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Transportation and Telecommunications Committee
January 27, 2009

[LB28 LB48 LB219 LB331]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, January 27, 2009, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB48, LB219, LB331, and LB28. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Kathy Campbell; Tim Gay; Galen Hadley; Charlie Janssen; Scott Lautenbaugh; and LeRoy Loudon. Senators absent: None. [LB48]

SENATOR FISCHER: Good afternoon, I'd like to welcome you all to the Transportation and Telecommunications Committee. My name is Deb Fischer. I am Chair of the Committee. I am from Valentine, Nebraska, which is District 43. At this time, I would like to introduce the committee members to you. On my far right is Senator Charlie Janssen. Senator Janssen is from Fremont, Nebraska. Next to Senator Janssen, we have Senator Kathy Campbell from Lincoln, Nebraska. Next we have Senator Tim Gay from Papillion. Next is the Vice Chair of our committee, Senator Arnie Stuthman. Senator Stuthman is from Platte Center, Nebraska. On my immediate right is Mr. Dustin Vaughan. He is our committee counsel. On my immediate left is our committee clerk, Ms. Laurie Vollertsen. On Ms. Vollertsen's left is Senator Scott Lautenbaugh from Omaha, Nebraska. Next to Senator Lautenbaugh is Senator Galen Hadley. Senator Hadley is from Kearney, Nebraska. We do have another member of the committee that will join us later. I'd like to point out now, please don't take offense during this time of year when we're introducing bills, we have senators coming and going all the time to introduce bills, and that's just what we need to do in order to take care of business. Our pages for today are Justin Escamilla from Scottsbluff and Rhianna Needham from Bellevue. And they are here to help you with testimony, if you need copies made of anything, or would like a drink of water, anything like that. I will be happy to have a page take care of you. We will be hearing the bills in the order listed on the agenda. And those wishing to testify on a bill should come to the front of the room, and be ready to testify as soon as someone finishes testifying in order to keep the hearing moving. I would ask that you please complete the yellow sign-in sheet at the on-deck table so it's ready to hand in when you testify. And that table is right back there. We do have a computerized transcription program being used and so it's very important that the directions on the sign-in sheet are followed, and I would ask that you hand that sign-in sheet to our committee clerk before you sit down to testify. For the record, at the beginning of your testimony, please spell your last name and also your first name if it can be spelled in different ways. And please keep your testimony concise, try not to repeat what someone else has already covered. If you don't want to testify, but you want to voice your support or your opposition to a bill, you can indicate so at the on-deck table on the sheet provided. And this will be part of the official record of our hearing. If you want to be listed on the committee statement as a testifier at the hearing, you must complete a yellow sign-in sheet and actually testify, even if you just state your name and your position on the bill. If you do not choose to testify, you can submit

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written comments, and we will have those read into the official record. Please relax. Don't be nervous. Again, if you need anything I will be happy to get a page for you. At this time, I would ask that you all turn off your cell phones. In this committee, we do not allow cell phones to be on; and that means no text messaging either. So thank you very much. I will open the hearing on LB48 and welcome Mr. Vaughan. [LB48]

DUSTY VAUGHAN: Thank you, Senator Fischer. [LB48]

SENATOR FISCHER: Mr. Vaughan, if I could interrupt you a minute, I'd like to recognize Senator Louden has entered. Senator Louden is a committee member, and his district is District 49 from Ellsworth, Nebraska. Thank you, Mr. Vaughan. [LB48]

DUSTY VAUGHAN: Thank you, Senator Fischer and members of the Transportation and Telecommunications Committee. For the record, my name is Dusty Vaughan, spelled V-a-u-g-h-a-n, and I am the legal counsel for the committee. LB48 updates the reference dates to federal rules and regulations in the Motor Carrier Safety Regulation sections. LB48 also adopts Title 49, Part 386 of the Federal Motor Carrier Safety Regulation as prescribed by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration. Adoption of Part 386 will permit the Nebraska State Patrol to place a motor carrier out of service for the nonpayment of civil penalties. If a motor carrier is assessed a civil penalty and payment does not incur within 90 days after the date specified by the patrol's final agency administrative order, the motor carrier will be prohibited from operating in intrastate commerce starting on the next day. The prohibition would continue until the civil penalty is received in full. This prohibition will also allow the Federal Motor Carrier Safety Administration to take reciprocal action by prohibiting the motor carrier from operating in interstate commerce. And with that, I will conclude my testimony, Senator. [LB48]

SENATOR STUTHMAN: Thank you, Mr. Vaughan. Does the committee have any questions for Mr. Vaughan? Seeing none, thank you. We will now have the proponents on the bill. So those wishing to testify in support of the bill, would you come forward please. Good afternoon. [LB48]

BRYAN TUMA: (Exhibits 1, 2) Good afternoon, Senator Stuthman, members of the Transportation and Telecommunications Committee. My name is Colonel Bryan, B-r-y-a-n, Tuma, T-u-m-a. I serve as the superintendent of the Nebraska State Patrol. My purpose today is to testify in support of LB48. I would like to thank Senator Fischer for sponsoring this bill. In addition to our annual update of the Federal Motor Carrier Safety Regulations, which we understand will be handled through the adoption of LB331, we are requesting to add Title 49 of the Code of Federal Regulations, Part 386, Rule of Practice for Motor Carrier, Broker, Freight Forwarder, and Hazardous Materials Proceedings. Adoption of Title 49 CFR Part 386 will allow the Nebraska State Patrol to place the motor carrier out of service for nonpayment of civil penalties assessed which

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have been discovered through the Compliance Review Program. Compliance reviews conducted by Carrier Enforcement Investigators are onsite examinations of a motor carrier's records and operations in order to determine whether the motor carrier is in compliance with the Federal Motor Carrier Safety and Hazardous Material Regulations. At times, motor carriers that are assessed civil penalties for noncompliance do not pay in a timely fashion or not at all. And with the adoption of Part 386, motor carriers would be placed out of service for nonpayment of a civil penalty. A motor carrier that fails to pay a civil penalty within 90 days after the date specified for payment by the agency's final administrative order will be prohibited from operating in intrastate commerce starting on the next day or the 91st day. The prohibition would continue until full payment of the civil penalty has been received. Currently, there are six motor carriers on record that have not paid an assessed civil penalty. Outstanding balances to date are: one motor carrier in 2002 at \$6,250; two motor carriers totaling \$9,500 in 2003; two motor carriers in 2004 totaling \$14,300; and one motor carrier in 2005 for \$2,700 for a total of \$32,750. One motor carrier stated, and I quote: the state of Nebraska will have to sue us in order to get their money. Adopting this federal regulation will provide the Nebraska State Patrol the authority to restrict the motor carrier from operating upon Nebraska's highways until the civil penalty is paid. Additionally, the Federal Motor Carrier Safety Administration will take reciprocal action by prohibiting the motor carrier from operating in interstate commerce, in other words, in other states. And I have some additional information that was just made available to us about 11:15 this morning regarding a change in the Federal Motor Carrier Regs and I can brief you on that as well. Attached please find a copy of Part 386, the Rules of Practice for Motor Carrier, Broker, Freight Forwarder, and Hazardous Materials Proceedings. In particular, Part 386.83 outlines the requirement of prohibiting the motor carrier from operating starting on the 91st day. I want to thank you for the opportunity to testify on behalf of the bill, and I'd be happy to answer any questions you might have. [LB48]

SENATOR FISCHER: Thank you, Colonel Tuma. Are there questions from the committee? Senator Louden. [LB48]

SENATOR LOUDEN: Thank you, Senator Fischer. Colonel Tuma, on this...when you say you, these motor carriers won't be able to operate. Now when you say motor carrier, do you mean the guy that's driving the truck or the corporation that owns the trucks or both or how does that all fit together? [LB48]

BRYAN TUMA: My understanding of the Federal Motor Carrier Regs, in this particular instance, is if we took any action, it would be against the carrier. It would not impact the driver or the operator that has the CDL license at all. These are issues that relate specifically to the operator. [LB48]

SENATOR LOUDEN: Okay, now supposing it's a motor carrier and he's got one or two trucks. And then he's got a letterhead, you know, or whatever. And then he goes out

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there and he gets him a different letterhead, and he still probably uses the same trucks or something. Do you have any way of finding out if those vehicles are the ones that are going to be off the road or how do you? [LB48]

BRYAN TUMA: I think we would be able to address those kinds of issues, and I think that probably happens on a number of issues currently. We do have the ability to track who the owner/operators are. They have to file for certain credentials through the Federal Motor Carrier Safety Regs so I don't, wouldn't see that as a huge issue. [LB48]

SENATOR LOUDEN: Okay, does the federal people track that now? [LB48]

BRYAN TUMA: Well, I have people here that can probably answer that much better than I can. But I, yes, I believe we do. If you apply for a DOT number, you're going to be tracked through the system. [LB48]

SENATOR LOUDEN: Okay, thank you. [LB48]

SENATOR FISCHER: Other questions? Senator Hadley. [LB48]

