

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

FRIESEN: Welcome everyone, this morning to the public hearing for the Transportation and Telecommunications Committee. I'm Curt Friesen from Henderson, Chairperson of the committee. I represent District 34. I'll begin with a few procedural items. For the safety of our committee members, staff, pages and the public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members, transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and the chair between testifiers. Public hearings for which attendance reaches a seating capacity or near capacity, the entrance door will be monitored by a Sergeant at Arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter the hearing room are asked to observe social distancing and wear face covering while waiting in the hallway or outside the building. The Legislature does not have the availability due to the HVAC project of an overflow hearing room for hearings which attract several testifiers and observers. We ask that you please limit or eliminate handouts. Please silence all cell phones and other electronic devices. We will be hearing the bills in the order listed on the agenda. Those wishing to testify on the bill should move to the front of the room and be ready to testify. We have set aside an on-deck chair here in front so the next testifier will be ready to go when their turn comes. If you will be testifying, 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 12 copies. One of the pages will assist you if you need help. When you begin your testimony, it is very important that you clearly state and spell your first and last name slowly for the record. If you happen to forget to do this, I will stop your testimony and ask you to do so. Please keep your testimony concise. Try not to repeat what has already been covered. We will use the light

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

system in this committee. Beginning with the green light, you have five minutes for your testimony. Yellow light indicates there's one minute left and when the red light comes on, it's time to wrap it up. Those not wishing to testify may sign in on a pink sheet by the door to indicate their support or opposition to a bill and with that, I'll introduce my staff. I got Andrew Vinton, the committee counsel-- legal counsel, and the committee clerk is Sally Schultz on my left, and with that, the pages today are Turner and Lorenzo. Welcome, guys. And that, we will start introductions to my right.

HUGHES: Dan Hughes, representing District 44, 10 counties in southwest Nebraska.

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

ALBRECHT: Joni Albrecht, District 17, Wayne, Thurston and Dakota Counties in northeast Nebraska.

GEIST: Suzanne Geist, District 25, which is the east side of Lincoln and Lancaster County.

DeBOER: Good morning, everyone. I'm Wendy. DeBoer. I represent District 10, which is Bennington and parts of northwest Omaha.

MOSER: Mike Moser, District 22, Platte County and parts of Stanton and Colfax Counties.

M. CAVANAUGH: Machaela Cavanaugh, District 6, west central Omaha, Douglas County.

GEIST: All right, we will begin the hearing on LB522. Senator Friesen, you may open.

FRIESEN: Good morning, colleagues, I'm Curt Friesen, C-u-r-t F-r-i-e-s-e-n. I represent District 34 and I'm here today to introduce LB522. This bill just makes a small tweak to clean up the language in a vehicle inspection training statute. It doesn't do anything substantial and is intended to change the meaning of an existing law-- it is not intended to. And with that, I'd be happy to answer any questions.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

GEIST: Are there any questions from the committee? Seeing none. I assume you plan to stay until close? I had to ask. Are there any proponents? Proponents for LB522? Are there any opponents for LB522? Seeing none, any who wish to testify in the neutral capacity? Senator Friesen waives closing and that will end the bill, LB522, and its hearing.

FRIESEN: I think that was a record.

MOSER: Could they all be all that quick?

FRIESEN: OK, next, we'll open the hearing on LB633. Senator Vargas, welcome. Perfect timing.

VARGAS: Good morning, Chair Friesen, members of the Transportation and Telecommunications Committee. For the record, my name is Tony Vargas, T-o-n-y V-a-r-g-a-s, and I represent District 7 and the communities of downtown and south Omaha here in our Nebraska Legislature. For those of you who have served on the committee previously, the bill will be familiar to you. I introduced LB633 in the last legislative session as LB51 and I'm here today to continue my work in this area. LB633 is a bill that upholds free market principles, consumer choice, and promotes a continued move towards clean energy and building up our electrical vehicle infrastructure. Now LB633 would allow the direct sale of motor vehicles to consumers by a company that, one, does not have or has never had a franchise in Nebraska. And, two, sells the only line-make of motor vehicle that it manufactures. Now, you should have received letters and a one-pager there from other different entities that support this, including ones from Rivian, one of the newer companies manufacturing EVs, and also Lucid. One of these newer companies that's manufacturing EVs and selling these directly to consumers and someone from Tesla is also here to testify behind me. But before I talk more about what we're hoping to accomplish with LB633, I think it's helpful to provide context and a brief history of our current laws and why we have them. Now, current laws regarding the sale of automobiles went on the books around the same time as many other states back in the 1950s. Back then, many car dealers had tenuous relationships with manufacturers, as you can imagine, who often forced dealers to sell cars as quickly as they came off the assembly line, a pace sometimes too quick for many markets. Manufacturers were also able to terminate dealer franchise agreements at-will potentially jeopardizing a large capital investment on behalf

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

of the owner or owners of the dealerships and leaving employees without jobs. Additionally, manufacturers were in a position to complete-- compete with their own dealers, undercutting prices by selling them directly to consumers. And that's why our current laws are really on the books to protect dealers from competition with manufacturers. Now, times have changed. They even changed in the last several years since I've introduced this bill for the first time, and the auto-- automobile industry has changed significantly. Sixty years ago, there were three major auto manufacturers. Now consumers are blessed to have lots of options and choices to choose from. Well, except in Nebraska and other states that have not updated their laws to reflect a growing and changing market. Now, our laws don't allow auto manufacturers to sell their own products directly to consumers. I'm going to repeat that. Our laws don't allow auto manufacturers to sell their own products directly to consumers. There are new companies like Tesla, Rivian, Lucid Motors and a few others that have business models that do not follow the typical dealer franchise model. They sell directly to consumers, giving them an additional choice of who to buy from. It's their products. Now for Nebraskans who are considering purchasing a Tesla, that means they have to travel out of state to even see one in real life, or hope they maybe see one on the road or maybe go test drive one. Now, if they choose to purchase one, they are spending money that they earned in Nebraska out of state. As for Tesla owners, that means they have to travel out of state to get their car serviced. Now, after I introduced LB51, my office conducted an informal survey of current and prospective Tesla owners, and I would like to share the results that we found. We have 46 current Tesla owners and 106 prospective Tesla owners respond to that survey. Of the non-Tesla owners, over 80 percent of them indicated that they would want to own a Tesla or electronic (SIC) vehicle. It is clear that Nebraskans want access to Tesla and other electronic vehicles and I think the communication from constituents to the committee also speaks to that. You should have several letters that were sent to you. Among the Tesla owners, less than a quarter of those responding indicated that it was easy to buy their Teslas. Additionally, over 66 percent said that it was very-- either very difficult or difficult to service their Teslas. Again, there are dollars that are being spent out of our state for no other reason than an out of date law. Historically, the automotive industry is unique in its sale practices. The dealer franchise model is not something that is used by any other industry. No other industry. Companies like Apple and Dell sell their products

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

online in large electronic stores like Nebraska Furniture Mart and Best Buy, and in their own standalone stores. They have the freedom to sell their products any way they want. Why should it be any different for new automobile companies like Tesla, Rivian or Lucid Motors? Now, a fundamental principle of free market competition is that consumers, not regulation, should determine what they buy and how they buy it. Yes, I am saying that. But that can't happen for Nebraska consumers when it comes to their choice in purchasing a car because our laws don't allow it. We should be encouraging competition. We should be encouraging and increasing consumer choice, just as numerous other states that are now allowing direct sales of motor vehicles are. To be clear, it's not my intent to dismantle or harm the manufacturer-dealer relationship. That is why there is a provision in this bill that only allows new companies with no existing dealer-model relationship to sell their cars directly to consumers. And as this committee has heard previously, there is no reason to believe that this change would harm dealers, not one. We haven't seen it in other states. We haven't seen it in reality. You will probably hear that argument, but we have not seen that. There have been studies done in other states that have changed their laws to allow direct sales and those studies show that there is no negative effect on dealers. As I said, I've introduced this bill two previous times. I've spoken to representatives from the New Car & Truck Dealers Association. I understand they have some concerns because it changes how things have been done for decades. But LB633 addresses their concerns because it only allows manufacturers who do not already have franchises in Nebraska to sell their products directly to consumers. That means that none of the dealers relationships with manufacturers today in Nebraska will change, which prevents any negative impact on their business. Nebraska is consistent with other states that allow Tesla's direct sale model. LB633 is unlikely to have any noticeable impact on the enterprises of Nebraska auto dealers. In fact, some other states, Colorado, for example, have seen record sales numbers for franchise dealers, even though Tesla participates in the free market being able to directly sell. The fact is, consumers are going to purchase these cars. The question is whether they can purchase them in Nebraska. We should be welcoming new innovative businesses like Tesla, like Lucid, like Rivian to Nebraska. One Tesla sales store will provide anywhere from 30 to 70 jobs, 1 to 2 million dollars in direct investment in property and improvements. Tesla often seeks to develop job training, veterans hiring, STEM programs for communities where they have a presence. And you'll hear

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

more from others, testifiers that follow me, about what these investments look like, that they've already made in Nebraska and other states, or that they would make it in Nebraska that they've made in other states. Electronic vehicles benefit our public power districts as well. In order to keep energy costs low, public power districts need more load in their system. Although Tesla and other charging providers have been steadily increasing in Nebraska, they've been increasing their quick charge in capacity, the vast majority of Tesla owners charge their vehicles at home, overnight, which provides a critical increase the public power grids loads at non-peak hours. That means a public power district sells more energy without additional investment. Failing to advance LB633 accomplishes two things. It forces consumers to spend money in other states, which in turn encourages Tesla to invest these in those other states. This is about opening up Nebraska to new businesses, giving consumers the choice when purchasing a vehicle and allowing them to do so right here where they live. I ask that you advance LB633 to General File to protect Nebraska's reputation as a business-friendly state that cares about the choices and the market we're providing to consumers. Thank you and I'm happy to answer any questions.

FRIESEN: Thank you, Senator Vargas. Any questions from the committee? Senator Moser.

MOSER: Can Nebraskans buy a Tesla from Tesla directly now?

VARGAS: No, they can't buy in the state directly. They actually have to purchase it in another state. So last time we had this conversation, there was a conversation about building a facility, a showroom in-- in Nebraska. And at that time, it was competing with Iowa. Since then, they've built a showroom and have one in Iowa and-- and they can sell directly. And so what we're running into is Tesla can't sell directly to consumers here. You have to buy it in other states.

MOSER: Well, they can't sell directly to consumers here and have a dealership, but could they sell them-- I would think that they-- we wouldn't have the authority to keep them from selling a car to a resident of Nebraska as long as they don't have a dealership here.

VARGAS: They would have to purchase it in another state and then go to another state. I would venture to say, what is the real reason why we

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

don't allow a Tesla or other company to be able to directly sell to a consumer their own product in the state? I can't come up with a good reason. Other states have figured out how to do it, and I think it's something that we should provide a choice to consumers here.

MOSER: Do you have any idea how many people have cars from these manufacturers that sell them in Nebraska? How many people in Nebraska own cars from these companies that--

VARGAS: So, I will let one of the testifiers, at least one of the companies, share the numbers that they have. What I'll tell you is the following. It's less only what the number of vehicles that exist here. It's the way that the market is changing. In a way, our world is changing there. The number of electronic vehicles that are being sold right now and companies like this that directly sell their product, that's their business model. It's been growing exponential even in just the last three years. So I think what we're going to see here is a larger percentage of new vehicles are going to be electronic vehicles and from some of these new companies that are not new franchisees. And so we'll get some more numbers shared from some of the testifiers on how many vehicles are currently on them-- on the road.

MOSER: OK, thank you.

FRIESEN: Thank you, Senator Moser. And other questions from the committee? Senator Geist.

GEIST: Thank you, Chairman, and thank you for your testimony. I'm curious if-- I know you-- you said that in other states this hasn't harmed the dealership model. Is there anything unique to Nebraska dealership model that this would potentially harm?

VARGAS: No. You know, I've been-- I've been up here many times on this bill. There is really nothing inherently unique. The uniqueness is, honestly that we haven't changed it at this point. People want to buy the car and they're not able to because of the way our law is written.

GEIST: So to follow up on that, if-- I know this says that it has to be a unique company that's never sold in Nebraska that only sells EV models, correct?

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

VARGAS: Well, this-- this is the way this is written. And we've had many different amendments in the past. But the way this is written is that it would be a new franchise-- an entity that's never had an existing or franchisee in the state of Nebraska, and that directly makes their own line of cars.

GEIST: OK. So an existing Ford dealership couldn't go form a new entity and make EV models and ship those directly to a customer in the state of Nebraska, .

VARGAS: If that entity had a franchisee currently in Nebraska, they would be prohibited under this law.

GEIST: Well, they would have Ford, but if it's a separate company, I think they could skirt that.

VARGAS: I wouldn't use the word skirt, but I would say that if it's a separate company is selling directly, it's a separate company.

GEIST: OK. OK.

VARGAS: What is probably the most important piece here is, why is this the only major product where people-- the business can't operate their own business model under our state laws?

GEIST: Gotcha. Thank you.

VARGAS: Thank you very much.

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

BOSTELMAN: Thank you, Chairman Friesen. One question, two-- two parts to it. Real quick, and it's motorcycles and trailers. Can you-- do you-- on trailers, I guess, are there current-- what current motorcycle manufacturer would this apply to and then what type of trailers are we talking about?

VARGAS: So, we didn't write this with a company in mind. That's not how it was written. We just wanted to be inclusive of other types of vehicles. So, but there are, I'm sure, and even if there weren't, I imagine there's going to be a market for a new company or companies that also have a trailer or motorcycle.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

BOSTELMAN: I appreciate it. There may be someone behind me too that can answer. I'm just kind of curious as to-- on the trailers, are we talking utility trailers? Were we talking, you know, heavy trailers, semi-trailers. More of a definition on trailers, so. Perhaps someone behind you too might-- just curious. Thank you, though. Appreciate it.

VARGAS: Thank you, Senator Bostelman.

FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? Seeing none, thank you. Are you going to stick around for closing?

VARGAS: That's my plan. I may be in another committee-- or another bill, so if I'm here, I'll close.

FRIESEN: OK. Proponents who wish to testify in favor of LB633. Welcome.

CRAIG HULSE: Thank you, Mr. Chair. Members of the committee, my name is Craig Hulse. I work for Tesla. C-r-a-i-g H-u-l-s-e. I want to thank Senator Vargas for bringing LB633. I also want to thank the committee for hearing it and hearing our testimony today. As many of you already know, Tesla is the only domestic mass market automobile manufacturer that exclusively builds and sells electric vehicles. To date, we've delivered over a million EVs worldwide. Senator Moser's question, over a thousand Nebraskans currently drive Teslas today. And where we sit, the nearest service center for them to get their car serviced is in Council Bluffs, Iowa. And if you live out in western Nebraska and have a Tesla, the Denver store is probably the closest. And we also have a Kansas City store that's frequented by many Nebraskans that spend time down there. As you've heard, I'm going to try not repeat anything that's been said at the Chair's direction. We are direct sale and service manufacturer to customers. It's important business model. It's an important part of our business model, having that direct relationship with our customer to educate about electric vehicles, about our transparent pricing and about our direct service. And the service component is important because our service technicians work directly with our vehicle engineers and our product designers. And oftentimes a lot of our product improvements come directly from customers and their feedback at our service centers. And I just want to be very clear. The direct sale and service model provides all of our consumers with the exact same warranty liability and consumer

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

protections provided by state and federal law. Currently, states like Wyoming, Utah, Nevada have passed very similar laws in the past between 2014 and-- and today. And since this committee last heard this bill, Colorado passed a bill without opposition to the auto dealers that did this very thing. It allowed manufacturers to directly sell that had never had franchise dealer agreements. And it is not the goal of Tesla, or I believe this bill from the testimony of Senator Vargas to-- to disrupt that franchise dealer relationship, it is simply to allow our business model to sell and service in Nebraska. The proposed legislation does just that for the purpose of selling performance-- performing warranty and other service on it's own line-make. So it would allow a manufacturer to sell and service just their cars. A couple of years ago when this committee heard this bill, I believe there was about 500 Tesla owners, so it's more than doubled. They're going to Kansas City. They're going to Denver to get these. And we're simply not able to provide the service we need to, because they have to leave out of state and we're hoping the committee will consider this as a path forward to help us service those customers. It's not really hypothetical anymore either. The dealers aren't harmed by Tesla's presence. And I know their goal is to preserve their franchise dealer agreements that they have. They've told me they welcome competition. We hope that they welcome that by, you know, letting manufacturers sell and service directly here in Nebraska. So, thank you, Mr. Chair.

FRIESEN: Thank you, Mr. Hulse. Any questions from the committee?
Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thanks for being here. I still haven't ridden in a Tesla. I missed the Tesla day back-- a couple of years ago. Um, one of the concerns that we've heard in the past, and I have a feeling we'll be hearing again today, is about servicing vehicles. So when it comes to right to repair, what-- can people only have their Tesla vehicles serviced at Tesla?

