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Transportation and Telecommunications Committee  
September 11, 2014

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[LR523]

The Committee on Transportation and Telecommunications met at 10:00 a.m. on Thursday, September 11, 2014, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR523. Senators present: Annette Dubas, Chairperson; Jim Smith, Vice Chairperson; Lydia Brasch, Dan Watermeier, Charlie Janssen, and John Murante. Senators absent: Galen Hadley and Beau McCoy.

SENATOR DUBAS: This morning, I know we've got a couple other senators who said they would be here, but it is slightly after 10:00 so I would like to get started, and we'll do a little bit of housekeeping and then move on into the hearing. The hearing today is on LR523 looking at alternative transportation options and potential changes to Nebraska statutes. I'll start out by doing introductions and move through that and then, as I said, we'll have a few housekeeping things. So to my far left is Senator Lydia Brasch from Bancroft; to my immediate left is Anne Hajek. She's the committee clerk. She's the one who is charged with keeping track of everything that is said and done here at the hearing for any future reference for the Legislature as well as the public at large. So she's the one that needs you to state and spell your name clearly into the microphone and you'll hand your green sheet either to the page or to her when you come up to testify. To my immediate right is Anna Eickholt. She's the research assistant for the Transportation and Telecommunications Committee. And then we have Senator Jim Smith from Papillion, who is the Vice Chair of the committee. We may be joined, as I said, with other senators throughout the course of the morning and afternoon. We're reaching that point in the year where there are other hearings going on and things like that, so senators do a lot of multitasking and may be in and out. We are fortunate to be served in the Legislature by a great program of pages who assist us with our work here at the Legislature in committee as well as when we're up on the floor. Today we have J.T. Beck, who is originally from Centreville, Virginia, currently resides in Seward, Nebraska, is a senior at UNL majoring in political science with a minor in communications. J.T. has served the Transportation Committee in the past. We

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appreciate him being here today. And then also we have John MacDonald, who is from California, student at UNL, also a student majoring in history and poli-sci. Our pages are here to assist you as well, so I said if there is something that you need, perhaps if you brought copies and don't have enough for the committee, what have you, they can be of assistance to you. Just now joined by Senator Dan Watermeier from Syracuse.

Welcome, Senator Watermeier. Interim hearings are considerably different than our hearings during the legislative session. They're much less formal. We don't take a pro and con approach to the interim hearings. They're basically an opportunity for senators to gather information on a particular topic for any potential legislation that may come up. So again, you won't come up in a pro or a con or a neutral position. You'll just come up and make your testimony. But we are asking that you fill out a green sheet, which are back on the table there as you come in the door, with the information. Again, this is to help our clerk make sure she has an accurate record, spelling, etcetera, so if you'll fill that in. If you don't plan on testifying today or don't get to testify today, there's also a white sheet back there on the table where you can just sign in. That will go into the record as well. I would ask that you silence your cell phones because they do have a way of interfering with our recording equipment and it is disruptive of the hearing. So if you could silence your cell phones, and if you do have to have any phone conversations, would ask that you take those out into the hallway just to keep the hearing room as quiet as possible. As I said, this is an interim hearing. The committee Chair has a little bit of latitude as to how these committees will move forward. So this morning the focus is going to be on kind of multiple topics. We have a representative here from Elio Motors talking about a different kind of car. We'll be looking at bicycle...people testifying about bicycle statutes, those types of things. We're going to do those testifiers first. And then with whatever time is left over in the morning, we'll open it up to public testimony on any of the other transportation topics. Then this afternoon will be an invited testimony only approach. Again, these are not...this hearing is not to take testimony pro or con. It's just an opportunity for the committee to get a good understanding of what's going on as far as alternative transportation in the state. We're not necessarily taking positions on anything. It's just a chance for us to gather

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facts. I am very confident that there's going to be plenty of opportunity in the next legislative session for public testimony pro, con on specific legislation, and that's when you'll be able to come in and make those cases. At the end of the day, what this hearing is going to be about is helping the committee and ultimately we'll have a written report to submit to the Legislature and the full Legislature to understand the issues surrounding alternative transportation. You know, our goal is...you know, we have to abide...have laws and abide by the laws of the state. We don't want them to be overly burdensome. We want to treat companies fairly that already are in our state or want to come into our state. But most importantly, we want to protect our consumers, protect our public. And my hope at the end of this hearing, at the end of this day, we have a lot of stakeholders, a lot of varied interest in the room, people will come together and then potentially work on any legislation or any changes through the Public Service Commission process or what have you. So this is really an opening of the dialogue and getting people moving that direction. So with that, I think I've hit all of the housekeeping and information to begin the hearing, so we will open the hearing. As I said, we'll start out with...I believe we have a representative here from Elio Motors. And if you would like to come forward and be the one to break the ice for testimony, we'll let you get started with your testimony. Good morning. And as I said, if you could state and spell your name for the record.

JOEL SHELTRON: (Exhibit 1) Okay. Thank you, Senator. My name is Joel Sheltroun, last name is spelled S-h-e-l-t-r-o-w-n. I am vice present of Governmental Affairs for Elio Motors and Elio Motors has a new transportation. Some say it's an old idea, but it's certainly an improved idea. The issue that we have in Nebraska...well, first of all, let me just run through quickly what the Elio Motors vehicle is. We have over 34,000 current reservations for the vehicle, which is amazing. It won't be into production until next year in September. It has three air bags, a high-strength roll cage. In front of you there should be a folder like this as well so that you can take a look at it. It has three air bags, a high-strength roll cage similar to a race car. It has 50 percent more crush zone than any of the subcompact class, which is important because you have to slow the event

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down if you get in an accident. In other words, safety has been a big priority for our company. It will sell for \$6,800 retail. It gets 84 miles to the gallon. And that's why it's so important that we look at this issue about some of the roadblocks, or...well, roadblocks to some people. First issue, there are five states that require helmets for everyone. Nebraska is one of them. The rest of the states either have age specific or they've used enclosed cab exceptions to eliminate helmets for enclosed motorcycles. We're considered a motorcycle because we're three wheels in contact with the ground and that's what our certification will come from the federal government. If we had four wheels, if we simply added a wheel to this vehicle, we wouldn't be here today. But because we're three wheels, we technically fall under the helmet requirement and also in the motorcycle endorsement requirement. To discuss the helmet requirement first, the helmet requirement, if you...obviously, a helmet inside an enclosed vehicle will restrict your hearing. You make the vehicle to be very quiet, you enclose it. And then you put a helmet on. You cannot hear warning sirens and other things on the outside. Secondly, it restricts your vision, especially with taller people because they're hunched down. Thirdly, and the most important, is that when you're strapped into a vehicle with three-point safety restraints like we have, and you wear a helmet which is three to four pounds in weight, and you get in a front-end collision, your body doesn't move and your head does, violently forward. With the extra weight, it snaps your neck. That's how Dale Earnhardt was killed in racing because he didn't...his neck snapped. I don't mean to be so graphic, but it is a serious situation when you require helmets inside a vehicle with...enclosed vehicle with safety belts. Also another important issue is that there's no automotive manufacturing in the world that calculates the deployment of their air bags, which is a very sensitive calibration, to account for three to four more pounds on your head. They use a standard norm in the calibrations. And so actually requiring helmets inside our vehicle and other vehicles like it will detract from the safety. Inside your little pamphlet there, it shows the helmet laws for enclosed three-wheel vehicles and you can see the nation is mostly all green, and the red states are ones that we definitely have to look at. And then the other ones are age specific. We have legislation running in those. Finally the last issue I would bring to your attention is the motorcycle endorsement

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issue. We're also required in Nebraska and other states that we would have to get a motorcycle endorsement. First of all, we're way too wide and can't pass your test. The three-wheel motorcycle test we can't pass. So I don't know what we would do if you require it and we can't pass it. Secondly, nothing is applicable to our vehicle that would be on the test. In other words, statements like "lean into the curve" doesn't work with a three-wheeled vehicle. We handle like a car and we have automotive steering and we have the same equipment as a car does. So that doesn't help. And then secondly, you know statements about riding abreast and those kinds of things and there really isn't anything in the instruction manual that would benefit our vehicle. All it is, is an obstruction, an impediment to buy this vehicle because you'd have to get the motorcycle endorsement. And frankly, a lot of people are afraid to actually go to endorsement. We have senior citizens that say, I don't want to ride a motorcycle, I just want to drive this. I don't want to have to get an endorsement. But the other issue that's important as far as tourism, I'm sure that this committee would certainly look at that as well, but if...I'm from Michigan and we've already changed our law, so there's no requirement for a motorcycle license in Michigan. So if I drive to Nebraska, this is what could happen. If I didn't have a motorcycle license and I drove into Nebraska, I could take the chance of having my vehicle impounded, and a citation, because I didn't have the proper license to drive it on Nebraska highways. Now I'm sure that you have reciprocity with other states. Like Michigan, I'm sure you do and that reciprocity usually states that they would honor the other states' motorcycle license. But in this case, there's nothing to honor because we don't have the requirement anymore. So that's another important consideration. And I thank you very much for the time. If you have any...the recommendations, I do have a recommendation here of language that you can look at and it protects the public and still provides for this innovation of transportation to be...to going forward in the nation. Thank you. [LR523]

SENATOR DUBAS: Thank you, Mr. Sheltrown. Are there questions? Senator Watermeier. [LR523]

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SENATOR WATERMEIER: Yeah, thank you for your testimony here. I'm just curious about your recommendations where you say...when you're recommending this "autocycle" means a three-wheeled motorcycle. Won't that kind of open up the can of worms? Wouldn't you rather say a three-wheeled automobile so that you do try to get away from that recommendation that you're going to need the endorsement for the helmet and the license? [LR523]

JOEL SHELTRON: The reason why I didn't...yeah, that would be a great way to do it except the National Highway Traffic Administration which... [LR523]

SENATOR WATERMEIER: Is that the hook? Okay. [LR523]

JOEL SHELTRON: ...says that it's a motorcycle. So if you put in statute a three-wheel automobile, your DMV is going to require certification for an automobile and we can't get that. We can only get motorcycle. [LR523]

SENATOR WATERMEIER: Okay. [LR523]

JOEL SHELTRON: And so AAMVA, which is American Association of Motor Vehicle Administrators, has looked at this issue for over a year and they've come to the conclusion that they strongly urge states to put "autocycle" in the definition, and only require a regular Nebraska driver's license in this case to drive the vehicle. The other recommendation is, is they think that you should have in statute that this can't be used for a driver's license test because, obviously, the person riding with you would have to be in the backseat and that wouldn't be good because we're tandem seating and there's no side-by-side seating. So they want you to use a regular vehicle to do the test, but a regular driver's license is all that should be done. [LR523]

SENATOR WATERMEIER: That's what I assumed when I asked the question, but I just...I assumed that was going to be a can of worms too. [LR523]

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JOEL SHELROWN: Yep. Yeah. Thank you. [LR523]

SENATOR DUBAS: Other questions? Senator Brasch. [LR523]

SENATOR BRASCH: Thank you, Madam Chairman. And thank you, Mr. Shelrown, for your very nice graphic here and your testimony. I'm curious how many other states, either like Nebraska or like...is it Michigan... [LR523]

JOEL SHELROWN: Right. [LR523]

SENATOR BRASCH: ...does not require a motorcycle license. Is it just crossing Nebraska or is it in...how many states would this vehicle be affected by without a motorcycle license? [LR523]

JOEL SHELROWN: A little over half of the states have already made the change that don't require a license. Some of them...you know, like California, Oregon, West Coast states, most of those have already made the changes. Colorado passed their legislation just recently. In all of the states I have, they're definitely looking at this issue and most of them, I have legislation ready to go that will be coming up this session. [LR523]

SENATOR BRASCH: Okay. Very good. I have no other questions. Thank you. [LR523]

JOEL SHELROWN: All right. Thank you, Senator. [LR523]

SENATOR DUBAS: Other questions? Now, you say in your recommendations you would still register this as a motorcycle, you would insure it as a motorcycle, and license it as a motorcycle. So it's, by national standards, it's considered a motorcycle, correct? [LR523]

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JOEL SHELTRON: Yes. Yes. [LR523]

SENATOR DUBAS: Okay. [LR523]

JOEL SHELTRON: And that's the cleanest way to do it is to put "autocycle" in definition and "autocycle" is a motorcycle. And to be honest, some states haven't done that and I've raised the issue. Well, you know, there's no certification requirements for an "autocycle" and they've put "autocycle" in their definition as a motor vehicle. I said, that's okay, we'll take care of it, we'll do it. You know, we'll just call it...we'll put motorcycle plates on it. Well, sometimes you run into problems with people that they want to see it in statute correctly. And I'm one of them that would like to see it in statute correctly. And the reason I wrote it this way is to protect the public, air bag protection, which was suggested by other states as well, to put air bag protection in there. And so I wrote it that way to satisfy public safety, but still allow our people to be able to drive the vehicle without having to get a regular driver's license or a helmet inside. [LR523]

SENATOR DUBAS: And you referenced the motorcycle test doesn't really fit many of the...the laws don't fit this type of vehicle. [LR523]

JOEL SHELTRON: Yeah. I have not found one test that we can pass yet. Our front wheel spans...our front wheels are as wide as a Ford Taurus. And the reason we built it that way is for fantastic stability. Our vehicle can be put into a skid at 60 miles an hour on the flat and will not flip. So when you're that wide, I think most of the tests say 60 inches. The cones are 60 inches apart. So we're like 72 inches apart. So there's no way we can get through the cones. And so, you know, maybe the instructor will just move the cones out, but then maybe you'll have instructors that say, you can't pass the test, I'm not giving you the endorsement. [LR523]

SENATOR DUBAS: So if you're taking a regular driver's license test, this vehicle fits much more with those Rules of the Road than it does with the motorcycle? [LR523]

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JOEL SHELTRON: Yes, it does, except that when you do the road test you have someone riding along with you, and you shouldn't use this vehicle for a road test because the back seat...there's no...I'm sure I'm not telling you anything you don't know. It would not be a good situation if someone made a mistake driving that's just learning and so. [LR523]

SENATOR DUBAS: But every other thing about this car when it's going down...or this motorcycle, or whatever it's going to be called... [LR523]

JOEL SHELTRON: "Autocycle." [LR523]

SENATOR DUBAS: ..."autocycle," there we go. As you're going down the road it's handling like a car, it's...I mean, you drive down the highway or drive down the interstate or whatever, it's going to operate very similar to a car. [LR523]

JOEL SHELTRON: Yes. Yes. It does 107 miles an hour top end, I've had it on the expressway. If...you know, or 75 in Nebraska or whatever, you know. (Laughter) Are there any police around here? I've had it on the expressway, I've taken it through the curves, I've driving it in Manhattan, New York City. I've driven it in a lot of different areas. It's fun to drive. I feel very confident and I did not even notice that there was only one wheel in back. I mean, you just don't notice it. It's just fun to drive. [LR523]

SENATOR DUBAS: So how many of these...do you have any idea how many of these are on the roads in other states? [LR523]

JOEL SHELTRON: We only have four prototypes right now. [LR523]

SENATOR DUBAS: Oh, okay. [LR523]

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JOEL SHELTRON: And three of them are in California. The other one is retired. Actually two of them are retired. We have two that we take around to Legislature's and then we have one that's on tour actually, too, as well. But our production won't start until September. Yet we have over 34,000 presold orders with deposits, minimum deposits of \$100 down, up to \$1,000. I would tell you what our market projections have shown from other...from a marketing company that did the projections. And the reason why I might mention that is to tell you the popularity that this vehicle is going to have. But you would think I was nuts if I told you what the demand is. It's incredible. We cannot meet the demand of this vehicle. I just stress that because some people think that, well, you know, there's only going to be a few on the road. There's over 34,000 reserved already. How many in Nebraska I wasn't able to get that figure. Would have like to have it so I could tell you. But states like Arizona are 1,200 and some, New York is 1,200 and some. They're pretty much spread out East Coast, West, Southwest. Doesn't make any difference; it seems to be popular in all states. [LR523]

SENATOR DUBAS: Now, I know the committee has received some e-mails from at least one or two people in Nebraska who have ordered this car. If for some reason no change was made in our legislation, is this going to impact their ability to buy that vehicle? [LR523]

JOEL SHELTRON: Yes. We have some people here today that have made reservations that came in to hear this hearing. And they're very concerned, especially the helmet requirement, and also the endorsement requirement as well. Because if you're driving from Michigan, and Nebraska wears a helmet, requires a helmet, I can simply throw one in the back, you know, and I get to Nebraska, I could put it on. I don't want to do that because it makes it unsafe and puts me in a dangerous situation, but I could do that. The motorcycle license is an entirely different thing. If I don't get one in Michigan because I don't need one, there's no way I can just automatically go down and say, sign this so I can drive in your state. I have to go through a whole testing procedure. [LR523]

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SENATOR DUBAS: Have you had any conversations with our Department of Motor Vehicles? [LR523]

JOEL SHELTRON: I have contacted them and I...to be honest with you, I can't remember what the response was. In most states they either...their process of government is they remain neutral on these issues and generally that's what I hear. There are other states that take a very aggressive...Connecticut is one took a very...not Connecticut, but Vermont took a very aggressive, DMVs took a very aggressive change. Wisconsin, even though they don't need the change, Wisconsin did. They called up and they want to put it in statute correctly. So I'm not sure about what your DMV is. I know I've contacted them about it and hopefully they see the need to change, especially since AAMVA, which is an organization that they have members that belong to AAMVA, and AAMVA is not just recommending, they're strongly urging. That was the language that they used and that was to get consistency across all jurisdictions because they see the same thing that I do is that if you ride in your state from another state that doesn't require this, then you could be in trouble. [LR523]

SENATOR DUBAS: So these recommendations, this language, is kind of model or is what's being used or looked at in other states but... [LR523]

JOEL SHELTRON: Yeah. I was telling one of the staffs here in the Capitol that, you know, I can...he asked me about language. And I said, I can give it to you and I'm more than happy to give it to you and this is the way I think it should be written, but it seems every time I give it, somebody is tweaking it somewhere, so. (Laugh) So your people will have to do the...find out where it needs to go and any subtleties in the Nebraska code that will have to be worked out. But this is actually very good language because it does protect the public and that's what we're all interested in doing. And it ensures that someone who imports a very unsafe vehicle with a different configuration, which is going on now, will not be able to slide under this law. [LR523]

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SENATOR DUBAS: Very good. Other questions? Senator Smith. [LR523]

SENATOR SMITH: Thank you, Madam Chair. Mr. Sheltroun, thanks for coming in and testifying. Is this going to be assembled in Louisiana? [LR523]

JOEL SHELTRON: Yes. We're 90 percent North American content and we're trying to get to 100 and it's going to be built in Shreveport, Louisiana. [LR523]

SENATOR SMITH: All components manufactured there? [LR523]

JOEL SHELTRON: They're not. The large components will be manufactured there. The body panels will be manufactured there. The engine will be assembled there, transmission as well, probably. It's just a cost-savings approach where you don't...if you build the engine someplace else, you've got to crate it, ship it, uncrate it, and then ship the crates back. And this way you just assemble it there. [LR523]

SENATOR SMITH: Without going too far into it, why Louisiana? Why did you choose Louisiana to be the manufacturer? [LR523]

JOEL SHELTRON: Louisiana had a plant that...well, there are a number of reasons, and I use to be a state legislator in Michigan. I was a state rep and I tried to keep this in Michigan. But, well, let's say, Michigan is a big-three state and we're not going to get that much cooperation there. Louisiana had a plant that GM had to vacate because of the bankruptcy. It's a 4.5 million square feet facility. It has 18 miles of assembly line. We own all of the equipment. All that assembly line we own, so it's three times more than what we need. The plant is four times bigger than what we need. And our investor is going to...he has the master lease on the plant and he's going to sublease to what we don't need and we're going to lease what we do need and then we have the equipment there as well. [LR523]

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SENATOR SMITH: And then, when you're looking at your distribution or your sales model, are you seeking to do direct sales? Are you seeking franchised partners? Are you...how are you going to distribute the models to the states? [LR523]

JOEL SHELTRON: Our distribution model is for company-owned stores, but a number of states do have issues with that and do have...it's illegal to do that. And so what I tell the legislature is that we will follow every statute that you have. So if your statute doesn't allow for that, we will either use franchises, or we'll have an alternate way like our service provider is Pep Boys, for example. And I don't know if you have Pep Boys in Omaha or Lincoln or where, but the one thing I can assure you is that our business model doesn't have a dealership in every town. We only have a few based on population. We assume that you will drive 100 to 150 miles to buy this vehicle. You just don't want to drive that far to service it. [LR523]

SENATOR SMITH: Okay. What size engine, what size motor? [LR523]

JOEL SHELTRON: It's a .9 litre, three cylinder. The motor was designed by IAV which designed the Bugatti, the Mini Cooper. We have all topnotch suppliers and engineer firms working in the field. [LR523]

SENATOR SMITH: Single size motor? Is it single size, or...? [LR523]

JOEL SHELTRON: Pardon, sir? [LR523]

SENATOR SMITH: Just one size? [LR523]

JOEL SHELTRON: One size. Yeah, we have one model and our model comes equipped with one of seven colors, you pick that; whether you want a stick or an automatic and the automatic costs more. But they come with air conditioning, electric

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windows, electric door lock, and a radio. We don't make any options. We leave that up to the rest of the business community allowing everybody to participate in this. So there's one of the investors in my home town who has a factory is going to produce alternative fenders for this vehicle. So it's really exciting because...luggage racks, whatever. If you see something, our deal is this: You design it, you manufacture it, you warranty it, and you package it, you send it to us. We sell it, we make 20 percent, you make the rest. So you can...that model doesn't exist in the automotive world today, but what it does for us, in a very short period time we'll have more options than a Bentley. [LR523]

SENATOR SMITH: Do you anticipate seeing other "autocycles," other producers of similar vehicles enter into the market? [LR523]

JOEL SHELTRON: Yes. I do because I know that we're going to be wildly successful and, you know, you're never going to be the only one. As a matter of fact, Toyota right now has a prototype which is an electric vehicle that has a range of 30 miles and a top speed of 30 miles an hour. And it's a single passenger and...but it falls under the same problems in this state and others that you're in an enclosed motorcycle and so you have to wear a helmet. [LR523]

SENATOR SMITH: Thank you. [LR523]

SENATOR DUBAS: Any other questions? Thank you very much, Mr. Sheltroun. [LR523]

JOEL SHELTRON: Thank you very much for the time. [LR523]

SENATOR DUBAS: You bet. I'd like to take the opportunity to introduce Senator Charlie Janssen from Fremont and Senator John Murante from Gretna joined us now. Is there anyone else who would like to speak to this particular issue about Elio Motors, this car?

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Okay, I think then, if not, I know we have some people here who would like to talk about some bicycle issues, some regulations, etcetera. So if we have someone come forward. [LR523]

PEGGY ADAIR: Good morning. [LR523]

SENATOR DUBAS: Good morning. [LR523]

PEGGY ADAIR: (Exhibit 2) For the record, my name is Peggy Adair, A-d-a-i-r, and I'm speaking today on my own behalf. Senator Dubas and members of the committee, as this committee examines the safe interaction of different types of transportation, I encourage the committee to include electric-assist bicycles, commonly called e-bikes, in that discussion. As you're aware, Senator Smith introduced a bill in the last legislative session to clearly define what constitutes an electric-assist bicycle and to align Nebraska statutes with existing federal law. Senator Smith's bill passed out of committee unanimously by the six senators who were present for vote. Thank you very much. But, unfortunately, there was not sufficient time in the short session to get the bill to the floor for discussion and a vote. Senator Smith's bill was and is clean, clear, useful, and short, and I encourage the committee's continued support for his efforts to support electric-assist bicycles as a safe, efficient, nonpolluting form of human transportation. I would like to briefly explain how e-bikes work since they're somewhat of an anomaly here in Nebraska. The idea behind e-bikes is to make pedaling easier for the rider by reducing the amount of force needed to turn the crank and rotate the wheels. The reduced effort needed to propel e-bikes is beneficial for commuters, people with disability, older people, people who have to bike up a lot of hills to get to their destination, and people who are not fond of getting to their destination sweating profusely. Electric-assist bicycles look like traditional bicycles because they are bicycles. One gets on an e-bike and starts to pedal just like a traditional bicycle. Once the rider begins pedaling, the electrical components sense that action and they engage the motor automatically to assist the rider as she pedals. My e-bike has five levels of

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assistance and I usually leave it at level one which is the lowest amount of assistance needed. My bicycle also has a throttle that I can use for an instantaneous burst of assistance when I need it and I consider the throttle to be a safety device particularly in urban areas where motorists tend to think of bicyclists as hood ornaments. I think it's important to remember that bicycles in general are not just a form of exercise and recreation. They are a means of transportation. And for some people, they are their only means of transportation. That's why I encourage this committee to intentionally incorporate all bicycles, including electric-assist bicycles, into any strategic plan for comprehensive transportation design and statutory recommendation. Thank you for your time and I welcome any questions about bicycles. [LR523]

SENATOR DUBAS: Thank you, Ms. Adair. Are there questions? Senator Smith.  
[LR523]

SENATOR SMITH: Yeah, thank you, Ms. Adair, for being back. Good to see you again and you did a nice job of explaining the issue. I think this is a fine way to keep our aging population, and those with joint problems or some type of a handicap active. It is an electric assist. [LR523]

PEGGY ADAIR: Absolutely. [LR523]

SENATOR SMITH: I think you described that very well and I appreciate my colleagues for not chuckling whenever you describe my bills as clean, clear, and useful, so.  
(Laughter) [LR523]

SENATOR MURANTE: And short. And short. [LR523]

SENATOR SMITH: I think he's right, not that far down (inaudible). Thank you for being here. [LR523]

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PEGGY ADAIR: You're very welcome. [LR523]

SENATOR DUBAS: Ms. Adair. Are there any other questions? I would have one for you. [LR523]

PEGGY ADAIR: Yes, ma'am. [LR523]

SENATOR DUBAS: What's the maximum speed that your bike can go if you've got it in the highest assist mode? [LR523]

PEGGY ADAIR: The maximum speed that it will go on level ground is 20 miles an hour. [LR523]

SENATOR DUBAS: Okay. [LR523]

PEGGY ADAIR: That's kind of...it scares people sometimes because they say that maximum speed, but the whole idea is that the same bicyclist is going to bicycle the same way with an electric-assist bicycle as with a traditional bicycle. For instance, I have a traditional 27-speed bicycle. And I check my...like, last seven urban rides on that bicycle, my average speed was like 9.7 miles an hour. My last seven rides on my electric-assist bicycle were also like 9.8 miles per hour. So the same person is going to ride in the same fashion whether or not you have that electric assist or not. [LR523]

SENATOR DUBAS: Well, if I remember right when law enforcement came in and testified on this bill there was some question or maybe just they didn't understand these bikes as well so I guess I just wanted to for the record... [LR523]

PEGGY ADAIR: Yes. [LR523]

SENATOR DUBAS: ...talk about how fast these bikes can go. And now are there a lot of

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places where you can buy these kinds of bikes in Nebraska or in Lincoln? [LR523]

PEGGY ADAIR: For the most part in Nebraska you have to order them. Again, they're quite an anomaly. They're a new thing here in Nebraska. You can see them on the East Coast, on the West Coast more often than you do here in Nebraska. But I hope that they become more prevalent because, as Senator Smith says, as our aging population wants to remain active, this is a terrific way to do that. I have a friend who purchased one recently and she has arthritic knees. And she was just thrilled to death because she said for the first time in years she can actually ride a bicycle without knee pain. So she's really having a wonderful time. I think it's a terrific idea for our population. [LR523]

SENATOR DUBAS: So you said you have both kinds of bikes? [LR523]

PEGGY ADAIR: Yes, I do. [LR523]

SENATOR DUBAS: So is there one that you ride more than the other or...? [LR523]

PEGGY ADAIR: Oh, yes. It's way more fun to ride the electric assist. I have a hill that goes up to my house that I call "killer hill" because it's so hard to get up and I own "killer hill" now. (Laughter) It does not own me anymore. [LR523]

SENATOR DUBAS: Well, again, thank you for coming. Any other questions? I appreciate you coming and talking about this. It's an important issue. [LR523]

PEGGY ADAIR: You're very welcome. [LR523]

SENATOR DUBAS: Good morning. [LR523]

BARB FRASER: (Exhibit 3) Good morning. I'm Barb Fraser, F-r-a-s-e-r, from Lincoln. I volunteer with active transportation and chair of the Lincoln Pedestrian and Bicycle