SENATOR HADLEY: Thank you, Senator Fischer. Colonel Tuma, just a quick question. The examples you gave from 2003-2004, etcetera, if this law is passed, can you go back and apply the law to those people that owe you or were those just examples? [LB48]

BRYAN TUMA: Well, I think those are examples of existing that are outstanding, and I think theoretically we could go back and collect those damages, I believe is what we're seeking. [LB48]

SENATOR FISCHER: Senator Stuthman. [LB48]

SENATOR STUTHMAN: Thank you, Senator Fischer. Colonel Tuma, what...give me an example of the, when they're examining the carrier's records, what would be the noncompliance that would create the payment, a civil payment? [LB48]

BRYAN TUMA: Typically, we're going to be addressing issues that relate to administrative rules. For instance, that address owner/operator, the driver, and the equipment. So it could be things like failing to document or administer drug tests, failure to maintain the files for the medical requirements to have a CDL license, certain records that have to be kept, administrative rules in that respect. If they're not keeping the proper documentation, reporting it, that could be a violation. [LB48]

SENATOR STUTHMAN: Would this have anything to do with the equipment being out of compliance as far as tires, brakes, anything like that? [LB48]

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BRYAN TUMA: Yes, if they're not...yes. [LB48]

SENATOR STUTHMAN: That also would be included? [LB48]

BRYAN TUMA: Yes. [LB48]

SENATOR STUTHMAN: Okay, thank you, Colonel. [LB48]

SENATOR FISCHER: Other questions? Senator Lautenbaugh. [LB48]

SENATOR LAUTENBAUGH: Thank you, Madam Chair. Thank you, Colonel, for coming up here and testifying. So the fines that you mentioned without getting into the specifics of who they were, who was fined; do you know what those matters involved? [LB48]

BRYAN TUMA: Sure. I have a number of examples here. We'll take motor carrier number one who still owes \$4,500. The original fine was \$5,300, but with a hearing decision that fine was reduced or that penalty was reduced, and that was due to an out-of-service violation. We have several others, again, that were...penalties that were assessed but were reduced due to the administrative hearing process. Some people simply do not respond after the violations or the penalties were sanctioned. We have some people we can't locate. And I guess I don't have the specific reasons. I think what you're asking me is what specific issues were the problems. I don't have that particular information with me, I'm sorry. [LB48]

SENATOR LAUTENBAUGH: Do you know, are all the ones you're referring to...file adjudications, if you will? [LB48]

BRYAN TUMA: Yes. [LB48]

SENATOR LAUTENBAUGH: There's no possible avenue that they're still appealing or contesting the fine? [LB48]

BRYAN TUMA: Correct. [LB48]

SENATOR LAUTENBAUGH: Thank you. [LB48]

SENATOR FISCHER: Other questions? I see none. Thank you, Colonel Tuma. [LB48]

BRYAN TUMA: Thank you. [LB48]

SENATOR FISCHER: Next proponent, please. Are there any other proponents for the bill? Are there any opponents? Anyone wishing to testify in the neutral capacity? I see

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none. With that, I will close the hearing on LB48 and open the hearing on LB219. I see that Senator Flood is here for his opening. Welcome, Senator Flood. [LB48 LB219]

SENATOR FLOOD: (Exhibit 3) Thank you. Good afternoon, Chairperson Fischer, members of the Transportation and Telecommunications Committee. For the record, my name is Mike Flood, F-l-o-o-d, and I represent Legislative District 19, which includes the city of Norfolk and all of Madison County. LB219 transfers the Office of Highway Safety, currently a division of the Department of Motor Vehicles, to the highway safety section of the Department of Roads. In the past couple of legislative sessions, the Legislature has attempted to increase efficiency, transparency, and accountability by either reorganizing or consolidating certain aspects of state government. These efforts have been in cooperation with the administration. As an example, in 2007, the Health and Human Services System was reorganized into the Department of Health and Human Services. Also in 2007, the Department of Property Assessment and Taxation was merged into the Department of Revenue. In continuing with that theme, I am proposing to consolidate our planning, strategic funding, and data analysis related to highway safety into one agency--namely, the Department of Roads. Because Directors Neth and Craig will testify after me as will Colonel Tuma, I will not go into the specific roles of their respective agencies. But I would like to touch briefly on the efficiency, transparency, and accountability issues that I mentioned earlier. We'll start with efficiency. While all of the agencies involved cooperate to a high degree, it still remains that the state of Nebraska has two entire divisions of two agencies dedicated to the same purpose, highway safety. Intuitively, it is inefficient. The two divisions are not located in the same building. They cannot share supplies. They cannot share personnel. While they can and do certainly communicate with each other, the high level of coordination associated with daily interaction with one's peers is simply unattainable. Second, transparency. Currently, highway safety stakeholders such as law enforcement agencies, safety advocacy groups, and political subdivisions must interact with both offices. Such stakeholders are well aware of the roles and responsibilities of each office, but the largest stakeholder involved in highway safety is the traveling public. Whether a citizen has a question about a seat belt law, a dangerous intersection, an accident they could have been in, a road closure, or a commercial they have heard on the radio it makes our government more transparent if they know who to contact. Finally, accountability. Accountability of public funds is the most important reason for the transfer. Both DMV and DOR award millions of dollars in federal highway safety grants to law enforcement, advocacy groups, political subdivisions, and others. The risk of overlap and other unintended circumstances simply cannot be avoided. However, having one Highway Safety Office significantly reduces that risk. The transfer will hold DOR responsible for all federal highway safety grant funding. Why place the highway safety office in the Nebraska Department of Roads? Two reasons: first, the DOR highway safety section has over three times the personnel of the DMV Office of Highway Safety; second, federal government requirements, duties, and most importantly penalties center on state transportation agencies which is the Nebraska Department of Roads in our state. Thus

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the DOR is motivated. They're a motivated leader in the area of highway safety for obvious reasons. With that, I would like to thank the committee for its consideration of LB219. I do waive my closing, Madam Chairman, and I'll answer any questions that you may have. [LB219]

SENATOR FISCHER: Thank you, Mr. Speaker. Are there questions? I see none. And you have waived closing. Thank you. [LB219]

SENATOR FLOOD: May I be excused? [LB219]

SENATOR FISCHER: You may be excused, and thank you for joining us today. Are there proponents for the bill? Good afternoon. [LB219]

BEVERLY NETH: (Exhibit 4) Good afternoon, Chairwoman Fischer, members of the committee. I am Beverly Neth, B-e-v-e-r-l-y N-e-t-h, Director of the Department of Motor Vehicles. I am here today appearing to offer testimony in support of LB219. The Office of Highway Safety is a division of the Nebraska Department of Motor Vehicles, the DMV. The DMV Office of Highway Safety works in close partnership with the Nebraska State Patrol and the Department of Roads in the highway safety programs in our respective spheres of influence. The Office of Highway Safety is responsible for developing and implementing effective strategies aimed at driver behavior and education to reduce the state's traffic related injury and fatality rates. In support of this objective, the Office of Highway Safety submits an annual highway safety plan to the National Highway Traffic Safety Administration--known as NHTSA--utilizing a performance-based approach, which requires data analysis for problem identification, performance goal selection, and finally, program, project, and funding activity selection. Based on a problem identification process, the following priority traffic safety areas are targeted: occupant protection, teen drivers, alcohol, speed, and other traffic safety areas. To address these problem areas, the Office of Highway Safety provides grants, training opportunities, and educational items. Grants are available to organizations for traffic safety projects and activities. Applications for projects with potential to impact the priority traffic safety areas are annually reviewed. Minigrants are also available to law enforcement for the following items: preliminary breath testing or PBT units, radar units, in-car video cameras, and selective overtime enforcement. Law enforcement and other eligible organizations are also provided with funding assistance for traffic training and public information and education activities. Training opportunities are available through the Office of Highway Safety in the following traffic safety areas: accident investigation, child passenger safety, drug recognition expert, mobile video taping, motorcycle rider, radar, and standard field sobriety testing. During FY 2008, a total of \$4,785,805 was expended from the federal highway safety funding allocations for a total of 489 individual projects and 49 major grants. Seventy-five percent of the funds were awarded directly to local, county, municipal government agencies, and local nonprofit organizations. The remainder was awarded to state agencies for traffic safety projects.

