

Transcript Prepared by Clerk of the Legislature Transcribers Office
Transportation and Telecommunications Committee February 25, 2025

MOSER: The afternoon hearing of the Transportation and Telecommunications Committee will come to order. My name's Mike Moser, I'm the chair of the committee. I represent District 22, which is Platte County and most of Stanton County. And we'll introduce the senators with us today. We'll start on our left.

BOSN: Good afternoon. I am Carolyn Bosn. I represent District 25, which is southeast Lincoln, Lancaster County, including Bennet.

BALLARD: Beau Ballard, District 21 in northwest Lincoln, northern Lancaster County.

BRANDT: Tom Brandt, Legislative District 32. Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties.

FREDRICKSON: John Fredrickson, District 20 in central west Omaha.

STORER: Good afternoon, Senator Tanya Storer. I represent District 43. Dawes, Sheridan, Cherry, Brown, Rock, Keya Paha, Boyd, Garfield, Loup, Blaine, and Custer.

GUERECA: Good afternoon. Dunixi Guereca, LD7, downtown and south Omaha.

MOSER: Thank you, Senators. Our committee clerk is Connie Thomas. Our legal counsel is Gus Shoemaker. There are green testifier sheets in the table-- on the table near the entrance of the room. If you want to testify, please fill one of those out and give it to the page as you come forward. For those not testifying, but would like to be recorded as present at the hearing, please sign the yellow sheet in the book on the table near the entrance. The Legislature's policy is that all letters for the record must be received by the committee by 8 a.m. the day of the hearing. Handouts submitted by testifiers will be included as part of the record as exhibits. Senators may come and go during the hearing. This is common and required at times, as they may be presenting bills in other committees during this same time. Testimony will begin with the introducer's opening statement. Then, we'll hear from supporters of the bill, then those in opposition, and then-- then, those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements, if they wish to do so. Please begin your testimony by giving us your first and last name, and please also spell them for the record. We will be using a-- yeah, I think we'll go five minutes. Tempt fate, here. For our conversations today. There are no demonstrations or opposition of-- or support on testimony allowed. Reminder to please turn off your cell phones or put them on vibrate so they don't ring during the hearing.

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Our pages today are Alberto and Ellie. And we have a late arrival. Would you, Senator, like to introduce yourself?

DeBOER: Good afternoon, everyone. My name is Wendy DeBoer. I represent District 10 in beautiful northwest Omaha.

MOSER: All right. Our first bill is LB120. Senator Hardin. Welcome.

HARDIN: Thank you, Chairman Moser. And good afternoon, Senators of TNT. I'm Senator Brian Hardin. For the record, that is B-r-i-a-n H-a-r-d-i-n, and I represent the Banner, Kimball and Scotts Bluff counties of the 48th Legislative District in western Nebraska. I'm here to introduce LB120, which was brought to me by the Nebraska State Patrol. This is a simple and straightforward idea. LB120 allows the Department of Motor Vehicles to release digital images of individuals to the Nebraska State Patrol, to be used in missing person cases. There's a white copy amendment that you will have that addresses the concerns from the DMV surrounding security of the images. Here today is an expert from the Nebraska State Patrol who can explain the specifics of this legislation, and I encourage you to hold your hard questions for him. However, if you have any softballs, I'll attempt to answer those now. Thank you.

MOSER: All right. Questions from the committee? What problem are you trying to solve here?

HARDIN: The challenge is, if you're missing, the State Patrol would normally just grab into your DMV file, find your photo from your driver's license, and say, here it is. Someone evity-- evidently had a problem with that. And so, I think, if you're missing, you'd like to be found. We're fixing that problem.

MOSER: Maybe you don't want to be found.

HARDIN: Maybe, but most people do. And so--

MOSER: Most of our relatives want to know where we are. So, is this specific so that it only covers the driver's license picture?

HARDIN: They can speak to greater detail on that.

MOSER: OK.

HARDIN: Yeah.

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MOSER: Any other questions? Thank you very much, Senator. Appreciate it.

HARDIN: Thanks.

MOSER: Anybody in support of LB120? Welcome.

MONTY LOVELACE: Hi. Good morning, or good afternoon, everyone. Good afternoon, Chairperson Moser, and members of the Transportation and Telecommunications Committee. My name is Lieutenant Monty Lovelace, M-o-n-t-y L-o-v-e-l-a-c-e, with the Nebraska State Patrol, and I am the director of the Nebraska Information Analysis Center. I'm here to testify today in support of LB120, which will provide the Nebraska State Patrol with clear statutory authority to use driver's license photos of missing persons in the Missing Persons Clearinghouse. Established in 2005, the Nebraska Missing Persons Clearinghouse serves as a repository to provide a single searchable source for all missing persons in Nebraska. The clearinghouse allows the public to aid law enforcement in locating missing people by providing a detailed physical description and a photo of the person to be used in search efforts or online media campaigns. Photos serve as one of the most valuable tools, as they depict a visual likeness of the missing person. The first 72 hours a person goes missing are the most critical for a successful recovery. Therefore, the sooner the photo is circulated, the better chances of a successful recovery. Oftentimes, a driver's license photo is the most readily available when beginning the search, and in many cases, is the best picture available of the missing person. In some instances, additional photos may be obtained during the investigation, and can replace or be used in addition to a driver's license photo. The use of driver's license photos to aid in the search for missing persons is not a foreign concept. In 2002, our neighbor state, Iowa, passed a law authorizing the use of driver's license photos in missing persons cases. And additionally, the FBI uses driver's license photos from several states on their kidnapped and missing persons web page. Since the start of the Nebraska Missing Persons Clearinghouse, the information has been used by law enforcement, the public, news outlets, and advocacy groups to search for missing persons. It is incumbent on all of us to use the best information available to us to find missing persons and return them safely to their families. The driver's license photo is a resource that is easily accessible and can be added to the clearinghouse as soon as we made-- are made aware that someone is missing. It just makes sense to use these photos for this purpose, and I thank you for your consideration. And with that, I ask-- I'd answer any questions that you have.

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MOSER: OK. Committee members, do you have questions? Senator Brandt?

