any questions from the committee? Senator Briese. [LB989]

SENATOR BRIESE: Thank you, Chairman. Thank you, Director, for being here. [LB989]

RHONDA LAHM: Certainly. [LB989]

SENATOR BRIESE: Do you think there is anything to be learned from a pilot project like this, that could be beneficial going forward, as we try to adopt our policy--statewide policy--in this regard? [LB989]

RHONDA LAHM: Well, I think that the city of Lincoln has done a good job in trying to step forward for a pilot, and we encouraged it. We just want to ensure that we don't do something in Nebraska that makes Nebraska an island, not like what's happening, or similar to what's happening, in other states, and that it's comprehensive and applies statewide, not just in the primary cities--or city, I should say, in the case of Nebraska. [LB989]

SENATOR BRIESE: Okay. [LB989]

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RHONDA LAHM: But certainly, I think you'll learn. I think you're going to learn something; this is an ongoing learning process. I get a weekly newsletter from AAMVA, and in this week there were seven different articles and issues regarding autonomous vehicles...in this particular week's issue. So it's a constant topic of conversation. It's constantly evolving, but it has become more static. Actually one of my employees is on the working group, and that's purposeful so that we can stay at the forefront of the conversation and have the latest information about what's going on, on the national level, so that we can keep Nebraska in the conversation. [LB989]

SENATOR BRIESE: Thank you. [LB989]

SENATOR FRIESEN: Thank you, Senator Briese. Any other questions from the committee? Seeing none, thank you for your testimony. [LB989]

RHONDA LAHM: Thank you. [LB989]

SENATOR FRIESEN: Welcome. [LB989]

LEIGHTON YATES: (Exhibit 7) Good afternoon, Mr. Chairman and members of the committee. My name is Leighton Yates, and I'm the senior manager of government affairs for the Alliance of Automobile Manufacturers. For those of you that are... [LB989]

SENATOR FRIESEN: Could you please spell your name? [LB989]

LEIGHTON YATES: Oh, yes. Leighton, that's L-e-i-g-h-t-o-n; last name Yates, Y-a-t-e-s. And as I said, I'm here on behalf of the Alliance of Automobile Manufacturers. For those of you that are unfamiliar, the Alliance is a trade association that represents 12 of the world's leading light-duty and car manufacturers in the U.S. Together every year, they account for over 70 percent of the cars and trucks sold in the United States. I'm here, not only to oppose LB989, with the caveat that we're not opposed to the idea of a pilot project but, more so, the substance of the bill. We're excited for this technology. Coast to coast our members are building cars from the ground up, as we speak, to be on the roads as soon as the next couple years and the years going forward. These cars and automobiles, whether they're cars or shuttles or any other form of transportation, the goal is to produce safety, as the previous speaker just said, and lower road fatalities, incidents where there's crashes on the roads, and also increase mobility for those that are not able to drive, such as the elderly or the disabled. Getting down to the substance of the bill, we are opposed to the bill, as written. We see the bill as too extensive. There are some definitions that are problematic, for example autonomous vehicle. I know this project is for a shuttle but, when you define the term "autonomous vehicle," it brings in stakeholders from other realms that may not

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be intended for this particular project, such as manufacturers of automobiles, like myself, or folks who are involved in ride-sharing companies. For example, we found the bill to be too prescriptive and too exact, for example, but we do believe the bill can be improved. The root of our opposition comes from the Alliance's position that local government should not be regulating autonomous vehicles, the point of that as being we have tried to avoid a state patchwork of autonomous vehicle laws. So when you go from state A to state B to state C, you can do it seamlessly as a driver. But also, the states that you're driving through can also respond, whether it's through public service, your law enforcement, your State Patrol, things of that nature. When it comes down to the micro-level, with the cities, the counties, you can imagine it would be very difficult to drive county to county, city to city, with different sets of laws, which are all based and rooted in the definitions. So for that reason, that's why we're opposed. There's been examples we've seen in states where cities and local government have successfully executed pilot projects. They mentioned Minnesota, with the Super Bowl. I know Austin, down in Texas, is beginning to pilot shuttles at the airport. There's also been pilots in Pennsylvania, as well, and Arizona. In many of those instances, almost all of them, there was no legislation needed to begin these pilot projects. Texas most recently just passed a law last year, but these pilots were in place well before then. Arizona has no legislation. Pennsylvania has not yet passed any legislation, and Minnesota has not, either. When I speak to possible solutions, there's different routes you can go. There's...in some of these states pilot projects have been accepted and executed via executive order, where a governor may essentially say that their state is open for business, they would like to foster innovation, and they want companies to test there. As an example--there's more factors to it--but some ride-sharing companies have...since that executive order has been announced, they've moved from the state of California to the state of Arizona. And my members, as well, have many operations testing in that state, as well. I've also attached, with my slip, an example that we've seen in another state where it's not as prescriptive and constrictive to the industry, but it allows the states to partner with entities for pilot projects without getting too much into the autonomous vehicle space, as far as definitions and performance standards. So for those reasons, we are opposed to the bill, as written, but we happily entertain any amendments, and I'm happy to answer any questions. [LB989]

SENATOR FRIESEN: Thank you, Mr. Yates. Any questions from the committee? Seeing none, thank you for your testimony. [LB989]

LEIGHTON YATES: Thank you, Mr. Chair. [LB989]

SENATOR FRIESEN: Any others who wish to testify in opposition to LB989? Seeing none, does anyone wish to testify in a neutral capacity? Welcome. [LB989]

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RANDALL GEER: (Exhibit 8) Senators, I'm Randy Geer for ABATE of Nebraska. My name is R-a-n-d-a-l-l G-e-e-r. ABATE of Nebraska assumes a neutral stance on LB989. We acknowledge advancing vehicle technology could greatly reduce motorcycle crashes throughout the state and the country. I've given each of you a Motorcycle Riders Foundation news release dated February 9, 2018. I've highlighted some areas showing some of the perils that a motorcyclist deals with, with vehicles on autopilot. When the representative from Dynamic Research states that their forward collision warning systems have a 40 percent failure rate when approaching a stopped motorcycle, the technology needs a little more research. LB989 has no language providing public notice of when and where this test will be taking place. For this reason, ABATE of Nebraska would like to ask the committee to add an amendment requiring public notice of when and where these tests are being conducted, to allow riders the option to avoid the testing area if they have the option to do so. And that's all I have. Thank you very much. Any questions? [LB989]

SENATOR FRIESEN: Thank you, Mr. Geer. Any questions from the committee? Seeing none, thank you. Any others who wish to testify in the neutral? Welcome. [LB989]

JOSELYN LUEDTKE: Hello, Chairman Friesen. Members of the Transportation and Telecommunications Committee, my name is Joselyn Luedtke, J-o-s-e-l-y-n L-u-e-d-t-k-e, appearing as a registered lobbyist on behalf of Verizon Wireless. We want to thank you for the opportunity to provide neutral testimony on LB989. The bill does not affect Verizon today, but our technology is an integral part of autonomous vehicles. Verizon is proud to provide the nation's most reliable network, and wireless infrastructure technology, 5G, over a citywide network of small cells, enables autonomous vehicles. There will be fiber, there will be wireless technology, there will be even landline companies involved in this technology, as well. But today I just wanted to bring 5G to your attention in this aspect. The redundancy provided by 5G will ensure the millions of lines of code transmitted by each autonomous vehicle are delivered seamlessly across the network to ensure the safety of drivers, pedestrians, and everyone in the location of an autonomous vehicle. 5G also provides imperceptible network latency. That's the time between when you push the button and the machine responds, which is very important in machine-to-machine interactions, for example: the traffic light talking to the autonomous vehicle. That will ensure a quick response time of the vehicle and transmission of data, leading ultimately to safer roads. Verizon is beginning to update their telecommunications infrastructure in Nebraska to 5G, to enable smart city technologies, such as autonomous vehicles. Verizon appreciates this committee's help in passing legislation to help our cities attract investments, such as small cells and autonomous vehicles. [LB989]

SENATOR FRIESEN: Thank you, Ms. Luedtke. Any questions from the committee? Seeing none, thank you for your testimony. Welcome. [LB989]

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TAD FRAIZER: Good afternoon, Chairman Friesen. Members of the committee, my name is Tad Fraizer; that's T-a-d F-r-a-i-z-e-r, representing the American Insurance Association, a national trade association of property and casualty firms. We wanted to let the committee know that our trade association is actively tracking autonomous vehicle legislation in various jurisdictions. We appreciate the fact that this bill has certain specifications as to autonomous vehicles meeting safety standards and provision of insurance. We think, going forward, as you consider any sort of autonomous vehicle legislation, it is very important to consider that the vehicles do meet current safety standards, that they're up to date, and that appropriate insurance is provided. The insurance industry is looking at various products to provide insurance in these circumstances. We want to be in a position where it's the market creates the appropriate insurance products rather than being forced to, kind of, shoehorn existing products into what may be kind of a specialized niche going forward. And we think appropriate levels of insurance need to be provided. Again, looking forward, depending on the exact situation of a given piece of legislation or type of vehicle being authorized. And I would try to answer any questions you might have. [LB989]

SENATOR FRIESEN: Thank you, Mr. Fraizer. Any questions from the committee? Seeing none, thank you for your testimony. [LB989]

TAD FRAIZER: Thank you. [LB989]

SENATOR FRIESEN: (Exhibits 9, 10, 11, 12, and 13) Any others who wish to testify in a neutral capacity? I have some letters from proponents: Jason Hellbusch, chair of StarTran Advisory Board; Dr. Mark Riley, professor, UNL Biological Systems Engineering and associate dean for research, College of Engineering; Charles Schroeder, president, Amalgamated Transit Union Local 1293; Carlos Servan, executive director, Nebraska Commission for the Blind and Visually Impaired, a letter of "opponence" for John Fisher, manager of state government affairs, associated of Global Automakers. Seeing there is no one who wishes to further testify, we will close the hearing on LB989. And now we will open the hearing on LB1122. Senator Larson, welcome to Transportation and Telecommunications. [LB989 LB1122]

SENATOR LARSON: Thank you, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Tyson Larson, T-y-s-o-n L-a-r-s-o-n, representing District 40. And I come before you today to represent--present--LB1122. LB1122 provides definitions and provisions relating to the operation and testing for...of automated motor vehicles in Nebraska. Due to the constant evolving nature of this technology, the bill also creates the Nebraska Council for Future Transportation, tasked with providing recommendations for changes in state policy to ensure Nebraska is one of the leaders in autonomous, driverless, and connected motor vehicle technology, moving forward. According to the National Conference of

State Legislatures, the number of states considering legislation related to autonomous vehicles has continued to increase each year. Since 2012 at least 41 states have considered some aspect of related legislation and, more importantly, 21 states and Washington, D.C., have passed autonomous vehicle legislation to date. Additionally, governors in six other states have issued executive orders in an effort to establish how to best advance automated motor vehicle testing and technology. Autonomous vehicles are no longer just an engineer's vision of the future. Autonomous motor vehicles have arrived, and they will only become more popular and prevalent with time. I believe it is our state's...in our state's best interest to proceed with a proactive approach by placing standards and regulations into law. Furthermore, I believe this is the safest and most responsible way to respond to, and proceed with, this important issue. LB1122 has been crafted after a Michigan law that provides a starting point and basic foundation for the future of automated vehicles in Nebraska. The bill was introduced with the progression of the concept in mind, knowing that the constant evolution of technology will be inevitable. I've received comment from a manufacturer's alliance, as well as a technology alliance, with different language that they'd like to discuss, and I'm happy to work with both of them. I'd like to thank the committee for their time today and for their consideration of LB1122, moving forward, and I'd be happy to answer any questions. Thank you. [LB1122]

SENATOR FRIESEN: Thank you, Senator Larson. Questions from the committee? Seeing none,... [LB1122]

SENATOR LARSON: Thank you. [LB1122]

SENATOR FRIESEN: Those wishing to testify in...proponents of LB1122. Seeing none, does anyone wish to testify in opposition to LB1122? Welcome. [LB1122]

CARLA JACOBS: Hi, thank you. Carla Jacobs, C-a-r-l-a J-a-c-o-b-s, head of public policy for Uber in Nebraska. Just a few brief comments on LB1122. We first appreciate Senator Larson, his attention to the issue, and the discussion today during the hearing. However, we are opposed because, like the first bill, it creates essentially two tiers of regulation within...for this technology. The bill would essentially create explicit authorization exclusively for auto manufacturers, and then create a different level and different requirements for organizations in the space that are not traditional auto manufacturers, like technology companies. We appreciate the attention to the issue, look forward to engaging in conversations, but our ask of you all would be to create one standard for all companies in this space. [LB1122]

SENATOR FRIESEN: Thank you, Ms. Jacobs. Any questions from the committee? Seeing none, thank you. Welcome. [LB1122]