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Advisory Committee, or PBAC. We welcome the opportunity to look at planning for and supporting all modes of transportation, especially those that involve walking and bicycling. A policy subcommittee of the PBAC has discussed legislative issues as they relate to bicycling in Lincoln. The committee has voiced their support for defining e-bikes and where they may be ridden following the federal precedent. Additional issues of concern for the PBAC include the mandatory use law, or commonly called the side path rule, NDOR trail policy as it relates to trails near rural right of way, and vulnerable road user legislation. One section of such legislation might address crosswalks and right of way for pedestrians and bicyclists. These issues may indeed impact the safety of Nebraskans. As such, we would like it if these issues could be explored in more depth. In addition, we welcome the opportunity to work with the Nebraska Department of Roads to make our community and the state more conducive to bicycling and walking. In conclusion, I would encourage you to take a look at there's some findings in this older review. It's from the Federal Highway Administration, entitled Public Policies for Pedestrian and Bicyclist Safety and Mobility. We'll hear that they had some new reports recently that support more of this. The conclusions are still very applicable to discussion about alternative transportation. There are many policies, guidelines, and documents on the federal and other state levels that can be models for Nebraska legislation and policy. I quote from the report: "No single 'silver bullet' policy or action exists to make streets and roads safer and more conducive to pedestrians and bicyclists. Instead it is about changing priorities on how we address transportation demand and land use." Thank you. [LR523]

SENATOR DUBAS: Thank you, Ms. Fraser. Are there questions? How much has bicycle use increased in Lincoln or in the state? Do you have any idea? [LR523]

BARB FRASER: Those are good questions and I can't tell you for the state for sure. I did have some fairly recent figures for Lincoln. I'll try to pull those up real quick here. Certainly, anecdotally, you see a lot more bicycles out just as I'm out, and a number of them seem to be people who are using them for transportation. You see them with bags

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and at times of day when people might be going to work. An analysis from the city of Lincoln from the American Community Survey shows that it's been increasing...bicycle use has been increasing by 8.7 percent between 2005 and 2012. And so those figures are little bit old, but we see that that's increasing. And also walking as a primary means of transportation has been increasing by about 3.4 percent annually between 2005 and 2012. So, you see lots of that just both recreational and transportation. Lincoln won a national competition last year for bike riding in the months of the summer and got some recognition that way, so. And Nebraska, I believe, was third across the state, so. Either we report better or actually we were riding a lot of miles. I'm not sure. (Laugh) [LR523]

SENATOR DUBAS: Well, I know driving by any of the campuses in Lincoln, and I guess I don't have a whole lot to compare to, but it seems like there's an awful lot of bicycles on campus. So I'm assuming students are really... [LR523]

BARB FRASER: Yes. And I think students have been vocal supporters of bicycle accommodation here in the city. [LR523]

SENATOR DUBAS: Senator Brasch. [LR523]

SENATOR BRASCH: Thank you, Madam Chairman. And thank you, Ms. Fraser, for your testimony. And I want to thank you for bringing up the safety factor. I'm very supportive of e-bikes and technologies and things like that, but what also concerns me is, with the speed of bikes, perhaps the intensity of an accident. And part of your handout here talks about bicyclists and pedestrians that are not obeying traffic control devices. I do see that quite often where that's their shortcut is just to whiz through away. And in our rural community out in West Point, Nebraska, last month, a woman, who I guess would be part of the aging generation, was on her bicycle, had a terrible accident with a vehicle. Don't know who's fault it was, but she was life-flighted to Omaha, very serious life-threatening injuries. So as we introduce more of these, I would encourage greater attention to the safety and the impact it could have to any age. I know of no

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other...any plans or thoughts that way of increasing... [LR523]

BARB FRASER: I would agree that that's, you know, a point of concern that we have safety and that everyone is observing the Rules of the Road, obviously. And sometimes there's some confusion as to what's the right place for bicyclists as we see more of them out. So we're encouraging just a closer look at these factors and how can we make it safe for everyone to be out there. [LR523]

SENATOR BRASCH: Thank you very much. I have no other questions. [LR523]

SENATOR DUBAS: This advisory committee that you are chair of, is it something that meets on a regular basis and who makes up that committee? [LR523]

BARB FRASER: Volunteers from the Lincoln community that are appointed to that committee meet monthly early on Tuesday mornings. The second Tuesday of every month, if anyone wants to come join us just to talk about, how can we make the community more conducive to bicycling and walking. [LR523]

SENATOR DUBAS: And is a part of what you talk about in relation to the question, comment that Senator Brasch just made helping bicyclists understand the importance of following the Rules of the Road and...? [LR523]

BARB FRASER: I think that's a concern that everyone has. We, again, as volunteers don't have a lot of budget or... [LR523]

SENATOR DUBAS: Sure. [LR523]

BARB FRASER: ...policy behind us, but look at how we can work with others in the community to make it work for...keep it safe for everyone. [LR523]

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SENATOR DUBAS: Good. Any other questions? Thank you for coming forward, Ms. Fraser. [LR523]

BARB FRASER: Thank you. [LR523]

SENATOR DUBAS: Welcome. [LR523]

JULIE HARRIS: (Exhibit 4) My name is Julie Harris, J-u-l-i-e H-a-r-r-i-s. I'm a member of the board of the Nebraska Bicycling Association and I work for Live Well Omaha. I'm here today representing the locally funded portion of my job. I appreciate the committee's time and, Senator Dubas, your resolution to call this hearing, and especially want to thank Anne for her helpfulness in the interim. During the last session this committee considered LB1071, which, in part, called for Nebraska Department of Roads to create official bicycle infrastructure standards for the state. Although that particular bill may not have been the right fit, the concept itself is a worthy one. The draft of my testimony from this point forward was completely upended yesterday morning when the U.S. Department...Secretary of Transportation released a new report titled Safer People, Safer Streets, a summary of the U.S. DOT action plans to increase walking and biking and reduce pedestrian and bicyclist fatalities. And that's what I have presented to you today. I think it's very relevant, given your question, Senator Brasch. In other words, what I'm talking about here isn't just something that other states have been doing. The Department of Transportation is now formally recommending it and taking concrete steps to help states adopt such standards and goals. In this newly released document, Secretary Anthony Foxx states: This initiative will include new research and tools to improve safety; generate better data on pedestrian and bicycle activity, crashes, and infrastructure; and build stronger partnerships between DOT headquarters and field offices, state, regional, and local planners and engineers, and advocacy groups. This is a tremendous opportunity for the Nebraska Department of Roads. It should not be seen as an additional layer of regulation or a burden or some sort of conspiracy to take people's car keys out of their hands. The safety of all of our citizens should be a priority

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regardless of which mode of transportation they choose. The implementation of this concept is generally referred to as Complete Streets. And the concept is simple. It basically says that, from that point forward, projects involving the public right of way in the appropriate context will be designed for the safety of all users, not just cars. The cities of Lincoln, Bellevue, and Hastings have already adopted Complete Streets policies and Omaha is currently in the process of convening stakeholders to do the same. In fact, more than 600 cities from across the country have adopted Complete Streets policies and I think it's very reasonable to expect more Nebraska cities to follow suit in the future. Nebraska needs robust bicycle and pedestrian infrastructure standards that give our planners and engineers options for a variety of circumstances. The good news is that NDOR would not have to recreate the wheel for this. There are already best practice-based guidelines that have been published by the National Association of City Transportation officials and the American Association of State Highway and Transportation officials that provide a toolbox to engineers looking to design roads that move vehicles efficiently while also creating safety for bicyclists and pedestrians. Several states have already adopted these standards as their own. Many of these best practice improvements have not yet made it to Nebraska, although they have been shown to dramatically increase safety. Our engineers and planners understand the value of and want to build these types of projects, but run into far too many barriers that derail the process. Unfortunately, when some of these types of projects have been proposed, they have been sometimes met with resistance, skepticism, and multiple layers of bureaucracy designed for complex large-scale road projects rather than simple street improvements. Some projects have been unduly influenced by residents that may not understand the value that they bring to neighborhoods, creating the appearance that these projects are being evaluated not on their merits for potential safety outcomes, which are very quantifiable, but rather if they might cause controversy, which is purely a judgment call. Understandably, the very system that's in place at the state and regional level have never had to account for some of these types of projects before and charting new territory and large bureaucracies can be very challenging. Cultural change is as necessary as system

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change. By developing state standards and goals for bicycling and pedestrian projects, it sends a clear signal that we care about the safety of everyone in our state and that we recognize these projects are not special amenities or experimental in nature. Rather, these are things that are proven to be effective and that are being built all over the country. The more we can normalize these projects, the easier it will be for our cities to take advantage of opportunities to create safer streets. The most innovative state DOTs are being evaluated by the State Smart Transportation Initiative and they have created a workbook full of great information that outlines innovative programs and systems that are emerging. I will provide the committee with an electronic version of that handbook. Combine this with the other information referenced during testimony today, the information Barb provided, and that I know others will be providing, will be a solid road map for the Department of Roads to create standards and policies that help all users. Perhaps an easy first step for Nebraska is to acknowledge that it is time to change the name of the Nebraska Department of Roads to the Nebraska Department of Transportation. We are, in fact, the only state in the Union that has not made that change. I thank you for your time and attention to these issues today, and I'm happy to answer any questions that you have. [LR523]

SENATOR DUBAS: Thank you, Ms. Harris. Are there questions? Do you know how many bike lanes there are in the city of Lincoln, actually marked ones there are? [LR523]

JULIE HARRIS: I don't know. I'm from the city of Omaha so I'm not familiar. [LR523]

SENATOR DUBAS: Okay. [LR523]

JULIE HARRIS: The city of Omaha is in the process of implementing a 20-mile bicycle loop that would create various infrastructure around the city. And we're also in the process of a regional bike/ped plan that would look...for many years down the road, identifying corridors that need to have infrastructure improvements. [LR523]

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SENATOR DUBAS: This is maybe more technical than you can answer, but when you're establishing those bike lanes, what types of changes need to be made with that infrastructure, with those roads? Is it just merely marking them, or...? [LR523]

JULIE HARRIS: In a lot of cases, that's what it is. A lot of cases, it's paint. And sometimes it's what they call road diet, which is if a road is already built over capacity, say we have four lanes and the study shows we only need three to accommodate the same amount of traffic, we can take out one lane of vehicle traffic and create bike lanes on either sides. These are the types of...I mean, it's giving the engineers the toolbox to be as creative as they can, within the right of way that exists is usually the best option. [LR523]

SENATOR DUBAS: In regards to statutes, and needed changes to statute, are there are lot of rewrites that need to be done to our existing statutes or are they still pretty relevant to our bike transportation? [LR523]

JULIE HARRIS: I think there are probably some statutes that could...you could use tweaking or some things that we could improve. A lot of it, I think, would be looking at processes internally within NDOR and how they interface with the Federal Highway Administration and all those kinds of things. And that's ongoing, that has been going on. There's a lot of really great people at NDOR who have been at the table showing flexibility, looking at, for instance, how bike share systems would fit into their processes and project selection plans, these types of things. So this has been happening and it would be a good thing to see this continue. [LR523]

SENATOR DUBAS: We've talked about the increase in bike use in Lincoln. You're seeing...I'm assume you're seeing the similar type of increase in the Omaha area? [LR523]

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JULIE HARRIS: Yeah. The U.S. census recently put out a report that said since 2000 the amount...the percentage of bicycle commuting has increased 124 percent in Omaha. And we, as Barb mentioned, we also participate in the national bike challenge. We've seen over a half a million miles in the summer for bicycle transportation, and I would just like to reinforce the fact that it is a transportation option for many of our citizens by choice, and sometimes not by choice, and we need to make sure that they are safe and not second-class citizens to those who drive, because not everyone can drive or wants to drive. In fact, the generation of the pages are showing that they would rather spend money on cell phones than on cars and that generation is driving at historically low levels. And if we continue to build our streets based on data from today, we're going to be tremendously overbuilt when that next generation comes to fruition, so. [LR523]

SENATOR DUBAS: Any other questions? Seeing none, thank you very much for coming forward. [LR523]

JULIE HARRIS: Thank you. [LR523]

ROBERT BOYCE: Members of the committee, thank you for listening to us about bicycling. A lot of people think that bicycling is not very important. Bicycle is how I got to work for...I'm sorry, my name. [LR523]

SENATOR DUBAS: Excuse me, can I have you state and spell your name? [LR523]

ROBERT BOYCE: (Exhibit 5) My first name is Robert, R-o-b-e-r-t, my last name Boyce, B-o-y-c-e. I sent you all a letter with actually some very small changes which should be made in the state statutes, partially those relate to what cities can do. For example, Lincoln has no exception to ride to the right, the bicycle. In Lincoln, the bicycles must ride as far to the right as practicable. There are no exceptions. Nebraska statutes has several exceptions. I don't think that Nebraska cities should be more restrictive than the

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state statutes. Nebraska accepts right arms straight out as a signal for a right turn. Lincoln does not. That makes for confusion. Senator Brasch asked about safety and I think that this is a very important issue, because bicyclists and drivers expect bicyclists to stay out of the way of motor traffic, to stay as far to the right as possible. The statute says, as practicable. Everyone expects that to mean as far to the right as possible, to ride in the gutter, to ride within a foot or 2 of the curb. That presents a dangerous situation for the bicyclist because cars pass by much too closely. My proposal on page 2 of my letter says, bicyclists may use the full lane if it's too narrow to share. State statutes do not define a substandard lane or too narrow to share. My recommendation is that too narrow to share be defined in state law. What that would result in, if my recommendation is accepted, is the fact that in Lincoln, most streets...on most streets, the bicyclist is not expected to ride at the edge of the road. They may take that full lane. It would make them much safer. If you're riding, say, 6 feet from the curb, a driver will see you two blocks ahead, will realize that there's someone in the street and they will have time then to react and either wait until it's safe to pass, or pass on the other side in the other lane. If you're riding only a foot or 2 from the curb, the motorist does not see you until much later. They have less time to react and so, even if there's oncoming traffic, they may rush by you. The Legislature passed a law last year requiring 3 feet of passing. That shouldn't really have been necessary because the law already said you should give adequate space for passing, but I'm glad that they did pass this law. When you consider that a bicycle is about 3-feet wide, if you then add another 3 feet for passing, that's 6 feet that the bicycle occupies when a motorist is trying to pass them. That means, essentially, that the bicycle needs that space. So my recommendation is that state statute says that bicyclists may use the full lane if it's too narrow to share. Right now it says, must ride to the right except for the following exceptions. Well, people don't read the exceptions. They just see, bicyclists must ride to the right, and most bicyclists do ride within 2 or 3 feet of the curb. Bicyclists expect that that's where they need to ride. Motorists expect that's where they should be. But as a matter of fact, most Lincoln streets are too narrow to share and, therefore, bicyclists should be riding out farther out in the street. It's safer for them to do. I'd welcome any questions. [LR523]

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SENATOR DUBAS: Thank you, Mr. Boyce. Are there questions? Are there any rules or laws regarding bicycles on sidewalks? [LR523]

ROBERT BOYCE: There are rules in Lincoln. I'm not sure about state statutes. In Lincoln, bicycles are forbidden from riding in the downtown area and in the Union College area and Havelock area because those are congested business districts. Now, the problem is that most bicyclists and many motorists think that it's safer to ride on the sidewalk. As a matter of fact, in Lincoln, those who ride on the sidewalk have four times the number of collisions with cars than those who ride in the street because the driver in the street sees the bicycle. If they're riding on the sidewalk they don't see the bicycle until they turn into the driveway for Valentino's or until they turn in at the intersection and it's too late. [LR523]

SENATOR DUBAS: Are there any manuals, like we have driver's manuals for people who are going to study to drive a car, are there any manuals, safety manuals, or Rules of the Road manuals for bicyclists? [LR523]

ROBERT BOYCE: There are, yes. Yes, there are. [LR523]

SENATOR DUBAS: Do you know how widespread they're probably used? [LR523]

ROBERT BOYCE: I don't know how widespread they are and they do vary from state to state. [LR523]

SENATOR DUBAS: Is this something that's put out by the Department of Roads or who puts these out? [LR523]

ROBERT BOYCE: Yes. [LR523]

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SENATOR DUBAS: Okay. All right. Any other questions? Senator Brasch. [LR523]

SENATOR BRASCH: Thank you, Madam Chairman. And thank you for your testimony today, Mr. Boyce. I believe you have some good comment. What comes to my mind, however, is the concern, right or wrong, to reduce risk or injury. And if you see that the slower moving mode of transportation is causing traffic to back up, what is the solution to that? Is there a common courtesy that when it is safe for the cyclist to move to the right and let traffic...we do it out in the country all the time. The tractor will move off to the shoulder and let cars go. [LR523]

ROBERT BOYCE: Right. Right. [LR523]

SENATOR BRASCH: So I'm concerned in a more urban area. If this individual feels that it is proper and legal for them to just enjoy a beautiful day at ten miles an hour, or way below the speed limit sign, because they are protected, that the potential damages of an impatient driver or someone in an emergency that...or road rage. You know, situations like that could arise, that to give them full and clear passage on a full lane may not be wise and prudent 100 percent of the time, that someone not able to keep up should move to the right or allow traffic to pass. Your thoughts. [LR523]

ROBERT BOYCE: I understand your point. I would say two or three things. In my 36 years of daily commuting, I took the lane always. I had someone yell at me or honk at me maybe two or three times a year. I didn't experience road rage. [LR523]

SENATOR BRASCH: Okay. [LR523]

ROBERT BOYCE: And in downtown Lincoln and in many cities, there are more lanes than one so that if the bicyclist is occupying one lane, there's another lane that drivers can go around them. On residential streets, the speed limit is only 25. So if you're traveling 10 or 15 miles an hour, you're not holding up traffic that long. [LR523]

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SENATOR BRASCH: Okay. Very good. Thank you and I have no other questions.  
[LR523]

SENATOR DUBAS: Any other questions? Thank you very much, Mr. Boyce, for coming forward. [LR523]

ROBERT BOYCE: Thank you. [LR523]

BRENT DAVIS: Good morning. [LR523]

SENATOR DUBAS: Welcome. [LR523]

BRENT DAVIS: (Exhibit 6) Thank you. Thank you, Senators. My name is Brent Davis, B-r-e-n-t D-a-v-i-s. I'm president of the Nebraska Bicycling Alliance. What you have coming around here shortly is a couple things. You've got a report card from The League of American Bicyclists that talks about Nebraska, and I'll get to that in a second. You also have a picture of the 3 foot to pass sign, is talking about safety and what we need to do to educate motorists and cyclists about the state law that we have passed in 2012. But I want to touch on a few things before I go there. You talked about the e-bikes. Interesting thing, you can get an e-bike at Joy Ride if you order a specialized bicycle. They sell specialized. Specialized came out with...called the turbo e-bike last year. Again, innovations in e-bikes are prevalent right now. They're really modifying just your existing bike. You can get a wheel, just a rear wheel, that has the motor built into the hub. And of all things, it's ran by your phone--your Smart phone. It's wireless. So there's a lot of innovations coming. Again, when we talk about health and wellness in transportation, and the safety aspect of it, that's what we're trying to educate everybody on. It's important. I mean today we see with our rising healthcare costs and unfit youth that aren't able to serve in our military to protect us because we're unfit. One of the ways to combat everything, and again we talked about we start to see, UNL is great.

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They're very proactive. Again as Julie mentioned, they're more concerned about having the latest and greatest technology and not necessarily so much a car-centric age anymore. So it's important to them. That's why UNL has been great. They've got a lot of on-campus things that they're doing to promote bicycling and so I think we need to be forward-thinking in what we do and how we pass laws and what we look at, existing laws, to make sure that we are going to be in front of that curve and keep up with what...the generations that are coming up. So as we talk about all these things, the 3-foot passing law, again for Nebraska is great. The problem we have and that's something that as the Nebraska Bicycling Alliance...again we're nonprofit, just started this last year. We just got our nonprofit status approved in June of this year, so we've got a long ways to go to make a name for ourselves, to build funding, donations, whatever it might be, because, again, right now we just have a board that's all volunteers. We're trying to use the report card you see in front of you as a road map and that's something that we'll talk about here in the different pieces. The 3-foot passing law in Nebraska is not widely known, which is why you have a picture of what the sign looks like and we need to have out on those single-lane roads. And to address the rural issue of, you know, if there's no shoulder on the road, that's where the state law right now, which I had to just share last night via some social media because I was told there was some cyclists south of Lincoln that were riding four abreast, and a fellow cyclist who was in his car noticed it and wasn't all happy about it. So I reminded everybody that I can, via the reach I have with social media, that our state law is that if you're on a single road with no shoulder, it's single file, not two wide or four wide. That's our current state law. If there's a shoulder, they can ride two abreast so there's plenty of room. I grew up down by Syracuse so I'm used to the rule. I ride a lot of gravel roads as well, so I mean we know that if there's something coming up behind you, you get over as far as you can. So safety is definitely a big issue. Also very health focused and so that's why I ride a lot for that purpose, but. So we need to make sure that we talk more and educate more, so what we're trying to do proactively as the Alliance is we want to get in front of...law enforcement doesn't know. We've got cases where cyclists have been hit and our law enforcement may not know how to access the situation, what laws were

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violated. We just had a cyclist, as some of you may know, Jim Blue, executive director of CEDARS here in town, was hit two weeks ago. Haven't found...it was a hit and run. But, you know, there's a lot of laws that were broken there and one of them that I don't know that would ever get addressed, because we've seen it before, is the 3-foot to pass law. I mean, if the motorist is caught, are they going to get ticketed for that? We don't know. But there's a lot of education that needs to happen to our law enforcement. As we pass these laws, I think we need to make sure we build that into this. The use of signage, I pull up the fiscal note for the 3-foot to pass law, which there's nothing on it. So, unfortunately, that's why you're not seeing signage out there. So I think someone missed the boat on that one. So we, again, we need to be proactive with this in trying to educate. The law enforcement will trickle down into our motorists as well. So you asked about a handbook for this. Bob and myself and many others are League certified instructors through the League of American Bicyclists and so we do a lot of things. We go to a lot of schools. We teach a lot of classes. UNL has a couple of instructors. They teach a lot of classes to students, which is great. There's Traffic Skills 101. I mean, you could take...for us to get certified was a 40 hours of class time and time on the bike. They've got multiple classes that from Traffic Skills 101 to just commuter classes to you name it. And there's a lot of training involved. If people are willing to...you'd think it's as easy as riding a bike, but there's a lot more to it as you are well aware. And like Bob, I've been riding for a long time as well. I ride thousands of miles a year so I've seen a lot of different things. The report card you have talks about Nebraska. Let's look at that real quick. We're ranked 45th. Last year we were ranked 41st. We're going down. You will see on there now that underneath the listing of our Governor, DOT Commissioner, our bike/ped coordinator, David Schoenmaker, who I think is in the room, is in the Nebraska Bicycling Alliance, so we got them to recognize us last year. Our category scores there, you need to see in the next section. Two's and one's are not good. That's low. We rank very bad in all those. The top signs of success are listed there. You see only three bikes are marked next to those. Those are things that we're doing and one of those things that we have on there is our statewide advocacy group that we started. So a lot of education for police. I'm not sure that that's quite as intense as we need it to be, which is one of

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the things that we looked at. We just had our recent board meeting last weekend and that's one thing we're looking at to get some grants and funding for to help do more education of law enforcement. So if you want a road map, as Julie talked about, if you look at the feedback section, that's something that we're looking to build upon as the League to represent the state. And again, we've got people on the board that represent all across Nebraska. The Complete Streets policy, I'm not going to read all those off to you but...as everyone has already talked about, the infrastructure, the education, the training, all needs to start to happen. And we need to make sure that we're in front of that, like I said, in setting our laws and changing the laws we have to make that as feasible as possible. The other thing, we are just going to fill out the survey to complete this report card for next year. David Schoenmaker has the password to get in and do the survey. We work with...we'll work with him to complete that. As we sat through a webinar that talked about what changes, one thing I notated in there, the benchmarking project for the state, Nebraska has no goals. We're just one of a handful of states--there's very few states--we have no goals statewide to increase walking and biking and decrease fatalities for pedestrians or bicyclists. So it's a little sad that...and that's why we're ranked 45th. We have no statewide goals to impact and improve that infrastructure. So with that, any questions you guys have? [LR523]

SENATOR DUBAS: Very good. Thank you, Mr. Davis. Are there questions? I would ask, are any of these signs around? [LR523]

BRENT DAVIS: Not in Nebraska. [LR523]

SENATOR DUBAS: Not in...there are none of these in Nebraska. I didn't think so. I hadn't seen any of them. [LR523]

BRENT DAVIS: But you'll see them in other states. [LR523]

SENATOR DUBAS: Okay. [LR523]

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BRENT DAVIS: Yeah. And so we not...I guess we're trying to figure out, do we need to raise the money and, you know, get the funds and go put those signs up? I know my wife would love me to put a few where I ride. I'm sure Jim Blue's wife would love some out where he's riding, where he got hit, just to remind motorists and educate them that we do have a right to be out there on the road and then just to give us that room because that is the law. [LR523]

SENATOR DUBAS: I know you said you're a fairly new organization, or at least just have now gotten your status. So are there any plans to conduct some statewide educational campaigns for drivers as well as for bicyclists? Are you wanting to actively reach out and work with DMV and the Department of Roads? Are those some of your goals? [LR523]

BRENT DAVIS: Yeah, we are. We, again, we thought we'd start with law enforcement. And we thought if we could make a good connection with law enforcement, that would be a great start, knowing that will trickle down. We need to have, you know, them on our side as well and understand why we're out there and what we're doing and understand the laws and how to enforce them. So we think that will help. Yeah, we definitely want to get out there and educate more people on what we do and how we do it. It's the resources and time to do that are just what it's going to take. [LR523]

SENATOR DUBAS: Good. Any other questions? Thank you, Mr. Davis, for the information. We appreciate it. [LR523]

BRENT DAVIS: Sure. Thank you. [LR523]

SENATOR DUBAS: Good morning. [LR523]

MARY TORELL: Thank you. Good morning, Chairman Dubas and members of the

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Transportation and Telecommunications Committee. My name is Mary Torell, M-a-r-y T-o-r-e-l-l, and I represent the Great Plains Trails Network or GPTN. And the Great Plains Trails Network is an advocate for trails. We do fund-raising. We've been an organization...a volunteer organization for the past 25 years. We just celebrated our 25th anniversary. But we create trails. But we're also very avid cyclists on not only trails but roads as well, highways. And I'm going to echo, I'm not going to go into detail, but I'm going to echo what the previous testifiers have said that we do support anything that can help out the safety of a cyclist. I'm here to voice my concerns over Senator Hansen's bill that was passed in 2012, LB1030, and maybe it's the 3-foot law. Maybe tweak the law, if it needs to be. The pictures that were handed out, that picture that you just looked at, my husband took that picture in Kansas. He just rode across the United States this past summer. I met him in Kansas to ride with him a day. We saw signs like...in 60 miles that we rode together, we saw that sign all over Kansas, and that was just one highway. I also did a 400-mile, six-day ride along the coast of Oregon this summer. Signage everywhere: Share the road with the cyclist, protect the cyclist, the lanes, not just in Portland and Eugene and Bend but all over the state of Oregon, just very, very bike friendly culture that I wish we could have here in Nebraska. Where Jim Blue had his accident, I got buzzed there just six weeks before that. A guy almost ran me off the road and there was a car right in front of him that gave me plenty of distance. So my thought was, why is there no signage? Why are we not out here? If the law is in place, it doesn't do any good unless there's some signage. If I would have had a chance, I would have gotten the guy's license and reported him to the sheriff. Even a talk with the sheriff just to tell him what's going on would have helped. But not all motorists, but a lot of motorists here seem to think that trying to run a cyclist off the road is the thing to do rather than allowing them to...embrace them, give them a little right of way as they do in other states. Minnesota, Vermont, Wisconsin, I've ridden in all of those states and they are so bike friendly and the culture is just wonderful in how they accept cyclists, and they all get along and they all love it. And that's what we're trying to get across today is that education, signage, those kinds of things that would really help out, us a lot. The Great Plains Trails Network always also does a lot in helping to

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educate cyclists, educate motorists to allow them to share the trail, share the roads, that sort of thing. But as a cyclist, we follow the law of the roads. And there are laws...I'm sorry, there are rules. There's a pamphlet that the Department of Roads has out about what cyclists can and can't do. I won't go into it. Bob Boyce did a fabulous job of that. I also commute. But what we would like to do is to see that this law is implemented, and if signage could be done for that. He showed you the fiscal note. I'm sure it's expensive with Department of Roads. Maybe that bill could...that statute could be tweaked to allow for some signage, especially in the heavily populated areas where there are a lot of cyclists, Lincoln and Omaha, Beatrice, Kearney, Hastings, they all have a lot of cyclists in those areas. But we're just looking for a way to protect ourselves as well. So anyway, that picture was taken in Kansas and I thought that that was a great opportunity. I even have a jersey of a friend of mine that has that 3-foot rule on it. If we could have something like that in Nebraska, it would be great to see that. So that's all I have.