BRANDT: Thank you, Senator Moser. Today, you don't use a photo for a missing person?

MONTY LOVELACE: Well, we, we do. There are cases it-- Senator-- well, first of all, Senator, thank you for the question. Secondly, there are ways that we've used pictures, and sometimes there are pictures provided by the family. Over the last several years, we have been using driver's license photos to be completely transparent to this committee on our missing persons platform. The problem is, is that we found out that that practice was running contrary to what law said in the, in the use as it per-- as it relates to the use of a driver's license photo. And rather than to be contrary to the law, we're providing this, this new language, to be able to give us a clear distinction on when we use it. So, this will allow us to use it. And just to speak a little further on the, the photo itself, it's been my experience that the driver's license photo is a really-- is a really good likeness of an individual simply because of the equipment that they use, the lighting that they use, and oftentimes is, is the best photo, even compared to a candid photo that we get from the family. And in many cases, there are times where the family don't have an updated picture because there are all kinds of circumstances that lead to a missing person, and sometimes they are disjointed from their family and there, there isn't updated information. And we're hoping that that, that that helps really close the gap between information that we don't have and information that we have through our database-- our driver's license database that would help provide information to find people.

BRANDT: And then, do you wait 72 hours before you release that picture?

MONTY LOVELACE: No, sir. The information is provided as soon as possible. The way it works is, in our system, or the way the, the missing persons database works-- or, clearinghouse works, rather, is that as soon as an agency in the state puts a missing person into NCIC, our system pulls that from the switch and puts-- and, and it uploads it automatically into the clearinghouse. And at that time, one of our analysts who's here with me today, who's got an extensive amount of knowledge regarding the, regarding the clearinghouse, she will go through, verify the information, and then add pictures as needed. And in a lot of cases, she has to add pictures because the, the pictures aren't added initially.

BRANDT: All right. Thank you.

MONTY LOVELACE: Thank you.

MOSER: Other questions? Seeing none. Thank you for your testimony.

MONTY LOVELACE: All right. Thank you.

MOSER: Other supporters for LB120? Any other supporters? Are there any opposition testimonies? Anybody in opposition to LB120? Anyone in the neutral, testifying on LB120? Senator Hardin, it looks like-- senator waives his closing. Thank you. For LB120, we had 2 proponent letters, no opponents, and no neutral. OK, then we will move to Senator Hughes. They just went to get her? Welcome.

HUGHES: Hello. That was a quick hearing. OK. Yeah, efficient. I do like efficiency. All right. Mr. Chairman and members of the Transportation and Telecommunications Committee, I am Jana Hughes, J-a-n-a H-u-g-h-e-s, and I represent Legislative District 24. I am here to introduce LB106. LB106 was the result of a series of conversations that I had with a constituent who tints windows as part of his business. He informed me that the vehicles come out of the factory with rear side windows with a 20% tint. Customers, including law enforcement, frequently request to him that their front windows also be tinted at 20% to match their rear side windows. So, when I say "rear side windows," I mean, like, from the back of your head back, so the people in your back seat. After asking around, I found out that this was the case for everyone in the tinting industry. The folks who follow the law are turning away a lot of business to comply with it. I've had conversations with law enforcement in my district, and many have shared that they have many more important things to do than to enforce this law, and some of the departments I've spoken to don't even carry a tint reader meter in their vehicle. I brought LB106 to have the conversation today to see if this makes sense to keep as our law, whereby the rear side windows can be darker than the front side. If it truly is a safety issue, then all windows should be lighter tint, not just the very front ones. I would contend, with larger vehicles on our roads, with your full-size pickups, SUVs and other vehicles, many of them running their super bright LEDs, it's a safety benefit to have darker window-- tinted windows on the front side windows, which in turn match your back, your rear windows. This is why I brought LB106. I welcome your attention to having this conversation today. I appreciate your time, and would like-- answer any questions if you have. And I do have a window tinter expert coming behind me that you can ask very specific questions, there. So, thank you.

MOSER: Questions from committee members? Senator Fredrickson?

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FREDRICKSON: Thank you, Chair Moser. Thank you, Senator Hughes, for bringing this bill.

HUGHES: Yes.

FREDRICKSON: This might be a question for the window tint expert, but is a-- so, a 20% tint, like-- just, can you describe that a little bit? Or--

HUGHES: Oh, I have the perfect prop in my office right now, but I cannot bring props, that has-- I have a piece of glass that they were so kind to bring, split in half with the 20% and the 35%.

FREDRICKSON: OK.

HUGHES: And honestly-- like, if you think 20% is like a blackout, not at all. It's just a little bit darker. And I am going to bring said prop to the floor tomorrow and carry it over to each of your desks tomorrow morning. Or, you're more than welcome to stop by my office and see it. But it is-- I mean, I don't know if you guys-- you guys have seen the cars with just-- I mean, it's like painted black.

FREDRICKSON: Yeah. Yeah.

HUGHES: That is not 20% tint.

FREDRICKSON: Yeah. Yeah.

HUGHES: It's just a little bit dark. I mean, the varying between 20% and 35% is minimal, and you can definitely see through it, so.

FREDRICKSON: Got it. Got it. Well, I might need to--

HUGHES: That's not very helpful, but--

FREDRICKSON: --arrange with your staff a time for me to come to your office [INAUDIBLE].

HUGHES: Yeah, I have it in my office right now. And like I said, I'm going to-- I think I can bring it to the legislative floor tomorrow morning. I'm going to.

MOSER: I don't know, it sounds like a prop.

HUGHES: But I'm not using it when I talk on the mic. I'm just walking around with it, so.

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MOSER: I'm not the cop of the Legislature, so. Other questions? What's the legal limit now?

HUGHES: So, 35-- so, from the back of your head forward, it has to be 35%, and from back of head back, it can be 20%. And different states are different.

MOSER: No, the other way around.

HUGHES: No, because 35% is actually lighter. It's, it's letting-- it's the opposite. It's 65% you can see through and 80-- or--

MOSER: Oh, 20% is 80% blockage?

HUGHES: No-- yes. Right? The 20% is darker. Yes. 35% is lighter. I know it's confusing.