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The vast majority of the duties and activities of the Office of Highway Safety are not found in Nebraska statute, but rather relate to activities, responsibilities, and programs found in the Code of Federal Regulations at Chapter 23, which governs the Federal Highway Administration and the National Highway Traffic Safety Administration, Department of Transportation. The standards for management of the programs and the funds are set out in federal code in part 1200, et.seq., and require each state to established a highway safety agency. The programs and funds established in Nebraska are as follows: We have 402 - Program Funds, Section 157 - Seat Belt Use Incentive Funds, Section 163 - .08 BAC Incentive Funds, Section 405 - Occupant Protection Incentive Funds, 408 - Data Program for Traffic Safety Information System Improvement, 410 - Improve Impaired Driving Funds, Section 1096 - Prohibit Racial Profiling Funds, Section 2010 - Motorcycle Safety Funds, Department of Roads Flex-Spending Funds, and Federal OJJDP which is the Office of Juvenile Justice--I can't remember what the DP stands for--Combating Underage Drinking Task Force Project. There are three federal programs that are adopted into state law and assigned to the Department of Motor Vehicles which are managed by the Office of Highway Safety. They are: the Child Passenger Protection and Safety Program, the Occupant Protection, also known as seat belts, and the Motorcycle Safety Education Act. These three programs are the focus of the bill before you today. The Motorcycle Safety Education Act and program will remain with the DMV. The other two programs are part of the transfer that is the language of the bill. The remaining programs--all the programs that I mentioned--administered by the Office of Highway Safety will be transferred as a budget item transfer. It is the intent to transfer the entire division from the DMV to the Department of Roads. Both the Department of Roads and the DMV administer federal safety grant-in-aid funds. No one agency is responsible for understanding or coordinating all of the highway safety grant projects for the state. Consolidation of the Office of Highway Safety into the Department of Roads gives us the opportunity for someone to have the complete picture. The transfer will not result in a diminution of programs or services offered by the Office of Highway Safety, nor will it lessen the DMV's safety mission relative to the regulation of drivers and vehicles. The DMV, NSP, and the Department of Roads have an excellent working relationship and partnership. I feel privileged to work with Director John Craig and Colonel Bryan Tuma as partners in highway safety. I look forward to--as I know they do--continuing the recent successes we saw in 2008 when we observed the highest percentage of seat belt usage among adults at 83 percent and children at 96 percent and reduced fatalities to the fewest in decades. Our fatalities last year were 205 which we have not seen since 1944 in Nebraska. With that, I'll be happy to answer any questions you might have regarding this matter. [LB219]

SENATOR FISCHER: Thank you, Director Neth. Are there questions? Senator Stuthman. [LB219]

SENATOR STUTHMAN: Thank you, Senator Fischer. Director Neth, with this move that

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is anticipated, is that going to be an additional cost to the Department of Roads or is it going to be a cost savings? [LB219]

BEVERLY NETH: I tell you what, I will defer the cost estimates as they relate to the Department of Roads to Director Craig. I know he is coming up after me, so I'd like him to address those issues. There are some state funds that are used to...as a match, and we have used those funds in the past out of the DMV cash funds, and they're also, as a reimbursement project, there are some state funds that are put forward, but I know that Director Craig will be able to answer those as well as they relate to Department of Roads. [LB219]

SENATOR STUTHMAN: Thank you. [LB219]

SENATOR FISCHER: Other questions? Senator Gay. [LB219]

SENATOR GAY: Thank you, Senator Fischer. Director Neth, I've got a question, why not motor...why not motorcycles, why would that not be transferred? Why wouldn't you just do it all? [LB219]

BEVERLY NETH: The Motorcycle Safety Program really is a rider education program and a certification program of the curriculum associated with rider safety and instructors associated with rider safety. We have other driver safety programs within the Department of Motor Vehicles. The children's or the driver's safety programs that we think of that are offered in classrooms, schools across the state, as well as other driver safety programs. So we thought it made sense for us to keep the motorcycle program within our...our agency so that we had a coordination in those safety education programs that are relative to privileges and waivers that you receive when you're applying for a particular license. With the motorcycle safety training, what that does for an individual who has completed that curriculum is they are...they are eligible for waiver of the DMV testing. So we wanted to be able to control that function, since it does relate specifically to our duties and our programs. [LB219]

SENATOR GAY: Another question, and you just said Director Craig is going to be testifying, so if you don't want to...if you think this is better directed to him, but when I read through your testimony, 75 percent of the funds go to local, county, municipal agencies and we're familiar with some of the things they're doing. But the other 25 percent then, it says the remainder was awarded to state agencies for traffic safety projects. What would that other...what would those projects be? [LB219]

BEVERLY NETH: Well, there are some, there are some funds that flow to the Nebraska State Patrol for selective overtime enforcement and those kinds of activities. There are also funds that are related to traffic safety coordination projects. We have worked closely in the past with the Nebraska Crime Commission on the development of traffic,

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improving the traffic safety records. So that would be focused to a state agency. Admittedly, the Department of Motor Vehicles also taps some of the highway safety funds to complete some of our safety objectives relative to programs like our administrative driver license revocation program which is a statewide impact program. Those are fairly limited, but mainly it would be to State Patrol in their selective enforcement and traffic records improvements. [LB219]

SENATOR GAY: Okay, I was just looking for, it's not like a safety improvement project to put barricades on or nothing like that. [LB219]

BEVERLY NETH: No. There are road specific...they're funds specific in the Department of Roads. [LB219]

SENATOR GAY: They wouldn't be intermingled is what I'm saying. [LB219]

BEVERLY NETH: No. They most certainly are not. The NHTSA rules are very clear about those things. [LB219]

SENATOR FISCHER: Other questions? Senator Hadley. [LB219]

SENATOR HADLEY: Thank you, Senator Fischer. Director Neth, was consideration taken to get transferring programs from the Department of Roads to the Department of Motor Vehicles, or I guess, again, the rationale of how was the transfer decided; what caused that? [LB219]

BEVERLY NETH: You know, there have...were conversations in the past between Director Craig and the Governor's Office and I about moving the highway safety, the Roads highway safety functions over to DMV, the traffic data, the FARS data system and Director Craig will address that. But honestly, I think Senator Flood summed it up pretty well when he said that they have three times the staff that we have. And the move would just be so much more extraordinary and so much more complicated for us to move them to our...you're also talking about moving systems, data collection systems, all of those kinds of things. And so it's...would be much more complex to move the Roads programs to the DMV than it is to do it this way. [LB219]

SENATOR HADLEY: Okay. [LB219]

SENATOR FISCHER: Other questions? Senator Louden. [LB219]

SENATOR LOUDEN: Yes. At the end of your testimony here you told about how well things have went and your percentage of seat belt usage and that sort of thing. So I guess my next question is, well, if it's working so good, how come we're trying to fix it? [LB219]

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BEVERLY NETH: Well, the reason that our programs are working so well are really multifaceted. One, they work very well because we have a dedicated staff that is committed to making the programs work, and I believe that dedication and the passion that they have for highway safety will continue just as well at the Department of Roads as it does with the DMV. The other reason is because we have committed advocates in this state. And we have law enforcement that is committed to safety program projects. They have put forth good projects for funding, and I'm sure they will continue putting forth the same types of projects that really focus on the areas that are outlined as a part of the performance measures and the targeted areas where we go into where we know there are problems and we try to focus on those. So law enforcement comes forward and does their job, our...the staff does their job in grading those projects and funding the meritorious ones, and the advocates do a very good job in helping us educate about safety belts not only for adults, but also for children, and really in the alcohol area as well. There's a lot of... [LB219]

SENATOR LOUDEN: Now as some of this information comes out from wrecks or seat belts and all that, now does that come to the Department of Roads or does it come to your department? [LB219]

BEVERLY NETH: The accident reports that people are required to file are filed with the Department of Roads. We have a system that connects to Department of Roads where we can pull that information, they send that information to us as it relates to any action we might take on someone's driver license who are driving an uninsured motor vehicle or those kinds of things. [LB219]

SENATOR LOUDEN: Now, if you change this over then, will that go to that part of that agency, then? This information, is that the part of the Department of Roads Agency that would handle this stuff? [LB219]

BEVERLY NETH: Yes, it already does. I believe that function, and Director Craig can certainly address that, but I believe that function already rests within their highway safety division. [LB219]

SENATOR LOUDEN: Okay. And they have, they have then enough personnel there to handle, by switching this over, they have enough personnel there to handle it. [LB219]

BEVERLY NETH: Yes, they have, I'm sure they have existing personnel. They will also be, the eight FTE who are associated with the DMV Highway Safety Programs, the Office of Highway Safety, will be transferred to the Department of Roads. So those staff will go en masse to the Department of Roads. [LB219]

SENATOR LOUDEN: Okay, then staff, some of your staff will go over then to the

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Department of Roads? [LB219]

BEVERLY NETH: That's right. [LB219]

SENATOR LOUDEN: And they will work down there on that other place? And are they happy with that? [LB219]

BEVERLY NETH: Well, I think that, as I said, they are committed and they are dedicated to highway safety, and I know that they will adjust to the changes. [LB219]

SENATOR LOUDEN: Then they will be, they will have a different overseer and that sort of thing as that staff goes down there. How will that staff coming in with the staff that's already there? [LB219]

BEVERLY NETH: You know, I'm going to, I'm going to defer that question to Director Craig because I think he can answer that better of how he intends to bring these people into his organization. [LB219]

SENATOR LOUDEN: Okay, thank you. [LB219]

BEVERLY NETH: Thank you. [LB219]

SENATOR FISCHER: Other questions? Director Neth, in your department with the Office of Highway Safety, do you currently offer a variety of services and programs that, within your department, do you offer programs? [LB219]

BEVERLY NETH: Beyond the scope of what I talked about in my testimony, do you mean relative to highway safety? [LB219]

SENATOR FISCHER: Um-hum. [LB219]