[LR523]

SENATOR DUBAS: Thank you, Mary. Are there questions? Senator Brasch. [LR523]

SENATOR BRASCH: Thank you, Madam Chairman. And thank you, Mary, for a very interesting...I've seen you for years and did not know that you're... [LR523]

MARY TORELL: I'm an avid cyclist. It's a passion. [LR523]

SENATOR BRASCH: Very impressive. What I'm wondering about is, has a request been made to our Roads Department for signage? [LR523]

MARY TORELL: Not to my knowledge. I just talked to Senator Hansen. I saw him in the hall last week and he said it's very expensive. He really didn't give a suggestion and neither did his LA, Barb Lococo. I was going...before this hearing came about, before I heard about the hearing, I was going to contact the director of Roads and address this, see what can happen and follow up with an e-mail, talk to him and follow up with an

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e-mail. They're probably not aware of it. [LR523]

SENATOR BRASCH: That's my thought... [LR523]

MARY TORELL: Yeah. [LR523]

SENATOR BRASCH: ...is they're not aware of that this signage... [LR523]

MARY TORELL: No. [LR523]

SENATOR BRASCH: ...exists and there's a request for it. [LR523]

MARY TORELL: No. [LR523]

SENATOR BRASCH: And I would be interested in what you find out... [LR523]

MARY TORELL: Okay. [LR523]

SENATOR BRASCH: ...or how we can help facilitate this in our office as well. I would support the signage. [LR523]

MARY TORELL: Good. [LR523]

SENATOR BRASCH: I don't think we need legislation for signage. [LR523]

MARY TORELL: No, I was thinking just to tweak it, maybe an appropriations bill if that's what it would take to put the money out for signage. [LR523]

SENATOR BRASCH: Okay. [LR523]

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MARY TORELL: But I don't know if Roads has that in the budget or not, but if that would be, is to just ask for appropriations for that, not necessarily tweaking that law but just...I misspoke, ask for appropriation. [LR523]

SENATOR BRASCH: Very good. Thank you for your testimony. [LR523]

MARY TORELL: Thank you. Another side issue, three years ago I crashed out by Syracuse because there was a huge crack in the road, long, deep and wide, and broke a collar bone, had a concussion. Roads wasn't aware of it. I called up the director, Monty Fredrickson, and followed up with it. Two weeks later he sent me an e-mail back and said he fixed the road. If they're not aware of it, they're not going to do anything about it. That was a wonderful incidence because I had heard a lot of cyclists had issues with that and there have been other accidents there. So, you know, Monty Fredrickson is not there anymore, but I do intend to follow up and talk to the department, the director of Roads, and see what can be done. [LR523]

SENATOR BRASCH: And we have had good results with Director Peters on reporting to our supervisors road hazardous situations. They have been very prompt in addressing those. [LR523]

MARY TORELL: Good. But again, if they're not aware, they won't do anything about it. [LR523]

SENATOR BRASCH: Yeah. And our constituents will call us and then we help facilitate. [LR523]

MARY TORELL: Good. [LR523]

SENATOR BRASCH: So I'm looking forward to hearing what you find out. [LR523]

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MARY TORELL: Okay. Thank you. [LR523]

SENATOR BRASCH: Thank you. [LR523]

SENATOR DUBAS: Any other questions? I would have a couple for you, Mary. This Great Plains Trails, I asked a similar question of Mr. Davis. Are there things that you have done to do statewide education campaign? [LR523]

MARY TORELL: Even though we're mostly in the Lincoln and surrounding areas, there's 131 miles of trails in Lincoln, but that also includes the MoPac Trail which is in the Missouri-Pacific Railroad line that goes out to Eagle. Can't remember what the cutoff is, but you can also take that out to Omaha with the exception of eight miles. But, yes, we have done local education. We do bike rodeos, we do education for kids for helmet usage and the parents. A lot of times you'll see the kids using the helmets but not necessarily the parents. But we are focused more in the Lancaster County area and there's a trail up north, the Oak Creek Trail, that starts in Valparaiso even though that that's in Saunders County...excuse me, can't remember the other county. It's close to Lancaster County. The Great Plains Trails network got involved with that because it was a, you know, a vacant trail that...no longer used by the railroad. And so we bought up the rights to that and people use that trail as well. But we're more focused in the Lancaster County area. [LR523]

SENATOR DUBAS: Okay. Thank you. And I know there are representatives from the Department of Roads here today... [LR523]

MARY TORELL: Okay. [LR523]

SENATOR DUBAS: ...who probably heard this testimony, so I'll do some follow up with them... [LR523]

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MARY TORELL: Okay. Great. [LR523]

SENATOR DUBAS: ...and see where we can possibly go in the future. So I thank you for coming forward and testifying today. [LR523]

MARY TORELL: Thank you for hearing the testimony. [LR523]

SENATOR DUBAS: Do we have any other testimony in regards to 3-wheeled cars, or bicycles, or anything along that line? Okay, we have just a little over a half hour left in the hearing time this morning and I know there are some people here representing Lyft and possibly Uber. I'm not for sure exactly. So we will open up the time...the remaining time for you to come forward. As I stated in the opening comments, this hearing is not necessarily looking for an endorsement or an indictment of these types of companies that want to come into the state. We're just looking for facts and how do we incorporate this new type of transportation into our existing regulatory structure, what changes may or may not need to be made in the future. So we don't have any particular legislation before us. This is just an opportunity for this committee and the future Legislature to look at any potential changes that may or may not need to be made, whether it's legislation or through the Public Service Commission. So again, I will open it up for public testimony. Would ask you to try to keep your comments concise and not a lot of repeating. If you could do that, we would really appreciate it. So, the table is open for public testimony at this time. Come on forward. Welcome. [LR523]

BEN WALLACE: Welcome. Thank you. First of all, my name is Ben Wallace, W-a-l-l-a-c-e. And I just want to thank you for having the committee meeting today, just starting the dialogue that we're going to be having, I think, in terms of ride sharing in Nebraska and why it's important. And just transportation options, I think that's what really what it comes down to. As a Lyft driver, I do it part-time. I have a full-time job and this is something that I do on the side. And really, as I've told a lot of folks, I think the number one reason why I feel strongly about providing those options is because, you

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know, Nebraska and Omaha has one of the highest levels of drinking and driving, DUIs, things like that. In speaking with some of my passengers for the last four and a half months, I've talked to a lot of them about their experiences with transportation, whether it be cabs, whether it be Lyft, Uber, driving themselves. And one of the things that's been made apparently clear to me is that there are different subsets of people in Lincoln and Omaha in terms of what transportation, the options they feel they're willing to take. I think that ride sharing presents a very important option when it comes to how easy it is to get a ride where you're going, the cost of it, and just how comfortable people are with those different options. So, you know, I think that I've been very encouraged by the efforts that are being made by Senator Mello in looking at some of those options and potentially putting together some legislation. And again, I think the most important piece of it is to start that dialogue. As we've said before in previous, whether it's the media or things of that nature starting that dialogue, I agree with some of the concerns that have been voiced in terms of safety, insurance, background checks. I think all of those are pertinent and should be put in place as we've seen in other states that have already put together legislation around ride sharing. I think those are very important and things that need to be addressed and should be put as requirements. So I, again, appreciate the opportunity to speak before you today and to start that dialogue into viable transportation options for mediating the lack thereof in our bigger cities like Omaha and Lincoln. [LR523]

SENATOR DUBAS: Very good. Thank you, Mr. Wallace. Are there questions? Senator Murante. [LR523]

SENATOR MURANTE: Thank you for coming down and testifying. [LR523]

BEN WALLACE: Yeah. [LR523]

SENATOR MURANTE: In my conversations with my constituents and just people that I've run into on the street, I am not at all surprised that people have an interest in Uber

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and Lyft in having additional availability for ride-sharing programs and things like that. But I have been floored by the amount of people who have expressed to me a desire to use Uber and Lyft as employment, people who want to use it as a job. And I'd like you to kind of get in a little bit into what it is that about this particular job that appealed to you and how you came to know that this job existed and what was it...what is it about that appeals to you. [LR523]

BEN WALLACE: Absolutely. I think that's a great point. And that's a part of it, you know, I didn't mention that is a very important piece of it is providing employment for those that either need supplemental employment, or we have drivers that this is their full-time job. For myself, I initially was probably attracted to it because of the technology angle on it. I've always enjoyed seeing opportunities that are flexible that provide a high level of technology integration or...you might say that I'm a nerd. So it kind of applies to that tech niche. But the other part of it for me is, again, I feel like I'm helping my community by providing safe rides and then I'm also, you know, for myself, I'm an extrovert. I love people. I love meeting new people and in some ways it's an extension of the culture that I think we have in Nebraska in terms of the Midwestern hospitality, as opposed to other places you might go in the country where people...if you were to take some transportation. I've even taken Lyft and Uber in other places, in other cities, and the friendliness is different here. And I think so...so I think that part of Lyft and Uber in ride sharing in general is an extension of our hospitality that we automatically have in Nebraska to help each other out to make sure that we get to...from here to there safely. I know for myself as a passenger, I like the fact that I can go somewhere safely. If my wife and I want to go out for dinner and drinks, we can do that and plan ahead. And if I'm going someplace where parking seems to be an issue, I can use it as a great alternative. As, you know, as a job, I think it's a great opportunity to not only be part of something bigger than myself, but it also is about our community. I know that especially, specifically for Lyft, our driver community is a big piece of it and we really work to support each other. And that's outside even of ride sharing. Things come up where people have some...their car might break down or something happens to them. We had

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a couple, one in Minneapolis, one in Omaha, and they fell on some health issues and we had a fund-raiser to raise some money for them. So, you know, it goes above and beyond, but I think it really comes back to the core of our culture in Nebraska. And I think part of that is not only, you know, being a part of something bigger than yourself, but really making it a community that people want to live in. And I think that's why we see so many, you know, Omaha and Lincoln and Nebraska mentioned in so many lists of places to live because it comes down to how we treat each other and how we take care of each other. And I think that's, you know, the core of what ride sharing is about. It's the sharing piece of it. [LR523]

SENATOR MURANTE: Thank you. [LR523]

SENATOR DUBAS: Other questions? Senator Smith. [LR523]

SENATOR SMITH: Thank you, Madam Chair. And, Mr. Wallace, thanks for coming for your testimony and you have done a really nice job of expressing yourself. And, you know, in my opinion, I guess, we don't...we're not looking at this as to whether this is technology that we are going to embrace. It's a matter of when we're going to embrace and how we're going to embrace it and how do we incorporate this into our transportation structure. And, of course, we want to balance, you know, the free market and consumer choice with public safety and consumer protection. In your experience, do you see some areas of which we can improve upon this mode of transportation to increase consumer protection and public safety? [LR523]

BEN WALLACE: Yeah. I think part of it has to do with highlighting and validating some of the things that are already in place. I can tell you from my experience, when it comes to the background checks that are done and the insurance that's been put in place in terms of that consumer protection, the liability issue, if you will, the risk of it, I can tell you from my experience, being a mentor and someone who helped launch Lyft in Omaha, that our background checks are very strict. They're some of the strictest in the

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industry. In fact, we have people from other areas, whether it be other ride-sharing companies or other transportation methods, that have failed background checks because of the strictness. I think...it's not to your point, it's not just about whether those things are done, but to what level they're done to make sure that when someone gets into a car, whether it's ride sharing, whether it's a cab, it doesn't matter what it is, that there are standards put in place to ensure that the safety of the public is validated. I think those things are in place right now. But to your point, not everybody knows about them and I think really that's what's going to help improve consumer safety is awareness and standardization when it comes to making sure that the high bar is set so that I can feel safe, if I have a loved one that's taking any transportation method that I know they're going to be safe and that there's a method to make sure that, you know, that environment is protecting of the public. [LR523]

SENATOR SMITH: But you as a ride-share driver, you're not seeking to exempt or sidestep those standards. You believe that there's a place for those standards. [LR523]

BEN WALLACE: Absolutely, and I think that if you talk with someone from Lyft, I've spoken with many of them, very much in favor of those standards in terms of safety, in terms of the insurance standards that are put there. Lyft made a change earlier this year so that the million dollars of liability insurance is primary for the drivers which means that it is...it's solid, but if something happens, there's no gray area in terms of who takes that liability; that it is Lyft that is the primary insurance for us when we're driving. So, I think that's important because as Lyft drivers we need to know that not only are we safe but our passengers are safe. Accidents do happen. People are...you know, humans are human. But I care just as much as probably you do or Lyft does that whatever might happen, that people are taken care of and that we don't have people left out in the cold or left at risk unnecessarily. [LR523]

SENATOR SMITH: Great. Thank you. [LR523]

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BEN WALLACE: Yeah. [LR523]

SENATOR DUBAS: Other questions? Senator Brasch. [LR523]

SENATOR BRASCH: Thank you, Madam Chairman. And thank you, Mr. Wallace, for your excellent description here. I'm not familiar with the app and the system. I've read articles. As far as public safety, when I use the app and someone pulls up in their vehicle, do you have a photo ID or something that I know you are truly indeed the person that I connected with, or...? [LR523]

BEN WALLACE: Absolutely. When you request a ride through the app, it will pair you up with the driver and you're presented with a photo of that driver, a picture of their vehicle as well as the license plate number of that vehicle. [LR523]

SENATOR BRASCH: Okay. [LR523]

BEN WALLACE: As the...the driver is paired with the person's name and if there is a Facebook integration for that user, it will provide them with their Facebook picture so there's a little bit of identification that can be done. The other thing about it is to know about the application, the technical piece of it is, you can see where your driver is on the map and how close they are to you and when they'll get to you. And all of that information is tracked GPS by the systems at headquarters. So from a safety perspective, there's tracking and data that is collected to ensure that we know who is with who and where they're at, at all times, so that if anything were to happen that Lyft can make sure that they work with law enforcement and whoever to keep everyone as safe as possible and have that information available, so. It's very...from a technical standpoint, there are a lot of things that are put in place to make sure that there's a validation of who you're riding with, what's been done in terms of background check, and validating that it's the safest environment possible. [LR523]

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SENATOR BRASCH: Very good. Excellent. Thank you. I have no other questions.  
[LR523]

BEN WALLACE: Yeah. Thanks. [LR523]

SENATOR DUBAS: Any other questions? I would have a couple for you, Mr. Wallace.  
[LR523]

BEN WALLACE: Sure. [LR523]

SENATOR DUBAS: Are there any checks and balances or protections in place for you as drivers, so that the market isn't overset? You know if we end up with all these drivers, and then it doesn't become quite as economically viable for you, is there any...or does the market just kind of handle it itself? [LR523]

BEN WALLACE: In some way...so Lyft is in over 60 cities nationwide and Nebraska launched in April, so we're a fairly new market. There's a lot of research that's done by our staff at headquarters to look at. The balance of drivers and passengers obviously marketing to make sure that there are enough passengers to fill driver demand and vice versa. I would say that right now in Nebraska we have a lot of drivers and so I think there has been some questions in terms of saturation and things like that, but one of...you know, and I've had that conversation with our contacts at headquarters. And I think it's cyclical. I think that to some point it is a market demand. In order to have a lot of demand for passengers, you have to have drivers that can...you have to...the passengers need to be able to count on if they take a Lyft to go out for the evening when they go to take a ride back, whether it be at 9:00 at night or whether it be at 3:00 in the morning, that someone is going to be there to give them a ride back. So having enough drivers is important. I think as we go get closer to being on-line for six months, a year, I think that that demand will balance out. And that's something that's always being looked at by our folks at headquarters to make sure that we're doing what we can to not

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only provide for a passenger, them being able to get a ride when they need to, but also from an employment perspective and just from a morale and community perspective to make sure that we're aware of what the driver saturation is or kind of where that level is. And they keep track of that in every market around the United States. [LR523]

SENATOR DUBAS: Very good. And what has the reception from the public been and do you kind of appeal, so to a speak, to a certain demographic or is it across the board? [LR523]

BEN WALLACE: I think that the overwhelming feedback has been positive. I hear a lot of my passengers glad that we provide the service. It's a great experience. And as a driver and as a mentor, one of the things that I tell the drivers that I mentor, our job really is to provide a great experience to the passengers, to be safe but to provide a pleasurable experience to make sure that they have fun and that they have a good time. But I think that the demographic, obviously, Lincoln and Omaha have a lot of college students that may not have vehicles, so we do see a lot of the younger crowd, college age. But I would also say that across the span of ride sharing in general, I think that the demographics are growing where it's less of the younger crowd and I think it's appealing to more folks. I know as a business person myself, when I go on business trips across the United States, I typically use ride sharing. I've stopped renting a car. It's a more affordable option for myself and my company and it's just less stressful not having to worry about where you're going to park your car and what time you need to get to the airport. So there are a lot of different uses for ride sharing and where it fits in our community. And I think as we look at developing those standards and providing those options on a long-term basis, I think we'll find that it's going to fit into different areas for different reasons, whether it's getting a ride to the airport to catch your flight, whether it's going to a concert at the CenturyLink or the Pinnacle Center, or whether it's going out for the evening. I think there are a lot of places that it can be used. [LR523]

SENATOR DUBAS: Very good. Any other questions? Senator Smith. [LR523]

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SENATOR SMITH: Madam Chair. Sorry, I have one more question. Mr. Wallace, I want to get from a driver's perspective how you would address some concerns. So you have a certain amount of information in advance of offering that ride. Do you believe that that selectiveness in any way affects the availability of options, transportation options, for segments of the population, maybe geographical areas that may be underserved? Can you understand my question? [LR523]

BEN WALLACE: Help me understand it better. [LR523]

SENATOR SMITH: All right. So when you take a fare, you have certain information that's presented to you to make that determination. Are there geographical areas that are avoided? [LR523]

BEN WALLACE: I think that... [LR523]

SENATOR SMITH: Is there a determination based on economics of a particular ride? [LR523]

BEN WALLACE: I don't believe so. I think that as independent contractors, I think we always have the ability to accept a ride or to decline a ride or to cancel a ride, especially for safety reasons. I've done almost 450 rides in the last four and a half months and only 1 have I cancelled because of a safety concern. In terms of geographics, I think that that discussion has been made, especially in other bigger cities, but I think in Omaha I don't think that there's a bias towards geographics or anything like that. That being said, I do think that having those options is helpful to increase the options towards underserved areas geographically, so that if there's more availability in options, there's a better likelihood that someone is going to be able to gain a transportation option. [LR523]

SENATOR SMITH: So your determination that it was a safety issue, was it based on

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geographical location, was it based on the score of the rider that was presented on...because I think there's a scoring capability, right? [LR523]

BEN WALLACE: There is a rating capability. It didn't have to do with that. To be totally honest, it had to do with someone that was so inebriated that they were becoming aggressive and it was a determination on my part to stop that ride and to contact our trust and safety team to make sure that they, you know, didn't get a ride with someone. [LR523]

SENATOR SMITH: And I don't mean to put you on the spot. I was just trying to... [LR523]

BEN WALLACE: That's okay. I don't mind at all. The rating system is a really important part of that and I think that that is something that regardless of transportation option that I think should be supported because providing that feedback...and it goes both ways, so as a passenger I rate my driver, and as a driver I rate my passenger. I know that for the Lyft system, if you rate somebody three stars or less, you won't be paired with them in the future. And so that there's a certain piece of that from a safety perspective, it doesn't even matter from a passenger perspective why you were uncomfortable with that person. If you were uncomfortable with them, you have the ability to rate them in such a manner that you won't be paired with them in the future. [LR523]

SENATOR SMITH: So it only blocks you from being paired with them, it doesn't block them from using the system. [LR523]

BEN WALLACE: That's right. However, that being said, the rating system is monitored at headquarters on the passenger and driver side, and if someone's rating comes to, you know, gets to a lower point, they'll look at those situations. They might look at the comments that were made when a ride happened, both on the driver side and the passenger side, and then they'll make a determination whether they need to be

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off-boarded from the system as a passenger or a driver. So that's always taken into account. [LR523]

SENATOR SMITH: Thank you. [LR523]

BEN WALLACE: Yep. No problem. [LR523]

SENATOR DUBAS: Any other questions? Seeing none, thank you for coming today. [LR523]

BEN WALLACE: Thanks for the opportunity. We appreciate it. [LR523]

SENATOR DUBAS: You bet. Before I forget, before this next testifier, for those of you who did come today and maybe won't get a chance to testify but would like to submit any comments, feel free to leave them with my office before you leave, or you can submit them in an e-mail at a later time and we'll make sure that they get included in the record. Welcome. [LR523]

TODD SNOVER: Thank you, Madam Chair. My name is Todd Snover, S-n-o-v-e-r. I'll just give a little background of my history with Lyft, some of my personal experiences as a driver as well as a user of the system as a consumer. I first downloaded the application in Omaha. I'm a Omaha resident. Downloaded it in May, used it a few times when my wife and I personally were going out for dinner and drinks, using it as a safe ride home. Found it to be a good experience. So I then pursued becoming a driver. I filled out the application process, through the application was contacted and followed the steps and became a driver in the early part of June of this year. Since that time, I've given about 437 rides, I think is what my last report said, as a driver for Lyft, as a part-time driver. I found it rewarding financially. I absolutely love meeting the people that I get connected with through the application. You get...you develop a sense of community with some of these people. I've had certain passengers where I've had them

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up to five different times, so you become...end up becoming a bit of a friendship with that. It's more than just a match-up of a job. Gotten to know some of these people one-on-one after you see them five times. You got 15, 20 minutes in the car, you begin to know them. They begin to know you. So it's a nice pairing. As a consumer of Lyft, I've used it both locally in Omaha. I've also used in it Kansas City when my wife and I visited there recently. I absolutely trust the system. Any driver that I have met on the roads in Omaha, I absolutely entrust them to the point where I've used the application to have a driver pick up my 15-year-old son and deliver him to places when I or my wife were unavailable to pick up my son. We were either in church meetings that ran long. My wife frequently travels for work. I have three sons. Sometimes that means I need to be in three different corners of the city in close times. And that becomes difficult to do. I absolutely entrust the other drivers of the Omaha Lyft community to pick up my children and deliver them where they need to go. The people that we ride--there was asked a question of demographics--we deliver passengers to the wealthiest parts of Omaha. They're making the good choice not to drink and drive. We're delivering them home. There's other times where we're working with people who are maybe service industry persons who don't have a personal vehicle, they may use the bus line to go to and from work. However, the bus line is not a good option at midnight in Omaha. It's inadequate. So they'll take the bus to work. Midnight or whenever their service industry job shift ends, they'll use a mode of transportation like Lyft to get home. And we service that community as well. Service people who just don't want to deal with parking and driving around large activities: the College World Series, concert events at the CenturyLink Omaha, Maha Music Festival. There's lots of activities that people want to attend to, but don't necessarily want to deal with traffic. And that's what we're there for. We drop them off at the gate, they're close, they're ready to do their celebration and we service those people. Again, I absolutely entrust all the drivers in Omaha with my children. I think that should be a high testimony. Any of us who entrust somebody with our kids, obviously, has a high level of regard to our peers. I'd welcome any questions you have about my driving experience with Lyft, or my consumer experience with Lyft. [LR523]

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SENATOR DUBAS: Very good. Any questions? Senator Brasch. [LR523]

SENATOR BRASCH: Thank you, Madam Chairman. And thank you for your testimony here today. And I was curious if I would hear the words sense of community come from you, which it did... [LR523]

TODD SNOVER: Sure. [LR523]

SENATOR BRASCH: ...and with that said, in your experiences, do you believe that this would also work in a more rural area? For example, in many of our rural areas, we have no bus line. We have no...the taxi would have to come from 45-50 miles away. Is there a corporate investment? Did you have to invest anything personally to become a driver? Is there a cash exchange? And perhaps I'll hear that this afternoon, but in your sense, would somebody, you know, in a community of 400 individuals who may just need a...not only a ride from the bar but to the doctor, or...? [LR523]

TODD SNOVER: It likely would not work in a community that small... [LR523]

SENATOR BRASCH: Would not. Uh-huh. [LR523]

TODD SNOVER: Just because of the same reason you said. It's a long one-way trip to pick somebody up and financially I don't think it would work. I grew up in one of those towns and I know the people of those towns, so I would never hesitate to call my neighbor if I was still living in one of those towns. [LR523]

SENATOR BRASCH: Uh-huh. Okay. Very good. I have no other questions. [LR523]

TODD SNOVER: As far as the financial, there's no financial investment initially from the drivers to become a Lyft driver. There's a little bit of time. You have to meet with a mentor, do a bit of one-on-one with a mentor to be reviewed. Ben, mentioned he's a

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mentor. I'm also a mentor for Lyft in Omaha. You spend a little bit of time with them. There's kind of a once over. The mentors kind of do a walk around of your car, making sure it appears to...it's got good tire tread, that windows are not cracked, there are fully functional seat belts, those types of evaluations. So you're just investing a little time. There's no cash investment to get started. [LR523]

SENATOR BRASCH: To belong or to... [LR523]

TODD SNOVER: Right. [LR523]

SENATOR BRASCH: Okay. [LR523]

TODD SNOVER: Again, they do their background checks and you're...whether DMV and criminal background checks, so that may preclude you, but there's not a financial investment to get started. [LR523]

SENATOR BRASCH: Very good. Thank you. [LR523]

SENATOR DUBAS: Any other questions? Senator Murante. [LR523]

SENATOR MURANTE: Aside from the financial investment that you have to make, is there a financial investment on the part of Lyft or Uber of getting activated in smaller communities or any community really? [LR523]

TODD SNOVER: That would probably be a better question... [LR523]

SENATOR MURANTE: Okay. [LR523]

TODD SNOVER: ...for them this afternoon. I imagine that their testimony will come this afternoon, so they'll probably be better able to address what they have to put

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moneywise out. [LR523]

SENATOR MURANTE: Okay. Thank you. [LR523]

TODD SNOVER: I'd be speculating. [LR523]

SENATOR DUBAS: Anything else? Again, thank you. [LR523]

TODD SNOVER: Thank you. [LR523]

SENATOR DUBAS: We'll have time for one more testifier. And as I said, any comments that you want to submit to the committee, either leave them now, drop them off in my office, or submit them to us through an e-mail or a letter and, as I said, we'll make sure that they get into the record. Welcome. [LR523]

BILL MULLOY: Hi. My name is Bill Mulloy. I live in Lincoln. I've been driving taxi for four and a half, five years. [LR523]

SENATOR DUBAS: Could I have you state or spell your name, please, for us? [LR523]

BILL MULLOY: M-u-l-l-o-y. [LR523]

SENATOR DUBAS: Very good. Thank you. [LR523]

BILL MULLOY: And I drive for Happy Cab in Lincoln. And I'm not here to, you know, testify against Uber or Lyft or whoever. I'm just here to say that, you know, if they want to provide transportation in Lincoln, Omaha, wherever, that they should be required to pass the same qualifications that drivers for Happy and other cab companies have to do, you know, as far as background check, insurance, car inspection and other such things, you know. And I work for a taxi company, a cab company, and I believe that

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Uber and Lyft are software companies, basically. So the deal in between the management of Uber and Lyft with the drivers is not the same as we have with our management that we have to be on the ball, you know, 24/7 if we want to drive, so. And the technology that they talk about that they have, we have that available with our company. You can call up on your phone and get a cab or on-line. And we drive everybody in Lincoln. Doesn't matter where they live, where they're going, where we're picking up. As long as there's no criminal behavior, we drive everybody. And I just want the panel to know here that I'm not against more drivers in Lincoln because, you know, football Saturdays, you know, you could have 500 cabs down there and it wouldn't be enough still. So I'm just saying, if they have to go through the same qualifications that we do, well, more power to them, you know. That's all I want to say. [LR523]

SENATOR DUBAS: Very good, Mr. Mulloy. Are there questions? I would ask you to kind of walk us through. What do you have to do? You go and apply for a job as a taxi driver. Tell me what's the process? What do you have to follow? [LR523]

BILL MULLOY: Okay. I go through an interview with one of the managers here in Lincoln. They do a drug screen, a drug test that I have to do once or twice a year, a background check, state and national, I'm pretty sure, and your driving record has to be inspected. And they sort of, you know, judge you by your personality too, I think, if you're...you know, be a good fit to be a driver. [LR523]

SENATOR DUBAS: When you talk about your driving record, if you're on your personal...okay, you get a ticket for something, does that immediately impact your employment? [LR523]

BILL MULLOY: Well, I think the main thing is no DUIs. If you have had a DUI, I don't believe you can drive for us. [LR523]

SENATOR DUBAS: Any other questions? Seeing none. [LR523]

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BILL MULLOY: Okay, thank you. [LR523]

SENATOR DUBAS: We'll have time for one more, I think. We will recess at noon. First come, first serve. As I said, please feel free to submit your comments to the committee and we'll make sure they get into the record. [LR523]

VICKI CLARK: My name is Vicki Clark, V-i-c-k-i C-l-a-r-k. I'm a driver for Lyft. I'm also a passenger for Lyft. I have wanted to speak to some of the concerns that some of the committee members and the senators expressed about insurance and coverage and that kind of thing. I was joked about this. I was the test case for Nebraska in that I was in an accident while I had passengers in my car. One of my passengers was injured. The woman who hit me was injured and the man who hit her was not. There was a three-car pileup. I was rear-ended so it was not my fault. I did not get any...I did not get in trouble with my insurance company because of that. The woman who hit me, her insurance paid for everything we needed, except for the passenger who was injured. He got whiplash and that, she could...her insurance could have covered that but Lyft did for them. The mother of the passenger reached out to Lyft and Lyft covered all of his medical expenses. The unfortunate part of this is, even though it was not my fault and no one, you know, was grievously injured or anything like that, I still did lose my insurance coverage. My insurance has declined to renew me because of it, which I quite honestly don't think is exactly fair. (Laugh) But they consider Lyft livery, which means that we're moving people instead of cargo and they don't cover livery. In my quest for other insurance, I spoke to a good dozen insurance companies. I did get a couple of quotes from MetLife and a few others that would have run me almost \$8,000...or \$9,000 a year, which comes to some \$700 a month, which is more than I bring in from Lyft because I do this part-time around school. I'm in school full-time. I just retired from my regular job, 34 years at the Independence Center, the drug and alcohol treatment program. So I'm kind of use to driving drunk people around, so it's not a big deal to me, (laugh) not scared of drunks. The only thing I can really say to...about the insurance