MOSER: Yeah. It's kind of, like, inverted.

HUGHES: I'll show you my-- I'll show you my piece of glass.

MOSER: Sure, you just can get your thumb on the wrong dot when you put it on the page.

HUGHES: It--

MOSER: Other questions? Yes, Senator Bosn.

BOSN: Do you know where the 20% came from?

HUGHES: Oh, like, in the original--

BOSN: Right.

HUGHES: --bill-- or rule? I do not, but I would be happy to dig into that and figure it out. And I--

BOSN: I mean, I--

HUGHES: Oh, go ahead.

BOSN: I would imagine there's a law enforcement argument to be made that the reason the front seat is lower is because they need to be able to see in for officer safety when they're approaching a vehicle, or things from that perspective.

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HUGHES: Yes. And I, I did speak to some law enforcement. And again, I, I, I think it would be helpful for you to see the-- you can still very much see in. It-- again, it's not really--

BOSN: I'm fully aware, because my windows are-- I brought my car in and did the same thing. So, I know what you're talking about.

HUGHES: Oh, OK.

BOSN: It's a very minimal difference, but I think that was the reason for the--

HUGHES: No, yeah, I'm sure.

BOSN: --difference was for officers to be able to have some degree of certainty that they were approaching a vehicle and could see--

HUGHES: Who's in it, what they're doing.

BOSN: Right.

MOSER: See where their hands are.

HUGHES: And when I was speaking it-- now, I-- and I only spoke to the police and sheriffs in my district. They all-- one, they're the ones that were, like, "yeah, we don't even check for that anymore," and they-- they're more concerned with a true blackout windows. They just hadn't had a concern. I'll dig into how many years ago this was put in statute and everything, but yeah. We can dig into that.

MOSER: Senator Storer.

STORER: Thank you, Chairman Moser. So, it comes out of the factory with the 20 on the back, right?

HUGHES: Yeah.

STORER: OK. I just wanted to be sure that I understood [INAUDIBLE].

MOSER: Senator Fredrickson.

FREDRICKSON: Thank you, Chair Moser. So, this has me thinking now.

HUGHES: Who knew what I'm thinking would be so interesting?

FREDRICKSON: No, I mean, this, this sounds very reasonable to me. I, I, I-- but my, my question really is-- so, is this something-- like, how

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do other states do this? What do we-- how do we compare? Are we pretty outrageous, or like, what's--

HUGHES: Right. So, I asked a little bit. So, apparently Iowa is a little out-- they allow-- I-- I'll-- and I can-- I'll get the information and do it by state. But it was, like, even 5%. They allow really, really dark. It's really interesting.

FREDRICKSON: Yeah.

HUGHES: Every state is very, very different.

FREDRICKSON: And I'm--

HUGHES: And maybe that's a little bit why the, the, like, State Patrol and poli-- or, just like, whatever, like, they don't carry the, the readers anymore.

FREDRICKSON: Right.

HUGHES: I mean, I remember back in the '90s, in my day, people would tint their cars, and it was, like, a really big deal. And you would get stopped if it were too dark.

FREDRICKSON: Yup. Yup.

HUGHES: And it just doesn't happen anymore.

FREDRICKSON: Well, that's interesting. Because we see so much traffic, obviously, over state lines, so--

HUGHES: Yeah. Right.

FREDRICKSON: --that's another-- but yes. Thank you.

HUGHES: But it-- yeah, I think it would be interesting to know that per the bordering states.

MOSER: OK. Any other questions? Thank you, Senator. Appreciate that.

HUGHES: Thank you for your time, and I will stay.

MOSER: Other supporters for LB106? Welcome.

EDWARD MUNDT: Welcome. Bear with me, I might be a little nervous. This is my first time doing it. Chairman Moser, members of the committee, I am Edward Mundt, E-d-w-a-r-d M-u-n-d-t. I have an owned and operated

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Munster Tint and Vinyl in York, Nebraska, for seven years. I have been tinting windows for almost 30 years. I am here to testify in support of LB106. Over the course of those seven years, I have sent close to \$1,000 a month worth of sales tax in, so I would say that I've got a fairly decent business. The reason I am in favor of LB106 is pretty simple. As a window tinter, most of my clients come in and they choose a film, and the first thing they say is they want it to match the rest of the windows. The problem is, if I turn them down because of the state law, they will simply go to another shop and have it done. This is my job, this is what feeds my family and creates revenue for the state of Nebraska. Recently, I was approached by a couple of different state troopers who said I had installed 20% on front windows, which is not legal in the state of Nebraska. I have tinted troopers' cars in 20%, I have told them it is not legal, but I understand that cruisers are exempt. I have tinted for several officers who want the same thing on their personal vehicles. So, my question is fairly simple. If it is OK for law enforcement who is not on duty, why is it not OK for the rest of the people in the state? I was told by a certain trooper that 20% they cannot see through when they do a traffic stop. This said trooper was driving a patrol car, and I asked him if I could meter his car. His answer was no. He said, "Sir, I am exempt." I stated, so, if you struggle to see through 20% with your 20% on your cruiser and 20% on the individual's car, it makes a huge difference. Because when you get down to it, if you stack 20% on top of 20%, it becomes 5%, which is very dark. Hard to see through. I told him that even with 35% on a, on a car that you pull over with 20%, it still makes it 12%. Understandable, it's hard to see in that glass. So, I told him that I thought if he was having problems with visibility seeing into cars, he should maybe not have his cruiser car tinted. He didn't think that was very funny. Once again, the common thing is everybody wants to match so it doesn't look out of place. Would you like to drive around with a red car with the front two doors a little bit different of a shade of red? It just don't look good. If I remember right, this law was last addressed in 1986. Most SUVs and trucks did not come with what's called factory privacy glass. That is 20%, and it is very common in the industry. And I-- with that said, I truly believe if this law changes, it will allow me to do several things: one, carry less inventory, less confrontation about installing 20%, and no more worries about doing something very minor that's still illegal. Tint allows for several things: one, privacy; two, huge loss of UV rays as well as if you use a high-quality film, you start to kill up to 92% of the infrared heat rejection. All I'm asking for is your vote in favor of LB106. Thank you for allowing me to speak on this bill, and thank you to Senator Hughes for hearing my plea and rewriting this bill. Like she said, there is a

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sample in her office if you want to take a look at the noticeable difference, and it's not a lot of difference.

