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Transportation and Telecommunications Committee
March 05, 2007

[LB162 LB285 LB415 LB667]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, March 5, 2007, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB415, LB667, LB162, LB285 and a gubernatorial appointment. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Ray Aguilar; Carol Hudkins; LeRoy Louden; Mick Mines; Dwite Pedersen; and DiAnna Schimek. Senators absent: None.

SENATOR FISCHER: Good afternoon. Welcome to the Transportation and Telecommunications Committee. My name is Deb Fischer, I am the senator from the 43rd District, here in Nebraska, and I am Chair of the Committee. At this time I would like to introduce the other senators and staff that are present. On my right, my far right, is the Vice Chair of the Committee, Senator Arnie Stuthman, he is from Platte Center; next to Senator Stuthman we have Senator Ray Aguilar from Grand Island; Senator Dwite Pedersen from Elkhorn has just joined us; on my immediate right is our committee counsel, Mr. Dustin Vaughan; on my left is Mrs. Pauline Bulgrin, she is the committee clerk; next to Mrs. Bulgrin is Senator Mick Mines, and he is from Blair, Nebraska; next to Senator Mines is Senator Carol Hudkins from Malcolm. We will have a couple more committee members joining us. They are probably introducing bills in other committee at this point. I would also like to introduce our pages, Michael Schaeffer from Lincoln; and Kristin Kallsen from Big Springs. We will be hearing the bills in order listed on the agenda. First we have a confirmation hearing, next will be LB415, LB667, LB162, and LB285. Those wishing to testify on a bill should come to the front of the room and be ready to testify as soon as someone finishes testifying, in order to keep the hearing moving. Please complete the yellow sign-in sheet at the on-deck table, so it is ready to hand in when you are ready to testify. We do have a new computerized transcription program, so it's very important that you fill out those yellow sheets completely. And you will need to hand your sheet to our committee clerk before you testify. For the record, at the beginning of your testimony, please spell your last name, and also your first name if it can be spelled several different ways. Please keep your testimony concise and try not to repeat what someone else has covered. It may be necessary to place time limits on testimony. And in Transportation and Telecommunications hearing we do use the light system. So you will have three minutes for your testimony. The bills introducers have unlimited time. If you do not want to testify but you want to voice your support or opposition to a bill, you can indicate so at the on-deck table on the sheet provided. This will be part of the official record of the hearing. If you want to be listed on the committee statement as a testifier at the hearing, you must complete a yellow sign-in sheet and actually testify, even if you just state your name and position on the bill. If you do not choose to testify, you may submit comments in writing and have them read into the official record. Please relax, don't be nervous. If you need something, let me or one of the pages know. And I would ask at this time that your turn off all of your cell phones. We don't allow cell phones to be on in the hearing.

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We've also been joined by Senator LeRoy Loudon from Ellsworth, Nebraska. At this time, I will open our confirmation hearing for Mr. Richard Pierce. This is for the Board of Public Roads Classifications and Standards. Welcome.

RICHARD PIERCE: (Exhibit 1) Thank you Senator Fischer. I'd like to say, hi, to the rest of the senators on the committee. I think I've met most of you at one time or another. So had the opportunity to run for the Legislature myself. Was beat out by Senator Wightman for the 36th District, so a different day, a different time, I could have been sitting behind the desk on that side. So by way of introduction, my name is Richard Pierce, spelled P-i-e-r-c-e, and first name Richard, R-i-c-h-a-r-d. I have been on the Buffalo County Board of Supervisors for ten years now, am starting my fourth year as chairman of that board, have spent the years that I was not chairman of the board on the Highway Committee; a couple of years as chairman of the Highway Committee, so getting appointed to the state Board of Roads Classifications and Standards is something that I would be familiar with. I farm and ranch north of Miller, Nebraska. Have been involved with government in volunteer situations. I was on the SEM School Board, so that coupled with my experience on the County Board, I've got quite a little experience with government in one way or another. I have a wife of 30-some years and four children, two young men in the service right now, one serving in Afghanistan, one to go to Kurdistan in a few short months. So, I guess, I cover a lot of bases when I talk from experience. I guess, just a short introduction, but that's kind of who I am. Questions that you might have for me? [PIERCE]

SENATOR FISCHER: Thank you, Mr. Pierce. Are there questions? Senator Stuthman. [PIERCE]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Pierce, as serving on the County Board, how many times have you been involved in anything with your highway superintendent, or your roads superintendent as far as road classification and standards? [PIERCE]

RICHARD PIERCE: In Buffalo County that comes up quite frequently. Like I said, I served on the Highway Committee there for approximately six years before I was...or seven years before I was elected to the chairmanship of the board. And we...Buffalo County, as you know, is a very fast growing county. We are changing classifications and standards on our roads quite frequently. We have a lot of people from the urban side moving to the rural side, so they...of course, when they do that, they like to see the roads in the same shape as they were when they lived in the city. And so we do quite a little as far as changing classifications. We have a lot of subdivision applications every year, and that also would go in depth, really quite in depth into classifications and changing of standards in those situations. [PIERCE]

SENATOR STUTHMAN: Okay, thank you for those comments. Do you have a highway

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superintendent or...with your county? [PIERCE]

RICHARD PIERCE: Yes, we do have a highway superintendent. Our population has not reached 50,000 level yet, so we still have a highway superintendent, not an engineer per se. [PIERCE]

SENATOR STUTHMAN: And that highway superintendent has to be certified to do any of these things as far as the classifications and standards? [PIERCE]

RICHARD PIERCE: No, he's not necessarily certified in that. He is certified as a bridge inspector, so he serves a dual purpose there. But as far as him actually being certified, you know, he's got a good working knowledge of it there. [PIERCE]

SENATOR STUTHMAN: Thank you. That's probably the same as Platte County then where we have a highway superintendent that does those bridge standards and... [PIERCE]

RICHARD PIERCE: It's my understanding is once Buffalo County reaches the 50,000 level of population, then we go into an engineer. And that engineer would have to be certified in a lot more area. [PIERCE]

SENATOR STUTHMAN: Okay, thank you. [PIERCE]

SENATOR FISCHER: Other questions? Mr. Pierce, what do you think is the biggest challenge coming up for this board? [PIERCE]

RICHARD PIERCE: Well, I've been to one meeting. I was to the February meeting, and it was pretty much what I expected. I mentioned in Buffalo County, where we're dealing with a lot of subdivisions and a lot of the urban folks moving to the rural side, they are expecting roads to be built to the standards of what they are used to in town. And I see that probably as...and we had a couple of cases that came to the board in February, and they dealt with just that. And I think that that's probably going to be one the biggest challenges, because fighting terrain issues and everything, I know one subdivision that we dealt with in Buffalo County the people in the subdivision wanted the county to take over the roads as far as maintenance. And the county has certain specifications that they have to meet. And without going into any of those, it was going to cut into people's yards, and we would have to change grades and everything, and that wasn't what the people of the subdivision wanted. They wanted to keep the pristine level of their subdivision, so to speak. And so I see that as probably being the biggest challenge, we have...our terrain runs the gamut in Nebraska from being flat to pretty hilly, almost mountainous, I guess you might say. You know, dealing with those changes of standards and classifications in those instances, I think, is probably going to be one of the largest challenges that that board will face. [PIERCE]

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SENATOR FISCHER: I represent 13 counties, and I hear from county commissioners, county supervisors, regular citizens that they would like to have the state take over more of the county roads. Do you have an opinion on that? [PIERCE]

RICHARD PIERCE: My opinion is that we need to stay as local as we can with control and maintenance of those roads. I understand also sparsity of population and lack of funds to do what needs to be done. But, you know, my feeling is that it still needs to stay on the local...you say the state coming in taking over county roads, we are seeing it in our county as the county coming in, taking over the township roads. And all that is, is lack of funds available to those smaller political subdivisions. And I realize that it's tough. You know, it may be something that...I mean, we deal with the state taking over the assessor's offices, you know, because of some of the same reasons. So it may be something we have to move to in the future. But I am a real proponent of local control. And I think that once that's given up it's pretty hard to really have a good voice in it. [PIERCE]

SENATOR FISCHER: Okay. Other questions? I see none. Thank you for coming down today, Mr. Pierce. [PIERCE]

RICHARD PIERCE: You're welcome. [PIERCE]

SENATOR FISCHER: Appreciate it. [PIERCE]

RICHARD PIERCE: Thank you. [PIERCE]

SENATOR FISCHER: Is there anyone here wishing to speak in support of this nomination? Anyone here to speak in opposition to the nomination? Is there anyone who would like to speak in a neutral capacity? I see none. With that, I will close the confirmation hearing for Mr. Richard Pierce. Thank you. Our first bill up, I will open the hearing on LB415. And Senator Harms is here to introduce the bill. Good afternoon. [PIERCE LB415]

SENATOR HARMS: (Exhibit 1) Good afternoon, Senator Fischer and committee members. My name is John N. Harms, H-a-r-m-s. I represent the 48th Legislative District. Senator Fischer, thank you very much for giving me the opportunity to talk to you about LB415. This will be an adjustment in regard to our graduated drivers license law. I'd like to give you a little bit of background, if I could, before I actually go through the recommendations for you. The GDL was passed in 1998, and in 1998 in Nebraska there were 2,046 crashes involving 16 year olds that either were injured or killed. In 1998...the number has steadily declined, to 1,234 in '04. So what we did in 1998 made a big difference in regard to saving lives of teenagers. The rate of actual crashes not involving injuries also declined during this band of time, from 4,430 in '98 to 2,823 in '04.

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Nationally, drivers at the age of 16 through 19 have a fatality rate four times the rate of 25- to 69-year-old drivers. Forty-one percent of the teenagers motor vehicles deaths in 2003 occurred between the hours of 9 p.m. to 6 a.m. And the factors that were brought into this were driving is more difficult for teenagers at dark, not much practice, less patience, less practice, fatigue, and also during this time you have a high risk of behavior, which can be drinking or drugs that occur at night. Those are factors that have had an impact on 41 percent of these motor vehicles deaths in '03. The National Highway Safety Transportation Association has said that any state that has high restrictions or any restrictions on night driving reduces the death rate and the accident rate by 60 percent. So it's really clear that if you have the night restrictions on you do save lives, you have less injuries. There also was a study that compared Oregon, which has really a great, strong GDL program with Ontario, who doesn't have a very good program. And they found that they had crash rates among 16 year olds was nearly 50 percent less in Oregon. So there isn't any question that what we've done in the past, and what occurring nationally is important for us to make sure that we have a target here. But I think the most compelling thing for me was the fact that teenage drivers, when they have one passenger, almost doubles the fatality rate compared to driving by yourself; two or more passengers raises the risk five times as high as driving alone. In one of the handouts that I gave you, it's kind of an interesting one, I happen to read the Wall Street Journal, and on February 28 this year, '07, this was on the front page, and what it says, it's just a big sign, "What single factor increases the accident rate for teens by 300 percent? Two teens in an automobile. That's done by Toyota and some of the research that they have done. Let me take you down to just the six areas that I'm recommending some changes in the law and adjustments. (1) is that we extend the nighttime driving restrictions from 10 p.m. to 5 a.m. Still allowing exemptions for work and for school, and accompanied by an adult. Now, keep in mind that 41 percent of teenager motor vehicle deaths in '03 occurred from 9 p.m. to 6 a.m. Okay? The other thing I want you to keep in mind is that while only 15 percent of the miles are driving by teenagers at this time, 40 percent of the fatality crashes occur at this time. And one of the other figures that I gave you earlier, just to repeat it is, the states that have strong laws on nighttime driving reduces fatal accidents and crashes by 60 percent. So there isn't any question about the time that you start and the time you close this down, it has an impact on kids. (2) that I would recommend is for the first six months of holding the provisional permit the driver may not have one passenger...can only have one passenger who is under 21 years of age who is not a family member. So that doesn't prevent them from having their brothers and sisters going with them and taking them back and forth to school. But it's really clear when you see something like this and you look at the rest of the data, and probably other people that will testify about what really happens to you. It's very distracting with kids when they have other young kids in the car with them. (3) a driver may not obtain a provisional permit unless he or she has successfully held the learners permit for at least six months, and that's with no moving traffic violations. And (4), to obtain an unrestricted license before the age of 18, the driver must have successfully held the provisional permit for one year, again with the

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same restrictions; as long as you don't have any moving violations. (5) I would recommend that we add 10 hours of nighttime driving to the 50 hour limit. Currently, teenagers must go through a drivers' safety, drivers' ed program to gain driving experience, or complete a log of at least 50 hours with an adult and driving with an adult. And (6), make it illegal for a teen to use wireless electronic communication device while driving during any stage before the unrestricted license stage. This would also include school permits. In the bill I have listed out all those kind of devices, it's just not cell phones, there are a whole series of things that cause difficulties for students that I think are critical for us. One of the other things that I gave out to you, and there's a couple of things I'd just like to bring to your attention so that this might be easier for you when you finally decide your debate what you want to do, one is the key factors regarding teen drivers. I hope you'll take a minute to look at this, it really spells out some very, very good things, some things that will get your attention that I think the research has brought forward. It also give you some comparison here also on teen driving and what other states are doing, so you'll have a chance to go down and say, are we being more restrictive? What's really occurring nationally. At least it gives you some idea of where we are in this state of Nebraska. Then I also gave you a test. You know, being in education, you can never get away from testing. I hope you'll just take a few minutes to take this test. The answers are on the back, and just see how good you are. In fact, I missed a couple of these, I hate to admit that, when I first looked at it and read through it. I didn't do real well. And so I'd like to have you at least review that. And, Senator Fischer, are there any questions now? [LB415]

SENATOR FISCHER: Thank you, Senator Harms. Are there questions? Senator Mines. [LB415]

SENATOR MINES: Thank you, Madam Chair. Senator Harms, it's the enforcement part of LB415 that is a challenge. We're placing enforcement of stricter or a more strict statute. And how are law enforcement officers to determine if a child is 16 or 18? I mean, do you know where I'm coming from? [LB415]

SENATOR HARMS: Yeah, I know. You know when I looked at that, Senator Mines, it doesn't make any difference than what they do not. It's the same thing. [LB415]

SENATOR MINES: Yeah. [LB415]

SENATOR HARMS: And so my thoughts are, at least our young people know that we have these restrictions, most kids will follow that. And it does waiver school activities, waivers work and adult. [LB415]

SENATOR MINES: But do you view it as a deterrent? [LB415]

SENATOR HARMS: Yeah, I don't see that as a real issue from the folks I've spoken to

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in law enforcement. [LB415]

SENATOR MINES: Okay. [LB415]

SENATOR HARMS: They don't seem to think that that's a real issue. The thing that I hope that we'll keep in mind as you review this, and as a committee, as you know, you can adjust this however you like. [LB415]

SENATOR MINES: Right. [LB415]

SENATOR HARMS: I just want to get it out, because I think it's important. Make the changes that you think...or make it better. I don't have any ownership in any of this. I just think it's important that we save lives and that we make a real attempt here to address the issue of youth. And I know some of the criticism you'll have is, what about double dating, what about cell phones, what about legislating parenting? Well, you know what? I think sometimes we have to do these things. I think we have to say, these are the issues and these are the things that are killing you as teenagers, and these are the things that we're going to try to correct and make it more difficult for you. I have grandchildren. I'd be very happy to see this enforced when it comes forward because I think it's that important. [LB415]

SENATOR FISCHER: Other questions? Senator Louden. [LB415]

SENATOR LOUDEN: Yeah. Thank you, Senator Harms, for bringing this forward. There's always questions on how we handle these youngsters with their drivers' license. Somewhere in here, I haven't been able to find it today while I was looking, but do you know when a school permit isn't valid anymore for a person? Is it when they turn 16 or how that works? [LB415]

SENATOR HARMS: You know, I don't know for sure. I don't think...it's not in here, I don't think. [LB415]

SENATOR LOUDEN: No, it isn't in here. [LB415]

SENATOR HARMS: I just don't know. I wish I could answer that question. [LB415]

SENATOR LOUDEN: Okay. But it's my understanding that when you have a school permit, on your 16th birthday it's invalid. And...because I've brought this up before and the Department of Motor Vehicles says, well, you can go ahead and get a provisional operators permit 60 days before you're 16. But then you don't get that permit until the day you are 16. What we run across, out there in the western part of the state, is kids birthdays come during the week sometimes, and the drivers' license examiner doesn't show up until the next week or something like that. So actually there are about three, or

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four, or five days where there can be a length of time in there that they don't have any kind of permit, mostly because it isn't available. And I'm wondering if some of that needs to be addressed in this bill, too? [LB415]

SENATOR HARMS: Yes, Senator Louden, you could cover that in the bill. I don't think that would be an issue for us. [LB415]

SENATOR LOUDEN: But it's been like that, as far as I know, for several years. Most everybody just gets by and everybody overlooks it. But nonetheless,... [LB415]

SENATOR HARMS: Yeah, and the issues are different for rural America. You're right, they don't have examiners there all the time. So I understand that. [LB415]

SENATOR LOUDEN: So if we find something like that in there it can be addressed? [LB415]

SENATOR HARMS: I have no problem with that. I said before... [LB415]

SENATOR LOUDEN: Either to make a school permit...all they'd have to do is make a school permit valid until they're 16.5 years old or something like that, that's all that would have to be done. [LB415]

SENATOR HARMS: Yeah. I would say to you as a committee, and I've said this before, Senator Fischer, you make this whatever you feel is good. I would be very comfortable with it. If it makes it better and saves lives, I'll support it 100 percent. I think that's important. [LB415]

SENATOR LOUDEN: Okay, thank you. [LB415]

SENATOR HARMS: Thank you. [LB415]

SENATOR FISCHER: Other questions? I see none. [LB415]

SENATOR HARMS: Senator Fischer, I apologize, but I'm not going to be able to close today because of some of the hearings that we have in Appropriations Committee. So thank you very much. [LB415]

SENATOR FISCHER: Okay, thank you, Senator Harms. Would the first proponent, please step forward. Good afternoon. [LB415]