CRAIG HULSE: Currently, we are the only-- we-- we own and operate all of our service centers.

M. CAVANAUGH: OK. So there's no-- like in Iowa where they sell Teslas and there's no other vendor, no other mechanics that can, or electricians that can service a Tesla?

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

CRAIG HULSE: Not to my knowledge, no.

M. CAVANAUGH: OK. And then how many service stores do you have in Iowa
and in Colorado and in Kansas?

CRAIG HULSE: We have one in Council Bluffs, Iowa. Currently we have
one on the Kansas-Missouri border in Kansas City on the Missouri side.
And the Denver number is-- there's a few. I'll get that number for
you.

M. CAVANAUGH: Are they all in Denver or are they across Colorado?

CRAIG HULSE: Mostly the Denver metro area.

M. CAVANAUGH: OK, thank you.

FRIESEN: Thank you, Senator Cavanaugh. Any other questions? Senator
Moser.

MOSER: So if I wanted to buy a Tesla, are there dealers out there that
specialize in buying them from Tesla and reselling them to people that
don't live in a certain area?

CRAIG HULSE: No, not to my knowledge. That doesn't exist.

MOSER: So all thousand of those people in Nebraska who own a Tesla,
you think went out of state to buy it?

CRAIG HULSE: The only way they wouldn't is if they ordered online and
the Kansas City or Denver was the selling store, and they had some
type of arrangement once the car was already transferred to be
delivered. But almost all would have gone to Kansas City or Denver to
pick up their car.

MOSER: So, I couldn't go online and buy a Tesla and have you ship it
by some--

CRAIG HULSE: There would be a selling store and more likely--

MOSER: It has to be sold through your dealership, you could-- you
don't sell it directly?

CRAIG HULSE: Well, we just have to sell it. There-- it has to be sold
out of state.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

MOSER: Sold what?

CRAIG HULSE: Has to be sold out of state at a selling store.

MOSER: OK, thank you.

FRIESEN: Thank you, Senator Moser. Any other questions from the
committee? Senator Geist.

GEIST: Well, I'm curious. When someone owns a Tesla and wants to
upgrade, how is their current model then sold or resold? Is it sent
back to Tesla to resell? Is it put on a lot at a local dealership?
What does reselling a Tesla look like?

CRAIG HULSE: That's a-- I'm embarrassed to say it's a very good
question and I'll have to get back to you on that, Senator Geist.

GEIST: OK.

CRAIG HULSE: And I'll do that in the next 60 minutes.

GEIST: OK, great. Thank you.

FRIESEN: Thank you, Senator Geist. Any other questions from the
committee? Senator Hughes.

HUGHES: Thank you, Chairman Friesen. Thank you, Mr. Hulse, for coming
today. So if we pass this bill, then Tesla will build a service center
showroom in Nebraska? Is that a fair statement?

CRAIG HULSE: I will-- I won't venture to get out in front of a real
estate development, but that's the goal, yes. That's the goal in being
here and supporting this to make that happen.

HUGHES: OK.

FRIESEN: Thank you, Senator Hughes. Senator Bostelman.

BOSTELMAN: Thank you, Chairman Friesen, and thank you, Mr. Hulse, for
being here. I'll ask the same question I asked Senator Vargas. It
talks about motorcycles and trailers. Can you define what motorcycles
and trailers this applies to?

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

CRAIG HULSE: I cannot, Senator, I apologize. It's not something that--
we're focused on or.

BOSTELMAN: Thank you.

CRAIG HULSE: Yeah.

FRIESEN: Thank you, Senator Bostelman. Any other questions from the
committee? So-- Mr. Hulse, could you-- I've been in a Tesla store in--
I don't know what state I was in, but walk me through the process of
somebody walks into one of your stores, how they would actually
purchase a Tesla. They usually have-- I'm assuming they have one model
there or two. So there isn't a large inventory there in a storefront,
right?

CRAIG HULSE: No, so depending on the size of the showroom, it could be
between one and four models. You could be the X, the Y, the 3 and the
S. You would get introduced to the pricing right away or the car that
you're interested in. You do a demonstration drive similar to any
vehicle purchase. And the options are, the price is the price. So as
you go over the options, they'll explain the technology, what you're
looking for, and you'll-- you'll have a sales advisor walk you through
that process.

FRIESEN: Basically, you just go to a computer terminal and you can
choose your options and--

CRAIG HULSE: With assistance of a sales advisor, almost certainly
but--

FRIESEN: So I've also gone online and priced the Tesla and picked my
options. And I think I-- there was even option to have it delivered to
my home for a fee. So what's different about the process other than
having someone there I could talk to?

CRAIG HULSE: It's not that dissimilar other than somebody assisting
with the you-- assisting you with it, having the vehicle to show you,
walking through it, and then they almost always have a service center
available as well.

FRIESEN: So I can purchase one, though, in the state of Nebraska while
I'm sitting in my home.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

CRAIG HULSE: You can online, yes, without seeing the car, without--
without understanding. You know, it's a big purchase.

FRIESEN: Thank you. Any other questions? Senator DeBoer.

DeBOER: So when I go into the Tesla store, you've got the the one or
two, one to four vehicles, are there other items for sale in the Tesla
store?

CRAIG HULSE: Thank you, Senator. In some places, there are energy
products available to-- to-- to purchase or to discuss with our
advisors, and others, it's just automobiles, and it depends.

DeBOER: About what's the breakdown between purely automobiles and also
having some of the energy options?

CRAIG HULSE: I wouldn't even venture to guess. I'll-- I can ask our
sales folks and get back to you on that.

DeBOER: OK.

FRIESEN: Thank you, Senator DeBoer. Senator Moser.

MOSER: Do you find that Teslas sell better in states with-- well, are
some states more likely to be good Tesla states than others based on
preferences or weather, or I mean, what-- what factors make a
difference, do you think?

CRAIG HULSE: Honestly, and it's seeing a service center. It's seeing
more cars, it's understanding the technology. So I think people are
more comfortable if there's a service center or something in their
area so they know when they buy a car, there's a local presence. It's
having access to customers to communicate with them directly and
having a physical presence to show them the vehicle.

MOSER: Do they sell better in warmer states or warmer climates?

CRAIG HULSE: I haven't seen that, but I can-- I can ask our sales
personnel.

MOSER: I am just curious if that would enter into the equation. It's
not really related to this bill. It's more of just a question about
different cars.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

CRAIG HULSE: Yeah.

MOSER: Thank you.

FRIESEN: Thank you, Senator Moser. Any other questions from the
committee? Seeing none, thank you for your testimony.

CRAIG HULSE: Thank you, Mr. Chair.

FRIESEN: Proponents who wish to testify in favor of LB633? Seeing
none, anyone wish to testify in opposition to LB633? Welcome.

LOY TODD: Senator Friesen, and members of the committee, my name is
Loy Todd. That's L-o-y T-o-d-d. I'm the president and legal counsel
for the Nebraska New Car & Truck Dealers Association, speaking in
opposition to this legislation. I've also been asked by the Nebraska
State Chamber of Commerce to add their testimony to ours and to be on
record as opposed to LB633. Current Nebraska law clearly reflects the
passage of legislation to approve and endorse the franchise system of
delivering new cars and trucks in the state of Nebraska. You'll see in
the handouts that I gave there, a specific statute saying the proper
method of distributing new cars in the state is franchise system. And
the reason for that is quite simple. That is a rural state like
Nebraska to develop it, no manufacturer could come in and start
putting stores all across the state to sell and service their
vehicles. And so a franchise system evolved and virtually every state
came up and all 50 states have a franchise method of distributing
motor vehicles. There have been a few attempts at modifications
through the years, but that is the system. It's a perfect fit for
Nebraska. In fact, if I came to you today, if the franchise system
didn't exist and told you that we could come up with a system of
creating about 200 entrepreneurs, families across the state of
Nebraska, every place across the state of Nebraska and put in millions
of dollars in local businesses, employ over 8,000 people and-- we'd
fall all over ourselves to recruit something like that, but we've got
it. And that's our current law. If you-- if you take a look at what's
really working, that's really working. And then the handout there, the
second page would be-- ot Driving Nebraska's Economy that shows how
many dealerships and stuff, look at those cities. You know, in this
committee of all committees to hear this, I watched intently to see
how you're trying to provide communication across the state of
Nebraska to places where people don't want to go and build

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

infrastructure to take care of that last mile to-- to deliver Internet and services. And we have developed a system in this state that does that. And who would come in now and go to the cities that you see listed in that? Not that many people. And then when I-- and some-- some of the testimony that we've heard, I got to tell you that we are not opposed to Tesla. We are not opposed to electric. In fact, if you take a look at what's happening in industry, electric is-- is the future. Every single manufacturer's developing lines of electric cars. There-- and we're just a short time away from it there being a total market saturation. But it's interesting when people talk about-- when the Tesla folks talk about their method of distribution, that's just their choice. They just don't want to have a dealer. There's nothing stopping them from having a dealer. And that's all they need to do to solve their alleged problems in the state. Every other manufacturer in the country, every other manufacturer and dealer in the state of Nebraska follows the franchise system. It's not that tough. And we certainly to-- to-- to say any car dealer is not interested in competition, the competition among my dealers is incredible. And then as far as service-- well, let me just clarify one thing. This thousand car figure, it's interesting to me. I checked with the DMV last week. There are 426 Teslas registered in Nebraska. Now, I doubt that there are 500 Teslas that are unregistered and people are driving them around. My guess is those were purchases that are someplace else-- by Nebraskans that went someplace else. And I don't see any possibility that they're going to be service centers built in the state of Nebraska to service 426 vehicles. The other thing that Tesla promised these owners when they bought their cars is that they didn't have to have a service center because, number one, Teslas don't break down. That's what they were told. And if they did, they can be fixed over the Internet, cyberspace. But if that all fails, as you recall, last year's testimony when the Tesla representative was here, talked about their range of service. That's what they offer. They come to your house and fix your car. And if they can't fix your car, they send a truck and it takes your car to Kansas City or now Council Bluffs and fixes the car and leaves you a loaner. That's their method of-- of taking care of their customers and it's perfectly fine. They're not violating any laws, they're not doing anything wrong to do that. And so the notion that-- that these folks are stranded somehow and can't get their cars fixed, that's the deal they all made. Every-- every Tesla customer knew there wasn't a store in Nebraska and they chose to buy it and follow this model, which is fine. And if it isn't working,

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

all they have to do is get a franchise dealer. And as far as the question about repairs only at Tesla, that's not-- that's not accurate. Federal law does not let the manufacturer force people to use them exclusively for service. If-- if they want to go to any company or any-- any dealer that can service electric cars or any electrician that can service electric cars, they can do that. It's perfectly legal and, in fact, it's illegal to try to prevent them or to void that-- void their warranty if they don't do that. So, and I'll tell you something else. If you remember last year--

FRIESEN: Can you wrap up?

LOY TODD: Yeah, I'll wrap up. What we were told is how desperately these were needed and what happened within 24 hours of that hearing last year, Tesla announced that they were closing all of their dealerships across the country and then they found out they had leases, so they didn't. But when a company can simply announce they're going to close and there are no dealers to take care of their customers, if they do that, it shows you the fallacy.

FRIESEN: Thank you, Mr. Todd. Any questions from the committee?
Senator DeBoer.

DeBOER: Thank you, Mr. Todd, for being here today. I'm looking at this bill, and it is pretty narrowly tailored. I mean, it is-- it is pretty limited to just a certain model, a certain type of car that has not been sold in Nebraska through a dealership model before. Is there a danger that this-- I mean, we heard testimony that this isn't going to affect other dealerships within the state, it hasn't in other states. What-- can you tell me what your concern is that-- that you think this will somehow affect the relationship that dealers have with other manufacturers or things like that? Can you tell me what-- what concerns you have that way?

LOY TODD: Sure. Thanks for that question. If I thought that would work, I'd be the first one to come up and make that deal. Senator Geist is exactly correct. All the existing manufacturer needs to do is form another new corporation, a new-- a new product line. They've never had a dealer before, a new corporation, a new partnership, a new whatever. That's all it would take to sidestep this. That's why when-- when we saw what Colorado did, the bad deal they made, they didn't even make it as good as this bill, because on that one, they said, I

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

think line-make. They used line-make on it. On this one, it says manufacturer. Who's the manufacturer? Hyundai is right now trying to get by-- buy past their dealers with-- with the Genesis. We see-- we see other manufacturers doing the same thing. Volvo tried it with the Polestar. There's litigation going on all over the country about these attempts at getting rid of dealers or sidestepping dealers because it was simply corporate structure. And that's our difficulty with this. I wish it would work, but I know it won't. Historically, the manufacturers would like to sell direct. They did that during the bankruptcies, they terminated dealers. Cadillac terminated every dealer between Omaha and Denver during the bankruptcies when the franchise laws were not in effect. It simply will not stop them. And this-- and this endless pursuit of the manufacturer being the middleman and being the direct seller is their goal, and we've got a system that works great for Nebraska and we don't want to risk that.

DeBOER: So I hear-- I hear what you're saying is that you think that there will be a disruption of the overall dealer-- dealership model, is that correct?

LOY TODD: Yes.

DeBOER: OK, what is the value added of having-- I've heard what you said about for Nebraska, for jobs, for that sort of thing. But for the customer, what is the value added that having a dealership provides? I understand that that might have been the case when it was first created, that model, but what is the value added today?

LOY TODD: Number one is competition, that is price competition, service competition, availability competition and the relationship, inventory, everything that-- everything that the dealers do now for their customers, including trade-ins. I mean, most of people that buy vehicles have a trade-in, the value of that trade-in. The reason Tesla loves their models so much is because it's one price. I don't care whether you buy it on your couch in your living room or you buy it at a Tesla service center or you buy it whatever, you buy it straight from Tesla. They'll tell you the price. They'll tell you the price of every single component part, every replacement part. They have no competition. When they talk about afraid of competition, let me tell you who's afraid of competition. Tesla is afraid of competition. That's-- and they want to be the middleman. There is no such thing as eliminating the middleman. All it means is someone else is doing the

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

duties of the middleman. And so when you talk about value added, go to any of these communities around there and see how valuable it is to have a local dealership and all they contribute and all they do for their customers. It's a huge-- it's a huge value added and it's difficult to measure in dollars and cents. But I can assure you that-- that these gentlemen behind me who are going to testify, can clearly show you what they add for their customers and what they do for their customers.

DeBOER: Well, I can say that I've bought every single car that I have from a man named Barry Christiansen, and he's great, but I'm trying to think through and I see on TV like these Carvana ads. What's the difference between that model where they talk about car vending machines? I assume they don't have those in Nebraska, but I have no idea. But you can-- you can buy one online from Carvana. I mean, that's just the one that I know about, I'm assuming there's probably others either in development or currently in existence and then they deliver it. I mean, the commercial shows them delivering it to your house. Is that something that happens in Nebraska?

LOY TODD: It not only happens in Nebraska, it happens every day and all of my dealers will sell you a car on the telephone. They'll sell you a car over the Internet, they'll sell you a car you've never seen. They'll deliver a car to you anywhere you want to pick it up. But it's-- there's nothing-- nothing special. And those are all used cars, OK. Carvana, all those other companies, those are used cars--

DeBOER: OK.

LOY TODD: --and so you trust them that it's a car that you're going to be satisfied with and is what they're represented to be and then you can negotiate that way.

DeBOER: So arguably you could buy-- I mean, I don't know if this is true. We'll have to figure it out with what Senator Geist said, but arguably in Nebraska right now, you could buy a used Tesla in that manner.

LOY TODD: Well, there's-- all of my dealers sell used Teslas. This law is about new vehicles and the distribution of new vehicles in the state. You can buy-- in fact I think there's a Lincoln dealer in

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

Lincoln, Nebraska, that-- that really kind of likes them and specializes in those used cars.

DeBOER: So, I mean, the business model doesn't sound radically different to be able to buy something online and have it sold through, supposedly a different store, Kansas City, something, and then come to you at your front doorstep in Nebraska. That doesn't sound radically different than saying we can sell it through Nebraska, right? I mean, I don't really understand. It seems like a-- it seems like a little shell game we're playing to determine if I can buy it from Tesla through a Kansas City store and then it comes to my home, or if I could buy it in Nebraska. So is-- what really is the difference? And isn't this going to disrupt your business model just as much as any other way? Because arguably this could continue to happen in the surrounding states and they could continue to ship cars to us from the surrounding state sales floors, or whatever they call them, for the Tesla. I mean, I'm trying to understand if the dealership model is already threatened by these other-- these other ways of selling that are happening now. Do you have any comments on that?