MOSEER: Thank you. Questions from the committee? Seeing none. Thank you very-- oh, I'm sorry. Senator Brandt.

BRANDT: OK. Thank you, Chairman Moser. Thank you for driving in from York today to, to explain this.

EDWARD MUNDT: Yes.

BRANDT: So, these factory-- you buy a brand new car today and it's got the privacy on it. And that's 20%?

EDWARD MUNDT: That is 20%.

BRANDT: And then, the--

EDWARD MUNDT: What they call VLT, which is visible light transmission.

BRANDT: And then in Nebraska, we have to have 25% to 35%?

EDWARD MUNDT: It has to be-- according to current state law, your front two windows-- so, your front driver and front passenger window cannot be any darker than 35%.

BRANDT: But they're coming out of the factory darker than that. Am I right?

EDWARD MUNDT: But state of Nebraska currently, the law allows you to have 20% from your head back on the privacy glass. All auto manufacturers, your SUVs, your trucks, if they come with factory privacy glass, everything except for the front two windows are tinted. The reason they do that is because every state is across the board. Iowa, it's 70% on the front two. You get out into Georgia-- a good friend of mine out there-- they allow 25%. 25% is kind of an oddball number because film [INAUDIBLE]-- auto manufacturer-- or automotive film manufacturers, they start off with a 50%, then they offer a 35%, they offer 20%, and they offer 5%. I don't play with 5%; I think it's ridiculous. I have a conscience. If I tinted your son's truck and I did it in 5% like he asked, if he had an accident the next day, I couldn't sleep knowing that I did that. The chance that he couldn't see at night. But with 20%, your visibility is still there. A lot of the new films that are out, the visibility and the clarity of them are so much better than backing up ten years ago.

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BRANDT: So the national standard-- I kind of get-- the national standard probably would be 20%, if there were a national standard?

EDWARD MUNDT: If there was a national standard, I would have to say 20%. Yes.

BRANDT: So then, this meter that you guys use, you'd stand three feet away or, or point this at it, or--

EDWARD MUNDT: It's--

BRANDT: How does that work?

EDWARD MUNDT: It's a little box, and you drop it over the piece of glass.

BRANDT: OK.

EDWARD MUNDT: And then, the meter that I carry does three things: it tells you your VLT, which is visible light transmission; it tells you the UV that it's cutting out, which is the harmful rays from the sun; and then, it'll give you an IR rejection, which is the infrared heat.

BRANDT: So, when the police find something that's tinted too darkly, they just write them a fix-it ticket, or they have to peel that off?

EDWARD MUNDT: Most generally, it's a fix-it ticket. A lot of times, it's just a fix-it ticket with a warning. The one individual that I've had commonly coming to me, he's done as much as-- the second time if you get caught and you didn't take care of your fix-it ticket, he'll give you up to \$125 fine.

BRANDT: OK. Thank you.

EDWARD MUNDT: You're welcome.

MOSER: So, how do you remove the tint if it's too dark? Do you scrape it off with a razor blade, or?

EDWARD MUNDT: Well, that's, that's where it gets interesting. You either have to razor blade it off, which leaves a lot of the adhesive left behind, which-- if you don't get it properly removed, it can actually make it harder to see through the glass than just the window film itself. I have a professional steamer that I use a lot of times. If it's too dark and they get a fix-it ticket, I'll take the steamer,

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which allows the adhesive to release easier and makes the uninst-- or taking it off a whole lot easier.

MOSER: The, the film goes on the inside glass?

EDWARD MUNDT: That is correct.

MOSER: Does it ever wear, and get--

EDWARD MUNDT: Typically, if you're using a quality film, it does not scratch. They have-- a lot of your higher-end films have a scratch coat built into them to where it does not scratch. Some of the older vehicles that I do now, we're starting to run into where once you apply the film to the inside of the glass, you're finding the outside of glass has a lot of scratches and scrapes in it. So, there's a process that I use to buff the glass so it's not so hard to see out of it, because any imperfection in the glass is going to be amplified by the window tint itself.

MOSER: OK. Senator Ballard.

BALLARD: Thank you, Chair. Thank you for being here. Do you, do you see a lot of drivers tinting the windows themselves? Just-- is that even a possibility? You buy, buy tint online and tint your-- is it just-- or is it more difficult to--

EDWARD MUNDT: I, I get a lot of phone calls for people that-- what I have-- my process is I have a computer program, and it's all set up to cut. Say you've got a '97 Chevy pickup. I go to my computer, I put in '97 Chevy K1500 and every cut's right there. I load the film into the machine, the machine's got a very fine knife, and it cuts out the window to exact precise dimensions. I get a lot of people come in and ask me for pre-cut film. Even with pre-cut film, I won't sell anything darker than 20%, because once again, it goes back to my conscience.

BALLARD: So, did you say you can put 20% film on 20% film and it makes it 5%?

EDWARD MUNDT: You can put 20% on top of 20%, and it will be 5%. Now, the biggest thing is no manufacturer in the market will stand behind any type of warranty if you stack film like that.

BALLARD: Interesting. Thank you.

MOSER: So, it's tricky to get that film on there without getting bubbles and--

EDWARD MUNDT: Yes.

MOSER: --folds and stuff like that?

EDWARD MUNDT: Yeah.

MOSER: Yeah. It's like putting contact paper on, only fussier.

EDWARD MUNDT: Correct.

MOSER: Other questions from the committee? Thank you very much.
Appreciate your testimony.

EDWARD MUNDT: Thank you.

MOSER: More supporters for LB106? Any opponents to LB106? No opponents?
Neutral testifiers? OK. Senator?