STEVEN CHEALANDER: Good afternoon, Madam Chair. [LB415]

SENATOR FISCHER: I would remind you we're on the light system now, so we'll give

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you two minutes, and then the yellow light comes on, and then you'll have another minute, and then the red light comes on. Thank you. [LB415]

STEVEN CHEALANDER: (Exhibits 2 and 3) I'll hustle. Thank you, members of the Transportation and Telecommunications Committee for allowing us to speak today. Pardon my voice. I had a little reaction to something this morning, and I'll try to get through this. If not, I can let my able assistant continue. My name is Steven Chealander, that's C-h-e-a-l-a-n-d-e-r, first name is Steven, S-t-e-v-e-n, and I am a member of the National Transportation Safety Board. I appreciate the opportunity to speak to you today and talk about our recommendations for young, novice drivers as one our most wanted transportation improvements. I first want to commend Nebraska. You have implemented several elements of the boards recommended three stage graduated drivers licensing, or GDL system. But LB415 would take a good law and make it better by imposing a mandatory minimum holding period for learners' permits, requiring additional supervised driving practice during the learners' permit phase, requiring the driver to remain violation free for six months before graduating to the next phase, and extending the nighttime driving restriction. Beginning drivers should be provided the maximum time to practice under the safest possible real world conditions. These are critical elements for the GDL law. And I have included additional information in my written statement as well. I will focus the remainder of my remarks on the proposed passenger and cell phone restrictions. In 2002, the Safety Board added a passenger restriction to its original GDL recommendation after investigating several crashes and reviewing new research. As the board determined the presence of teen passengers can adversely influence the risk-taking behavior of teen drivers leading to crashes, the risks increase with each additional passenger, carrying at least three teen passengers results in a three-fold increase. And as Senator Harms said, if you have more than that, it's a five-fold increase. One Nebraska accident investigated by the board provides a tragic picture of what can happen when teens travel with teens. On May 8, 2003, a 1999 Toyota occupied by five teenagers was traveling northwest of Omaha, Nebraska. The vehicle traveling at 90 miles per hour crashed after the driver lost control. All five teen occupants were unrestrained and ejected from the vehicle, three occupants were killed, and the driver and one other passenger suffered serious injuries. In 2003, the Safety Board completed its investigation of a Maryland crash that highlighted the need for state laws to protect young, novice drivers from additional distractions such as cell phone use. Research has shown that wireless telephones can decrease situation awareness and increase reaction time. Safety Board accident investigation of several transportation modes have documented this relationship. Having passengers and access to communications in one vehicle can be valuable, but young, novice drivers in particular should attend only to the task of driving. The board recommends that these drivers should not carry more than one teen passenger, unless supervised, and should not use interactive wireless communication devices while operating a vehicle. Teen drivers themselves indicate that laws work. In another recent study, teen drivers stated that legal prohibitions against the various limitations on cell phone use were among the top

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four motivations that teens said could keep them from using their cell phone while driving. I urge you to approve LB415 in order to save both young lives and the lives of others involved in crashes with young drivers. Thank you again for providing me the opportunity to testify today on this important initiative. I'd be happy to answer any questions. [LB415]

SENATOR FISCHER: Thank you, Mr. Chealander. Senator Stuthman. [LB415]

SENATOR STUTHMAN: Thank you, Senator Fischer. Steve, you mentioned about the one accident where they were driving 90 miles an hour. [LB415]

STEVEN CHEALANDER: Yes. [LB415]

SENATOR STUTHMAN: Just because they had three or four people in the car, the issue, in my opinion, would have been speed would have been the cause of the accident. Shouldn't we be working on more trying to teach the drivers the responsibilities of driving? I mean they shouldn't have been going over 60 to start with, plus, you know, they had kids in the car. And, yes, it's a distraction, but should we just be working on, you know, not allowing kids in the car, or should we be working on education of teaching the driver the responsibility for the other people? [LB415]

STEVEN CHEALANDER: Well, there's obviously multiple causes in an accident of this nature. But the thing that we're trying to get at that we've seen evidence of is the distraction issue. The two major distractions for teen drivers is passengers in the car, other teen passengers in the car, and cell phone usage. And that's the focus. Now why the teen was driving 90 miles an hour and not knowing better than that, possibly distracted from knowing what is right. There's a lot going on in a car with a bunch of teenagers, and that's what we're trying to get at is to eliminate that distraction, give them more opportunity to practice. Gain the experience they need to be good drivers, and then proceed from there and carry all the passengers they want at that point. I see your point, but there are multiple causes in this. Yes, speed is definitely a factor, but they lost control for some reason. And the reason could have been that they were distracted, more than likely was. [LB415]

SENATOR STUTHMAN: Do you feel that if we pass legislation to ban cell phone use, it...how can it be policed or how are we going to get control over that? I mean they're going to use them and unplug them. [LB415]

STEVEN CHEALANDER: Well, you know, that's a good question. And the question over here earlier on enforcement goes along those lines. Our purpose is to, I think, with these types of legislative acts is to help parents parent. And I think...I've got some friends that I've talked to here recently out in California, for instance. And California has this graduated drivers' license law. And they are practicing it as parents because they

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know it's the law, for one thing, but they also know it has the possibility of saving their teenagers life. And that's the devastating part of this, that we, I think often times lose sight of, there's a human aspect to this. We look at it from the standpoint of convenience and personal rights and so forth. But when it comes right down to it, losing a teenager is a devastating thing for the community and it's devastating for the families and so forth. And I feel that the legislation such as yours, or Senator Harms' bill today, is going to empower the parents to make sure that their teens are not using cell phones and they're not driving other teens around in the car. The enforcement part of it is difficult, it's like primary seat belt laws. You know, how does a police officer stop you? Probably for some other reason and then determines that you were violating another law in the mean time. So I think what we're trying to do here is help parents be parents and save their teenagers lives. [LB415]

SENATOR STUTHMAN: I respect your comments there. I, personally, feel that the only way that we're going to be able to adopt something where you can't use a cell phone in an automobile will have technology come up with something between the cell phone company and the automobile company that the minute a cell phone opens up and you make connection the car kills. [LB415]

STEVEN CHEALANDER: Um-hum. (Laugh) [LB415]

SENATOR STUTHMAN: Then it would be done. So thank you. [LB415]

STEVEN CHEALANDER: Yeah. Thank you. [LB415]

SENATOR FISCHER: Other questions? [LB415]

KEVIN QUINLAN: If I could, Senator Stuthman, my name is Kevin Quinlan, Q-u-i-n-l-a-n. There actually is technology being developed to stop a cell phone call from going through when a person is driving a car. That's going to be tested in the next year. And it will be operated out of the service providers facility, basically. It's an add-on. It's like having voice mail. And this will be another measure. But I wouldn't expect to see that in general use for perhaps eight to ten years. The other thing that I would like to point out, Mr. Vice Chairman, is that education is good, but it doesn't make a safer driver, it just teaches a young person how to pass a test. And as we have looked into that issue in great depth, and we've asked the national level organizations to develop a new driver education program using new technology, how teenagers learn, and to build it from scratch, because the 30 and 6 program does not work in terms of reducing crashes. [LB415]

SENATOR FISCHER: Other questions? I have a couple questions, please. How does Nebraska's current law compare to the other states around us? [LB415]

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STEVEN CHEALANDER: Well, Nebraska is one of six states that doesn't have the cell phone restriction or the nighttime restriction of 10 o'clock, which is in this bill. And let's see, I've got a chart here that tells me what you might have. Let's see Nebraska has a partial GDL system, as you know. It does have a nighttime restriction, however it's midnight. The change would be to 10 o'clock, which research shows is the most volatile time for accidents. Actually, they're showing 9 to midnight is the time when most teen accidents would occur. And then there is no passenger restriction and there is no cell phone restriction in Nebraska. And there are 35-plus states that have passenger restrictions, plus DCME, and there are 14 states that have cell phone restrictions plus the District of Columbia. And we were looking for a map earlier. We have a map here that just kind of shows some pictures that you may want to pass around. And it shows the comparison of a couple of things. You can show all these, if you like. [LB415]

SENATOR FISCHER: So how does Nebraska compare to South Dakota, Iowa, Kansas, Missouri, Colorado, Wyoming? [LB415]

STEVEN CHEALANDER: South Dakota has a nighttime restriction that meets our recommendation as opposed to Nebraska. And what was the other one? [LB415]

SENATOR FISCHER: Kansas. [LB415]

STEVEN CHEALANDER: Kansas, Kansas has a partial, as Nebraska, GDL system, has no nighttime restriction, no passenger restriction and no cell phone restriction. [LB415]

SENATOR FISCHER: What about Iowa? [LB415]

KEVIN QUINLAN: If I could add, Madam Chair. [LB415]

SENATOR FISCHER: You have to introduce yourself again. [LB415]

KEVIN QUINLAN: Kevin Quinlan, Q-u-i-n-l-a-n. The bill in Kansas that is virtually identical to what's proposed here today has passed the House in Kansas. I don't know that it's going to pass the Senate. I can't prognosticate. But Kansas is taking action. [LB415]

SENATOR FISCHER: And how many states did you say have the cell phone that...I'm looking at this right now. [LB415]

STEVEN CHEALANDER: Thirty-five, no, I'm sorry, 14. I was looking at the past year. [LB415]

SENATOR FISCHER: Is that...I'm not counting on the map, is that full or partial

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restriction, or both, 14 for both? [LB415]

STEVEN CHEALANDER: That would be...if we say 14, that's 14 that comply with the recommendation as we have it outlined. [LB415]

SENATOR FISCHER: Okay. [LB415]

STEVEN CHEALANDER: We, the National Transportation Safety Board. [LB415]

SENATOR FISCHER: Can you tell me when a lot of these restrictions went into effect. How long they've been in law, the nighttime driving and the cell phone restriction, passenger restrictions? How long has they been in law, in other states? [LB415]

STEVEN CHEALANDER: I don't know if I have that or not. [LB415]

KEVIN QUINLAN: Kevin Quinlan again, Q-u-i-n-l-a-n. The nighttime driving restriction in perhaps as many as a dozen states, and please bear with me because I'm doing this right off the top of my head, trying to remember what it was like 25 or 30 years ago. But I believe there was about a dozen states had a nighttime driving restriction. That was as much as 30 years ago. In the last 15 years, the remaining 20 states have added a nighttime driving restriction. And every year we see more states adding nighttime driving restrictions because it has face validity. And beyond the face validity, it has proof, statistically, because other states have evaluated it and found it to work. The second part of your question, Madam Chair? [LB415]

SENATOR FISCHER: I forgot. I must have just had one part. [LB415]

KEVIN QUINLAN: I think it was passenger restrictions. The board recommended graduated drivers' licensing to the states. We asked the states to consider it 14 years ago. At that time there was no research on passenger restrictions, no states had done anything on it. In 2002 we had enough states with experience, and we had enough crashes we had investigated where we determined that that was an effective measure for states to consider. So to directly answer your question, it's certainly within the last ten years that states have moved to passenger restrictions, and it's been found to be very effective. [LB415]

SENATOR FISCHER: With the passenger restrictions, what have you seen for changes in fatalities for teenagers in the states that have restrictions on the number of passengers? What's the...do you have an overall average? [LB415]

STEVEN CHEALANDER: Yes, ma'am. Steve Chealander again. We are using a figure, and I've said this a couple of times today, but it's in the vicinity of a 40 percent reduction in fatalities from graduated drivers' licensing, and that's for 16 year olds. And that rate

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will change with 17 and 18 year olds as well. But 16 is the focus group of GDL's, and 40 percent reduction in fatalities. [LB415]

SENATOR FISCHER: Is that reduction with all of your recommendations or just with the passenger restrictions? [LB415]

STEVEN CHEALANDER: That's with all of the recommendations of GDL. [LB415]

SENATOR FISCHER: Okay, thank you. Other questions? Senator Stuthman. [LB415]

SENATOR STUTHMAN: Thank you, Senator Fischer. Have you got any statistics on accidents from kids use that have the school permit, like from 14.5 to 16, and then 16 to 18 years old? Are there... [LB415]

STEVEN CHEALANDER: No, sir. [LB415]

SENATOR STUTHMAN: Are there more, you know, you don't have any...what I'm thinking is, you know, sometimes if a person is a little bit younger they fear the automobile compared to an older person driving and taking more chances. [LB415]

STEVEN CHEALANDER: I see. You know, specifically, our statistics cover the area that GDL covers. So we haven't done a specific study or seen a study that's been on 14 year olds that have the agricultural permit. [LB415]

SENATOR STUTHMAN: Okay, thank you. [LB415]

SENATOR FISCHER: Other questions? I see none. Thanks, both of you gentlemen, for coming in from Washington, D.C. today to provide us with some information, appreciate it. [LB415]

KEVIN QUINLAN: Thank you. [LB415]

STEVEN CHEALANDER: Thank you. [LB415]

SENATOR FISCHER: Next proponent, please. Welcome. [LB415]

SIMERA REYNOLDS: (Exhibits 4 and 5) Hello. Senator Fischer and members of the committee, my name is Simera Reynolds, S-i-m-e-r-a Reynolds. R-e-y-n-o-l-d-s, and I'm the executive director for Mothers Against Drunk Driving in Nebraska. MADD would like to thank Senator Harms for bringing this bill to your attention. MADD supports the components in LB415. And this bill will help bring our state into alignment with federal guidelines. Graduated drivers' license program reduces, by an average of 11 percent, the incidence of fatal crashes for 16-year-old drivers, according to a research study

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done by Johns Hopkins Bloomberg School Public Health Center for Injury Prevention and Research. Annually, there's over 11,000 16-year-old drivers that are involved in fatal crashes in the United States. And traffic injury is the leading cause of death for our young people. In Nebraska, in 2005, 36 young adults 19 years of age and under died in a fatal crash; and in 2006, there were 43 young adults 19 years of age and younger who died. That's an 8 percent increase from 2005. For MADD these numbers represent close to 20 percent of all fatal crashes. And we feel that we can just do better to protect our youth. Moving our young drivers into driving at a slow and steady pace, helping them to be responsible drivers on the road will save lives and involves very little cost to the state to implement. The graduated drivers' license program has been proven to be effective, and Nebraska can only benefit by the measures provided in LB415. MADD knows all too well the human loss that a traffic crash takes on a family, our communities and our state. On behalf of MADD and our members across the state, I'd like to ask for your support for LB415 and send this bill to the floor for debate. Just on an aside, since there's been so much conversation about cell phones, the other day I had the opportunity to talk to three schools in Buffalo County, via satellite, over at the Nebraska Department of Education. And I was talking to them, you know, about LB415 and about cell phone usage. And in that room there was approximately 20 kids in each class, 60 kids, I asked how many of them had ever used a cell phone when they were driving a car. All of them raised their hands. And that really wasn't a big surprise to us. But when I asked more importantly, how many have received a text message they all raised their hands. And then I said, how many have replied back by text messaging, and two-thirds of them, including some adults, said that they had. And I really think that when we're talking about cell phones, we have to go above and beyond just talking on the cell phone and thinking how their text messaging, trying to drive, listening to the radio and have multiple passengers in their car. And if you think they're not doing it, well go ask your friends and neighbors, because they really are, I mean they're doing it. So I think they haven't thought about the consequences. And I think if we ask them not to do it, they might reconsider what they're doing. So that's my soap box for the day. Any questions? [LB415]

SENATOR FISCHER: Thank you, Ms. Reynolds. For the day? Now you can give us more than that. Any questions? I have a comment on your testimony that you presented here. You have in 2005 we lost 36 young people. [LB415]

SIMERA REYNOLDS: Correct. [LB415]

SENATOR FISCHER: In 2006 we lost 43, yeah 43, an 8 percent increase. The current law we have went into effect in 1998. Can you explain why there was a jump? Or just from your own experience, your own ideas on why there was that 8 percent increase? [LB415]

SIMERA REYNOLDS: Well, I know that, not to be taunting you, but... [LB415]

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SENATOR FISCHER: Back on your soap box. [LB415]

SIMERA REYNOLDS: Back on my soap box, 20 percent of the 43 fatalities were alcohol related. And that runs true that the majority on average, you know, 20 percent of those fatalities that we're looking at that are involving young people, probably are going to involve alcohol. That's just a rule of thumb. I mean from year to year that's going to vary. But I know for sure in those two years, 20 percent, about 19.81 a year, and I think it was 18.7 another year, but approximately 20 percent of them were alcohol related. So if we have 43, and you take out 8 that were alcohol related, and some of them could have been riding with the driver or they could have been in a single car. [LB415]

SENATOR FISCHER: Do you know if there's any statistics that Nebraska has...do we keep track of accidents that happen because of distractions, whether it's cell phones or... [LB415]

SIMERA REYNOLDS: Yes. Senator Landis introduced a piece of legislation, and Senator Aguilar, you can help me out, because I can't remember exactly, but I know Senator Landis introduced a piece of legislation...were you a freshman senator then? I think it was for two years, and then I don't know, did the sunset come up on it? But there was...the accident forms were recreated. And I don't know all of it, but I know that there was a tracking measure put in place for a little bit to ascertain whether or not some of the motor vehicle crashes were cell phone related. [LB415]

SENATOR FISCHER: Okay. [LB415]

SIMERA REYNOLDS: Yeah, Senator Pedersen you've been here, and Senator Hudkins, you've been here long enough. (Laugh) I just can't remember when, but I know that there was something put in place. But since we're not Mothers Against Cell Phones, I haven't been tracking it. [LB415]

SENATOR PEDERSEN: I remember that, I remember that. [LB415]

SENATOR FISCHER: Okay. Any other questions? Senator Louden. [LB415]

SENATOR LOUDEN: Yes. As your organization, if we do pass legislation as a graduated drivers' licensing program, will your organization then push to have lower insurance premiums for these people, this age group? [LB415]

SIMERA REYNOLDS: Okay. Go slower. No, okay, would Mothers Against Drunk Drivers support lowering premiums for individuals that are... [LB415]