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LEIGHTON YATES: Hello again, Mr. Chairman. Again, my name is Leighton Yates; that's L-e-i-g-h-t-o-n, last name Yates. I'm here on behalf of the Alliance of Automobile Manufacturers, in opposition of LB1122. Safety...when it comes to autonomous vehicles, safety is the priority, the top priority, for auto manufacturers. This technology is years in development, going back 40-50 years, if you look at some of the automotive magazines from back then. They have the ideas of people driving in cars, talking to each other, no steering wheel, similarly to some of the futuristic images you still see today. But through all the development, the goal has been to lower the frequency and severity of crashes. In 2016 there were 37,461 road fatalities. Believe it or not, that's 5.6 percent higher than the previous year. You may wonder why that's happening. It's related to gas prices. As gas is going down, more people are driving; therefore, there's more of these instances. But the really shocking stat of all this is that, of all those crashes, the 37,000 plus, 94 percent approximately, is due to human error. Whether that's distraction or impairment or some degree, it comes back to the human driver. So we believe developing this technology will take those factors out and save lives. Some of this technology you already have in your vehicle. There's automated emergency braking, there's blind spot monitoring, forward collision warning, as well as lane-keeping technology. It has many benefits, some of that have been mentioned here today: traffic calming, the...helping the disabled and the elderly to live a more free and independent life, there's also been talk of other state activity. Numerous states have passed laws, just to name a few that are recent: California, Texas, Colorado, and Georgia. And the point of all of this, to say, is that while we have all these states passing laws, not a single law that has been passed mirrors a previous law, so we have a bit of a patchwork. We've always cautioned states before passing a law, to go through certain steps to avoid those patchworks when you go. As I mentioned earlier, from state A to state B, you can do it seamlessly, and the state can respond to those drivers seamlessly, as well. Other areas that have...other actions that have taken place across the states are executive orders. These are something that we've actually applauded. In Wisconsin and Idaho most recently, the governors released executive orders that established advisory committees. There's also been, as I mentioned earlier, the executive order in Arizona that was pretty much a proclamation that the state was open for business and that it was ready to foster technology. There's also federal legislation pending. There's a bill in the House and the Senate. One has already made it through one chamber, and we hope that they'll be taking action on a final bill as soon as this summer. This bill will affect all the states, as well as some local communities. Speaking still on the federal government, the National Highway Traffic Safety Administration, or NHTSA, has also provided two versions of its guidance on how stakeholders and states can act as one to bring this technology to the folks in their communities in a timely, but sensible, way. And on that point, we have some recommendations that mirror some of the recommendations from NHTSA. As we go into states, we definitely don't want to stagnate the technology, but we want to make sure the states are, for one, assessing infrastructure. Many states now are struggling to just fund roads and fill pot roads (sic--potholes) and stripe lanes. Those are all things that will affect automated driving technology, maybe not to a severe degree, but they are all factors in the success of that technology working, especially in

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the early stages that we're in right now. We also suggest that folks--or states--review current laws. There are some states that have onerous laws, such as New York, that requires one hand on the wheel at all times. And you can imagine, as we get to higher levels of automation where the human driving is not a factor in your trip, there's no steering wheel at times; it will be hard to keep that hand on that steering wheel. We also look for states to identify a lead agency. Me personally, I think this is the most important thing that a state can do before addressing AVs, or autonomous vehicles. This lead agency typically ends up being a DMV- or a DOT-type entity, and their role is--how I put it in brief is--they're the clearinghouse for AV issues and technologies in the state. If a local government, city or county, has an issue, they can air those grievances with that agency or, if they have some positive feedback, share that as well. We have shared some language with Senator Larson that we believe would be a good first step. I know this bill is based off Michigan, as a starting point, but that was about two years, so the starting point has moved already. That's how fast this technology is developing. LB22 (sic--LB1122) has some outdated language, some strict requirements, and we are opposed to the bill as it is written today. I see my yellow light, so I get my warning. In closing, we oppose LB1122, and I'd be happy to answer any questions. [LB1122]

SENATOR FRIESEN: Thank you, Mr. Yates. Are there any questions from the committee? Seeing none, thank you for your testimony. [LB1122]

LEIGHTON YATES: Thank you, Mr. Chair. [LB1122]

RICHARD SCHMELING: Practice makes perfect, and I'm Richard, R-i-c-h-a-r-d Schmeling, S-c-h-m-e-l-i-n-g. I'm here once again, speaking as a private citizen. I do not represent any particular group. You previously heard testimony on a bill for a pilot autonomous vehicle project in the city of Lincoln, of very limited scope and very specific. I liken that to putting your toe in the water, kind of testing the temperature. This particular bill, LB1122, would essentially create the ability for autonomous vehicles to be used statewide on all sorts of highways, as I read the bill. My background, when I practiced law here in Lincoln, was I did a lot of personal injury litigation, and I did some traffic offenses. And there are huge implications when you try to take a big bite, like LB1122, and there are enough issues to keep your legal counsel busy full-time, just trying to figure out what all laws we need to change in order to have autonomous vehicles going all over the state. For example, I pose this one: Suppose an autonomous vehicle is in a collision. Who gets the ticket? Who goes to court? Who pays the fine? In the state of Nebraska for real people drivers we have a point system and, when you violate the law and you're convicted of a traffic offense, if you get 12 points within a certain period of time, your license is suspended. If the autonomous vehicles traveling throughout the state cause crashes, who do the points get assessed against, and how many points can the company that's running the autonomous vehicles accrue within a period of time? There are other issues that I think we need to be concerned with. A lot of the testing that's been done with the autonomous vehicles that have been put out on the

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road have been done in what I call the sunbelt states: California, Arizona, Texas, and so on. I'm concerned about this time of year, on our interstate, the sensors have been shown to be degraded by heavy snowfall, fog, dust, and even wet pavement sometimes gives sensors a false reading. So rather than jumping into this wholesale, I'm going to urge the state of Nebraska to take it real slow. Let's do a pilot project; let's find out how these vehicles actually perform when they're put out on a limited basis. And then, based upon what we learn, I think we can craft a bill that will be superior to LB22 (sic--LB1122) and have something that's good and workable and safe. And that concludes my remarks. [LB1122]

SENATOR FRIESEN: Thank you, Mr. Schmeling. Any questions from the committee? Seeing none, thank you for your testimony. Welcome. [LB1122]

KEITH GAMERL: Thank you. If you'll bear with me, this is my first time ever testifying. [LB1122]

SENATOR FRIESEN: It's all right; relax. [LB1122]

KEITH GAMERL: As a steward, I've been able to address a lot of people, and especially when it's matters of the heart. [LB1122]

SENATOR FRIESEN: Would you state and spell your name, please? [LB1122]

KEITH GAMERL: Yes, Sir. Keith Gamerl; that's K-e-i-t-h G-a-m-e-r-l. I'm here representing myself, and I'm also here on behalf of the Teamsters Union here in Nebraska. I am a 20-year employee with UPS. I've been a package car for the last--a driver--for the last ten years. I've held driving duties before that, as well, but I've been a full-time package car driver. I'm on the road 10-14 hours a day, especially with this Christmas. I hear words like "exciting" and "fantastic," when it comes to automated vehicles. I think that they look really great when it, you know, it...we're trying to talk about...when we talk about safety--and I get it, and I've watched a lot of videos and seen all the sensors and stuff like that. But you still need a human element to sometimes dictate in a certain situation, your next move. As a driver, I've been trained that, if I've got a person walking down the street and I've got a car coming at me, and there's going to be a crash that happens, I'm going to have to take that car instead of that driver. Does that autonomous vehicle have the capability to understand a complex situation, something like that? I don't know if it does. I had many notes; I had more of a prepared statement. If I could, I'm going to refer you to...Kim Quick has sent a letter to you, Sir, and that is going to be the official statement of the Teamsters Union. But if I may, there are many variables that come daily with what I do. I hone my skills every day as a driver. I'm really proud of the fact that I have a very good driving record with UPS. I do that every day; I go out there; I take my job seriously, take public safety

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seriously. I take providing for my family very seriously. I see this as a job killer. I see this fantastic automation slowly picking off commercial drivers, union or not. This isn't just a factory that will go out because a robot is plugging in some screws; this is a global thing, really. We have 3.5 million CDL drivers on the road. We have a support staff that goes along with that. We have functions, along the interstate system, that support drivers coming in. That's a tax base. We need those people; we need those jobs to pay those bills. We don't need a drive...or a truck driving down the road by itself just so that a company can probably make a little bit more money. This is, in my opinion, this is just cutting out a wage for a person doing a job. With that, I think I'll give the rest of my time back, if you have any questions. I am a little nervous, but I wish I had more. I kind of had more of a prepared statement, as I said, but here I am. Any questions? [LB1122]

SENATOR FRIESEN: Thank you, Mr. Gamerl. Is there any questions from the committee? You know... [LB1122]

KEITH GAMERL: I appreciate your time then. [LB1122]

SENATOR FRIESEN: ...the first time may be the worst. Relax, and... [LB1122]

KEITH GAMERL: I'm going to get better. [LB1122]

SENATOR FRIESEN: We're pretty easy here. [LB1122]

KEITH GAMERL: We'll see you again, maybe. [LB1122]

SENATOR FRIESEN: /Thank you for your testimony. [LB1122]

KEITH GAMERL: Take care. [LB1122]

SENATOR FRIESEN: Any others who wish to testify in opposition? Seeing none, anyone who wishes to testify in a neutral capacity? Welcome, Director Lahm. [LB1122]

RHONDA LAHM: (Exhibit 1) Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. I'm Rhonda Lahm, R-h-o-n-d-a L-a-h-m, director of the Department of Motor Vehicles, appearing before you today to offer neutral testimony on LB1122. I'd like to thank Senator Larson for bringing to the committee a relevant and timely topic and his willingness to work with the DMV and the Department of

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Transportation. The department shares the position of facilitating the use of technology to make the roads safer in Nebraska. And rather than to read the record and take time of what you previously shared with you, I'll just share at the end, where we are concurring that a statewide policy, like we stated before, is the more appropriate policy for the state. So we're willing to work with the senator and the DOT on this project. So thank you for your time. If you have questions, I'm happy to answer them. [LB1122]

SENATOR FRIESEN: Thank you, Director Lahm. Any questions from the committee? Seeing none, thank you for your testimony. [LB1122]

RHONDA LAHM: Thank you. [LB1122]

SENATOR FRIESEN: Welcome. [LB1122]

TAD FRAIZER: Good afternoon again. Senator Friesen, members of the committee, my name is Tad Fraizer, T-a-d F-r-a-i-z-e-r, representing the American Insurance Association, a national trade association of property and casualty firms. As on the previous bill, the insurance industry is following autonomous vehicle legislation with interest, trying to develop appropriate products for it. We are obviously very concerned about making sure there's appropriate insurance coverage in effect. In going through this bill, this one bill is, I guess I'd say, significantly more complex than the previous bill, and there's some question in our mind as to exactly what levels of insurance apply to which entities operating under the bill. And we do have, also, some concerns that this bill goes beyond testing and whether intentionally or not, some of the language may authorize up to statewide operation of autonomous vehicles in Nebraska. So I think it's important to follow closely the intent behind the bill and make sure appropriate coverages are in effect. And I'd try to answer any questions you might have. [LB1122]

SENATOR FRIESEN: Thank you, Mr. Fraizer. Senator Briese. [LB1122]

SENATOR BRIESE: Thank you, Chairman. And thank you, again, for your testimony. Any predictions or projections as to the liability insurance rates on autonomous vehicles versus non-autonomous vehicles someday down the road? [LB1122]

TAD FRAIZER: Yeah, I'm afraid we don't have that information at the moment. Part of it is going to be, as there was some discussion on both this bill and the previous bills, determining who are the entities involved. Who's going to be liable? As I sometimes say, when a lawsuit is involved, everyone gets invited to the party. So figuring out who the ultimately responsible parties are going to be is going to kind of affect rates. You know, how do you rate a set of

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computer code over a driver's--the driver's record. A lot of that is still being developed, so I'm afraid I don't have specifics at this time. [LB1122]

SENATOR BRIESE: Yeah, and I'm talking strictly from the owner of the car or vehicle owner's perspective. [LB1122]

TAD FRAIZER: Right. [LB1122]

SENATOR BRIESE: Or that...their cost. But same answer. [LB1122]

TAD FRAIZER: Pretty well, yes. [LB1122]

SENATOR BRIESE: Thank you. [LB1122]

SENATOR FRIESEN: Thank you, Senator Briese. Any other questions from the committee? Seeing none, thank you for your testimony. Welcome. [LB1122]

RANDALL GEER: Good afternoon again, senators. My name is Randy--Randall Geer, R-a-n-d-a-l-l G-e-e-r. I'm here representing ABATE of Nebraska. I'm assistant state coordinator on this side of the state, and I am District 2, which is the Lincoln area's representative. ABATE assumes a neutral stance on LB1122. Outside of the concerns previously mentioned in the previous bill, we see that there's a lack of consideration of motorcycle issues when, on page 8, line 17, they create the Nebraska Council on Future Transportation. There are...it designates 11 members to be designated on this council. It names nine of them. We would like...ABATE, as a motorcycle rights organization would like to have a member of some riders, either the AMA, the Motorcycle Safety Foundation, the Motorcycle Riders Foundation, or a state motorcycle rights organization involved in this council to protect the rights of motorcycles when dealing with issues that motorcycles are going to have to be taking, you know, because somebody needs to be on that committee to represent motorcyclists' cares and concerns. [LB1122]

SENATOR FRIESEN: Thank you, Mr. Geer. [LB1122]

RANDALL GEER: Any questions? [LB1122]

SENATOR FRIESEN: Any questions from the committee? Seeing none, thank you for your testimony. [LB1122]

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RANDALL GEER: Thank you. [LB1122]

SENATOR FRIESEN: (Exhibits 2 and 3) Any others who wish to testify in a neutral capacity? Seeing none, we do have two letters for opponents: Kim Quick, president, Teamsters Local 554; John Fisher, manager, state government affairs, Association of Global Automakers, Inc. Senator Larson, do you wish to close? [LB1122]

SENATOR LARSON: Thank you, Chairman Friesen and members of the Transportation Committee. As I stated in my opening, there are...I've received language both from the...Uber and their technology consortium that includes Waymo and a number of other technology companies, as well as the auto manufacturers' alliance. Hoping to go through those and work with them to bring something back to the Transportation Committee. Obviously, as Director Lahm said, this is an important issue, moving forward, and one that we need to continue to tackle in the state of Nebraska, moving forward, so that as drivers make the long trek across the state of Nebraska, they can continue to be safe in these types of vehicles. [LB1122]