HUGHES: This is like the easiest hearing ever. Couple things. The bill from before was done in 1989, which is when I graduated high school. So, that was kind of a fun year. The 20% and 35%, right? It's super confusing that 20% is darker than 35%, but that's because it's the VLT percentage. So, that's your visible light transmission. So, a 20% VLT is only letting 20% of the sunlight through. So, that's why the numbers are the way they are. Anyway, I appreciate you guys' time today. We've probably all learned some new things about window tinting and that information, but I think it just-- I think the bill done in '89, it's something that-- again, I did not find this myself; it was brought to my attention by my constituent here. And I think it's just something that maybe has outlived its time and was done for a reason then, with-- if it's just better films than what cars are, are being manufactured with today. It might make sense for us to adjust that. In the next day, I will happily show you the difference between that 20% and 35%. I will also get together-- just put a little form together for what states around us have in statutes. And anyway, I appreciate your supports and would welcome any questions.

MOSER: OK. Questions from committee members? Seeing none. Thank you very much.

HUGHES: Awesome. Thank you guys.

MOSER: Yeah. We had--

HUGHES: Oh, yeah. I want to hear this.

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MOSER: --2 proponents online, 1 opponent online, and 1 neutral--

HUGHES: All right.

MOSER: --online comment.

HUGHES: Very good.

MOSER: Thank you, Senator.

HUGHES: Appreciate it.

MOSER: OK. Now, we will move to LB496. Is Senator Murman on his way, or here, or what's-- has he talked to the clerk or to counsel?

BOSN: Did you reach out to him and tell him--

BALLARD: There he is.

MOSER: Oh, here he is.

MURMAN: Right on cue.

MOSER: Well, a minute ago would have been right on cue.

DeBOER: Oh, jeez.

MURMAN: Well, I'm pretty close.

MOSER: We were just beginning to think--

BOSN: Oh, crap. Not all of us are unfriendly.

MURMAN: You haven't, you haven't given up on me, have you?

MOSER: We were just thinking sanctions. No, I take that all back. Welcome. Glad to see you.

MURMAN: Yeah. Me too. Got some handouts here. Thank you. OK. Good afternoon, Chair Moser, and members of the Transportation and Telecommunications Committee. My name is Dave Murman, D-a-v-e M-u-r-m-a-n, representing Nebraska's 38th District. LB496 came to me based on a call from a constituent who had been leading livestock across the highway when a driver was upset by this, and it turned into a larger argument. This could have all been avoided if our laws simply gave a bit more protection to those leading or herding livestock. To avoid situations such as that in the future, LB496, which is based on a

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current Oregon law, seeks to provide some common-sense protections that would make it-- make every party involved, the herder, the driver, and the livestock just a bit safer. LB496 asks, when a driver is approaching or passing someone leading or herding livestock, they use caution, promptly stop if the person raises their hand as a distress signal, and yield the right-of-way. I will note that after thinking on it, I have brought an amendment to cut out Section 1, subsection (3), as shutting the engine fully off is probably not necessary. Overall, I think this is a pretty simple piece of legislation. It's tested, as it comes directly from another state, and seeks to keep our farmers, ranchers, and livestock safe. Thank you. And I'm open for any questions.

MOSER: Questions from committee members? So, you think that drivers will know the law and be more careful when they're driving up upon somebody herding animals across the highway?

MURMAN: Well, it, it can't hurt to have this kind of legislation, at least. If a driver is familiar with the law, they'll be more apt to-- you know, if someone raises their hand to stop that's herding livestock, may stop.

MOSER: Well, you would think. The animals all weigh 1,000 pounds, right?

MURMAN: Yeah. Well, not necessarily.

MOSER: Calves would be lighter.

MURMAN: Yeah. Could be goats--

MOSER: Sheep?

MURMAN: --and sheep, and-- yeah.

MOSER: Still ma-- messy.

MURMAN: I don't think I, I listed chickens.

MOSER: I don't know if you could shoo chickens. They don't shoo very well.

MURMAN: Could be smaller than, than a thousand, anyway.

MOSER: Senator Brandt.

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BRANDT: So, I read through the bill. It's pretty straightforward. What's the penalty? What's the enforcement? I don't see that in the bill.

MURMAN: No, I didn't put enforcement or penalty in there. You know, that's something we could add, amend into it, if we thought it was necessary. But it'd at least give some guidance to everyone involved with, with this legislation on the books.

BRANDT: All right. Thank you.

MOSER: Senator Fredrickson.

FREDRICKSON: Thank you, Chair Moser. Thank you, Senator Murman, for the bill. I'm reading the bill as well. So, help me understand. So, the, the person is required to raise their hand. Why, why not just kind of have it be "give the right-of-way to the livestock?" Is there a reason why we're requiring the distress signal, or?

MURMAN: What-- if someone didn't give right-of-way to the livestock?

FREDRICKSON: Yeah. I've just-- so, I-- it seems like the-- there-- like, it requires the individual to give a distress signal in order for the-- I mean, I'm almost wondering if we should just have it be the right-of-way belongs to the, to the, to the livestock versus-- just because I'm thinking someone might be distracted, there's a lot going on, they're herding a bunch of animals--

MURMAN: Yeah.

FREDRICKSON: --and if they forget to raise their hand.

MURMAN: Yeah. Well, of course, we would always hope that drivers would yield the right-of-way to the livestock and the person that's herding them, but we, we just-- you know, in case there's some question, or the-- say the driver isn't paying as close attention as they should, or maybe just ignoring the herd-- the person herding, that if the person did give him some kind of a signal--

FREDRICKSON: Sure, sure.

MURMAN: --that would-- they would like them to stop, or slow down, or whatever it is.

FREDRICKSON: Yeah.

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MURMAN: That-- there is-- that's pointed out in the legislation. So, hopefully that would happen.

FREDRICKSON: Yeah. Thank you.

MOSER: Other questions? Senator Storer.

STORER: Thank you, Chairman Moser. So, full disclosure, I have driven cattle down the highway before. And I'm wondering-- I'm just going to follow up a little bit on Senator Fredrickson's comment. Would it-- would you be open to sort of flipping that a little bit, that they're just required to slow down, give, give the livestock the right-of-way until they receive a motion to come through? Like, sort of-- instead of requiring somebody to put their hand up that they stop, the flip that they're required to stop until they're motioned through?