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stuff is, it's the common quote from all the insurance company representatives I spoke to was that it's so new they don't quite know how to wrap their heads around it. They don't quite get that it's a ride-sharing program and that we're not cabs. That it's a little bit different. There's the terms of service when you sign up to be a passenger, there's the terms of service. You've got to read this thing and then agree to it and sign it at the bottom, just like any other application, so that they understand that if someone throws up in my car, I am going to charge them for it. You know, that I get to do that, I get to charge their credit card for getting my car detailed and for my time off the road. If someone is obnoxious and unruly, I can usually put up with that. If someone pushes my buttons too far, or gets violent, I can put them on the side of the road. You know, it is my car. I am not required to Lyft anyone. Now, I have never turned down a Lyft. I have gone to every single section of the city more than once. I've played disco music and hand out Starbursts. You know, they love it. (Laugh) I kind of got a "Disco Vic" reputation going now. I love Lyft, I love doing Lyft. I'm having a wonderful time. I've met some terrific people, not just going...well, I work Thursday, Friday, and Saturday nights because that's the bar venue and revenue is excellent, but I also work days and other weekday evenings and I take people home from work. I take people to their jobs, just regular average everyday folks and younger folks, middle-aged folks. I don't have so many of the older people except the ones that are drug into the car by their nieces and nephews and kids. And then once they get it, they're like downloading the app in the car. They're very excited about the whole idea. Any questions I can take? [LR523]

SENATOR DUBAS: Very good. Questions? Now you said you lost your insurance. [LR523]

VICKI CLARK: Yes, ma'am. [LR523]

SENATOR DUBAS: Are you still driving for Lyft? [LR523]

VICKI CLARK: I am still covered until the 14th of September and I have other insurance

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coming up after that. [LR523]

SENATOR DUBAS: So you have to provide your own insurance to do this? [LR523]

VICKI CLARK: Yes, ma'am. [LR523]

SENATOR DUBAS: Did you talk to your insurance company before you started this job?  
[LR523]

VICKI CLARK: With Lyft, no, ma'am. [LR523]

SENATOR DUBAS: Did you personally talk with your insurance company before you  
started with Lyft? [LR523]

VICKI CLARK: No, ma'am. [LR523]

SENATOR DUBAS: You didn't, okay. And so what you're hearing from all the insurance  
companies that you are talking with now is, they don't quite know how to... [LR523]

VICKI CLARK: They don't want to do it because they're kind of slow to evolve. And I  
know they've been doing this out on the West Coast for years now, two years that I  
know of in San Francisco. Somebody is insuring those people, you know. But here, they  
haven't quite gotten around to it yet. [LR523]

SENATOR DUBAS: Okay. So after the 14th when you no longer have insurance, not  
only can't drive for Lyft, flat-out can't drive for yourself. [LR523]

VICKI CLARK: I have acquired other insurance since then. [LR523]

SENATOR DUBAS: Okay. All right. So you'll continue to be a Lyft driver then? [LR523]

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VICKI CLARK: Yes. [LR523]

SENATOR DUBAS: Okay. Very good. Any other questions? Seeing none, thank you very much. [LR523]

VICKI CLARK: You're welcome. [LR523]

SENATOR DUBAS: And we will recess until 1:30. As I said, please feel free to submit comments to my office and we'll get them into the record. [LR523]

RECESS

SENATOR DUBAS: Good afternoon. Good afternoon, and I'll call this hearing back into order after we met this morning. We had a variety of transportation issues that we talked about this morning. This afternoon we're going to be much more focused on a couple of specific companies and the service that they would like to bring into the state of Nebraska, better known as Uber and Lyft. This afternoon we are going to have invited testimony only. We're just trying to cover all the bases for the Transportation and Telecommunications Committee members just to get a good, solid understanding about the regulatory requirements that exist right now, either through the Public Service Commission or legislatively, and what is it that the future Legislature and this committee will need to do to enable these companies to work effectively in our state. So I think we'll go ahead and...oh, just as a reminder for those who are coming forward to testify, if you would fill out a green sheet for us and we'll hand it in to the page. And we do have a new page with us this afternoon, Alex Mallory from South Sioux City. He's a senior at UNL majoring in political science and history. So thank you, Alex, for joining us this afternoon and helping us out. And we will start this afternoon with Senator Heath Mello, so welcome. [LR523]

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SENATOR MELLO: (Exhibit 1) Good afternoon, Chairwoman Dubas and members of the Transportation and Telecommunications Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. At the outset, I'd like to thank the committee for allowing me the opportunity to use today's hearing on LR523 to discuss the growth of transportation network companies, also known as TNCs, also commonly referred to as ride-sharing companies. Nationwide from 2014 have seen an exponential growth in the use of TNCs with many state and local governments struggling to react as rapid changes in technology necessitate updating statutes and regulations that have gone essentially unchanged for decades. I first became engaged in the issue at the tail end of last session when I was approached by business leaders in Omaha as well as by constituents about the growing role of alternative transportation options like Lyft and Uber and how they play in economic development functions. Increasingly, the availability of safe, reliable, and affordable transportation is a key component in attracting and retaining businesses, drawing national conventions to facilities like the CenturyLink Center and the Pinnacle Bank Arena, and generally promoting tourism in Nebraska. A TNC generally falls somewhere on the spectrum between carpooling and a traditional taxicab company, utilizing a business model where customers electronically summon a ride using a mobile app. TNCs do not hire drivers or own vehicles, instead relying on private individuals operating their personal vehicles to provide rides with the mobile app facilitating the transaction. The most well-known TNC providers are Lyft, Uber, and Sidecar, with Lyft and Uber currently in the process of expanding in the Omaha and Lincoln markets. The basic issue facing states where companies like Lyft and Uber have started operating is how to fit these new technologies into an existing regulatory framework. In Nebraska we have statutes dealing with ride sharing, but they only address carpooling situations and were last updated in 1981. Similarly, the last major update to the motor carrier statutes was in 1995 and the Public Service Commission has not updated their motor vehicle regulations since 1994, before smart phone technology even existed. While some states regulate transportation carriers at the municipal level, common carriers in Nebraska are exclusively regulated at the state level by the Public Service Commission. Motor carrier

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statutes give the PSC the authority to establish new classifications of carriers under Section 75-304, but they cannot go beyond the existing statutory language. Several state public utility commissions have reached some type of temporary operating agreement with Lyft and Uber until statutory or regulatory changes can be made. But the current...but our Nebraska PSC is not considering such an option to date. For these reasons, my office is currently working with Lyft and Uber and other interested parties to craft legislation regulating TNCs under the Public Service Commission as a new classification of transportation service provider. As of last week, eight states have seen legislation introduced to regulate TNCs with our neighbors in Colorado becoming the first state to pass legislation a few months ago. Colorado's legislation closely mirrors the regulatory structure that was adopted by the California Public Utilities Commission in 2013, and most other states seeking to regulate TNCs have utilized the Colorado legislation as an initial framework. The committee should have just received copies of a memo prepared for my office by our own Legislative Research Office. In addition to providing some basic information about the structure of TNCs, the memo provides a state-by-state breakdown of TNC legislation introduced in 2014 and a summary of the major issues that have been considered by other states' legislatures to date. These issues include insurance requirements for both companies and drivers, requiring criminal background checks and driving histories for drivers, vehicle safety standards and inspections, communication of estimated fares and receipts to customers, and restricting the hailing of a TNC from the street or to and from airports and other major destinations. In consideration of the committee's time, I did request that this afternoon's hearing include only invited testimony and want to thank the committee's staff and Anna for their assistance in inviting the interested parties. Representatives from the Public Service Commission, Lyft, Uber, several cab companies, the insurance industry, and the Omaha Chamber of Commerce are here today to share their perspectives on this issue. I look forward to the dialogue and questions this afternoon and would be happy to answer any questions you may have. [LR523]

SENATOR DUBAS: Thank you, Senator Mello. Are there questions? Senator Smith.

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[LR523]

SENATOR SMITH: Thank you, Madam Chair. Thank you, Senator Mello, for bringing this forward, and it sounds like we're going to have a lot of discussion. But from what you've said you believe that we have to have changes to our statutes, new legislation to take this forward. It's not a matter of if this is going to take place, if we're going to introduce this new type of transportation, but it's a matter of how we're going to do it. And you believe it has to be handled through statute changes, not through existing guidelines or oversight of the Public Service Commission. [LR523]

SENATOR MELLO: I think, in previous conversations I've had with the Public Service Commission, it was my full understanding that legislation would be required to create a new type of classification within the motor carrier statutes to allow them to regulate transportation network companies outside of being considered a traditional common carrier under our current law. So I think we need to move forward on legislation. I think they're...the state of Colorado has provided, I think, an initial road map and framework for states like Nebraska and others to consider. Obviously, there are some changes that will take place and need to take place. My office has contacted the people who are testifying today from all sides of the issue to try to find a way to bring as many people to the table in this conversation, to find...let's say the best way to describe it, to try to negotiate a way forward in respects to not just transportation network companies but also evaluating our current common carrier statutes which haven't been updated for a number of years which, no doubt, you'll hear from the taxi industry who will hopefully have some suggestions today as well about suggestions that they have to modernize those statutes. But based on the conversations I had with the PSC, legislation I believe is required, and that was my understanding from them, that it's going to need to be required to move forward to create this new kind of classification outside of the traditional common carrier statute. [LR523]

SENATOR SMITH: Okay, thanks. [LR523]

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SENATOR DUBAS: Other questions? I would have one or two for you, Senator Mello. I think I'm going to start right out with the 800-pound gorilla that's in the room. Under current statutes, Lyft and Uber are probably operating against the law in the state of Nebraska. There have been some tickets issued, some citations issued. We know the legislative process takes awhile. We know the Public Service process takes awhile and, you know, I believe that we're going to get to where we need to do, where we need to be. But what do we do in that interim? I mean what...you know, how do we make sure drivers aren't being ticketed? Or I guess the question is, how do we handle it in the interim? [LR523]

SENATOR MELLO: Senator Dubas, I wish I had the perfect answer for that question. I think it's a question that myself and many others are asking ourselves in regards to at least the time frame between now and a regulatory or statutory change. I don't speak for any company themselves. I'll let Uber and Lyft representatives come and speak on their own behalf in regards to what they may feel needs to be changed in the short order, so to speak, to allow them to operate the way that their business model operates. I'm sure we'll hear from the taxi industry as well, who will have some views and some feedback of what they think may need to take place in regards to having them operate between a potential regulatory or a law change. I think the underlying issue I think is, and this is the way I at least have approached it, is this is a new technology and obviously the private sector has a tendency sometimes, most times, to out-innovate the public sector. And this is a particular instance where the private sector, through the invention of technology to be able to connect an individual with someone else who wants to provide them transportation, is well ahead of state law and state regulation. And so I think that's where at least I'm taking the approach that I know we're going to need to make changes somewhere down the road, preferably in statute is where I've been focusing on since that is under the Legislature's purview, not the Public Service Commission's purview. But I know, for an example, that other states have also done this through a regulatory process, through their equivalent of their public service commissions. I think if...at the

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end of the day I'd assume that both Uber and Lyft and Sidecar want just to be able to operate their business in Nebraska. And if there's an appropriate way that's...that once again allows what we have seen other states do through legislation to be done in a regulatory process, I'm open-minded to hear that out. But I've not heard that same kind of process, same kind of classification, and specific requirements that we've identified in the Colorado legislation as well as legislation that we're crafting that falls under that purview right now. So once again, as much as anything, I'm interested to hear what other testifiers are going to provide the committee today as well in regards to their perspectives. But I think legislation is needed to move forward to provide a new framework for the potential new companies that may come in down the road that are not Uber, Lyft, or Sidecar that may want to apply for this kind of new classification as a transportation network company down the road that we just don't know about yet.

[LR523]

SENATOR DUBAS: Well, very good. And I made this comment this morning, I hope...by now we have everybody in the same room together and we're getting some good conversation going, so after this hearing I hope that opens the door to getting people around the table and by the time the Legislature is ready to convene you'll have legislation that maybe has as many of the kinks worked out as possible but we'll be able to... [LR523]

SENATOR MELLO: That would be our...that would be my hope, Senator Dubas, and I think all the interested parties I've been talking to, I think that's everyone's hope to be able to negotiate a road map for it in regards to solving this problem for not just Omaha and Lincoln but for the entire state. [LR523]

SENATOR DUBAS: Very good. Any other questions for Senator Mello? Seeing none, thank you. [LR523]

SENATOR MELLO: Thank you. [LR523]

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SENATOR DUBAS: Next on our list we have Commissioner Anne Boyle. Welcome, Commissioner. [LR523]

ANNE BOYLE: (Inaudible.) [LR523]

SENATOR DUBAS: Yes, it does. [LR523]

ANNE BOYLE: Good afternoon, Senator Dubas. And before I start I want to tell you that I'm not looking forward to you being gone from the Legislature. You have been such a great person who has...to work with. [LR523]

SENATOR DUBAS: Well, thank you very much. I've enjoyed it. [LR523]

ANNE BOYLE: Although I'm sure whoever follows you will be as good as well. [LR523]

SENATOR DUBAS: I am confident of that as well. [LR523]

ANNE BOYLE: (Exhibit 2) Good afternoon, Commissioners...I'm sorry...Senators and staff. I'm Commissioner Anne Boyle. I represent the 2nd District of Public Service Commission. It is a regulatory body that oversees taxicab authority in the state. In essence, we enforce the statutes created by the Legislature to protect the public. Today I will testify on the current regulatory environment for taxi service, commission enforcement, and our interactions with Lyft and Uber. Currently the commission regulates for-hire transportation of passengers with the state because of the potential for abuse, fraud, and danger to the public. Nebraska statutes task the commission with promoting, encouraging, and ensuring a safe, dependable, responsive, and adequate transportation system for the public as a whole. Not in my testimony but, as you know, we are elected officials and we take a sworn oath of office that we will uphold the laws of the state of Nebraska. To do this, the statute defines common carriers and regulated

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motor carriers and authorizes the commission to create classes of carriers, to approve cab fares, to require insurance coverage, to issue and revoke certificates of public convenience and necessity, and requires placement of PSC license plates on all regulated motor carriers. Further, we investigate violations of motor carrier statutes. The commission's jurisdiction includes any party that owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport passengers for hire over any public highway in this state. To carry out these duties, the commission requires all common carriers to apply for and obtain certificate of authority. The commission regulates the companies whose drivers operate under their authority. To ensure the public is treated fairly and to avoid discrimination, the commission requires all common carriers to file, set, and collect tariff rates, to identify their vehicles in specific ways, and to carry any passenger unless intoxicated or disorderly. To ensure safety, the commission rules and regulations require driver background checks and specify requirements for drivers' hours of service, including the use of log books. The commission also requires vehicle inspections. Furthermore, the commission requires cab companies to carry a \$500,000 liability insurance policy that is on file with the Public Service Commission. Open-class carriers and limousines must carry a \$1.5 to \$5 million policy. The insurance policies differ from different drivers' insurance in that "Form E" insurance policies are good until cancelled. So all carriers right now must file a Form E, which means that the...we require a 30-day notice of cancellation from the insurance carrier, which avoids a situation where a driver presents evidence of coverage to be certified and then cancels the coverage after that's been provided. In an effort to resolve the issues confronting us regarding insurance, we met with representatives of the Nebraska Department of Insurance. Regulatory bodies across the country are concerned about the insurance issue. Due in part to that concern, Uber and Lyft apparently developed some insurance attempting to satisfy some of the issues and, as an aside, I will tell you that we just recently received information from Uber that they had done some...upgraded their insurance, and we have also, prior to that, received information from Lyft. We have not had a chance to fully study it, but it seems like it is something that is on the right track that's going to satisfy some of what we need to do. It

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should be noted that Nebraska is not alone on this issue. Nearly all states in our country have been working to amend their laws to protect the public. The National Association of Regulatory Utility Commissioners, a well-respected organization of which the commission is an active member, will devote a session at their annual meeting in November to address these companies' practices. No jurisdiction has decided to allow these companies to operate without some regulation. A public need exists to regulate this business. Lyft and Uber represent a niche market of for-hire transportation services. Lyft offers rides for contributions but is not organized as a nonprofit corporation. Even if they were, a Nebraska Attorney General Opinion indicates that donations do not preclude transportation services from commission regulation. After repeated attempts to contact them, we finally met with representatives of Lyft and Uber in May and June of this year, who indicated they would not apply for common carrier authority with the Nebraska Public Service Commission. Lyft did send a...to the commission a draft interim operating agreement, which they mistakenly believed the PSC would support, which would have allowed them to operate without any of the conditions that we now have to oversee. On an ensuing telephone call, we told them we could not be a party to it and it would have amounted to the commission agreeing to ignore the law and allow unregulated operations while waiting for the Legislature to provide a solution. When we met with Uber, their initial comment was to ask us to provide the similar waiver of operations, which we also declined. If we had agreed to such a waiver, we would be derelict in our duties and possibly liable for any harm done to the public in the meantime. In August, tickets were issued by the PSC investigators to Lyft and Uber drivers for violations of state statutes and commission rules. To substantiate the tickets, commission investigators worked with the Office of the Chief Information Officer and the Nebraska State Patrol to use a smart phone and a credit card to sign up for Lyft and Uber rides. Once the rides were complete and charged to the accounts, our investigators received receipts containing enough information to verify violations of Nebraska statutes and commission rules and regulations. At this point, those citations are in the hands of local prosecutors in Douglas, Lancaster, and Sarpy Counties. And I should also add that the other thing we had to wait for was after the...since they use a

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credit card system as opposed to cash, we had to wait for the credit card to be authorized and submitted to Lyft and Uber so that they would know that the bill was good. And then that was only then...was after we finally went out and had to do what we had to do. Some drivers stated in the Omaha World-Herald that they were going to continue to operate, seemingly unaware that multiple citations could create more problems for them. And in closing, this...I was here this morning. This is not also in my testimony. However, I was impressed by the comments that were made by Lyft, who came up and on two occasions they testified. I was pleased to tell you that I think that we can...we...if everything had been in place as it is today, perhaps there would have been a way for us to have a hearing and authorize them. However, it still, as Senator Mello said, there are still portions of the law, including the one that says that anybody who is a transportation for hire for passengers must follow the same rules and regulations of a taxicab company. They are absolutely different types of services, and so I don't know how we could apply those to them. One of them, just as I mentioned, was that we had to...we set their hours, we tell them how long they have to work. We don't...Lyft does not do that and neither does Uber. It is as they want to. So that is another reason why Senator Mello has taken this on but also why we think that we need to update those statutes. And as we all know, telecommunications has brought this, a brand-new world, and so we need to get up to date with the brand-new world of transportation services for the people in this country and in this state. I have no further testimony. Thank you for this opportunity. If you have any questions, I'll be happy to take them now. [LR523]

SENATOR DUBAS: Thank you, Commissioner. Are there questions? [LR523]

ANNE BOYLE: You're thinking. (Laugh) [LR523]

SENATOR DUBAS: You say in your testimony after repeated attempts to contact them you finally met with representatives from Lyft and Uber. So I'm assuming that means they didn't come to you; you had to track them down. [LR523]

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ANNE BOYLE: We reached out to them and we sent certified letters, we made phone calls, and we did a variety of things. And Lyft was the first one who finally responded, which we appreciated. But it was after the session was over and, frankly, at that time I doubt that there was any time to put a bill in to try to answer all these problems. [LR523]

SENATOR DUBAS: Is that common practice with companies? They usually come to you or do you have to go out and tell companies, hey, you know, we have rules and regs here and we need you to comply with this process? [LR523]

ANNE BOYLE: No, they usually call us and first they ask to visit whoever the department head is, regardless if it's this or telecommunications, and visit with the director so that they can understand what our rules and regulations are. And then they come and they make an application for whatever services that they're applying. [LR523]

SENATOR DUBAS: Thank you. Other questions? Senator Brasch. [LR523]

SENATOR BRASCH: Thank you, Madam Chairman, and thank you, Commissioner Boyle. To go further on what Senator Dubas had said, is it a company based elsewhere? You know, what was the difficulty in finding them? Or was it easy to find these two companies, to locate a corporate headquarters, a person in charge? Is there a person or place in charge that... [LR523]

ANNE BOYLE: We...no, it was difficult to find an address; it was difficult to find phone numbers, but even those phone numbers were not...nobody responded to us at that time. So we did not know what else we could do, and that's why I actually called, because I knew Senator Mello had been talking to people at the chamber of commerce and others who thought this was a great idea who...actually, the Omaha Chamber suggested that we should break the law and ignore it but we can't. As you all know, that would have been dereliction of duty. And it's been interesting to me to see how avid and

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eager the people who support them are willing to let us break the law, and I've had people tell me that, well, people can just get in those cars at their own risk, not...could not do that. I absolutely know that if we had not followed the law that, if somebody was injured or if we had property damage by anybody, there would have been a lawsuit against the Public Service Commission and probably the state of Nebraska, and who knows how much that would have been costing the taxpayers of this state. [LR523]

SENATOR BRASCH: So where were you able to find a representative official? [LR523]

ANNE BOYLE: Well, they called us. [LR523]

SENATOR BRASCH: They did call you. And where are they based out of? [LR523]

ANNE BOYLE: I believe that Lyft...well, they have a representative. Lyft has a representative, an attorney from Omaha, and I believe he might be testifying later. And he did contact us and we have had very healthy conversations with him. Uber, they came to a meeting. I believe it was at the Omaha Chamber, if I'm not mistaken, but I know it wasn't (inaudible) like that. [LR523]

SENATOR BRASCH: And did they tell you why they have not responded to your contacts? Was there a specific reason why several calls, several efforts were made and there was not an eager interest to get back to the Public Service Commission? [LR523]

ANNE BOYLE: No, the first...actually, the first thing Uber asked for was for us to give them a pass so they could continue to operate until legislation was enacted. And of course we said no. And we didn't ask them...we were finally glad to be able to sit down with them and help them understand why we had to do what we have to do. They continued on working but just recently, I think, perhaps, even because of the outrage throughout the country regarding the insurance, especially, today, this morning, this lady testified from Lyft who said that she had a not-fault accident but she still lost her

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insurance and to get new insurance would have cost her \$8,000 because the same application would apply to her that applies to taxicabs. So it was interesting for me to hear what they had to say, the problems they have, but that's why I sincerely believe that if we have this here, and it is nationwide and even in some parts of Europe and I think Asia, they are there--Uber is, I think, I don't know if Lyft is--that it is something that is...we can't turn our backs on because it's here and, frankly, it's not a bad business operation. It's just something that needs to be updated so the public is protected. And at that point, the commission will be...gladly enforce the laws that we have then. [LR523]

SENATOR BRASCH: Commissioner Boyle, I have one final question for you, please. You had said that this is clearly different than your traditional taxi or limo service. From listening to the individuals, it sounded like they were independent contractors perhaps, that they operated independently, made their own hours, accepted...and there was a vetting process done on their ability to perform services, the state of their vehicle, background check, and a lot of virtual businesses and technology do operate that way. But when...why is it clearly different? Is it because they don't have a shop and own the vehicles, or what is the difference? They use... [LR523]

ANNE BOYLE: Well, they are an Internet service. No cash exchanges hands. It's a credit card on their application that you put on your cell phone. And by the way, I think that might be a great thing for public safety because since there's no cash there's no attempts to rob them because they don't have any money in their car--and that has happened to cab drivers. But I think that they don't have...we don't keep a log. I don't know why they would keep a log because these people are independent contractors. Now just so you know, Senator, that cab drivers are also independent contractors in Omaha; however, there is a question as to whether or not they are really because they are required to go to classes; they're required to spend money for things; and they are required to work some hours, certain hours; they're required to keep a log. They have a lot of things that are being told to them by the company that don't really satisfy independent contractor. [LR523]

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SENATOR BRASCH: Okay, very good. [LR523]

ANNE BOYLE: And they rent...lease a car. A few of them have their own cars. But then they have to be working and if they...we tell them how many...they can't work more than X number of hours. So there are a lot of rules that they have as, I guess, so-called independent contractors that the people from Lyft and Uber do not have. [LR523]

SENATOR BRASCH: Very good. I have no other questions. Thank you. [LR523]

SENATOR DUBAS: Senator Smith. [LR523]

SENATOR SMITH: Thank you, Madam Chair. Commissioner Boyle, so let's say the Legislature goes through and they make changes to the statute to give you regulatory authority over the TNCs. Is it...do you see that there would be a possibility that the regulatory framework for the traditional cab services would be more strict than it would be for the TNCs, putting them at a competitive disadvantage and, therefore, potentially putting at risk the service to cash-paying customers that don't use a credit card to purchase their rides? [LR523]

ANNE BOYLE: I think there will always be a need for taxi services because they are going to be there...at least under present rules and regulations they have to be there for service at a certain time or at certain times, and they are under the guide of the taxi company, which brings me to another matter is whether or not they truly are independent contractors in the taxi service. So that's something that we would try...that the Legislature at one point, I think maybe Senator Lathrop, was doing something about that but I don't remember; or if he did, he did not include taxi services. But we've always had the need for it. There will always be people, at least in this generation, I think, that do not have cell phones or don't like to operate them, and we will always have the people who are...need for social services and that they are taken to and from doctors or

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to grocery stores. And I don't know that the Lyft and Uber applications would work in those circumstances because the state pays those people. [LR523]

SENATOR SMITH: So you would see that it would be...we would have a need to make certain the playing field is level in terms of regulatory framework between this and the existing services, right? [LR523]

ANNE BOYLE: I think that's what we are attempting to do, and I don't know that any of us can predict what the total outcome is going to be. But I do believe that there will always be a need for taxi services, and especially for those who are low income and need to have social services help and...or people who just don't want to use it and so...depending on cost. [LR523]

SENATOR SMITH: Thank you. [LR523]

SENATOR DUBAS: I'd have one more question for you, Commissioner Boyle. I asked this of Senator Mello and I'll probably ask it from following testimony as well: In the interim, what do we do? As you've stated in your testimony, citations have been issued. We don't know for sure how the courts are going to handle them, but the potential for continued citations is still out there. So is there...are there any options in the interim? Because, again, it's going to take awhile for the Legislature and the Public Service Commission to take action and get something put into effect. [LR523]

ANNE BOYLE: Well, we knew that they were going to be asking for that. We checked the statutes and our staff attorney on this case is Joselyn Luedtke. And the...and one of our commissioners is a lawyer, Frank Landis. And we have other lawyers in the office. We cannot find a way that we can violate the state statutes without breaking...being derelict or breaking the law ourselves. And so I don't know what we could do unless there was...you're not in session. I don't think a committee has the ability to do something that says they can continue to operate, and especially since...even now,

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even if they have the proper insurance. Lyft looks like it does because they are going to become the provider, the primary carrier when their people are operating, and so that would take away the problem the lady who testified earlier who lost her insurance, personal insurance. I just don't know that...and let me add one more thing. And we truly hope that you would say that the background checks on drivers has to be state, not national background checks, because if they only do it nationally they might not pick up some of the things that may have occurred in our state. But I can't figure out a way to get around it, and it is not with any glee that anybody at the commission feels that we have to do this. We just must do it; that's what we are required to do as state commissioners under an oath of office. And some people say just dismiss it, let people get in there at their own risk. Like I said earlier, that would probably cause the state of Nebraska a lot of problems if there were accidents or injuries. [LR523]

SENATOR DUBAS: Thank you. Other questions for the commissioner? Seeing none...Dan, did you have something? Okay, seeing none, thank you, Commissioner, for coming forward. [LR523]

ANNE BOYLE: Okay. Thank you. [LR523]

SENATOR DUBAS: Our next testifier, David Levy with Lyft. [LR523]

DAVID LEVY: (Exhibit 3) Good afternoon, Senator Dubas and members of the committee. My name is David Levy, D-a-v-i-d L-e-v-y. I'm an attorney and lobbyist with Baird Holm law firm in Omaha. I'm here before you today on behalf of Lyft, and I want to give the committee thanks for giving me the opportunity to testify about Lyft's ride-sharing model today. Candace Taylor from Lyft was supposed to be here today and let me know yesterday or late Tuesday night that she's unable to be here due to other conflicts, so unfortunately you're stuck with me--but I'll do the best that I can. I want to thank Senator Mello, the Public Service Commission, Commissioner Boyle in particular but all of her colleagues at the commission, and the cab companies for our dialogue to