LOY TODD: Sure. It doesn't threaten the dealership model at all. In fact, they all participate in it. The one thing-- my dealers can't go to Iowa and sell cars, OK? And Iowa dealers can't come here and sell cars, but there is a system out there that all works. But, and what you're talking about is when they take-- take what Tesla does, they would love to have you come to Kansas City or to now Council Bluffs and sell out of their service centers or out of their dealerships. And-- and that's fine. But our problem is not Tesla doing that. Our problem is, we tell Tesla the same thing every time. Just get a dealer. I have-- I have countless dealers who would love to be the Tesla dealer for Nebraska. They can pick anybody they want. They can set up any rules they want. They can do anything they want. The threat is not that store. The threat is that the current manufacturers will use that-- that change in the law to step through and compete directly with their dealers, and no dealer can compete with its factory. A Ford dealer cannot buy cars from Ford and compete with Ford selling them direct to-- to the customer.

DeBOER: Thank you.

FRIESEN: Thank you, Senator DeBoer. Any other questions? Senator Bostelman.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

BOSTELMAN: Thank you, Chairman Friesen. I'll ask the same question previous to, I don't know if you know the answer or not, but this touches motorcycles and trailers. So what type of trailers are we talking? Campers? Are we talking semis? Are we talking goosenecks? Are we talking utility? How does it--

LOY TODD: Current-- current law, anything that doesn't have a motor. So trailers-- and trailers are already exempted from our-- our statutory prohibition against direct sales because there are-- that's been a distribution model for-- for many years. So if you were a trailer manufacturer in Nebraska, you can sell direct. Now, if you're a trailer manufacturer in Kansas, you can't come into Nebraska and-- and without a license and sell direct. But, and then motorcycles, there's a different distribution process for them also. They also have distributors and things and so most of the laws that we write will have a carve out, but on a franchised motorcycle dealer who sells new motorcycles, they come under the same law as the dealers do. So used and trailers are completely different.

BOSTELMAN: Well, I guess-- you know, I understand on the trailer side, if you're a manufacturer, you're here in the state.

LOY TODD: Yes.

BOSTELMAN: So it's not that you're bringing something in from out of state, I mean, you're manufacturing here. Timpte, for example, in David City. So they're manufacturing trailers here--

LOY TODD: Yes.

BOSTELMAN: --and others are in the state that do the same, so. OK. Thank you. Appreciate that.

LOY TODD: They could sell direct.

BOSTELMAN: Thank you.

FRIESEN: Thank you, Senator Bostelman. Senator Geist.

GEIST: Thank you. And thank you, Mr. Todd. I always appreciate your testimony. Can you tell me, Iowa, is that a service center or retail sales and service center?

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

LOY TODD: Iowa law is different than Nebraska. It prohibits a sales center. It doesn't prohibit a service center, and that's why they were allowed to go there. I can tell you that Tesla has a history, a strong history of selling from their service center. They'd be perfectly happy to have a service center because they sell from, in violation of the law. And I checked all over the nation. I network everywhere. I've been close with-- with many other states. Wisconsin, perfect example. They went into Wisconsin. Wisconsin made a deal, okay, you can have a service center because they had serious numbers they could make. Well, next thing you know, they're doing ride and drives out of the service center. And then they're-- and now-- and now they're Tesla ride and drives. Before-- their customers are so loyal and so generous and so proud they-- their customers show up with their cars and let everybody drive them. The ride and drives here at the Capitol, those are customer cars. No compensation to the people that I know of and they just-- they're volunteers. Well, then now it's developed into full-blown sales. And then-- and now we got litigation going all over the country, because when they've done these car routes, when they've done an exception like you see in Nebraska or other places, they immediately move to the next step.

GEIST: Well, that was leads me to my next question, because I was going to ask, so how does this work in other states? If our laws aren't unique to Nebraska as far as the dealership model works, then so you're-- how does this work in other states? And-- and--

LOY TODD: It doesn't. They've tried. When Tesla first came out, it was so innovative and so unique and it was embraced everywhere. The electric vehicle and the trend is there. And so cut carve-outs, you could have one store. You can-- perfect example, Georgia, because Tesla said, well, we'll get a-- we'll have dealers eventually. So-- and so they set a number. I don't remember what it was, 4,000 or something in the state of Georgia. As soon as you have this many dealers, then-- then we'll get-- gives you not-- not deals, sales. Then we'll have a dealer. Once they blew through that number, they said, well, no, never mind, we changed our mind. And then they said, and we're not leaving. Of course they're not leaving. Once you've established and you're in business, no, no Legislature, no one's going to run you out of this. And so where they've tried the carve outs, it keeps getting exceeded. New York, I've got a bunch of letters from different states. You know, they promised us two stores. It was an experiment, limited electric only. Next thing you know, they got six.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

Litigations ensuing different places. It's-- it's-- they're
disrupters. They-- they disrupt.

GEIST: So could you send me those letters?

LOY TODD: Sure, I've-- I've-- I've I've got them here, I'll run a copy
of them.

GEIST: OK.

LOY TODD: I've got a half a dozen of them with me. I'll run them
before I leave.

GEIST: OK, thank you.

FRIESEN: Thank you, Senator Geist. Any other questions from the
committee? Senator Moser.

MOSER: So do you feel that changing the law to allow manufacturers to
sell directly in the limited scope would kind of start the slide down
the slippery slope to allow other manufacturers to follow suit?

LOY TODD: Oh, absolutely, Senator. For example, Rivian, the Senator
mentioned Rivian-- I forget who mentioned.

MOSER: Senator Vargas mentioned them, I think.

LOY TODD: Yeah. Ford Motor Company just invested \$500 million in
Rivian. Now, there's another company that has never had a dealer, and
now Ford's got a \$500 million stake in it so far. It's-- it is. This
is the camel's nose under the tent. It is-- what-- now it hasn't-- the
market doesn't change that quickly, but it's going to change.

MOSER: Do you think it's-- it's-- opens the door just legally or just
opens the door with a trend that other laws will follow to allow
manufacturers to sell directly.

LOY TODD: Both. The pressure to-- the pressure on you from
manufacturer, even-- even if the law would work and you're going to
hear from the Manufacturers Association, at least you did last time.
They came and said, don't do this. The manufacturers-- all the other
manufacturers said don't pass this law. But if you pass it, we want to
be allowed to sell direct also. We want a level playing field. And

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

that's the drumbeat you're going to hear is, we want a level playing field. If the other companies get to sell direct, we want to sell direct also.

MOSER: And do you think that the manufacturers, if we approve this bill, could successfully go to court and argue that manufacturers are not being treated equally, that some are allowed to sell direct and some have to sell through dealers?

LOY TODD: Sure. I absolutely believe that. Exceptions are very difficult to defend. You know, Nebraska used to have an inspection law, a safety inspection law years and years ago, and it had exception after exceptions. Busses were exempt and this was exempt and that was exempt. Next thing you know, our Supreme Court threw it out and said, you know what? There's too many exceptions, we're not going to allow it.

MOSER: Not constitutional then?

LOY TODD: Exactly.

MOSER: OK, thank you.

FRIESEN: Thank you, Senator Moser. Any other questions? Senator Hughes.

HUGHES: Yes, thank you, Chairman Friesen. Thank you, Mr. Todd, for coming. So help me with a little bit of history, because it used to be that the same owner couldn't have multiple franchises. I mean, a Ford dealer couldn't have a Chevy dealership, Dodge, vice versa. So what-- what changed there? Was it the franchise, the manufacturers changed and allowed multiple owners, or what happened and what precipitated in?

LOY TODD: We came to the Legislature and under the franchise laws, the Legislature changed the law to prohibit the manufacturers from preventing dealers from having multiple franchises. Our law-- our law wouldn't allow-- won't allow that anymore. What they will allow, what is allowed the manufacturer is, they can require a separate showroom for each product line that they have in for different franchises. But historically, yeah, manufacturers used to get away from that. In fact, that's why-- and it's this committee, it's always this committee, because the relationship between manufacturers and dealers is so

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

one-sided and so unfair that every state has passed franchise laws
like that to-- to level the playing field between dealers and
manufacturers and-- and prohibit the abuses that have happened
historically.

HUGHES: So when-- when did that law change? Just ballpark.

LOY TODD: I've been here 33 years. I think it was about 15 years ago,
maybe-- maybe not quite that time.

HUGHES: 2000, 2005.

LOY TODD: Probably. I could sure find it for you.

HUGHES: And that-- that affected all franchisees so it would be on
the-- Nissan.

LOY TODD: Yes, exactly.

HUGHES: OK, thank you.

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

LOY TODD: Thank you.

FRIESEN: Any other opponents to LB633 wish to testify?

MICKY ANDERSON: Good morning. Thank you for for allowing me to speak.
My name is Mickey Anderson, M-i-c-k-e-y A-n-d-e-r-s-o-n. I'm the owner
of the Baxter Auto Group. Baxter has 17 Nebraska dealerships in Omaha
and in Lincoln. We employ 1,500 people in those dealerships. And I
represent nearly every major manufacturer in the country and I would
be happy to represent Tesla just-- we can make that a matter of
record. (COUGH) Excuse me. So speaking from a-- from a car dealer's
perspective, I just want to make sure that we're clear. Nothing is
preventing Tesla from doing business here in-- in Nebraska. My
business-- my family has been in the business for 60 years. I've been
actively working it for 30 years. And 30 years ago, a new brand wanted
to sell vehicles to consumers. That brand was Lexus, had an idea about
a new type of a car and so what they did is, is we were fortunate
enough to be selected as a dealer and we bought property, built a
building. We bought hundreds of thousands of dollars worth of parts

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

and equipment, and we made a big investment in our local community, and then we sold our first car. When we-- when the decision was made to sell Lexus in Lincoln, the same process was followed. And just a month or two ago, a brand new to our area, Bentley, followed the exact same process. So the franchise dealer law has worked and is working and is allowing for the introduction of new models, even up to just earlier this year. The-- in the 30 years that I have been in the business, I have had the chance to serve on two different national dealer councils, one for Toyota and one for Chrysler. And I would tell you that the franchise model does carry a bit of an expense to the manufacturers. Elon Musk is smart. He's the richest man in the world and there's a reason why. I think he's identified that cost. Having a network of distribution across the state to service the people that I help to sell my product to, comes at a cost. In bankruptcy, if you go back to 2009 and '10, when GM and Chrysler were in bankruptcy courts and so they were freed from our local state laws, you saw exactly how they responded. They eliminated a couple thousand dealerships across the country because they felt them to be inefficient, unnecessary. It was rather arbitrary. But in a moment in time, they eliminated many, many family businesses and many right here in the state of Nebraska. The law that you are considering, it's odd to me that we would be writing one just for Elon Musk, just for Tesla, and don't believe that that's what would happen. I can promise you the other manufacturers would look at this as a template. They would look at this as an accommodation or an impairment of the current law, and they would all seek to use it to find ways to trim down their-- their network of dealers, cut their costs. Make more money like Elon makes. And there are so many new entrants. So-- so Loy talked about Rivian. Rivian is a partnership with Ford. Apple is partnering with Hyundai. The fourth largest manufacturer in the world now of automobiles is a company you've probably never heard of called Stellantis. It's all new. It's the merger of Fiat and of Chrysler and of Peugeot, but technically, it meets Senator Vargas' definition of never having any dealer here in Nebraska, never sell any car here in Nebraska, never being in Nebraska. What it does have is, it has the shell of the old network of Dodge and Chrysler and Jeep dealers, Ram dealers, all across the state of Nebraska. And if it could start to market those vehicles under the Stellantis flag, they could eliminate a lot of dealerships in Valentine, in Norfolk and Chadron and all over the state. So the bill-- it's not about green energy. We're selling-- I mean, we're selling electric cars in every single manufacturer we represent. It's

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

not about the grid. I suspect the folks in Texas probably are rethinking their ideas about plugging their cars into their homes right now, and even some of us in Douglas County that went without electricity for a while, don't know if that's exactly what we want. It has nothing to do with those things. It has everything to do with the existing state law, which even though it's old, it still protects us from a very contentious, continuously contentious relationship with some manufacturers that don't have our best interests in mind. So if we-- if we say no to LB61 (SIC LB633) I think it'll be better for our economy. It would be better for our communities. It would be better for our state. And it might not be better for Elon, he may not be able-- I mean, to add to his pile, but I really think that we're better off protecting what we have.

FRIESEN: Thank you, Mr. Anderson. Senator Geist.

GEIST: Thank you for your testimony, because it's interesting to hear 30 years of-- of dealership experience. So are you seeing that encroachment happen in other states?

MICKEY ANDERSON: So I've dealerships in Kansas and in Colorado, and a lot of those laws are new, but those are also the first places where the new manufacturers are making their biggest push. So you're not going to see those new manufacturers here in Nebraska because we've kind of stayed true to our traditional model. The displacement that will happen is going to play out over the next, probably five years or so, or 10 years. If Ford can maximize profits by rolling production through the Rivian line as opposed to the Ford line, and again, free themselves of the obligation to maintain presence, a brick and mortar presence again in smaller towns, smaller communities, that are really kind of-- some of the last small businesses in our state, I anticipate that's what will happen.

GEIST: Thank you. But we're not actually seeing that yet.

MICKEY ANDERSON: I'm starting to see a little activity in Colorado with some of these other emerging brands, but they're having a hard, slow ramp up, similar to Tesla's. I mean, Tesla has taken years and I'm not sure if they've still made any money. It takes a lot of time to get a car brand going.

GEIST: OK, thank you.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

FRIESEN: Thank you, Senator Geist. Any other questions from the
committee? Senator DeBoer.

DeBOER: Thank you, Chair. So I'm thinking about this bill, and, you
know, it's-- I don't mean this in a bad way. I mean this in a value
neutral way.

MICKEY ANDERSON: Right. Oh-oh.

DeBOER: This seems like your opposition is about protectionism,
protecting the industry that you have. And again, value neutral, I'm
not trying to say that that's necessarily a bad thing. And that, I
think does protect those small town industries, those small
businesses, that sort of thing. It seems to me what we're looking at
here is a larger question of what the rest of our economy is going
through as well in terms of going from a brick and mortar store kind
of situation to, you know, small town brick and mortar to an all
online kind of a system. And I'm wondering if-- let's say we prevent
this bill from going forward, we don't-- we don't sort of encourage
that sort of thing, we keep the franchise model. Are we still going to
sort of keep plodding down that path towards moving away from brick
and mortar and on to online, or is there something in our franchise
law that's going to prevent that long term? Sorry, that's kind of a
loaded question.

MICKEY ANDERSON: No, that's a good one, and I'm trying to make sure I
get it right. So, yes, I would say that my family business and most of
the family's-- small family businesses across the state of Nebraska
are the-- I would say, the results of the law that we're discussing,
the current franchise law. And-- and absolutely, I would benefit, or I
have been a beneficiary of the way this franchise system is set up,
just as Elon Musk would be a beneficiary if you passed Senator Vargas'
bill. So I think you hit on a very important point. It's a good one.
And-- and you know, any particular dealer, any particular retailer can
be kind of more or less progressive. Now, anything that we buy that
has a physical presence has to be stocked, stored, whatever positioned
in some sort of a way and so the way that we buy cars, we buy them
from the manufacturers, we stock them close to the customers that are
going to want those cars. We do the same thing with their parts. And
so I'll always need some sort of a facility so that I can keep the--
the-- mostly really the parts near the customers that need them for
when they have-- need a repair. So that's-- that's a big piece of it.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

I also have to have a brick and mortar presence to make sure that I can house the technicians that'll fix the vehicles. What I would call it, more illuminated retail experiences are going to become, I think, certainly define the future for all of us. And so you're going to see more pick up and delivery. You're going to see more online sales. And that all could be facilitated through local dealerships as opposed through maybe a manufacturer or back in Detroit or California or in New York. What does that mean in the facilitation of that process? It just means Nebraska will get to participate in that supply chain, will participate in that revenue stream. Dollars will be kept here rather than going back to Palo Alto. And that seems like a good thing to me.

DeBOER: And I mean, I think that that really is what we're dealing with here. We're dealing with sort of the the-- the kind of crush to get rid of brick and mortar that has happened for efficiency sake in various aspects of our economy. Mr Todd testified that one of the things that the dealership model provides to Nebraskans who are consumers is that it provides a way to compete to keep the price down. It's kind of counterintuitive because we're adding a layer of folks who need to be able to make money and all that sort of thing, so are you able to sell for less and-- and how is that possible when you've got-- I mean, it's not like you can get a Corvette from seven different manufacturers, there's one manufacturer. The prices that they're going to charge you, they're not going to charge you less because there's many people selling them.