MURMAN: Yes. Well, we had to put some kind of a signal in there, I guess so that the driver would, would know what the, the herder was requiring of them. And we did have this model legislation from Oregon, so I thought that was as good of a way of doing it, since that's-- already is in law in Oregon.

STORER: Because in, in a way, the way it reads is unless you put your hand up, they can plow through, and there's still no penalty versus--

MURMAN: OK.

STORER: --just it being said, if there's cattle, you give them-- yield to them and stop until you're motioned through. That's just a thought. I mean--

MURMAN: I'm, I'm open to any kind of amendment that would improve this legislation. I-- you know, I just saw the opportunity to model it "after"-- after some existing legislation.

STORER: And, and I guess I'd never thought about this, but-- and this isn't-- I know this is not-- it's not directly related to your bill, but I'm just curious if you know, if-- because we asked-- the question was asked about penalties. If, if there are, it makes me wonder now. If there are penalties for, if, like, you know an animal is hit on the highway by, you know, a driver that has not slowed down, just what-- I don't know if there's any way to build that into this, but--

MURMAN: I think, you know, if they-- if it couldn't be settled by the, the parties involved, it'd be something that would be settled in the courts. But I did eliminate-- like I said, I, I am open to eliminating

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turning off the engine, because I thought that sounded a little bit too extreme to, to ask in most situations, for someone to turn off their engine to allow livestock to cross.

STORER: New cars today, you just press on the brake hard, and it shuts off anyway.

MURMAN: Yeah, most cars nowadays do anyway. A diesel wouldn't work so well to--

STORER: Right.

MURMAN: --shut off always.

MOSER: Other questions from the committee? So, did you ever have one of your milk cows gets hit by a pickup or a truck or something?

MURMAN: No, I haven't had any livestock get hit. I have, of course, had livestock on the road before, usually intentionally.

MOSER: Are you-- if somebody hits a cow that wandered off of your property, are you liable for the damage? Do you know?

MURMAN: You, you sure could be. I don't know exactly the, you know, the legalities of it, but you could be if you-- if-- I assume you could be if you weren't-- if the livestock owner wasn't responsible.

MOSER: Yeah. Well, that's a separate problem.

MURMAN: Yeah.

MOSER: No use going where we don't need to go.

MURMAN: Possibly. You know, poorly--

MOSER: Other questions from--

MURMAN: --maintained fences, or whatever.

MOSER: --committee members? OK. Thank you very much, Senator. Appreciate that. Are there supporters for LB496? Please come forward. Welcome.

KELLY JOHNSON: Good afternoon, Chairman Moser, and members of the Transportation and Telecommunications Committee. My name is Kelly Johnson, spelled K-e-l-l-y J-o-h-n-s-o-n, and I ranch northwest of Grand Island, Nebraska. It was November 25 of 2019, and I was planning

on moving cattle to stalks for grazing that day. I, along with three neighbors who are landowners in the area and owners of the corn fields I was going to be grazing that winter, were part of the cattle drive. It was a mile-and-a-half move in rural Hall County on a gravel road. I had one of the neighbors out in front of the herd when he was confronted with an irate motorist. The neighbor described the motorist as being in a fit of rage. The motorist then cussed at my neighbor and ignored him. He proceeded to drive into the herd, honking his horn, waving his arms, and scattering the cattle, driving cattle back on us. I was horseback at the rear of the herd. After driving through the herd, he exited his vehicle and threatened to take me off my horse. I am the one that ended up being charged and had to defend myself in district court in August of 2020, where I was found not guilty of all charges. However, it is not over, as I have now to deal with a civil suit. I had bent-- I have been around livestock and moving my-- and moving cattle my entire life. I always knew and assumed that livestock had the right-of-way, but in looking into this and defending this in court, no laws regarding movement of livestock were found in Nebraska statutes. As more and more of the population distanced itself from agriculture, things that used to be understood need to have clarity and be able to be enforced. And if, if I might-- some questions that we're talking on, on hand signals, if I may, a lot of the times, it is to let them know that you're coming, coming through, and it is usually that-- all that is. And a lot of times, there's somebody ahead of the cattle, and-- just to let them know. Whether that's somebody in part of the owner of the livestock driving the cattle, or in the case of at certain times when you have law enforcement helping you move cattle on the roadway, but. I thank you for your time and consideration of this bill. I will be happil-- happy to answer any questions you may have.

MOSER: Senator Brandt.

BRANDT: Thank you. Thank you, Chairman Moser. Thank you, Mr. Johnson, for coming in here, for taking the time to work with Senator Moser [SIC] to bring this bill, because this is a much bigger problem across the state than what you've just experienced.

MOSER: Murman.

BRANDT: Or, excuse me, Senator Murman.

MOSER: Don't insult him like that.

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BRANDT: Yeah. Moser/Murman. What are they suing you for? It sounds like the guy drove through your herd and was pissed off, was yelling at you, and then you separated ways. So, what's the grounds for his lawsuit?

KELLY JOHNSON: He exited his vehicle and threatened. I, I got off my horse. I-- it was a pretty scary situation. I, I grabbed him, which probably lasted probably about five seconds.

BRANDT: OK. So, there was some, some--

KELLY JOHNSON: Right down there.

BRANDT: --physical contact between the two of you. OK.

KELLY JOHNSON: There, there was.

BRANDT: OK.

KELLY JOHNSON: And so-- yeah. And I had two witnesses, my neighbors right there. But the, the, the threat was then stopped, but we had to continue to get cattle under control and, and to continue--

BRANDT: And the horses.

KELLY JOHNSON: --and-- yeah. And continue movement. And so-- yeah, that's--

BRANDT: What, what-- if Senator Murman were to put a penalty in here, what do you think that penalty would be or should be?

KELLY JOHNSON: I-- I'm not up on, on, on laws and so forth for me to say, would-- that'd be somebody other than me that understands law more than I do.

BRANDT: We've got a couple of attorneys on this board. All right. Thank you. Thank you for coming in here.

MOSER: Senator Fredrickson.