BEVERLY NETH: Well, I think that is a difficult question to parse for me, because we see, a big part of our mission is really safety. In the regulation of drivers and the regulation of vehicles, implicit in that for us is a safety component. So there are functions within the Office of Highway Safety that are very specific to programs and certainly are all about federal grant and aid programs. The rest of what we do in DMV really flows to the bigger picture of safety as it relates to drivers and vehicles. [LB219]

SENATOR FISCHER: On the grant program, do you anticipate your department will still be receiving some federal grants specific for highway safety programs? [LB219]

BEVERLY NETH: I think so. [LB219]

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SENATOR FISCHER: Can you give me examples on what programs would receive those grants? [LB219]

BEVERLY NETH: For instance, we have, in our legal division, we have the administrative license revocation program. In that program, we have six hearing officers who are engaged in daily hearings. We have some 6,800 hearings a year relative to the driving privileges of an individual who has been charged with a DUI or a refusal or a failure to, or a refusal to submit to a test. We're taking an administrative action against their driver license. We have contacted the National Judicial College, and we are...we have asked for two individuals to come to Nebraska and provide some training specific to administrative license revocations as well as other areas of administrative law which we intend to open up to other state hearing officers. We requested funding from the Highway Safety and did receive funding to bring those individuals to the state, and so we are able to offer that funding not only to, that training, not only to our own staff, but to also engage other hearing officers in an administrative training relative to their functions as hearing officers. [LB219]

SENATOR FISCHER: So even though we're looking at this bill as moving part of your agency's responsibilities to another code agency, in effect, you are keeping some programs in your department, such as the motorcycle part of that and also the one you just mentioned, that deals specifically with...with the areas that you are charged with enforcing, is that correct? [LB219]

BEVERLY NETH: That's correct. [LB219]

SENATOR FISCHER: So it's not a complete move? [LB219]

BEVERLY NETH: Well it's a complete move of the staff, and it is a complete move of the federal grant-in-aid programs as they relate to the NHTSA funding. What we would do to access... [LB219]

SENATOR FISCHER: What's a STOP program? What's this STOP program? [LB219]

BEVERLY NETH: The STOP program is the traffic diversion program that was developed in the state of Nebraska. So that program, that responsibility does rest within the DMV. [LB219]

SENATOR FISCHER: Will you keep that? [LB219]

BEVERLY NETH: Yes, we will keep that. [LB219]

SENATOR FISCHER: Why? [LB219]

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BEVERLY NETH: Why? Because it is not a federal grant-in-aid program. It is a Nebraska-specific program that relates to drivers and traffic records which is part and parcel of what we do every day. [LB219]

SENATOR FISCHER: Okay, thank you. Other questions? Senator Hadley. [LB219]

SENATOR HADLEY: Senator Fischer. Just one quick question. I know the University of Nebraska at Kearney has the Nebraska Safety Center. Do you see any difference in the relationship of the Safety Center to other state agencies with this change? [LB219]

BEVERLY NETH: No. No, I don't, Senator. We work very closely with the Nebraska Safety Center in our driver education programs, the motorcycle program, discussing issues that relate to medically unfit drivers or older drivers, teen drivers. We just run the whole gamut with that group, so I don't see that changing at all. [LB219]

SENATOR HADLEY: Okay, thank you. [LB219]

SENATOR FISCHER: Other questions? Thank you, Director. [LB219]

BEVERLY NETH: Thank you very much. [LB219]

SENATOR FISCHER: Next proponent please. Good afternoon, Director Craig. [LB219]

JOHN CRAIG: (Exhibit 5) Good afternoon, Senator Fischer. And I'm going to ask the pages to hold my...distributing my testimony until I am finished reading my testimony. [LB219]

SENATOR FISCHER: You don't want us to make notes while you speak? [LB219]

JOHN CRAIG: I like people to pay attention as opposed to looking at the words, so that's my...that's my ploy. [LB219]

SENATOR FISCHER: Uh-oh. [LB219]

JOHN CRAIG: Well, good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. I am John Craig and I am the Director of the Nebraska Department of Roads. I am here to testify in support of LB219. The mission of the Department of Roads begins with the statement: We provide and maintain, in cooperation with public and private organizations, a safe transportation system. As you know, the Department of Roads is the steward of all highway crash data in the state regardless of whether those occur on the state highway system, county, or city road systems. That database originated and has been maintained by the department since 1936. The department provides this information to the National

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Highway Traffic Safety Administration or NHTSA via the Fatality Analysis Reporting System, called FARS, on an annual basis. The department also provides statewide crash data to NHTSA for their national database of statistics as well as reporting all bus and truck crashes to the Nebraska State Patrol for reporting to the National Motor Carrier Safety Administration. The department is also the executive agent for the State Strategic Highway Safety Plan, and we have led six statewide highway safety summits in the past ten years. As a result, significant progress has been made. Of course, we work with our many partners in this endeavor to include the Department of Vehicles...Motor Vehicles, the State Patrol, Health and Human Services, cities, counties, the private sector, and the general public. We are directly responsible for the state highway system and have growing indirect responsibilities for city and county roads. There are many elements to safety and we have developed several safety performance measures to track our progress. In addition to the pain and suffering, it is estimated that Nebraska has \$2.3 billion annually in societal costs due to vehicle crashes. There is also a parallel and considerable liability exposure to the Department of Roads. If it is clear that the Department of Roads has a vital and vested interest in highway safety, then I have made myself clear. Another step in the evolution of improving highway safety is to consolidate the Department of Roads Highway Safety Section and the Office of Highway Safety which is currently located in the Department of Motor Vehicles. This merger will create a single repository of funding, analysis, and information as it relates to highway safety. It will improve the customer service we provide to highway safety stakeholders, whether or not they are a political subdivision, a nonprofit organization, or a member of the traveling public. LB219 will further our mission to provide and maintain a safe transportation system. We are prepared and stand ready to implement LB219 should it be passed. I would be happy to answer any questions you might have at this time. And now I would like the page to pass these copies of the testimony out. [LB219]

SENATOR FISCHER: Thank you, Director Craig. I would like to recognize you and your department in the safety that you have achieved on the roads in the state of Nebraska. You told us about that in your report in...it was late fall when we had our needs assessment hearing for the Department of Roads with the Appropriations Committee. But I do want to recognize you for that once again. [LB219]

JOHN CRAIG: Of course, that is in conjunction with our many partners. It's not just us alone by any means. Any means. [LB219]

SENATOR FISCHER: Even though you won't give us your testimony so we can follow along, I did want to do that. Are there questions for the Director? Senator Stuthman. [LB219]

SENATOR STUTHMAN: Thank you, Senator Fischer. Director Craig, in the moving of the offices like I had asked Director Neth, will this be...I know you emphasized

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improving highway safety and improving customer service, are we going to be able to do this at a less cost because you're moving it all into your department? Is there going to be a cost savings or is it going to cost us money to do this move? [LB219]

JOHN CRAIG: It will not cost us money. Now, on the savings side, and I hesitate...I don't hesitate to say this, but I'll try and put this in some perspective, that there is the potential, once we have them on board, and we are able to more carefully assess our personnel strength, we may be able to reduce one to three people. Now, depending on what the assumptions are for individual salaries and benefits, that could be upwards of \$100,000. It could be as low as \$30,000. So that is one potential savings. There are perhaps others that I would call efficiencies that are probably not demonstrable. You can't calculate a savings, and here's an example. I'm not sure how this is wrapped up in this, but this is another example. We have worked for the last few years with law enforcement in general, especially with the State Patrol, but others as well, to develop a fully automated crash reporting system. That is, I'll say ten years ago, the way crash reports, 50,000 or more annually in the state of Nebraska, were submitted by paper. And then they had to be physically put into a database, eventually scanned, and what we would like to do, and we plan to by the end of this year, is to allow that data to be input into the database remotely from patrol cars, whether it's city police, county sheriffs or the State Patrol. And we have the prototype out there, incidentally, for that. So as that information gets put in, I'll say in real or near real time and we're able to extract that and analyze that on a near or real-time basis, there may be other efficiencies. Not only having nothing to do with the Office of Highway Safety, but just for our own department as well. But when we include the Office of Highway Safety, there are other benefits that may make us and fully are expected to make us more efficient. How that will manifest itself in our existing Highway Safety Section or the Office of the Highway Safety, our own traffic engineering department, or others...it's hard to tease out those specific kinds of things. So there are general efficiencies that could accrue as a matter of course. But if I was to point to something specific, we may be able to save one to three positions here over the next months or year or so. [LB219]

SENATOR STUTHMAN: Okay, thank you, Director Craig. Just a comment, you know, Senator Fischer had stated, and thank you for having a good safety program this year and not near the deaths and have had a very good year, you know. But I don't want to give you all the credit. I will give credit to the \$4 and \$5 gas. That slowed the people down, and I think that had a lot of effect on it. [LB219]

JOHN CRAIG: It has had an impact, absolutely. That is a terrific observation. And me personally, I would take no credit. It's our partners and it's our own driver behavior, including driven by the price of fuel, so you are correct. [LB219]

SENATOR STUTHMAN: But in my observation, you know, on the Interstate and stuff like that, you used to go 75 and everybody would pass you. Now you go 75 and you'll