SENATOR LOUDEN: This age group of people, if we have this graduated driving

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program put in place then, and we're going to have a lower reduction in fatalities and that sort of thing, then wouldn't it follow then that they should have lower premiums, insurance premiums for this age group? I'm wondering if your organization would be willing to support something like that? [LB415]

SIMERA REYNOLDS: Well, can I call MADD national and get back to you on that? I mean I can talk about Nebraska, but I'd have to get to State Farm, and Allstate, and American, and... [LB415]

SENATOR LOUDEN: It would be whether your MADD organization would support it, that's what I'm asking. [LB415]

SIMERA REYNOLDS: Well, and I'd have to talk to my policy people. [LB415]

SENATOR LOUDEN: Okay, good enough. [LB415]

SIMERA REYNOLDS: And I can get back to you on that. [LB415]

SENATOR LOUDEN: That would be fine. [LB415]

SIMERA REYNOLDS: Yeah? But we support, you know, the insurance as far as you have a good report card and your insurance is lower, we support that concept. And I would think that that would fall in line with this. [LB415]

SENATOR LOUDEN: Good enough. [LB415]

SENATOR FISCHER: Not to beat a dead horse, but do you know that not all insurance companies lower insurance for young people if they are on the honor role, if they don't...they don't lower it if they have...well, they used to take the drivers' ed training classes and things. [LB415]

SIMERA REYNOLDS: Right. But they don't all... [LB415]

SENATOR FISCHER: It would be nice if your organization, following Senator Louden, would definitely push to get some rewards there. [LB415]

SIMERA REYNOLDS: So is that a Mothers for Better Insurance Premiums? [LB415]

SENATOR FISCHER: Yeah, lower, lower insurance premiums, that will work. Other questions? Thank you, Ms. Reynolds. [LB415]

SIMERA REYNOLDS: All right. [LB415]

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SENATOR FISCHER: Next proponent, please. Welcome. [LB415]

JEFF BLIEMEISTER: Thank you. Senator Fischer, members of the Transportation and Telecommunications Committee, thanks for the opportunity to testify in front of you. I'm here on behalf of Mothers Against Drunk Drivers where I serve as the public policy chair. I'm also a sergeant... [LB415]

SENATOR FISCHER: Could you state and spell your name, please? [LB415]

JEFF BLIEMEISTER: Jeff Bliemeister, B-l-i-e-m-e-i-s-t-e-r, and it's J-e-f-f. [LB415]

SENATOR FISCHER: Thank you. [LB415]

JEFF BLIEMEISTER: I'm also a sergeant with the Lancaster County Sheriff's Office, here in Lincoln, Nebraska. In that capacity I serve both the densely populated area of Lincoln, Nebraska and also several smaller surrounding communities that are within the confines of our borders. All of the elements of LB415 have been pretty much hashed out and so, hopefully, I can provide all of you with some practical insight from an enforcement perspective on some of the questions that you posed to other people that have testified. So with that, I'll open it up for any questions that you all may have. [LB415]

SENATOR FISCHER: Thank you, Mr. Bliemeister. Any questions? Senator Stuthman. [LB415]

SENATOR STUTHMAN: Thank you, Senator Fischer. Jeff, do you sheriff or you police small communities around Lincoln then? [LB415]

JEFF BLIEMEISTER: We do, yes, sir. All of our jurisdiction lies within the confines of Lincoln, Nebraska, but also all of the surrounding communities. And so as a primary law enforcement agency we're outside the city limits, but within the confines of Lancaster County, several small towns--Hickman, Waverly, Panama, Sprague, Malcolm, that's just a few. [LB415]

SENATOR STUTHMAN: Do you find...is there any difference between the youths that come with a rural background in driving as compared to nonrural background? [LB415]

JEFF BLIEMEISTER: I, personally, have not found that. Although, there tends to be much more experience from people that live on a farm, not necessarily within the confines of one of those cities that I just mentioned, because they've driven as part of their parent's farming operation, legally or illegally for a number of years. And so they do have the experience. Now whether or not translates into a reduced number of accidents or fatalities I can't answer that question for you. [LB415]

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SENATOR STUTHMAN: Thank you. [LB415]

SENATOR FISCHER: Other questions? I see none. Thank you very much for being here today. [LB415]

JEFF BLIEMEISTER: Thank you. [LB415]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB415]

SANDRA KOSCH: (Exhibit 6) Good afternoon. My name is Sandra K. Kosch. Kosch is K-o-s-c-h, Sandra S-a-n-d-r-a. I am a wife, a mother and a grandmother. Today I'm here mostly as Whitney's mother. Whitney, 15-years-old, is my third daughter. I'd like to share her story. Whitney is a good kid, just like your kid, maybe your grandkid, your neighbor's kid. She's a little girl that had two sisters, they were older than her. The older sister's helped raise her as well as she was the older sister to a younger brother, by two years. She was the little girl who was so healthy and so active. In grade school Whitney did all the things kids do. She was on the town's teams. She was on the T-ball, the softball, the basketball, 4-H, Girl Scouts. In junior high she served as a girls manager to the high school teams. In high school, last year, Whitney was on the honor roll, volleyball team, the girls basketball team, the track team, and she was so proud to have placed third at the district meets, running that 3200 mile relay. Whitney was a member of the school band, the chorus, the FBLA, speech team, and she was selected for the cheerleading squad. She was a member of our local church and the youth group there. Whitney had grown so tall, she was nearly 5 foot 11 inches. She wore a size 1-2, and her jeans measured something like 26 inches by 36 inches. And her dad would always tease her that most people had the reverse for their size of pants, the 36 inches by 26 inches. She began her modeling school as well, and it was an hour's drive both ways, just to attend the class, but she loved it so much. She was a busy girl, but she still had time to baby-sit her nieces, her nephew, and she worked also at the local grocery store in town. She was so organized. If her classmates needed to finish a project and they didn't have the Internet, Whitney invited them to our house and the project got done. If there was a joint project, kids came over, the project got done. Last winter, she even had the whole class come over because they were working on a class sign. One of the mom's came up about a week later, well, didn't all those kids just about drive you crazy? And I said, well, no, it was fun watching. Some of the kids were there to work, some of them were there to lead, some of them were just watching, and others only came. I said to that mom, it was fun to watch, and you know these kids will be leaving us and it will be before we are ready. I did not know how true that statement would be for us. It was 41 weeks and 2 days ago. It was the first day of summer. Whitney cleaned her home, her girlfriend came over and Whitney came up and said, Mom, I think Beth is going to eat supper with us. I replied, well, there's always one for another one at our table, and the girls sat. We went ahead and visited, the girls giggled, they talked about their

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cooking skills, and Whitney...Beth said, Whitney, you're our little Betty Crocker. And Whitney said, oh thank goodness for the 4-H. I do not remember and I cannot recall what we ate, but after eating I know Whitney said, Mom, you know it's fun to hang out with kids our own age. And I said, well, Whitney Mae, where is this leading us? And both girls giggled and said, Mom, why don't you take us over to Sam's, Samantha's house, we want to watch videos. I will forever remember that I drove those girls to their best girlfriend's home, it was eight blocks from the safety of our home, Whitney's home. As the girls got out of the car, Whitney turned and said, well, thanks, Mom. And I said, I'll see you at 11, call. Whitney had been given that 11 o'clock curfew because she was now a sophomore. Whitney was always on time for her curfews. She always called us for her ride home. It was 11:50 p.m., the call came, but it was not from Whitney, it was from one of her friends. Some have described it as a nightmare, but it is not. You see, we're not asleep, we cannot wake up from this, it is real, we have lived these 41-plus weeks. We were told Whitney was in an accident, she was being airlifted to a hospital. Our first thought, how can that be? She's watching videos. The details, the information, they were shared with us. A boy had come to see her best friend. He said he would give Whitney a ride to our home. They left that house at 10:40 p.m. He and the best friend were in the front seat, Whitney was in the back. The vehicle went past our home. I do not understand, I will never know why, but at 10:45 p.m. a second vehicle struck the boy's car as it was turning toward our home. For eight hours Whitney fought to stay with us, but her injuries were way too serious, too massive. I cannot find the words, I will never try to describe what we felt, what we saw. Our precious baby girl, she slipped away, she lost her battle to live. I will not forget the machines, the procedures, the monitors, the nurses, the doctors, the blood, the tubes, the noise in the trauma center. They were all there trying to save our child, Whitney Mae. Finally, the head of the trauma unit came. He said, we need to talk, Whitney is not going to make it. We were asked, did Whitney ever talk about being a donor? I remember saying, she's just a child, why would she talk in such a way? What we saw that night no parent should witness, let alone her siblings. They were 32 through 13 years old. Our Whitney did go on to give the gift of life to six strangers. Those fortunate people received a second chance. I used to think everyone got a second chance. It is said that when a spouse dies, you're a widow; when your parents die, you're orphans. But when a child dies, there's not a word to describe that, it's too horrible. Our world is turned upside down, it will never be the same, it will never be normal. We miss our child so, so very much. You will never know what we feel. And I pray that none of you never will. I have lived in Shelby for nearly 40 years. It is a small community, 600-plus people. We have few shops, few businesses, few streets, few changes have occurred over the 40 years I've been there. But yet I remember Deanna Hopwood 1978, Steven Kubicek and Darin Hopwood a brother to Deanna Hopwood in 1987, and Jason Schmoker in 1990, and now my Whitney Mae in 2006, all these children, they were lost to traffic accidents while being involved with a young driver. What talents, abilities and gifts did these young people possess? We will never know what could have been. Our families, the friends, communities, our great state and our nation have lost treasures. Shelby is only one community in Nebraska.

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What losses have the many other villages, towns and cities suffered due to traffic accidents? What can be done to protect our children? The story I shared today, it comes from my heart. Forty-three weeks ago I would not have known I was going to be here. I ask that you do not let my Whitney Mae become just a number of your statistics, one of the people, the young people who were killed in a traffic accident. Instead, I ask that you give that death meaning. You have the power to make a change. You have the power to support LB415, and when you do know that none of us will really know how many people we have protected, how many people and children you have saved each day. But when I go and prepare supper, as I always do for my family, and I listen to that evening news, and at night when I do not hear the name of Deanna, or Steven, or Darin, or Jason, or Whitney, or any other child that was killed in a traffic accident, then I will know that you have saved a life, you have saved a child, and you will have spared the family, the people in the community, the friends of that child from the pain that I feel and live every day. Thank you. [LB415]

SENATOR FISCHER: Thank you, Mrs. Kosch. We certainly extend our sympathies to you on the loss of your daughter. [LB415]

SANDRA KOSCH: Thank you so much. [LB415]

SENATOR FISCHER: Are there questions? Senator Stuthman. [LB415]

SENATOR STUTHMAN: Thank you, Senator Fischer. And thank you for your testimony. Can you tell me a little bit about what were the ages of the person that was driving the vehicle that the fatality was in? What...the driver of the other one? [LB415]

SANDRA KOSCH: The age of the child was 17, and from the information we were given he had pulled out in front of a pickup truck that was traveling toward him. I do not understand why he did not see it. I do not understand why it occurred. We were told if he would have been two seconds faster, two seconds slower, he could have avoided the collision. [LB415]

SENATOR STUTHMAN: Was your daughter the only one that was injured? [LB415]

SANDRA KOSCH: She was killed. She was the one that was injured. The other two walked away without a scratch. [LB415]

SENATOR STUTHMAN: Sorry to hear that. Thank you. [LB415]

SENATOR FISCHER: Other questions? I see none. Thank you very much for being here today. [LB415]

SANDRA KOSCH: Thank you. [LB415]

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SENATOR FISCHER: Next proponent, please. Good afternoon. [LB415]

LAURIE KLOSTERBOER: (Exhibit 7) Good afternoon. Thank you, Senator Fischer, and members of the Transportation and Telecommunications Committee. My name is Laurie Klosterboer, L-a-u-r-i-e, last name is K-l-o-s-t-e-r-b-o-e-r. I the executive director for the Nebraska Safety Council. We are a private, not-for-profit organization. We're also a chapter of the National Safety Council. And we've been providing traffic education since 1961. We also teach teens how to drive behind the wheel. Last year we taught 1,400 students how to drive behind the wheel through our program, which is located in various communities across Nebraska. This bill we are here to support today. We feel it is very important. The information that I'm passing out, I, from the Nebraska Department of Motor Vehicles, was able to obtain the statistics showing what has happened with 16 and 17 year olds in all crashes, and also then just in fatality and injury crashes since the...before graduated licensing, and then starting with the graduated licensing law in 1999. So you will see that law has made a great difference in the reduction in injuries and fatalities. But we can do a lot better. And with that, I think one of the ways that we can do that is the cell phone restriction for novice drivers, simply because they are trying to learn how to drive, and they don't need any other distractions when they are learning how to drive. The other is the passenger restriction, because we know from research that has shown that if they have less people in the vehicle and they get some time by themselves to be learning to drive, that that makes a difference as far as our teen drivers as well. The last item that I've also included is a Teen Driver, it's A Family Guide to Teen Driver Safety which we have been utilizing to try and also talk to parents about the important role that they play in the effort of teen driving, and how they are crucial to be involved in this process. This was put together by the National Safety Council and various partners. And really it's based on solid research of what the issue is with teen driving, and it's really put into a laymen's term, not the educational research aspect. So it's very easy to understand. Certainly, if you have someone that you'd like to pass that out to, that maybe you don't have teenagers anymore, but you have children who have teenagers or what not, please utilize this. It's got great information. And I would be happy to answer any questions that you might have about the proposed legislation. [LB415]

SENATOR FISCHER: Thank you, Ms. Klosterboer. Any questions? Senator Louden. [LB415]

SENATOR LOUDEN: Do you think that schools should go back to doing drivers' education courses? [LB415]

LAURIE KLOSTERBOER: We testified in support of the bill that was over in Education to put drivers' ed back in the schools. Realistically, we don't think that's going to happen. But we certainly support that. We understand and, you know, the National

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Transportation Safety Board was up here and said, you know, drivers' education by itself doesn't make safe drivers. We understand that. Although, I will tell you that the Department of Motor Vehicles, since the graduated drivers licensing law passed in Nebraska, they have done a comparison of youth who have had their parents sign off on the 50 hour driving log versus the students who took the certified driver education program, and the students that took the drivers' education program did fare better as far as crashes and traffic citations than the students who just had the parents do the 50 hour driving log. So we know that in Nebraska that that has made a difference. So, yes, we would support putting drivers' education back into the school system. I think that we do need to look at our curriculum, to make sure that we are addressing current issues in drivers' ed, as well as we need to get the message out about the important role that parents play in this issue. [LB415]

SENATOR LOUDEN: Since you testified over there, is that optional now, that schools give drivers' education? Or is that not part of the state's curriculum now? [LB415]

LAURIE KLOSTERBOER: You know, most of the schools that I'm aware of have done away with drivers' education. So it's being left to private providers, either not-for-profits, or commercial schools. There are some schools that are still doing it, although I don't think it's necessarily in the school curriculum, it's maybe a summer program, an after school program, something of that nature. And I believe most schools are charging some sort of fee for that program, if they have it. [LB415]

SENATOR LOUDEN: Thank you. [LB415]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB415]

LAURIE KLOSTERBOER: Okay, thank you. [LB415]

SENATOR FISCHER: Next proponent, please? Are there any other proponents? Are there opponents to LB415? Is there anyone here to testify in the neutral capacity? Good afternoon. [LB415]

JUSTIN BRADY: Good afternoon. Senator Fischer, members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I'm appearing before you today as the registered lobbyist of Alltel in a neutral capacity. Alltel supports this bill in concept. They would say that to protect our young drivers as they are learning to drive that the bill should probably go farther and include other electronic devices, such as MP3 players, portable DVD players, the use of headphones, all these other items that are out there from technology that are also distractive to drivers. And we'd be happy to work with Senator Harms and this committee to come up with definitions...working on the definitions of wireless communication devices to include those. With that, I'd attempt to answer any questions. [LB415]

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SENATOR FISCHER: Thank you, Mr. Brady. Are there questions? I see none. Thank you very much. [LB415]

JUSTIN BRADY: Thank you. [LB415]

SENATOR FISCHER: Anyone else to testify in the neutral capacity? Senator Harms has waived closing. So with that, we will close the hearing on LB415 and I will open the hearing on LB667. Senator Pedersen. Good afternoon. [LB415 LB667]

SENATOR PEDERSEN: Good afternoon, Senator Fischer and members of the Transportation Committee. For the record, I am Senator Dwite Pedersen, representing the 39th Legislative District. I'm here today to introduce LB667. This is a bill that I've introduced twice before on behalf of the firefighters in my area. It has always gone to the Urban Affairs Committee before, so for the most part we have a new audience this year. For 50 years firefighters have had a relationship with the Muscular Dystrophy Association, whereby they raise money for that organization with a promotion involving collecting funds on city streets in their firefighter boots. Several years ago, this practice was determined to be illegal as Nebraska statutes state that no person shall stand in a roadway for the purpose of soliciting a ride, employment, contributions, or business from the occupant of any vehicle. LB667 simply allows the regulation of this type of activity by individual cities rather than the state. If a community decides, by the passage of a city ordinance, to allow and regulate such fund raising on roadways under their jurisdiction, they can continue to promote this activity. If the city decides this is not an activity they want to be involved with, they would have the ability to refuse to pass such an ordinance. In any case, the decision over traffic regulation would be a local one, based on local input. Four years ago, this bill was sent to the full Legislature for debate. During the course of the discussion two amendments were adopted, and these amendments were incorporated into the bill. Two years ago, the amended legislation made it all the way to Select File before we ran out of time. The current version of the bill prohibits persons under the age of 18 from participating in the solicitation of contributions and prohibits such solicitation on roadways that are part of the state highway system, both of which were concerns in previous discussions. LB667 provides that any ordinance enacted under this law shall not exclude or give preference to any individual or members of any organization, association, or group. In other words, any organization that can meet the criteria laid out by the local municipality with regard to proving that they are a legitimate organization and that the proceeds of the solicitation will be devoted to charitable or community betterment purposes may solicit in that manner. The ordinance can outline where, when, and for how long the solicitation can take place, and can also require the attendance of police officer, or any other criteria that will help to promote the safety of the solicitors as well as the motoring public. In previous discussions regarding this bill, concern has been expressed for the safety of motorists, should this type of solicitation impede traffic or endanger the solicitors. It is important to