FREDRICKSON: Thank you, Chair Moser. Thank you for taking the time to share your story and your experience with us in, in the committee. And I'm, I'm even thinking of your situation. I mean, when-- if you're moving cattle and they get riled up, that-- that's a safety concern for, for you as well. And so-- Senator Storer, I think, was-- we were kind of talking a little bit about the hand signal piece of this as well. Do you have any thoughts on that conversation, about whether we should just have it be right-of-way for the cattle, and then almost a

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hand signal for when it's safe, or are you sort of indifferent on the hand signal piece, there?

KELLY JOHNSON: Well, the way I had read it-- and that's how I read it-- it looked to me like that it's just for the motorist not to ignore a hand signal.

FREDRICKSON: Got it.

KELLY JOHNSON: So-- and because most motorists, they, they know to pull over and, and stop.

FREDRICKSON: Right, right.

KELLY JOHNSON: But, you know, if an addition to seeing cattle being moved and the hands put up that that gets ignored--

FREDRICKSON: Yeah. Because that's a pretty clear signal. Yeah.

KELLY JOHNSON: Yes.

FREDRICKSON: OK. Thank you.

MOSER: So, were you crossing a highway, or was this all on a gravel road?

KELLY JOHNSON: We were on the gravel road, moving a mile-and-a-half.

MOSER: You were moving just a mile-and-a-half?

KELLY JOHNSON: Yes.

MOSER: And this guy didn't want to wait for you to mosey along, and-- so he tried to drive through?

KELLY JOHNSON: I don't know what his intentions were, no. But-- yeah. No-- there was a-- I-- there was a neighbor that was ahead of the whole herd. And, yeah, he went through him, and then proceeded through the cattle.

MOSER: People can be crazy. So, how would this law have helped you? Would you have more grounds to defend you in the lawsuit?

KELLY JOHNSON: The, the other thing in the lawsuit-- and, and I'll-- I was charged in the, in the lawsuit with third-- initially, third-degree assault, and then they took it up to first-degree assault, so that's why it went to district court when, when the attorney looked at it. But

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also, in the-- in court, I needed to defend why I was moving cattle on the roadway, why I was not trailering or hauling cattle, and so that, that was a big part of it. And I don't know if it would have went to that far, that far if-- because there was nothing saying-- no statute that, that said that cattle had-- or livestock had the right-of-way. So, how all that would affect it. But yes, I did have to defend why I was driving cattle in, in court also.

MOSER: And haven't cattle-- haven't they been driven along roads for decades?

KELLY JOHNSON: Before Nebraska was a state.

MOSER: Yeah. Yeah, we used to herd cattle down the gravel road. Across the highway, I could see that causing a ruckus. I don't recall we had any issues. And then, down to the pasture, down along the river. It was always a fun time. Usually took a meal along and ate when we got down there. Other questions from committee members? Thank you very much for your testimony.

KELLY JOHNSON: Thank you.

MOSER: Thank you. Anybody else to speak in support? Welcome.

MATTHEW MELCHOR: Thank you. Good afternoon, Chairman Moser, and members of the Transportation and "Telecommutation"-- Communic-- (Tele)communications Committee. Sorry. My name is Matthew Melchor, spelled M-a-t-t-h-e-w M-e-l-c-h-o-r, and I am the director of state government affairs for Nebraska Cattlemen. I'm also testifying on behalf of Nebraska Farm Bureau and Renewable Fuels Nebraska in support of LB496. Nebraska Cattlemen is proud of the state's moniker, "The Beef State," and at our annual convention this December, the association's brand and property rights committee discussed the topic of moving cattle on, on road, as safety of the animals, the owners, and other motorists should all be considered. Moving cattle on and along the roads is a familiar occurrence in rural areas of Nebraska and many other states. As some areas become more urban, there are more and more residents who may not be familiar with the process, and may have concerns when they see cattle being driven down the road by vehicles or horseback. Safety of the livestock and people is the utmost concern for Nebraska Cattlemen, and our members. LB496 simply acknowledges that motorists approaching livestock being driven on the road should use caution and stop if asked. Both livestock owners and motorists should use caution when on the road to minimize the chance for animals or people to be injured or harmed. Nebraska Cattlemen, Nebraska Farm

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Bureau, and Renewable Fuels Nebraska encourages your support of LB496. Thank you. I will take any questions.

MOSER: Questions from committee members? Senator Ballard, for just variety.

BALLARD: For variety? I appreciate it.

MOSER: I-- well, I let Brandt talk first, but--

MATTHEW MELCHOR: Brandt told me since this is my first hearing testimony, he was going to grill my butt, so--

BRANDT: I wouldn't do that.

BALLARD: That was going to be my question, if this was your first.

MOSER: Senator Ballard.

BALLARD: Thank you, Chair. Thank you for being here.

MATTHEW MELCHOR: Yep.

BALLARD: This can't be a Nebraska-specific issue. What do-- do you know what other states do? I know you're from another state, so--

MATTHEW MELCHOR: I am. I'm from Kansas. I've driven cattle in Kansas, have not had this problem, so I'm not sure.

BALLARD: OK.

MATTHEW MELCHOR: Yeah.

BALLARD: I'm just curious. I mean, especially on the penalty front. Like, is there a--

MATTHEW MELCHOR: Yeah.

BALLARD: I would like to know more, but-- yeah.

MATTHEW MELCHOR: Yeah, I can research it for you. Yeah.

BALLARD: Appreciate it. Thank you.

MOSER: Senator Storer.

STORER: Thank you, Chairman Moser. And congratulations. I didn't realize this is your first time to testify--

MATTHEW MELCHOR: Thank you.

STORER: --at the Legislature.

MATTHEW MELCHOR: I'm just a kid. Take it easy.

STORER: I'll go easy on you.

DeBOER: You only need to say that once.

MATTHEW MELCHOR: Yeah.

STORER: I-- you probably heard the conversation earlier, and just, in reading it, would that, would that be something that Nebraska Cattlemen could support if, if the introducer was willing to make just a few wording changes? I mean, just reading it and being-- having driven cattle down the road myself a lot of times--

MATTHEW MELCHOR: Yeah.