MICKEY ANDERSON: Well you picked a good example with Corvette, but to step back just to make sure that we're clear on one thing. Dealers don't add another layer of people. The people are going to be there regardless of whom-- whoever is in charge. So in other words, you're going to have to have people who service the vehicles, stock in the parts, pull the parts from the shelves. You're going to need people to in some way facilitate the purchase. The gentleman from Tesla talked about, hey, one of our representatives will walk through the the car. So there's no-- it's not a layer of humans, it's a matter of where is the revenue being controlled. Is it being controlled locally at the state level or, you know, city level, town level? Or is it all being controlled at kind of a macro level by the publicly-traded manufacturer? So our current model says that that layer of activity is going to be owned and domiciled here in our state if you want to sell a car. The-- the second part of your-- of your question about, will-- I think you're kind of asking a question about brick and mortar and

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

what's going to happen to it, and I will tell you what's going to happen to it will be kind of up to the consumer. The more important question that you asked is a little bit about what value do the dealers bring to the transaction? And every time I have an industry phone call, they open up the call by saying, we will not discuss price, we will not discuss price because it's price fixing and it's illegal in this country. If all the points of distribution are controlled by the same person, you can sidestep that and you can fix the price at a high number. You can sell it at whichever-- whatever you want, thus causing the consumer to pay more. The Corvette is a good example. You can buy a Corvette at one of-- I'm going to guess there's got to be 50 Chevrolet dealers here in the state of Nebraska. And if one of them is asking too much, you have the option of calling another one and another one and another one until you find the one that meets the price that you're looking to pay. If they're all owned by Chevrolet, you're going to pay what you got to pay. And the gentleman from Tesla even said that. It's a beautiful piece of their model. For them, not for the consumer.

DeBOER: OK.

FRIESEN: Thank you, Senator DeBoer. Any other questions from the committee? How many customers do you think from your standpoint in your dealerships are willing to order a car and wait three to six months to get it? I mean, you stock a lot of vehicles so that business model, do you feel it's ever going to go away from the brick and mortar because people do want to come see that car?

MICKEY ANDERSON: So this summer, we saw a lot of shortages, so we did more ordering and waiting than we've ever done before, because COVID had impaired so much of the supply chain and the cars weren't being manufactured. It was inconvenient for the customers, much easier for us. We're not having to stock so many cars. When the cars come in, we prep them and we inspect them and we send them home with their owner. The real issue is the manufacturers. They have-- they're making big buys on all of their components. And, you know, Tesla has all the same suppliers that every other manufacturer has. You got to remember, these are made-- they're just assemblers. They bring in all these parts in. When they make those commitments and then they commit to their work force and to the United Auto Workers, those cars have got to come off the line in a certain cadence, and that's what the dealers do. We take them off the line as they're sold. So unfortunately, the

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

answer to that question is not driven by the consumer, it's really driven by the manufacturers. And for them to be able to keep up with the commitments that they've made at the manufacturing level, they need us to take them off their hands. And therefore, we'll see larger ground stocks and smaller ground stocks kind of depending on their manufacturing model. People, when they make the decision to buy a car, just like with everything else, would really like to have it now. Sometimes they have to wait.

FRIESEN: OK. Seeing no other questions, thank you for your testimony, Mr. Anderson.

MICKEY ANDERSON: Thank you so much.

FRIESEN: Welcome.

JOHN ERNST: Good morning, Senator Friesen, committee. I'd like say good morning to my hometown Senator, Senator Moser.

MOSER: Good morning.

JOHN ERNST: My name is John Ernst. I'm from Columbus, Nebraska. J-o-h-n E-r-n-s-t. I'm the dealer-principal of Ernst Auto Center and Ernst Toyota. I'm also the past chairman of the Nebraska New Car and Truck Dealers Association and still reside on their board. The traditional manufacturer for many years has been trying to reduce the number of small and rural dealers. Nebraska, like virtually every state, has franchise laws which level the field and help keep them from terminating dealers. My family has been serving our community and our customers with sales and service for not only the vehicles which we sell, but used vehicles of every type for three generations, 61 years in May. As difficult as it is to understand, manufacturers like to compete directly with their dealers or simply-- simply eliminate them altogether. In 2008, GM took advantage of that opportunity and eliminated my-- my family's Cadillac franchise and terminated every Cadillac dealer between Omaha and Denver. We lost our Cadillac franchise and our customers lost their local source of sales and warranty and service. We employ over 110 people in our dealerships and provide good pay and benefits. We create sales and income taxes. We pay property taxes and support our community in many ways, directly and indirectly. The franchise system has served our customers, our employees and our community well. We fear that allowing factory stores

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

in Nebraska will eventually open the doors to allow any manufacturer to compete with its franchise dealers. You can't possibly compete with your own factory store. A Tesla exception to the franchise laws will open the door for the other manufacturers to begin the process of demanding an equal opportunity to open factory stores and doing so will lessen our customers protection under the current Nebraska franchise laws. Thank you for your time.

FRIESEN: Thank you, Mr. Ernst. Any questions from the committee? Seeing none, thank you for testifying.

JOHN ERNST: Thank you.

TIM ROE: Good morning. My name is Tim Roe. It's T-i-m R-o-e. It's pretty easy. You've heard some large numbers of people being in business. Our company Roe Buick in Grand Island has been in business for over 70 years. My father started in 1948 in Norfolk. We were there for 10 years and then moved to Grand Island. We have been as-- as Mr. Ernst said, we have been through the General Motors hoops. We used to have four franchises in one location. As General Motors goes along, they decide, nah, you guys don't need that anymore. Oldsmobile went away, Pontiac went away, and we also had a Isuzu. We got paid from General Motors for Pontiac, which would put about a nice down payment on a new car right now. I don't think this is all about Tesla itself. I laughed with a-- with a group earlier about the people in Texas trying to go anywhere. Cars ain't moving, I'm sorry. It's not the electric end of it. What it is, is coming down as franchise laws. General Motors right now could come out and they're going to-- they have told us that they're going to come out with all electric by 2035. With the current law, they can't come out. We're talking about someone that doesn't have a dealer now so they can come out with a group of new cars, build new facilities, call it Bob's electric cars and some-- sell those cars direct. I have been through the bankruptcy of General Motors. I didn't think we were going to be there because knowing people at GM, being in business for such a long time, they told us that GM was only big enough for one GM dealer-- that Grand Island was. I watched every FedEx package that came into our dealership figuring the next one coming is the one that's going to say, thanks, thanks for 50 years, have a great day. This whole thing is turning into Amazon, you know. I know-- I'm assuming somewhere along the line, all of you have had car problems. Phone call, good to go, guys come get it, take care of it, bring it right back to you. You don't have to wait in line

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

in Kansas City or in Council Bluffs or anything. I have been to a Tesla store in Arizona. It's in a mall so I can buy a sweatshirt here and a car here. Those aren't the people I want working on my cars, I'm sorry. I don't want to run into you at the grocery store somewhere and say that car I bought from you, I'm having problems with it. Let's get that fixed. Let's not-- I-- I hate car problems. I see a lot of problems at the service end of this. Everything is a great promise on their end of it. We live the dream every day of fighting, not only fighting, we have competition amongst each other. We have competition for the sales and service, the parts, everything. But yet here we are every day, here to help you guys with-- you know, it's funny, I've written ads that say, you know, I'm here to take care of all your transportation needs. If-- I don't want to see the whole competition thing go away, and I don't think-- in Grand Island we have a mall that, of course, and I look at the Haymarket here, the COVID is part of this deal. The COVID is just like selling direct. You don't need the rest of that stuff. You can get your food. I mean, you get drive through drinks now. I mean, what-- you know, what's going on there? We're here to help you, to serve you in every way possible, but if this law-- if-- if there's not a franchise law and they can sell direct, you're not going to have the personal touch. So, that's all I have. Thank you.

FRIESEN: Thank you for your testimony. Any questions from the committee? Seeing none, thank you for your testimony. Any others wish to testify in opposition to LB633?

BLAIR MACDONALD: Good morning.

FRIESEN: Welcome.

BLAIR MACDONALD: Chairman Friesen, and members of the Transportation and Telecommunications Committee, my name is Blair MacDonald, B-l-a-i-r M-a-c-D-o-n-a-l-d, and I am testifying on behalf of the Alliance for Automotive Innovation, in opposition to LB633. The Auto Innovators is a trade association whose membership includes not only vehicle manufacturers representing nearly 99 percent of all cars and light trucks sold in the U.S., but also Tier 1 suppliers, value chain partners and technology companies. In the past, my client, Leighton Yates, who is the director for state affairs at the Alliance for Automotive Innovation, has been the one to testify against the direct sales bill. Due-- due to the pandemic, he was unable to travel here

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

and so you have a letter of opposition from him. As automotive-- as automakers, Auto Innovators, works closely with our franchise dealers to operate as successfully as possible within our industry's existing distribution model, nothing in law precludes Tesla Motors or any other company from competing in Nebraska automobile marketplace under the same exact rules as every other automaker does today. In Nebraska, as in every other state, automakers and dealers operate under the complex set of state franchise laws, as you've heard, that regulate nearly every facet of our business relationship. These relationships with local business owners that, in some cases, go back decades. Admittedly though, some of these laws are onerous for manufacturers as you somewhat heard previously. In these same marketplace where competition between brands is intense, all partners-- all participants must at least operate under the same set of rules. While LB633 would allow Tesla Motors to sell directly to consumers and simultaneously prohibit every other existing manufacturer that is in the marketplace from doing the same, it also opens the door to allow any other new vehicle manufacturer that follows to use the same direct sales model. Tesla Motors will not be the only one-- will not be the only automobile manufacturer to enter the marketplace using this exemption. For example, today there are 20 vehicle manufacturers who sell vehicles in other parts of the world, but not here in the United States. There are also new vehicle startups and large technology companies that are trying to bring new vehicles to market, but they-- that are not yet in the marketplace. These are both examples of what would be allowed to sell directly to consumers while existing auto manufacturers would not have that ability. This is about more than just Tesla. Auto Innovators' members welcome new competitors because that drives innovation and encourages competition, which is good for consumers and the industry. Passing LB633 will split the vehicle marketplace into two. On one hand, there will be the new entrants unbound by the franchise system and on the other hand, the existing manufacturers required by law to follow the current franchise system. The rules under which dealers as well as Auto Innovator members have built their businesses and have been in place for years. This includes the prohibition on direct sales. It would be patently unfair for the state to have long existing set of laws governing how manufacturers distribute their products, but are now only letting new manufacturers enjoy a competitive advantage by being able to be exempted from the restrictive laws. Tesla's products are no longer unique to the marketplace. Therefore, why would it need a special dispensation from

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

current distribution model laws? Traditional automakers currently offer more than 40 different zero emission qualifying models for sale in the United States today, including pure battery electric vehicles. There have been numerous announcements from traditional automakers that-- that there will be many more electric options offered in the near future, with over 100 projected by model year 2025. These are battery electric vehicles as well as hybrids that are in the production pipeline. Electrified models of all different shapes and sizes, capabilities, are already on the market. Our members have developed modern vehicles that are safer, cleaner and more advanced than ever, and they welcome new competitors. Our members simply believe that state laws that govern the sales of vehicles should be-- provide a fair and equitable playing field for all and not grant special privileges for a select few. Due to these reasons we ask that you not advance LB633 and I am happy to try and answer any questions you may have.

FRIESEN: Thank you, Ms. MacDonald. Any questions from the committee? Seeing none, thank you for your testimony.

BLAIR MACDONALD: Thank you.

***JOSEPH D. KOHOUT:** Good afternoon. My name is Joseph D. Kohout and I am testifying on behalf of ABDN, or the Associated Beverage Distributors of Nebraska, a trade association of the 17 family-owned beer distributors that employ hundreds of family, friends, and neighbors across the state in order to provide choice and variety to retailers and consumers when it comes to beer and other beverage choices. We ask that our testimony be made part of the record on LB633. I thank you for the opportunity to express the views of our distributor members and their employees in opposition to LB633. LB633 would change license applications and franchise restrictions under the Motor Vehicle Industry Regulation Act. The bill is similar to legislation we have seen in previous years to allow auto manufacturers with no franchisee in Nebraska to sell their products in a manufacturer-owned store. In the U.S., direct manufacturer auto sales are prohibited in almost every state by franchise laws requiring that new cars be sold by dealers. LB633 would primarily benefit auto maker Tesla Motors. We agree with the Nebraska New Car & Truck Dealers Association's position that the bill would undo the dealer model, thereby threatening the 8,000 jobs sustained by Nebraska's nearly 170 auto dealerships, which generate roughly 15% of the state's total

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

sales tax revenue. The bill would also negatively affect local lending, local investment and employment, and customer service throughout Nebraska since dealers and auto makers have built business models based upon current state law. Like the members of the Nebraska New Car & Truck Dealers Association, the 17 distributor members of ABDN are locally owned and operated, independent, family businesses. They serve the nearly 4000 retailers in Nebraska which are licensed to sell alcoholic beverages. ABDN members have considerable impact on the State's economy through the purchase and operation of warehouses, trucks and technology systems, as well as the payment of vehicle and license fees, fuel costs and taxes, and wage and benefit programs for their nearly 500 employees. In addition, beer distributors invest considerably in their local communities or territories they service through charitable contributions and the remittance of business, personal, property and sales taxes. While we can appreciate Senator Vargas' attempt in this years' bill to providing limited market entry, we believe the impact would be detrimental to any system that relies on Nebraska distributors to distribute and service products from other parts of the country or world. LB633 would require existing manufacturers in the market to have to use the three tiered system but that any new manufacturer can sell direct. In an era where spinoffs and LLCs are very common, it would be really easy for a vehicle manufacturer to spin off and form a new company. Likewise, it is our concern that if this model were matched in the distribution of alcoholic beverages industry, a "new" manufacturer could come to Nebraska, evade the current Nebraska 3-tier system and bring what could be a product that may have already been courted for years by Nebraska's beer distributors. As a result, this model would seek to completely up-end the safety and welfare of the public through the industry not knowing how to remove tainted product from retail shelves and other commonplace efforts to protect the health of the public. This is a step that our members strongly disagree with. On behalf of our client, the Associated Beverage Distributors of Nebraska, we ask that the committee indefinitely postpone this measure.

FRIESEN: Any others wish to testify in opposition to LB633? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Vargas, you wish to close? We do have in lieu of in-person letter of opposition from Joe Kohout, Associate Beverage Distributors of Nebraska, and we have a letter of support-- a position letter of support-- 17 letters and they're on our NTN shared drive.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

VARGAS: Thank you very much, Chair Friesen, members of Transportation and Telecommunications. A couple of things I want to make sure to just summarize here. You know, sometimes it's hard to hear arguments that I think are both identifying this as a threat, but then also don't want to say that it's a threat. I want to get back to the real intention. You know, I've heard a couple of different quotes that this is-- this is about Tesla, which we should have made really clear, it's not just Tesla, it's about businesses. It's also not just about the dealers. This is really ultimately about the consumers. I've had several conversations with several of you over the years, and some of you new individuals on the committee, I've had-- haven't had as many conversations about this. We-- we have a law on the books currently that was put in place at a time for a reason. And this law has been changed in other states because a business-- a business has its model for doing its business and it currently can't operate its business model in the state. I've heard that Tesla can sell. That's not true. They can sell-- they just need to pick a dealer. We have a statute that dictates that a business has to operate through a dealer here. What this very narrow legislation it is, is narrow, is trying to encourage and support the free market. And we do that with nearly every other industry here, private industry. Consumers are the ones that are at a disadvantage here. Everything else that we buy is bought at whatever, in so many different choices and options that we have. And the consumer is the one that gets to choose whether or not they purchase a refrigerator from a store in their community or they buy it from a big chain store or in some way, shape or form, maybe they buy it online. It is up to them. In this current way, it is not up to them. In fact, the way it's drafted, it's a bit of a compromise. You keep intact the business model that the auto manufacturers currently have that works for them. It's the model that works for them and with the dealers, and then we allow a business model to operate that is different. I never thought I'd be up here saying that Nebraska is currently not allowing the free market to play out for a business model. And bear in mind, in-- this has passed in 20 different states in some way, shape or form. Nine, 10 years ago, in some instances. As to Senator Geist's question, nothing has happened. They even heard it from Mickey Anderson. We've heard things. There has-- I think is what he said, we've heard things in Colorado. There has been no auto manufacturers that have fundamentally changed what they're doing in those states as a result of legislation being changed. So the concern that this is disrupting, we're going to be sort of like a-- sort of

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

aChicken Little, the sky is falling, isn't what happens. I can understand if this is year one or year two or year three or year four, we're now in year nine, ten. Nearly half the states getting to there. There's legislation in other states. And the reason why I brought this is because I think we should be supporting innovative models that are driven by consumer choice. Nothing is saying the dealer model still doesn't exist. There are going to be people that continue to choose to work and buy their car from, let's say, Mickey Anderson's dealership. And then there might be, again, the same thing, wanting to go and buy from a Tesla store directly. People are still going to make that choice. The question is whether or not we trust people to make that choice. Keeping this on the books is telling them we don't trust them to make that choice. Now, there are 20 other states have already said, yes, we understand. What you have in front of you is-- is an opinion that we got from the FTC last year. The FTC was very, very clear in supporting a bill like this that it's in the best interests, and we heard from the testimony that this is in the best interest. Keeping this is in the best interest of consumers. But in this FTC leal opinion they state it is in the best interest of consumers and I'm going to try to make sure I put this "vigorous competition among sellers in an open marketplace, gives consumers the benefit of lower prices, higher quality products, services and greater innovation." They're referring directly to the bill that we introduced the previous year and support that this is the best for consumer choice when manufacturers are-- these new manufacturers that don't have an existing franchise in our state are able to sell directly. I really-- the question is whether or not we want to keep this and I don't like the word protectionist, but in a lot of ways this is a legislation statute and not touch it, or we can open it up and allow businesses to operate their model that they want to and allow consumers to make the choice that's necessary here. And we have many other states to then tell us and share with us information that the sky hasn't fallen. I really don't want us to be the 49th state to go around doing this and hold out because we believe we're doing it with the best of intent to consumers when in reality, the information that I've shared over the years is consumers benefit from being able to have the-- the prices set by the-- by whoever is selling it, it means that there is no middle-- middle person. But what we're talking about here is allowing these new franchisee-- people that haven't had a fraanchisee to sell directly and support this free market. That's what this is about, plain and simple. The last thing I want is just to address a couple of

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

things. One, the motorcycle, and I am sure the language, that was actually language brought from the Revisors to sort of harmonize this. So that's why it's in there. It's for a reiteration from past years. Again, the FTC has been in support of bills like this and this bill. That is the opinion you have in front of you. That's from 2019. And last but not least, I want to thank you because the dialogue helps to then be able to suss out what is real and what's not real. I think it's important for us to support business models in our state that allow consumers to have a choice and allow the market to then dictate what's best for the consumer and consumers to then drive that. But that's currently not happening with this industry, current right now, and I think this is a good compromise to ensuring that certain businesses that are in existence right now, can then do that. Thank you.