SENATOR FRIESEN: Thank you, Senator Larson. Any questions from the committee? Seeing none,... [LB1122]

SENATOR LARSON: Thank you. [LB1122]

SENATOR FRIESEN: ...thank you, Senator Larson. With that, we'll close the hearing on LB1122. We'll now open the hearing on LB1043. Welcome, Senator Lowe. Welcome. [LB1122 LB1043]

SENATOR LOWE: Thank you. Thank you, Chairman Friesen and the members of the Transportation Committee. My name is John Lowe; that's J-o-h-n L-o-w-e, senator from District 37. I'm here today to introduce LB1043. The idea behind LB1043 came during the interim. I was contacted by individuals in my district that work with the Department of Health and Human Services and, in particular, Child and Family Services. They informed me of a change in the statutory reading in regards to the rates paid to carriers working with the division. This change of understanding came around last spring. The change of interpretation has been an issue for my constituents and many others in regards to their sustainability, so they reached out to me to discuss the issue. Full disclosure of the constituents I'm referring to own Camelot Transportation. They will be testifying after me. In December, we held a meeting in my office between representatives from Camelot, representatives from Child and Family Services, and myself. It was a respectful and informative meeting, and all sides went away with a better understanding of the issues each was facing. I see it...as I see it, there are four possible outcomes regarding this issue: 1) Companies doing business with DHHS and CFS might stop picking up people on routes

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that are not profitable. This would be a major headache for the department and the citizens needing rides; 2) Companies might stop working with DHHS and CFS entirely, which would mean the state would need to pick up a backup plan to fix the issue; 3rd) The status quo remains a frustration for all parties, but manages to be maintained without major changes. However, from my conversations, this outcome seems least likely; 4) Some kind of compromise or change in statute would be needed to ensure all services are continued while also ensuring taxpayers were being protected. I hope that LB1034 (sic--LB1043) can serve as a vehicle of compromise that satisfies all parties. The bill itself attempts to address one of the biggest complaints I have heard through this whole process, namely that one statute says one rate, while each carrier has a higher tariffed rate that is agreed to with the Public Service Commission. The new statutory interpretation makes the most out of...makes the rate most carriers are getting paid significantly lower than the tariffed rate agreed to with the Public Service Commission. The Public Service Commission rate is important here because that is the agreed-upon rate that exists, based on all the costs to the carriers plus the ability for the trips to be profitable, but limited enough to ensure responsible use of taxpayer funds. The current statute--companies--may be reimbursed up to three times the federal rate but adds that, if this rate is used, that it will include loaded and unloaded miles. Loaded miles are miles with passengers in the vehicle, and unloaded are from the point of dispatch to the pick-up point and miles driven back to the point of dispatch or the next pick-up point. The other option would be to retain the previously-expected, carrier's tariffed rate that is on file with the Public Service Commission. LB1043 specifies that the lower of these two options would be chosen. I hope that LB1043 can act as a vehicle to ensure that the carriers and the department can continue a strong working relationship and, most importantly, that the taxpayers have their dollars spent the most efficient way. As you will look, this bill has a fiscal note that is just short of \$6 million; that's a lot of money. And I believe that, if the common carriers do not--or cannot--continue to be a carrier because financial reasons do not afford it, then what it costs us now to do the common carriers and this \$6 million is added on to it, it will not be \$6 million. That will be something quite a bit larger, probably three times that amount, because I don't know anybody that knows--thinks--that the government can do things cheaper than public. So with that, I close my introduction, and I accept it. [LB1043]

SENATOR FRIESEN: Thank you, Senator Lowe. Any questions from the committee? Seeing none, we'll now take proponents for LB1043. Welcome. [LB1043]

LIZ SWANSON: Thank you, Senator Lowe, for introducing that bill. Good afternoon, Senator Friesen and members of the committee. My name is Liz Swanson, L-i-z S-w-a-n-s-o-n. I am the financial director for Camelot Transportation. I appreciate your time today. We're a statewide transportation company, and I'm here today to discuss how CFS's rates of three times the federal rate are impacting our business and how, in the long run, will impact the state financially. I would also like to say Senator Lowe's point of this being a vehicle of compromise is our goal, as well. Camelot is regulated by the PSC. Our rates have been set by the commission. They take

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into account our operating costs, such as: fuel, insurance, backgrounding, and wages. These rates are carefully and mindfully investigated and proven to be a fair rate, not only for our company but for, more importantly, the public. We care for the most vulnerable in our communities, as CFS Medicaid providers, and we need to be able to maintain the quality of services our commission has set for us. I'd like to take a moment to touch on how CFS came to the decision to put transportation in the hands of contracted providers. CFS found it to be fiscally responsible to outsource this service. I believe it was prior to 2000 that the department concluded that the expense was too great to continue providing on its own, bringing us into the way things are handled today. Up until last summer, CFS had been paying our PSC regulated rate. This new contract pushed us into being from our \$1.75 to \$1.64 per mile. This may not seem like much, but we do have a very large state and a lot of space to cover. We're getting rural patients to the medical facilities in the larger cities, and we're getting foster kids to court and family counseling. We have tried to take all of our concerns to the table for discussion with CFS and, unfortunately, this was not fruitful and has pushed these concerns and problems to be brought here today. This morning I was handed this fiscal note. Now I agree that the numbers sure look like a very big price tag. This does not compare to the price, not only financially, but in quality of services to our communities, our state. In conclusion, I'm asking that you carefully consider the long-term results. We cannot continue to operate at this price. [LB1043]

SENATOR FRIESEN: Thank you, Ms. Swanson. Any questions from the committee? Seeing none, thank you for your testimony. Are there any other proponents for LB1043? Welcome. [LB1043]

JOSH WELCH: (Exhibit 1) Good evening, senators. Senator Friesen, Committee, thank you for hearing my comments today. My name is Josh Welch, J-o-s-h W-e-l-c-h, and I represent Midwest Special Services, Inc. Let me start off by saying, before I read our prepared statement, that we find ourselves, as a company, in kind of a predicament with this legislation. We're in full support of what Senator Lowe has proposed, with an exception of one part of the bill. We did not want to come here and be against the bill, just because of one part of the language, so I'm going to present to you as being in favor of the bill. Midwest Special Services started transporting clients in the state of Nebraska in 1988. Our company has seen many changes in the way of common carriers as they get paid and many changes within the Department of the Health and Human Services. Midwest Special Services considers LB1043 to be an important bill because it creates a discussion and starting point of legislation that needs to be revised. However, LB1043, with the current wording proposed by Senator Lowe, we cannot support. Midwest Special Services does agree that changes need to be made legislatively concerning the way all common carriers are paid by the Department of Health and Human Services. Common carriers are required to prove, by testimony and physical evidence, of their need for each tariff rate that is approved. The Public Service Commission then approves the tariff rate for each common carrier. Anything less than this tariff rate endangers our ability to survive as a private company. We have

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proven the need for the tariff rate and must obtain that rate to curb increasing costs of doing business. We would request that the committee, with the help of Senator Lowe, amend the current bill to only state that the Department of Health and Human Services pay common carriers their published tariff rate and strike out of the bill any language concerning unloaded miles. Thank you for your time and consideration of LB1043. [LB1043]

SENATOR FRIESEN: Thank you, Mr. Welch. Are there any questions from the committee? So if I heard you correctly, you do not support the current bill. [LB1043]

JOSH WELCH: We do support the current bill, as far as being paid our tariff rate. [LB1043]

SENATOR FRIESEN: Okay. [LB1043]

JOSH WELCH: We just don't support the piece of...the way that bill is wrote, there's two pieces of it. It says that HHS can pay us unloaded and loaded miles or they can pay us our tariff rate, whichever is lower. We do not feel, as a company, that that, being paid loaded and unloaded miles, is a responsible way to address the issue. But we do agree that there is an issue of not being paid our tariff rate, and we do agree that, if amended, we would support this bill. [LB1043]

SENATOR FRIESEN: Okay. All right. Seeing no further questions, thank you for your testimony. [LB1043]

JOSH WELCH: Thank you. [LB1043]

SENATOR FRIESEN: Any other proponents? Seeing none, those who wish to testify in opposition, please come forward. Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Lowe, do you wish to close? [LB1043]

SENATOR LOWE: Thank you, Chairman and members of the committee. I appreciate the time spent today to start this discussion. And I appreciate Mr. Welch coming in, and we did meet with him and his company earlier also. I appreciate Ms. Swanson driving down and taking time today. I think we're on the right road. I don't want to see this going back to the government, to have the government handle the transportation. As I said before, I believe private enterprise can do it much better, and we are starting out doing that. So I thank you for your time; I appreciate it. [LB1043]

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SENATOR FRIESEN: Thank you, Senator Lowe. Any questions from the committee? Seeing none, thank you, Senator Lowe. And that will close the hearing on LB1043. Senator Hughes, would you care to take over as chair? [LB1043]

SENATOR HUGHES: Sure. Next up on the agenda is LB1031. Senator Friesen, welcome to the Transportation and Telecommunications Committee. [LB1031]

SENATOR FRIESEN: Everybody has been patiently waiting for this bill. Thank you, Senator Hughes and members of the Transportation Committee. My name is Curt Friesen, spelled C-u-r-t F-r-i-e-s-e-n. I represent District 34 and I'm sponsor of LB1031. This bill would require excavators in large projects, as defined by this bill, in metropolitan-, primary-, or first-class cities to pay for the locate costs of utility providers. LB1031 would also amend current law to provide that, for an excavation that is not part of a large project, an excavator would pay the locate costs after three locate costs are incurred in the same locate area. I believe it is only fair that the project developers, rather than the utility ratepayers, who pay for the cost of locating utilities on large projects. I also believe it is fair that excavators who call locators out to locate in the same area more than three times should be the ones who pay for the location cost after the third time. The bill also does other things. We provide new definitions and amend some existing definitions in the One-Call Notification System Act. We call on the Fire Marshal to adopt and promulgate rules and regulations to carry out the new large project provisions for meeting of excavators, operators, and facilities within the project and how to allocate costs and reimbursements. We also add new language related to trenchless excavations, parallel excavations, and hand digging around approximate location of exposed underground facilities. Testifiers who follow will go into further details of the bill and I also anticipate there will be testifiers who will not be in favor of the bill. And I hope the committee will support LB1031 and advance it to General File and I'd be happy to answer any questions. I do know that there needs to be some changes after visiting with several different entities that deal with parts of this bill, so I am looking forward to working with the industry and seeing if we can make those changes where we could bring something forward. Thank you. [LB1031]

SENATOR HUGHES: Thank you, Senator Friesen. Are there any questions? Seeing none, we'll invite the proponents to give testimony. Welcome. [LB1031]

JILL BECKER: Thank you, Senator Hughes. Members of the Transportation and Telecommunications Committee, my name is Jill Becker, J-i-l-l B-e-c-k-e-r, and I appear before you today as a registered lobbyist on behalf of Black Hills Energy. We'd like to thank Senator Friesen for introducing LB1031. This proposed legislation addresses a current gap of cost responsibility for a facility location and public safety that is currently missing from our one-call statutes. To that end, we strongly support LB1031. In November 2015, a major Lincoln

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fiberoptic project was announced. Construction began the next year and is expected to be completed in 2019. However, this bill is intended to not address this project but also the projects in the future. As a result of this project, Black Hills Energy has experienced a significant increase in natural gas line locate requests, as required under the act. We're required by statute to locate our underground facilities, whether there is a single line location requirement or many line locate requests within a very short amount of time, which is what happened with the current project. We're required to locate our facilities within 48 hours of a facility location notification issued by the Nebraska 811 call center operator. Locating our natural gas lines when multiple line location requests are issued can impose a significant strain and additional costs on our company, not to mention a reallocation of existing employees and resources. In order to meet the company's statutorily required line location obligation we significantly increased our staffing resources. But the extraordinary cost and number of line locates directly resulting from this project has overwhelmed our typical locate resource model. To be clear, we're not neglecting any of our statutory or regulatory duties in ensuring that we provide safe service to our customers. That will always remain our primary focus. However, the costs incurred with this project have been tremendous. We believe that over \$1.7 million over the life of this project for 2017 alone will be incurred. We have no control over this expenditure as we must comply with locate requirements of the act. These costs incurred by Black Hills Energy as a result of our compliance are outside of our control. These line locates are necessary and prudent to fulfill our duty to provide safe and reliable natural gas service. As a jurisdictional utility, our rates, terms, and conditions of service are regulated by the Nebraska Public Service Commission under the state Natural Gas Regulation Act. Black Hills Energy cannot simply pass these incremental gas line locate costs onto our customers or raise our rates without commission review and approval. We also hold a serious policy concern as whether Black Hills Energy natural gas customers should bear the incremental and extraordinary cost of statutorily required gas line locations that are caused by the infrastructure expansion of a fiberoptic project. In our opinion, these costs should properly be borne by the customer who will directly benefit from the fiberoptic project, not by our customers. To that end, we are one of several utilities supporting LB1031. As mentioned by Senator Friesen, this proposed legislation creates a definition of a large project under the 811 One-Call Act. Once passed, it would require the cost causer of a large project to pay for facility locate costs of other impacted utilities. If the Nebraska Legislature chooses not to act, Black Hills Energy customers, some of whom do not live in Lincoln, will likely pay these statutorily-acquired incremental costs during and after our next rate case. Thank you for your time and I encourage your support of LB1031. And with that, I'd be happy to answer any questions you may have. [LB1031]

SENATOR SMITH: Thank you, Ms. Becker, for your testimony on LB1031. Questions from the committee? Senator Geist. [LB1031]

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SENATOR GEIST: Thank you. And thank you, Ms. Becker, for your testimony. I have a question. Do you have a projected cost that your company may incur for 2018? [LB1031]