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remember that regardless of the adoption of any ordinance allowing a person to be present on roadways to solicit contributions, it would still be a traffic infraction to fail to obey a police officer who indicated that solicitation was causing public safety to be compromised and order the solicitor off the street as a result. Basically, I believe that this bill would allow for legitimate organizations to continue to raise funds in the way they have for the past 50 years. I believe that this bill gives the authority to make decisions as to what organizations could solicit to the local authorities, which is as it should be. And I believe that the ordinance adopted could and should protect the public from unscrupulous solicitors. Others will be following me who can testify to the damaging effects the ban has had on contributions during the past few years as we have tried to address this issue. I hope that you will listen to the debate with an open mind and forward this bill to the full Legislature once again for debate. Thank you. [LB667]

SENATOR FISCHER: Thank you, Senator Pedersen. Are there questions? Senator Stuthman. [LB667]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Pedersen, what do the firefighters do now? Do they have just a period when you can donate money for this, or since they can't go out. [LB667]

SENATOR PEDERSEN: Well, they still raise money for muscular dystrophy, but they don't raise near as much as they did before, since this practice was deemed illegal in the state. They'll do it in parking lots and different functions that they have. But they just don't make near as much. And they'll be giving you some numbers when they testify. [LB667]

SENATOR STUTHMAN: Thank you. [LB667]

SENATOR FISCHER: Other questions? Senator Louden. [LB667]

SENATOR LOUDEN: Yes. Thank you, Senator Fischer. What's the difference in this bill, Senator Pedersen, than the other ones? Is this one you took state highways out of it or something like that? [LB667]

SENATOR PEDERSEN: No. This is the same as the last one. We just didn't have time to get it done. We have entered three different concerns that were concerns in the past, which were in the last time we offered it, and that would have included the state highways, those we can't solicit. And I can't remember what the other one was, but there were three different areas that we've...and changed the age. [LB667]

SENATOR LOUDEN: Okay, that's what I was wondering, if that's was where the... [LB667]

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SENATOR PEDERSEN: That was...no, that was before it was offered the last time that all three of them were incorporated, we just didn't get it done the last time. And they're all in this one again. [LB667]

SENATOR LOUDEN: When we were on General File and going to Select File, was there debate then on whether or not they could be on state highways or something like that? [LB667]

SENATOR PEDERSEN: That was changed two times ago. [LB667]

SENATOR LOUDEN: Okay, thank you. [LB667]

SENATOR FISCHER: Other questions? I see none. Thank you, Senator Pedersen. [LB667]

SENATOR PEDERSEN: Thank you. [LB667]

SENATOR FISCHER: Would the first supporter of the bill please come forward. Good afternoon. [LB667]

MIKE McDONNELL: Good afternoon. Mike McDonnell, president of the Nebraska Professional Firefighters Association, spelled M-i-k-e M-c-D-o-n-n-e-l-l. I'd like to thank Senator Pedersen again for introducing this bill on behalf of the firefighters across the state of Nebraska and the Muscular Dystrophy Association. Also, thank you for the opportunity to speak today. Over the last 50 years, as Senator Pedersen mentioned, we have been partnered across the country, all 270,000 firefighters, with the Muscular Dystrophy Association. And our goal is to collect money to find the cure for the neuromuscular diseases that are actually affecting a number of children in the state of Nebraska and across this country. As the Firefighters Association, we do not, at any time in the last 50, or will we in the future, take any of this money for any kind of administrative costs, and neither do any of the fire departments, union or professional fire departments across the state. What we're doing this for is for the children. In the last 45 years, prior to this law being brought up in the city of Omaha, which at the time, and the reason, a little history on the reason this was brought up was the city council in the city of Omaha passed an ordinance unanimously to go ahead and allow the firefighters, on Labor Day weekend, which we had done for 45 years, collect for Muscular Dystrophy Association. At that point there was a person from the community that brought up that this was in conflict with the state law. We had our attorney look into that. He agreed that it was. At the time, for the last 45 years, had no idea there was a state law that precluded us from collecting on Labor Day weekend. So we said, fine, that we will take a step back as professional firefighters, and we will ask senators to please look at changing that law and give local autonomy back to the cities such as Omaha, Valentine,

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wherever, across the state of Nebraska would like to collect for muscular dystrophy or any other charity during some kind of weekend, such as we do during Labor Day. At that point, we've come down here the last five years. Last year we had 27 senators that agreed to this, and also the Governor. What we're asking this committee to do is give local autonomy back to the city councils across the state of Nebraska. In 45 years we never had one firefighter injured or cause any kind of problem with a citizen while we were collecting for the Muscular Dystrophy Association. I know this has been a concern across the...or through the last few years by a number of state senators about the safety of the firefighters. We can guarantee that what the firefighters do on a daily basis, serving the citizens of Nebraska, is much more dangerous than on a weekend going out and asking people to donate to muscular dystrophy. It was brought up in the past by some of the senators about, well, aren't there other opportunities to collect? Yes, there is. And over the last five years, we've tried to do the best we can with those opportunities. There's a number of businesses across the state that have allowed us to utilize their parking lots. We've started steak fries, we've done pancake feeds. The point is, we believe that people in the state of Nebraska are generous, but you also have to make it convenient. The more convenient you make it for them to be able to contribute, such as we had for 45 years on the streets of Omaha and other communities across the state, we had a number of people that would contribute based on the opportunity that it was convenient, and they were generous. We have seen a reduction in the amount that we are able to collect, even though we do appreciate the opportunity to use parking lots and other methods of collect for muscular dystrophy, we have noticed that there is a problem throughout the state with the ability of people to give. The more convenient you make it, the more people will have the opportunity to give and we will have the opportunity, hopefully, to cure these neuromuscular diseases. Can I answer any of your questions? [LB667]

SENATOR FISCHER: Thank you, Mr. McDonnell. Are there questions? Senator Stuthman. [LB667]

SENATOR STUTHMAN: Thank you, Senator Fischer. Thank you for your testimony. Did you...you didn't mention how many dollar difference was there from collecting on the street as compared to what you're doing now by trying every other method? [LB667]

MIKE McDONNELL: John Claes is here from the Muscular Dystrophy Association, he's got a handout for you. [LB667]

SENATOR STUTHMAN: Thank you. [LB667]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB667]

MIKE McDONNELL: Thanks. [LB667]

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SENATOR FISCHER: Next proponent, please. Welcome. [LB667]

DENISE MADSON: Thank you. Good afternoon. My name is Denise Madson, M-a-d-s-o-n, D-e-n-i-s-e. I am the mother of Nebraska's 2007 Muscular Dystrophy Association's State Goodwill Ambassador. I brought him with me here today. This is my son, Cole Madson. We also brought his younger brother, Clay, with us. Cole is 11-years-old. About five years ago, Cole was diagnosed with Duchenne muscular dystrophy, the most common form of muscular dystrophy, which there is no cure, yet. When Cole was diagnosed, it felt like the world stopped turning. After the initial shock went away, we discovered we were surrounded by people that cared and wanted a cure for muscular dystrophy as bad as we did. We have met many families from the area that have become good friends and a resource of support. We have also discovered how important the firefighters are to the Muscular Dystrophy Association. It seems like every time we turn around, there's a firefighter there to help kids like Cole. They are there to help during MDA summer camp, which is one of Cole's favorite things in the summer. MDA is a nonprofit organization that not only leads the fight to find a cure for muscular dystrophy, but also there to help families with the day-to-day struggles associated with living with a neuromuscular disease. Here are some of Cole's answers when I asked him what MDA does for him. [LB667]

COLE MADSON: They send me to camp each summer so that I can hang out with other kids like me. They have a clinic in which I go to twice a year. They helped to fund my wheelchair which I only have to use for long distances or lots of walking, and they have researchers working on a cure. [LB667]

DENISE MADSON: Without the International Association of Firefighters, the MDA would not be able to provide the support and research needed. The firefighters have embraced the MDA and are willing to give up their free time to help raise the needed money to keep the MDA going. Our state of Nebraska needs to allow the firefighters to stand on street corners during their Fill the Boot Campaign to help Cole and others like him. The firefighters are not only our heros because of the duties they perform daily to help citizens, but also for the time they take away from their own families to help us, the Madson's, and others afflicted with a neuromuscular disease. Please let's not restrict them from helping us. I'd like to thank the committee for taking the time to hear me talk about this matter that is very near and dear to our hearts. Thank you. [LB667]

SENATOR FISCHER: Thank you, Mrs. Madson. And I'd certainly like to welcome you two fine young gentlemen for being here today. I've been watching you during the hearing, and you're both just very mannerly and just good young gentlemen, so it's been a pleasure to have you here. Thank you for being here. [LB667]

DENISE MADSON: Thank you. [LB667]

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SENATOR FISCHER: Are there questions? Senator Stuthman. [LB667]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mrs. Madson, are there any other organizations that help support MS? [LB667]

DENISE MADSON: Muscular dystrophy? No, not that we are aware of, that we get support from. [LB667]

SENATOR STUTHMAN: Just the firefighters are the real...the main ones that... [LB667]

DENISE MADSON: The main ones that are...yes. [LB667]

SENATOR STUTHMAN: ...provide funding? [LB667]

DENISE MADSON: Yes. [LB667]

SENATOR STUTHMAN: Okay, thank you. [LB667]

DENISE MADSON: Thank you. [LB667]

SENATOR FISCHER: Other questions? I see none. Thank you all for being here again today. [LB667]

SENATOR PEDERSEN: Good job, good job. [LB667]

DENISE MADSON: Thank you. [LB667]

SENATOR FISCHER: Any other proponents, please? Good afternoon. [LB667]

JOHN CLAES: (Exhibit 1) Good afternoon. My name is John Claes, J-o-h-n C-l-a-e-s. Thank you, Senator Pedersen, for once again introducing this bill. I'm with the Muscular Dystrophy Association, I'm a regional director. And so far, you've heard from two very passionate perspectives, one of our MDA's largest sponsors nationwide, and that's the International Association of Firefighters that bring a certain passion. They're more dedicated than any sponsor, both locally and nationally, and also a very special family, the first family of MDA this year. Thank you for coming, Denise. And their investment in MDA, their passion is quite different, and mine as well is from a different standpoint as well. I represent the passion that lives within every MDA staff person that works for MDA. I'm kind of talking bottom line tonight or this afternoon and cost concern, something I think you all know something about. I'm concerned about the loss of income that MDA has realized because of the state ordinance that first was enforced in 2001. I want to stress here it does not curb the direct services that MDA offers its families. Children still attend MDA summer camp, MDA still supports our clinics, we still provide

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orthopedic equipment to the families. However, the opportunity cost has been that money funding research, which is why MDA was founded back in 1950. Passed around to each of you is a chart. And you can see the dip of income after 2001, when the ordinance was enforced. I broke this out both in terms of what the Omaha Fire Department has raised and all other departments in the state, which may number between 15 and 25, varies from year to year. I contend that, and I know Mike would agree, that no sponsor organization wants to accept raising less money and letting down families like the Madson's. They want to raise more money every year to help MDA do its important work. I tallied that up over the years had we consistently, modestly grown in each year since the ordinance was enforced, it's about at the opportunity cost in excess of \$200,000 to MDA, money that would have gone into research. Even if those dollars would have held steady since 2000, that's over \$100,000 that has not been raised by the firefighters, or rather the citizens of Nebraska giving to the firefighters. Again, that doesn't affect the direct services, but it does affect the research dollars that MDA funds. So what are we asking for? We're not asking you to mandate that the firefighters or other organization like them get out on the streets and collect for MDA, nor motivate them to do so. We simply ask you to allow them to do so, and let their own municipalities and townships dictate what terms they may follow. And I would be happy to entertain any questions that you would have. [LB667]

SENATOR FISCHER: Thank very much. Are there questions? Senator Mines. [LB667]

SENATOR MINES: Thank you, Madam Chair. Thanks for being here today. This isn't about the MDA. This question is not about MDA, it's about the statute itself. I realize that MDA and firefighters and those are absolutely what this should be about. But it also...we also have to discuss that this is an open-ended opportunity for any other organization, organizations that you and I may not care for, not even organizations, this is individuals, we could have...pick your least favorite, awful cause, and they could be out there on the street just like the firefighters. We're not precluding anyone from this. The Aryan Brotherhood could be in your neighborhood collecting money. Skinheads could be...and I'm just naming a couple, not that I have anything against them, but I'm identifying that this isn't just for MDA and firefighters. Once this opens up, it opens up to the world. And I think we need to be aware of it. I support it. I think Senator Pedersen is doing the right thing. I'm just saying there is more to this story that we aren't talking about, and you just happen to be in the seat. [LB667]

JOHN CLAES: I take no personal offense. [LB667]

SENATOR MINES: Okay. [LB667]

JOHN CLAES: And I don't think Mr. McDonnell does either. What prevents them from doing so today? [LB667]

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SENATOR MINES: They can't be on the street collecting monies today. [LB667]

JOHN CLAES: Correct, because...but it doesn't prevent them...people from going out there to do so. What I'm saying is, I'm from Iowa, don't hold that against me. But our regional office is there. And we deal with many, many municipalities in which organizations need to file permits, all of the things that Mike's...Mr. Pedersen suggested there. There are certain conditions that need to be met to give them permission to be on the street, regardless of who that is. I understand what your point is. [LB667]

SENATOR MINES: But the door is now ajar, if this advances. And there's just more to the story that I think we need to talk about. And thank you for being here. You're right. [LB667]

JOHN CLAES: Okay. [LB667]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB667]

JOHN CLAES: Thank you. [LB667]

SENATOR FISCHER: Are there other proponents, please? Welcome. [LB667]

AMY MILLER: (Exhibit 2) Good afternoon. My name is Amy Miller, that's spelled A-m-y M-i-l-l-e-r. I'm legal director with ACLU Nebraska, the American Civil Liberties affiliate for the state of Nebraska. And, Senator Mines, I'm here to testify about the constitutional issues involved with the bill in support of LB667. You're correct, the bill would apply broadly to any person or organization that wants to engage in First Amendment, free speech activities. And this is an area that we feel that the law currently is in error. Unfortunately, judges don't always agree with the ACLU, and an ACLU case filed in the Eighth Circuit, which is the federal circuit that covers Nebraska, has already held that in absence of statutes, such as LB667, that permit such solicitation, the judges have already indicated they're not going to allow it. They've decided that there are safety concerns without some sort of indicator from the Legislature that it should be allowed. In the case that was in front of the Eighth Circuit, it was ACORN, the Association of Community Organizations for Reform Now, which is a poverty rights group, and collect money for low-income families to help with housing, to help families transition to jobs, that sort of things. And these were not firefighters, these were regular volunteers that were doing the same sort of collections at stop lights on city streets. ACORN, like MDA, had been using this technique for many, many years and had done great work in their fund raising efforts this way. There had never been an accident of any sort, there had never been a complaint of any sort. But the city of St. Louis shut them down from doing their solicitations. When they went to court, the Eighth Circuit sort of washed its hands and said, well, there's no law permitting it, and we're just going to bow to the city's protestations that there might be safety concerns. There haven't been a record built up

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to indicate that there are safety concerns that should affect someone's First Amendment, constitutionally protected right to engage in charitable solicitation, handing out fliers, that sort of thing. Senator Mines is correct that there may be people who are distasteful to some of us that decide to do that, but that is the open marketplace of ideas. It is American democracy. Nothing requires the people in the cars to roll down their windows and hand out the money. We think LB667 puts the law back where it ought to be and is, unfortunately, askew because the judiciary has not had an indicator from the Legislature to allow this. Be happy to answer any questions. [LB667]

SENATOR FISCHER: Thank you, Ms. Miller. Any questions? I see none. Thank you very much. [LB667]

AMY MILLER: Thank you. [LB667]

SENATOR FISCHER: Are there other proponents? Good afternoon. [LB667]

LYNN REX: Good afternoon, Senator Fischer, members of the committee. My name is Lynn Rex, representing the League of Nebraska Municipalities. The league board strongly supports LB667. We think that this bill needs to pass and needs to pass this year. We know that the firefighters across the state of Nebraska have not been able to raise as much money as they have prior to the decision. It was a legal opinion, not necessarily a decision of a court, but certainly it was a binding legal opinion, at least that's how the city of Omaha saw it. We do think that it's important to note for this committee, because indeed the other two bills did go before the Urban Affairs Committee, this bill does embrace, as Senator Pedersen said, the other standing committee amendments of the Urban Affairs Committee and, but for time, would have passed last year. We do know that municipalities are capable of putting in place a permit process, training process, if necessary, to make sure that there will be no harm. We know that from what the firefighters have done historically, as Mike McDonnell indicated, there's never been an incident of someone being injured. But I also understand the need to make sure that people that are out on the streets and roadways know what they're doing. So we think this bill has addressed every issue that's been raised in the last five years. We do wish to help you pass this bill this year. We think this is important. We would hope that if it's not a personal priority bill that perhaps it could become a Speaker priority bill. So I'd be happy to respond to any questions that you have and strongly encourage you to pass this, it's really needed. [LB667]

SENATOR FISCHER: Thank you, Ms. Rex. Any questions? I see none. Thank you very much. [LB667]

LYNN REX: Okay. Thank you very much. [LB667]

SENATOR FISCHER: Are there other proponents? I see none. Are there any

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opponents to the bill? Is there anyone who wishes to testify in the neutral capacity? I see none. Senator Pedersen, would you like to close? [LB667]

SENATOR PEDERSEN: I'll waive. I have a chance to talk to each of you individually, so I'll waive closing, in the essence of time. [LB667]

SENATOR FISCHER: Senator Pedersen waives closing. And with that, I will close the hearing on LB667 and turn the chair over to our Vice Chair, Senator Stuthman, for the next bill. [LB667]