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date. We've had a number of discussions and I think those have been very valuable and I hope that we'll continue those. I have some brief testimony and then I'll be happy to respond as best I can to any questions that you may have. Lyft originated as a service of Zimride, which was a ride-sharing company that Logan Green and John Zimmer founded back in 2007. Zimride originally focused on longer trips and linked drivers and passengers through a Facebook page. It was sort of the Internet version of the old college ride-share board. Over time, the services evolved and in May of 2013 they renamed the company Lyft. Lyft is now an on-line ride-sharing application that connects riders with drivers in their community through a smart phone application, but it retains that original peer-to-peer networking model that it's always had. Lyft is first and foremost committed to the safety of its users, of its drivers and its riders. To that end, it conducts background checks on all drivers. The background check consists of: (1) a Social Security number search within all 50 states; (2) a 50-state sex offender database search with the Department of Justice; (3) a driving record check for the previous seven years; and (4) a criminal check for each county in which the driver has lived in the past seven years. These checks screen out and eliminate any driver who has any violent crime or sexual assault conviction, a DUI in the past seven years, or reckless driving conviction in the past three years. These driving record checks are then repeated at least annually. They also...a driver's car must undergo a professional, comprehensive inspection of the vehicle. The application itself identifies the driver, the car, and the rider, so everybody knows what to expect before anybody is even in a car together. Lyft maintains a significant level of insurance and, as Commissioner Boyle suggested, that program quite frankly has evolved over time and has gotten much stronger. Lyft provides primary coverage of up to a million dollars per incident from the time that the driver accepts the ride request to the time the driver drops off the rider. So the rider might not even be in the car, but they have...the driver has gotten the ride request and accepted the ride request, they're on the way to pick up the rider. During even that time, and of course the time when the rider is in the car, Lyft's insurance is primary; it's the first line of coverage. This coverage includes uninsured motorist coverage as well. Lyft also provides contingent liability of \$50,000 per occurrence and \$100,000 in total for when a driver is

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even in the "app on" mode. So that driver could be sitting at home on his or her couch or at a coffee shop or something like that, they have the app on, they're ready to receive a ride request, they haven't received that, they haven't accepted it, they decide to go down the street, something happens. Lyft's insurance covers them in a contingent manner even in that circumstance. Of course, when the driver is logged off and is not doing anything having to do with Lyft, their personal insurance is there. But at all times when the driver is actually providing services or acting in any way with respect to Lyft, Lyft's insurance is primary. My last point: We believe it is important for the Legislature to enact law to govern entities like Lyft, or commonly called transportation networking companies or TNCs. As you've heard, I think Senator Mello and Commissioner Boyle also stated Nebraska law does not currently clearly address TNCs. The Public Service Commission, as you heard, has taken the position that it can regulate TNCs under its authority to regulate common carriers. Our position is that Lyft is not a common carrier and I think that disagreement, which I think is a legitimate disagreement on both sides, fundamentally, by itself, demonstrates the need for legislation to clear that up. Lyft is absolutely open to an appropriate regulatory regime and we look forward and hope to have the opportunity to work toward that with Senator Mello, with the committee, and with the full body in this next session. So with that, again, thank you for the opportunity. I apologize that Ms. Taylor could not be here herself, and I am happy to answer any questions you might have. [LR523]

SENATOR DUBAS: Good. Thank you. Are there questions? Senator Brasch. [LR523]

SENATOR BRASCH: Thank you, Madam Chairman, and thank you, Mr. Levy, for your testimony. Following our morning adjournment, one of the cab company operator's owners had come to speak with me and indicated that the criminal background checks through the virtual companies was not like the ones of the grounded companies, that one was through the police department and the other was through an on-line service, not an official law enforcement entity. Can you clarify that? What type of criminal background check does take place? [LR523]

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DAVID LEVY: Sure. And I mentioned in the testimony there are a number of different types of background checks, one of which is a Department of Justice sexual offender database check, all 50 states. The background checks that Lyft does are done through a company. It's not that they just kind of go out and do some Internet searches or something like that. I believe the company is called Sterling. I know it is headquartered in Wisconsin and they are a professional investigative service that does these kinds of background checks as one of their core business services in which they are professionals and experts in doing, and Lyft has a contract with them for all of the markets or most of the markets, including Omaha and Lincoln, in which Lyft operates. I believe the chart that we passed around in the materials shows how the background checks that Lyft does in some respects are even more detailed or more stringent than those that the city of Omaha or the city of Lincoln does. So while they may not involve, per se, the Omaha Police Department, the information that is gathered, the information that is reviewed in many cases exceeds even that which happens in other circumstances. [LR523]

SENATOR BRASCH: So you're saying they're more thorough than what the city of Omaha or Lincoln Police Department has? [LR523]

DAVID LEVY: Yes,... [LR523]

SENATOR BRASCH: They are. Okay. [LR523]

DAVID LEVY: ...at least as thorough, and I believe in many cases more thorough. [LR523]

SENATOR BRASCH: Okay. Very good. That answers that question. Thank you. I have no other questions. [LR523]

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DAVID LEVY: Great. Thank you. [LR523]

SENATOR DUBAS: Other questions? Senator Murante. [LR523]

SENATOR MURANTE: Thanks for coming down. [LR523]

DAVID LEVY: Yep. [LR523]

SENATOR MURANTE: Commissioner Boyle had listed a fairly lengthy list of regulations that are currently enforced against common carriers, and I'm not sure if you followed all of those, but I'm wondering where Lyft right now operates in an inconsistent way with the regulations that exist for the common carriers. [LR523]

DAVID LEVY: Well, I mean, you know, candidly, Lyft has not applied for and received authority to operate from the Public Service Commission because it is their belief that they are not within that jurisdiction, within that statutory regime. You know, so that... I mean that, first and foremost, of course. Lyft is not a provider itself of transportation services generally or for hire or for the general public, so they don't have the license plate from the PSC. We have provided through this dialogue information to the Public Service Commission about the insurance program, but I believe taxicab companies actually have to provide their insurance policies and they have some sort of review and approval of those, so that would be another example. But I think as I tried to go through at least in summary fashion in my testimony, Lyft is very aware that if they were to operate in a reckless manner or a manner that was dangerous to the public or resulted in bad things happening, they wouldn't be around very long. So all of those things that they've done--the background checks and the vehicle checks, the insurance, all of those things--are their own actions to try and make sure that the public is safe and that these things are operated in a fair manner. They have zero-tolerance antidiscrimination policies within the company. And it's a little bit off topic of your question but I think it's relevant and interesting, with this model there is a very direct feedback mechanism, and

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so it even almost is self-regulating beyond the way the PSC, for example, could regulate it with their limits on number of investigators that they can hire. If a rider gets in a car where the driver is rude or seems to try to charge them too much or appears to be under the influence of something or something like that, drives recklessly, that rider can immediately provide that feedback anonymously to Lyft and Lyft has a record of the feedback that comes for that driver. They get very many of those reports, that driver's rating goes down, that driver may at some point not be allowed to drive anymore. So it...in that sense, it is somewhat self-regulating but, you know, I think it's...Lyft has not gone through that process so they don't meet a number of those things, but I think they also do take a lot of steps of their own to try and fulfill those fundamental public safety type things that are, as Commissioner Boyle said, really what the Public Service Commission is rightfully very concerned about, and so is Lyft. [LR523]

SENATOR MURANTE: And in other states where Lyft has achieved regulatory approval, what do those regulations look like when compared to common carriers? Are they typically identical or is there some disparate level of regulation? [LR523]

DAVID LEVY: They are different, in my experience, and I'm most familiar with the Colorado legislation. They're different because the business model is different. The common carrier regulations don't work for it; that's part of the reason I think that we're here having this conversation and what we'll be asking the Legislature to do in 2015. Those regulations institute a lot of the things that Lyft, for example, is already doing--the background checks, the level of insurance, those types of things. And what they provide though on top of that, that Lyft is not doing right now, is that they have to go to an entity--here in Nebraska it would be the Public Service Commission--and make the showing that they are doing all of those things, many of which they are already doing, and that gives the Public Service Commission an opportunity make sure that not just Lyft but Uber or Sidecar or whatever the next company that comes in, that they are all also doing that. And if Lyft were to stop doing something that were mandated by those regulations, they were to do less of a background check or stop doing the vehicle

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inspection or something like that, there would be a regulatory mechanism to say, well, if you're not going to provide for that level of public safety you cannot operate in the state. And as I said in my testimony, Lyft is absolutely open to being regulated and to going through the process with the Legislature and ultimately then with the Public Service Commission under that new program, that new framework that ideally the Legislature will create. And it would be my hope that Lyft and Uber and the taxi companies and the PSC would sit down and work something out toward something that they could all live with and make it hopefully relatively easy on the Legislature. [LR523]

SENATOR MURANTE: Thank you. [LR523]

DAVID LEVY: Thank you. [LR523]

SENATOR DUBAS: Other questions? Senator Brasch. [LR523]

SENATOR BRASCH: Just one more. I'm...thank you again, David. But now Candace Taylor, she is the corporate office located out of Omaha, or is she from a...is this a national chain? International? Where is the... [LR523]

DAVID LEVY: Lyft is headquartered in San Francisco. [LR523]

SENATOR BRASCH: Okay. [LR523]

DAVID LEVY: And that's where Candace works; that's where the headquarters office is. Candace is a public policy and government relations person with Lyft. That's not her exact title but that's essentially what she does. I don't know that Lyft is international at this point. They operate in somewhere around, I believe, 40 or 50 different markets currently in the United States. [LR523]

SENATOR BRASCH: And the drivers indicated they go somewhere for an orientation by

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someone and vehicles are inspected. Where is that done? Is that done at the home of the potential driver or is there a storefront that they... [LR523]

DAVID LEVY: There's not a storefront, per se, but there are local, on-the-ground people who Lyft has in the different markets where they operate to do those interactions with the drivers when the drivers first want to become a driver. They vet them and then there is a professional mechanic shop, for lack of a better word, where they inspect the cars, have the cars inspected. [LR523]

SENATOR BRASCH: So does someone fly in from San Francisco, knock on their door and says, hi, I'm from Lyft here? Is that... [LR523]

DAVID LEVY: No, they have local people who do that, a person, yes. [LR523]

SENATOR BRASCH: Someone is here that is authorized and that way the service is consistent and not just based on multiple... [LR523]

DAVID LEVY: Sort of a telephone call or something like that, that's correct. [LR523]

SENATOR BRASCH: Right, right. Okay. [LR523]

DAVID LEVY: There's a face-to-face interaction. [LR523]

SENATOR BRASCH: Okay. Very good. I have no other questions. Excellent. [LR523]

DAVID LEVY: Okay. [LR523]

SENATOR DUBAS: Other questions? I would have a couple for you. One, you know, the commissioner said it was only after repeated attempts of reaching out to Lyft and Uber before there was any dialogue. Typically, when you're getting ready to go into a

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state, what is your approach? [LR523]

DAVID LEVY: Sure, and I was only hired by Lyft after they'd initially, briefly, been in Nebraska. You know, as I said, Lyft researches...I didn't say this part. They did the research, their own legal staff, and came to the conclusion, at least in their opinion, that they were not subject to the Public Service Commission's jurisdiction. So they came here, they started operating. They got some letters from the Public Service Commission and they said, okay, we've got to deal with this. That's when they contacted me. It was at the very end of the legislative session because I recall the first conversation that was...I was upstairs, so I know the session was still going on, but it was at the very end, mid-April, something like that. And fairly shortly after that, if memory serves, I reached out to Mark Breiner, who was the signatory. He's the director of the transportation division of the Public Service Commission. He was the signatory on the letter that had...the commission had written to Lyft, and I reached out to Mr. Breiner and we met there at their offices fairly soon after that. I believe the Legislature...it was right around, again, I think, mid to late April. I don't have the exact time line. [LR523]

SENATOR DUBAS: But it seems like when you talked about what other states have had to do or looking at the Colorado language for Nebraska, so there's been some recognition that most state statutes aren't prepared to handle this type of transportation. [LR523]

DAVID LEVY: Right. [LR523]

SENATOR DUBAS: So again, I'm not quite understanding. Yes, their attorney said, we don't think this applies to us. [LR523]

DAVID LEVY: Right. [LR523]

SENATOR DUBAS: But yet you're knowing that statutes have had to be changed in the

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past. So there was no attempt to reach out to anybody within the state to say, hey, we're coming, we think we can operate because we don't believe we fall under this classification? So there was no attempts along that line to reach out to anybody at any state level? [LR523]

DAVID LEVY: To my knowledge that's correct, not until they heard from the Public Service Commission. I got involved and then we reached out to the Public Service Commission. [LR523]

SENATOR DUBAS: Okay. So we know citations have been issued. We're not sure how they're going to move forward from here. [LR523]

DAVID LEVY: Right. [LR523]

SENATOR DUBAS: But what is the company telling their drivers as far as if you get a citation? Are the drivers responsible for that citation? Is the company responsible? What's the process moving forward? [LR523]

DAVID LEVY: Sure. So what Lyft tells the drivers in those cases is that Lyft covers all expenses of defending those citations and any fines that may be levied as a result of those citations. Lyft also tells the drivers that, if you're no longer comfortable operating because you may get a citation, that's fine. That's certainly...the drivers, like any time in this type of a model, are free to do that. So they will defend them; they will pay whatever fines. And the driver, if they're no longer comfortable, they can stop driving. And from what I have heard, the citations have had somewhat of a chilling effect. Some are still driving and some have decided not to. [LR523]

SENATOR DUBAS: And then again the question I've been asking of everybody: In the interim, you know, we know this is a time-consuming process, what is...you know, how do you keep the company moving forward while we're trying to work our way through

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legislation and regulation? [LR523]

DAVID LEVY: Right. You know, Commissioner Boyle had mentioned that Lyft and I had provided on behalf of Lyft a proposed interim operating agreement, I believe this was back in about May, which mirrored an agreement that at that time Lyft and the city of Detroit had just entered into. And that at that time and still is our proposal and our request to the Public Service Commission that we sit down and negotiate that type of interim operating agreement to allow the service to continue. I understand why the Public Service Commission may be uncomfortable with that. You know, again, there's the fundamental difference of opinion. They feel like they have an enforcement obligation and they already have the jurisdiction. Lyft's opinion is different than that. To me, that interim operating agreement bridges that impasse somewhat. Those agreements deal with indemnity and liability, so if somebody sues Lyft and the Public Service Commission, Lyft would defend in that type of a lawsuit. Public Service Commission really, I believe, in that situation would be a secondary party. The lawsuit really would be against Lyft and probably against the driver. So long answer, but the short answer is, is our position is that that type of interim operating agreement could be effective and could be done and would help bridge this, you know, what do we have, six, nine months, something like that, at least, before there is legislation that creates a regulatory framework to go forward. [LR523]

SENATOR DUBAS: I think the difference here is it's not just a difference of opinion. Lyft has their opinion that they've had their attorneys look at. Public Service Commission, they're following the law as they see it, and so it's not their opinion. It's this is...these are our constitutional duties, these...we are obligated to follow this law. [LR523]

DAVID LEVY: Right. [LR523]

SENATOR DUBAS: So it's not do we have the discretion to come in and just because we think the law is wrong we get to continue operating. [LR523]

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DAVID LEVY: Right. [LR523]

SENATOR DUBAS: So I think it's a really difficult line to walk because, if you start making those kinds of interim agreements, what kind of doors do you open and what kind of troubles do you...do we as the state open ourselves up to? [LR523]

DAVID LEVY: Yeah. [LR523]

SENATOR DUBAS: So I think it's a much more...a much heavier burden on the part of the state because they don't have the luxury of saying, oh, well, you know, we're going to bend it a little bit here or bend it a little bit there. [LR523]

DAVID LEVY: Yeah. [LR523]

SENATOR DUBAS: And so I guess that's...I'm just concerned about, you know, making sure that everybody is kept as whole as possible but at the same time we do have to follow the law. [LR523]

DAVID LEVY: Absolutely. And as I said, I understand their viewpoint on it as well. It's a tricky problem that that is our proposed solution, has been and is, and whether it can work or not. So far it has not. [LR523]

SENATOR DUBAS: Senator Brasch. [LR523]

SENATOR BRASCH: Thank you. And, Chairman Dubas, thank you. You have given me one more question to ask Mr. Levy. So are these drivers employees? [LR523]

DAVID LEVY: No. [LR523]

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SENATOR BRASCH: Will they get a W-2 at the end of the year? Will they...they're not employees but it's 80 percent they make, 20 percent the company makes. But they're still not employees but they're...the company will pay any fines, any expenses even though they're not employees. [LR523]

DAVID LEVY: That is all correct. [LR523]

SENATOR BRASCH: That's all contractual, so they signed a contract or a 1099 or something. [LR523]

DAVID LEVY: Correct. Lyft provides a 1099 for those drivers, like any company would for somebody who... [LR523]

SENATOR BRASCH: Okay. So they are contractors then. [LR523]

DAVID LEVY: Correct. [LR523]

SENATOR BRASCH: Correct. All right. I have no other... [LR523]

DAVID LEVY: Yeah, they are not employees. [LR523]

SENATOR BRASCH: Okay, very good. Thank you. No other questions. [LR523]

SENATOR DUBAS: I'd like to go back to the testimony this morning about the driver who lost her insurance because of an accident, which was very unfortunate, and now she's going to have to be...she can get insurance but it's going to cost her more. What's your response to putting drivers...again, we just aren't quite caught up with technology and where things are at. [LR523]

DAVID LEVY: Right. [LR523]

SENATOR DUBAS: So that puts these drivers in a somewhat precarious position. If this situation happens to them, they ultimately are paying the price. [LR523]

DAVID LEVY: Right. You know, that I did not...unfortunately, I could not hear the testimony this morning, but I have been told about that particular testimony. It's an unfortunate situation. I would suggest that that insurance company was wrong in terminating the driver's insurance. I know insurance companies, as you suggested, Senator, they haven't quite figured out how to deal with this yet, so you're going to have those types of growing pains. You know, it is the driver's choice to engage in this. They do get compensated for doing it. They do take some risk because they're engaging in something that isn't well settled from a regulatory standpoint. I've not heard of a lot of instances of that type of thing happening and I think even, you know, as Lyft's insurance program evolves, their program is with MetLife, obviously a very big, well-established insurance company, has figured out how to deal with this innovation and this new industry as happens and I think other insurance companies will do that as well. [LR523]

SENATOR DUBAS: You said that the drivers are taking some risk when they enter into this contract. Are they aware of that potential risk to their insurance? I mean is Lyft talking to them or Uber talking to them saying, you know, there is a potential with your insurance, you can possibly lose your insurance, your rates could go up, what have you? Are they made aware of that? [LR523]

DAVID LEVY: I don't know of the exact sort of conversation or checklist that Lyft goes through with the driver. I know that there are very robust driver communities on Facebook or whatever the medium might be, so I think the drivers themselves, through those communities, share a lot of that information. And I'm sure when something like that happens, that's the type of thing that a driver would communicate to the other drivers. I initially found out about the citations because a driver had contacted another driver who contacted Lyft. So I know in that situation there is that, again, sort of that

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immediate feedback because of this peer-to-peer type of model and this community type of model where that information spreads very quickly. [LR523]

SENATOR DUBAS: Very good. Any other questions? Senator Smith. [LR523]

SENATOR SMITH: Thank you, Madam Chair. Mr. Levy, going back to what your comments you made about the insurance company was in the wrong here, I don't want to be in a position where I'm defending the insurance company, but wasn't it really Lyft that put that driver in that situation by operating unlawfully in the state of Nebraska? [LR523]

DAVID LEVY: Senator, I respectfully answer no. The driver...well, first, Lyft, again, is of the opinion that it is not operating unlawfully in the state of Nebraska and those citations have not come to fruition, nobody's told us...no court has told us its opinion on that. I believe though the issue with the insurance company was not whether or not Lyft had a certificate from the Public Service Commission, but it was the insurance company's viewpoint that that driver was acting in a commercial or a livery manner and that's what the insurance company...my guess is that that's what they were upset about and why they canceled the policy. [LR523]

SENATOR SMITH: I'm going to respectfully disagree with you. I think we're...I think we have technology and transportation that we need to embrace here, we need to move forward, need to figure out how. But I think you need to be careful tossing stones at the insurance companies whenever Lyft has demonstrated it has not operated properly in the situation in Nebraska. I think what we've been dancing around here is the way they've tried to enter into this market. And I think we need to embrace this technology and this type of transportation, but I think they've tried to bully their way into this market; and I think we need to be careful with that. [LR523]

DAVID LEVY: Okay. [LR523]

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SENATOR SMITH: Thank you. [LR523]

DAVID LEVY: Thank you. [LR523]

SENATOR DUBAS: Senator Watermeier. [LR523]

SENATOR WATERMEIER: Thank you, Madam Chair. And, Mr. Levy, I would have to agree with Senator Smith exactly on that, the way it appears to me that you're doing a little bit of a disservice to your drivers by not making them aware that they're trying to take a personal policy that covers their vehicle and saying now they're turning it into for hire. That's clearly a commercial line that's been drawn and they've crossed it. And so if you're talking about any interim agreement, if that's not in there, then no one in their right mind in the state would ever agree to an agreement like that because you've clearly not done your job of preparing your drivers to make them aware. They are now a commercial operator. They are for hire. So that's why the insurance company would clearly state that. [LR523]

DAVID LEVY: And, Senator, I appreciate that and I may be misunderstanding your statement. I want to make sure though. Lyft's insurance is primary for that driver from the time they've accepted a ride to the time they pick up the passenger to the time they drop off the passenger. So they do have that coverage from Lyft during that period where an insurance company might otherwise, I would agree, reasonably view them as doing something other than just operating their personal vehicle for their personal purposes. [LR523]

SENATOR DUBAS: Any other questions? Seeing none, thank you. [LR523]

DAVID LEVY: Okay, thank you very much. Thank you, Senators. [LR523]

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SENATOR DUBAS: Let's see. Next on our list we have Mr. Dave Barmore, Uber. Welcome. [LR523]

DAVE BARMORE: Thank you. Good afternoon, Chairwoman Dubas and members of the Transportation Committee. My name is Dave Barmore, D-a-v-e B-a-r-m-o-r-e, and I'm the senior public policy associate for Uber Technologies. A born-and-raised Husker, I grew up in Lexington. My parents still reside there and operate an 80-year-old business. My roots run deep here. I know Nebraska and I know Nebraska needs services like ride sharing. I'll explain more on just what ride sharing is in a minute, but first I want to explain why this industry would benefit our great state. One, it creates jobs. Uber gives drivers the flexibility to work on their own schedule. This opens up a job market for retirees, part-time workers, teachers, and other people looking to make additional income. Two, it gives students and residents safe transportation options. I attended the University of Nebraska-Lincoln for my undergraduate degree. Throughout my time at UNL, I saw firsthand how a lack of transportation options can directly impact student safety and impede the ability to get around this great city. Having been involved in the UNL's Greek community and student government, I cannot tell you how many countless meetings I sat through trying to tackle the issue of impaired driving and had to relay the message to students that there were safer alternatives than getting behind the wheel yourself. As Uber grows and matures as a company, we're starting to see some fascinating data in markets such as Seattle and Pittsburgh where Uber is having a direct impact on the DUI arrest rate. Since Uber's entry into these two cities, we've found that the DUI arrest rate has actually decreased by 10 percent. As a college town that sees its fair share of tailgating on Husker game days, I'm confident that with services like Uber, Lincoln will see this same phenomenon play out. I've witnessed situations where the driver had one too many drinks back in college and I can assure you that, had we had a reliable service like Uber, this would not have been the case. I present all of this to you to show you that Nebraska does have a tremendous unmet need for safe and reliable transportation options. As a technology company, we're able to track the amount of residents and visitors that open up the Uber app throughout Lincoln and

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Omaha. We have a launch team that tracks that demand and can quantify it. We determined which cities to launch based on the amount of people we see that are opening up the app coming from that particular community. We saw such an overwhelming amount of Nebraskans begging for added transportation options, and that is why I'm before you today having this conversation. Now that I've described to you why we've come to Nebraska, I want to spend some time discussing what Uber is and how we're different than your traditional taxi service. Uber is a technology company. We're an app you can download on your phone that with a push of a button riders are connected with the safest, most reliable rides on the road. Uber is now operating in over 200 cities and 45 countries around the world. An important distinction to make is that as a technology company Uber does not own or operate any of the vehicles or employ any of the drivers. Uber simply provides the platform for connecting drivers with potential riders. We facilitate a comprehensive suite of functions to ensure that riders are connected to drivers seamlessly. We ensure that drivers are paid on time and provide 24/7 support for questions or concerns with the service. I will speak to some additional functions of Uber in more detail shortly. The product we currently offer in Nebraska is what we call uberX. UberX is Uber's version of what has become commonly referred to as ride sharing. Ride sharing is an exciting new marketplace where now every day residents of Lincoln and Omaha can begin conducting trips out of their own personal vehicle. Not only is this an incredible job generator, the beauty of the system is now, as independent contractors, these drivers can perform as many or few trips as they please. We see a wide array of people, including teachers and veterans, all of whom are simply looking at Uber as a way to earn additional income on their own schedule. Before any driver is allowed on the platform, Uber ensures that the driver is properly vetted by requiring they undergo multistate, county, and federal background checks at least seven years back. In addition, Uber requires ongoing reviews of drivers' motor vehicle records. Uber also ensures that the vehicles are in good working order and that the drivers are properly insured before they begin conducting trips on the app. On the subject of insurance, Uber requires that all of its ride-sharing partners provide proof of their own personal auto policy. Uber then provides \$1 million of third-party commercial liability

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insurance during the time that a trip is taking place. I think it is important to note that now with our technology we can pinpoint the exact moments of when commercial activity is taking place. This policy is expressly primary during this time that a trip is taking place. This million-dollar policy is two times more than what is currently required by the PSC for taxi. One final way that we ensure both the rider and the driver are experiencing the best-possible service on the Uber platform is through our five-star rating system. After every trip we ask you to rate the driver and provide feedback about your ride. We are constantly monitoring feedback to help drivers improve the Uber experience they deliver. Drivers work hard to keep their ratings high and they know our culture of accountability goes both ways. We look forward to working with you all and with Senator Mello next year on legislation that would modernize state statute to allow for new technologies like ride sharing. This past summer, like what's been previously described, Colorado was the first state to pass legislation regulating Uber and its partner drivers under what has been called transportation network companies. Like a dozen other cities and states across the country, Colorado legislators saw this unique new marketplace being created; and instead of trying to shoehorn Uber into existing regulations, they embraced innovation and created new laws around this job-creating technology. These laws codify the public safety measures we already have in place in terms of insurance, background checks, and vehicle inspections, and ensure that any future actor that would enter the marketplace would have to abide by the same rules. As a native Nebraskan, I can't tell you how excited I am to be here today to talk to you all and educate you on the benefits of services like Uber. I look forward to working with all of you to helping find a more permanent home for Uber in Nebraska. Thank you.

[LR523]

SENATOR DUBAS: Thank you, Mr. Barmore. Are there questions? Senator Brasch.