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pass everybody, so it's...it has a real effect on it, so. [LB219]

JOHN CRAIG: Yes, it does. It does. [LB219]

SENATOR STUTHMAN: Thank you. [LB219]

SENATOR FISCHER: Thank you, Senator Stuthman. Other questions? Senator Hadley. [LB219]

SENATOR HADLEY: Senator Fischer. Director Craig, just a quick question. I'm new to this whole process. Do we ever close the loop by saying that in two years, we'd like to have a short report from you as to how the move of the, you know, the divisions or the departments went and what has happened in that period of time as far as, you know, what were the outcomes, problems? [LB219]

JOHN CRAIG: You know, that is a terrific question, and I would say I cannot remember a time where there has been any kind of report or question of that kind. That would be a terrific idea, absolutely. [LB219]

SENATOR HADLEY: I just thought it might be interesting that as we do these types of things that you just come back in a couple of years, and it doesn't have to be a long report, just a few pages that said we...we accomplished what we set out to do, and here were the problems and the concerns, so that if we are looking at another department sometime down the line, we have something that says this is something you should do. [LB219]

JOHN CRAIG: Absolutely. I'd be happy to do that. That's a great question, thank you. [LB219]

SENATOR FISCHER: Other questions? Senator Louden. [LB219]

SENATOR LOUDEN: Yes, thank you for testifying here today, Director Craig. At the end of your testimony here, I didn't notice it when you said it, but I read it in here, that the Department of Roads Highway Safety Section and the Office of Highway Safety are two different, I wouldn't say agencies, but two different probably sectors there. Now, they both have their own, I suppose, office managers or something like that. I'm kind of wondering how do you, how are you going to work those two together? Who's going to be out of a job and who's going to be in second place, and who's going to be mad because they're not in first place, and how are you going to handle all that? I didn't want to wait for two years to find that...this out. [LB219]

JOHN CRAIG: Let me...let me have, at the risk of speaking ad nauseam, a little bit, let me try and work myself from the larger picture to a smaller picture and give you some

background. The answer is, to the direct question, is anybody going to be out of job? Not that I'm aware of right now. There's no basis for that. But like everything else we do, we will look at...we have 200 fewer people now than we had 50 years ago. The smallest work force in 50 years. So that...doing more with less is a reality anywhere, public sector, private sector, and that will continue. So that, as we look at the Office of Highway Safety, it's subject to that just like the rest of the Department of Roads. You might be...interesting to note this little bit of history lesson. The first department formed in the state of Nebraska was the Board of Irrigation, the Bureau of Irrigation actually. It had two missions. One of them was to build roads. And then, as I mentioned, in 1936, the state Legislature directed the Department of Roads to start collecting crash statistics. And so we have done that. There was a time when carrier enforcement in the State Patrol used to belong to the Department of Roads. In fact, the Department of Aeronautics and the Department of Motor Vehicles used to belong to the Department of Roads. And things have changed. There have been a...my only intention for saying that is there has been a continuous reevaluation of how should state government be organized. In this case, we're talking about highway safety. But there has been, there have been continuous changes. To bring it up to the last ten years when I've been there, we have merged our own traffic division and what we had is a highway safety division. And so we took out some layers of bureaucracy relative to that and that has served us well. That has been part of that 200 fewer positions than we had ten years ago--the smallest work force in 50 years. And so as we bring in the Office of Highway Safety, if that were to occur, we will integrate them as best we can. And where there is duplication or no longer required manpower or staff because of automation, we'll take a look at that and do that. Now, I might add that out of those 200 almost...it's a little less than that, 200 fewer people than we had ten years ago, only one got a pink slip. The others were done through a normal system of attrition which I am generally a fan of, because that is certainly an easier way to do things. So that's a little bit of feedback. [LB219]

SENATOR LOUDEN: Well, I haven't decided if you answered my question or not. I wanted to know if, how you, when you have two different agencies put together in there, you're going to have some people that are on the same, the same level. And when you bring them into there, how are you...are you just going to move the whole agency over and sit them in an office all by themselves and set up shop? [LB219]

JOHN CRAIG: The number of people in the Office of Highway Safety will actually move 7.75 people, seven and three-quarter people. That's not many when you're looking at an organization of 2,000. In our Traffic Division, they will become part of the Traffic Division. And when we first bring them in, we will likely keep our existing Highway Safety Section, and I don't know this...this is a few months down the road yet, between now and the first of July, but this is my current thinking. We will keep it, the current Office of Highway Safety and our existing Highway Safety Sections separate. And then we will eventually, over time, begin to integrate them as we identify duplication and

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savings and so on and so forth. So that's, from a practical standpoint, that is exactly how we're going to approach it. [LB219]

SENATOR LOUDEN: Okay, well that's close enough then. [LB219]

SENATOR FISCHER: Other questions? I see none. Thank you very much, Director. [LB219]

JOHN CRAIG: Thank you. [LB219]

SENATOR FISCHER: Next proponent, please. Welcome. [LB219]

BRYAN TUMA: (Exhibit 6) Once again, good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. I'm Colonel Bryan Tuma, superintendent for the Nebraska State Patrol, and I'm here to testify in support of LB219. As you are aware, the emphasis of LB219 is to transfer the operations of the Office of Highway Safety from the Department of Motor Vehicles to the Nebraska Department of Roads. I believe the intent of this legislation is to consolidate all appropriate aspects of highway safety planning and funding in one identifiable location within state government. I believe this concept makes sense if you examine the proposal in the context of what kinds of activities occur between the federal government, state agencies responsible for transportation issues, local agencies, and transportation stakeholders, and safety advocate groups. The key federal transportation legislation authorized by Congress is known as SAFETEA-LU, which is Safe, Accountable, Flexible, Efficient, Transportation Equity Act - A Legacy for Users. The cornerstone of SAFETEA-LU requires states to collaborate with all transportation partners on issues impacting highway safety. Typically, SAFETEA-LU makes reference to the four E's of highway safety which are: engineering, enforcement, education, and EMS. In order to address the requirements of SAFETEA-LU, the state transportation agency in each state is required to address this planning and coordination process. In my opinion, the Nebraska Department of Roads has been engaged in many critical planning processes at many levels for many years. My point is simply this: the department is familiar with planning and strategic goal setting processes. If you examine the role and the responsibility of the Office of Highway Safety, you will find it is a logical extension of the planning processes already occurring at the Department of Roads. The goal for the Office of Highway Safety is to translate strategic planning concepts into effective enforcement and education activities. The Office of Highway Safety also coordinates programming and outreach efforts with a variety of safety advocate groups. Like the Department of Roads, the Office of Highway Safety must also complete strategic planning processes to address specific program requirements administered by the National Highway Safety, excuse me, the National Highway Traffic Safety Administration. The proposal to place the Office of Highway Safety within the Nebraska Department of Roads consolidates the entire planning process dedicated to the highway

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safety and transportation issues. Furthermore, it provides an opportunity for the Office of Highway Safety to have immediate access to resources, data, and programs which support the role and mission of the Office of Highway Safety. This arrangement would greatly facilitate the ability of the State Patrol to have a one-stop shop for data, information, and grant funding to support our performance-based goals related to enforcement activities. The Nebraska State Patrol enjoys an extremely productive and effective working relationship with the Nebraska Department of Roads and the Department of Motor Vehicles. And as you might expect, we collaborate on many transportation issues. We also appreciate the relationship we have established with the Office of Highway Safety. Historically, the Office of Highway Safety has provided funding to the State Patrol and other law enforcement agencies to address equipment requirements and enforcement initiatives. The Office of Highway Safety has obligated significant amounts of grant dollars that enabled the State Patrol to hire officers, fund overtime for selective enforcement activities, attend training programs, and to purchase needed equipment related to both speed and impaired driving enforcement. From an enforcement perspective, the proposal contained in LB219 will not detract from our goals to address enforcement and education activities related to highway safety. We see this as a positive measure that will enhance the ability of the Office of Highway Safety to refine strategic highway safety planning concepts which compliment our mutual goals and objectives. Thank you for the opportunity to speak with you today, and I'd be happy to take any questions. [LB219]

SENATOR FISCHER: Thank you, Colonel Tuma. Are there questions? Senator Stuthman. [LB219]

SENATOR STUTHMAN: Thank you, Senator Fischer. Colonel Tuma, now I am not, you know, up to speed and very intelligent about, you know, is the Office of Highway Safety in a different physical building than the Department of Roads? [LB219]

BRYAN TUMA: Yes. [LB219]

SENATOR STUTHMAN: It is. That's what I thought. [LB219]

BRYAN TUMA: Yes. [LB219]

SENATOR STUTHMAN: And then they're going to move, they're going to take the space that they've had there, and put those people in the Department of Roads facility. Is there enough room in the Department of Roads facility? [LB219]

BRYAN TUMA: Yes. I think we've had some preliminary discussions with Director Craig and all three directors and from my understanding of those conversations, yes, there would be space available to do that. [LB219]

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SENATOR STUTHMAN: And then there would be empty space in the DMV building?
[LB219]

BRYAN TUMA: I think Director Neth would probably fill that space up pretty readily. Not a problem. [LB219]