SENATOR STUTHMAN: Thank you, Senator Fischer. At this time, I will open the hearing on LB162, introduced by Senator Fischer. Good afternoon. [LB162]

SENATOR FISCHER: Good afternoon, Senator Stuthman and members of the committee. The purpose of LB162 is to require the Nebraska Department of Motor Vehicles to implement electronic lien system for certificates of title by January 1, 2009. The system will apply to motor vehicles as well as motor boats. Nebraska is a title holding state. For a motor vehicle purchase this means that most lenders physically hold the title after having their liens noted on the certificate of title. The process for the majority of financed transactions is that the title is taken or mailed to the courthouse, together with the appropriate financing documents. The lien is then typed on the title, and the title is returned to the lender rather than the purchaser. These days, the bank or financing institution may be anywhere in the country. Once the loan is paid off, the lender sends the title to the courthouse with a notation for documentation for release of the lien. Unfortunately, this process can take weeks or even months. Lenders can end up taking a very long time to find the title, execute the release, and send the title to the courthouse. Both consumers and dealers are frustrated by the delays in obtaining those releases. LB162 will require the DMV to develop a system, during the next two years, to allow for filing and release of liens electronically to simplify and speed up this process. Electronic transactions are so common today that this type of system will not be unusual. The bill does not call for implementing the system until 2009. The two year delay is to allow the DMV the needed time to figure the logistics of putting this system into place. The bill provides that electronic liens will be effective only when physically noted on the title. This follows the long-standing practice that protects consumers and lenders. Current law provides that no lien is effective unless it is physically noted on the title, so that a person knows where to look for that information. This safety features stays firmly in place. LB162 does allow for a lien to be released before being physically noted on the title. This speeds up the release process since the title does not have to be physically present to release electronically. There's no need to require the physical notation of a release in order to be effective, because no one can be victimized by a release. The interested lender or consumer can check with the courthouse or state and be satisfied that the release has been accomplished. The title can catch up at a later date, or a duplicate can be issued so expensive and unnecessary delays can be

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avoided. The bill also preserves the traditional methods of filing a release so that a person not capable or interested in electronic filing and release will not be required to do so. Thank you. And if you have any questions, I will try to answer them. [LB162]

SENATOR STUTHMAN: Thank you, Senator Fischer. Do the committee members have any questions? I see none. Thank you. [LB162]

SENATOR FISCHER: Thank you. [LB162]

SENATOR STUTHMAN: We will have proponents. Can I have a show of hands of how many proponents, opponents, or neutral? We have one, two, three, four, five, six. Okay, thank you. Good afternoon. [LB162]

LOY TODD: Senator Stuthman, members of the committee, my name is Loy Todd, L-o-y T-o-d-d, testifying in support of this legislation. Thank you, Senator Fischer, for introducing it. For many years, we have been hoping that eventually we would see an electronic filing and release system within the state of Nebraska. It's fairly common other places. However, we have some unique situations in Nebraska. Our state computer system is elderly and getting even older. And there are programming issues. You know, it's pretty unusual to come before a committee and ask for a bill that isn't even going to take place for a couple of years. However, we asked for that implementation date simply to give the department adequate time to find the time and the expertise in order to accomplish that. Quite frankly, if it took three years, it's okay with us. It's simply we've got to get started some time toward this. Really in it's...and I don't want to oversimplify things, all we're really talking about is an electronic signature type of process, which has been around forever. However, we are here in Nebraska and we are stuck with what we're stuck with at this point in time. We were a little surprised by the fiscal note. It was a little higher than we thought. In fact, I asked the department, if they were going to build a building for this? But they apparently are not. But it's just expensive. And I don't quarrel with the fiscal note. I will indicate this is a cash agency, and there are fees already involved. Somehow there needed to be an increased fee. We don't object to those kinds of things, as long as they're needed. One issue on the bill, and it's fairly complicated, and that's simply the provision in there where the lien must be physically noted on the title in order to be perfected. The reason we seek that is because that is the one common element that we have in the state. Anytime you have a certificate of title, if there isn't a lien noted on there, there isn't one. And it's a great safety feature for anybody down the chain. You buying a motor vehicle from someone, you know that there is not a lien. I've had some indication from interested parties that it may be confusing to some. We hope to get that cleared up, if that's a possibility. With that, I'd answer any questions. [LB162]

SENATOR STUTHMAN: Thank you, Loy. Does the committee have any questions? I have one, Mr. Todd. Will this change anything as far as the fact that when a person

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purchases a vehicle and there's a lien by another company in Washington, or Oregon, or something, someplace like that, and they wait the ten days, ten working days before they will release the title. Will this help that? [LB162]

LOY TODD: We think it will certainly help in that regard, because that's one of our biggest problems is you get a title that's physically held in San Diego or in Minneapolis, or wherever, our current law talks in terms of the lender being required within, I believe it's 15 days, to release that after receipt of the funds. But some of them wait a little while to make sure that the check clears or whatever happens. But by the time they get around to trying to physically find that title, it's just a nightmare for us. And so there are months and months delays where you're sitting there on a vehicle that you paid for, that's ready to be sold, and you can't get rid of it, or if you do, you're liable to get it back because you haven't come up with a valid title and release within the 30 day period. If this passes, we can simply do that electronically, and we've got it right there. The release can take place on the state computer system. If you go in and get a duplicate title in that circumstance, problem solved. This would be fabulous. But we're still stuck with what we've got right now. [LB162]

SENATOR STUTHMAN: Okay, thank you. Any other questions? Thanks again. Any other testifiers as proponent? Good afternoon. [LB162]

JERRY STILMOCK: Good afternoon, senators. My name is Jerry, J-e-r-r-y Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of the Nebraska Bankers Association in support of LB162. We're encouraged by the electronic filing and would just note, one of Mr. Todd's comments, when he completed his initial remarks is where I'd like to begin. He noted that the key in protection is that electronically filed lien has to physically show up on the certificate of title. So we rely so much on that happening. It could create a gap, it could create an issue. And it's that issue that we would want to work with the department with, and the committee, because I think there may be a situation where the lien is electronically filed, but it's not actually physically noted on the title. We want to make sure that that gap of when the lien is electronically filed and when it's physically noted on the lien, we want to make sure that gap in time is narrowed, so that we make sure that when that electronic lien is filed we want to make sure that that gets actually physically noted on the lien. And that's just a problem with the nature of the beast. We're combining electronic, but yet we see the benefits of having that lien notated on the face of the title. For as Mr. Loy testified, and the senator in introducing said, that's so critical in the lending area, we have to have that assurance that the lien is actually noted. And the only way we can do that now is to have that noted on the face of the actual title. But we're in support of the measure and look forward to the opportunity to work towards that 2009 date. Thank you. [LB162]

SENATOR STUTHMAN: Thank you, Jerry. Any questions from the committee? Seeing none, thank you. [LB162]

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JERRY STILMOCK: Thank you. [LB162]

SENATOR STUTHMAN: Any other proponents? [LB162]

BETH BAZYN FERRELL: Good afternoon, Senator Stuthman, members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n Ferrell, F-e-r-r-e-l-l. I'm assistant legal counsel for the Nebraska Association of County Officials. The NACO Legislative Committee voted to support this bill. They see it as a customer service kind of an issue. Some counties are already accepting faxes to release liens. This just seems like the next logical step in that process to be able to do this electronically. As Mr. Todd pointed out, whether it's a 2009 implementation date, or whether it's down the road, whether that's a matter of timing and money and so on, that's not as much a concern as just our support of the bill and eventually getting to that point. Happy to take questions. [LB162]

SENATOR STUTHMAN: Thank you, Beth. Any questions from the committee? I have one. You heard my question earlier. Is this going to help in the time frame of an individual that purchases a car and he can't get the title from the company because the lien hasn't been released? Generally, it takes 30.5 days, and you need to get it done in 30 days, from the time you purchase a vehicle. Is this going to speed that up, or is it going to make it worse? [LB162]

BETH BAZYN FERRELL: The way I understand it, it would help with that process. Although, I'm not all that familiar with that part of the process itself. [LB162]

SENATOR STUTHMAN: Okay, thank you. Any other questions? Thank you. Any other testifiers in the proponent position? Good afternoon. [LB162]

BRANDON LUETKENHAUS: Good afternoon. Members of the Transportation and Telecommunications Committee, my name is Brandon, B-r-a-n-d-o-n Luetkenhaus, L-u-e-t-k-e-n-h-a-u-s. I'm here on behalf of the Nebraska Credit Union League, as their government affairs director. Our association represents 90 percent of Nebraska's state and federally chartered credit unions and their 420,000 members/consumers. I appear before you today to offer our support for LB162. We want to commend and thank Senator Fischer for introducing this important piece of legislation. LB162 will provide greater efficiency in filing liens for Nebraska's 73 credit unions, and reduces costs as well. LB162 will protect Nebraska's financial institutions from preference and lien avoidance issues pertaining to bankruptcy. When a credit union makes a loan for a vehicle, and the lien is not perfected within 30 days, the credit union can lose their interest in the vehicle if the buyer files for bankruptcy. It's for these reasons we urge advancement of LB162 to General File. Thank you. If you have any questions, I'd answer those. [LB162]

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SENATOR STUTHMAN: Thank you, Brandon. Any questions from the committee? Thank you. Any other proponents? Any opponents? Anyone want to testify in the neutral position? Good afternoon. [LB162]

TIM KEIGHER: Good afternoon, Senator Stuthman and members of the committee. My name is Tim Keigher, that is K-e-i-g-h-e-r. I appear before you in a neutral capacity on behalf of the Nebraska Independent Auto Dealers this afternoon. They are supportive of this bill and yet undecided, so that's why they asked for neutral. I think what it is, is a case of where some of their members are in favor it and others may not understand it completely yet. But they wanted me to pass along that they are definitely willing to work with the DMV in trying to move this concept forward. With that, I'd be happy to answer any questions. [LB162]

SENATOR STUTHMAN: Thank you, Tim. Does the committee have any questions? I have one. Mr. Keigher, do you feel this is only going to help as far as filing a lien, or releasing a lien, with this bill? [LB162]

TIM KEIGHER: I guess, I don't have an opinion on that one. [LB162]

SENATOR STUTHMAN: Okay, thank you. Any other questions? Thank you. [LB162]

TIM KEIGHER: Thank you. [LB162]

SENATOR STUTHMAN: Any other testifiers? Good afternoon, Beverly. [LB162]

BEVERLY NETH: (Exhibit 1) Thank you. Members of the committee, I am Beverly Neth, B-e-v-e-r-l-y N-e-t-h, director of the Department of Motor Vehicles, appearing today to offer neutral testimony on LB162. In my role as DMV director and chairperson of the Motor Vehicle Industry Board...Licensing Board, I have found that one of the most frequent complaints of the car buying public is the failure of a dealer to deliver the title in a timely fashion. The consolidation of financial institutions has resulted in large financial institutions storing thousands of paper titles at central locations, generally not in Nebraska. It is becoming more and more difficult for dealers and owners to obtain a title for a financed vehicle from large banks with centralized storage of titles. LB162 addresses that issue by requiring the DMV to implement a remote electronic lien process by 2009. Currently, liens are noted on the face of the certificate of title. In general, that process is done at the county level. The holder of the security interest is required to submit paperwork associated with the lien for notation on the title. The lien is then noted on the title document. At the same time the lien is noted and stored within the Vehicle Title and Registration's VTR system and it becomes a part of the electronic vehicle record. The paper title with the lien noted is the official document establishing the lienholder's claim on the vehicle. The title must be resubmitted to the county for

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removal or release of the lien notation. The DMV has been supportive of past attempts to allow for remote lien process and that remains a long-term goal of the Department of Motor Vehicles. However, I am concerned that this may not be the best time to move forward. The existing VTR system is nearing the end of its life cycle. It is important that DMV maintain the functionality of VTR so that we can continue its primary functions of motor vehicle titling, registering and tax and fee collection and distribution. There are limits on how many more major changes we can make to the system and still rely upon its stability. For some time now, internally and externally, the DMV has been discussing the need for a comprehensive update of the entire motor vehicle titling and registration system based on a technological platform that is capable of expanding and addressing the issues and needs of all of the stakeholders concerned with motor vehicle titling and registration and motor vehicle tax and fee collection, including legislators, law enforcement, counties and cities, licensed motor vehicle dealers, financial institutions, Game and Parks, the Department of Roads, the Department of Revenue, the motor carrier industry, and the insurance industry. As a practical note, the department is currently short two programmers, who were experienced with VTR, a problem that has slowed a plan to upgrade the functions of the present VTR system. There is also uncertainty surrounding the requirement of the federal REAL ID Act. All indications are that adopting to REAL ID will be the most massive project ever undertaken by the department from the standpoint of both system changes and operational changes. It is my hope that the committee will continue to consider technology upgrades to VTR, however, this may not be the best time to move forward with a statutory change that will require a new VTR process. I will attempt to answer any questions you might have. [LB162]

SENATOR STUTHMAN: Thank you, Director Neth. Does the committee have questions? Senator Louden. [LB162]

SENATOR LOUDEN: Yes, thank you, Senator Stuthman. Then you're telling us, Beverly, that you're probably...it would probably overwhelm the system if we do something like this right away? That you're trying to come along and the times...and then would you be able to then come forward when you need legislation to this effect? [LB162]

BEVERLY NETH: Well, I don't want to overstate that remote electric lien process would overwhelm VTR. There is...it's a little bit more difficult than just an electronic signature, as Mr. Todd represented. There certainly is a process of...an electronic signature would be part of the Internet process that would be adopted. But what we'd be talking about really is taking an Internet process and attempting to interface that with an old mainframe system. It is not unheard of. We're certainly able to do it. We have done that kind of thing in our motor carrier programs, where we allow remote users to file forms and updates to their motor carrier information. That program took us a long time to develop, it's more comprehensive than this. But what I would really like the opportunity

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to talk about with stakeholders is, is it time for the state to take a more comprehensive look at the system? And is there an opportunity for us, rather than piecemealing Internet processes into the old system, can we identify all of the functionality we need in VTR in terms of the technologies that exist today? VTR was developed 15 years ago. It is COBOL language. It is the very...I don't want to discount COBOL, because it has its place and the system itself is very secure. But there are infinitely more technologies that we could tap into now that would be much more flexible and have a tremendous amount of functionality for all of the processes that exist in vehicle title and registration at this time. So that, I think, might be...now may be the time for us to start those conversations, and try to identify a long-term goal for the state of Nebraska in terms of its title and registration system. [LB162]

SENATOR LOUDEN: Now, when you get into this lien system like that, this is filing liens and that sort of thing? Now we just went through something like this with the brand clearance, about whether or not you can do electronic brand clearances. And their argument then was you could play around with a lot of those and change the numbers, and nobody knows the difference from the original copy. Now can this same thing happen from a title? Can you have a title someplace and alter it enough so that you could put a different car on that same title? [LB162]

BEVERLY NETH: No, I believe you would have to develop a process and a system that only allows for the introducing of new information. I don't believe that you would open it up and allow people to change the vehicle record that currently exists. I would envision something like the financial institution would sign on, give us all of the information so that we can verify that they are an authorized user of the system, and then they would input information that would then be taken from that site and uploaded into our system. That would only go to the lien notation on that particular vehicle, specific to their financial institution. You'd have to tie some numbers together and all of those kinds of things. [LB162]

SENATOR LOUDEN: Would...who would hold the original title then? [LB162]

BEVERLY NETH: Well, the original title, as I understand it, under the bill is still going to be held by the financial institution if there is a lien on it. They would hold the physical document, and they would still need to note that lien on the physical document for it to be secured. But as far as the release, it could be done electronically, which would allow, I suppose, a couple of different things. It certainly would allow the department to...I don't know if there's authority in here. I guess I didn't see if there's authority for us to issue some kind of a duplicate title that would have that release noted on it then, or if the individual would still have to have the certificate of title in order to transfer ownership of the vehicle. [LB162]

SENATOR LOUDEN: But this says where you implement an electronic lien now if

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somebody has got the title, ordinarily you always had to send that title and everything to a county clerk or somebody like that. And it took a while to ship it back through and a whole bunch of stuff. Now if you're trying to do this electronically, and somebody isn't necessarily...doesn't have to be a bank to be a holder, anybody can give a mortgage on a car and have this lien, and say there was some unscrupulous people that might have some other cars that they wanted to get rid of. Is there any way that that playing around with your electronics and some of that, that that's foolproof? [LB162]

BEVERLY NETH: Well, I guess the type of system that I would see would be one where you would enroll the users in the system. People would have to come to the department in order to receive the authority that they would need to use the Internet based lien release system. Because I don't think you could just put it out there for the general public to do whatever they wanted to do. I think the issues that you're raising are certainly more magnified with that kind of system. You also raised one of the issues that when we have talked about this type of process in the past, we've talked about both a remote electronic lien process, and the ability for the department to store an electronic title, rather than issuing a paper title, the entire certificate of title stayed in the electronic system. The owner was issued a receipt, essentially. So that you don't have...the intent was that there wouldn't be these differing documents that might exist with differing status on the document. As long as the entire title and all of the information associated with that title stays an electronic record, until the owner is ready to transfer ownership, at which time a paper title would be printed and note: liens noted, liens released, and everything else that might have happened with that title, then I think you've going to have this crossover where information may not always catch up with the document itself. [LB162]

SENATOR LOUDEN: Where does the manufacturer statement of origin then fit into that? [LB162]

BEVERLY NETH: Well, the manufacturers statement of origin is the thing that is submitted by the vehicle purchaser to the department or to the county in order to receive the certificate of title. So that's the first document that goes with a new car. And then that is surrendered as part of receiving a new title. [LB162]

SENATOR LOUDEN: That would go into your title bank, or whatever you want to call it? [LB162]

BEVERLY NETH: It's maintained as a paper document, paper copy in the counties under the records retention statutory authority. [LB162]

SENATOR LOUDEN: Now, getting back to your question about having to enroll in this, whatever you want to call it, title bank or whatever. Now, does that mean then we would charge them a fee to enroll in there? [LB162]