FRIESEN: Thank you. Senator Vargas. Any questions from the committee? Seeing none, thank you, Senator Vargas.

VARGAS: Thank you.

FRIESEN: With that we'll close the hearing on LB633. We have one more hearing yet. OK, we'll now open the hearing on LB504 and welcome, Mr. Cavanaugh. Senator Cavanaugh, sorry.

J. CAVANAUGH: Thank you, Chairman Friesen, and members of the Telecommunications and Transportation, and Telecommunications Committee. My name is John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I represent the 9th Legislative District in midtown Omaha. I'm here today to introduce LB504 which would reform a sentencing for driving under suspension and driving during revocation on a license-- driver's license. I have an amendment to the bill, AM175, which I believe has been distributed, which the County Attorneys Association has agreed to. The green copy of the bill contains a number of changes to the penalties for driving during revocation. The amendment removes the changes while keeping the change to the penalties for driving under suspension and allowing a judge to exercise discretion in whether to order revocation. There are two distinct ideas in this bill, and I want to make sure to be clear about, revocation and suspension. The revocation is when a person's privilege to drive has been revoked by the state for a definite period of time, say one year. A suspension is when a person's privilege to drive has been suspended by the state for a specific reason and will be reinstated when the person-- when the

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

reason has been resolved. An example is unpaid fines or court fee. Under current law, when someone is convicted of driving on a revoked license, the judge in that case must revoke their license for another year unless the judge places them on probation. This means that even if the judge imposes a small fine, the person loses their license for a year. This means that even if the person's had their driving privilege returned, by the time they go to court, they will lose their license again. What LB504 and AM175 does is change the "shall" to "may", meaning the judge can still revoke the license, but is not required to do so. This will allow judges to exercise discretion and will allow more people to drive legally. The second part of this bill deals with suspensions. Under current law, if someone is convicted of driving on a suspended license, they face up to 90 days in jail regardless of how many times they've been convicted. Under this, unless they have cleared the holds on their license before they go to court, in that case, they're subject to do a fine not to exceed \$100. This bill establishes grades for driving under suspension offenses. The first time someone is convicted of driving, the maximum penalty will be the \$100 with no minimum. On a second and third offense, the maximum penalty is \$500 with no minimums and on fourth and subsequent offense, the penalty is the same as it has always been, which is a maximum of 90 days jail with no minimum, and a judge may revoke the person's privilege to drive for one year. This bill will put the law in line with what is happening in courtrooms every day. It will increase efficiency and judicial discretion and enable more people to drive legally by decreasing unnecessary and punitive revocations of driving privileges. I spent seven years as a public defender. The charge I encountered the most was driving under suspension. People whose only means of transportation to work or school or the grocery store was to drive, but their license was suspended for an unpaid parking ticket or other court fees. Those folks fell further and further out of compliance with each grocery trip. This bill will not solve all of those problems, but it will make it a little bit easier for people to get into compliance and remain in compliance with the law and therefore, drive legally. I want to thank you for your time today and your consideration, and I respectfully ask you to advance LB504 and AM175, and I'd be happy to take any questions.

FRIESEN: Thank you, Senator Cavanaugh. Any questions from the committee? Senator Cavanaugh.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

M. CAVANAUGH: Oh, I've got questions. Oh, boy, do I have questions.
Remember, you're not under oath.

J. CAVANAUGH: OK.

M. CAVANAUGH: Who is your favorite sister? [LAUGHTER]

J. CAVANAUGH: I'm going to take the Fifth.

FRIESEN: You don't have to answer every question.

J. CAVANAUGH: Relevance.

M. CAVANAUGH: Oh, well, I do have one more question. How did you get
that face mask from Mrs. DeBoer as a freshman Senator? That is the
coveted face mask.

J. CAVANAUGH: An emergency situation. I lost my face mask getting out
of the car this morning and Senator DeBoer came along and aided me in
my time of crisis.

M. CAVANAUGH: All right. That's all. Thank you.

FRIESEN: Thank you, Senator Cavanaugh. Any other questions from the
committee? So I read in the paper a lot, and there's a lot of people
always picked up on suspended licenses and things like that, I mean,
and how do we-- it seems like more and more people either willingly or
do drive under a suspended license. How do we actually get this to
stop? Because, I mean, I've noticed a lot of times when they also have
a suspended license, they probably don't have insurance and it spirals
out of control and maybe it's different in the urban areas than it is
in the rural, but what-- what seems to address this to keep people
from driving under a suspended license?

J. CAVANAUGH: Well, that's a great point. Thank you, Chairman Friesen.
The-- that's kind of the point I'm trying to address here is this
would take out of or try to remedy one of the reasons people's
licenses become suspended, because what happens is I stated, I was a
public defender for seven years. I could tell you thousands, thousands
of times I represented people on driving under suspension offenses
where the reason they're suspended is a prior court case and fees that
they were unable to pay. So what we're trying to resolve here is make
it so it's not a cycle of suspension and revocation because people

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

once they get into the system, they become suspended. They can't pay that \$50 reinstatement figure or they can't pay whatever the fine is. And then they are suspended again and continue to be suspended almost indefinitely. And so this is not going to change how people become initially suspended. It will make it so that there is a possibility that they can actually remedy that suspension and the revocation want. So that's what I was trying to bifurcate the conversation, revocation and suspension. You know, you could-- revoked on points or revoked for a DUI or something like that, which is for a specific period of time. And so that's one thing and you can't get that resolved. And under current statute, if you go to court, even after that period of revocation and you've gone through whatever it is you needed to do to get your license back, you go in front of that judge and they give you a \$100 fine, because you got your license back they have to revoke your license for another year, which then means that person is driving potentially for that next year on a revoked license and that cycle continues. What this bill would do is say to the judge, if somebody shows up in front of you and they have gone through the hoops, they've gotten their license back on that revocation and the time has expired, then you don't have to revoke them again. So it allows the judge to make that determination on the revocation. The suspension one, it will-- that is more of a reflection of what's actually happening in our courts. If you come to court on your first suspension, the judge is going to give you a \$100 fine whether you're reinstated or not. But what it will do is allow people to have more certainty in the-- in those interactions. It'll allow judges and prosecutors and defense attorneys to have a more accurate negotiation about those charges. And then, have the conversation about the-- you're correct about the fact that a lot of people don't have insurance in those situations too. And part of what this is seeking to address is to keep insurance more affordable. The more times you get a suspension conviction, the more likely your insurance rates are going to go up. So the idea is to get people easier to stay in compliance and get in compliance.

FRIESEN: But again, I-- I look at, you know, and some of the people I know who've got a suspended license is because they did something again. It wasn't that the officer stopped them because their license was suspended, they're still breaking the law, either speeding, driving recklessly, DUI, there's other always-- the reason for the stop was they haven't learned their lesson yet. So how do-- how do we get them to stop other than making everything legal? I mean, it seems

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

like this hasn't stopped it. It may slow it down, but by allowing this, I don't know that we're changing that because their driving habits are still bad.

J. CAVANAUGH: Well, and I can tell you from experience, the number one reason they're getting stopped is probably an expired license plate.

FRIESEN: OK.

J. CAVANAUGH: That's usually why somebody gets pulled over and an expired license plate is also a jailable offense. I didn't bring that bill this year, but I probably would in the future. And the cycle, I mean, if you really want to know the cycle is, somebody gets pulled over for a suspended license plate, they run their driver's license, the license is suspended probably for an unpaid fine from a previous license plate or driving-- or driving under suspension offense. And then they come to court and they, you know, and it continues in that vein. So what I'm-- and I'm not-- I'm not proposing or saying that we're going to solve that cycle here, and fundamentally, what that is, this-- that's a question of ability to pay these fines and a court system that is overburdening poor people with these fines and fees and making it harder for them to stay in compliance. What I'm trying to do is make it easier to stay in compliance and therefore encourage people to stay in compliance and that's how we solve the problem, because if we continue to put up, erect these hurdles to compliance, people are not going to do it, and we do see that. We see people come back repeatedly because they just give up. So what this is trying to do is make it just a little bit easier to stay in compliance so that more people will actually go through those hoops and stay on the right side of the law.

FRIESEN: OK. Any other questions from the committee? Senator Cavanaugh.

M. CAVANAUGH: Thank you. And actually, I do have a real question. So I didn't realize that expired plates is a jailable offense.

J. CAVANAUGH: Yes.

M. CAVANAUGH: Do you know, is it-- like if it's one day expired or like you're in the next month?

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

J. CAVANAUGH: Well, so expired plates is a jailable offense if you get to court and you haven't remedied it. So you could be. It is a, I believe, a waiver and Mr. Eickholt is here and he could testify too, but if you-- it's one of the ones where if you go and get your license plate updated before--

M. CAVANAUGH: Before court.

J. CAVANAUGH: --that's a waiverable fine.

M. CAVANAUGH: And then do you know if it's a primary offense? Can you be pulled over?

J. CAVANAUGH: Oh, yeah, that's the number one reason people get pulled over--

M. CAVANAUGH: Is for their--

J. CAVANAUGH: --is expired license plates.

M. CAVANAUGH: Expired plates. OK.

J. CAVANAUGH: I mean, I don't know if that is statistically true, but that's my anecdotal experience.

M. CAVANAUGH: OK, thank you.

FRIESEN: Thank you, Senator Cavanaugh. Any other questions from the committee? Seeing none. Are you going to stick around for closing?

J. CAVANAUGH: I would be glad to.

FRIESEN: OK. Proponents who wish to testify in favor of LB504.

SPIKE EICKHOLT: Good morning, members of the committee. My name is Spike Eickholt, S-p-i-k-e, last name is E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Criminal Defense Attorneys Association, testifying in support of the bill and also in support of the amendment that Senator John Cavanaugh explained, he had shared with the County Attorney Association as well. I really can't add to what Senator Cavanaugh-- really-- well, he explained very well as far as what the bill does. But I would just maybe make a couple of other points in response to some questioning. I understand that it is almost

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

frustrating, like Chair Friesen mentioned, that you see people getting stopped again and again for driving during suspension or during revocation. For the driving during suspension as Senator John Cavanaugh explained, a lot of that is just economic circumstances. People can't afford to pay the court costs, they can't afford to pay child support, they get behind, yet they are still working, they've got to get to work somehow. They're trying to slow down that cycle. This bill would slow that down and hopefully encourage responsible financial decisions that people make when it comes to driving. What else can be done? Last year or the year before, this Legislature actually passed a bill that went through the Judiciary Committee which helps this kind of on the front end. I can't remember what the law was before, but LB259 changed the law with respect to when somebody fails to pay a fine or court costs and it relates to a traffic case. I think before the law was changed, it was 20 days from nonpayment, the court would contact the DMV and that person's license would be revoked. LB259 that was done, introduced by Senator Matt Hansen was passed and with the Judiciary Committee. It lengthened that time to 20 days to 30 days and also provided that person opportunity to request a hearing before the judge to either ask for more time to pay it or do community service or some similar thing, and at least have an opportunity to kind of stop that cycle before it goes to the DMV and then they get revoked and then they get another driving during suspension with another fine that they have to pay on top of the original one, and then they get arrested again and that cycle is just ongoing. So hopefully that will have an impact. That law went into effect. That part of the law went into effect July 1, 2020. So I don't know what kind of impact this had yet, maybe there's a way to track that, but I think anecdotally, my members had told me that many people are taking advantage of that where they request more time to pay a fine so they don't get their license revoked. I think that this mitigation or moderation of some of the penalties is significant. I think it's also important, like Senator Cavanaugh explained, that the bill would allow the judges to revoke but not have to revoke automatically for driving during revocation violations because of what happens then somebody gets their license back, it show them back and the judge was required unless they put on probation to revoke the license for another six months or another year. This would allow to be discretionary with the court to hopefully get someone back on their financial footing, so to speak, so that they are driving with a license, so that they are insured, so that they are not putting others at risk by driving

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

uninsured or without a license. I would encourage the committee to
advance this bill.

FRIESEN: Thank you. Senator DeBoer.

DeBOER: So-- thank you, Mr. Eickholt. So, a couple of things. First,
what are three or four different reasons why a person might, in the
first instance, end up with their license revoked? It's not just for
reckless driving or DUI, what are some of the other reasons?

SPIKE EICKHOLT: Getting a speeding ticket and not paying the fine on
time. Signing up for a diversion class, but they're not going to it,
right? Or those STOP classes and then not going to it. Just-- it's
frustrating that they don't follow through. That's a typical one.
Yeah, just a traffic ticket that they don't satisfy their financial
responsibility for. Sometimes the fine isn't that much, the court
costs that go along with it is also--

DeBOER: OK.

SPIKE EICKHOLT: --included for grounds for suspending your license
fee. It's all financial obligations related to the traffic citation.

DeBOER: So once they get the-- the-- they-- they fail to pay their
fine, there's an automatic revocation, is that right?

SPIKE EICKHOLT: Suspension, that's right.

DeBOER: Suspension, suspension. And then if they're caught driving
during that suspension, do they-- first of all, do they always know
that they've gotten their license suspended?

SPIKE EICKHOLT: They are sent notice from-- by the DMV. Now, whether
they've got current address with the Department of Vehicles is another
thing, but they are sent notice of it. Oftentimes, there's a cost to
reinstate their license in addition to satisfying the fine. I mean,
the DMV has got to process this administratively so they're going to
want their cost as well.

DeBOER: So, sometimes there's a cost and sometimes there isn't a cost?

SPIKE EICKHOLT: There usually is, there is.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

DeBOER: OK, there is a cost. OK. And then so I may or may not be notified that my-- you know, I may or may not have actual notice that my license has been suspended and I'm caught driving with that suspended license. Then I go before the court and what happens?

SPIKE EICKHOLT: You can be arrested for it in some situations. Not-- not all jurisdictions do that. But you go in front of the judge, sometimes as now those are possibly jailable offenses. And like Senator John Cavanagh explained, you could be appointed an attorney. You have a right to have an attorney for any kind of criminal charge if there's a possibility you're going to get a jail sentence for it. And sometimes judges in some jurisdictions will go to jail because it is frustrating for some of the judges to see people again and again. So some of them have exercised their discretion in that regard, right. They will jail or threaten to jail for driving under suspension.

DeBOER: So what is driving under suspension? What-- what-- is it a--

SPIKE EICKHOLT: First offense, I think is a Class III misdemeanor. That's right, a Class III, zero to 90 days, up to a \$500 fine.

DeBOER: OK, and then--

SPIKE EICKHOLT: Second offense, I think it's a Class II misdemeanor.

DeBOER: Do you get up to a felony ever?

SPIKE EICKHOLT: You can if the-- if it's a revocation, you can. Yes, you can. For-- if it's a second or a third offense DUI and you were revoked for that reason, that's driving on a 15-year revoked license, that is a felony. Or a 5 to 15-year license revocation.

DeBOER: So what if we just did this for suspensions and not for revocations?

SPIKE EICKHOLT: You could, but you're still going to have situations where people are still on that cycle on revocations. And I think you still at least make the amendments, which I think the amendment does. I think it keeps the penalties the same in the amendment, but it provides that option for the judge to not have to revoke additionally for driving under revocation.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

DeBOER: So if you're driving during suspension, do you then revoke automatically?

SPIKE EICKHOLT: Not automatically.

DeBOER: So, but if you're driving under revocation, you revoke automatically?

SPIKE EICKHOLT: Yes. Unless he-- unless the judge puts somebody on probation.

DeBOER: Got it.

SPIKE EICKHOLT: I mean, they don't have to revoke, but they're on probation with a probation officer and the cost of probation and that sort of thing.

DeBOER: OK, thank you.