JILL BECKER: We do not yet. A lot of it will depend honestly on the type of weather that we see and how quickly the continued build-out of the fiber project may occur. [LB1031]

SENATOR GEIST: Okay. [LB1031]

JILL BECKER: So at this point, I mean we've probably done some forecasted projections, but I don't know what those will look like. [LB1031]

SENATOR GEIST: Okay. Thank you. [LB1031]

JILL BECKER: Yep. [LB1031]

SENATOR SMITH: Other questions from the committee? Ms. Becker, do you have any idea as to best practices in other states, how this may be handled in other states? [LB1031]

JILL BECKER: When we were considering this legislation, we did look at some other states' statutes and that's where we found this concept of a large project. And our intent is to have this apply to very few projects in the state of Nebraska. And it really is to provide some sort of framework to handle these large projects because, from a staffing and resource perspective, under the current law, really we only have 48 hours to respond to however many requests that come in and those have jumped very, very significantly. So our intent is that, by providing some type of framework for a large project as the bill lays out, we would have some notice and some time to ramp up services to meet the needs of that project. [LB1031]

SENATOR SMITH: Very good. All right, thank you for your testimony. [LB1031]

JILL BECKER: Thank you. [LB1031]

SENATOR SMITH: We continue with proponents of LB1031. Welcome. [LB1031]

STEVE MERADITH: Good afternoon. Vice Chairman Smith, members of the Transportation and Telecommunications Committee, my name is Steve Meradith, regional vice president of state government affairs for Windstream. And thanks again for the opportunity to appear before you today. So Windstream supports this bill in its entirety... [LB1031]

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SENATOR SMITH: Mr. Meradith... [LB1031]

STEVE MERADITH: Oh, I'm sorry. [LB1031]

SENATOR SMITH: Spell your name for us. [LB1031]

STEVE MERADITH: Sorry. Steve, S-t-e-v-e, Meradith, M-e-r-a-d-i-t-h. [LB1031]

SENATOR SMITH: Thank you. [LB1031]

STEVE MERADITH: (Exhibit 1) Thank you. Windstream supports the bill in its entirety. We really consider it a fairness bill. The bill would provide an equitable cost distribution mechanism when excavators, and particularly those working on large projects, create the need for utilities to locate and mark their underground facilities. And just to be clear, when I refer to excavators I'm talking about the company whose benefit...who benefits from the excavation work that is done and not the subcontractor doing the work. The current one-call 811 law establishes a process for locating underground facilities under which each locating utility bears its own location costs. The excavator doesn't bear the costs. Perhaps it was assumed that when this one-call legislation act was initially enacted that a utility would...a utility's benefit as an excavator was roughly balanced with this burden as a locator. And while that may have been the case in the past, that's not true today. Beginning in 2015, Windstream has also experienced a dramatic increase in its locate costs due to this large overbuild project. Since that time, our company has incurred over \$750,000 in incremental locating expense and that's as a direct result of the project. And we estimate, by the time of the project's completion, that we will easily exceed \$1 million in locate costs. And this figure doesn't include the cost of damage to underground facilities which is also a sizable sum, but that's not part of this legislation. Windstream faces competition in our markets and, therefore, we can't simply raise rates to cover these costs without considering the risk of losing customers to other providers. And this problem is exacerbated when the excavator is our future competitor. And to some extent, we're effectively helping fund our competition. This bill would alleviate this problem by requiring the excavator or, in other words, the cost causer to bear the cost of large projects. These are defined as an excavation measuring more than one mile in length and taking more than 90 days to complete. For administrative simplicity, smaller routine projects would generally proceed as they do today with each utility bearing its own locate costs. The only exception would be that after an excavator causes locate costs to be incurred three times in the same the same excavation area. During the process of discussing this legislation with others, I've heard the comments that this is only going to slow the construction process or this will increase costs. The bill is not intended to have any impact on the time it takes to complete a large project. The bill does provide, however, for a planning meeting 60 days prior to the beginning of the excavation. However, for projects of this magnitude, 60 days seems to be a

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reasonable notice and planning period. In fact, the planning could expedite the process because the impacted utilities would be better prepared to deal with the high volume of associated locate costs--or excuse me, locate requests. Additionally, this should not increase cost. What it would do, however, is shift costs to the cost causer, which is who we believe should bear that responsibility. Finally, the legislation isn't intended to, as Jill said, to target any particular company or project but the current overbuild project did bring the locate inequity issue to our attention. We believe there will be other such projects in the future and we feel that this is the most equitable solution. Windstream is prepared to bear the locate costs of any large projects we undertake after this bill would become effective. So we would urge you to support this and move it to the full Legislature. And with that, I'd be happy to answer any questions. [LB1031]

SENATOR SMITH: Thank you, Mr. Meradith, for your testimony. Questions for Mr. Meradith? Senator Briese. [LB1031]

SENATOR BRIESE: Thank you, Vice Chairman Smith, and thank you for your testimony, Mr. Meradith. [LB1031]

STEVE MERADITH: Yes, Sir. [LB1031]

SENATOR BRIESE: The bill refers to locate costs. How would locate costs be determined under this bill? [LB1031]

STEVE MERADITH: The locate costs would be the same except the company that is actually doing the excavation for this large project would pay those costs. [LB1031]

SENATOR BRIESE: Okay, how is that cost determined? I mean is there an opportunity for disagreement as to what is a fair and reasonable locate cost? [LB1031]

STEVE MERADITH: You know, locates are done, I think, one of two ways. Some companies maintain their own people on staff to do locates. Other companies, such as Windstream, we hire a contractor to do those locates for us and those rates are determined per the contract, in the contract. [LB1031]

SENATOR BRIESE: Okay. So typically they're contracted out. [LB1031]

STEVE MERADITH: Yes, Sir. [LB1031]

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SENATOR BRIESE: Okay. Thank you. [LB1031]

STEVE MERADITH: Does that makes sense, Senator? [LB1031]

SENATOR BRIESE: Yeah, yeah. [LB1031]

STEVE MERADITH: Okay. Thank you. [LB1031]

SENATOR SMITH: Senator Bostelman. [LB1031]

SENATOR BOSTELMAN: Thank you, Vice Chairman Smith. Thank you, Mr. Meradith, for being here. I have a question from a constituent that I guess I just was trying to look it up a little bit here, catch up on last year's legislation on LB459. LB459 specific says: allows the One-Call Board of Directors to determine best practices for marking location and notification, and so forth. Can you speak to that, how has that worked? Has that been an issue? Is this something completely outside of that? Is this...could this be addressed in LB459? Has that completely fallen apart? [LB1031]

STEVE MERADITH: Senator, I'm not sure that I'm that familiar with that. I believe under this legislation however, rules and regulations would be developed by the Fire Marshal's Office, as far as specifics. [LB1031]

SENATOR BOSTELMAN: That was...yeah, right. And that was part of LB459 as well. [LB1031]

STEVE MERADITH: Yeah. [LB1031]

SENATOR BOSTELMAN: So I'm just...okay. [LB1031]

STEVE MERADITH: Yeah. [LB1031]

SENATOR BOSTELMAN: That's fine. Thank you very much. [LB1031]

STEVE MERADITH: You bet. [LB1031]

SENATOR SMITH: Any other questions? I see none. Thank you, Mr. Meradith. [LB1031]

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STEVE MERADITH: Thank you, Sir. [LB1031]

SENATOR SMITH: Next proponent of LB1031. Welcome. [LB1031]

JOSELYN LUEDTKE: (Exhibit 2) Hello. Vice Chairman Smith, members of the Transportation and Telecommunications Committee, my name is Joselyn Luedtke, J-o-s-e-l-y-n L-u-e-d-t-k-e, and I'm a registered lobbyist appearing before you today on behalf of the Nebraska Cable Communications Association. The One-Call Notification System Act needs updating to address current construction practices in a rapidly developing industry. We know our infrastructure needs updating, including our telecommunications infrastructure. The problem that we see is that, under current law, the costs of the one-call system are spread across all underground utilities. And that sounded like a good idea at the time, good policy when it was created but, in this environment, it has led to unfair treatment where some of the utilities are using the service much more than others. Those costs are not paid solely by the cost causers. One NCCA member saw its locate costs spike 60 percent as a result of a large project, costing its customers nearly \$500,000 in one year. It is our belief that the owner of these large projects should be responsible for locate costs, not the customers of companies who have no say in the project or benefit from it. For this reason, the Nebraska Cable Communications Association supports LB1031 and I'm happy to answer any questions. [LB1031]

SENATOR SMITH: Questions from the committee? I see none. Thank you. Next proponent of LB1031, proponent. Welcome, Commissioner. [LB1031]

MARY RIDDER: (Exhibit 3) Thank you. Good afternoon, Vice Chairman Smith and members of the Transportation and Telecommunications Committee. I am Commissioner Mary Ridder, M-a-r-y R-i-d-d-e-r, chair of the Public Service Commission and representing the 5th District of Nebraska. I am here to testify in support of LB1031. The Nebraska Public Service Commission regulates jurisdictional gas utilities in the state of Nebraska. Black Hills, including the company formerly known as SourceGas Distribution, and NorthWestern Energy have their rates set through a regulatory general ratemaking process. When a utility files a rate case with us, they must justify the cost of service and revenue requirement they need to run their business with a reasonable rate of return. The commission is tasked with balancing the interests of the utility and its ratepayers and setting the rates. The commission currently has a docket pending from Black Hills regarding the additional costs they have incurred conducting locates in the Lincoln area directly related to the Lincoln Allo project. Black Hills has experienced significant costs beyond budgeted amounts due directly to the Allo project. In their application to us, Black Hills is seeking the ability to capture these costs in a regulatory account. Then, in a future rate case proceeding, they want to put forth their case that they should be able to recover some, or, all of these costs for the additional locates from Black Hills ratepayers. Ultimately, the policy question

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in front of the Legislature, in front of you, can be reduced to this: Who should bear the costs for locates and other duties under the one-call law in connection with large projects? Right now, it's the customers of the other utilities serving in the area paying for the costs. The entity responsible for the large project has no obligation to cover these additional expenses. The commission is of the opinion that the locate costs for large projects should be paid by the entity responsible for the project and not shifted to the customers of other utilities. Please understand, the commission is not advocating that the costs of locates be passed on to users of the one-call system in every case. We are totally in support of keeping the calls free for the majority of locate calls. However, we believe that a discussion, in relation to the costs for the one-call system in connection with large projects, such as the Allo project, needs to occur and the Legislature then determine what the policy will be going forward. Should the customers and ratepayers of other utilities that happen to serve in a project area, and in some cases even compete with the entity responsible for the project, be required to pay for the costs of these projects through their rates? And make no mistake, even the other utilities who are not subject to traditional ratemaking regulation like Black Hills and NorthWestern are, they will pass the costs on to their customers. Thank you for listening. I'd be happy to try and answer any of your questions. [LB1031]

SENATOR SMITH: Thank you, Commissioner Ridder. Senator Hilgers. [LB1031]

SENATOR HILGERS: Thank you, Vice Chair Smith. Thank you, Commissioner, for being here. [LB1031]

MARY RIDDER: You're welcome. [LB1031]

SENATOR HILGERS: I appreciate your testimony. I want to just clarify two statements that you made. [LB1031]

MARY RIDDER: Okay. [LB1031]

SENATOR HILGERS: I just want to understand sort of the current state of the law. One is that you referenced that Black Hills has and I guess will also, in a future rate case, seek to shift some of those costs or all those costs on to their customers. And then there's a second statement regarding the commission is of the opinion who should bear the cost. I just wanted to understand under current law how would the...and to the extent you can't speak on a particular case I understand, but generally under the current...does the current law allow the commission to approve a rate increase based on these types of costs or not? [LB1031]

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MARY RIDDER: I'm going to say I don't think so. I would say not because that's not current one-call law. [LB1031]

SENATOR HILGERS: Okay. So in other words... [LB1031]

MARY RIDDER: And that...the action or the docket we have in front of us isn't addressing that yet. It's asking for regulatory treatment, okay, so we can capture those...they can capture those dollars--that amount--so that when we get to a rate case, then we can discuss them. [LB1031]

SENATOR HILGERS: So it's a two-step process. [LB1031]

MARY RIDDER: It is. [LB1031]

SENATOR HILGERS: And if once the first step is successful, then would that mean that the second step in the future rate case could be successful, in general? I know you can't speak to...I understand the predicament you're in. I guess I'm trying to understand because the second...there's a difference in my mind between saying what the policy ought to be and what the policy is today. And I guess I'm just trying to understand what the policy is today. I understand what the commission's perspective on what the policy ought to be. I guess I'm just trying to understand what it is today. [LB1031]

MARY RIDDER: If I'm not correct in this I'll correct it later and get back to you, but the way I interpret it is the One-Call Act today, it's a no charge. So the person who is doing that locate is bearing the cost of that. What Black Hills is asking to be able to set aside is that that can be something that would be later part of a rate case. [LB1031]

SENATOR HILGERS: Okay. Thank you, Commissioner. [LB1031]

MARY RIDDER: I didn't really answer, did I? (Laugh) [LB1031]

SENATOR HILGERS: (Inaudible) thank you. I think it's on my end. Thank you, Commissioner. [LB1031]

MARY RIDDER: All right. [LB1031]

SENATOR SMITH: I think, Commissioner Ridder, typically today the way the one-call system works, the sizable number of smaller projects, residential or commercial projects that require

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locating services, those costs are recovered through normal rates of those utilities. But it's pretty much dispersed well because all those projects are relatively small. What we're talking about, in this particular case, are very sizable projects that are putting a large amount of burden on the individual utilities that seem to be outside of the framework of how the current one-call system was put together. And they're seeking a different means of collecting on those costs. [LB1031]