SENATOR STUTHMAN: That could be an expense to the state though, couldn't it?
[LB219]

BRYAN TUMA: No, I don't think that's...I think she's fairly crowded over there. My point would be, that would give her a chance to have a little more breathing room. [LB219]

SENATOR STUTHMAN: Okay, thank you. [LB219]

BRYAN TUMA: Yes. [LB219]

SENATOR FISCHER: Other questions? Senator Louden. [LB219]

SENATOR LOUDEN: Yeah, thank you, Colonel Tuma. And what I was noticing it said where the Office of Highway Safety has obligated a significant amount of grant dollars to the Patrol. Now, in order to get those grant dollars now, you'll have to work with just the Department of Roads or will you also work with the Department of Motor Vehicles to get those same grant dollars? Or who will have control of those grant dollars now?
[LB219]

BRYAN TUMA: The Department of Roads, but through the Office of Highway Safety, would have those, those grant dollars. We would make application, technically speaking, to the Department of Roads. [LB219]

SENATOR LOUDEN: Okay. And it will be the same people then will be applying for those grant dollars or do you apply for the grant dollars, does the State Patrol apply for those grant dollars? [LB219]

BRYAN TUMA: We apply for the grant dollars and so do many other law enforcement agencies across the state, and there's other safety advocate groups. All of them would be applying for those grant dollars administered through the programs that the Department of Roads would now have oversight on. [LB219]

SENATOR LOUDEN: And it would be the Department of Roads then instead of the Department of Motor Vehicles where this would go through? Would that make any difference when you apply, you know, wherever you're applying for those grant dollars if whoever is awarding the grants decides well, it's going to the Department of Roads rather than the Department, or are we going to have to rename the Department of

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Roads next? I mean, this has been an issue that's come up from time to time. [LB219]

BRYAN TUMA: No. In terms of our operation, I think it's fair to say any of the other folks that enjoy the benefits of those grant dollars, making application to the Department of Roads will have no impact on their ability to get the funds or what those funds are being used for. [LB219]

SENATOR LOUDEN: Okay, thank you. [LB219]

SENATOR FISCHER: Other questions? Colonel Tuma, I just wanted to follow up on a comment made by Senator Stuthman earlier. In dealing with safety, have you seen a decrease in the number of traffic tickets, speeding violations on Interstate 80 in the last six months? [LB219]

BRYAN TUMA: Well, let...it's interesting you bring this up because right now we're having discussions with all of our troop area operations and we're looking at the activity and I'm talking about contacts with the motoring public over the last year. To give you some examples, we have seen anywhere from a single digit increase in the amount of activity written in some troop areas. This morning we briefed the highway or, excuse me, the headquarters troop area commander on this issue, and he's seen a 44.5 percent increase in the number of contacts with the public and a 13 percent increase in the number of DWI arrests all in the last year. And that trend is fairly constant across the state. Our average activity increase has been 23 percent statewide and about a 16 to 18 percent increase in drunk drivers, or drunk driving arrests. So our folks are very busy, and a lot of that activity has...that increase in activity is the direct result of selective enforcement initiatives, typically getting overtime dollars from the Office of Highway Safety to pay for additional officers to go out and work at those times when we're seeing accident-causing violations take place. [LB219]

SENATOR FISCHER: That's without an increase in the number of troopers you have, is that correct? [LB219]

BRYAN TUMA: Oh, no, no increase in personnel, just simply adding more overtime dollars. [LB219]

SENATOR FISCHER: And the overtime comes from some of the grants with this program we've been discussing today, correct? [LB219]

BRYAN TUMA: Yes, yes. [LB219]

SENATOR FISCHER: Thank you. Other questions? I see none. Thank you very much. [LB219]

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BRYAN TUMA: Okay, thank you very much. [LB219]

SENATOR FISCHER: Any other proponents? Good afternoon. [LB219]

SHAWN EATHERTON: Good afternoon, committee members, Senator. I'm Shawn Eatherton. I'm the Buffalo County Attorney, and I'm also on the board of directors of the County Attorneys Association. I'm actually here representing them today. [LB219]

SENATOR FISCHER: I need you to spell your name. [LB219]

SHAWN EATHERTON: I'm sorry. E-a-t-h-e-r-t-o-n. I guess I'm in somewhat of a unique position in that as a county attorney and in our role as county attorney, I guess we kind of operate as both a partner, and certainly work with the highway department, with the DMV, and certainly, with the State Patrol. But we're also kind of a consumer in this, with our role as a county attorney. And when working with these entities, we certainly find ourself oftentimes wondering where to go. I mean, not because they're not willing to work with us, that certainly would be untrue. Because over time, I like to use the example in my office, I have a copy of the statutes from 1927 on my desk and it's one book. And now I have two shelves worth in my office, easily. And those are all very important statutes, but they evolved over time. And in this case, we have two very important entities in the state that have evolved over time, over different things that have happened, and they're two very large entities. And now, it's only effective or efficient government, I think, to take a look at putting parts of them together, so we know as, I guess, consumers who work in government, where to go, so we're not having to either tell our law enforcement when we advise them, our offices, when we're looking for assistance or the other local entities who may be frankly citizens wanting to know where to go or even on our roads department. I mean, which avenue should we follow? And I believe that Senator, or Speaker Flood's bill will help us take a step in the right direction to really consolidate and become more effective in what we do. [LB219]

SENATOR FISCHER: Thank you. Are there questions? I see none. Thank you very much for coming in today. [LB219]

SHAWN EATHERTON: Thank you. [LB219]

SENATOR FISCHER: Any other proponents? Mr. Dix, I thought you were coming up to speak. Other proponents? Are there opponents? Are there any opponents to the bill? Good afternoon. [LB219]

DIANE RIIBE: Good afternoon. I apologize, unlike Director Craig, I actually left my other comments back at the office, so I'm not keeping them from you, so. Good afternoon, Senator Fischer. My name is Diane Riibe, and members of the committee. You, I guess, met me yesterday. Last name is spelled R-i-i-b-e. And our comments today are

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irrespective of the professionalism and the quality of the folks and the work of the Department of Roads. So I want to make that clear at the outset. I am here on behalf of, as a taxpayer of the state of Nebraska as well as our organizational representation for Project Extra Mile. But as any taxpayer in the state would agree, efficiency and coordination in state government are important. And we want those things while being prudent with the public's dollars. I come before you today, again, both professionally and personally. I come as the director of a nonprofit organization that has worked more than 13 years with the DMV and the Nebraska Office of Highway Safety to address underage drinking prevention. I also come before you as a taxpaying citizen who has worked with these offices for nearly 20 years. As background for my comments, I'd like to share briefly my experience that provides me with the foundation for my personal and professional position. Before my work with Project Extra Mile and in the early days of our organization, I served for six years on the national board of directors for MADD--half of that time as the vice president of the national organization. I have had experiences then that continue in my professional capacity today. I had, and I have, the opportunity to work with highway safety representatives across the country. I have worked intimately with national traffic safety organizations, both private and governmental. I have met with the Secretary of Transportation, the President, and the administrator for the National Highway Traffic Safety Administration. I have spoken at countless conferences, have served as a keynote presenter at a number of them, I've been on committees, working groups, and task forces across the country that have included long-term discussions of traffic safety and underage drinking prevention. We work with law enforcement officers and agencies throughout Nebraska on a regular basis as well. I share this information, not for you to know my resume, but rather to help you to understand the depth and the breadth of the solid reputation that our highway safety, our Office of Highway Safety has within the state and across the country. They don't simply do their jobs. They are top-notch. They are responsive, respectful, and professional. And more than any of this, they do their jobs while caring. They work hard so that young children and older Nebraskans go home at night to their families. They work with an intensity that allows law enforcement to count on them month after month, year after year. They are the champions for communities across the state, and they are our unsung champions. I have not traveled to any state where the stellar reputation of our highway safety office has not been known. They are respected and respectful. They get the job done, and they should be rewarded for that hard work and diligent spirit. It's what we expect as part of the good life: to be rewarded for work well done. Of course, we want to be prudent with the public's monies, but we want to be as prudent with the programs that these dollars support. We should not dismiss the wisdom of the adage: penny-wise and pound foolish. When something works, we should continue helping it to work. When something works well, for heavens sake, we shouldn't change it without first solid deliberation with sound input from a broad spectrum of users. And second, only after a concrete benefit can be found both fiscally and programmatically. As someone who has worked with these offices for nearly two decades, I was unaware of any public discussion to this end before the bill was introduced. I was more surprised to see an

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emergency clause included. If Nebraskans did not have a DMV or a highway safety office that worked well, if these offices were mired in turmoil, poor management, and lacked leadership and direction of purpose, we could understand this proposal. After all, we've seen just such a scenario within other state agencies. Some are addressed, some are not. But in this case, you have just the opposite: a well-run shop, professional, competent staff--to the person, I might add. And so the why just does not seem to be evident. We would respectfully ask the committee to give more consideration to the issue, to hold the bill in committee, and to not move it forward. I appreciate your consideration. [LB219]

SENATOR FISCHER: Thank you very much. Are there questions? Senator Louden. [LB219]