[LR523]

SENATOR BRASCH: Thank you, Chairman Dubas, and I do have some questions. And thank you, Mr. Barmore, for your testimony here. This company is also based out of San

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Francisco, correct, as Lyft is? [LR523]

DAVE BARMORE: Correct. Our headquarters is in San Francisco, yes. [LR523]

SENATOR BRASCH: And are you employed out of San Francisco? Is that where? From Lexington to San Francisco or are you physically here in Nebraska? [LR523]

DAVE BARMORE: I'm based out of the Washington, D.C., office, but we do have a team that is their job of growing the business of Nebraska and they spend their time in both Chicago and Omaha and Lincoln. [LR523]

SENATOR BRASCH: And are the drivers here also contractors or are they employees? [LR523]

DAVE BARMORE: They are independent contractors. [LR523]

SENATOR BRASCH: They are contractors. [LR523]

DAVE BARMORE: Um-hum. [LR523]

SENATOR BRASCH: Could you estimate how many drivers you have and tell me the age span of them. [LR523]

DAVE BARMORE: So I think an important note here is that over time we hope to grow the amount of drivers that come onto the system. Part of, you know, the regulatory structure as it stands is, you know, a company would have to go down to the PSC to apply for a certificate of public need and necessity, you know, and then the PSC will determine whether or not that is actually required or if that's a convenience and a need by the community. You know, we feel that that process now is antiquated. With our technology, we're able to track instantaneously, you know, how many people are in

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downtown Lincoln opening up the app and, you know, we have a team that tracks that. When we see a spike, you know, on game days... [LR523]

SENATOR BRASCH: But how many drivers do you have? How many contractors are currently in Nebraska with your company? [LR523]

DAVE BARMORE: I can't give you specific numbers, but I can assure you... [LR523]

SENATOR BRASCH: You cannot? You cannot give us numbers? [LR523]

DAVE BARMORE: No, but I can tell you, you know, we have... [LR523]

SENATOR BRASCH: Because they have been vetted, they have been...orientation, you've seen their vehicles, there is a finite number of drivers. You can't just say, I want to be a driver. You have to be vetted, correct? [LR523]

DAVE BARMORE: Yes. We have a strict vetting process in place before one can begin conducting trips. [LR523]

SENATOR BRASCH: Could you get back to us with that number then? [LR523]

DAVE BARMORE: I can tell that, you know,... [LR523]

SENATOR BRASCH: Okay. [LR523]

DAVE BARMORE: ...we have dozens of drivers in Lincoln and, you know, our number is to grow the business to where we have hundreds across the state of Nebraska. Our goal is that anywhere, I think, in urban/rural Nebraska is to be able to provide people within minutes, you know, a safe and reliable transportation option. So really, like I said, that number we hope can be hundreds across the state. [LR523]

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SENATOR BRASCH: And my...and I hope your...the growth is there for you. But my concern is you're not having a knowledge of who is working for you today in our state. [LR523]

DAVE BARMORE: We do have a record of that. [LR523]

SENATOR BRASCH: And that number is? You... [LR523]

DAVE BARMORE: As a private company, ma'am, we don't share the definitive number of drivers, so. [LR523]

SENATOR BRASCH: Okay. All right. And you have...because...and if...the background check goes back to at least seven years you said? [LR523]

DAVE BARMORE: Yes, federal, multistate, and county checks that go back a total of seven years. [LR523]

SENATOR BRASCH: Okay. So seeing the laws here in our state is you cannot drive until you're 16, so you have no one younger than the age of 23 driving, correct? [LR523]

DAVE BARMORE: Yes. [LR523]

SENATOR BRASCH: Okay, very good. And one more question that I do have is, seeing that...the question that was asked earlier by Senator Smith about some of the regulatory issues that...operating here without having that information finalized. California, their commission established 28 rules by their commission, rules and regulations; and in Arizona, their governor did veto the bill saying there wasn't sufficient drug-testing standards. Are you still comfortable operating in a state that has not established standards regulatorily here? [LR523]

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DAVE BARMORE: So it is our goal, Senator Brasch, that, you know, every state introduces these new regulatory frameworks that better incorporate what it is that we are doing with our technology. You know, I can tell you California was the first state to introduce this new TNC structure. Colorado, many cities across the country have followed suit. And, you know, we really do see this as the way of the future and, you know, we are encouraged to see that many states have already done the work to modernize the regulatory systems there. [LR523]

SENATOR BRASCH: Okay. Very good. I have no other questions. Thank you. [LR523]

SENATOR DUBAS: Senator Smith. [LR523]

SENATOR SMITH: Thank you, Madam Chair. I just want to clarify it just for the record, the questions that Senator Brasch had for you. With your competitor sitting behind you, I know you're trying to be careful with divulging proprietary information, so that's why you're not answering those questions directly and I understand that. Can you help me understand a little bit the difference between the UberBLACK and uberX? [LR523]

DAVE BARMORE: Um-hum. So as a company we started four years ago in Silicon Valley. Our CEO is a "techie" at heart, he's an entrepreneur, had many startups that he had tried unsuccessfully until Uber really took hold. What...how Uber started was simply out of frustration of current transportation options. And our CEO, what he did is created this app and went and partnered with different limo drivers throughout San Francisco. And that small exclusive group then grew and grew and grew into now, you know, we're operating in over 200 cities around the world. So UberBLACK is where we simply...it's a premium service that we offer and it is where we partner with licensed livery limo drivers, you know, that have the commercial license and commercial insurance, and that is the UberBLACK product. The uberX is equivalent to the ride sharing and the Lyft product that we're, you know, discussing largely today, so. [LR523]

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SENATOR SMITH: And UberBLACK is not operating in Nebraska. [LR523]

DAVE BARMORE: No. [LR523]

SENATOR SMITH: Okay. [LR523]

DAVE BARMORE: I think what we saw from people all over the state is just a real demand for the lower-cost option, and I think overall across the country we're really seeing that people are really taking hold to the low-cost uberX option. And so we're really seeing that as the future of the company and just...and we're really growing as a business with this uberX product. [LR523]

SENATOR SMITH: Thank you. [LR523]

DAVE BARMORE: Um-hum. [LR523]

SENATOR DUBAS: I would have a few questions for you, Mr. Barmore. You did a great job of saying why Uber wanted to come to Nebraska, and I don't think any of us can dispute that there's, you know, probably a place for you to fit in our transportation services in the state. And you've talked about all of the protections and the things that you have in place, as did the other company. But I know many of our taxi companies and other modes of transportation will say they've done exactly the same thing to some degree or another, but they also had to comply with regulations and laws to get what they needed to get to operate in this state. And so my question is, you know, why you came here but how you came into the state is what's concerning, and so, you know, the Public Service Commission said it was only after several attempts of reaching out to your company did...were they finally able to track you down and make some connections. What is your common practice when you're coming into a state? Do you reach out to the regulatory agencies to find out, hey, we want to come, what is it that we

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need to do? Or do you just come in and say, we're here and you guys need to catch up with us? [LR523]

DAVE BARMORE: You know, that's...the company is growing into, you know, dozens of new cities every day as a technology. You know, the company does what it does. My team really is to work with the policymakers and the regulators, and unfortunately, you know, after we began operations in Omaha it was not...I did not receive any calls directly to me but, you know, we did hire on a lobbying group and then they helped facilitate a meeting with the PSC shortly thereafter. It's something that, you know, we're not adverse to having any kind of conversations ahead of time. I just, you know, as a technology, we also have a legal team out of San Francisco as well that assessed the laws and regulations in the books and, you know, we received the go ahead to begin operations and then part of my job then is to come in and work with you all. And I think it's interesting, you know, states across the country--Virginia, Pennsylvania, South Carolina--were all working with the regulatory authorities there, and they, you know, have found it within their authority to enter into either a temporary agreement or to begin emergency, you know, temporary authority. And so I really hope that, you know, that we can work together in trying to find that kind of process here because it is occurring in other states in...at a, you know a very fast pace. I find that the regulatory authorities are finding it within their authority to enter into these kind of agreements, so. [LR523]

SENATOR DUBAS: Every state has its own way of doing things and own way of interpreting laws. [LR523]

DAVE BARMORE: Right. [LR523]

SENATOR DUBAS: And you know, as you stated, your legal team was of the opinion that they should be able to operate here. But I would think it would just be common practice that you would at least come in before setting up shop in a state where you want to operate a business and just kind of get a clarification--hey, this is the way we're

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interpreting things, are you as the state authority seeing it the same way? So that's...I think that's probably what the biggest concern is, as to how these companies have approached our state and are setting up shop without necessarily walking through the same things that we were requiring our businesses who are here to walk through, and so I think that will continue to be a concern as you are still in operation. And as we've stated multiple times, there are drivers who have been cited. What are you telling your drivers as far as citations? What kind of support are you giving to your drivers in that respect? [LR523]

DAVE BARMORE: We stand by our partner drivers and, you know, we will cover any costs incurred by any potential citations they might receive while we continue to work with you all towards a more permanent agreement. You know, we're discouraged to find that, you know, anyone that would inhibit, you know, job creation and just, you know, disallowing these people that are looking simply at this platform as a way to help make ends meet for their family, you know, how can we work with you all so we don't have to continue seeing these kind of occurrences because it really is unfortunate and I...you know, like Mr. Levy, the drivers, it is up to them if they wish to continue to operate. I can tell you, in many states where this has occurred the drivers still continue to conduct trips; they really believe in the system and see it as such a great economic opportunity for them that they continue to operate. So I think that just speaks volumes to just the system and, you know, kind of, just the benefits it brings to the drivers themselves. [LR523]

SENATOR DUBAS: Well, I would agree with you it is unfortunate that the drivers have been put in this situation because I understand the importance of these jobs and what it means to these people, and we certainly in Nebraska are always looking for ways to grow our economy and provide new and innovative jobs for our citizens and hopefully to get new citizens to come live the good life in Nebraska. I guess I'm just going to go back to my original comment. It was unfortunate that...I would assume a pretty savvy legal team would have vetted where they were going to go before putting their drivers in a

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position where now they're going to get citations. I'm really hopeful that in the following session we're going to find some solutions to this problem and we'll keep these people employed and will allow some new businesses to come into the state. But I am just...I know this is somewhat water under the bridge, but it is unfortunate that we kind of are in this position after the fact and we're trying to figure out what's the best way to move forward. And again, in light...with the insurance issue that, you know, one of the drivers shared with us this morning, are your drivers really fully aware of the risks they are taking personally with their insurance and their vehicles and potentially trouble with citations or those kinds of things? Are they fully aware of these types of risks? [LR523]

DAVE BARMORE: So I can't speak on behalf of, you know, the operations team and the launch team that conduct these on-boarding sessions. You know, their sole job is to work with partners and making sure they have everything they need. You know, they have every opportunity to, you know, have that dialogue with the staff at Uber during the time that they are going through that on-boarding process. [LR523]

SENATOR DUBAS: Okay, we've focused a lot on what this can provide for Omaha and Lincoln. You're from rural Nebraska, as am I. What kinds of...I would see not this exact model fitting in rural Nebraska, but do you think there is a model that could be suited for more rural use? [LR523]

DAVE BARMORE: So that's a great question and, you know, quite frankly, when I started at the company in January, I, you know, was under the impression then that, you know, it would be a very long time before we would see Uber and services, you know, ride sharing take...you know, grow and have a demand for in communities that traditionally, you know, don't have a large taxi presence or, you know, residents have their own vehicle. And I've been proved very wrong just by seeing the sheer amount of people that are opening up the app. You know, we can see all throughout the state, you know, icons that pop up whenever anyone opens up the app and it's blown me away to see that this really is such...there is such an unmet demand in Lincoln and Omaha and I

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know in other parts of the state as well. Part of my new role within the company is how can we...you know, we're in over 200 cities around the world. How can we have this be so ubiquitous that anywhere in the state, you know, they can hop on their app and have a ride available to them within five minutes? And that's really, you know, working with the operations team and figuring out how to have Uber truly be everywhere is where...what my new role is. So, yes, I do think this has a place in rural parts of the state, and it's just...it goes back to how we're, you know, distinctly different than a taxi where we...our technology replaces the need for a dispatch system and we're simply creating a one-to-one connection between riders and drivers. And so there is no question in my mind that this wouldn't, you know, be something that people in rural Nebraska would also want. And so we look forward to studying the, you know...in these new markets that we've just launched into, Lincoln was a part of a college town rollout where student leaders reached out to us all throughout the summer--UNL was not an exception--asking how, you know, we can bring Uber to our campus and, you know, so we rolled out 22 new college towns across the country. And so I think as we study those new marketplaces we're finding ways that we can use our technology for...you know, we're in over 200 cities where we're transporting people. I think as a technology company we're also finding other ways and processes that we can help make more efficient. We are testing a delivery service in D.C. We have a courier service in New York City. So I think it really goes back to the point of Uber is simply the platform that is enabling riders and drivers, but I think we're now finding that there are a lot of other systems and processes that we can help make more efficient as well, so. [LR523]

SENATOR DUBAS: Do you have any capabilities of...through the technology, is there is a potential there for drivers to pose as an Uber driver but not be in your network? Or if you had...I know you're still relatively new but, you know, say you have a driver that you no longer...because has gotten poor ratings you're not going to allow them to be a part of it anymore. Would there be some way for them to still be out there posing as one of your drivers? [LR523]

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DAVE BARMORE: So the minute a driver is deactivated from the system there is no chance that any rider would be able to make that connection to that driver. You know, so that's...the minute that they are deactivated, you know, we do have a staff that constantly monitors their rating and if we do see a low-level, you know, consistent low-level service, we will, you know, approach that driver and give them the opportunity to make their case. But if they don't improve, we will deactivate them from the system. Same goes for the rider. We don't broadcast this, but every rider has their rating as well. We want to ensure that the drivers are also having a positive experience on the app, and so it's just an accountability system we have in place to ensure that both the rider and the driver are having the best experience possible. [LR523]

SENATOR DUBAS: One more question. I mean, you're very reliant on your smart phones. That's how you're making connection. Do you have any type of distracted driver rules for your...you know, like texting while you're driving or anything like that? [LR523]

DAVE BARMORE: We have a team at headquarters that is constantly, you know, trying to make the process more seamless so that there isn't that, you know, distraction, you know, while accepting a trip or whatnot. I really think every new week we're receiving e-mails on how they're streamlining that process in a way that's not going to be distracting for the driver. But, yeah, that's what...we have a whole team of people doing that in San Francisco, so. [LR523]

SENATOR DUBAS: Very good. Are there other questions? Senator Watermeier. [LR523]

SENATOR WATERMEIER: I guess a couple questions, thank you, Madam Chair and Mr. Barmore. The question goes back to have you ever come into a state...you said you had your legal team that looked into it and didn't think that Nebraska needed to have an issue. Have you ever run across a state in which you could just work into the state without even a temporary agreement? [LR523]

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DAVE BARMORE: No. You know, Senator Watermeier, legislation and regulations take time. You know, as a technology company, we're...my team is constantly, well, not wanting to be an impediment to the business, but this is a classic example of, you know, technology. The private sector is moving at its own speed and, you know, it is our job then to work with local jurisdictions and state bodies such as yourself on updating current laws and regulations. But, no, I mean, to your question, California really was the first state to update their laws, and no other jurisdiction has those kind of TNC laws on the books, and so... [LR523]

SENATOR WATERMEIER: Okay. That's what I assumed. You really said you hadn't run it...you didn't need to be in Nebraska, you didn't need to have a new regulation, but yet you haven't come across a state yet where you haven't had to have one. [LR523]

DAVE BARMORE: No, because, you know, as a technology company we, you know, believe that we exist in this regulatory gray zone. [LR523]

SENATOR WATERMEIER: Right. [LR523]

DAVE BARMORE: And so let us work with you on updating the code to better reflect what it is we're doing. [LR523]

SENATOR WATERMEIER: And believe me, I'm all in favor of less regulation. I really feel like a lot of times the government can hold back, technology can hold back things, and I'm with you on that. But you did make another comment that concerned me a little bit, that you were so disappointed that we, meaning I don't know if you were pointing a finger at the government or the PSC or whatever, that would want to hold back, you know, potential jobs or job creation. But you do understand that that is a service that we need to provide to our public as far as safety. I mean that's what it boils down to. So it's a little disconcerting to me to hear you say that we would stand in the way of job

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creation just for the job creation without, you know, ignoring the job...the safety to the public. [LR523]

DAVE BARMORE: So if it boils down to public safety, you know, like I said, a lot of what we already do as a common business practice exceeds what is currently required by, you know, the current laws and regulations. And so, you know, if we're going to talk about public safety, you know, that is our argument there. And so in other states, like I said, we've just found a way in which we can provide, you know, a temporary kind of agreement, and that is what we hope to be able to work towards here in the time that, you know, Mr. Mello and you all can work out a more permanent solution through legislation, so. [LR523]

SENATOR WATERMEIER: Okay. Thank you. [LR523]

SENATOR DUBAS: Senator Smith. [LR523]

SENATOR SMITH: Thank you, Madam Chair. I think what Senator Watermeier was doing was giving you an opportunity to retract your comment that we're actually the ones who are standing in the way of creating jobs whenever it was the Uber and Lyft that actually entered the market unlawfully. So I just want to make that clear. I think that's what we're getting at here. We're a bit set back by those comments. And we're really wanting to work with this and we're really wanting to work with Senator Mello in helping legislation go forward. But you're not doing yourself very much good in this situation when there continues to be a sense of arrogance on the part of Uber and Lyft. So I'd be careful in just the way your comments are being used and being perceived here. We're trying to be helpful here and work with you, but we're also wanting to see that Uber and Lyft are doing things what we like to call the Nebraska way, in fairness and in honesty and straightforwardness. And I think that's...some of us here have some concerns that they have not entered into this market in that way. But I have some questions, some technical questions on data transparency. Whenever you have a

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transition from the driver's insurance to Uber's insurance, how is that data time stamped? And how transparent is that data if there were to be a disagreement between insurance companies? Because I understand there are some cases where there is a dispute. [LR523]

DAVE BARMORE: So part of the development we had in late July was that, like I said, with our technology now, we use GPS technology and, you know, it is very clear as to when this action is taking place. You know, they can time stamp that through the use of their smart phone. We can pinpoint the exact moments of commercial activity, so... [LR523]

SENATOR SMITH: But isn't the smart phone Uber's smart phone? It's not the driver's smart phone, right? [LR523]

DAVE BARMORE: So Uber, we do, after the driver passes all the background checks, they do receive a phone in the mail, so it is a phone that they receive that is only allowed to operate the Uber platform. [LR523]

SENATOR SMITH: So then do you share that data stamp or that data, that information? Is it transparent with other insurance providers in order to resolving the type of disputes that may occur? [LR523]

DAVE BARMORE: I can't speak to, you know, what...how we've shared that kind of data. I haven't been involved in any of those kind of situations. [LR523]

SENATOR SMITH: Have there been disputes between insurance companies, between drivers' insurance companies and Uber's insurance carrier? Have there been disputes as to whether they were in service or not? [LR523]

DAVE BARMORE: You know, to my knowledge, you know, the insurance companies

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have said that, you know, it will be held. And going back and forth in...with legal action over which policy would apply, to eliminate any ambiguity on which service or which policy would apply during the time a trip is actually taking place, Uber's commercial liability policy during that time that a driver accepts a trip to when the rider steps out of the vehicle is now primary. So there's no question that if an incident were to occur during that time, Uber's policy would apply. So now that there's a period that the driver might have the app on but not conducting a trip, which we would argue is not commercial activity, Uber provides a contingent policy that applies if for whatever reason the personal policy does not. So regardless, there's insurance in place; it's just ours is contingent during the time that a trip is not occurring and primary during the time that commercial activity is taking place. [LR523]

SENATOR SMITH: We heard an example earlier from a Lyft driver, so it was...I don't think it's that clear-cut in some cases. [LR523]

DAVE BARMORE: I can't speak to that particular incident. I'm not aware of what took place. I briefly overheard her testimony and it's unfortunate but, you know, like it was discussed earlier, I think the insurance industry is slowly realizing that this is a new marketplace being created and they are introducing new products to reflect ride sharing. As Mr. Levy explained, MetLife has partnered with Lyft, and I know that our team is hoping to, you know, have some developments there over time where they can provide some clarity and work on products that will better reflect our unique business model. [LR523]

SENATOR SMITH: All right. Thank you. [LR523]

SENATOR DUBAS: Senator Watermeier. [LR523]

SENATOR WATERMEIER: Thank you, Madam Chair. Mr. Barmore, I guess another question in regards to the insurance, which I'm really concerned about the safety of the

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drivers in the state of Nebraska and wherever you're operating. I think what Senator Smith is getting at is he's looking at it in a postaccident format. But if an insurance company is under the impression that this vehicle is used for personal use--that's what the owner/operator, not policy owner, is saying--then they're under the understanding it's never going to be used for hire or for commercial use. So I think it's in the first part of this process that the driver would be eliminated if they...if the insurance company thought it was going to be used for hire. So that's where maybe there needs to be some conversation and that may be in our part on how we maybe would write legislation. I'm not sure. Then the other side of it is the vehicles that I understand are for hire for commercial use have a commercial plate, and that process is very expensive. On my business, my commercial-plated vehicles if they were commercially plated would be very expensive. So you need to convey that to your drivers as well. Now I'm not sure if the insurance agency and even the DMV are all up to speed with that. You're going to have this back-and-forth issue between personal and commercial. So it's going to be very, very complicated, and I still come back to the fact that it's a disservice to these drivers to know the risk that they're at. [LR523]

DAVE BARMORE: One thing I'll say to that is, you know, that is the difference between, like I said, this UberBLACK product that we provide where we do partner with drivers that look at driving as their sole source of income... [LR523]

SENATOR WATERMEIER: And that is a commercial-plated vehicle, I'm assuming. [LR523]

DAVE BARMORE: Yes. [LR523]

SENATOR WATERMEIER: Yeah. [LR523]

DAVE BARMORE: Yes. [LR523]

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SENATOR WATERMEIER: Right. [LR523]

DAVE BARMORE: And in larger cities we offer that UberBLACK product at a higher rate. But, you know, I think to showcase off just by the amount of drivers in this room for uberX and for Lyft, these drivers are looking at this simply as a part-time basis, and so it...you know, to obtain commercial insurance would be a deterrent for them on coming aboard this platform and using it maybe in between jobs or what have you. [LR523]

SENATOR WATERMEIER: But that's exactly why these policies are being terminated, because the insurance company finds out it's being for hire when they were under the understanding that it was not. [LR523]

DAVE BARMORE: So we understand that, you know, that the policies do have that commercial exclusion in place. But from what I understand, it's not playing out like it is in practice. You know, those policies, the exclusions are in there, but in large part that it is not playing out like that in practice, so. [LR523]

SENATOR WATERMEIER: Good luck with that. So thank you. (Laughter) [LR523]

SENATOR DUBAS: Any other questions? Seeing none, thank you very much for coming forward today. We appreciate it. [LR523]

DAVE BARMORE: Thank you. [LR523]

SENATOR DUBAS: Mr. John Davis with Happy Cab. Welcome. [LR523]

JOHN DAVIS: (Exhibit 4) Good afternoon, Senator Dubas, members of the committee. I appreciate the opportunity today to come and maybe add some clarity to some of the gray zones that I heard about earlier in some of the earlier testimony. In particular, I think that there are a lot of assumptions about...and I guess I should back up and spell

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my name and that sort of thing. So John Davis, J-o-h-n, last name D-a-v-i-s, director of operations for Happy Cab Companies, which would include Checker Cab, Yellow Cab in Omaha, Cornhusker, and Safeway. You know, I think that there's a misconception that somehow with this new technology that it's taking the operators here by storm, that we're not aware of it, that we have some kind of archaic systems and that, you know, we need to be brought into the light. Quite the contrary, we've always had a company culture that we've been about being progressive, we've been about looking forward. Back in the late '70s, when the nation was in a big energy crisis, we were using propane in our vehicles. Back in 2009 we started converting vehicles to run on compressed natural gas because it was a clean domestic alternative that is cheaper than gasoline and produces a quarter of the greenhouse gases. In 2006 we started using what is called handheld mobile dispatch devices, cell phones; 2006, we were using those. We have since used tablets and so I just want to, you know, again, bring some clarity here. In 2013 we rolled out the first app in this marketplace here in eastern Nebraska which we have serviced through Lincoln and Lancaster County and also throughout Omaha. So we rolled out the first application that was available on the app stores where consumers could fire up the app, they could request a cab; and again, this happens without them going through our dispatch center. The way these apps, you know, work, for those that aren't IT specialists, is that the communication happens between the app which goes to the server back at headquarters and then it...the communication happens between the server and then the consumer who is requesting the cab. So when we say peer to peer and that sort of thing, it still involves the server back at headquarters. That essentially is an electronic dispatch system. It is what it is. I would encourage everybody to take copious notes--and don't take my word for it though--is you go out and do your research. So one of the other things in terms of, you know, looking at definitions is, you know, I've heard several times that, well, some of these TNCs aren't common carriers. I would encourage folks to look out and see what the definition of a common carrier is. I've got one here that says, "any person who or which undertakes to transport passengers or household goods for the general public in intrastate commerce by motor vehicle for hire, whether over regular or irregular routes, upon highways of this state." I

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think that the definitions are pretty clear out there. In terms of our position, I think that, you know, quite frankly, we're not scared of competition. I think that we always, as I've pointed out, we've tried to stay ahead of technology. We just released...after releasing an app in 2013, we went ahead and we looked and were looking forward down the road and we said, you know, we think we can do a little bit better. So last month we released a new app along with a new dispatch platform that offers a lot of things that are really appealing to consumers, one of which is we have a Web Booker module, which I think is the only one in this marketplace right now, which allows consumers to use their PC or their tablet and basically to set up transportation. And again, that doesn't involve going through our dispatch center. They're going to a Web site; they're setting up the transportation. Not only can they set this transportation up and basically get the closest cab to them, they can also through a GPS watch that cab or that car come to them. We use geo-fencing in this system, so there's a marker out there that will let them know when the cab is on approach approximately about 200 yards away from their location. It will let them know via their computer that that cab is on approach. If we're talking about something that's being used at a business, they can track rides for multiple people. So again, we're very much progressive and about new technology and growing with that technology. We think that there maybe are some opportunities out there, you know, for these TNCs that are looking at this market or actually already doing business in this market but, you know, I think the reality is, is that we have to play by an established set of rules; and we can't deviate or operate outside of those rules because we don't think that they apply to us or we don't like the process. And so we would encourage this committee to certainly look for a way where we can, you know, redefine things or find a fit. You know, I can tell you, I just wanted to address a couple of things that were said before. Senator Mello didn't think there had been a recent revision on statutes. Actually, in 2001, the commission made a revision and created the class that's called open class. That's something that they did within the commission; they didn't have to get approval or that didn't go through the Legislature. The Legislature could certainly make a change here, but the PSC right now has the constitutional authority to make those changes. I'm not a constitutional scholar or an attorney so certainly I would leave that up to the

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Legislature to certainly research that. But I think that it certainly is well within the PSC's purview to do that. I think that, you know, right now when we look at this and we think and a lot of times you hear, well, it's a new technology or, you know, the community needs it, it would be much akin of us looking at illegal immigration and saying, well, you know, it puts a lot of people that come from low-income places, it gives them an opportunity to work and catch the American dream and that sort of thing. But the reality is, is that we deal in a world with black-and-white rules and not really so much gray matter. And so while I'm not going to get into a political debate on whether we're on the right or wrong side of illegal immigration, it really is the same thing is there's, you know, there's laws out there. We all have legal counsel. We know what the proper process is, is let's move forward and let's look for a way where, you know, if these companies want to do business is they can find a way to come into compliance and do that. So I certainly am open for questions if the commission has any. [LR523]

SENATOR DUBAS: Are there questions? Senator Brasch. [LR523]

SENATOR BRASCH: Thank you, Madam Chairman, and thank you, Mr. Davis, for your testimony. I am very curious. As taxicab companies, do you believe that this is also...ride share is a taxicab company just doing business? You know, what is the fundamental difference? I mean it...your thoughts? [LR523]

JOHN DAVIS: Well, first off, Senator, what I have to say is that ride share--and again, look at the definition--ride share applies to a situation where someone is going to pretty much the same destination, much like I heard someone use the example of college kids and where one of these entities started at. Very clearly in the definition for ride share it says that it does not involve someone transporting for hire, much akin to a chauffeur or a taxi driver, that sort of thing. So if we're talking about TNCs, yes, certainly, the cab company could be considered a TNC. The concept of independent contractors isn't anything new. Again, if you go out and you do your research you'll find out the cab companies that are 50 cabs or larger throughout the United States, about 80-85 percent

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of them use independent contractor model. [LR523]

SENATOR BRASCH: And you do report your number of your fleet. That's not a proprietary number. [LR523]

JOHN DAVIS: Would you like to know what it is as of today? [LR523]

SENATOR BRASCH: Well, I don't want to get your competitor an advantage. [LR523]

JOHN DAVIS: I'm...I... [LR523]

SENATOR BRASCH: No, I just am curious. Is it...or I would... [LR523]

JOHN DAVIS: Today would be about 216 drivers that we're contracted with. [LR523]

SENATOR BRASCH: Okay. Very good. [LR523]

JOHN DAVIS: Okay, and that's between our Omaha and Lincoln operations. [LR523]

SENATOR BRASCH: Okay. Excellent. [LR523]

JOHN DAVIS: Yeah. One of the other things I guess I want to clear up. I was kind of surprised that I heard the commissioner had a question on our independent contractor model, so I guess I want to address that. You know, that's something that has been looked at several times certainly by the Department of Labor here in the state of Nebraska. Most recently, within the last 12 months, the Department of Labor has looked at our business model so, you know, they've made it crystal-clear, what I like to call they've given everyone a concise mental picture that our independent contractors look like independent contractors, they don't look like employees. We don't do an orientation or, like, teaching. We do have an orientation. The orientation is really much akin to

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educating them to the contract that we have with one another and their roles and responsibilities related to the Public Service Commission. And I won't bore you with the details, but certainly if you want to submit follow-up questions to that, you know, I can certainly talk at length in terms of, you know, what sort of things that the drivers are responsible to based on PSC regulations, not company regulations. So those are things that we go through in terms of the orientation is making sure they understand what their roles and responsibilities are based on the PSC's expectations. [LR523]

SENATOR BRASCH: You've answered my questions well. Thank you very much.  
[LR523]

SENATOR DUBAS: Other questions? Senator Smith. [LR523]

SENATOR SMITH: Thank you, Madam Chair. Mr. Davis, first of all, probably the analogy of illegal immigration may be a little bit of a stretch, but I get your point, I understand what you're trying to say there. But you believe that the current statutes are sufficient to regulate this new transportation means in the market. You do not believe...I think I understand you. You do not believe new legislation is necessary. [LR523]

JOHN DAVIS: No, I do not, and the reason I do not, again, is if you look at the definition of a common carrier. And again, that's not John Davis' definition. That's if you go out and do research, they fit under what's called a common carrier. Regardless, though, if you define them as a common carrier or not, the PSC still clearly, based on statutes, has constitutional authority over an entity that's doing transportation for hire. And again, much like they did in 2001 with open class, that's something that the PSC looked at and identified a need based on a change in business with the state in terms of specifically how Department of Health and Human Services was handling Medicaid transportation. And so, you know, you had at that time, you had operators that in some cases were maybe limo or buses or even taxis doing the transportation, and it really didn't fit with what the state's need was at that time. And so at that point the PSC...and again, without