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BEVERLY NETH: I certainly haven't given it that much thought. It probably would depend upon the type of process that the department chooses to develop, and whether or not there would be some kind of vendor involved or...I think there are some states that do have a...it's not private, but there's certainly a vendor involved. And the financial institutions do pay some kind of a fee to access that service. [LB162]

SENATOR LOUDEN: Yeah, because my next question was, do you know of any state agency that does anything like that, that doesn't charge a fee to do it? [LB162]

BEVERLY NETH: Well, maybe there are a couple out there that probably do. [LB162]

SENATOR LOUDEN: Okay. [LB162]

BEVERLY NETH: We don't charge fees for some of our access to the Internet systems. [LB162]

SENATOR LOUDEN: Thank you. [LB162]

SENATOR STUTHMAN: Thank you, Senator Louden and Director Neth. Any other questions? Senator Mines. [LB162]

SENATOR MINES: Thank you, Senator Stuthman. Bev, I have one concern with this bill and that's that we're upgrading an AS400. And you brought that up very succinctly. Tell me, has your department looked at upgrading the entire IT program or not? [LB162]

BEVERLY NETH: Well, it is...we have started those conversations. And moving away from an AS400 and mainframe environment is not without its own cost and not without issues concerning security as well. AS400 and mainframe are probably the most secure systems you can use. Moving to a dot net environment or something along those lines have some security concerns associated with them. There are states that are using that technology. And I don't know of any whose systems are being hacked into or information being changed. So I think you just need to take a slow approach to make sure you're covering those bases. [LB162]

SENATOR MINES: So if we authorize this, are we spending good money, and then throwing it away and spending it again when we upgrade the IT hardware into something else? [LB162]

BEVERLY NETH: Well, that is my concern, that if we need to move to new technology in Nebraska, should we do it in a more comprehensive fashion and not build subsystems along the way that we would have to rebuild, that would be also required to integrate into a new system. [LB162]

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SENATOR MINES: Now, given that, I mean this is a good idea. [LB162]

BEVERLY NETH: Yes, it is. [LB162]

SENATOR MINES: It's a darn good idea. [LB162]

BEVERLY NETH: Yes, it is, it's a very good idea. [LB162]

SENATOR MINES: It's not an idea that should be put on the shelf until we upgrade our computers. So you're testifying in a neutral capacity. What should we do? [LB162]

BEVERLY NETH: Well, I would like to take the opportunity, take this summer and bring together the stakeholders and talk about what kind of functionality do we need in a new system? And if we were to build a new system, how would we pay for it? How do we move forward in Nebraska with all of the issues associated with doing that? [LB162]

SENATOR MINES: Okay. And would you also advance this legislation without the fiscal impact, and perhaps implement in three years, as Mr. Todd had suggested? [LB162]

BEVERLY NETH: I think that certainly is a... [LB162]

SENATOR MINES: Is that an option? [LB162]

BEVERLY NETH: It's an option, um-hum. [LB162]

SENATOR MINES: From your perspective, is that an option? [LB162]

BEVERLY NETH: Um-hum, um-hum. [LB162]

SENATOR MINES: Okay, thanks. [LB162]

SENATOR STUTHMAN: Thank you. Any other questions from the committee? I have one. Director Neth, I think this is a good idea. But in my opinion, we're not accomplishing what I would like to accomplish, because I would like to get that certificate of title in my hand before the 32nd day, when my in-transit expires. [LB162]

BEVERLY NETH: Right. [LB162]

SENATOR STUTHMAN: And by this electronic lien filing, that will never accomplish that, in my opinion. [LB162]

BEVERLY NETH: I think there's certainly more value to the bill before you today for the

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release of the lien than the notation of the lien. [LB162]

SENATOR STUTHMAN: But that's still doesn't... [LB162]

BEVERLY NETH: I don't know that it gets to the end goal of a financial institution actually sending the paper document any quicker than they already send it. [LB162]

SENATOR STUTHMAN: Because they still have their ten working day thing. And that doesn't...this doesn't affect that whatsoever. [LB162]

BEVERLY NETH: I don't think so. [LB162]

SENATOR STUTHMAN: And that, in my opinion, and I've dealt with that regularly, that's the issue, just can't get it. [LB162]

BEVERLY NETH: Um-hum. And I think the...well, this is my humble opinion, and certainly other people could disagree. But I think the only way you get to that issue is allowing a title that has a lien noted on it to be stored as an electronic document. And that document issued when that lien is released electronically, which could be a very quick process, and I think gets to the heart of the issue you are speaking about. Because the financial institution never then physically holds the title, it's stored in an electronic system, and printed when the lien is released, or printed if the customer wishes to have a copy, or the bank wishes to have a copy. I mean those could be the options that exist. Those are the types of processes that exist in some states today. [LB162]

SENATOR STUTHMAN: But, Director Neth, that would take a little bit more than what this bill is calling for. [LB162]

BEVERLY NETH: Yes, yes, it does. [LB162]

SENATOR STUTHMAN: Okay, thank you. Any other questions? I thank you, Director. [LB162]

BEVERLY NETH: Thank you. [LB162]

SENATOR STUTHMAN: Any other people that want to testify in the neutral position? Seeing none, Senator Fischer, you want to close? Senator Fischer waives closing. That will end the hearing on LB162. And I will turn it back over to Senator Fischer, the Chairman of the committee. [LB162]

SENATOR FISCHER: Thank you, Senator Stuthman. I would like to note at this time that we've been joined by Senator DiAnna Schimek from Lincoln a while ago. [LB162]

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SENATOR SCHIMEK: That's nice of you, Madam Chair. [LB162]

SENATOR FISCHER: We've missed you today. We are on our last bill. And I will open the hearing for LB285, which will be introduced by the committee counsel for the Transportation and Telecommunications Committee, Mr. Dustin Vaughan. Good afternoon. [LB285]

DUSTY VAUGHAN: Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. For the record, my name is Dusty Vaughan, spelled V-a-u-g-h-a-n, and I am the legal counsel for the committee. I am introducing LB285 on behalf of the committee. LB285 deals with the implementation of the federal REAL ID Act of 2005. The bill gives broad authority to the director of the Department of Motor Vehicles to implement the REAL ID Act here in Nebraska. The bill was drafted with broad and vague language due to the uncertainty surrounding REAL ID. It is meant to provide the vehicle for amending what needs to be done to comply with REAL ID when that determination is made at the federal level. The Department of Homeland Security finally issued its draft rule for the implementation of REAL ID last Thursday, March 1. The proposed rule does allow for a state to ask for an extension from implementation until December 31, 2009. Some of the main points of the proposed rule that were in the state's favor include: a phase-in period of all licenses until May 10, 2013; an exceptions process left up to the states to allow for the absence of required documents; and the continued practice of remote renewal methods. DHS was not as flexible on other requirements, including a strict list of documents that are eligible; verification and storage of these documents; and securing the physical facilities that issue IDs. Even though DHS has issued this rule, we are still uncertain what the states need to do to comply with the act. This is a proposed rule and states are encouraged to offer their suggestions on how to improve the rule. I assume our DMV will offer its insight, and Director Neth can tell you what their plans are. The rule-making process takes time. And this proposed rule is subject to change. It could still be several months before a final rule is adopted. Additionally, there have been two bills introduced before Congress. I'm sure you've heard of them, we've talked about them before, that would either delay implementation of REAL ID or repeal it. As of this morning, both bills are still going through the committee process there in the House and the Senate, and it could be some time before we know what Nebraska and other states are required to do, depending on how those bills turn out, in addition to what's adopted as the final rule by DHS. As we just saw, Director Neth is here from the DMV to testify, and she has just recently come back from a REAL ID summit in Washington, D.C., so I'm sure she has all the answers to your questions. But, if you'd like, I can try to answer any that you also have. [LB285]

SENATOR FISCHER: Thank you, Mr. Vaughan. Are there questions? I see none. Thank you. Could I have the first proponent for the bill, please. [LB285]

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BEVERLY NETH: (Exhibit 1) Madam Chair, members of the committee, I am Beverly Neth, director of the...B-e-v-e-r-l-y N-e-t-h, director of the Department of Motor Vehicles, here today to discuss LB285 which gives authority to the Department of Motor Vehicles to comply with Public Law 109-13, also known as the REAL ID Act of 2005. Last Thursday, the Department of Homeland Security issued its long-awaited Notice of Proposed Rule Making associated with REAL ID. Today, I endeavor to provide you with decisions facing Nebraska should the REAL ID Act not be repealed by Congress, and should Nebraska ultimately decide to comply with the requirements of REAL ID and issue its citizens a REAL ID compliant drivers' license or state ID card. The proposed rule issued last week is not a final rule. The proposed rule has a 60-day comment period that allows all interested parties to file comments regarding the rule. Following the comment period DHS will analyze the comments and at some point issue a final rule that may or may not change, depending upon the comments received and the deference given to those comments. A state may request an extension of the May 11, 2008 deadline, based on a lack of REAL ID regulations to guide its implementation by filing a request with DHS no later than October 1, 2007. The request for consideration shall state that the state needs sufficient time to consider the final rule and not be otherwise in a position to comply with the final rule. A state receiving an extension is required to submit a compliance plan not later than six months from the date which the extension is granted, detailing milestones, schedules, and budgets that will allow the state to meet the requirements of the final regulation. Periodic updates to DHS of the state's progress on the compliance plan will be required. The extension request will be deemed justified for a period lasting until, but not beyond December 31, 2009. A state must be in a position to begin issuing its first REAL ID compliant card on January 1, 2010, and must complete its re-enrollment of all cardholders by May 11, 2013. The proposed rule is comprised of 162 pages. I have it here, if you're interested in reading it. I am going to try to lay out the issues in terms of system impact to the DMV, business process impacts to the DMV and county treasurers, and the impact to the approximately 1.5 million Nebraskans who currently hold either a driver license or a state issued ID card. In the area of systems impact, there is some good news and some bad news. The good news is that the proposed rule brings some clarity to the full legal name concerns. The requirement is that the name on the face of the card must be the same as the name on the documents presented by applicant to establish identity. The reality is that the state will need to develop a policy regarding the hierarchy of documents when the applicant's documents contain conflicting names. Additionally, the proposed rule allows that the state's name field may be no less than a total of 39 characters; longer names may be truncated by following the International Civil Aviation Organization 9303 standards. Currently, Nebraska's name field...the name field on Nebraska's cards has 35 characters. We will need to make some minor changes to accommodate this new field size. In addition, the machine readable zone must contain a name field of at least 125 characters. This requirement is a large departure from our current system and will require programming. The proposed rule requires that the state's temporary card issued

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to individuals with lawful status in the United States must clearly state on the face of the card, in bold lettering, and in the machine readable zone of the card, that it is temporary. This requirement means that Nebraska will have to program...Madam Chair, I see that the red light is on. [LB285]

SENATOR FISCHER: I see that, and you also have a lot to tell us. So please continue, Director Neth. [LB285]

BEVERLY NETH: Thank you. The requirement means that Nebraska will have to program its systems for the process associated with temporary ID cards, design 35 temporary card types, and program for the production and issuance of temporary cards. The proposed rule does allow for remote/not in person renewals and reissuance. As long as none of the applicant's source information has changed since the prior issuance, and the state has retained the source documents and can reverify those documents, then the state can allow for remote renewal every other renewal cycle. An example of remote renewal is Internet renewal, which has been a strategic goal of the Nebraska DMV since the implementation of the Digital Driver License System. Two REAL ID requirements, re-enrollment of all existing cardholders and the photo capture of each applicant, result in diminution of responsibility for county treasurers. Re-enrollment will mean that every cardholder who wants to renew, needs a duplicate, or wants to make a name or address change will have to begin with a DMV examiner. Many of those individuals currently go directly to the county treasurer to obtain a duplicate, or make a minor change in the card. Additionally, REAL ID requires that the state must require each individual applying for a REAL ID driver license or ID card to have their photograph taken, whether or not such person is issued a REAL ID card. Photos of individuals who were not issued REAL ID cards must be kept for one year, unless the card was not issued because of suspected fraud, in which case the photo must be kept for ten years. Currently, the photo is taken by the county treasurer as a part of the card issuance process, a photo is not taken currently unless a card is issued. The card security features outlined in the proposed rule, coupled with the requirement for serialized card stock and the implementation of controlled inventory measures that meet industry standards, do not lend themselves well to maintaining the existing distributive inventory method and over-the-counter production and issuance process that currently exists in 100 sites across Nebraska. The rule proposes that a state must include document security features on REAL ID cards that are designed to deter forgery and counterfeiting and promote an adequate level of confidence in the authentication of genuine documents and the detection of fraudulent ones. The card must contain a well-balanced, set...a well-designed, balanced set of features that when effectively combined provide multiple layers of security. The document security features must be described in the state's Comprehensive Security Plan to be submitted to DHS. The card must contain three levels of integrated security features: Level 1 is a cursory examination involving visual or tactile features; Level 2 must provide for examination by trained inspectors with simple equipment; and Level 3 is security used by forensic

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specialists. At a minimum, the state must employ an intricate, fine-line multicolored background design produced by offset lithography that includes microline printing and intentional error/field check, an optically variable feature, an ultraviolet long wave response feature, laser engraving to include tactile features, and a series of check digit numbers or letters. The card background pattern may not be comprised of the primary colors: cyan, magenta, yellow, or key which is black, and the card must include covert tangents or markers. The card stock must be a multi-layer structure and of materials that provide for a highly durable card. It must be UV dull or possess a controlled response to UV. [LB285]

SENATOR FISCHER: Can I interrupt you here? [LB285]

BEVERLY NETH: Certainly. [LB285]

SENATOR FISCHER: Our driver license cards now, are they anything like what you just described? [LB285]

BEVERLY NETH: No. [LB285]

SENATOR FISCHER: Thank you. [LB285]

BEVERLY NETH: The card must an...the state must conduct an annual review of its card design and submit a report to DHS that indicates the ability of the design to resist compromise and fraud activity attempts. The state must submit its cards to an annual examination and testing from a recognized independent laboratory experienced with adversarial analysis of identification documents. The results of the testing must be submitted to DHS as a part of the state's initial certification and its annual recertification. A component of the state's Comprehensive Security Plan to which I have already referred, must also detail the physical security for all DMV offices and card storage and production facilities. At a minimum the Security Plan must address: security for all facilities used to manufacture or issue cards; storage areas for card stock and other materials used in card production; reasonable administrative, technical, and physical safeguards to the security, confidentiality, and integrity of physical locations and personal information stored and maintained in DMV databases. The plan must also detail access control, including employee identification and credentialing, employee background checks, controlled access systems, fraudulent document recognition training, domain awareness training including threat identification, emergency/incident response plans, internal audit controls, privacy policies, standards and procedures for safeguarding information collected, stored and disseminated for purposes of complying with REAL ID, and procedures to revoke and confiscate a card fraudulently issued in another state. Finally, the plan must contain an affirmation that the state possesses both the authority and the means to produce, revise, expunge and protect the confidentiality of REAL ID cards issued in support of federal, state, or local criminal justice agencies or

programs that require special licensing or identification to safeguard persons or support their official duties. Those would be undercover documents. I want to elaborate on one detail, one item in that detailed list, that being the employee background check. The proposed rule is very clear that states are required to subject persons who have the ability to affect the recording of any information required to be verified, or who are involved in the manufacture or production of REAL ID cards, or who have the ability to affect the identity information that appears on the cards to a background check. The background check must include, at a minimum, the validation of references of prior employment, a name based and fingerprint based criminal history records check, a financial history check, and a lawful status check. This requirement also applies to contractors utilized in covered positions by the state. The proposed rule provides for disqualifying offenses, allows the states to propose a waiver process, and provides for an appeal process. There is no language that provides for exempting existing employees from the background checks. At least 130 DMV employees will be subjected to a background check. Maintaining the current over-the-counter card issuance process becomes nearly impossible under the REAL ID requirements. A central card production and issuance process is all but mandated under this rule. Maintaining the status quo of county involvement in any part of the process appears extremely problematic for the state to meet the initial and annual certification requirements under REAL ID and is potentially very expensive for the counties and the state. The investment required by the counties would include: costs for physical security to facilities and space inside county facilities that are dedicated solely for DMV use; costs for security background clearance checks; fraudulent document recognition training and other security training as required under the proposed rule. There are roughly 550 county employees currently engaged in some fashion with driver license and ID card production and issuance in the 100 county-owned facilities across Nebraska. The existing DMV personnel deployment model of allowing one examiner to conduct business alone without day-to-day supervision would most certainly not meet the rigorous security requirements of the proposed rule. There is little doubt in my mind that anything short of multiple employees and supervisory staff in each location will not meet the security standards. Maintaining the status quo would require a significant increase in DMV staff to absorb the workload increase associated with the REAL ID requirements. Additionally, the state would need to move the image capture stations in each county to the DMV side and reconfigure each DMV location to allow for image capture. The state must also invest in digital imaging hardware at all 100 facilities and the network capacity to transmit digital color images from the 100 remote locations to the central database in Lincoln. Card production in 100 sites would require upgrading card printers capable of producing cards that incorporate the security features requirement outlined in the proposed rule. In 2006, there were 476,530 cards that were produced and issued in Nebraska. Thirty-seven counties issue fewer than 1,000 documents per year. Those counties...all counties are statutorily entitled to receive from zero to \$3.50 per document issued. An annual revenue associated with the process in those 37 counties is less than \$2,600 a year. Annual revenues distributed in all 93 counties associated with driver license and