SENATOR LOUDEN: Well, I asked Director Neth this, that if it's working pretty good, how come we're trying to fix it. So I guess I'll ask you. Why do you think we're trying to fix it then, if it's working pretty good? [LB219]

DIANE RIIBE: Senator, I don't know the answer. I would share it if I did know it. I know that you've seen really good people running really solid organizations come forward and give their best information. I am sure that that's what they have been requested to do. I don't know the answer. [LB219]

SENATOR LOUDEN: Okay, thank you. [LB219]

SENATOR FISCHER: Other questions? Senator Gay. [LB219]

SENATOR GAY: Thank you, Senator Fischer. When you, you do have a lot of experiences around the country, so do other...does this make sense, do other states do this then? Or has this been done elsewhere or? [LB219]

DIANE RIIBE: Again, Senator, I don't know that that...and again, this is a really recent proposal in terms of our knowledge of it, so it's not something I've done a lot of research on. It's puzzling is the best word that I can use. I just can't tell you strongly enough, at every moment and opportunities in conversations across this nation, Nebraska's Office of Highway Safety is seen as top-notch, if not "the" top-notch. And so it does make one ponder and say, pardon me, but egads, what are we fixing? So I don't know that complete answer because I haven't done that research. [LB219]

SENATOR GAY: So, as a follow up, do you find it, I mean, the two different departments were doing two different things, was that confusing for you? Obviously, you work with these people very closely. [LB219]

DIANE RIIBE: We work with both of those agencies, and we have not found that

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confusion to be...we've just not found the confusion. We work successfully with both of them. [LB219]

SENATOR GAY: Thank you. [LB219]

SENATOR FISCHER: Other questions? Ms. Riibe, when you say you've worked with both of the agencies, over how many years? [LB219]

DIANE RIIBE: Really the term of our existence and even when I was state chair and on the national board for MADD, so really the better part of two decades. Yeah. [LB219]

SENATOR FISCHER: Does that mean you've received grants from both? [LB219]

DIANE RIIBE: Like the State Patrol, we receive funding from both of those organizations, yes. [LB219]

SENATOR FISCHER: And I'm not real familiar with Project Extra Mile. Where does the funding come from? [LB219]

DIANE RIIBE: We have funding from the Nebraska Office of Highway Safety, the Department of Roads, a couple of county boards, the health department, and private donations. [LB219]

SENATOR FISCHER: And how long have you been in existence? [LB219]

DIANE RIIBE: We've been operating for just over 13 years. Just to give you a quick background, Nebraska was selected at that time as one of five demonstration sites in the country to attempt to replicate a successful effort on underage drinking prevention out of the D.C. area. We're the only one of those efforts that remain. [LB219]

SENATOR FISCHER: Do you work in conjunction with MADD in here in Nebraska then? [LB219]

DIANE RIIBE: We do. Yep. Um-hum. [LB219]

SENATOR FISCHER: Do you know what part of your budget comes from the grants from either of these or both of these departments? What total? [LB219]

DIANE RIIBE: Absolutely. The bulk of our budget comes from those two grants at this point, yeah. And we have, just for your information, Senator, we have coalitions and efforts across the state that that funds, so not just locally in Omaha. [LB219]

SENATOR FISCHER: Thank you. Senator Gay. [LB219]

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SENATOR GAY: Thank you, Senator Fischer. Looking in the past, it sounds like it's been pretty remarkable what they've been doing and the results speak for themselves. But I guess looking into the future, some companies and governments are trying to reorganize ourselves to, how can we be better in the future, in your view, one agency applying for these grants, and maybe it could be more cutting-edge with one agency instead of two? And even though they're working together well now, and it sounds like they have been for some time, you know, could this...I could see where maybe if you don't have any fighting going on, that it could be better in the future--do you see any benefit to this in the future though when we're applying for, probably it's going to get harder to get grants in the future. [LB219]

DIANE RIIBE: Well, I will tell you and those who know me, Senator, know that that really has never been our motivation. We take very seriously the need to be frugal with public dollars. My staff can tell you that. We found no difficulty working with both of them as we applied for any of those grant dollars. We found a very cooperative conversation that went back and forth between both of those agencies. In fact, all of those, we're very blessed in Nebraska. So we didn't see those kinds of issues at all. [LB219]

SENATOR FISCHER: Other questions? I see none. Thank you very much for being here today. Other opponents to the bill? Good afternoon. [LB219]

DOUG EVANS: Good afternoon. I don't have anything to hand out either. I found out about this fairly recently and just scribbled some notes to myself. So I wouldn't be too stupid up here. My name is Doug Evans, D-o-u-g E-v-a-n-s. I am from Lincoln, Nebraska. And I'm appearing just, again, as a taxpayer, for myself. And I guess, first of all, I would apologize to Senator Flood even though he's not here, because normally I would call him up and find out about this more before I would come in. But as I said, this is kind of a last-minute thing, so I wasn't able to. Formal education runs strong in my family with the exception of my grandfather who was a day laborer from Battle Creek, Nebraska up in Senator Flood's country. And nonetheless, he was wise. And he said the same kind of thing that you said. One of the things he taught us was if it ain't broke, don't fix it. And I would urge the committee to apply that same common sense to this situation. For the last 30-plus years, I've been a senior partner at Research Associates, which is a consulting firm that has worked with various state agencies and the Unicameral, partnering with them and actively supporting our state government. Doing stuff like single projects. We aren't like Diane where you do something over time. So sometimes we've done things like we worked with Senator Hastings when they did Amendment 2 to create, to help create the appellate court system. Or the last time you guys got a raise, we helped with that with Senator Bill Barrett, at the time, who was the speaker. So we do one of a kinds of things. And for years previous to that, 34 years I've been with Research Associates. But for several years previous to that, I worked at a thing called Edge Tech which was a government think tank established by Nebraska's

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long-time U.S. Senator Carl Curtis who also believed that the government that governs least, governs best. Or don't fix it if it ain't broke. Now in both of these jobs, I've had the opportunity to work around the country and look at a variety of state governments and their various departments. I worked with most of the state departments in this state. I've worked with the road departments from California to New York, across the United States. And I've got to tell you that the one that I consider to be without a doubt, one of the best in the country, if not the best, as Diane said, is Nebraska's Highway Safety Office under the direction of Fred Zwonechek. And I'm not alone. Others in the country who are in a position to make comparisons among state government entities also understand the remarkable nature of the work being done by that department and consider it to be a star. It is considered in the United States to be, if not the best, certainly one of the best. But a lot of people think it's the number one in the state, and the one to emulate. Well, there are many good things about Nebraska and even about Nebraska government. We don't have enough stars. It would be good to keep this one in place. Not only is it not broken, it's working way beyond expectation as it is. Let's not risk making it mediocre. Please agree with me that Nebraska Highway Safety should be left just where it is, doing what it's been doing for Nebraska, keeping us all safer and making us look good at the same time. Now to answer one of the other questions that you asked Diane. The first time I came in contact with this organization was, I was trying to think back, it was either 35 or 36 years ago, which is, I think, older than Senator Flood is and that's scary. But it was...it was a project to, um, to look at drinking and drivers. And was designed in cooperation--it was when I was at Edge Tech--and it was designed in cooperation with this department. And it wound up being a model around the United States. Almost everything we've touched with these guys has wound up being a model around the United States. They're that good. There are very few things in Nebraska where we can go around saying we're world class, we're that good. Our volleyball team--hopefully our Nebraska football team eventually. But this is one of those things that is that good. And so I would ask you to not mess with it because it's been my experience that sometimes when you're messing with something, it gets screwed up. And I don't want to see this get screwed up. [LB219]

SENATOR FISCHER: Thank you, Mr. Evans. Are there questions? I see none. Thank you very much. Are there other opponents to the bill? Any opponents? Anyone wishing to testify in the neutral capacity? I see none. Senator Flood did waive closing, so with that, we will close the hearing on LB219. (See also Exhibits 3 and 15). And I will open the hearing on LB331. Good afternoon, Mr. Vaughan. [LB219 LB331]

DUSTY VAUGHAN: Good afternoon, again, Senator Fischer and members of the Transportation and Telecommunications Committee. For the record, my name is Dustin Vaughan, spelled V-a-u-g-h-a-n, and I am the legal counsel for the committee. This is a Transportation and Telecommunications Committee bill. LB331 is a comprehensive DMV bill that accomplishes several things. One is to update the reference dates to federal rules and regulations contained in the motor vehicle statutes. This is similar to

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what we heard with LB48. The bill strikes references to the Single State Registration System, also known as SSRS, an obsolete program, and updates them with the Unified Carrier Registration plan or UCR. UCR is a base state system administered by federal and state governments and by the motor carrier industry for the collection of fees levied on motor carriers and related entities. The bill repeals the SSRS statutes outright. Trailers, semitrailers or cabin trailers are authorized to obtain Gold Star license plates under the bill. This does not include commercial motor vehicles. The bill also allows any number of a person's vehicles to display Gold Star plates. The bill clarifies the process for transferring or refunding the registration fees and taxes on a commercial motor vehicle that is registered through the International Registration Plan so that they are uniform with vehicles registered at the county level. Credits and refunds are now computed from the date of the event that triggers the reason for the apportioned vehicle owner's eligibility. The bill delays the implementation date for driver license central issuance from April 1, 2009 to August 1, 2009. Central issuance was passed by the Legislature through LB911 last session. DMV has indicated that they will need several extra months to insure that the process runs smoothly when central issuance is implemented. The bill also authorizes undercover driver's license for the Insurance Fraud Prevention division of the Department of Insurance for investigative purposes. With that, I will conclude my testimony and answer any questions that the committee has. [LB331]