MARY RIDDER: Yes. I'm familiar with one-call. As a rancher, rural landowner we use it, so I understand how it works and the purpose of it. [LB1031]

SENATOR SMITH: Very good. Other questions for Commissioner Ridder? Senator Briese. [LB1031]

SENATOR BRIESE: Thank you, Vice Chairman Smith, and thank you again for being here. [LB1031]

MARY RIDDER: You're welcome. [LB1031]

SENATOR BRIESE: Is the length of the project, for example, a mile in length, is that an appropriate standard to be used in determining what's a large project, what's a small project, when the statute...when this bill comes into play? [LB1031]

MARY RIDDER: I don't know. I wouldn't even speak to that. Whatever that determination is, if the bill goes forward, then we would work with it. [LB1031]

SENATOR BRIESE: Okay. Thank you. [LB1031]

SENATOR SMITH: All right, very good. Oh, I'm sorry. Senator Bostelman. [LB1031]

SENATOR BOSTELMAN: Thank you. Thank you, Commissioner Ridder. I'll ask the same question. Do you know...do you remember LB459? And what it says on the statement was it: allows the One-Call Board of Directors to determine best practices for marking, location, and notification of proposed excavations which shall govern the center, excavators, and operators of underground facilities. Rules or regs originating...and it all goes before the State Fire Marshal, basically set up like a task force to look at that and to make some decisions as to how maybe these issues are worked out. Do you know anything about that? [LB1031]

MARY RIDDER: I don't. I am sorry. I couldn't speak to that. [LB1031]

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SENATOR BOSTELMAN: Okay. All right. Thank you. [LB1031]

MARY RIDDER: You're welcome. [LB1031]

SENATOR SMITH: All right, very good. I see no further questions. Thank you, Commissioner Ridder, for coming and speaking today. [LB1031]

MARY RIDDER: You're welcome. Thank you. [LB1031]

SENATOR SMITH: Next proponent of LB1031. Welcome. [LB1031]

WILLIAM AUSTIN: Good afternoon, Senator Smith, members of the committee. My name is Bill Austin, B-i-l-l A-u-s-t-i-n. I'm an attorney with the law firm of Blake Austin Law in Lincoln. I served as public advocate for the Public Service Commission and I'm here today to express support for LB1031. I believe that the legislation more fairly tends to allocate the costs of locating utilities under the one-call system when a large project is involved. And I think this a worthwhile endeavor. As public advocate, I'm charged with representing the interests of Nebraska citizens in all classes of jurisdictional utility ratepayers in the field of natural gas. In September of this year, as Commissioner Ridder pointed out, Black Hills Energy filed an application with the Public Service Commission requesting the entry of an accounting order that would permit the creation of a regulatory asset. This would allow them to capture extraordinary costs incurred by the company in 2017 and anticipated costs of 2018. These costs resulted from tens of thousands of locates that the company was required to conduct under the one-call law for one major project in Lincoln. The amount that the company anticipates spending on these locates was indicated to us as approximately \$1.5 million for 2017 and 2018. The Public Service Commission has yet to rule on this application but, if the application is approved, it would be probable that these costs would be recovered from gas ratepayers at the time of the next general rate case. What the application highlights is the unfairness of imposing upon Black Hills and other utilities both a statutory obligation to perform the utility locates and, at the same time, the imposition of all costs incurred, thereby, on their ratepayers when another, and perhaps a competing, utility engages in a large construction project. In the particular case of the application pending before the Public Service Commission, it is the gas utility ratepayers that would be assuming a cost that would be shifted to them to the tune of \$1.5 million for a service that they may not want or, indeed, that they may not even...may not even be available to them. If these costs are spread over all of the Black Hills Energy service area, it would encompass people from Bellevue to Beatrice to Columbus, as well as Lincoln. Even if we could include the rate...if we could limit the rate increase to a rate area, too, this would still include Lincoln, Walton, Cheney and, of course, the charge would be imposed upon customers who have internet service providers other than the one causing the increase. Some have suggested that this legislation to impose the

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locate costs for large projects upon an entity requiring them is anticompetitive or antibusiness. However, I'd suggest to you there's nothing anticompetitive or antibusiness about asking those who need a service to pay the related costs. That's what we call fairness. I would...the one-call system, as originally conceived, is indeed a salutary system. It encourages the digger to call first, knowing that they will not be charged for the cost of the utility located. This clearly serves the purpose of the one-call system. It encourages its use and it is reasonable burden to impose upon a utility to ensure that its lines and services will not be damaged by the errant digger. However, when a project of such magnitude, that tens of thousands of locate calls are placed, it surely was never the intention of the one-call system to impose on incumbent utilities costs that should rightly be borne as a cost of doing business by another utility. I would understand that there is some trepidation on the part of municipalities regarding other large scale projects--sewer, water, paving projects. Perhaps exemptions or exceptions could be considered for those types of projects. Those are recognized as a general public benefit often funded by...wholly or partially with tax dollars. They could be exempted without doing violence to the concept that competing for-profit entities engaged in large-scale projects should pay their (inaudible). I thank you for your time and consideration. I hope you'll look favorably upon this legislation and prioritize it. Thank you. [LB1031]

SENATOR SMITH: Thank you very much for your testimony today. Senator Hilgers. [LB1031]

SENATOR HILGERS: Thank you, Vice Chair Smith. Thank you, Counsel, for being here. I appreciate your testimony very much. One question I had was based on some of your testimony which is sort of the policy behind the one-call system. It seems to me part of the reason we have it is to protect property owners who have the utility lines and we don't want...we want to encourage people who are excavating to call before they dig so that they don't damage that private property. So if that is one of the policy justifications that would be in play with a smaller volume, talk to me about how that policy justification breaks down with large volume. I certainly appreciate and am sensitive to the cost burdens. I mean there's no doubt about that. But from a policy perspective I don't know if I follow the logic to say, well, with more digs, therefore, my...the justification for me or the benefit to me to protect my utility lines goes away. Do you follow my question? I guess if that's there for smaller, why is not there for more voluminous requests? [LB1031]

WILLIAM AUSTIN: Well, I would think that...first of all, I laughingly say that it's called one-call because you get one call and after that you ought to be paying. But realistically I think that the whole idea behind the law was to say that when there is a limited...a need for a utility locate--I'm building my house or I'm digging my garden or something such as that--certainly we want to encourage people to come in and say okay, look, we're not going to charge you for that because we don't want people trying to avoid the law. And so even though this is a cost that you're imposing upon the utility, it's not one that we're willing to foist back onto you. On the other

hand, when you have another utility coming in and saying look, I'm doing a major rebuild in an area, I know that I'm going to be interfering with a large number of the utilities that are either competing or in the same general areas, I think that it really is only fair as a major cost of doing business at that point. That takes it out of the realm of this limited protection of saying, well, just to make sure that the guy who's out digging in his garden or building his home, we want to make sure he comes in. These utilities know that this is a part of their doing business and I think, yeah, you need the one-call to assure that the lines are protected. But I think there's a cost shift there at that point. These are extraordinary costs that they're imposing, not ones that the utilities can typically factor into a typical test year when they come in for a rate case. [LB1031]

SENATOR HILGERS: I appreciate that very much. I think that...I appreciate your response. So let me follow up just to sort of tease this out a little bit. I would get...to your first point which is, well, you call it one-call for a reason. So to the extent that we're coming to right here and I've got to call three or four or five times for the same line, okay, I take that point. But for a larger system where the lines are going throughout multiple square miles, say for instance, I don't know if that logic holds up. So then I guess the question then is, is it...then I guess the justification that I hear you saying is, well, you know, for a large project this...we're talking about two different types of excavators. On the one hand you've got sort of the person who's doing a one off and now we've got someone who's got, maybe implied within your answer is a business...the resources and the access to capital to absorb the cost. And if that's the case, just to follow that logic, how then should we not be concerned from having some anticompetitive effects? In other words, it's costly to build these systems anyway. We've heard lots of testimony even this summer or this fall when we were on our...when we were doing our tour on the rural broadband development, where these are very, very costly and it's hard to make a business case anyway. We've heard a lot of testimony on the deployment of the USF because these things on the margin could be...very easily be not worth the business case to invest. I mean can you speak from your experience as to how...if we do that...this is a huge problem. I get the costs have got to be borne by somebody. There's no easy answer here. But can you speak to how will that slow our deployment of necessary infrastructure, whether it be broadband or something else because it increases...adds those costs. [LB1031]

WILLIAM AUSTIN: I guess I don't see how it would, and I don't want to tell you that I have a whole lot of experience in the area. But it seems to me that this is a cost that has to be borne by someone. And I think the question really, and in my mind as public advocate for natural gas ratepayers, the ones who I don't think should be bearing the costs are the natural gas ratepayers who have no interest in the project and may not even benefit in any...any respect by it. It seems that this is a cost of doing business, that these should borne by those who are going to assume that this is a good project to engage in. I mean I don't think anyone would be asking, you know, would somebody else pay my taxes? Would someone else pay my permit fees? Will you buy me a little bit of fiberoptic line? That's all this really is. It's a cost of doing business and I think really

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the question is, when we get down to this point, this far exceeds the benefit to the incumbent utilities to say I'm protecting my lines as opposed to, hey, they're foisting one of their costs onto me. And I just think that it really ought to be shifted back to those who are causing the costs. Did I answer it? [LB1031]

SENATOR HILGERS: No, I... [LB1031]

WILLIAM AUSTIN: I didn't answer it? [LB1031]

SENATOR HILGERS: No, no, no, no, no. I think there's no necessarily-right answer. I think I very much appreciate your perspective. The only thing I'll last say if I might, Mr. Vice Chairman, and then I'll stop, I guess I just quibble with the idea that there's no benefit because what you're...by going out and pointing out, as I understand it, where your lines are you're helping avoid property damage to your property. And so I guess I don't know if I agree that there's no benefit, but I certainly understand your position as to who should bear the costs. And I, you know, I completely...I understand where you're coming from, so. [LB1031]

WILLIAM AUSTIN: If I could quickly point out. [LB1031]

SENATOR HILGERS: Please. No, please. [LB1031]

WILLIAM AUSTIN: Even with the limited amount of line locates, limited (inaudible) prior years before this project, keep in mind that that ends up always going back to the customer. What the company would do is make a determination as to a typical normalized cost of that expense. They would factor that into their rate case. And so it ends up being back on the consumer one way or the other. [LB1031]

SENATOR HILGERS: Well, I appreciate it very much. Thanks for your input. Thank you. [LB1031]

SENATOR SMITH: Further questions from the committee? I see none. Thank you for your testimony. [LB1031]

WILLIAM AUSTIN: Thank you very much. [LB1031]

SENATOR SMITH: Next proponent of LB1031. Seeing no further proponents, we move to opponents, those wishing to testify in opposition to LB1031. Welcome. [LB1031]

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DAVID YOUNG: (Exhibit 4) Good afternoon. David Young, D-a-v-i-d Y-o-u-n-g. Having sat here since 1:30, I really have to say, autonomous shuttles, head injuries, autonomous self-driving semis, you guys see a lot of different topics. I don't know of a better committee to come and visit. So thank you for the opportunity speak today. I am speaking on behalf of the city of Lincoln as the right of way manager, and we are opposed to LB1031. It's very interesting, the city of Lincoln is on both sides of this. As a city, we own five utilities. So by pushing the costs off onto an excavator we could possibly benefit. But the challenge is we also are charged with developing our community and building major projects. I've provided written testimony. I'm not going to read the written testimony to you. I'm going to get to a few high points. After sitting in here for four hours, I don't think you guys want me to read the testimony. A couple of things, I really appreciate this committee is bringing this up. This is an obscure issue. It's not something we talk about. But it is the underpinning of how we do construction in this state. It's a very important issue. A little bit of history: 1968, the Natural Gas Pipeline Safety Act was passed by the federal government. That's where all of this starts. Seventy-eight, the reauthorization; '88, the reauthorization and the requirement for every state to create a locate office and to accept locate requests; 1994, we passed the Nebraska One-Call Act. And then most interesting, in 1998, 30 years ago now...20 years ago, the Senate passed a bill, the federal government actually, that was the Transportation Equality Act for the Twenty-first Century. And what they did was they took 30 years of past law and they said we really want to create a big study and look at what are the best practices around locates. What did they do? They took the safety, the Technical Pipeline Safety Standards Board established in 1968 and married them up with the National Transportation Safety Board. That group created out of 162 experts from across the nation. And what did they do? They looked at gas, oil, telecommunications, railroads, public utilities, private utilities, economic development. They came out with recommendations that were updated by...updated in the Nebraska One-Call Act. Twenty-six years later, we're sitting right here and we're having this conversation. For all 50 years of that legislation the owner of the infrastructure has been responsible for the locate cost. Why? If you change that, you change the entire dynamic. The original purpose of the locate legislation was for safety. When you push the cost of the locate to the excavator you encourage risky behavior. If it costs me money, I won't call. This is a safety issue. This is very important and we cannot forget about that when we talk about making changes to this legislation. Specifically what I'm asking for, if we are going to do this we need a large study. We need to bring in engineers. We need to bring in pipeline owners and operators. We need to bring in excavators. We need to have a discussion about this because there are things we can agree on. We can agree on things like white lining requirements. We can agree on things like customer-submitted area polygons. Try to spell that right quick. But we can agree on a single database for all utilities, electronic mapping submission standards, and the thorny discussion of cost sharing for multiple locates requests. I think we can find agreement. I don't think we're going to find agreement in a piece of legislation. We need a study if we are going to make these changes or we're going to talk about making these changes, this is an issue that

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affects the life and safety of the people in our city. I appreciate the opportunity to speak. Thank you. Any questions I'm happy to answer. [LB1031]