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going to the Legislature, the PSC created open class, so it's something that is very much possible, legal, and with...under their authority at this time. I also want to point out one... [LR523]

SENATOR SMITH: And so that...excuse me. [LR523]

JOHN DAVIS: Okay. [LR523]

SENATOR SMITH: So let me stop right there. So that would enable them to be classified as something other than common carrier is what you're saying and, therefore, could be regulated. [LR523]

JOHN DAVIS: Yes. If the PSC looked at it and felt that they did not fit under the definition of common carriers then, yes, the PSC could define them as something else, whether it be TNCs or whatever they chose to. And again, it's still under their constitutional authority. [LR523]

SENATOR SMITH: Go ahead and finish your other thought up. [LR523]

JOHN DAVIS: And the other thing I was going to say is that, in reference to Senator Mello's comments, is I want to make sure that everybody, as we're trying to clarify or clear up some of the gray zones, is the PSC is also in the latter stages of a two-year rewrite of their regulations. And so they have been working on it. That's obviously a very intensive process and not something that you're going to do in a matter of two or three years. So I'm sure everyone is aware that that is going on but, again, there are some lay folks that may not be aware of that so I want to make sure on record that, you know, that the PSC is in the process of doing that and in the latter stages. [LR523]

SENATOR SMITH: Okay. Thank you. [LR523]

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SENATOR DUBAS: Other questions? Mr. Davis, could you walk us through what you have to go through to comply with PSC regulations? What are the types of things you have to do as a cab company? [LR523]

JOHN DAVIS: Well, it's kind of a broad question. But one I will take up is the application process because, again, I think there's kind of been some gray matter on that. So being a cab company that is...has an HHS designation, there is no such thing that someone else is out there operating that's doing a more in-depth background check than we are because we are required by the state to actually have all of our drivers submit fingerprints to the State Patrol. Nebraska State Patrol actually does those checks, their fingerprint checks, and they're frequently referred to as FBI-level check. I think they may also be referred to as NCIC-level check. But again, that's the check that is done by the Nebraska State Patrol. In someone else's testimony I heard them say, well, that their checks were more in depth than what the city of Lincoln or the city of Omaha does. Those two entities do checks, but they are for a different part of the process. For someone who wants to drive a cab, they have to have what's called a "hack" or a hackney license that is authorized by that city. And so both entities have that process. They go and they submit for a local background check at that point and they get a hackney license. Just because you have a hackney license does not mean that you can drive a cab. It means that you've passed that initial step but again you have to go through the background check, which again is not a Happy Cab decision. It's one that we're bound by the state of Nebraska. I believe it's LB97. They required us to do that because, again, we have HHS designation which means is that we provide services to HHS and, therefore, transport state wards or people that are customers of entitlement programs. [LR523]

SENATOR DUBAS: You have to file any kind of proof of insurance or...? [LR523]

JOHN DAVIS: Absolutely, absolutely. The PSC requires at the taxi level for \$500,000 in insurance. That's something that, again, when we look at doing business, we look at

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what we think is best practice. And so even though we have the expectation for \$500,000, we actually have a million dollars in coverage, and that's primary coverage. Again, we have independent contractors. We contract with 216 independent contractors. We also...about 10 percent of our drivers, roughly about 10 percent, own their own vehicles. So again, the business model that they have we're pretty familiar with at least a big portion of that. We contract with people that bring their own vehicle. We usually educate them on the fact that you can go out and try and get insurance. But the reality is, unless you're very clear and you articulate that you're going to be operating this vehicle commercially, you're not going to be able to get your typical residential policy. They're not going to cover you for driving that car professionally no matter, you know, how long you do it, whether you choose to do it three or four hours a day or you do it on weekends or if you do it seven days a week. There really is a very clear line of demarcation there. So we have primary insurance. That's what we're required to do. [LR523]

SENATOR DUBAS: And the commissioner mentioned something about a different kind of...I'm trying to find her testimony now, what she referred to it as, so that it can't be canceled, Form E insurance policies. Is that what you have for your...? [LR523]

JOHN DAVIS: You know, I would defer to the commission on that. I know that we, again, we have primary liability insurance in place on every one of our vehicles and, again, regardless of how much the drivers choose to drive. You know, quite frankly, we would like a business model where we could, you know, have drivers that want to drive two or three days a week. We've got folks that are, you know, in a lot of cases college students. They're nontraditional students so they're typically, you know, already have a family but they're maybe going back and finishing a bachelor's or working on a master's or a doctorate. And so we certainly have people that have an interest in that. But with our business model and again because we have to put permanent stickers on the car and affix a taxi light and have the meter and a number of other things to prep the vehicle for service, it just doesn't make sense in terms of trying to lease a vehicle for a day or

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two a week. But, you know, our drivers certainly pick and choose when they work, where they work. We don't schedule drivers. Our drivers, again, have the flexibility to work when they want to or where they want to work, so it is entirely up to them. [LR523]

SENATOR DUBAS: You handed out to the committee a consumer alert. Was this brought to your attention? Was it sent to you? How did you get this? [LR523]

JOHN DAVIS: Well, it was sent to us by one of our insurance brokers, and I'm sure everyone has seen that. I'm sure that all the counsels in the room have seen that because, again, there's...we've kind of talked around this issue of insurance and that sort of thing. What you have in your hand is a letter that was issued by the Nebraska Department of Insurance I believe on May 1 of this year that basically was an advisory that warned folks that were contracting with these transportation network companies that the Department of Insurance was...had information that folks were being told that they could use their other insurance policies, their residential insurance policies, and that these TNCs had insurance policies that were kind of there as a backup, as secondary insurance. And so they basically put that warning out so that the general public knew that was not accurate information and that you could not use that type of policy and be driving commercially. And so they wanted to basically make sure that everyone know that. And again, I believe all the counsels involved I'm sure were aware that that letter went out. I'm sure that all of the senators here were aware that that warning went out. So again I just wanted to make sure that everyone had a copy of it. [LR523]

SENATOR DUBAS: Thank you very much. Are there other questions? Seeing none, thank you very much, Mr. Davis. [LR523]

JOHN DAVIS: Okay. [LR523]

SENATOR DUBAS: Our next testifier is Kirby Young with Servant Cab. Welcome.

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[LR523]

KIRBY YOUNG: Thank you. Thank you for having me. I'm going to start off by just...

[LR523]

SENATOR DUBAS: First can I have you spell your name. [LR523]

KIRBY YOUNG: Oh, yes. Kirby, K-i-r-b-y, just like the vacuum cleaner; Young, Y-o-u-n-g. [LR523]

SENATOR DUBAS: Thank you. [LR523]

KIRBY YOUNG: My first comment is just to reiterate what Senator Smith said earlier. I believe that both Uber and Lyft have bullied their way into this market. That was a statement that is just...resounds in what I am going to say here this morning...this afternoon. Here are some...I've brought some technology that we have used for years, cell phones, tablets. We have drivers today throughout the state that get their orders through a tablet or a cell phone and it comes directly to them right now, just like an Uber app would. I know that there are a number of taxicab companies around the country that utilize that same type of technology, app-based technology, Internet-based technology. It just goes directly to the driver. It's peer to peer and that's it. The thing is, is we're still transporting people for hire. There's no difference there. As far as we're concerned, these companies need to play by the same rules that we have had to for years. Insurance issues we've talked about. Drug testing issues we really haven't talked about. Rate issues, we really haven't talked about those either. We are regulated by the Public Service Commission. We have certain rates that we have to charge and we can't deviate from those; otherwise, we get penalized. Nobody has touched on that with Uber, either Uber or Lyft. I know throughout the states, in various states there have been huge uprisings over the rates changing from day to day, hour to hour. Nobody knows exactly what they're going to get charged come busy time. Those are all issues that go directly

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to the public. Drug testing issues, this morning a senator in Chicago dealt directly with that issue as they're dealing with the same types of things. And he came out just very adamantly and said this has to be in any legislation. He voted against the legislation to even allow them into some special category. But clearly, drug testing is an issue. How do you drug test all of these people that are working a couple hours a day? I was talking with my wife last night about it, and just how do you do that? You know, you've got Johnny who's got his app on his phone and he's an independent contractor. What's to preclude him from sitting down at the bar and tipping a few back, getting the call on his app, and running out and picking up somebody to take them down the street? There's no oversight for it. That being said, the real issue is this: Companies, these companies, have been and still are providing transportation for hire without authority from the Public Service Commission and the state of Nebraska. They've thumbed their collective noses at the Public Service Commission and the laws of the state of Nebraska. They are here trying to get the law changed while continuing to break it. Let me say that again. They are here trying to get the laws changed while continuing to break it. I would ask this question: Is this the perception that this state, this legislative body wants to set? Is this the precedent? Does the state of Nebraska want to send the message that if you don't like a law in our state you can just break it and we will put you ahead of the other law-abiding people on our calendar? The ramifications of not prosecuting those who break the existing laws is incalculable. To set a precedent of allowing those who willfully break our laws to continue to operate disgusts every taxpayer and only causes the distrust of those that are elected to serve the people. This is a complete Pandora's box for this industry and every industry in the state if allowed to continue while pushing them to the front of the line in legislation. People are being sent the message that if you have enough money--\$19 billion, as in Uber's valuation, which is more than Hertz Rent-a-Car--that you can break the law and force your way and your will upon the authorities and the people while potentially crushing existing businesses. One of the companies we owned was denied operating authority in Omaha about two years ago. According to what has been transpiring over the last several months here, the message being sent to me is clear: Operate wherever you want without the authority and claim

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you are a technology company because you use an app and a phone and a tablet to help facilitate a ride. I'm still facilitating it for money and so are they. So what's the difference? You could put lipstick on a pig or a moustache on a car transporting somebody, but it's still a pig and you're still transporting somebody for hire. King Solomon said, there is nothing new under the sun, and he was right. This is still transportation for hire, plain and simple. What's going on here, my friends, is a slap in the face to the Nebraska PSC, the legislative body, and the people of our great state. This legislative body should not even consider changing or modifying any statute until those breaking the law stop. And I would go further to say that those that have broken the law should go to the back of the line, not to the front of it, when applying for authority needed to operate in the state of Nebraska. As a former public utilities commissioner in Minnesota, I would not look kindly upon any person or business who started their operations in the state by breaking the law. It would give me great pause as to whether they would continue to break other laws if authority was granted. It's kind of like rewarding a child for cheating and breaking the laws. I don't think any of us would do that, but that's really what we're considering here, isn't it? If you fail to do these simplest of tasks you run the risk of having all restraint thrown off as it pertains to the transportation for hire and quite possibly many other industries in this state. [LR523]

SENATOR DUBAS: Questions? Senator Smith. [LR523]

SENATOR SMITH: Thank you, Madam Chair. Thank you, Mr. Young. I want to go back into a point you were making about Johnny at the bar and how you do drug screening or alcohol screening or whatever. So, you know, you're describing an Uber and Lyft person and they're just logged in on-line on their device, and so there's no oversight. But describe for me how it would be different with a cab driver in that particular situation. [LR523]

KIRBY YOUNG: Yeah. All our drivers, because we're required to with various contracts that we have and it's the best interest even if we weren't, in the public's best interest...I

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served as a commissioner in northern Minnesota. What my job was and what the commission's job is here and obviously yours and it's been talked about is to protect the public. We would, even if we weren't required to, drug screen with random drug screens drivers. And that's what we're required to do today. So at any moment, any given time, we can drug screen them. We have to. That hasn't been talked about and, you know, quite frankly, what I mentioned this morning, the senator from Chicago saying if any legislation passes that would definitely have to be addressed because you are dealing with the safety of the public. [LR523]

SENATOR SMITH: So you have random drug screenings? [LR523]

KIRBY YOUNG: Absolutely. [LR523]

SENATOR SMITH: And do they pick up their vehicles in the morning, drop them off at the end of the day, or is it...that typical? [LR523]

KIRBY YOUNG: Typically that's what they do. We have some that take them home. It just kind of depends on where they're at throughout the course of the state--Lincoln, Omaha, outstate--and some of them take them home. [LR523]

SENATOR SMITH: So their supervisor has some engagement with that employee during the day. [LR523]

KIRBY YOUNG: Yeah. We definitely have engagement with the various people that work with us. [LR523]

SENATOR SMITH: All right. So that was the point you were making in terms of being able to be more aware of the condition or the fitness for duty, if you would, of the employee. [LR523]

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KIRBY YOUNG: Absolutely. There's oversight. I mean when you're putting on...if the model that they're talking about is putting on hundreds of people and thousands of people throughout the state of Nebraska, who's got the oversight over each one of those people and when they're going to be drug tested? When are they going to be random isn't even talked about and it hasn't been. [LR523]

SENATOR SMITH: Okay. Thank you. [LR523]

SENATOR DUBAS: Other questions? Senator Murante. [LR523]

SENATOR MURANTE: So I think I got a good idea from the gentleman from Happy Cab of exactly where...he doesn't think legislation is necessary, but I think I understand where he wants to go from here. Aside from the fact that I think you've clearly stated a number of times that you think there should be citations for people who are breaking the law, which I think most of the people on this committee would agree with, where do we go? Where would you like to see us go from here? I mean should we be pursuing legislation which permits Uber and Lyft to operate legally in the state of Nebraska, or is that something that in your opinion the Legislature should shy away from? [LR523]

KIRBY YOUNG: Excuse me. In what I said I think I was pretty clear. I think they should be moved to the back of the line. I think they should be forced to stop, to cease and desist immediately. And if the first thing that you do, as I sat as a commissioner in northern Minnesota, if the first communication, the first acts that you commit in the city, the town, the state are illegal, that would give me great pause to, okay, what are they going to do next that's illegal? I would move them to the back of the line. There are other companies like mine. I have an application in right now to expand some of my authority before the Public Service Commission, but instead the Public Service Commission is sitting here and I'm sitting here. Why? Because they've bullied their way into this state ahead of everybody else. Why? Because they've got \$19 billion? I don't quite get it. We're doing things the right way, legal way, and they are not. Again, I'm not

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going to reward my child for doing something cheating. They're not going to get rewarded. None of us would do that, but that's really what we're doing here. [LR523]

SENATOR MURANTE: I'm not...I'm still not quite following you. When you say move them to the back of the line, I'm not really sure what line you're referencing, but... [LR523]

KIRBY YOUNG: The...any...okay, the back of the line, the back of the line meaning if this Legislature is going to take up changing some statutes and laws--right?--that needs to be done first. Everybody here acknowledges the fact that they just bullied their way in here: We're just going to operate. They knew what they were getting into. It's no secret. They knew exactly what they were doing. Like Senator Dubas said, they have smart attorneys, they knew exactly what they were doing. And they shoved their way into town, into this state. You don't reward that. [LR523]

SENATOR MURANTE: So what we do here is write laws and so... [LR523]

KIRBY YOUNG: Right, so if you were to go ahead and as Senator Mello wants to do is propose some legislation, you go ahead and do that. [LR523]

SENATOR MURANTE: That's all we can. [LR523]

KIRBY YOUNG: I mean that's the function, right? [LR523]

SENATOR MURANTE: Right. [LR523]

KIRBY YOUNG: But in the meantime they're breaking the law. They need to be forced to stop. And if you do pass a law, they need to go to the back of the line behind those of us who have operated legally in this state to get any type of authority within the framework of whatever you guys would come up with. [LR523]

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SENATOR MURANTE: Okay. Thank you. [LR523]

SENATOR DUBAS: Other questions? Senator Brasch. [LR523]

SENATOR BRASCH: Thank you, Madam Chairman, and thank you, Mr. Young. I see you're with Servant Cab. Can you... [LR523]

KIRBY YOUNG: I'm with Servant Cab, Yellow Cab, Capital Cab, and GPS Transportation. [LR523]

SENATOR BRASCH: And can you tell me a little bit about that? Is that Lincoln and Omaha? Are you based... [LR523]

KIRBY YOUNG: It's throughout the state of Nebraska. [LR523]

SENATOR BRASCH: State of Nebraska. [LR523]

KIRBY YOUNG: Um-hum. [LR523]

SENATOR BRASCH: Your headquarters, your... [LR523]

KIRBY YOUNG: Is in Lincoln. [LR523]

SENATOR BRASCH: Is in Lincoln, you're based here. [LR523]

KIRBY YOUNG: Um-hum. [LR523]

SENATOR BRASCH: And would you...one of the things earlier as the drivers talked that seemed exciting is that you, too, could drive, you know, a cab. And I'm thinking if your

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company do...given the same scenario, you could hire some of these individuals as well if they passed all your scrutiny and testing. And do you have enough...you know, are they taking this...these cyber companies, are they taking business from a current business and... [LR523]

KIRBY YOUNG: That's a good question, Senator, thank you for asking that, because the fact of the matter is, as I think you'll hear testimony probably from some other individual who owns a taxicab company in Omaha, they have taken business from us. Okay? They have taken...there's only so much business in the town. And whereas at certain times, like football games, I mean, we'll be honest, everybody, you can't have enough people that are taking somebody home. I mean that's just the way it is. We could put on 100 more drivers on a football game. But outside of that you just have a pie and you're just moving drivers around in a pie. I have a hard time finding drivers and a much more...a much harder time finding them now over the last six to nine months since Uber and Lyft have been operating illegally in our areas. That's just the fact. Now I'm...I put on as many drivers as we could possibly put on. [LR523]

SENATOR BRASCH: And the individuals that I represent in our district and our whole state, we welcome new businesses. We are open for business. However, for our current businesses that are established, we also have a duty to make sure that they are able to continue business. We value current businesses as well, not only welcome new but how can we expand businesses is another priority. So if there's a way that the state of Nebraska could expand your business for you so you could grow, we still welcome competition and others, but how can we help you grow? Would it be by changing some of those regulations where on a football Saturday they can pop a thing up on the hood of their car like a pizza company and show up and still...you deputize them after you've vetted them. Or tell me what the dream would be, I suppose, if you can. [LR523]

KIRBY YOUNG: The dream would be is to be on a beach somewhere right now.  
[LR523]

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SENATOR BRASCH: Okay. All right. Not that dream. Let's go...another dream. (Laugh)  
No, to help your business. [LR523]

KIRBY YOUNG: But as it pertains to my business, I'm all for competition. I mean we wanted to go into Omaha. The Public Service Commission made a decision not to allow us to go in there to operate as a taxicab company. We spent hundreds of thousands of dollars to try to do that with attorneys and so forth and yet the...what's being shown to us is you don't need to do that, you can just operate illegally and everything will be fine and nobody will do anything about it. What I'd like is for the laws to be enforced and the people to...who want to come into this state, as when I was a commissioner prior to this, need to do it the right way. And if you're going to show that you're not going to do it the right way, then you're going to step to the back of the line and you're going to prove to me that you can do it the right way. That's what hasn't been shown; that's what hasn't been done. That's the model they've used throughout many states, and I know that there's been various states that have been mentioned, and they continue to mention states where they've kind of been successful. But there is a whole litany of states where they have not been successful and where they have shut them down for the reasons that I have mentioned and others here at the same time. [LR523]

SENATOR BRASCH: Very good. Thank you. I have no other questions. [LR523]

SENATOR DUBAS: Other questions? I would have a couple for you, Mr. Young. So you said you have an application in now before the Public Service Commission. [LR523]

KIRBY YOUNG: Yes. [LR523]

SENATOR DUBAS: So when you're wanting to make any changes to your business, if you want to expand your territory, whatever it is, there's a process that you have to go through with the Public Service Commission. Is that correct? [LR523]

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KIRBY YOUNG: That is correct. [LR523]

SENATOR DUBAS: Can you kind of walk us...I know it's a little complex, but can you just kind of give us a little overview of what it is that you had...your dealings with the Public Service Commission. [LR523]

KIRBY YOUNG: Dealings with the Public Service Commission, you know, they're there to protect the public. I know. I served as a commissioner. So the fact is, is that when we go in and we want to expand into an area, we put in an application. Other people have an opportunity to protest that, and then you go before a hearing if somebody does and you make your case on why you should have authority, what the needs are. There's certain clauses in the statutes to prove need and necessity. And if there isn't any need or isn't the necessity and it can't be proven enough or you're not fit for some reason, you've done illegal things as these companies have done, then that all is looked at and the decision is made at that point. [LR523]

SENATOR DUBAS: So this need and necessity, is that there to kind of--I asked this question this morning about oversaturation--is that there to kind of not necessarily put protections in place but just to make sure that it's economically viable for the different...for companies to work? What's the purpose of the need and necessity? [LR523]

KIRBY YOUNG: I think...and I didn't make that up. You know, that was something that the Legislature has put together a long time ago, but I believe you're right. I believe that that's the purpose for it is so that there isn't an oversaturation and you don't end up with no service at certain times and great service at other times. It's set in place to try to serve the public as best that it can be, you know, through legislation that way. [LR523]

SENATOR DUBAS: So if we're going to move forward and allow this type of operation

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in our state, do you believe the existing statutes are enough to allow them to come into the state, or do you believe we need to make some changes either legislatively, through the Public Service Commission, or a combination of both? [LR523]

KIRBY YOUNG: I don't believe that anything needs to be changed as far as legislatively or through the Public Service Commission. I believe, as Mr. Davis pointed out, that the commission has that authority to carve out a special place for somebody that's just an app-driven company if that's all that they're doing. Now I could certainly say we fall under that category as well, so all right. So then does that throw off all of the other regulation that I have to abide by, like rates, like drug testing, like background checks and those types of things that they've already spoke of that they're doing? But there is a process to go through that. We go through it now. They should have to go through it as well. So is there something else needed just because they're using an app? No, they're still transporting people for hire, nothing new under the sun. They're taking somebody from point A to point B for money. It's not ride sharing as we know it, you know, where you're carpooling and ride sharing somewhere. Somebody's taken somewhere for money. [LR523]

SENATOR DUBAS: Very good. Any other questions? Thank you for coming forward today. We appreciate it. [LR523]

KIRBY YOUNG: You're welcome. Thank you. [LR523]

SENATOR DUBAS: Have Ron Hug with City Cab (sic--Taxi). [LR523]

RON HUG: Good afternoon. [LR523]

SENATOR DUBAS: Good afternoon. [LR523]

RON HUG: Ron Hug, R-o-n H-u-g. And good afternoon, Senators. And it's City Taxi.

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City Cab is Fremont. [LR523]

SENATOR DUBAS: Sorry. Sorry. We'll stand corrected. Thank you. [LR523]

RON HUG: Thank you. The owner of the company, Karen Gooding, couldn't be here today, so she asked me to come here for her. Karen Gooding is a lifelong Nebraska resident, lived most of her life in Lincoln, spent the past year in Omaha. City Taxi is the newest legal taxi company in Omaha. We've been in business for 40 months, just over three years. We started in Carter Lake, Iowa, and that was a strategic move to try to legally do business in the state of Nebraska. We picked Carter Lake because, obviously, it's on the Nebraska side of the river and in order to apply for an authority, to be successful, you have to be able to prove several things. You have to be able to prove there is a need and necessity and that you're fit, willing, and able. So we figure if we're operating a taxicab company on the Nebraska side of the river and we're being successful at it, then we're obviously fit, willing, and able. So three years ago we started off with one taxi; today we have eight taxis. Our primary area of business that we focus on is east of 72nd Street in Douglas County, which is downtown, Old Market, midtown, Benson, Aksarben, and Dundee, the older part of Omaha. We service a lot of elderly and economically challenged individuals, individuals that in many cases don't have a cell phone; and if they do have a cell phone, it is not a smart phone. There's only so much taxi business out there, and one of the jobs of the Public Service Commission is to make sure that you do not degrade service in an industry by filling it with a bunch of unneeded vehicles, and that's our biggest fear is that the market will be flooded to such a point that the service will ultimately be degraded. We have already seen impact on our business. Since Uber and Lyft have been operating, our call volume on Friday and Saturday has dropped significantly. That Friday and Saturday business, that's the cream of the taxi industry. That's where we generate most of our revenue. That revenue helps keep those taxis on the road Monday, Sunday through Thursday, where we're picking up 84-year-old veteran to take him to his doctors' appointments; single mothers to help go get their groceries when their unemployment check comes; economically challenged

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individuals who are struggling to get to and from work. So that's where the money comes from for us to provide the service that is very sorely needed in the community. Uber and Lyft will not do that. We do that. So we're also here today as an example that the system works. We were able to go before the Nebraska Public Service Commission, ask for an authority, and we were granted it while we were operating a taxi company legally in the state of Iowa. We never broke any laws in Nebraska while we were going through the process of our application. We respected the law. But we were successful in working within a system that I feel functions quite well. We have a lot of respect for our competitors. We commonly refer to them as the Happy Cab group. Although it's five different companies, it's actually not a monopoly. And if you listen to the radio talk shows and the postings on Facebook, Cornhusker Cab is owned by Don Bellino. Happy Cab, Cornhusker...Happy Cab, Yellow, and Checker are owned by the Mitchell Family. And two other ladies own Safeway Cab. They're operating together, you know, and we see, as coming into the market and after operating for three years, we see the distinct benefit of how they operate because since Lyft and Uber have been operating in Omaha the number of what we call our no shows has skyrocketed on the weekends. No shows is when you call for a taxi and we dispatch you a taxi and we get there, you say, ah, sorry, I went with somebody else. That degrades service. And what's happening is people will call us for a taxi and then they'll get on their phone and try to dispatch a taxi, use an app like Lyft or Uber, and they just jump in whoever shows up first. That slows down service for everybody else and further degrades service. We have an app. We have not rolled it out yet because we're waiting for a few other things to line up so we can do the proper marketing. We're part of a group called TaxiPass. TaxiPass is a national taxi app application. It's a third party that markets it across the country. Through TaxiPass, if you download TaxiPass, which is actually GetRide, if you download that app on your phone, you'll be part of a nationwide network where you can go anywhere in the country. I think there's 45,000 taxicabs that you can be part of. So you can download that app, you can use it in Omaha. You go to Washington, D.C., you can use the same app to still get a taxi. Thank you for your time. [LR523]

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SENATOR DUBAS: Thank you. Are there questions? I would ask you the same question I've asked the others: Do you think the laws that are in place either through the Legislature, the Public Service Commission, are adequate? Do you think there are changes that need to be made? [LR523]

RON HUG: Well, once again, we're proof that the laws function quite well. I don't think there's any need for change. [LR523]

SENATOR DUBAS: Okay, very good. Anything else? Thank you for coming today. [LR523]

RON HUG: Thank you. [LR523]

SENATOR DUBAS: Next we have Kelly Campbell. Good afternoon and welcome. [LR523]

KELLY CAMPBELL: Thank you, Madam Chair, members of the committee. My name is Kelly Campbell. That's spelled K-e-l-l-y C-a-m-p-b-e-l-l. And I'm the vice president of state government relations for the Property and Casualty Insurers Association. We're a national trade association and we represent over 1,000 member companies who write over 50 percent of both the personal and commercial auto insurance here in Nebraska. And what I would like to do for the committee today is give a very brief overview of insurance, kind of personal versus commercial lines, talk a little bit more in depth about the insurance policies which are provided by the ride-sharing companies or the transportation network companies, and then highlight some of the key concerns that the insurance industry has. So as I think we've heard throughout today, whether we're talking about bicycles or three-wheeled cars or transportation network companies, despite the mode of transportation, the number-one priority is really the safety and protection of consumers. And that's really our priority as the insurance industry. We don't have any concerns with the business model of the ride-sharing companies. You

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know, that's not what our concern is today and not what I'm going to address today is what some of those elements may be. I really want to talk about the insurance policies, where there may be gaps in insurance and there may be risks to both the drivers and passengers that they may not be aware of. So speaking first to kind of the personal lines versus the commercial lines policies, a lot of these questions have not come up before with traditional livery services and that's because the personal insurance policies were intended only for personal use, as has been mentioned. They have a specific livery exclusion. The purpose of that exclusion was to eliminate commercial activity when the vehicle is being used for income purposes. And so that is the intention of the livery exclusion whereas a commercial policy is intended to cover those kinds of risks. We have seen historically that in fact that traditional livery risk of driving people around is a different kind of use of the vehicle than your personal use. You're driving your vehicle in a more congested area; you're driving a vehicle where other people don't want to be driving their vehicle or in circumstances where people don't want to be driving their vehicle. They may be in their car more often than someone using their vehicle for personal use. So there is a variety of ways in which we have seen historically that in fact that livery risk is different than personal risk. And so that's why it has been separated. Now we all know that times change and things evolve, and so we may have hit that point now where we need to find an opportunity to merge both this personal and this commercial risk, but we think in order to do that it must be done very cautiously and so we will go ahead and talk about it. One thing I do want to mention before I dive into the insurance policies by the transportation network companies, Madam Chair, there was a question regarding Form Es and I wanted to go ahead and address that because that is typically something that is handled by the insurance carrier. That's typically done in...with commercial policies. That is a form that is filed by the insurance company to the regulator and, in essence, what that form does is it ensures that there is coverage for that vehicle. So as long as that Form E is on file, then the insurance company is guaranteeing to the regulator there will be coverage for that vehicle for that risk. So if, for example, the insurance company would actually cancel that commercial policy but not cancel the Form E, they would still be on the hook. Because as far as the regulator