ID card issuance was just over \$1.4 million. The General Fund and the DMV Cash Fund each received approximately \$4 million in card revenues in 2006. Seventy-seven percent of Nebraskans currently access driver license and ID card services in 14 counties, those being: Gage, Sarpy, Platte, Box Butte, Douglas, Madison, Lincoln, Hall, Dodge, Lancaster, Scotts Bluff, Buffalo, Adams, and Dakota. An additional 18 percent of cardholders are within a 50-mile radius of those 14 counties. The remaining 5 percent of cardholders live in 26 counties and are outside the 50-mile radius. All 100 percent of the cardholders will be subjected to a new process to obtain a REAL ID compliant card. Each person will be subjected to a mandatory facial image capture. Each person will be required to sign a declaration under penalty of perjury that the information presented is true and correct. Each person will be required to present documents that establish identity, date of birth, social security number, principal residence and evidence of lawful status. The proposed rule sets out nine documents that may be presented for proving identity. This is a dramatic reduction from the 38 documents we currently accept. The proposed rule does allow the state to establish a written exception process in order to provide REAL ID cards to persons who, for reasons beyond their control, are unable to present all of the necessary documents and must rely on alternate documents to establish identity. An exception process may not be used to demonstrate lawful status. DHS must approve the state's exception process and the state is required to submit quarterly reports analyzing the use of the exceptions process and any trends that indicate potential vulnerabilities. The exception process could be used in cases where the individual's birth certificate is not on record, the person is homeless, or the individual may have lost all documents due to natural disaster, such as Hurricane Katrina. All submitted documents, with the exception of the principal residence must be verified by the state to the document's issuing agency. Certified birth certificates must be verified through the Electronic Verification of Vital Events Systems, U.S. passports and consular reports of birth abroad verified through the Department of State systems, immigration documents verified through the Systematic Alien Verification for Entitlements System, Social Security numbers verified through the Social Security On-line Verification Network, and REAL ID driver license and ID cards must be verified with the state of issuance. The person's application, declaration and source documents must be imaged using color imagers, linked to the applicant's unique identifier assigned by the state and retained by the state for ten years. A state seeking a DHS determination that its program for issuing REAL ID cards is meeting the requirements of the rule, must provide DHS with the following documents and information no later than February 10, 2008: a detailed narrative description of the state's program for issuing REAL ID compliant cards, including a description of the state's exception process, the state's waiver process; the state's Comprehensive Security Plan; a letter from the state's Attorney General confirming the state has the legal authority to impose the requirements necessary to meet the standards established by the proposed rule; copies of all statutes, regulations, administrative procedures and practices, and other documents that demonstrate the state's implementation program under the proposed rule; and a certification by the Governor of the state, the text of which is stated in the

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proposed rule. Prior to January 1 of each year, the state is required to recertify compliance to DHS, which requires a certification statement signed by the Governor, 30-day prior notice of any changes to the information required certification, that state's Comprehensive Security Plan, and a quarterly accounting of the state's use of exception process, and the annual report card security and testing. The state must cooperate with DHS's review of compliance during initial reviews, annual reviews, or at any other time. It is unclear to me from the proposed rule, when the initial certification is required for a state that is requesting an extension of the May 11, 2008 deadline. The proposed rule does provide that states may issue driver license and ID cards that do not satisfy REAL ID, however, any such card must clearly state on its face, in bold lettering, as well as in the machine readable zone that they may not be accepted by any federal agency for federal identification or other official purposes, and they must have a unique design and color indicator that clearly distinguishes them from REAL ID compliant cards. A separate process and card has substantial costs associated with it--both tangible and intangible costs. A noncompliant card will require the maintenance of a separate system and business process for such cards and card design and types, all of which are expensive. I would be genuinely concerned about the confusion that would exist if the customers had to choose between two different cards, and had to fully comprehend the privileges and/or limitations associated with both cards. Failure of Nebraska to comply with the proposed rule or decline to issue REAL ID compliant driver license and state issue identification cards will mean that Nebraska citizens will not be able to use the Nebraska driver license or state ID card as proof of identity to board commercial airlines, enter federal facilities that require identification documents, or enter nuclear facilities. Nebraskans who want to fly will most likely be required to obtain a U.S. passport. Additionally, it is anticipated that many private sector industries, such as banking, insurance and retailers will begin to require a REAL ID compliant card as proof of identity. It is not required under the REAL ID Act, but is also not prohibited. I imagine you are thinking that there is probably little more that I could say about REAL ID, but I do think it's important to talk about the costs and funding associated with REAL ID compliance and the issues of REAL ID's privacy implications. In May 2006, the department prepared, the Department of Motor Vehicles prepared its REAL ID Cost Impact Analysis to be used as an estimate to assist in determining the national cost impact of REAL ID. It is a solid foundation for cost estimates associated with REAL ID compliance while maintaining the existing business relationship with the counties. A few revisions will be required, but the bulk of the work is done. As a comparative measure, I believe it would be important for the committee to have cost estimates associated with consolidating all driver license and state ID card functions under the DMV, and for central card production and issuance. As of yet, those estimates have not been done, but I am confident that we can provide those in a timely manner. The proposed rule does allow a state to use up to 20 percent of the state's share of its DHS grant funds for REAL ID compliance costs. Using existing DHS grant funds would only be a shift in priorities and would result in something else going unfunded. The proposed rule does bring definition to the type of system that DHS envisions for the state-to-state data

exchange and verification of DMV issued documents. The database anticipated to assist states with the sharing of information and verification of documents is not intended to be a national database. The system envisioned is a federated querying system. Federated in this context does not mean federally owned or controlled. It's connotation is that of a group of stakeholders coming together to agree to a common cause and common goal. Two such systems already exist and are in use, the Commercial Driver License Information System, known as CDLIS, and the National Driver Registry -- Problem Driver Pointer System, which we refer to as PDPS. Nebraska currently uses both of those systems. A querying system differs from a central database in that a querying system...all records in a querying system are maintained in a separate database. Entire records are not deposited to a massive central database. A central querying system contains a limited amount of information that cues the user to seek the entire record from another location, namely that state that holds the record. Both CDLIS and PDPS operate this way. To my knowledge there has never been a breach of security associated with either of these two systems. There is a concern for privacy as it relates to the state's database and its security. In addition to the existing database and network security, which are very good, the Uniform Motor Vehicle Records Disclosure Act covers the information contained in DMV databases. The act details the limited excepted uses for disclosure of information. It defines levels of information which is to be protected and provides for penalties associated with prohibited disclosure. Nebraska also has other statutory provisions that govern disclosure of information specifically, the Social Security numbers contained in our databases. The proposed rule requires each state to submit a Comprehensive Security Plan that details database security and all aspects thereof. The proposed rule also addresses the issues regarding information stored in the machine readable zone of the cards. Nebraska is one of four states that current prohibit the collection and use of information stored on the cards in the machine readable zones. The DHS privacy impact report specifically recognized these states and urge other states to adopt the same types of laws. The proposed rule calls for comments regarding encryption of the machine readable zone to further protect information stored therein. Finally, subjecting employees to background checks is something the DMV already does with its new Examining Division hires. However, the checks described in the proposed rule are significantly more extensive than our current process and will most likely result in an addendum to the contract that governs the employee relationship with the state. There is no doubt that there is a great deal of work to be do between now and October 2007, the extension deadline. If Nebraska is going to comply with the REAL ID Act, then we must move forward now. The extension granted in the proposed rule does nothing more than advance the date at which the state must be issuing its first REAL ID compliant card. The January 1, 2010 deadline is not a lot of time to meet the challenges presented by compliance. I would like to work with the committee to draft legislation that could be advanced in this session, as well as providing necessary funding to begin programming and making any necessary operational changes. It may be difficult to draft legislation that will encompass all of the necessary changes, but I believe we can put forward a draft that could provide guidance

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to the DMV and the necessary oversight for compliance. I know I have taken a considerable amount of time, and I appreciate your patience and your attention. And I will try to address any questions you might have. [LB285]

SENATOR FISCHER: Thank you, Director Neth. I appreciate the thoroughness of your testimony, and thank you for providing us with a hard copy of your testimony. That will be very helpful for the committee. [LB285]

BEVERLY NETH: You're welcome. [LB285]

SENATOR FISCHER: Are there questions? Senator Hudkins. [LB285]

SENATOR HUDKINS: Director Neth, thank you. I am very impressed at how much information was given to us this afternoon. But I do have a couple of questions. Let's say that the REAL ID Act was in place now. And all of the systems are a go. And my drivers' license has or will soon expire, so I need to go in and get a new one. Then I would be required to provide all of these documents? [LB285]

BEVERLY NETH: Yes. [LB285]

SENATOR HUDKINS: The birth certificate, Social Security, residence evidence. Okay, all of those. If I go in there to the drivers' license examining office, how long is it going to take them to verify all of these? [LB285]

BEVERLY NETH: Well, that is an unknown. We would hope that the systems that we would be verifying to would have an adequate amount of functionality to allow all of the states at the same time to be touching these databases for verification information. There are 245 million individuals in the United States that hold drivers' license or ID cards. We all do business at roughly the same time during the day, with the time lags across the country. So these are going to have to be very robust systems in order for us to all be out there trying to verify information. The Social Security Administration System, SOL system, that we currently use, handles the traffic flow. We are using that in real time in Nebraska, and I believe there are...I think there are 47 jurisdictions that are currently verifying Social Security numbers to the SOL system. So it can happen. And if other states look to replicate that type of verification process, then I imagine we can do it. We do it in real time, and it happens very quickly. It's seconds, really, for us to go out and touch the Social Security database and receive the information back regarding someone's Social Security number. The process, though, will take more time in that we are seeing more documents from an applicant. And quite honestly, Senator, in your case as well, you may have to bring us a copy of your marriage license, because I imagine that your name, your given name is different than your current name, although you would have a Social Security card that would tie those names together. But in many instances we will have to see if there are multiple name changes and women are going

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to suffer this probably more than most individuals, they are going to have to bring us those documents that reflect those multiple name changes along the way. So it's the process of reviewing those documents first, to make sure that they're not fraudulent on their face; it's a process of imaging those documents and storing them that we currently don't do; it's a process of putting all of that information in and the systems going out and touching databases and returning, verifying information to us. It could be considerable. I do not doubt that it will more than double the time that an applicant spends with a DMV examiner currently. [LB285]

SENATOR HUDKINS: If a person goes in, I'm thinking an illegal immigrant, and they do not have a Social Security number because they can't get a drivers license right now without one, and so if they don't have one of these pieces of identification, what happens to them? They're just turned away for an ID card or a drivers' license, or do they get deported? [LB285]

BEVERLY NETH: Well, I think that's the question. The REAL ID proposed rule and the language of the act are very clear that immigrants who are here under a lawful status, have a defined set of documents that they can present. Lawful status is one of the things you have to verify under REAL ID. So that will be a main part of it. I'm sure that it will be very, you know, and we have to verify that to the Systematic Alien Verification System, or something like that. I'm sorry, I'm getting that word wrong, entitlements is what it is. So I do not think it would take long for people to understand that you just can't go to the DMV and try to get through the process anymore. Those individuals also are required...we are to provide them with a temporary document. Their document is only valid for the length of stay expressed on their immigration documents. And if those documents fail to have an expiration date, then the longest an individual here under an immigration status can maintain a card is for one year. They are going to have to be required to come back to the DMV every year to renew their card and have their status verified. So, you know, it's a huge process. As far as deportation, I supposed that could potentially...we have no statutory authority to detain people at the DMV now. If we have people that we suspect are engaging in fraud, in many counties, we have a very good relationship with the local sheriff. And it's not always illegal immigrants who are attempting to perpetrate a fraud. There are people who are trying to steal other people's identities, we see that. And so if we think there is some fraudulent activity, we can call, and sometimes there is a response, but other times there is not. We can't physically hold anyone. [LB285]

SENATOR HUDKINS: So we better start rounding up our documents now. (Laugh)
[LB285]

BEVERLY NETH: Yes, I would say that would be a good idea. [LB285]

SENATOR HUDKINS: Thank you. [LB285]

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SENATOR FISCHER: Senator Mines. [LB285]

SENATOR MINES: Thank you, Madam Chair. Bev, the responsibility of the counties, after implementation of REAL ID, how do you see them...what role do you see them playing in this whole process? You can't...well, they've got 550 people that you have to do background checks on, that's expensive. [LB285]

BEVERLY NETH: Yes, the counties...it becomes...well, the reality of what is expressed in the proposed rule is that for the enrollment period, until May of 2013, when all applicants are coming to...every one of those people, every one of us are going to have to go to the DMV first. There are a percentage of individuals who now, roughly I believe about 25 percent of our cards that are issued are duplicates or name changes and those things. Those people don't go to the DMV now they go to the treasurers. And so that stops. Everyone has to come to us. Everyone is going to have to begin with the DMV. And the only thing, essentially, if you move to a central card issuance process, the only thing that would be there for the counties to do that they currently do is collect a fee. But a central issuance process would most likely require us to issue some kind of a temporary document. So you have either a hassle factor that's pretty high for the person to go back and forth, pay a fee, come back, verify they've paid a fee, and then get their temporary, or you remove that hassle factor and you take the counties out of it. But it would be shifting a fee collection to the DMV that we've never done. We don't collect fees in our remote locations, that is done by the county. [LB285]

SENATOR MINES: But your department would have to add personnel, probably. You'll have to update your information technology abilities. This is a major, major move, isn't it? [LB285]

BEVERLY NETH: It is massive on its scale. If there is a decision to change the operational processes, then essentially what you're building in Nebraska is a new DMV for driver license, our driver license division, from top to bottom. And yes, there may be...there most certainly, I think, would be an increase in staff for the main office to deal with things like certification and compliance and security issues. We have some of that, but this is a much more extensive requirement than what we currently do, and background checks and all of those things. [LB285]

SENATOR MINES: Thanks. [LB285]

SENATOR FISCHER: Senator Aguilar. [LB285]

SENATOR AGUILAR: Thank you, Madam Chair. Bev, the privacy aspect of this is going to be impossible, isn't it? [LB285]

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BEVERLY NETH: Well, I'm not sure impossible is...it's challenging. The privacy issues associated with the card and the information contained in the machine readable zone, what DHS is asking is that states and anyone else who's interested really attempt to provide them with a solution that encrypts the information in the machine readable zone. However, the challenge with that is that you are left, because you want law enforcement to have access to that information so that they can verify the document, and you want the DMV to have access so we can verify the document, so the challenge becomes how do you take such a massive amount of information and encrypt it and still allow this access to tens of thousands of... [LB285]

SENATOR AGUILAR: And that's one of the obvious challenges, why we don't have the regulations in place at this point in time, without a doubt. [LB285]

BEVERLY NETH: Yeah, they're... [LB285]

SENATOR AGUILAR: And one more question. When I board an airline, I can use my drivers' license or my passport as a form of ID. When REAL ID...when and if it does go into effect, will my passport still be accepted? [LB285]

BEVERLY NETH: I believe it would. I mean my understanding of the passport, it is your identification document issued by the federal government. So that's how I view mine. So I think that that would still be acceptable. [LB285]

SENATOR AGUILAR: And the reason I ask is because of all the procedures to get REAL ID, state ID, or drivers' license goes far above and beyond what's required to get a passport. [LB285]

BEVERLY NETH: I think that the Department of State would argue with you on that point. The Department of State believes that its passport vetting process is extremely rigorous, and the information that is provided is...they're, I believe, very confident that when they issue a passport, they're issuing it to the right person. I don't have enough experience with that to be able to...this is so massive because it's being pushed down to the states, you now, in a voluntary, the state doesn't have to comply with it. And that's the issue. You know it's... [LB285]

SENATOR AGUILAR: It's like, you know, when I sent for my passport, you know, I could tell them what my Social Security number was, I didn't have to send a copy of it, I didn't have to send a copy of my birth certificate, any of that. That's what I mean by above and beyond what's required. [LB285]

BEVERLY NETH: Maintaining those in database, certainly, the reason, I believe, or the value in maintaining those source documents in the database is they're there for the state if the state needs to reverify them in a reissuance scenario or renewal scenario.