SENATOR SMITH: Senator Briese. [LB1031]

SENATOR BRIESE: Thank you, Vice Chairman Smith, and thank you for being here, Mr. Young. You talked about encouraging risky behavior on the part of the excavators by shifting the costs back to them. But those that engage in risky behavior like that, they could be subject to lawsuits and legal liability, correct? [LB1031]

DAVID YOUNG: They could be. The problem is the ultimate responsibility and the ultimate knowledge about where that facility is, is the facility owner. They are the ones who are best equipped and, when you look at the 50 years of law, that has been the argument. Who is...when you're looking at life and safety, not responsibility, but really life and safety, who is the best equipped to find that utility?. And that's the owner of the utility. Every person represented in this room, every utility was installed under these laws. So every person had the benefit of putting their infrastructure in where other people were required to pay for their locates. [LB1031]

SENATOR BRIESE: I would maintain they're still incentivized to make that call regardless of who's paying the cost because the potential for liability there. And you talked also about encouraging the development of our city. And I think I heard that earlier, too, concern over infrastructure development. But the excavator, they can pass on the costs associated with this, correct, to the consumer of their product? [LB1031]

DAVID YOUNG: The city of Lincoln has estimated that this one change would cost us a minimum of \$2 million a year of increased construction costs. We would pass that on to the taxpayer. [LB1031]

SENATOR BRIESE: And so if you're able to pass it on, it doesn't really discourage infrastructure development then, does it? [LB1031]

DAVID YOUNG: I think it...and there are several problems we have specifically with the legislation, which I'm happy to go into in detail. But, yes, it would cause significant delays. [LB1031]

SENATOR BRIESE: Okay, thank you. [LB1031]

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SENATOR SMITH: Mr. Young, I want to...did we have other questions? Senator Geist. [LB1031]

SENATOR GEIST: I could defer to you. [LB1031]

SENATOR SMITH: Please. [LB1031]

SENATOR GEIST: Thank you. I just wanted to clarify, and maybe I'm not tracking with you, on when you said that you would conclude that there would be a \$2 million annual additional cost to citizens and ratepayers. My understanding was, is that this is an unusually large project and that this legislation would only apply to those large projects. So are you calculating \$2 million annually in any public utility locate, or how are you coming \$2 million annually? [LB1031]

DAVID YOUNG: Very conservatively. When I submitted this number up the chain I assure you I had to defend it pretty clearly. So how do we come up with \$2 million as a minimum level of new cost for the taxpayer in Lincoln? Specifically we take about 12,000 locates out of 98,000 locates are associated with public projects for us across the city. If you add in one private utility that we are required to pay for their locates at an average of \$200 per locate, that would be \$2.4 million. In the conduit system we have eight utilities. In the city we have 30-plus registered utilities. So for one it would cost us \$2.4 million. And the issue really is the definition of major projects in some of these areas. As many of you know, I speak on the broadband issues that are affecting our state. One of the things I'm concerned with is the limiting factor that this would place on putting new infrastructure in our community. But specifically under this issue, one mile is the increment in almost every capital improvement project the public undertakes. We do water lines in one mile. We do streets in one mile. We do bridge sections in one mile. So that would push the cost on to the taxpayer, specifically with that definition. One mile of fiber can be done in one day, construction-wise. So I think that there's definitional problems, as well. [LB1031]

SENATOR GEIST: May I just follow up real quickly? [LB1031]

SENATOR SMITH: Please. [LB1031]

SENATOR GEIST: But it's one mile and 90 days, correct? [LB1031]

DAVID YOUNG: Correct, and many of our street projects go over 90 days. [LB1031]

SENATOR GEIST: Okay. [LB1031]

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DAVID YOUNG: I've been in your neighborhood; it's been over 90 days...in your district, too, Senator Hilgers. Other questions? [LB1031]

SENATOR SMITH: Yes, Senator Hilgers, go ahead. I want to...I'll get... [LB1031]

SENATOR HILGERS: Thank you, Mr. Vice Chairman. Just briefly touching on something that you mentioned, I just want to pull it out, it's you said that the city may have a project for which eight, maybe six, seven, eight utility...entities may have to locate there. So can you tell me for many of your projects, most, I mean it sounds like there's sort of an asymmetric cost. In other words, if the burden is on the excavator, they have to pay for the locate for each of the six, seven, eight. And each time someone gets added that becomes seven, eight, nine; eight, nine, ten-- whatever it might be--versus if the burden is on the locating entity, then that is dispersed amongst all of the locate...all of those entities rather than the other way around. Is that...am I hearing you correctly? And if so, is that most of the locates that the city does would be sort of, you know, more than five, six, seven utilities? [LB1031]

DAVID YOUNG: So allow me to clarify to make sure I understand what you're saying. Under the existing law that we operate under today, each utility owner bears their own cost. So the city of Lincoln, our five utilities, band together. We have one group that goes out and locates all of our infrastructure. Under the proposed changes in LB1031, the excavator would be responsible for all of each individual utility's cost. So instead of it being my cost as the water owner it would be the excavator's cost for the water, sewer, storm water, electric, telecom 1, 2, 3, 4, natural gas, and they would have to pay that. And they would pass that on to the cost of the project. [LB1031]

SENATOR HILGERS: Yeah, that's what I was asking. Thank you. [LB1031]

SENATOR SMITH: Mr. Young, utilities have the potential of passing that along to their ratepayer today. So those costs are going to get passed along either directly or indirectly, but I would suggest that, if you pass those costs or apply those costs to the excavator, you're more appropriately recovering at the point of where it resulted, instead of having it indirectly. The one-call system today is really...the burden of the one-call system today is being carried by the member utilities. And that's what they're here today to do, is to try to recover some of their costs without having an escalation in rates. And I would say in a sizable project, I don't understand why we could not see the project owner embedding these types of costs into the cost of their project and recovering those costs appropriately and to make certain the accurate and actual costs of a project are seen rather than, in this particular case, they're not seen. They're hidden and the general public is picking them up indirectly through an increase in their rates. So I, you know, I think there were some references made also to LB459 and that was a bill we had in front of our

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committee last year. And I don't want to be harsh on the one-call system because I mean they are working the very best with what they have. But we do not have the same type of structure in our one-call system in Nebraska that other states do. And that's what LB459 was intended to do was to try to put some teeth into the law, allow the One-Call Board to set rules and regulations, and to create some structure. But we do not have a paid individual that's at the helm of the one-call system. It relies on pretty much member utilities' volunteers, on their sweat...on the sweat of their brow. And I really hope that in the future we do have a paid position to where we have an executive director of the one-call system so that, instead of bringing this type of legislation to this committee to sort out and to solve, that it could be sorted out and solved at the One-Call Board level with an executive director at the helm working with all the interested parties instead of bringing it back to the Legislature and having this committee try to fix the problems in the one-call system law all the time. And the reason we didn't go farther last year with LB459 was, quite frankly, we did not have the money to pay for an executive director to run it. So we are here again and, Senator Bostelman, this is exactly why we're here. And that's exactly what LB459 was intended to do, was to put the responsibility back at the One-Call Board level to bring solutions, not to bring problems to this committee to fix. And right now, the burden is being borne, unfortunately, by member utilities and they're trying to find some relief right now. So, further questions from the committee? I see none. Thank you, Mr. Young, for your testimony. [LB1031]

DAVID YOUNG: May I respond? [LB1031]

SENATOR SMITH: You may. [LB1031]

DAVID YOUNG: Senator Smith, you and I agree on several things here. One of the issues that we have with our new electronic records system which has been very successful, we've been unable to work with the state to integrate at the state level. So when we talk about these issues of customer-submitted area polygons, which frankly none of us really care about, it means a lot to utility owners for streamlining the utility process and further lowering cost. If there's anything we can do to assist with getting that state-level position funded or having that further discussion, we're really interested in that. The city of Lincoln has five utilities. We have a member of that board with the 811 policy group. So it is an issue that does affect us. The only thing we're arguing today, specifically, is caution. For 50 years we have seen that smarter people than I have had these arguments and these fine disagreements regarding who should pay for the locate. This is not the first time that argument has come up. I'm just saying, if we are proposing to change it, we should have a thorough understanding of what we are actually proposing to change. That's all I'm asking for, Senator Smith. [LB1031]

SENATOR SMITH: All right. Thank you, Mr. Young. [LB1031]

DAVID YOUNG: Thank you. [LB1031]

SENATOR SMITH: Next opponent to LB1031. Welcome. [LB1031]

MICHAEL KLEFFNER: Thank you, senators. I appreciate your opportunity to present the city of Omaha's position on LB1031. The city of Omaha is in opposition of LB1031 due to the potential for it to add new regulations--excuse me, Michael Kleffner, M-i-c-h-a-e-l K-l-e-f-f-n-e-r, I apologize--again--due to the potential for it to add new regulations, increase construction costs, and potentially slow down construction projects for both private and public entities. One of the aspects I wanted to...that I think was a discussion earlier was the idea of a large project. City of Omaha does anywhere from \$75 million to \$150 million worth of work within the city of Omaha right of way. To give you an idea here, most of our projects extend beyond 90 days and go to two years in length. We pretty much always go more than a mile with all of our projects. As many of you senators are aware, we have the CSO program that we're currently dealing with which is the sewer separation program. Beyond that, we also have our annual resurfacing program that does anywhere from 30-50 miles worth of resurfacing that requires locates. I'm responsible for most of the work within the city of Omaha right of way, whether it be private or public. And most of the projects we have in the city of Omaha do not extend the 90 days or a mile that are considered private or by private entities. Most of the fiber companies stick below that. And if this was to put in place it would almost guarantee that the fiber companies, or anybody that's putting in new infrastructure, would stay below the one mile just due to the fact of the additional costs. So guiding that language, it would actually put more work on the city of Omaha due to additional plan submittals, permitting processes, and stuff for projects that would be done within the city of Omaha right of way. The other aspect that we have issues with is allowing the State Fire Marshal to basically adopt rules and regulations for our large projects. We currently have several processes in place already for large projects, whether it be plan submittal, whether it be the permits before they do any excavations, things along those lines. So adding that additional layer of oversight would basically add a substantial amount of time to our projects, including private entities' projects. The locate costs, we didn't run any numbers, but to give you an idea, on most of my large projects we can have a locator on site full-time, all day, for pretty much the whole project due to the amount of area we cover and due to the fact that most of the one-call locates expire within a certain period of time. Also due to weather instances, we work year-round on our projects. So in the winter if we have a snow event or rain event it usually washes those marks away. We have to go back out. We also have it where we have marks on private property. And if you know the public as well as I do, most property owners don't like it when they see the marks on their property. We'll have to call them in every other day sometimes because property owners will remove them. So it's not that sometimes excavators want to keep calling the one-call. It happens just because they want to make sure they don't hit things. One of the other issues that we have with it is the limitation of an excavator to only hand dig next to an exposed facility. My experience is that we deal with exposed facilities fairly often. When we

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have them we have the operator come out and we deal with each situation specifically. I've had areas, for instance, I'll give you a situation. Harrison Street that borders Bellevue and Omaha, it looks like a spider web. You tear up any section of it, it looks like a spider web. When we expose those we have to use heavy equipment to move RCP within the area. So limiting it to hand digging is almost impossible. It would hamstring several excavators to the amount of work they would do, which would in turn get passed on to us in the sense of costs. So between the locate costs, between additional regulations, city of Omaha, we just can't see us supporting this bill moving forward in its current form. Any questions? [LB1031]

SENATOR SMITH: All right. Questions from the committee? I see none. Thank you for your testimony. Continuing with opposition to LB1031. Welcome. [LB1031]

BRAD MOLINE: Hello again. My name is Brad Moline, B-r-a-d M-o-l-i-n-e. I'm the founder and president of Allo Communications. LB1031 is not in the best interest of Nebraska and it will stifle much-needed investments, in my opinion. Allo was founded in Imperial, Nebraska. In 2004 we began operating with fiber. Isn't it interesting how it's taken 13 years of doing underground work for all of a sudden this to become important? Allo has ubiquitous networks in Lincoln, North Platte, Ogallala, Bridgeport, Scottsbluff, Gering, Alliance, and recently Hastings, as well as we have announced a build in Fort Morgan, Colorado. Currently we employ 500 associates. In 2016 through 2018 when we became part of Nelnet, we've invested almost a quarter billion dollars in the state. That's a lot of property taxes, that's a lot of state income taxes, and that's a lot of employees paying taxes. We want to continue expanding in Nebraska, not only in our existing communities but in additional ones. Fiber is a game-changer. With our passion for Nebraska, both Nelnet and the prior Allo, high-speed quality internet services are in high demand. It improves how businesses, schools, medical offices operate and how people live and communicate. Fast, reliable internet and other communication service is a competitive necessity for all our communities. LB1031 reduces competition and investments. Utilities are responsible for locating existing facilities. Personally I want to protect my investment. This is a consistent practice in states across the country. Let's not make Nebraska unique and money stay away from Nebraska. Allo, again, has been responsible for locating our fiber, and has been since 2004. LB1031 makes the process of locating facilities more difficult and more expensive, creating an anticompetitive environment and reducing process. In summary, LB1031 will, one, protect the incumbents. Each of these incumbents that have presented today have installed their underground facilities using the current rules. Isn't it interesting how they want to make them change now? Second it will discourage the expansion of broadband. Broadband is very important to our community and going backwards is not a good idea. It will reduce competition and, finally, it will move investment of fiber infrastructure out of Nebraska. Each of us fiber companies has a choice where to invest. If Nebraska is unique and more expensive, the investment goes elsewhere. We want to continue investing in Nebraska. We are Nebraskans. We

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encourage the committee to vote against LB1031 and keep, like Allo, investing here. That's the end of my prepared remarks. I'd be happy to take questions. [LB1031]