FRIESEN: Thank you, Senator DeBoer. Any other questions from the committee? Senator Cavanaugh.

FRIESEN: Thank you. Thank you, Mr. Eickholt, for being here. I-- I'm-- I'm very curious about the expired plates. Do you know when that became a primary offense?

SPIKE EICKHOLT: Generally, any kind of traffic infraction, no matter what it is, unless the Legislature affirmatively says it's not a primary offense, is a primary offense. There's only two instances. One is the cell phone usage, and one, I think is for seatbelts. And I don't think there's anything else that's not secondary.

FRIESEN: OK.

SPIKE EICKHOLT: And the way the courts look at that is if the Legislature doesn't want these things to be primary offenses or whatever, then they-- that need to designate. So the courts have said again and again any traffic infraction, no matter how minor or petty, unless it says you can't stop them for it, you can stop a vehicle for it. So it can be-- I've had many driving under suspensions where an officer was looking at some driver, pull up the sort of the information on the license plate, see if it matches the photo, see that they're suspended and then pull them over for that. And that's,

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

some might say that's good police work, right? Others might have
another characterization for it. But you can-- the police are allowed
to sort of bootstrap a violation if they-- if they can observe it.

FRIESEN: OK, thank you.

FRIESEN: Thank you, Senator Cavanaugh. Senator Geist.

GEIST: Just quickly, would this change the suspension for a DUI or is
it just a traffic violation?

SPIKE EICKHOLT: A DUI is-- when a consequence of getting convicted of
a DUI, it's revocation.

GEIST: OK.

SPIKE EICKHOLT: And that's something that the court orders and
that's-- the amendment treats that essentially the same, unless you're
caught driving during revocation and the judge may revoke further or
may not. That is the bill as amended.

FRIESEN: Thank you, Senator Geist. Any other questions from the
committee? Seeing none, thank you for your testimony. Any other
testimony in support of LB504? Seeing none, anyone wish to testify in
opposition to LB504? Seeing none, anyone wish to testify in a neutral
capacity? Seeing none, Senator Cavanaugh, close on LB504.

FRIESEN: Thank you, Chairman, and thank you committee for all the
great questions. And I just wanted to make sure and reiterate to
Senator Geist's question. This does not address-- going to change DUI
penalties in any way. And as Mr. Eickholt pointed out, there is a
separate DUI revocation statute that can become a felony on a certain
number of offenses and period of revocation for DUIs, but this doesn't
address that. This is a specific driving during revocation, separate
section of the statute that pertains to revocations for basically any
offense other than those subsequent DUI revocations which-- and I
think I just want to clarify. There's a difference between suspension
and revocation and revocation is for a defined period of time wherein
the court orders that you're not only able to drive for a year, and a
suspension is where there is some specific impediment, be it an unpaid
fine or a class, as Mr. Eickholt pointed out, or getting insurance.
There's some requirements of insurance. So when there's no definitive
period of time, that's what a suspension is. Generally considered a

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

lesser period-- lesser penalty being suspended as opposed to revoked because it can be remedied by the person. So that-- that's the distinction. And on the revocation, we're not changing the penalties on the amendment. The penalties are not changing. It is merely allowing judges the discretion. Currently, a judge has discretion to revoke someone. Additionally, if they place them on probation, which has led to a state of affairs in some court-- courtrooms where judges placing somebody on a very limited period of probation because they think, rightly, that that person does not deserve to be revoked for an additional year. So what this would do is allow judges to say, well, this person did what we asked them to do. They-- they've taken the classes. They've waited their period of time. They have this one conviction or offense for driving during revocation. I don't think we should continue the revocation now. So it allows the judge to use that-- exercise that discretion, as opposed to mandating that they revoke them further. So that's-- I think that is a small but significant change that will have an effect in those misdemeanor courtrooms. And as to the driving under suspension part, that is, as Mr. Eickholt said, there are times in which people will not be aware that they are revoked-- or suspended. Sorry, I make-- make my own mistake. People will not know that they're suspended because it is for, they either did-- you know, I've experienced people where they had court fines and they did a day of the Offender Work Program to pay down those fines and didn't do the second day. Then they find out that they come to-- come to find out that they have been suspended and didn't know about it. This is not changing the penalties for people, the fourth and subsequent offenses. It's changing them for first, second and thirds, which are in a number of cases. People get a bunch of them before they resolve them at once. And so it's resolving those very limited circumstances, not addressing the all too common instance of subsequent offenses. And as I pointed out earlier, I've had this conversation that the County Attorneys Association don't object to this, that they-- I think they see the virtue in this. When I actually, right after election, I had this conversation with a number of judges that I'm familiar with in Douglas County Courthouse. A number of city prosecutors, though, they're not signed on to the bill, I can-- I-- I crafted this bill after conversation with everybody who participates in this process, at least in Douglas County. And it is to make the law more accurately reflect reality, is to make things easier for people, and it's a modest change to the statute that would actually have a real impact in courtrooms every day and in hundreds

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

of, if not thousands of cases a month in Douglas County at least. So
are there any other questions?

FRIESEN: Thank you, Senator Cavanaugh. Any questions from the
committee? Senator DeBoer.

DeBOER: So are the prosecutors who generally get these cases, are they
on board or not?

FRIESEN: Well, so the County Attorneys Association, I don't think they
submitted a letter, but I did-- unless you tell me that they did. But
that-- the-- I had a conversation with them. They don't object to the
bill. They-- that's one of the reasons we brought the amendment, is
that they saw that there was some more changes to the driving
revocation statute than we had kind of talked about. After we made--
proposed this amendment, that's-- that's what they agreed with and
they have no objection to. And city prosecutor, and I don't-- I guess
I don't know how they do it in Lincoln, but in Omaha, the misdemeanor
court is prosecuted by the-- so these cases in Omaha are prosecuted by
the city prosecutor. They're not signed on to this, and I'm not going
to-- I guess I shouldn't speak for them, but I can tell you
anecdotally that this would-- at least the revocation portion would
make their life a little bit easier. And the driving under suspension
portion reflects the reality of how they make deals in that courtroom
based off of my experience. So it wouldn't change the outcomes.

DeBOER: Thank you.

FRIESEN: Thank you, Senator DeBoer. Any other questions? Senator
Moser.

MOSER: So the objective of the law as it is, is to try to change
people's behavior and make sure that they follow the law, right?

FRIESEN: Partly, yes.

MOSER: OK. So first offense, they don't follow through and do what
they're supposed to do, they don't pay their fine or they don't do
their time or whatever. So then their penalties get more severe,
right? They ratchet up the penalty, trying to change that behavior,
say, hey, you didn't pay attention to this, so let's try this. This is
a little more costly or more of a slap on the wrist, so to speak, or a
tap upside the head maybe in some cases. OK, so you're saying that you

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

think that the ratcheting up of the penalties is excessive in these
cases, is that--

FRIESEN: No, I don't think so. I think the-- the purpose of the
statute or the proposal is-- the ratcheting up still exists and it
continues on a more graduated scale. So currently, there is no
graduated scale. So currently, if you are arrested on a first offense,
driving under suspension, you could do 90 days in jail. If you're
arrested on a 30th offense, driving under suspension, then you could
do 90 days in jail. So that-- that is-- there's no difference.

MOSER: Same penalty.

FRIESEN: Right. Same penalty, regardless of the number of times that
you have offend-- offended. As Mr. Eickholt pointed out, there is
technically a second offense in subsequent in the statute currently.
I've never seen it charged and maybe they do that in other counties.
But it's-- so the purpose that I'm attempting to achieve is to create
that actual graduation in there and to say that there is a-- one, it
shouldn't be jailable. I don't think anybody thinks that if you forgot
to pay a fine, you should go to jail for 90 days. And so that's one of
the reflections in the change of the statute. But two, that we
shouldn't make it harder for people to get their license back and so
there is a section in there currently where the court could give you
jail, but could also take your license, which again is infrequent in
the courts where I have practiced, but it does happen in some courts
in Nebraska. And so what this is saying is on those first basically
three times, if you come through, that then those penalties are not
jailable, not suspendable subsequently.

MOSER: At the discretion of the judge or just not jailable?

FRIESEN: They wouldn't-- well, under the change, it's-- yeah, under
the change it would not be at the discretion of judge, it would be a
max-- the discretion would be the size of the fine and not the
duration of incarceration. Under the current statute, that is under
the discretion of a judge. The judge could give you jail. And I mean,
admittedly, I don't think I've seen somebody get sub-- a substantial
amount of time on a first offense driving under suspension, but I'm
not telling you, I haven't seen somebody get a day or a couple of days
in jail under driving under suspension, first offense. And that is
going to have more to do probably with personality than the law,

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

meaning the person that has an attitude or the judge has an attitude, and that is what can result in incarceration on a first offense. Not that somebody has some kind of great belief that a first offense driving under suspension should be incarcerated.

MOSEER: OK, thank you.

FRIESEN: Thank you, Senator Moser. Any other questions from the committee? Seeing none, thank you, Senator Cavanaugh.

FRIESEN: Thank you.

FRIESEN: We have the letters of-- position papers, in opposition from Nebraska Taxpayers for Freedom, and one from Shirley Niemeyer. That was all there is on LB504. We're done and close the hearings for this morning.

[BREAK]

FRIESEN: Welcome to this afternoon's public hearing of the Transportation Telecommunications Committee. I'm Curt Friesen, from Henderson, Chairperson of the committee. I represent District 34. A few procedural items: For the safety of our committee members, staff, pages, and the public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. A public hearing for which attendance reaches seating capacity or near capacity, the entrance will be monitored by a Sergeant at Arms, who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter the hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the ability, due

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

to the HVAC project, of an overflow hearing room for hearings which attract several testifiers and observers. We ask that you please limit or eliminate handouts. Please silence all cell phones and other electronic devices. We'll be hearing the bills in the order listed on the agenda. Those wishing to testify on a bill should move to the front of the room, be ready to testify. We have an on-deck chair up here so that you'll be ready when your turn comes. If you will be testifying, legibly complete one of the great 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 12 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 slowly for the record. If you happen to forget to do this, I will stop your testimony and ask you to do so. Please keep your testimony concise. Try not to repeat what has already been covered. We use the light system in this committee. Beginning with the green light, you'll have five minutes for your testimony. Yellow light indicates there's one minute left. When the red light comes on, time is up and I'd wrap it up. Those not wishing to testify may sign in on the pink sheet by the door to indicate their support or opposition to a bill. Andrew Vinton, committee legal counsel, Sally Schultz, the committee clerk, and the pages today are Samuel and Peyton. Thank you again for coming and helping us. And with that, I'll begin introductions to my right.

HUGHES: Dan Hughes. I represent District number 44, ten counties in southwest Nebraska.

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

GEIST: Suzanne Geist, District 25, which is the east side of Lincoln and Lancaster County.

DeBOER: I'm Wendy DeBoer. I represent District 10, which is Bennington and parts of northwest Omaha.

MOSER: Mike Moser, District 22, Platte County and small parts of Stanton and Colfax Counties.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

M. CAVANAUGH: Machaela Cavanaugh, District 6, west-central Omaha,
Douglas County.

FRIESEN: And senators may come and go when they have bills in other
hearings. So they'll-- they may leave, but they're just trying to
ditch you. With that, we will open the hearing on LB215.

HUGHES: Good afternoon, Chairman Friesen, members of the
Transportation and Telecommunications Committee. My name is Dan
Hughes, D-a-n H-u-g-h-e-s, and I represent the Legislative District
number 44. I'm here today to introduce LB215 for your consideration.
Serving on this committee for the past several years, I've been
sympathetic to this issue, and this legislation was brought to me by
the Douglas County Board of Commissioners. The installation,
operation, and maintenance of 911 services are partially funded by
surcharges on landlines and wireless services. Current law allows all
but one county in Nebraska to charge 50 cents per month on landlines,
with the possibility of increasing that surcharge by an additional 50
cents. That one exception is Douglas County, which is limited to a 50
cent charge on landlines. Additional-- additionally, all but one
county may charge wireless users up to 70 cents per line for 911
services. Again, Douglas County is limited to a 50 cent charge on
wireless users. LB215 is a bill that adds an element of fairness to
the funding for those services across all Nebraska counties by
removing the singular limit imposed upon Douglas County and putting a
uniform cap on landline surcharges at \$1. It also aims to ensure that
our largest and one of our fastest-growing counties has the resources
that it needs to meet the increased public safety demands that comes
with that growth. New technologies are available for 911 services, and
those upgrades will cost additional dollars. We need to make sure that
our state supports Douglas County's ability to fund improvements for
emergency services. Furthermore, a consistent surcharge limit removes
a barrier for re-- for regionalization of 911. Simply, this bill is
about fairness and public safety. Douglas County should be brought
into balance with the rest of the state. LB215 is not about a fee
increase. It's about fairness so all Nebraskans have the same
opportunity to support and rely upon the Enhanced 911 system. The
Legislature would be putting uniform-- uniformity into statute. This
is good public policy and it will have real consequences for emergency
services in Douglas County. Thank you for your time and consideration.
I respectfully ask you to advance LB215 to General File, and I'd be
happy to try and answer any questions.

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

FRIESEN: Thank you, Senator Hughes. Senator DeBoer.

DeBOER: Thank you, Senator Friesen. Senator Hughes, who brought this bill to you?

HUGHES: Douglas County Commissioners.

DeBOER: OK, thank you.

FRIESEN: Thank you, Senator DeBoer. Senator Cavanaugh.

M. CAVANAUGH: Thank you, Senator Hughes. Do you know what the history is of why this exemption or exclusion was put in for Douglas County?

HUGHES: I do not, but I'm sure there's someone coming behind me that probably would be able to answer that question.

M. CAVANAUGH: Thank you.

HUGHES: I have my suspicions but no facts.

M. CAVANAUGH: OK. Thank you.

FRIESEN: Thank you, Senator Cavanaugh. Any other questions from the committee? Seeing none, Senator Hughes?

HUGHES: Yes, I'll stay to close.

FRIESEN: I thought you might. Proponents that wish to testify in favor of LB215?

KATHY ALLEN: Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Kathy Allen, K-a-t-h-y A-l-l-e-n, and I'm the 911 communications director for Douglas County. I'm here to express my support for LB215. I've been the Douglas County 911 director for almost two years now, but worked at the Douglas County 911 in different capacities for the last 25 years. During that time, I've witnessed many changes at 911, both in technical and personnel. Our 911 budget has gone from just under \$2 million to over an \$8 million budget for the 2020 fiscal year. Our budget is partially funded by 911 surcharges, sharing agreements, radio reimbursements, with the balance funded by Omaha city and Douglas County. Not only has the 911 budget increased substantially,

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

but the number of wireline phones have decreased, cutting our funding on the wireless surcharge side by approximately 50 percent from about \$2 million to just under \$1 million yearly. Every other county in the state is allowed to set their wireline 911 surcharge at a rate greater than 50 cents, and most have set their rate at \$1. Douglas County has been limited to the cap of 50 cents. These are funds that are remitted directly to Douglas County for 911 purposes. By limiting the surcharge over the past 20 years, we have had to limit not only the personnel needed to process 911 calls, but also limited the procuring of equipment needed to process those calls efficiently. Our Douglas County 911 operation processes over 850,000 calls a year, so being the only county in Nebraska to have our surcharge limited is not only unfair but puts an undue burden on our city-county finances, as well as contributing to higher stress levels for our employees. As Next Gen 911 is now becoming a reality in Nebraska, it will be changing the way 911 calls are delivered from 911 CAMA trunks, or hard trunks, to an IP-based delivery system which allows both voice and data to be sent at the same time. Basically what that means is pictures, videos, patient information, etcetera, will be delivered straight to 911. This will totally change the public safety dynamics of the 911 center. It will take increased staffing, as well as newer technology, to process all this information while still having the need for the PSAPs to maintain the capability to process the wireline or hardwire calls effectively. I believe the need for Douglas County surcharge caps to be the same as the rest of the state is greater now than ever before because of the added responsibilities for our 911 center to be able to process wireline and wireless calls effectively. The impact of being able to have a uniform surcharge amount throughout the state could greatly improve public safety services for our county residents and give us the ability to maintain a higher-- maintain a higher level of operating standards. Thank you all for your time, and I ask that you favorably consider advancing LB215.

FRIESEN: Thank you, Ms. Allen. Any questions from the committee?
Senator Moser.

MOSER: So would being able to increase this fee change the control that the county board has over the 911 center?

KATHY ALLEN: No. So basically there's two different funds. The wireline fund comes directly to Douglas County, and every year the amount of that surcharge is set by the county board. Well, the maximum

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

it can be set at right now is 50 cents. And I believe it's every
September that we-- we reset that amount. So at that point, I would
imagine that they would raise the rate.

MOSER: You said something about that that increase would come directly
to 911-- 911 center, but really the county board still has control
over it?

KATHY ALLEN: The cap-- yes, the county board still has control over if
it's maintained in a separate fund that can over-- only be used by 911
and we put it right on the top of our operating expenses every year.
Every penny that comes in at this point goes into the operation of the
911 center.