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They would also, I believe, the states are really attempting to figure out how we could...how can we send someone's source documents, if you move to another state, how can we transfer those to another state, so you don't have to find those again. If you've entered them into a REAL ID compliant database, then we ought to be given some leeway to send those to the state where the individual may be applying for reverification by that state. But really, the magnitude of this is shifting, you know, on a very grand scale it's shifting the primary function of a driver license to your identity document for the federal purposes. [LB285]

SENATOR AGUILAR: Right. [LB285]

SENATOR FISCHER: Other questions? Senator Hudkins. [LB285]

SENATOR HUDKINS: Thank you. Director Neth, when you...will these records be kept forever, or will they be purged at a regular basis, because people are going to die? [LB285]

BEVERLY NETH: Yeah, absolutely. Well, what we do with the Health and Human Services, Vital Records Division, is we link...have some information from them regarding deaths and those things. So we purge our system based upon death certifications from HHS. But I think I remember the rule says that we're supposed to maintain the information for a minimum of ten years. But we certainly could maintain it longer than that, until such time as that individual has surrendered their compliant card in another state, at which point we'd either transfer that or most likely purge it from our system. [LB285]

SENATOR HUDKINS: Thank you. [LB285]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB285]

SENATOR STUTHMAN: Thank you, Senator Fischer. Director Neth, your testimony is troubling to me in the parts that said that the state must conduct an annual review, the state must submit its cards for annual inspection, the state must also invest in new imaging hardware, other facilities, and then Nebraska citizens will not be able to use the drivers' license to board the commercial airlines, you know. We're kind of behind a hard stone and the rock, aren't we? But can we afford to do all of this? [LB285]

BEVERLY NETH: Well, it certainly has a substantial price tag associated with it. The downside of not complying with REAL ID is that the citizens of Nebraska are the ones who suffer. Unlike many federal rules and regulations, they have not attached a monetary penalty for the state of Nebraska to this. There's no taking away of roads funds, there's nothing like that. What happens is the citizens are the ones who are going to...you and me, are going to be the ones who don't have access to a REAL ID

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compliant card. So our option would appear to be that we would make application for a passport. Which is not inexpensive and certainly would require you, I think, to round up many of the same documents that you're required to round up under REAL ID and present. But that's the impact of not complying with REAL ID, that it flows to all 1.5 million of us who currently hold documents, and potentially all 1.7 million Nebraskans. [LB285]

SENATOR STUTHMAN: Thank you. [LB285]

SENATOR FISCHER: Other questions? Senator Louden. [LB285]

SENATOR LOUDEN: Yes. Thank you, Senator Fischer. I can't believe that a six-line and 60-word bill costs so much, generates so much paperwork (laughter). Anyway, do I understand you right that a current Nebraska drivers' license wouldn't be good enough to get a REAL ID card? [LB285]

BEVERLY NETH: That is right. You could not surrender your existing driver license as an identity document. [LB285]

SENATOR LOUDEN: And will a passport work? [LB285]

BEVERLY NETH: A passport will work, yes. There are nine documents identified that would be accepted, and those are, if I can find it: a valid unexpired U.S. passport, a certified copy of a birth certificate,... [LB285]

SENATOR LOUDEN: Now does that have to have the passport and the birth certificate? [LB285]

BEVERLY NETH: No. [LB285]

SENATOR LOUDEN: Just the passport? [LB285]

BEVERLY NETH: Just the passport, or... [LB285]

SENATOR LOUDEN: Because you've already done that. [LB285]

BEVERLY NETH: ...or your birth, yes, yes. So if you have a passport, that is one of the documents you could use as verification of your identity. You would be...you wouldn't have to get a certified copy of your birth certificate. And the only other thing that...you have to prove citizenship, I suppose, so you've done that with your passport, or you do that with your birth certificate, or if you were someone who was born abroad, then there is a document called the Consular Report of Birth Abroad. [LB285]

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SENATOR LOUDEN: Now the reason for that is they can't hardly play around with a passport, because that's supposed to be worldwide. So you about have to take the passport. But they can monkey around with our state drivers' license and go from there, because you nearly have to have the same type of paperwork to get a driver's license. Now in Nebraska you got to have your birth certificate and your Social Security number, and if I remember when I got a passport, that was about all I had to do to get a passport. That's why I'm wondering, is why a current drivers' license wouldn't be as...now is that because this is federal and there are some states that you can get drivers' licenses easier, or where does that come from? [LB285]

BEVERLY NETH: I think that is it exactly, Senator Louden. I think there is a large belief on the federal level that the states do not vet driver license applicants well enough to technically prove their identity. It is something that I think states have really been doing as a part of the driver license process for a long time. But there are states that don't have, like Nebraska, we do not have a legal presence requirement statute in Nebraska. And much of what, you know, there's a very large component of REAL ID that goes to immigration status and verifying that status. There are other states that don't have legal presence requirements. And so what DHS and the federal government has said is that for those people who currently hold state-issued driver license or ID cards, we want to re-enroll all of you. And this is the process that you're going to have to follow. [LB285]

SENATOR LOUDEN: Now can't your drivers' license, your ID on your drivers' license be crossed over onto your Social Security number? Because at one time we had to put both on that, then finally we just got a number and that's all you put now is your number. But that, no matter where you go, you're going to have the same number. [LB285]

BEVERLY NETH: Yes, and with respect to your Social Security number, the states are prohibited from using that on the face of a document anymore. We store it in our system and we release it for three very specific instances under the statute. But we don't release it as a part of the record. And it's not used as your unique, identifying number. Your driver license number is the one that is used to access your information out of the system. [LB285]

SENATOR LOUDEN: Well, that can be cross-referenced to your Social Security number in your database. [LB285]

BEVERLY NETH: It certainly is now, but it's not a number that we display on documents or anything like that. [LB285]

SENATOR LOUDEN: Right, right, because of passing laws 20 years ago or so. [LB285]

BEVERLY NETH: Um-hum. [LB285]

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SENATOR LOUDEN: Now, my next question is, when you talk about all of this, what about these rural counties out there? I mean we have counties out in western Nebraska, the drivers' license examiner comes, what, every two weeks or something like that. Are we going to have to say, they'll be in Scottsbluff, and they'll be in North Platte, and they'll be in Kearney, and Lincoln, or there will be about six places around the state of Nebraska where we're all going to have to come to get our national ID or whatever it is? [LB285]

BEVERLY NETH: Well, Senator, I identified 14 counties that already do 77 percent of the driver license business. I don't know what the magic number is, but I believe, in reading the rules, that it would be nearly impossible for us to certify that many of the courthouses and our space inside the courthouses, we're the guests of the courthouses, of the counties, that our space inside there would meet the security requirements outlined. And so either the counties are going to have to...if the counties are going to be a part of the process, then they are going to have to commit extensive financial resources, or the state is going to have to agree to pay for those. And honestly, at this point, because we haven't done any cost analysis of putting the entire process under the DMV in state facilities, and a central card issuance, I can't compare the numbers we currently have out there for a cost impact. The number that exist right now is we are somewhere \$26 million to comply with REAL ID. And that is a number that we put together keeping the status quo, keeping the counties in the process, maintaining our presence in all 100 sites and all of that. We would have to do a different analysis that would analyze regionalizing and central card issuance. [LB285]

SENATOR LOUDEN: Well, that's what bothers me is if people have to journey a long ways to get their identity, because if I remember, I heard of a story like that before, and the world hasn't been the same ever since. So that's what I... [LB285]

BEVERLY NETH: There certainly is an opportunity for the department to figure out how we could provide services in some of the remote locations, rural locations. But it would be a challenge to meet the requirements under REAL ID to do that. But it doesn't mean that the Legislature can't challenge the department to do that. [LB285]

SENATOR LOUDEN: Okay, thank you. [LB285]

BEVERLY NETH: Thank you. [LB285]

SENATOR FISCHER: Other questions? Director Neth, I've heard stories that Maine is really fighting this. And they're saying that they may even look into purchasing passports for all of their residents instead of setting up what you just went through. [LB285]

BEVERLY NETH: Um-hum. [LB285]

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SENATOR FISCHER: Can a passport be used to get into a federal building? [LB285]

BEVERLY NETH: I believe so. [LB285]

SENATOR FISCHER: It can be used to travel on a plane? [LB285]

BEVERLY NETH: I believe so. [LB285]

SENATOR FISCHER: Why doesn't the federal government just have passports be used for identification? [LB285]

BEVERLY NETH: I'm not privy to what the federal government thinks. I think that that might be a question more appropriately posed to the congressional delegation or the Department of Homeland Security. And certainly, Dustin made reference to bills that are in the Senate right now. I'm pretty sure that Senator Collins withdrew her bill last Thursday, after the Department of Homeland Security issued its rule, because much was made of the extension granted. Although, it is an extension, but it's not that big of an extension. I mean we still would need to move forward with planning and expenditure of funds, I believe. But I do believe that Senator Akaka, from Hawaii, did reintroduce his bill that would repeal REAL ID. And I do not know the status of that bill at this time. [LB285]

SENATOR FISCHER: Okay, thank you. Other questions? I see none. Thank you very much, Director. [LB285]

BEVERLY NETH: Thank you. [LB285]

SENATOR FISCHER: Are there other proponents for LB285? I see none. Are there opponents to LB285? Good afternoon. [LB285]

JENNIFER HERNANDEZ: (Exhibit 2) Good afternoon, senators. Madam Fischer, committee members, my name is Jen Hernandez, H-e-r-n-a-n-d-e-z. I'm the community educator and registered lobbyist for Nebraska Appleseed. We're a nonpartisan, nonprofit law firm committed to equal justice for all Nebraskans. And, of course, I'm here in opposition to LB285. The National Governor's Association, the National Conference of State Legislators, and the American Association of Motor Vehicle Administrators estimate implementation of REAL ID will cost states more than \$11 billion. And at least 15 states have already introduced bills or resolutions to oppose the REAL ID Act. Nebraska's own LR28 states that, among other things, that the REAL ID was attached to an appropriations bill, passed without a hearing in either the House or the Senate. As has become clear since its hasty passage, this is a law that imposes extreme financial burdens on states and affects every licensed driver in the country, and there is growing momentum to overturn the law, as you know. Director Neth explained how complicated

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it will be just to get our card to look the way it's supposed to look and meet those detailed standards. The adoption of REAL ID in Nebraska would impact all state residents in a number of ways and those are included in my testimony. In addition to all the complications that we've heard already today, REAL ID requires the creation of a temporary license, I think 35 different temporary licenses, that expire with the holder's immigration status, which will pose an extreme administrative burden on the Department of Transportation. Immigration law is as complicated as the tax code, and expecting DOT employees to learn immigration law in addition to their other responsibilities, will be like asking them to verify each applicant's taxes before issuing a license. REAL ID limits access to drivers' licenses for all residents of Nebraska, regardless of their immigration status, which really, I think, raises some public safety concerns. Establishing access to a drivers' license for all Nebraska residents is simply good policy for public safety. It helps us know who is out there driving, and the process of licensure ensures that all motorists have passed a driving test, which enhances road safety for everyone in the community. It also increases the number of insured drivers, which in turn keeps insurance premiums lower for the rest of us. The potential benefits to the state of not implementing the REAL ID are privacy, cost-savings, customer service, public safety, and protecting against discrimination. A state-issued drivers' license should be reliable proof of an individuals' identity and proof of authorization to drive a motor vehicle. It should not lose this critical, practical value and cost the state millions of dollars due to an ill-considered, unfunded federal mandate that was hastily passed without sufficient debate. To protect our security and guard against terrorism, we need carefully crafted and considered laws that enhance public safety, and REAL ID is not that law. I ask you to indefinitely postpone LB285. And I'd be happy to take any questions that you might have. [LB285]

SENATOR FISCHER: Thank you, Ms. Hernandez. Are there any questions? I have a question for you. I don't disagree with anything that you said here about the problems with cost and privacy. What would you suggest, since the federal government basically is requiring states to do this? Although they say it's voluntary, they're basically requiring us to do it, because if we don't our citizens will suffer. So what do you suggest Nebraska do? We've introduced a resolution saying we are opposed to the REAL ID. Hopefully that will pass and send a message to our congressional delegation. But what do we do? Do we try and pass this bill so we have it in place, keep it in committee here at least to have it in place so we can use it as a vehicle to implement REAL ID since we may be going down that path, even though we may not want to. What do you suggest we do? When you say, kill the bill, what should we do? [LB285]

JENNIFER HERNANDEZ: Well, I think that we should continue, as the legislative resolution outlines, I think we should continue to be involved in the federal momentum to repeal REAL ID. I think that is certainly one step, but that's just sort of one level. I think that there is too much uncertainty. And so if during the interim we can sort of get together and Director Neth had said that she would really want to sit down with the

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committee to figure out what we're going to do in terms of if we really do have to implement this. And Nebraska Appleseed has some ideas how we can sort of move forward. And so we'd certainly want to be a part of that discussion. There's just too much uncertainty to move forward on this as LB285 is worded right now. [LB285]

SENATOR FISCHER: Once again, I'm not disagreeing with you. [LB285]

JENNIFER HERNANDEZ: Um-hum. If I could just, you know, throw out one other thing, which I'm not sure if it will really answer your question. But as a citizen, and particularly, I live in Lincoln, so I don't have some of the rural considerations as you, Senator Loudon, had brought up and others of you. And I wonder, I mean I think the last time I applied for a passport, I can't remember the exact amount of fee that I had to pay. I think it was maybe \$60 or something like that. [LB285]

SENATOR FISCHER: Seventy-five. [LB285]

JENNIFER HERNANDEZ: Okay, \$75 now, so I'm just wondering, if I were, and again I live in Lincoln, so I'm not living out in a very remote area of the state. But I wonder if it would cost me more than \$75 to have to gather these kinds of documents and get to a place, you know, Lincoln, or Kearney, or otherwise, wherever those places are going to be. And so I just think that we don't have to move forward with thinking that we really don't have any other options. And so I'd say that if I were a rural citizen, it might almost make more sense for me to pay \$75 and get a passport than go through all of the things that I would have to do as just an individual citizen, and also the entire state will have to do, the Department of Transportation will have to do. So one of the things, if we can't find any way to sort of get around this, then I would say...I would offer that Nebraska not implement this, and we ask our citizens if they are going to enter a federal building or get on board an aircraft, which a lot of our citizens don't do, residents don't do, but if they would want to do that they would get a passport. Or maybe we should look into how much would it cost the state to provide passports for our citizens, as other states are doing. I don't know if that answers your question at all. [LB285]

SENATOR FISCHER: Somewhat. Other questions? Senator Aguilar. [LB285]

SENATOR AGUILAR: Just a quick comment. And that's what I recommended to my wife, was make sure your passport is up-to-date, because it could result in a lot of problems down the road. [LB285]

JENNIFER HERNANDEZ: Absolutely. [LB285]

SENATOR FISCHER: Other questions or comments? I see none. Thank you, Ms. Hernandez. [LB285]

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JENNIFER HERNANDEZ: Thank you. [LB285]

SENATOR FISCHER: Next opponent, please. Good afternoon. [LB285]

AMY MILLER: (Exhibit 3) Good afternoon. My name is Amy Miller. My name is spelled A-m-y M-i-l-l-e-r, and I'm legal director for ACLU Nebraska. I'm not sure if I've ever been a witness to such discouraging supportive testimony for a bill in my entire life. Nebraska is facing a bill that offers no benefits to us, and it offers only problems, both financially and practically, for our government and for our citizens. It's clear that there is a nationwide movement right now to send a message back to Congress that we don't want the unfunded mandate and that we oppose the idea of having the federal REAL ID card. I think that Senator Hudkins questions about she's going to have to gather all of these documents and physically go to a location that may or may not be near her home poses one of the unknown costs of the REAL ID to everyone of us. We're going to have to take time off of work to go stand in lines at DMV departments. We're going to have to have all those documents with us and, if they're not right the first time, we're going to have to come back. That's an unquantified amount of time that's wasted. And it's clear now, with the new federal guidelines that came out last week, that that has to happen every time you renew it. It's going to be every renewal as well as every original application. We're worried about the way this is going to impact people that have lost records, either because of the way that they were born, my grandfather was a home birth in a rural county and doesn't have a birth certificate, and he's navigated through his life without a birth certificate because of the flexibility that there are in state guidelines that allowed him to get his drivers' license. Folks like the people that lost everything in the Hallam tornado, here in Nebraska would have a very difficult time establishing their identities and being able to maneuver through the world that has a national ID card. Foreign-born U.S. citizens, such as my nephew, who was originally born in Mexico, came to Nebraska, is here legally, and was adopted by my brother when he married his wife. He, when he grows up, will have to have his original document showing his birth in Mexico, will have to show his document showing his legal entry into the United States, he'll have to show his documents of his adoption, he'll have to show his then name change that comes with his adoption, and all of the other documents that come with that. And as a Hispanic male is very likely to experience more controversy, more trouble as he faces people who are looking at him with some skepticism. We're also very concerned about the privacy issues. If you think about what happens now when you use your drivers' license, if you're paying for your meal at a restaurant with a check they ask you to show your drivers' license so they can write down that drivers' license number. Now if we go to a card that can be swiped and be read and then shared with national databases, the question isn't whether a DMV person or employee is engaged in bad behavior, but an identity theft...and identity thief anywhere along the route. Everybody who has contact with your drivers' license now, ranging from the guy at the gas station, to the waitress when you eat a meal will have access to information that may or may not allow them ultimately to crack into a national database that will have all of that

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information about you. I realize my time is up. I do have some comments about the costs, if I may? [LB285]

SENATOR FISCHER: Please continue. [LB285]

AMY MILLER: I understand that the cost that has been estimated in relation to LR28 for Nebraska would be \$26 million. And I would like to suggest that it's very unlikely to be that cheap for us. You'll see at the bottom of page 4, and the top of page 5 of my testimony, we have already the actual implementation costs and estimates that have been done by some states. And some, like the Washington State and California State where they are estimating they are going to spend between \$250 million to \$750 million are obviously because those are very large states with very large urban populations. But if you compare to say Maine and Idaho, which I would suggest are much more comparable to Nebraska in terms of population, Maine is reporting that they have already completed their study, and it's \$185 million; Idaho's startup costs, and not talking about annual implementation costs, are \$40 million for startup alone. That's why what you're seeing nationwide is this rollback effort. Ms. Hernandez referred to 11 states, it's actually, as of today, 18 states that now have efforts pending in their state legislatures to reject implementation of the REAL ID Act. Maine has already passed their resolution. Montana's House has passed it unanimously on to their Senate for discussion, the rest are pending as Nebraska's are. This is simply too expensive and offers back no benefit to Nebraska whatsoever. We strongly encourage you to say this is not a bill that we need to pass. In order to answer Senator Fischer's question of Ms. Hernandez as to what we should do, if we just say no, then what happens? I think the reality is if Nebraska joins these other states that are saying, heck no, we're not going to pass REAL ID, it's not going to happen. Nebraska's ACLU is currently lobbying our congressional delegates on this issue, and I've already met with staffers from Senator Hagel's and Senator Nelson's office with our representative to come next week. And what I'm hearing back is they get it. They are hearing loud and clear the problems that REAL ID faces or is putting in front of Nebraska, and I think it is very unlikely that REAL ID is going to become the law of the land. If it does, if Nebraska is one of the states that stands up and says we're not going to do it, and it does continue to go into law, then the ACLU has already committed to filing a lawsuit nationwide to repeal REAL ID. Of course, we can't do that until we actually see how it's being implemented on a state-by-state level. So this will be fought out. Whether it's on the policy level with states saying back to Congress, don't shove your problems off onto us, or it's going to be solved in the judiciary. And I don't think that in the end analysis that we are going to see a situation where all of us are walking around having to show our REAL ID card at every moment in every day, that's a nightmare that I don't think any American really views as a positive result. Are there any questions? [LB285]

SENATOR FISCHER: Thank you, Ms. Miller. Any questions? I see none. Thank you very much. [LB285]

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AMY MILLER: Thank you. [LB285]

SENATOR FISCHER: Are there other opponents to the bill? Any other opponents? Is there anyone who wishes to testify in the neutral capacity? Anyone in the neutral capacity? Would you like to close, Mr. Vaughan. With that...oh, that's right, he can't. With that, I will close the hearing on LB285, and the hearings are closed for today. Thank you. [LB285]

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Disposition of Bills:

LB415 - Advanced to General File, as amended.
LB667 - Advanced to General File.
LB162 - Advanced to General File, as amended.
LB285 - Held in committee.

Chairperson

Committee Clerk