SENATOR SMITH: Questions for Mr. Moline? Senator Briese. [LB1031]

SENATOR BRIESE: Thank you, Vice Chairman, and thank you for being here. Could you estimate what the cost would be to you as a percentage of total cost of a typical project if you had to foot the bill for locate costs? So what would that add to your cost on a typical project assuming it varies vastly? [LB1031]

BRAD MOLINE: I have no idea. We locate all our own. We don't use a third party. I don't even know what the third parties cost. But if each group with underground facilities had a separate locator, wow. It's a number...I would have to say it would be at least 10 percent. [LB1031]

SENATOR BRIESE: At least 10 percent. [LB1031]

BRAD MOLINE: But that's...there's no basis for that. [LB1031]

SENATOR BRIESE: Yeah, yeah. Thank you. [LB1031]

SENATOR SMITH: Other questions for Mr. Moline? Mr. Moline, do...how often do the locators today...do all the utilities, they have their own individual locators, or do they share locators? [LB1031]

BRAD MOLINE: Each community is different. There's a locate company that represents a certain group here in Lincoln, plus many others. [LB1031]

SENATOR SMITH: Okay. So it's unlikely that they all have individual locators. But I appreciate that. All right, I see no further...oh, Senator Geist. [LB1031]

SENATOR GEIST: Is there anything different about your installation process that would be similar to...is there anything that you do that's different about your process than what anyone else does? [LB1031]

BRAD MOLINE: There really isn't anything different to a greater extent. We realize that this is a...when we come into a community, of any of the communities, it is significant for that

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community. So we host weekly meetings, as well as we give projections to the various groups with what we're going to do over the next period of time. [LB1031]

SENATOR GEIST: Um-hum. [LB1031]

BRAD MOLINE: And so that is a little unique. If you compare it to how the groups worked in, particularly, the Carolinas, there wasn't that cooperative engagement that we do. [LB1031]

SENATOR GEIST: Um-hum. [LB1031]

BRAD MOLINE: And so in Texas there's been some issues as well. [LB1031]

SENATOR GEIST: Um-hum. May I follow up to that? [LB1031]

BRAD MOLINE: Sure. [LB1031]

SENATOR GEIST: And your weekly meeting, does that include everyone in the city, all the utilities...? [LB1031]

BRAD MOLINE: Yes. [LB1031]

SENATOR GEIST: Okay. Thank you. [LB1031]

BRAD MOLINE: Anyone who wants to attend, it's an open invitation for any. [LB1031]

SENATOR SMITH: I see no further questions. Thank you, Mr. Moline, for your testimony. [LB1031]

BRAD MOLINE: Thank you for... [LB1031]

SENATOR SMITH: Continuing with opposition to LB1031. Welcome. [LB1031]

ROBERT EVERETT: Good afternoon. Well, it's looking like it's almost good evening. My name is Rob Everett, R-o-b E-v-e-r-e-t-t. I represent Bauer Underground. I am the director of special projects, the director of expansion and growth, and the director of the Allo project in Lincoln. I'm coming in opposition to LB1031 for several reasons, most of them have already been talked

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about. The one that has not been talked about is the one that states that, if you are working in the same area three times, that it becomes the bearer of the excavator. My issue with that is that if I start on one corner of the intersection and I intend to go in every single direction, which is very common, I have already exceeded three areas. I have already exceeded that exact area three times. So that's only one. Right now there's a project on 14th and O that I'm sure everyone here has to deal with and that project has been going on due to Mother Nature, due to the time frame that we're working in, due to unforeseen things that cannot be known until which time where we start opening the ground. We've had to refresh those tickets three times due to Mother Nature and due to those. So I do not understand why that should become the bearer of the excavator. Another problem that I have is a large project. A project...now both cities have...both Lincoln and Omaha have come forward and said that their projects go for over a mile or at a mile. There are no less than 100 projects that go on inside the city of Lincoln that are directly fiber, every year, that are over a mile. I do between 10-15 a year for the city of Lincoln for their traffic department. So this is going to be a cost that is going to...that I think...that the definition of a large project needs to be amended due to those reasons. One thing, and again you guys have to...please forgive me, this is the first time I've been up here. I find it very interesting that the...that we are here today asking for planning periods. The reason I find this interesting is in January of 2017, Bauer Underground took over as general contractor for the Allo project. Immediately we held meetings with USIC, with locating companies, with any other utilities that wanted to come and explained to them what pace we were going to be going at and how we were going to be doing everything. As Mr. Moline pointed out, we have weekly meetings that everyone knows about, that everyone is invited to, where we go over the production for the week, where we are at, where we are going and how everything is progressing. And I find it interesting that if I...that was one of the things that I started. I find it interesting that we are now here today, even though this has been going on for now over a year. That is the end of my statement. [LB1031]

SENATOR SMITH: Thank you, Mr. Everett. On average, on the projects that would be considered to not be large projects by the definition in this bill, for those that are not large projects, what would you say is the average number of times that you need your marks refreshed? [LB1031]

ROBERT EVERETT: I'm very excited that you asked that question. And the reason I'm excited for that is because that does not depend most of the time on me. The reason it doesn't depend on me is because several of the other utilities...several utilities use the same locating company. And that locating company is very often, more often than not, late on their locate tickets. So if I want to stay in good standing with the 811 laws and the 811 best practices, I have to refresh that ticket after ten days after it has been valid. Well, if everyone else on the ticket is valid except for what USIC locates, and they have been six to eight days late sometimes, well then that means I only have two days to work on that ticket. Then I have to refresh it again. So there is no real way for

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me to answer that. I can answer for my company that, on the Allo project, we are the company that calls in the lowest amount of tickets, not because we don't do the same amount of work but because we work within the amount of tickets that we can. I cannot speak for other contractors. [LB1031]

SENATOR SMITH: So on average. [LB1031]

ROBERT EVERETT: On average, on an average mile-long project, sir? [LB1031]

SENATOR SMITH: Um-hum. [LB1031]

ROBERT EVERETT: On an average mile-long project, maybe once, maybe twice. [LB1031]

SENATOR SMITH: Maybe one refresh or two. [LB1031]

ROBERT EVERETT: One to two refreshes at a time. [LB1031]

SENATOR SMITH: Now what is the requirements by the law in terms of when they need to respond with a mark, to mark your locate? [LB1031]

ROBERT EVERETT: The current laws states that they have 48 hours from notification to contact us. [LB1031]

SENATOR SMITH: Um-hum. [LB1031]

ROBERT EVERETT: So now contacting doesn't...and my interpretation of it, contacting doesn't necessarily mean that they have located. If they call me and they say, hey, we can't get there for three days, I have no choice. My project has to get delayed due to that. [LB1031]

SENATOR SMITH: Have you been able to complain about the type of service you're receiving on your locates? [LB1031]

ROBERT EVERETT: I have been able to complain as it pertains to the Allo project with USIC, but that is it. [LB1031]

SENATOR SMITH: And so your complaint is to USIC? [LB1031]

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ROBERT EVERETT: My complaints have been to USIC and they have been to the Nebraska 811 board. They have heard me very often. [LB1031]

SENATOR SMITH: And how have you complained to the One-Call Board? Have you gone before the One-Call Board? Have you made a phone call, and to whom was your phone call? [LB1031]

ROBERT EVERETT: I have not gone before the One-Call Board. The owner of the company, Stu Bauer, has and he has expressed our concerns directly to the One-Call Board, as well as I have had several conversations with One-Call Board members. [LB1031]

SENATOR SMITH: And the response has been? [LB1031]

ROBERT EVERETT: That they are working on it. [LB1031]

SENATOR SMITH: Okay. All right. Thank you. Senator Hilgers. [LB1031]

SENATOR HILGERS: Thank you, Vice Chairman Smith. If you were to hire the locators yourself, would that speed up the project? [LB1031]

ROBERT EVERETT: That would not. And the reason that it would not is because, if I were to hire the locators directly, then that would mean that the...we have asked that and the counsel that I have gotten is that then the other utilities would have to basically end up giving me their plan sets and they are not willing to do that, because then I can't...then I would have knowledge of their systems. [LB1031]

SENATOR HILGERS: Thank you. [LB1031]

SENATOR SMITH: Other questions? Mr. Everett, you did a really nice job up here. Thanks for coming and testifying. [LB1031]

ROBERT EVERETT: Thank you, sir. [LB1031]

SENATOR SCHUMACHER: Next opponent of LB1031. Welcome. [LB1031]

LASH CHAFFIN: Good evening. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n. I represent the League of Nebraska Municipalities. And I'm going to abbreviate because I understand the

Nebraska-Maryland game is ensuing here rather quickly and someone might want to watch that, myself included (laughter). A lot of my technical concerns were somewhat, even though we didn't coordinate, laid out by the city of Omaha. But I do want to make one additional point that I don't think has been made in that there was a world of excavation prior to the one-call law being in place. And every comma and every period of the current one-call law was negotiated over a two-year period. And the League was heavily involved in those. And the history of that is it was originally brought forth as a concept to the private and publicly owned natural gas companies and that the Fire Marshal was going to lose federal money if we didn't have a one-call law in place. So the attorney for the Fire Marshal at the time, a woman named Charlotte Centuori, came to the League and the three major private gas companies and said, look, we have to have a law in place to deal with public safety. And although there was, as correctly identified by Senator Hilgers, there was a concern at the time for protection of investment as well. But the federal government was saying you're going to lose money if, in fact, you don't deal this as public safety. So the...at the time, the gas utilities--this predated the phone companies; this predated everybody else getting involved--kind of broke into two groups. Those like the city of Hastings, city of Fremont, city of Falls City who had local staff, we said we don't need this. We've got a pickup. We see when a hole is going in the ground. This is unnecessary. This is duplication of something we're already doing. The larger companies that didn't necessarily have a local office, they could see this as an investment protection tool rather quickly. So those discussions quickly broadened to involve the other owners of underground infrastructure. And you had the phone companies, the cable TV companies, some of the current infrastructure didn't exist at the time. And this was a couple years prior to the law taking place. And at that point there were a good two years of discussion to put every comma in place. There were...and some of the folks that were involved in those discussions are sitting behind me. A lot of the meetings were held...Minnegasco had this great conference room and we would sit there for hours and go through every scenario under the sun dealing with excavations to try to craft some language that worked for everybody. And everybody had unique interests. You know, every underground owner had unique interests. And some of the meetings were held actually at League office. It was not nearly as nice because we didn't have windows. And then there were a few meetings held at the Fire Marshal's conference room, in a very tiny room, where there were never enough seats. But so I just want to caution that every comma was negotiated and it's hard to jump into a world where...20 years, that was 20 years ago...25 years ago and that the concepts that are in front of excavators and the public today don't...I understand, I get the concept that those need to be addressed. There are issues that, quite frankly, I don't think anybody in that room could envision in the world today. I mean the concept of trenchless technology existed and it was used, but it was not widely used--things like that. But that said, the last thing that was negotiated was the One-Call Board. And I guess, until Senator Smith made his comments, I didn't really think about that much how important that was. That was the very last thing and that was contentious, the makeup of that board, that negotiation went on for weeks to try to just figure out what the makeup of that board was going to be. And at the time I don't know that anybody envisioned how sophisticated the system would become. And to

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be honest, I do believe there's probably some need to sit down and start to discuss twenty-first century changes to the law, but I am reminded that the initial law came...it was a difficult consensus bill. I mean it was...there were people that...as others got involved, the same kind of breakdown occurred. The utilities that had local offices--rural electrics, MUD, people like that--they didn't...we did not want this bill. This was something...however we did come to the table and create common language that everybody at the last minute finally agreed to. So I'd like to see that we could move forward on twenty-first century changes that everybody agrees to. So does anybody have any questions? [LB1031]

SENATOR SMITH: All right. Thank you, Mr. Chaffin. Questions from the committee? I see none. Thank you. [LB1031]

LASH CHAFFIN: Thank you. [LB1031]

SENATOR SMITH: Next opponent of LB1031. Welcome. [LB1031]

VAL SNYDER: Good afternoon. Co-Chair Smith and members of the Transportation and Telecommunications Committee. My name is Val, V-a-l Snyder, S-n-y-d-e-r, and I am the chairperson for the state One-Call Board of Directors. I am here today to testify in opposition of LB1031. The fundamental purpose of the one-call program was to prevent damages to underground utilities and to help ensure public safety. Since the inception of these programs, advertising education campaigns have all included the message that the one-call system was free to excavators. This is a vital component for getting people to use the system. LB1031 would change that system and now place the cost of locating large projects onto the excavators. The board is opposed to LB1031 because of the shift of the cost burden does not further the cause of public safety. It would create less incentive for the excavators to comply with the one-call laws if they were now paying for those locating costs. In 2017, this Legislature passed LB263 (sic--LB459), which stated that the State Fire Marshal's agency could write rules and regulations dealing with the: best practices for marking, location, notification to proposed excavations which shall govern the center, excavators, operators of underground facilities. The bill also required that: any rule or regulation adopted or promulgated by the State Fire Marshal's Office, pursuant to Subdivision 2(c) in the section shall originate with the board of directors. And in page 5, lines 10-14 in LB1031 would require the State Fire Marshal's Agency to write rules and regulations about large projects including issues such as locating disputes and cost allocations. This would conflict with all provisions in LB263 (sic--LB459). Most of the large projects are to be encompassing and targeting too many projects that may be best addressed by the excavators in this room. Thank you for the opportunity to address the committee today. [LB1031]

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SENATOR SMITH: Thank you, Mr. Snyder. Questions from the committee? I see none. Thank you. [LB1031]

VAL SNYDER: Thank you. [LB1031]

SENATOR SMITH: Next opponent of LB1031, LB1031. Welcome. [LB1031]