STORER: --it seems like it should just be the, the given that people stop and give right-of-way to the cattle.

MATTHEW MELCHOR: Mm-hmm.

STORER: And if we're going to have something with a hand signal that they proceed through once directed by you-- a hand signal or--

MATTHEW MELCHOR: Yeah.

STORER: I mean, you know, generally--

MATTHEW MELCHOR: Yeah, absolutely.

STORER: --you come up and the cowboy at the back, you know, sort of helps ease people through a little bit.

MATTHEW MELCHOR: Yeah.

STORER: I just don't want there to be anything in here construed that they don't have to stop unless somebody tells them.

MATTHEW MELCHOR: Yeah. Yeah.

STORER: Right.

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MATTHEW MELCHOR: Yeah. No, we would love to be involved in looking at that language, if there's something you want to add or change, and-- yeah, we'd love to stay involved with that.

STORER: OK. And then, I would-- I-- if you're going to do a little bit of homework on-- I, I am now a little bit curious and perhaps concerned about what our statutes do say in regards to not only penalties, you know, that, that could be attached to this, but in the event that cattle are hit or destroyed or injured--

MATTHEW MELCHOR: Mm-hmm.

STORER: --by a motorist. If there's anything-- so, if you come up with anything, let us know on that, too.

MATTHEW MELCHOR: Yeah.

MOSER: OK. Senator Brandt.

BRANDT: Thank you, Chairman Moser. Thank you for testifying today. Are you very familiar with current Nebraska law in this? In that there's fence-in states, there's fence-out states--

MATTHEW MELCHOR: Yes.

BRANDT: --but then my understanding in Nebraska, having experienced this myself-- if a cow is in the middle of the road and it gets hit, unless you can prove that that producer was negligent, like, his cows are out all the time on the road-- but if this is a rare instance, it's up to the-- it's up to the motor vehicle to yield the right-of-way, and if any damage occurred, each party has to take care of them-- care of it themselves. Is that the current law in Nebraska?

MATTHEW MELCHOR: It could be. I am not familiar with that.

BRANDT: OK. If you, if you guys are going to do some research-- and she's nodding her head back there--

MATTHEW MELCHOR: Yeah.

BRANDT: --I think that would be very good, very good to understand that. I think in an instance like this, where you have a whole herd of cattle and somebody would negligently plow into them, you know, with the current beef prices and, and cows being worth \$3,000 or more apiece, there could be a tremendous loss and, and injury accidents also. I'd be very curious, if current statutes [SIC] do not take care of

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this, that we would broaden the law to include a penalty of malicious destruction or, or something along that nature--

MATTHEW MELCHOR: OK.

BRANDT: --that your county attorneys could use.

MATTHEW MELCHOR: Yeah.

MOSER: OK. Other questions from the committee? Senator Fredrickson.

FREDRICKSON: Thank you, Chair Moser. So, this is-- this sounds like a kind of a strange question, but I see that this is-- it enumerates in the bill, so it talks about livestock being horses, mules, donkeys, cattle, swine, sheep or goats. I-- is there a reason why-- I'm, I'm just-- and I genuinely am curious. Like, like chickens or poultry aren't included with that as well. Are they-- are those typically not transported? I'm showing that I'm an Omaha senator, clearly, but--

MATTHEW MELCHOR: Those are typically-- I'm, I'm not exactly a chicken expert--

STORER: They're not in a herd.

MATTHEW MELCHOR: --that's why I, I worked for the Cattlemen.

FREDRICKSON: They're not in a herd?

MATTHEW MELCHOR: I--

FREDRICKSON: My colleague just told me you don't herd chickens, so [INAUDIBLE].

MATTHEW MELCHOR: Yeah, yeah. Generally, chickens are in--

FREDRICKSON: Poultry's safe.

MATTHEW MELCHOR: --pretty large barns-- yeah. Poultries are in barns, chickens are in barns. Yeah, so you-- I have not been a part of a chicken drive, but I-- if you know anyone that's doing it, I would like to be.

FREDRICKSON: Well, with the price of eggs, you know, they're a prize, prize [INAUDIBLE] these days, so.

MATTHEW MELCHOR: I-- they're-- yeah, yeah.

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STORER: We might need to try that sometime. Have a chicken drive.

FREDRICKSON: Yes, I'll have to [INAUDIBLE]. Thank you.

MATTHEW MELCHOR: Eggs and cattle are the two most expensive commodities right now, so.

FREDRICKSON: It's true.

MOSER: OK. Other questions from committee members? Seeing none. Thank you.

MATTHEW MELCHOR: Perfect. Thank you guys.

MOSER: Anybody else to speak in support of LB496? Anybody to speak in opposition to LB496? Anyone to speak in the neutral for LB496? Senator Murman.

MURMAN: Well, I didn't want to get too, too pres-- pres-- what's the word? "Prestrictive?" Predictive? Whatever it is.

MOSER: Prescriptive.

MURMAN: Prescriptive, with this bill. So, I kept it pretty simple. And of course I-- as I said, there's model legislation. I was really surprised that we couldn't find any statutes that really were in effect on this in Nebraska. And I'm open to having a penalty, if, if that is something that would improve the bill. And I guess the reason I, I, I think it would be good to use the hand signal is because-- you know, this is from experience, knowing sometimes when you're herding cattle down the road, people typically slow down, and I do have there that you have to use caution when approaching or passing a person leading or herding livestock. So, they typically slow down and, and often you're OK with them just driving through slow. But if you do want them to stop-- for many reasons; you know, the cattle are going to be turning, or you think they might spook them or something, a hand signal to tell them to stop, I think, is, is a good way to, to have them be considerate of the, the livestock and the person herding them, so. That's the reason I had it that way, and I'm open for any questions on the close.

MOSER: OK. Are there any questions from committee members? Seeing none. Thank you very much.

MURMAN: And I didn't include chickens because I didn't think that was really an issue.

MOSEK: Yeah, I don't think you can herd chickens.

MURMAN: Thank you.

MOSEK: Thank you. That will conclude our hearing for today. Thank you very much for attending.