MOSER: But if the board wanted to put more county money with it to do
something, they could. It's just this is-- this is directly earmarked
for 911 costs.

KATHY ALLEN: Right, right.

MOSER: OK, thank you.

FRIESEN: Thank you, Senator Moser. Any other questions from the
committee? Senator Geist.

GEIST: Thank you. And thank you for your testimony. I have a question
about the new 911, the Next Generation that's coming up. Are you aware
if you have enough currently, that you're collecting enough to pay for
that service?

KATHY ALLEN: That is collected by the Public Service Commission?

GEIST: OK, I'll--

KATHY ALLEN: And if they--

GEIST: --hold my questions for them then.

KATHY ALLEN: There you go.

GEIST: OK, thank you.

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

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

BOSTELMAN: So are we collecting funds from every opportunity we have? Is there a limitation on landlines? Is there a limitation on cell phones?

KATHY ALLEN: No. Every landline user and every wireless user pays that surcharge.

BOSTELMAN: OK, thank you.

FRIESEN: Thank you, Senator Bostelman. Seeing no other questions, thank you for your testimony, Ms. Allen.

KATHY ALLEN: Thank you.

FRIESEN: And the other proponents of LB215? Welcome, Commissioner Watermeier.

DAN WATERMEIER: Hi. Good afternoon, Chairman Friesen, members of the Transportation and Telecommunications Committee. My name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r, and I'm the chair of the Nebraska Public Service Commission, representing the First District and here to testify in support of LB215. The commission and local 911 authorities are working together to bring Next Generation 911 service to Nebraska. With the commission's encouragement and local 911 centers are organizing regional networks to share resources, reduce costs, provide redundancy to answer 911 calls, even when a local 911 center has an outage. Regional 911 networks will soon connect to a statewide Emergency Services Internet Protocol Network. termed ESInet. Using the latest 911 technology, the statewide ESInet will more precisely identify the location of 911 callers, plus permit delivery of voice, text, images, and even video to 911 centers and first responders. Following an extensive RFP, the commission has selected Lumen to provide the statewide ESInet and Next Generation 911 call routing. Regional networks will begin connecting to ESInet by the end of this year. Together, the commission and local authorities are implementing Next Generation 911 for all Nebraskans. Much of the cost of 911 service in Nebraska is paid for by two 911 surcharges. First is the wireline surcharge, which applies to landlines and Voice over Internet Protocol, or VoIP, telephone systems. The wireline surcharge is collected by local carriers and remitted to local treasurers solely to pay for local 911 services. Current law provides that every county except one can set its local line-- wireline 911 surcharge between 50

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

cents and a dollar per month. Most local jurisdictions set their rate at a dollar. The exception is Douglas County. Unlike other counties, the Douglas County rate is capped by statute at 50 cents per month. LB215 would eliminate the cap so that Douglas County could choose to set its wireline surcharge rate between 50 cents and a dollar. The other 911 surcharge applies to wireless telephone service. The monthly nine-- wireless 911 surcharge is collected by carriers on every active wireless telephone line and then remitted to the commission and used to pay 911 costs for statewide usage. Except for Douglas County, the wireless 911 surcharge rate is capped by statute at 70 cents per month. Like wireline, the wireless surcharge rate for Douglas County is capped at 50 cents per month. The statewide wireless 911 surcharge rate is set annually by the commission and it is subject to these caps. For several years, the commission has held the 911 surcharge at 45 cents statewide; therefore, the lower Douglas County cap does not currently impact wireless surcharge revenues. However, should a future need arise to increase the statewide wireless rate above 50 cents, an inequity would exist between wireless customers in Douglas County and other Nebraska ratepayers. The commission supports LB215 and its purpose of aligning the Douglas County 911 surcharge cap with the rest of the state. Thank you for your time, and I'd be try-- happy to try to answer some questions.

FRIESEN: Thank you, Commissioner Watermeier. Any questions? Senator Geist.

GEIST: Now I'll try my question.

DAN WATERMEIER: I didn't quite hear it in the back, but go ahead.

GEIST: Thank you for your testimony. And I'm curious if you can foresee the future, for one, on the establishment of this Next Generation 911. I know when it first passed, we indicated that it could absorb the cost that it was looking at without raising these fees. Do you foresee, going forward, the fees needing to be raised to accommodate that new technology?

DAN WATERMEIER: I couldn't foresee that raising the fee, but the history is such that-- and I-- this happened before I was in the Legislature as well. But in 2015, when we could see that nine-- Next Generation 911 was on the horizon, the Legislature, through the appropriations process, pretty-- was pretty firm and stern with the

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

PSAPs in saying, don't come for General Funds to get these dollars.
And so our fund, the wireless fund, can be remitted to the PSAPs and
they're allowed to save 75 percent of it for the future.

GEIST: OK.

DAN WATERMEIER: That's part of the process that they've done in order
to, you know, project costs in the future. But they're-- they're
pretty sure they're not going to be able to handle this with just the
set asides. And all this is going to come to fruition pretty quickly.
I mean, within a year, we'll have our first one that switches over to
ESInet. And then after that, I think everybody will be about another
18 months and they'll all be switched over.

GEIST: Well, I think you-- you must have assumed my next question,
because that was if you thought the set-aside would be enough to cover
the raising of fees. But as you've said, you think that's going to be
eaten up pretty quickly?

DAN WATERMEIER: We think it's probably. Not every county has saved at
the same rate. You can see from the sheet that they've-- we've handed
out that there are some counties that have saved and they're-- they're
more prepared. There's a lot of regionalization that's happened, and
they've done a really good job in general. The state of Nebraska, I
think, is stepping up and they're ready for Next Gen.

GEIST: Um-hum.

DAN WATERMEIER: But it's going to be a big, big task yet; it still is.

GEIST: Can those set-asides be shared?

DAN WATERMEIER: No. Once they're in a PSAP, they stay in the PSAP--

GEIST: OK.

DAN WATERMEIER: --unless one PSAP would gen-- regionalize or commingle
with--

GEIST: Join another--

DAN WATERMEIER: --another one, then they'd-- they'd go together.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

GEIST: OK.

DAN WATERMEIER: Yeah.

GEIST: OK, thank you. That's very helpful.

DAN WATERMEIER: Yeah. Just for generalities, I mean, the-- just so-- I
thought you were going to lead to another question with that. But the
wireless fund creates about \$8.5 million a year.

GEIST: OK.

DAN WATERMEIER: The wireline creates about \$6 million a year.

GEIST: OK.

DAN WATERMEIER: But that's kind of the split to it.

GEIST: OK. Thank you--

DAN WATERMEIER: Yes.

GEIST: --for that extra.

FRIESEN: Thank you, Senator Geist. Any other questions from the
committee? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here, Commissioner
Watermeier. Do you know when this exemption or restriction for Douglas
County was enacted?

DAN WATERMEIER: I don't know when it was. And it was here when I was a
senator and it was talked about at that point in time, but I-- I just
don't remember the history of it.

M. CAVANAUGH: OK, thank you.

FRIESEN: Thank you, Senator Cavanaugh. Senator Bostelman.

BOSTELMAN: Thank you, Chairman Friesen. Thank you, Commissioner, for
being here. I'll ask the same question I asked the previous testifier,
is, do we collect the fee on all wireline services? Because we have a
letter that says we don't. I have got a letter that's been submitted
says we don't.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

DAN WATERMEIER: Well, the wireline issue would be difficult for me to answer that, but I assumed that we did. Now the only exception would be a larger business that has over 500 lines. I think they're capped at 100. That'd be the only one that I would know. And then on the wireless side, I think we do a pretty good job of collecting them all, everything from the Tracfonos to-- if it's a wireline-- a wireless phone, we're-- we're getting the surcharge.

BOSTELMAN: OK. Thank you.

DAN WATERMEIER: Is that, I mean, is that what you're getting at?

BOSTELMAN: That's-- that's-- that was kind of what the-- on the 500 to 100--

DAN WATERMEIER: Yes.

BOSTELMAN: --and the exception for that 100 over.

DAN WATERMEIER: Yes.

BOSTELMAN: I guess the question would be, is, you know, why we don't; you know, how many companies that really affected; does that make up enough difference to either lower statewide or affect at all?

DAN WATERMEIER: I don't know. And I would just be guessing that most of those over 500 would be in the Douglas County area, so it-- it may very well be that it would affect it. But-- but I could get that for you if you wanted me to look it up. I can find it.

BOSTELMAN: OK, thank you.

DAN WATERMEIER: OK.

FRIESEN: Thank you, Senator Bostelman. Any other questions from the committee? Seeing none--

DAN WATERMEIER: All right, thank you.

FRIESEN: --thank you for your testimony. Any other proponents, LB215? Welcome.

JON CANNON: Good afternoon, Chairman Friesen, members of the Telecommunic-- Tele-- Transportation and Telecommunications Committee.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

My name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, which I will also refer to as NACO, here to testify today in support of LB215. First, great thanks to Senator Hughes for having brought this bill. We think that as a-- as a rule, we like uniformity throughout all 93 counties, and this certainly gets us there. I'd also like to thank Commissioner Watermeier. The Public Service Commission has been a terrific partner to the counties as far as the process of getting us toward Next Gen 911, and this is just another piece of that puzzle to get us there. And again, like I said, uniformly-- uniformity is generally a good thing for us to have so that we don't have, you know, conflicting provisions as to what counties are doing what. This gets us-- gets us there. I would note that the NACO board voted unanimously to support this bill, and so they're-- it's comprised of at least one member of the Douglas County Board of-- of Commissioners, and-- and I believe that Douglas County has indicated that they're-- they're-- they're the ones that seek this legislation, so really we're just here to say "me, too," but I'd be happy to take any questions you might have.

FRIESEN: Thank you, Mr. Cannon. Any questions from the committee?
Senator Cavanaugh.

M. CAVANAUGH: Do you know the answer to when Douglas County was given this restriction?

JON CANNON: I-- I do not, ma'am.

M. CAVANAUGH: OK.

JON CANNON: I wish I did. I-- I do know that the-- that at least one of these statutes goes back to 1990 and so sometime between now and then.

M. CAVANAUGH: OK, thank you.

JON CANNON: Yes, ma'am.

FRIESEN: Thank you, Senator Cavanaugh. Any other questions from the committee? Seeing none, thank you very much for your testimony.

JON CANNON: Thank you.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

***LASH CHAFFIN:** Chairman Friesen, and members of the Transportation and Telecommunications Committee, my name is Lash Chaffin, Utilities Section Director for the League of Nebraska Municipalities. The League is in support of LB215. As the roll-out of the enhanced 911 system begins across the state the interconnectivity of the system becomes more important every day. The availability of this financial tool is important to Omaha and Douglas County. I would respectfully urge the Committee to advance LB215 to Select File.

FRIESEN: Any other proponents for LB215? Seeing none, any opponents wish to testify against LB215? Seeing none, anyone wish to testify in the neutral capacity? Seeing none, Senator Hughes waives closing. We do have in lieu of testimony of support from Lash Chaffin, League of Nebraska Municipalities, position letters of support from city of Omaha, opposition from Platte Institute, opposition from PSC Commissioner Rhoades, neutral from the Tax Foundation. That will close the hearing on LB215. OK, next we'll open the hearing on LB317.

M. CAVANAUGH: I just texted him. I could do it.

FRIESEN: Are you your brother's keeper?

M. CAVANAUGH: No, I'm not. I am not my brother's keeper, but--

DeBOER: Wow.

M. CAVANAUGH: --I do care for the-- the time of this committee, so.

DeBOER: Apparently, unlike other Cavanaugh's.

M. CAVANAUGH: Unlike other Cavanaugh's, yes. Tsk-tsk. This is what happens with freshmen.

FRIESEN: What's that?

M. CAVANAUGH: This is what happens with freshmen.

FRIESEN: Oh.

MOSER: Is there a prohibition against moving with the next bill and coming back?

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

FRIESEN: We'll wait a little bit, but we can go to the next one if we
want to.

MOSER: Well, I'm OK. Just-- I was curious if it's--

DeBOER: He'll come. He'll get here soon. I'm sure of it.

M. CAVANAUGH: Senator Hughes, you weren't here for Senator Cavanaugh's
previous bill, but I asked a very critical question and he pled the
Fifth.

HUGHES: Is that right? [LAUGH]

M. CAVANAUGH: Yes. I asked--

HUGHES: That's why he's not here? He's afraid to come back?

M. CAVANAUGH: I might ask it again. I asked who his favorite sister
was. He would not go on the record.

MOSER: How many choices does he have?

M. CAVANAUGH: Well, if you count sisters-in-law, he has three plus--
he has six.

DeBOER: Here he is.

M. CAVANAUGH: Or he will be.

DeBOER: Welcome back, Senator Cavanaugh.

J. CAVANAUGH: Thank you. Good afternoon, Chairman Friesen and members
of the Transportation and Telecommunications Committee. For the
record, my name is John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I
represent District 9 in midtown Omaha. I'm here today to open on
LB317, which provides for a specialized license plate in celebration
of Nebraska's history. I brought this bill on behalf of Nebraska-- the
History-- History Nebraska Foundation as a lover of history and
because the Gerald Ford birth site and Conservation Center are in my
legislative district. If you've not had the opportunity to tour the
Ford Conservation Center, I highly encourage members of the committee
to do so. The Ford Center is a regional conservation center who
repairs rare and fragile works of art and artifacts. It is a great

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

example of our public-private partnership, whose conservators work on Nebraska's history Nebraska's own collections and on a fee basis for museums and private collectors across the country. I'm proud to have this regional leader in my district and proud of the work History Nebraska does to protect, preserve, and interpret the history of this state. The committee received a neutral letter from the Department of Motor Vehicles asking for a small technical amendment to align LB317 with their license plate issuance cycle. To that end, I have it here. To that end, I'm distributing AM230-- AM293 for your consideration as a committee amendment. As you may recall, Nebraska recently celebrated its 150th birthday, which the state celebrated through activities by the Nebraska 150 Commission and specialized Nebraska 150 license plate. Specialized plate has been very popular, as evidenced by the over 1,900 plates sold since they released, providing over \$250,000 of funding--sesquicentennial-related programs. Sales have remained strong even after the celebration ended, clearly showing the demand for the plates indicates an appreciation and celebration of Nebraska's history. Currently, History Nebraska receives funds from these specialized plates. The Nebraska 150 plate expires in 2022, leaving a void in specialized plates for citizens who want to celebrate and remember Nebraska's history and removing a small but reliable revenue stream for History Nebraska. LB317 fills this need by requiring the Department of Motor Vehicles in consultation with History Nebraska to design Nebraska History Plates beginning in 2023. All funds generated from the sale of these Nebraska History Plates will be directed towards enhancing and increasing access to Nebraska's history through vital means and supporting history education for children. You'll hear more about the success of Nebraska 150 plates and continued need for the recognition and celebrating Nebraska's history from History Nebraska CEO Trevor Jones. Thank you for your consideration and I'd ask you to consider advancing LB317 and if you have any questions, I'm here.

DeBOER: Thank you, Senator Cavanaugh. Senator Cavanaugh.

M. CAVANAUGH: I would just like Senator Cavanaugh to state for the record that I did not encourage you to bring a license plate bill, correct?

J. CAVANAUGH: No, you-- I think I might have considered discouraged bringing a license plate bill, but I felt, as I stated, that there's a

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

historical-- place of historical significance doing great work in my district, and that's how I came to be connected with the folks at History Nebraska. But I do think that it, as I stated, serves a broader, important purpose. And unlike many license plate bills, it's not necessarily creating a new license plate. It is just transitioning from one celebratory license plate to another celebratory license plate, celebrating the same great, deserving subject matter.

M. CAVANAUGH: Well, thank you for bringing the bill. I just wanted to clarify for the committee that I had no part in this bill, though it is a good bill.

DeBOER: Thank you, Senator Cavanaugh. Any questions from the committee? Seeing none, you going to stick around for closing?

J. CAVANAUGH: I will stick around.

DeBOER: Proponents for LB317? Welcome.