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is concerned, it is still that insurance company's responsibility. So that is one reason why the Form E is so important in the world of commercial insurance. So I just wanted to address that point. But next I want to move on and I'm going to start by generally saying what two of the key issues have been, and then I'm going to delve in detail as to what the insurance policies are of the transportation network companies because I think there are some key elements that it's important for the committee to be aware of. But speaking more globally, there have...the issue of primary coverage has come up a lot and I want to talk a little bit about what primary coverage is and why it's so important. Primary coverage is the coverage that is enacted as soon as there is a potential covered loss. So as soon as there is an occurrence, as is used in insurance terms, and a potentially covered loss, then that primary insurance kicks in. Now that primary insurance has two main responsibilities. The first responsibility is the duty to indemnify, which is essentially pay the claim. But another duty that that primary policy has which is very critical but often overlooked is the duty to defend. That could be very expensive and certainly if someone is in litigation, having that coverage, that defense coverage, in a litigation situation is absolutely critical to that party. And so that's why it is so important for there to be primary coverage so that that driver has not only an insurance policy that has the duty to defend but also...excuse me...the duty to indemnify but also the duty to defend. It's important that that driver have both of those coverages and that's why primary coverage is so important. The next issue which hasn't been talked about a whole lot, but that's the issue of coverage limits. What are the appropriate coverage limits? From an insurance industry standpoint, we really feel like that's a public policy question to determine what are appropriate limits. But I wanted to bring it up because it's very much...it's a very important piece in understanding what is actually covered by the TNC policies and what's actually covered by personal policies. So given those two kind of global concepts of primary coverage and coverage limits, I want to go into some of the details of the transportation network companies' policies. Now to aid in this conversation, I want to identify three specific time periods in what we as the insurance industry consider commercial activity. The first time period, or period one, is from when the driver logs on to the app. Period...and from that time until the driver and the rider is

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matched, so that's period one. Period two is when the driver and the rider are matched and the driver is en route to pick up that passenger. And then period three is when the passenger is in the vehicle and until they exit. From an insurance industry standpoint, that is the full extent of the commercial activity. We have heard today from Uber and Lyft that there is a fundamental disagreement in that they do not believe that period one is part of the commercial activity, and so I want to address that and how the coverage exists within that time period and how it differs in period one versus periods two and three. [LR523]

SENATOR SMITH: And I'm going...I'm sorry. Just repeat that one, two, and three again. I'm trying to track that. [LR523]

KELLY CAMPBELL: [LR523]

SENATOR SMITH: There's a map here that we have in another handout, so I'm trying to connect the two. [LR523]

KELLY CAMPBELL: Yes. So period one begins when the driver logs on to the app and it is until the driver and the rider are matched on the electronic application. [LR523]

SENATOR SMITH: All right. [LR523]

KELLY CAMPBELL: Period two begins at the point of that match and continues while the driver is en route to pick up that passenger, and it ends when the passenger enters the vehicle. [LR523]

SENATOR SMITH: Got you. [LR523]

KELLY CAMPBELL: Okay. And then period three begins when the passenger enters to when the passenger exits. So during that period one, we have heard from the

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transportation network companies that they have an insurance policy that is contingent. They provide liability insurance that is contingent. Essentially what that means is that coverage is contingent upon a denial by the personal auto carrier. So from an insurance industry standpoint, again, we believe commercial activity begins when the app is turned on. When that vehicle is available for hire is when the commercial activity begins. So it is the view of the insurance industry that that livery exclusion begins when the app is turned on, therefore, there is not personal auto coverage. And because the TNC's policy is contingent during that time, there are some significant potential ramifications for that driver. So I want to try and address those. The first is, is this is contingent liability coverage only. So that coverage that could come into play by the transportation network companies is only liability coverage. It may include uninsured motorist coverage. Uninsured motorist coverage is required in Nebraska, and so it should also include uninsured motorist coverage but that the two different ride-share companies differ on that a little bit. But one thing that they do not provide is comprehensive collision or medical payments coverage. None of those coverages are available to the driver during that contingent period. So for an individual who may have a loan on a vehicle, they are required to carry comp and collision often by the bank so that there is some protection for the bank's collateral. When there is no coverage on the underlying policy, they don't have comp and collision coverage available from that policy and they also would not have comprehensive and collision coverage available from the transportation network company's policy either. So that is period one. Period two, that is...and we've heard about periods two and three. And the transportation network companies' policies are the same during periods two and three. They do provide primary coverage--which has evolved over time, and I certainly applaud the transportation network companies for stepping up and providing primary coverage--during that time period. We think that that is critical. They also provide uninsured motorist coverage. So even in states where it is not required they do provide that, and we do think that that is a critical element. If the underlying personal auto policy contains comprehensive and collision coverage, then the transportation network companies will provide comprehensive and collision coverage. But it's important to note that the comp and collision coverage that the

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transportation network companies provide do have fairly substantial deductibles. One company has a deductible of a thousand dollars; another company has a deductible of \$2,500. In most cases with most personal lines policies the most common deductible you're going to see is a \$500 deductible and, in fact, most banks require a deductible no higher than \$500 to meet their requirements. So that is a very brief overview of the coverage provided by the transportation network companies. So as you can see by that coverage, there are some significant concerns that the insurance industry has about some potential risks that may exist to both the drivers and passengers who participate in ride-sharing services. But certainly, as an industry, we want to work with policymakers; we want to work with these companies to try and find some resolution to this. But until we get to that point, it's important to understand where these risks are and how they actually operate in the real world. So one of our number one concerns is providing primary coverage from when the app is on to when the app is off. So we think it's critical that the transportation network companies make sure that drivers have that type of coverage to ensure that they have primary coverage during that time period. And that's also critical because without primary coverage during that time period and requiring a denial on...from the personal auto insurer, that can potentially lead to a lot more disputes. That can potentially lead to the consumer getting caught in the middle between the insurance company and the transportation network company, and that is not something we want to see. And in fact, this type of contingent policy has raised so many concerns that legislation that was recently passed in California that has not yet been signed by Governor Brown but was passed by the legislature and ultimately supported by the transportation network companies as well as the insurance company specifically forbids any kind of contingent policy. So we would like to see, again, primary coverage from app on to app off provided by the transportation network company. We also want to address the coverage gaps, particularly those coverage gaps that exist with comp and collision. We think that that is critical for the driver, and also disclosure. We want to make sure that drivers have clear disclosure, that they understand the risks. We would also like to see disclosure to the insurance companies so that insurers understand when an operator is participating in these kinds of ride-sharing agreements.

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There's a number of potential reasons for that. First of all, it's important for insurance companies to understand the risk. As a regulated entity, we have to make sure that we have actuarially sound rates. The rates that we have filed for personal auto insurance are based on the data we have gathered regarding personal use of a vehicle. They are not necessarily actuarially sound for commercial use of a vehicle, so that's very important information for an insurance company. But also, if we want to develop this kind of hybrid product that brings together personal lines and commercial lines, we need to be able to get this actuarial data, so being able to know what the actual experience is in these ride-sharing operations is critical to being able to develop actuarially sound rates in the future. So that is a key element for us, as well as we also want to protect the existing livery exclusion that exists in personal auto policies. That is another key element is that ensuring in those situations where people do not want to participate in ride sharing, whether as a driver or a passenger, they just want to continue with the personal use of the vehicle, that their rates are not impacted by this commercial use and they are not forced to subsidize the commercial cost of these transportation network companies and their drivers. So that is also one of our key elements. And one of...and finally, we also want to make sure that there is room in any kind of legislation or regulation for product innovation and product development so that ultimately we could potentially develop this kind of product either as a personal lines product, a commercial lines product, or make these products available through the surplus lines market. So we want to make sure that it is open for innovation for the insurance industry. So I know this was a lot of detail. It's never fun to talk about insurance at...you know, late in the afternoon after a full day of hearings. But hopefully that helps dive into some of the issues that exist with the current insurance policies, and I would be more than happy to take any questions from the committee, Madam Chair. [LR523]

SENATOR DUBAS: Very good. Thank you very much, Ms. Campbell. Are there questions? Senator Brasch. [LR523]

SENATOR BRASCH: When you...thank you, Madam Chairman. And thank you for your

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testimony as well. Are you saying that California would be a model for us to look at in legislation should we move forward? Is that what I just heard you say, that... [LR523]

KELLY CAMPBELL: Madam Chair, Senator Brasch, yes, there are some very good elements in California. Let me talk a little bit about what's happened in the two different states. Colorado is the first state to enact legislation. It was done very early. It was still very much an evolving process. The California legislation in many ways builds on the Colorado legislation but also adds some very important key details that I think are really critical in that element of ensuring that consumers don't get caught in the middle, ensuring that they have that primary coverage, and eliminating some, not all, but some of the coverage gaps. So California is not necessarily a perfect model, but it does have some good key elements. And just to highlight a couple of things that may sound like small details but are actually really important so, for example, it requires TNC drivers to carry proof of TNC-related insurance in their car, just like we all have to provide our car insurance proof of insurance. And that would help in any kind of claims investigation. It also requires the transportation network company to cooperate in any kind of claims investigation, so that would help to ensure that we can get some of that date...time/date stamp information, when the accident occurred, what coverage limits might be available at that time. So it really does help with all of those different elements. It does have some good disclosure requirements; not as robust as we might like to see ideally, but it does have some good disclosure requirements. So there's a number of elements that exist in the California language that I think would be helpful to any regulatory structure. [LR523]

SENATOR BRASCH: Very good. Thank you. I have no other questions. [LR523]

SENATOR DUBAS: Other questions? Senator Smith. [LR523]

SENATOR SMITH: Yes, thank you. Thank you, Madam Chair. Ms. Campbell, on the contingent liability that I saw presented to us by Lyft, you're saying, and that's that red line between driver mode and match notification, you're saying that that is not primary

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coverage. That's not primary coverage, correct? [LR523]

KELLY CAMPBELL: Senator Smith, Madam Chair, that is correct. It is not primary coverage, and let me just talk a little bit more in detail about how that would work. [LR523]

SENATOR SMITH: Yeah. [LR523]

KELLY CAMPBELL: Because it requires a denial by the personal auto insurance, remember when I talked about primary coverage. That's the coverage the comes...that is triggered immediately. As soon as there may be an occurrence or a covered loss, that's the insurance that kicks in, and that insurance has two elements: the duty to indemnify and the duty to defend. An insurance company's duty to defend is far greater than their duty to indemnify. So for that personal lines auto insurer, when they get that claim they investigate it, they determine that it is in fact commercial activity, they may deny their duty to indemnify. And so that may go to the TNC to cover, but that personal auto insurer is still going to have potentially that duty to defend in the case of any kind of litigation. And so again, we still have those friction points by having that kind of contingent liability coverage there. And again, that's only in regards to the liability. It doesn't address the other coverages. [LR523]

SENATOR SMITH: And we're talking in terms of their personal policy in that case. [LR523]

KELLY CAMPBELL: Correct. Their personal policy would maintain potentially that duty to defend. [LR523]

SENATOR SMITH: Right. [LR523]

KELLY CAMPBELL: So even if the TNC policy took on the duty to indemnify, that would

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only be for liability coverage. [LR523]

SENATOR SMITH: Okay. And what you're suggesting is to have comp and collision. And just how far back does that go for what you're asking for...I guess the carrier to provide is what you're suggesting, right? So would it go all the way back to that driver mode through the match notification? [LR523]

KELLY CAMPBELL: Yes. We believe the commercial activity begins in that driver mode when the app is turned on, because that's when the vehicle is available for hire and that's when we believe that there is commercial activity. [LR523]

SENATOR SMITH: Okay. [LR523]

KELLY CAMPBELL: That is when a vehicle is likely to be near the stadium, near the bars, waiting for their next ride. And so we believe that's when commercial activity begins. It continues all the way through when the driver and the rider are matched, when there's a passenger in the vehicle, and continues until that driver logs off the application and is no longer available for hire. [LR523]

SENATOR SMITH: And that's a primary point of difference between you and the TNCs, insurance companies and the TNCs, as to how that coverage occurs. [LR523]

KELLY CAMPBELL: You know, that is correct, Senator Smith. I mean based upon the testimony that we have heard today they have said that the only commercial activity is during periods two and three. I will caveat that slightly, however, by saying that in both the Colorado legislation which will take effect on January 15 and the California legislation that, again, we're waiting for the governor's signature but we believe he will sign it, in both of those cases the transportation network company will require primary...will provide primary coverage from app on until app off. [LR523]

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SENATOR SMITH: Okay. Okay, thanks. [LR523]

SENATOR DUBAS: Have you been contacted by a lot of people who are looking at or are drivers for either one of these companies? Do you know how often insurance agents, I guess I should say, are being contacted with these kinds of questions? [LR523]

KELLY CAMPBELL: Yep. Madam Chair, as a trade association, we don't directly sell insurance, and so I can only speak anecdotally. But, you know, I have heard from, you know, a number of agents. People do call and inquire about what the coverage is. I have heard from companies, people calling, inquiring, wanting to understand what their coverage is. There...I...based upon the anecdotal stories I have heard, there is a lot of confusion for customers, but I would also say that just based upon the anecdotes--again, just anecdotes--that I have heard is there are probably a lot of people that aren't calling to ask those questions. There probably are more people that aren't calling than are calling to get that clarification. [LR523]

SENATOR DUBAS: Now you mentioned something about somehow trying to document so that we know for sure that these drivers understand what their coverage is and isn't. [LR523]

KELLY CAMPBELL: Yes. Madam Chair, one of our key concerns, and I know it has come up in our discussion today, is making sure that there is clear and accurate disclosure to drivers and passengers about where there may be gaps in coverage, clear disclosure that their personal auto policy may not cover them, and clear disclosure about what the transportation network company's coverage provides and what it doesn't provide. [LR523]

SENATOR DUBAS: Have any of these companies reached out to you as a trade association saying, you know, we think we need...there are some issues here, what can

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we do to work on them? Or is this something that you alone as a trade association are looking at? [LR523]

KELLY CAMPBELL: Madam Chair, I can say as a trade association and I can say as me individually working in a number of states on this issue, as well as nationally with our trade association, we have had numerous conversations with both Uber and Lyft. They have been regular, ongoing conversations. We worked very closely with them in Colorado on getting final compromise legislation. We worked very closely with them in California. I worked with them in Arizona as well. We have continued national debates with them. There just have been some friction points, such as when commercial activity begins, some of the issues around disclosure, that we have not yet been able to come to an agreement. But it is something we are continuing to work on and we're certainly dedicated to continuing to have those conversations. [LR523]

SENATOR DUBAS: So our best advice to potential drivers and probably riders as well is to just really make sure you understand what your personal insurance is, does and doesn't cover. And you also brought up something that I had never thought about: wanting to make sure that this type of activity doesn't impact individual insurers' premiums, and I think that's something personally I'm interested in as well. So we need to make sure that there is the right checks and balances in place so we don't have that unintended consequence of impacting those individual insurance rates. [LR523]

KELLY CAMPBELL: Absolutely, Madam Chair, that has been a critical issue. I can tell you in Colorado we just did...we had some information that we had gotten from some of the ride-sharing companies because they had put together an actuarial study to determine that there would be minimal impact to each individual driver and their potential rates. But we took that information and we used that to do kind of a reverse engineering and an actuarial study that while it may not be significant dollars on each individual policy it turned out to be millions, potentially \$1 million to several million dollars' subsidy of business cost to that individual business that would spread out over

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every one, and we really don't want to see that kind of subsidization go on. [LR523]

SENATOR DUBAS: Absolutely not. I think that's a point that maybe has been swept under the rug or not really highlighted as much as...like I said, it's not something I had given any thought to, so I think we really need to be focused on that. Any other questions? Senator Smith. [LR523]

SENATOR SMITH: Ms. Campbell, in the states where you seem to have a fairly good model, say California, do you feel there's adequate transparency in knowing when coverage begins and ends on the commercial basis? Or is that transparent enough? [LR523]

KELLY CAMPBELL: Senator Smith, California does have stronger language than Colorado in identifying some of those different time periods and clarifying that the personal auto policy is not involved, that there's not contingent coverage. So again, I don't know that it's perfect because we haven't actually seen it enacted. We all know we have the best intentions when we write legislation but how it actually works in the real world can be different. But I do think that there are some good rails that we can look at in the California legislation that would be very helpful to give us some guidance. But, you know, as far as, again, to the issue of transparency specifically to the consumer, you know, there is disclosure language in the California law, but I think additional disclosure would be helpful as well. [LR523]

SENATOR SMITH: And to the insurance companies, you feel like there's adequate transparency there? [LR523]

KELLY CAMPBELL: Actually, neither the California law or the Colorado law require any kind of disclosure to the insurance companies. So unfortunately, we would like to see some more disclosure in that arena. [LR523]

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SENATOR SMITH: Okay. Thank you. [LR523]

SENATOR DUBAS: Anything else? Thank you so much for coming forward and sharing your information with us today. We appreciate it. [LR523]

KELLY CAMPBELL: Thank you, Madam Chair. Members of the committee, thank you. [LR523]

SENATOR DUBAS: And our last testifier today will be David Arnold with the Omaha Chamber of Commerce. Welcome. [LR523]

DAVID ARNOLD: (Exhibit 5) Good afternoon. My name is David Arnold, D-a-v-i-d A-r-n-o-l-d, and I'm the guy that gets to follow the insurance conversation. (Laughter) I'm here today on behalf of the Greater Omaha Chamber as well as the Greater Omaha Young Professionals. I'd like to first thank members of the Transportation and Telecommunications Committee for the opportunity to testify on this important issue. The Unicameral structure that makes our government unique was created to increase transparency and make it easier for senators and those they represent to discuss the issues of the day. Today's hearing is an example of these principles in action and I'm fortunate to play a role. I've been asked by the Greater Omaha Chamber to represent their interest today due in part because I'm currently the chair of the Greater Omaha Young Professionals, a council of the chamber that was created to advise the organization and assist in its goal to make the region a place that effectively attracts, retains, and develops emerging talent. Outside of the Young Professionals, I'm the managing director of Straight Shot, a business accelerator for early stage technology companies that have developed innovative and disruptive products and business models. So it's from these vantage points that I come today to testify and share the following thoughts. One element of the modern economy is the ability of small companies to reach audiences across the globe and business growth that is based primarily on the quality of products and services instead of being constrained by

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geographic location. Innovation can be seen not only in the form of new products and services but also through the emergence of new industries and new business models. Businesses like Uber and Lyft represent another shift in the economy towards a more customer-centric relationship between companies and those who use their offerings. This trend will continue because operating in a truly customer-focused fashion ultimately provides a better experience to those who are spending their time and capital with these businesses and result in strong brand loyalty and support. Innovations like these, however, are inherently disruptive. Now when I use the word "disruptive," I'm referring to companies whose products or business models, if successful, will fundamentally change a previous market and competitive landscape. In a free-market economy like the one we enjoy, there will always be direct consequences, not all of which are enjoyable or desired by those affected. However, companies rise and fall on their ability to adapt to ever-changing market conditions. Instead of trying to fight these economic headwinds, it benefits all those affected, including governmental entities, to evaluate whether the current regulatory structure can be adapted to achieve their responsibilities without stifling innovation and the value it's unlocking. We don't ask the various governmental entities and divisions to give up their legitimate concerns. What we do ask is that the regulators don't use the status quo as an excuse not to entertain changes that could lead to a beneficial result for everyone involved. If this...if the current policies aren't flexible enough to respond to innovative businesses, businesses whose services enjoy significant consumer demand, then it may be time to evaluate whether or not those same processes need to evolve as well. However, as an attorney and an individual who has held positions at the municipal, state, and federal levels of government, I'm not naive to the need to adhere to statutes and ordinances that are on the books. One of the top responsibilities of government is to protect its citizens, and there are legitimate concerns being expressed by the Public Service Commission, insurance regulators, and others that should not be ignored or glossed over. The insurance issue in particular is one that deserves additional discussion and transparency on the part of these businesses. The assumption of risk is something that shouldn't be hidden in fine print or only discussed in the event that something goes

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wrong. Although they enjoy significant customer support, it is important that Uber and Lyft come to the table with clear information about their insurance coverage and other impactful policies. So in the end, both sides of this important discussion claim to be looking out for the best interest of those they serve. What we hope is that both will use this as a common foundation to come together to find a sustainable and equitable solution. To quote chamber president David Brown: We are the type of city and state that figures out a way to get to yes. So what we ask is that we all work together collaboratively to help do the same for this issue for the benefit of everyone involved. And I thank you for the time and I'll take any questions you may have. [LR523]

SENATOR DUBAS: Thank you, Mr. Arnold. Are there questions? I guess I would have a couple for you. We've heard testimony from the taxi companies who are saying, hey, we're here, we're...we've followed the rules, we've followed the laws, we're operating, and now we have a company or companies that have come into our territory, we're not afraid of competition but they aren't having to follow the laws. As a chamber, how would...how do you reconcile that? [LR523]

DAVID ARNOLD: Yeah. As you can imagine, we want to support both types of businesses. I think in the end our main focus is not to choose winners or losers on either side of that equation but to fight for and advocate for a regulatory structure of business environment that welcomes all forms of competition, new, innovative business models not only for the sake of the consumer through better services, but also to be recognized as a destination where innovative businesses can thrive and young talent who may have innovative ideas can come, create businesses, and turn them into things that can grow and spread to elsewhere. So it's both a talent attraction and retention goal but it's also a goal to just have the landscape that allows for competition and innovation at the same time. [LR523]

SENATOR DUBAS: Are there some lessons we can take from this into the bigger picture of how do we...I mean just by the nature of the beast, government moves slow.

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[LR523]

DAVID ARNOLD: Yeah. [LR523]

SENATOR DUBAS: Sometimes it should; maybe sometimes it shouldn't. Yet the private sector, we've got a lot of innovation going on, moving much faster. How...what is it that we can take from this circumstance to maybe try to help us be a little more ahead of the game or proactive when it comes to rules and regs and those types of things? [LR523]

DAVID ARNOLD: Madam Chairman, it's a great question, and I wish I had a silver-bullet answer for you. Unfortunately, I think that it's something that's going to be more prevalent and happen as more of these unique business models and technology allows different ways for consumers and businesses to meet that regulatory structures will have to be examined. So while this process that we're going through currently may not always be fun for those involved, I do think it's the right way to approach it by having a transparent discussion. But I do think everyone needs to come to the table in a genuine way and, you know, let's use the Nebraska way to get something done. [LR523]

SENATOR DUBAS: Did the chamber go out and recruit Uber or Lyft or did they come to you and say, hey, we want to come into your city and... [LR523]

DAVID ARNOLD: To my knowledge and based on my involvement, there was no solicitation on behalf of the chamber. However, when these businesses started to show up and receive customer support and also support from organizations like the Greater Omaha Young Professionals, they chose to get involved proactively to be part of the solution and try and bridge the gaps. So the chamber has met with Senator Mello, representatives of the different companies. I myself also participated in the meeting with the Public Service Commission. So what we've tried to be is an active participant just to help all of us kind of focus on those common foundations and goals that we have to find a solution that will allow everyone to move forward and you all to move on to something

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else. [LR523]

SENATOR DUBAS: Very good. Any other questions? Senator Smith. [LR523]

SENATOR SMITH: Thank you, Madam Chair. Setting aside for a moment the need for TNCs and the (inaudible) introduction of the TNCs into our market, do you feel that their entry into this market to this point has been appropriate and proper? [LR523]

DAVID ARNOLD: See, now the attorney in me is kicking in. [LR523]

SENATOR SMITH: All right. [LR523]

DAVID ARNOLD: No. [LR523]

SENATOR SMITH: Speak on your behalf... [LR523]

DAVID ARNOLD: Yeah, of course. [LR523]

SENATOR SMITH: ...not on behalf of the Greater Omaha Chamber of Commerce. [LR523]

DAVID ARNOLD: I think it's...it is a really difficult, I guess, interaction. So I think that there's a genuine dispute about the applicability of certain laws and regulations. I am of the opinion that both sides are coming to those opinions authentically, not for gamesmanship, and so I think without a final adjudication on that there's going to be some...there's going to be a gap. And so I think that regardless of what's happened so far, they're here, there's consumer support, and the best thing to focus on is how do we move forward. [LR523]

SENATOR SMITH: Should they continue to operate without it being (inaudible)?

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[LR523]

DAVID ARNOLD: Yeah, it's a great question and it's one that Madam Chairman has asked everybody. I think what the chamber would support is to view a short-term solution, sorry, to not view a short-term solution and a long-term solution as mutually exclusive. Other states that have been in this kind of gray area have been able to come together and form short-term solutions, short-term agreements. And other states, such California and Colorado, have obviously led the charge on long-term solutions. What we would support and what we would love to be part of is working towards both. So I know that there has been one proposal. I haven't studied that in detail so I'm not going to comment on the specifics of the short-term proposal that was offered. But I think the idea of a short-term proposal is something that in general we would support if both sides could address concerns. And then of course we'd all love...the reason we're here is for a long-term solution. So I think the chamber's position is that we'd like to see a solution both short and long term. [LR523]

SENATOR SMITH: Thank you. [LR523]

SENATOR DUBAS: Senator Brasch. [LR523]

SENATOR BRASCH: Thank you, Madam Chairman. And thank you for your testimony as well today. And what I wonder about is that it was very hard for the Public Service Commission to get in touch with these companies and yet with the chamber it was easier for you to create a relationship rather than the regulatory laws within the state. And it makes me wonder about buyer beware. You know, the state of Nebraska, even the drivers, when it's a cyber company or virtual, those are great opportunities for our state and we do welcome them. However, we also need to protect our brick-and-mortar companies that exist because virtual companies do come and go just as a link on the Internet: "Link not found." There's less investment that takes place physically into a state so to keep in mind that the same rules apply has been mentioned by several of

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our cab companies that have come in here. And do you believe we should make exceptions and special rules? [LR523]

DAVID ARNOLD: So I think...I think that hinges on the genuine dispute as to whether these companies are unique or they are the same as the status quo, and I think...I don't want to speak on behalf of the chamber as to that specific question. But I think that's the crux of the matter is that there's a genuine dispute there. To the earlier part of the question, the chamber obviously supports all type of businesses, existing and new, and so that's why we would love to see...why what we're trying to focus on is a solution and not necessarily what's happened so far. Can't speak to Uber and Lyft's communication or lack thereof with the Public Service Commission and others. But I can only talk when we got involved, and on behalf of the chamber I think that once we've gotten involved we've been able to proactively work with everybody, from Senator Mello to the Public Service Commission to the businesses. [LR523]

SENATOR BRASCH: Very good. Thank you. I have no other questions. [LR523]

SENATOR DUBAS: I appreciate you coming forward today too. And I guess I'll kind of go back to my first question. This is a real exciting opportunity. This is technology. This is things moving forward. By the same token, we have laws in place and the laws are to be followed until they're either changed or decided by the courts that they aren't applicable. So I think we're at a real crossroads here as well for future companies. That's why I asked about what do we take away from this for the future because we have future opportunities coming in who say, well, the laws don't fit, we're going to come in anyway and then see what happens after the fact. So I think we're kind of under a microscope here as far as how do we make sure that people know we're open for business, we want to be innovative, we want to be, you know, where technology is but we also...again, the laws are there to be obeyed. And if they aren't obeyed, what example are we setting? [LR523]

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DAVID ARNOLD: Absolutely. And I think what everyone is experiencing right now is uncertainty. And I think that uncertainty in the marketplace doesn't benefit anyone... [LR523]

SENATOR DUBAS: Right. [LR523]

DAVID ARNOLD: ...existing companies, new companies. And so if there is a lesson I think it's that when new business models, new entrants, whatever it may be, causes uncertainty, those that are tasked with regulating or legislating on those issues benefit from having flexibility and the ability to move quickly. Like I said, I've worked in various levels of government. I know that moving quickly is a relative term. But I think flexibility is the best recommendation, so reexamining the way that changes are made, whether it's for an existing business or a new business, I think is a healthy thing for entities to do to better prepare for these issues because they're not going to go away and I think in fact they'll increase. [LR523]

SENATOR DUBAS: (Exhibits 6-9) I think you're right. And I don't know that it's an easy solution to find, but if there is some takeaway about how do we make ourselves be more proactive, build in that flexibility into our policies and our rules and regs, I think it'll serve us well because things only are going to continue to move faster. They definitely will not slow down. And so, you know, what do we need to do to take care of our citizens, be a friendly business environment, and go from there? So I thank you today for your testimony. I would like to read into the record that we had comments submitted by Eric Ojeda, Chris Cook, Lisa Dahlkoetter, and Sam Collins. So with that, that will close our hearing for today. And thank you all for your participation, and I think the Legislature and this committee has a lot to chew on. (See also Exhibit 10.) [LR523]