BRAD WEGNER: Good evening. He who goes last has listened to the most, is that correct? [LB1031]

SENATOR SMITH: You may not be last (laughter); I don't know. [LB1031]

BRAD WEGNER: The green sheets are disappearing. Good evening, Senator Smith and fellow members of the Transportation and Telecommunication Committee. My name is Brad Wegner and I come to you today with a couple hats on... [LB1031]

SENATOR SMITH: Spell your name. [LB1031]

BRAD WEGNER: (Exhibit 5) Sorry. B-r-a-d W-e-g-n-e-r. I'm the vice president and one of the owners of Midlands Contracting in Kearney, Nebraska. I also have two hats on tonight. I'm the current president of the Nebraska chapter of the National Utility Contractors Association and I'm also a member of the Nebraska Associated General Contractors Heavy Highway Division Association. For that association, I've been nominated as their voting member on the One-Call, 811 Board of Directors when that time comes. The members of those two associations are the companies that build the sewers, the water main, put up the bridges, the highways, the interstates for you and your constituents all across the state. And when it comes to the definitions that are in the one-call law, we are the excavators. And that seems to be a confused point right now. We are the excavators, not the utility companies that have come before me. I'm going to spare you a little bit of my testimony because we've already realized that this is mostly around the Allo project. But I do want to talk about the large project designation and some of the pitfalls of it. First of all, it's the excavators that will be paying. Okay, that means my company. What that means is that that's your constituents, the taxpayers of Nebraska that will be paying for the locating costs on a large project, the way the bill is currently written. One of the problems with the idea of us paying for it or the constituents, of your constituents paying for it is that the utilities get to use the public right of way. And now the utilities want the public to pay them to protect their facilities. It doesn't seem fair. Another issue with the bill is the designation of it being one mile and 90 days long, not or--one mile and 90 days long. That now encompasses the water main replacement project that I did in McCook or the sewer extension project that's in Aurora. And every Nebraska

Department of Transportation project in any city of the first class or larger, including Omaha and Lincoln, every one of them. And I've heard the word "exception" used, or "exemption." Let's create exemptions. Do not create exemptions. We'll turn into the Missouri state law where they have hundreds of exemptions so once you read the bill and what the laws are, you have to go read the hundreds of exemptions and find out if that railroad company is exempt or if that public power company is exempt. If you create an exemption, you will have every special interest of every utility company knocking on your doors asking for one. So the law needs to stay clean. That's already historically been bad in other states. Another issue with this is what entity is going to determine when a project is large? When is it going to be...what entity is going to decide that it's one mile in length? One mile of what? One mile of pipe? One mile of right of way? One mile of street? And how is that entity going to know whether the project is 90 days long? The duration is typically dependent on which excavator gets the project and what resources he has to bear. And another major issue with this is there's a giant loophole and I think it's already been expressed. If I'm Allo, I simply divide my project up into up into 35 different contracts and I award it to 35 different directional drillers. They all work at the same time. They all overload the system. But it's all small projects. So there's a lot of technical issues with the bill along that line. One thing I also want you all to think about is the fact that the issue with Allo's project isn't the size of it, it's the intensity of it. So the project might have taken five years under normal constraints. But instead it was allowed to take place in, I guess, we're talking two years. And it's that intensity that's created overtime and the hiring of extra people. So my question is, why were they allowed to go that fast? Many of my projects in municipalities, I'm constrained by the contract saying that I can only go three blocks at a time. I have to clean up a block before I can move to the fourth block. There's other ways to deal with a large project situation that overloads a system. How you legislate that I do not have an answer for you. The second issue we have is the three locates and then you have to pay. Locating one spot three times is very easy for us to do. I put in the sewer main. It takes me a week. I have to relocate the area. I have to put the water main in the next week. That's another week I have to relocate, I have to refresh. I put the water services in after the bacteria tests are done. I come back, I do the storm sewer. I have to pour all the storm sewer structures; it takes time for them to cure. I'm on week five. And now we've got to do the paving, but I have to do the grading first, week six. Week seven is the paving and then I have to wait for the paving to cure so I can backfill behind the back of the curb. I'm up to week eight. Let's throw two weather events in there. That shuts me down, extends it to ten. That's a simple project for a lot of people, especially in the development world. So I've got ten locates that I've done and I've had to pay for them, past the third one. So we understand the underlying issues. There's too many locates being done, too many refreshes. But we have better solutions for that. And that brings me to my final point. We talked about LB459, the bill that you put forward last year and was brought into law. We ask you to let us continue that work. I don't know if many of you are aware but we have been meeting for seven months, a task force of the utility owners from the One-Call Board including Black Hills Energy as part of that task force, although they've not participated, along with our excavator associations and we've been coming up with solutions

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to many of these issues. And we're dealing with them. So I ask you to let us continue that. Do not advance this bill, please. [LB1031]

SENATOR SMITH: Thank you, Mr. Wegner. Questions from the committee? Mr. Wegner, you know, I'm happy to hear that there's some efforts going on with LB459, but again, I've been here for eight years and, you know, the Legislature is not the right place to go to fix the problems in the one-call law. We really need the One-Call Board to be fixing those...or making recommendations and coming here and making recommendations to this committee to make the changes rather than problems being brought to this committee and then this committee trying to sort out how to make those changes. So I appreciate that you're working towards that end. Thank you. [LB1031]

BRAD WEGNER: Well, it is the One-Call Board that I'm talking about is coming up of those solutions. So we're doing exactly what you're wanting done. [LB1031]

SENATOR SMITH: Except that we actually had utilities bringing this issue to us because there was a problem there. It would be much better to have a proactive One-Call Board bringing solutions. And so, granted, LB459 is only a year old, but hopefully we'll be able to get to that point. [LB1031]

BRAD WEGNER: Right, I guess they went behind us and went with their own bill instead of working with that board. That's the frustrating part for us. And we've been meeting, spending our time, like you said, a volunteer group. And all of a sudden a bill comes out of nowhere trying to go around the system in a self-serving way. [LB1031]

SENATOR SMITH: All right. Very good. Thank you. Questions, other questions from the committee? I see none. Thank you. Next opponent of LB1031. See, Mr. Wegner, you were not the last one. Welcome. [LB1031]

GREGORY LAUBY: Good evening, Senator Smith, Senator Friesen, members of the committee. My name is Gregory C. Lauby, G-r-e-g-o-r-y C. L-a-u-b-y. My brother, Roy Lauby, owns and operates Lauby Plumbing Heating and Air in Wymore in Gage County, Nebraska. And he has been in business serving residences and businesses, for over 19 years, in a relatively large service area ranging from down into Kansas all the way up to the Lancaster County line. His business includes septic and sewer repair and installations. He works on water and gas lines as well as just general trenching, all of which lead him to use the one-call center services. He estimates that he uses those services about one to three times a week, on yearly average, but some weeks during the seasons may use them as often as five or six times. He would oppose LB1081 (sic--LB1031) in the present form as it applies to the small projects that his business engages in. He really has

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two objections. One is the requirement that the digger must pay locater loss after three locates without any restriction on the amount of those costs that might be imposed on the digger or any definition of the specific site or the time period in which the three locations might occur. It could be undefined, as many as 10 or 15 years, or a requirement that it has to all be requested by him. It could have been from prior digging in that area. And he would suggest that the benefit of the locator service really is to the utility provider because it avoids damage to his property and ensures the reliability of his service, and that the cost to the locator should not be passed through him on to the individual who is the property owner, whether it be a business or a resident. Second, he is concerned about prohibiting any mechanical excavation within 18 inches of an exposed line. His skilled operators, and himself included, can operate right next to an exposed sewer line without any damage to it. And this particular language, the provision seems to make the digger liable whether there's any fault on his part or not when any type of damage results, even if that damage is from faulty initial installation or manufacturing of the conveyance. And so for those two reasons, he would ask that the bill either be substantially revised or held in committee. Any questions? [LB1031]

SENATOR SMITH: Questions from the committee for Mr. Lauby? I see none. Thank you for your testimony. [LB1031]

GREGORY LAUBY: Thank you very much. [LB1031]

SENATOR SMITH: (Exhibits 7, 8, 9, and 10) Next opponent of LB1031. Seeing no additional opponents, we do have letters for the record that were submitted in opposition to LB1031 from Andrew Colvin, city administrator, city of Norfolk, Nebraska; Jean Petsch, executive director, Associated General Contractors-Nebraska Building Chapter; Anne Klute, President-CEO, Associated Builders and Contractors-Cornhusker Chapter; and John Henry (Zack) (sic--Jack) Zohner representing John Henry's Plumbing, Heating, and Air Conditioning Company. We now move to neutral testimony, those wishing to testify in a neutral capacity. Welcome. [LB1031]

REGINA SHIELDS: (Exhibit 6) Members of the committee, I apologize. I'm in the middle of a cold. So I will try to be as clear as possible. Vice Chairman Smith and members of the Transportation and Telecommunications Committee, for the record, my name is Regina Shields, R-e-g-i-n-a S-h-i-e-l-d-s, and I'm the legal counsel and legislative liaison for the State Fire Marshal Agency. I appear before you to testify in a neutral capacity on LB1031. Last session, LB263 (sic--LB459) was enacted and required the State Fire Marshal Agency to enact rules and regulations regarding the state one-call system. Specifically, the agency was to have regulations for the "qualifications, appointment, retention, and composition of the board of directors," and these were to be developed by the agency. The agency was also supposed to have regulations for the: best practices for the marking, location, and notification of proposed excavation which shall

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govern the center, excavators, and operators of underground facilities. The substance of these regulations is required to have originated in the board of directors. LB1031 would require the agency to adopt regulations regarding the newly-defined term of "large projects." Specifically, the agency is to adopt regulations to cover the establishment of detailed processes for large project planning meetings, complaint procedures, cost allocation, and reimbursement procedures. The agency has a two-fold concern with this language. First, it may conflict with the requirement that best practices for location must originate within the board of directors. Secondly the agency will have to consult with outside experts in a number of areas to establish what is required because the agency does not engage in any locating activities or planning meetings. There would be a fiscal impact to the agency to have all of these consultations that would be necessary, but it is unknown what the exact cost would be until the project can be completed. There has also been concern expressed to the agency from state, city, and county officials regarding how this will impact costs associated with utility relocation projects in the right of way areas. Thank you for your time and consideration on these matters and I'll be happy to answer any questions. [LB1031]

SENATOR SMITH: Questions for Ms. Shields? I see none. Thank you. Additional neutral testimony, those wishing to testify in a neutral capacity on LB1031. Seeing none, we invite Senator Friesen back to close on LB1031. [LB1031]

SENATOR FRIESEN: Thank you, Chairman Smith...Vice Chairman Smith (laughter). [LB1031]

SENATOR SMITH: I don't want it. [LB1031]

SENATOR FRIESEN: You know, and I will say earlier I did have a good visit with Mr. Wegner and I do think he has some valid points. But again, I will say that there has been...there are numerous problems with the one-call system that do need to be addressed. And whether we get that done this year or we get it done next year, we will address it sooner or later. Some of the issues that I've just heard come up and there's...I am open to lots of changes. I think this is a good starting point. But we have seen contractor abuse when it comes to refreshes. They'll have tickets put out there and they'll just continue to refresh and they'll last for months before anyone shows up to work. So I think something there needs to be done, and we can address the issue where if you're continuing to work in the spot we realize you have to get a refresh there, but there have been cases where marks have had to be refreshed for weeks and months and no one shows up to work. You know, and this isn't just an Allo bill. I mean people keep referring to that. But the situation in Lincoln here could have been controlled more with the city of Lincoln if they would have controlled the construction also. So when I look at those large projects and I look at if another municipality out there wants to have fiber installed in a short amount of time and hurry the project up, I mean obviously the cost to that company, or whoever is putting it in, is going to

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be less if you put it in all at one time, so there's some savings there. And so I think some of that cost sharing could happen between companies. Maybe it isn't the full cost of the locate. Maybe it's a partial, a percentage of something. But there...I think some of those costs do need to be shifted and when you see, especially in the natural gas industry and some of those, or in telecommunications, if rates are set statewide, they do impact a lot of customers other than the ones who are responsible for that cost. I know when you talk about slowing down broadband expansion in the rural areas, I mean obviously there aren't infrastructure in rural areas that there is in the city so it's going to be a different argument when you get out there. I mean these large projects may be long, but they're not going to be as concentrated as they are now. So I am looking forward to working with the numerous parties there and I think we can somehow come to some sort of agreement on moving forward someday. So with that, I'd entertain any questions. [LB1031]

SENATOR SMITH: Questions for Senator Friesen? Senator Friesen, just in closing I appreciate you bringing this bill and, of course, you know that I was on the One-Call Board for a number of years myself. So I'm very familiar with what goes on with the One-Call Board, very hardworking members of that board, very hardworking member utilities that pay their salaries and their wages to be there. And the One-Call Board and the one-call system is one of those things I think we take for granted in Nebraska. It's really important to progress in our state. Everything that gets built needs to be located. And we kind of take that service for granted. And again, no fault of the One-Call Board, but I think just by its very structure it's not as responsive as it needs to be. It needs to be more proactive in order to help keep up with a growing state. And I think what we're seeing here is a symptom of that. There's a lot of work yet to be done with the one-call system and I wish this committee well in the future in working on that because it's really, really important. And if we can make some investments in helping that One-Call Board I think it's going to be well worth it for the state. So thank you for bringing this bill. [LB1031]

SENATOR FRIESEN: Yeah, I agree. The one-call system is an excellent process. But I do think, as times have changed, we need to address some changes that have not been addressed in the past and we do need to look at that. [LB1031]

SENATOR SMITH: Very good. Thank you. That concludes our hearing on LB1031 and our hearings for the day. Thank you all. [LB1031]