TREVOR JONES: Thank you. Good afternoon, Chairman Friesen and members of the Transportation and Telecommunications Committee. My name is Trevor Jones, T-r-e-v-o-r J-o-n-e-s, and I am director and CEO of History Nebraska, the state's historical society. So I'm speaking in favor of LB317. It will authorize the creation of Nebraska History license plates. And this new series of plates will replace the current sesquicentennial plate that was authorized in 2015 to support celebrations of the 150th anniversary of Nebraska's statehood. As Senator John Cavanaugh noted, these plates have been popular. Their average earnings have been about \$50,000 a year, but they expire at the end of 2022. And LB317 will authorize the creation of a new series and designate the funds to be used to educate Nebraska's children on their state's history. And revenues will be used specifically to support digitally based educational materials. And History Nebraska has been working for years to improve our digital offerings, but demand has skyrocketed during the pandemic and we anticipate that it will only continue to grow. When the pandemic hit, we quickly pivoted to providing digital toolkits to teachers who could no longer visit our museum and historic sites, and these ad hoc programs were adequate, but they were really only a short-term fix. And the pandemic has taught us that we need to continue to invest in programming that is designed to be digital from the start, and the possibilities really here for us are endless. So new programs could include a live stream

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

tour, combined with a short animation showing how grain was processed at the historic Neligh Mill or a digital matching game pairing Buffalo Soldiers at Fort Robinson with their equipment. And this year, History Nebraska was the only institution in Nebraska and only 1 of 68 nationwide to receive a grant from the Institute of Museum and Library Services to hire a digital educator, so we've got a dedicated position to help us improve our digital offerings. But we know that providing the digital infrastructure to support those needs for Nebraska schools is going to be ongoing for us. And so funds from these new license plates, they will help. The plates themselves may feature Nebraska icons like our Chimney Rock historic site, photos of sod houses from the Solomon Butcher Collection or even early photos of Nebraska football teams, but all of them will support our educational efforts for years to come. So thank you very much for your time, and I'd be happy to answer any questions that you might have.

DeBOER: Thank you, Mr. Jones. Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for your work with the historical education. That's really fascinating. Now that we have sort of changed the way of doing business in the world, but in Nebraska we don't have any more fourth graders coming through the Capitol, is that something that you could possibly be doing, digital tours for fourth graders that can't come here?

TREVOR JONES: Yeah, and there is a-- there is actually a pretty good digital tour of the Capitol that exists already. It's a virtual tour.

M. CAVANAUGH: Oh, really?

TREVOR JONES: Yeah. So that-- that's-- Sally Ganem really worked with NET to put that together, so it's-- it's solid and it was recently updated, so-- but those-- those kinds of things, they work. But we're really thinking about what's the-- the part that happens like in-- in real time, synchronous, and then what are the-- sort of the asynchronous moments? So maybe what you do is, you know, is a hybrid of a visit and then digital experiences. I really think that-- that we're going to have audiences that are-- are really asking for like the in-person tour, when that comes back, and then they're going to want digital pre- and post-visit pieces. Or maybe you do a live tweet with the curator on your way back in the school bus. And that's the

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

kind of thing that I think audiences are going to ask for. I think
we're going to enter a really hybrid market for that.

M. CAVANAUGH: Oh, cool. Thank you.

DeBOER: Thank you, Senator Cavanaugh. Any other questions from the
committee? Seeing none, thank you for your testimony.

TREVOR JONES: All right, thank you.

DeBOER: Any other proposals for LB317? Seeing none, anyone wish to
testify in opposition to LB317? Seeing none, anyone wish to testify in
a neutral capacity? Seeing none, Senator Cavanaugh, you wish to close?
Senator Cavanaugh waives closing. With that, let's see, we have a
neutral position letter from DMV Director Lahm. I think that's it.
With that, we'll close the hearing on LB166 [SIC] and we will open the
hearing on the LB166-- L-- yes, LB166, Senator Geist.

GEIST: Yes, thank you. Thank you, Chairman Friesen. Good afternoon,
members of the Transportation and Telecommunications Committee. For
the record, my name is Suzanne Geist, S-u-z-a-n-n-e G-e-i-s-t. I
represent the 25th District of Lincoln and Lancaster County, which is
the east side. I have introduced LB166 to create the Josh the Otter-Be
Safe Around Water specialty plates because I believe that teaching
water safety to young children is very important. Furthermore, I'm
going to go off script a little bit and say I'm really introducing
this bill, to be straight with my committee, is because several years
ago I met Blake and Kathy Collingsworth, and the reason that they
established the Josh the Otter Charity Foundation is it's actually a
memorial foundation in memory of their two-year-old son. And I will
let them tell the story, but it's a true story of how tragedy can turn
into something very good and very positive. It's been a force for-- a
positive force in our community in Lincoln, and now it's really
international. I'm going to save all the exciting things that are
going on in their foundation for them to tell you personally, but I
was so moved by their story. We've done some other work together just
in trying to get codes established that they had trouble with, with
DHHS, which is a whole nother issue we won't take up with this
committee. But-- but we've-- we've struck up a friendship, and so I'm
here today on their behalf and I'm excited to be. I know how the
committee also looks at license plate bills, but this one I felt
strongly enough about and felt that it's important enough that you

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

need to hear it and the reason why I'm bringing it. And the real story will be behind me, but I'll just finish my-- my testimony to begin with. About ten people a day lose their lives to drowning and drowning is the leading cause of accidental death for children ages one through four. This grant program would hopefully help to lower the number of childhood drownings in Nebraska. The extra \$5 fee from Josh the Otter-Be Safe Around Water Plate would go to the Josh the Otter-Be Safe Around Water Cash Fund. The Game and Parks Commission would use the funds to create a grant program for nonprofits to receive funding to teach water safety to children. And in the response letters, I believe, position letters, Game and Parks has submitted a letter in support and they are in approval of this transaction as well. So thank you for your time and attention. I'd be happy to take questions.

DeBOER: Thank you, Senator Geist. Any questions from the committee? Seeing none--

GEIST: I will stay--

DeBOER: Thank you.

GEIST: --till close.

DeBOER: Proponents who wish to testify on LB166? Welcome.

BLAKE COLLINGSWORTH: Good afternoon, Chair Friesen and the rest of the Transportation and Telecommunications Community [SIC]. My name is Blake Collingsworth, B-l-a-k-e C-o-l-l-i-n-g-s-w-o-r-t-h. In June of 2008, which will be 13 years ago, we were having a large family get-together at our house, and we hadn't had a pool very long, and our son slipped out of our sight for just a few moments that day with a large group of people in the home and people coming and going. And we found him a few minutes after he was noticed to be out of our sight and he was in the water, unresponsive. Pulled him out of the water, gave him CPR training [SIC]. He was transported to Lincoln General, Bryan West, and shortly life-flighted to Omaha, Nebraska, where he spent three days under observation and testing and determined that that few minutes without oxygen to his brain had done so much damage to his brain that he could not operate his vital organs and he was never going to be the little boy that we had. My wife and I, Kathy, had to make the decision to take him off life support and he passed away 45 minutes later. We were very glad that he was able to help

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

other children through donor trans-- translation [SIC]. But when I got home and I started figuring-- trying to figure out what happened to us that day, the tragedy that struck us Wednesday, three days later, and I started looking and doing research, I was dumbfounded that the number-one cause of death of children 1 to 4, unintentional death, is drowning, and it's the second leading cause of unintentional death to all children under the age of 14. And what I was staggered by is nobody knows that. We speak to large groups of people, Rotarians all over the country, talking to them about the problem of drowning, and it's amazing how few people understand it. I truly believe it's a question of awareness; it's a question of educating children, caregivers, parents, grandparents, that drowning is a serious issue. Water is fun and we all need it, but we need to take it more seriously. So we created the Josh the Otter program to introduce it to children and parents in a fun and not a scary way, and we've been very fortunate that this has grown not just in Lincoln, not just in Omaha, Scottsbluff, all across the state, but all around the country and even outside into the world. We've been in Sao Paulo, Brazil, Japan, Australia, Jamaica. It must mean that we're striking a chord and that people are understanding we're not educating people and creating the awareness that we need to do to change behavior. It took us a long time to change behavior on seatbelt safety, and we need to do the same thing with water safety and we need to start the-- start the conversation. So what we try to do is light that little fire, light that candle in their eye to say, what are we talking about? And the Josh the Otter is a great symbol, like-- it's not quite the purple dinosaur yet, but we hope someday that Josh the Otter will be like Smokey the Bear. You see that character's-- that character, and you understand what it means. You're more diligent around a campfire. We need to create that kind of awareness with Josh the Otter. And we-- our foundation works on very limited budget. We have a free app. So when people look up Josh the Otter online, they can go get that free app. There's stories. We're in 12 languages all across the world and we really appreciate this opportunity to help create more awareness. We try our best with billboards, magnets, stickers, you name it, and we're in a lot of classrooms, all the Lincoln classrooms, a good percentage of the Omaha classrooms, like I said, out in western Nebraska. We work with Rotary Clubs, Kiwanis Club, Sertoma Club, and we love our partnership with Game and Parks, the United States Coast Guard, Army Corps of Engineers, and we're excited for the future of this and we appreciate the opportunity to-- for you guys to help us

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

out, to raise more awareness. So if I can answer any questions, I'd be
happy to do so.

DeBOER: Thank you, Mr. Collingsworth. Questions from the committee?
Senator Cavanaugh.

M. CAVANAUGH: Thank you. I'm sorry for your loss. I didn't realize
this, but you're famous at my house. We read Josh the Otter several
times a week, and I'm very grateful to both of you for-- for the
advocacy that you're doing. We spend our summers at my parents'
swimming pool or a lake house and my brother, who was just in here,
we're constantly counting. He has four kids. I have three. And if I
can't get to seven, I freak out and my-- so does my sister-in-law:
one, two, three, four, five, six, seven; one, two, three, four, five,
six, seven. And a lot of that has to do with Josh the Otter, so thank
you very much for your advocacy work.

BLAKE COLLINGSWORTH: Thank you.

DeBOER: Thank you, Senator Cavanaugh. Any other questions from the
committee? Seeing none, you know, as a parent and a grandparent, we
always worry a lot about our kids, so it's nice to see someone that
takes action to do something. Appreciate it.

BLAKE COLLINGSWORTH: Thank you.

DeBOER: Thank you for your testimony.

BLAKE COLLINGSWORTH: Appreciate it. Thank you.

DeBOER: Any other proponents of LB166?

KATHY COLLINGSWORTH: Thank you, Chairman Friesen. Thank you for meet--
for being here, Committee in the Transportation. I'd like to say,
through what we went through as parents, we would like to forward--
through our pain of losing our son, we found a--

DeBOER: Could you spell your name?

KATHY COLLINGSWORTH: Oh, sorry. Yes. It is Kathy, K-a-t-h-y; my last
name is Collingsworth, C-o-l-l-i-n-g-s-w-o-r-t-h.

DeBOER: Thank you.

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

KATHY COLLINGSWORTH: Yes, sorry.

DeBOER: OK. Go ahead.

KATHY COLLINGSWORTH: No, I'm sorry. Again, through the pain of our-- losing our son Joshua, my husband went out forth and started doing, like he said, the education and learning that there was not a whole lot of education to children, and that's what we were-- we were losing the most. There was a lot of education for adults. There's a lot of laws. There's a lot of stuff in place. But there was very little education, and that's who we were losing the most is between that 4 and under category, and the second leading cause being that-- second-- the 14 and under. So our-- our purpose-- you know, our passion turned into a purpose and our purpose was to continue to educate children and adults. We call this trickle-up effect, much like the seatbelts worked where the kids put-- told you to put them on, because that's what they were told in school to do. And so, you know, begrudgingly I remember now my little one, who's now 19, saying, Mom, you have to wear your seat-- life-- seatbelt because I have to and it's important. So this is what we are doing with our education is that we're trying to get it to the youngest children and teach them up. And so we call it generation-up learning. And so we are very excited about the opportunity. We've sadly lost 18 people this last year in the state of Nebraska from drownings, and that was from birth-- I mean, from children to adult. Our education and our-- our purpose of what we do here, from being the life jacket loaner stations that we put up at lakes, we find that the education is not only just to children but to adults and to everyone, because it's everybody's safety that we're in around water. We want them to be safe. So we have, like I said, our magnets, and this is just going to be another way for us to create this awareness and education that we so desperately need, because we do not want to have another family go what-- what we went through, so to try and create the education is what we're all for. So thank you.

DeBOER: Thank you, Ms. Collingsworth. Any questions from the committee? Seeing none, thank you very much for your testimony.

KATHY COLLINGSWORTH: Thank you.

***CORR SCHRADER:** Good afternoon Chairman Friesen and members of the Committee: My name is Cora Schrader and I would like to provide the following testimony on behalf of Children's Hospital & Medical Center

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

(Children's). We want to thank Senator Geist for proposing LB166, a bill that would create the "Josh the Otter-Be Safe Around Water" specialty license plate to help raise awareness and provide for a grant through Game and Parks to teach water safety for children. Children's is the safety-net provider for all children in the state and region, treating over 153,000 unique patients each year with symptoms ranging from the common cold to highly complex chronic conditions requiring multiple specialists over a lifetime. Children's has worked hand-in-hand with Josh the Otter for many years, partnering at events and spreading the Josh the Otter initiative out into the community. Through their Josh the Otter Program, the Joshua Collingsworth Memorial Foundation has worked tirelessly to educate parents and children on the importance of water safety. Water safety is more critical than you may assume. According to the Centers for Disease Control (CDC), drowning among children ages 1-4 is the leading causes of unintentional injury deaths in the United States; children ages 5-9 reported drowning as the second leading cause of unintentional death. This equates to 3,500 to 4,000 people dying as a result of drowning each year, an average of 10 fatal drownings per day. We all want to keep our children safe and help them live to their full potential. Knowing how to prevent leading causes of child injury, like drowning, is a step toward this goal and we encourage the committee to consider a license plate in Nebraska to highlight this important safety issue for children.

***TIM McCOY:** Chairman Friesen, and members of the Transportation and Telecommunications Committee, my name is Timothy McCoy, Deputy Director of the Nebraska Game and Parks Commission. I am here representing the Nebraska Game and Parks Commission in support of LB166. This bill will create the new Josh the Otter-Be Safe Around Water license plates and creates a new Commission Cash fund for proceeds from the plates. It will also require the Commission to administer a grant program to award grants to nonprofit organizations dedicated to educating persons about water safety in general and specifically for the education of children about water safety. As an agency, we understand the importance of water safety and provide/promote public messages, information and signage. With the roles the agency has with water-based recreation and water safety, we see an opportunity to expand this needed messaging and believe we can do so without requiring additional staffing costs for running the grant program. We provide the following information to help the

*Indicates written testimony submitted prior to the public hearing per our COVID-19 response protocol

committee understand how this proposed bill connects with the agency and our responsibilities: The Commission has regulatory responsibilities for boating safety, and continues to provide messaging and programs regarding the importance of wearing Personal Flotation Devices (life jackets) for all boaters, including paddle craft like kayaks, canoes, and stand-up paddle boards. We have 5 five swimming pools at State Parks (Fort Robinson, Niobrara, Chadron, Ponca, and Eugene T Mahoney), as well as a splash pad at Platte River State Park and a floating playground at Louisville State Recreation Area where we have responsibilities for safety and lifeguards. The Nebraska state park system offers designated swimming and wading areas at more than two dozen State Recreation Areas. Those areas are buoyed off to prevent conflicts with motorized and non-motorized watercraft with people swimming and wading. We reinforce the importance of adequate supervision and attentiveness by adults to children they are supervising, the importance of using a proper-fitting U.S. Coast Guard approved personal flotation device (life jacket) for children and anyone who has limited swimming ability. A drowning can happen fast - sometimes in less than two minutes after a person's head goes under the water, and it often happens both quickly and quietly. Our lifeguards at pools play a key role in oversight and quick response. Our Law Enforcement Division plays a key role in search and rescue missions statewide for suspected drownings and missing persons who were boating, floating, swimming or wading in waters of the state. Those situations are intensely personal for all involved, and why our conservation officers and parks staff are constantly stressing safety and compliance with laws and regulations for boating and water recreation. In closing, the Commission supports this bill and the important work that grants from the proceeds will be able to support about the importance of water safety for children and everyone who recreates in and around the water. Thank you for the opportunity to share this written testimony.

DeBOER: Any other proponents of LB166? Seeing none, anyone wish to testify in opposition to LB166? Seeing none, anyone wish to testify in a neutral capacity? Seeing none, Senator Geist, you wish to close?

GEIST: I will make it quick.

DeBOER: We do have, in lieu of in-person testimony, of support from Timothy McCoy, Nebraska Game and Parks Commission, and support from Cora Schrader, Children's Hospital and Medical Center; a position

*Indicates written testimony submitted prior to the public hearing per
our COVID-19 response protocol

letter from Nebraska Children's Home Society; and a neutral letter
from DMV Director Lahm.

GEIST: And I just wanted to address the letter, the neutral letter
from DMV Director Lahm, and that is the same letter that Senator
Cavanaugh was addressing in his previous testimony. And it's a
language change just-- that just harmonizes this license plate bill
with the others and it changes a date. So-- so it's simple language,
but it just-- so I just wanted to make sure that you know that I'm in
support of that. And one thing that the Collingsworths did not say is
that they've already-- have people that are very interested in this
license plate. And I don't know if they're up to 250 yet.

KATHY COLLINGSWORTH: Close, yeah.

GEIST: I think-- I thought so. It's pretty close, so there's already
interest, so an-- anyway, it's-- it's great for them and for
publicizing and being aware of childhood drownings. So I appreciate
your consideration and happy to answer any questions.

DeBOER: Thank you, Senator Geist. Any questions from the committee?
Seeing none, thank you.

GEIST: Thank you.

DeBOER: And with that, we'll close the hearing on LB166 and we'll
close the hearings for this afternoon.