SENATOR FISCHER: Thank you, Mr. Vaughan. Are there questions? I see none, thank you very much. First proponent for the bill please. Welcome again, Director Neth. And we'll see you again next week, too, won't we? [LB331]

BEVERLY NETH: (Exhibit 7) Thank you, Chairwoman Fischer. I think we will have a busy week again, yes. Good afternoon, Chairwoman Fischer, members of the committee, I am Beverly Neth, B-e-v-e-r-l-y N-e-t-h, director of the Department of Motor Vehicles. I am appearing today to offer testimony in support of LB331. I do want to thank you, Senator Fischer, and the committee, for sponsoring this bill on behalf of the department. This bill, as legal counsel has informed you, is kind of an annual reference date update bill that we do. We try to bring our state programs in line with the most recent federal adoption of federal rules so that is the overarching purpose behind this bill. We have also incorporated some cleanup information into this bill. Mr. Vaughan did cover quite a bit of my testimony, so I'm not going to read it all. I'm just going to try to pick out some points and go through it for you, even though I've given it to you to read. I'm not afraid, I guess, to distribute it. LB331 does adopt the most recent version of the International Registration Plan or IRP. Just a little background on that program because it is an important program that we have here in Nebraska. And it represents a large industry that is very important to commerce. Nebraska has been a member of IRP since, as a jurisdictional member, since 1975. Membership in IRP allows trucking companies in Nebraska to pay registration fees in Nebraska for all jurisdiction through which a company operates. We distribute the collected registration fees to other

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jurisdictions based upon a pro rata share of mileage that the carrier travels in each jurisdiction. This bill will allow Nebraska to follow IRP agreement changes through July 1, 2009. Thank you. Throughout LB331 you will see amendments that have removed a number of obsolete references in Nebraska statutes to deal with...that dealt with the Single State Registration System. That system was repealed and replaced with the Uniform Carrier Plan. So we're trying to just clean up those statutes. And we also have some commercial driver license updates, and as you heard me say yesterday in testimony, those are important to adopt to remain in compliance with the FMCSA programs and to ensure that we continue to get Federal Motor Carrier Safety Assistance program funds as well as federal highway funds. We also have some updating to do in the area of occupant protection systems, the seat belt area, to adopt the most current published rules of January 1, 2009. This doesn't represent any substantive changes in the area of seat belts, it's just the date update. We are also, this year, updating the handicap...the federal regs that govern handicapped parking tags. We have never done that one in the past. And I'm sorry that Senator Loudon isn't here. The Gold Star license plate...we are making some cleanup to that program. That bill was adopted last year. And as we came to the end of the session, we were kind of trying to get that through, we knew there were some problems, and we had discussed these cleanups with Senator Loudon, and he knew we would be bringing them in this...in kind of our annual cleanup bill. So we're just trying to make that program consistent with the other specialty type plates that we have in Nebraska. We are attempting to amend a section of the IRP statutes that do govern the credits and refunds of registration fees. And I explain in my statute what those are. Basically what we want to do is to bring that list of refund transactions, events, as it relates to motor carriers in line with how we refund for all other vehicles in the state of Nebraska. I do know that Larry Johnson is here on behalf of Nebraska Trucking Association, a group that we were very closely working with and have a very good working relationship. He, I think, is going to offer an amendment. I think he'll tell you that he got that...he got that over to us very late this morning, so we haven't had a chance to look at it, and I would respectfully request that the committee give us some opportunity to look at that and review it as it relates to what we're trying to amend in this law. As was also mentioned, we're doing the undercover license and opening that up for the Department of Insurance. And I believe the Director of Insurance did present a...did provide a letter to the committee. As for the LB911 implementation date, this is the first time since I've been the director that we've ever missed a date of implementation of any program that we've put in place. Usually we're ahead of schedule. For this particular program, it took us longer to draft the functional specifications document than we thought it would, quite honestly. The functional specs document is a document that really governs how you build a program, how you program a system. From our perspective, we wanted to do that right because you only get really one bite at that, and that governs everything. The delay to August 1 is the absolute outside date. Internally, we're looking more at a mid-June date. But we want to give a little leeway in case things slide one more time. There is an advantage to us delaying it until a later date, in relationship to where are our

cards are going to be produced. Our vendor is going to bring a new state-of-the-art facility on-line in June of this year. That facility will be in Atlanta, Georgia. We can begin production of our cards in that facility. Production in that facility will give us the opportunity to potentially incorporate the most sophisticated security devices into our card that we can give, so we can take advantage of those. So there is somewhat of a benefit in the delay as well. As well as, when we roll the system out, we want to make sure it's been programmed correctly, tested, and had...full training and everything has taken effect with that. That particular section does have an emergency clause to it that could go into effect as of August 1. And lastly, there are some references in this bill to date cleanups that pertain to the Nebraska State Patrol, and I know there is a representative of State Patrol here who will address those. So with that, I will attempt to answer any questions you might have. [LB331]

SENATOR FISCHER: Thank you, Director Neth. Are there questions? I see none. Thank you very much. Other proponents please. Good afternoon. [LB331]

GERALD KROLIKOWSKI: (Exhibit 9) Good afternoon. Senator Fischer and members of the Transportation and Telecommunications Committee, my name is Captain Jerry, Gerald Krolikowski, G-e-r-a-l-d K-r-o-l-i-k-o-w-s-k-i, and I am here today on behalf of the Nebraska State Patrol to testify in support of LB331. When the United States Congress passed the Motor Carrier Safety Act, emphasis was placed on the states' adopting uniform safety measures with the ultimate goal of a reduction in the number of commercial motor vehicle accidents. In order for the State of Nebraska to remain consistent and compliant with these federal requirements, it is necessary to update our commercial vehicle safety regulations annually. This legislation will enable the Nebraska State Patrol to continue enforcing updated Federal Motor Carrier Safety Regulations and the Federal Hazardous Materials Regulations. On page 32, line 10, section 15 adopts 75-363, Federal Motor Carrier Safety Regulations, and on page 36, line 22, section 16 adopts 75-364, which is the Federal Hazardous Material Regulations which were in effect January 1, 2009. Every day our troopers strive to make our highways safe. In FY 2008, the Nebraska State Patrol conducted 39,947 roadside inspections; 8.7 percent of those drivers inspected were placed out of service. Of the 12,048 vehicles inspected, an average of 2.8 violations per vehicle was discovered, with 36.5 percent of the vehicles being placed out of service. The roadside inspection program has enabled the state to establish a strong enforcement presence on our highways and has created a significant deterrent effect. Along with our enforcement efforts, public education is a valuable tool the agency uses to improve highway safety. In FY 2008 the Carrier Enforcement Division of the State Patrol conducted 83 public education seminars and four town hall meetings across the state directed at commercial motor vehicle owners and operators. A total of 5,043 people attended these seminars and town hall meetings. During the calendar year of 2007, Nebraska experienced 42 fatality crashes involving trucks and two fatalities involving buses. This is a dramatic reduction from the 115 fatality crashes in 1989 when we began enforcing these Safety and Hazardous Material

regulations. Our success is built on the principle of uniformity in the safety inspection program. Enforcement of these safety measures by the Nebraska State Patrol increases the likelihood of vehicle defects, commercial driver deficiencies, and unsafe motor carrier practices being detected and corrected. Typically, we provide handouts summarizing the latest Federal Motor Carrier Safety and Hazardous Material Regulations that are being adopted through this update. However, we are not aware of any changes to these regulations in calendar year 2008. I want to thank you for the opportunity to testify on behalf of this bill, and I will be happy to answer any questions you may have. [LB331]

SENATOR FISCHER: Thank you, Captain. Are there questions? Senator Stuthman. [LB331]

SENATOR STUTHMAN: Thank you, Senator Fischer. Captain, I've been approached by a volunteer fire department, and they have stated that there's a federal safety regulation that's come down from the federal government that volunteers on the fire department, if they respond to a car fire along the road or something like that, that they are required to wear these safety vests above their, you know, 40 pound uniform. And you know, the uniforms have all the stripes on it already and all the reflectors and everything like that. And you know, with the size of these vests...these uniform coats that they have, and I'm a volunteer fireman, they're going to have to make these vests, you know, triple X large just to get on there. The thing that concerned them was that when they're on a fire responding, and if they have to have that vest on, why doesn't the State Patrol have to have a vest on, too? [LB331]

GERALD KROLIKOWSKI: We do, in certain situations as well. Yes. [LB331]

SENATOR STUTHMAN: In certain situations. [LB331]

GERALD KROLIKOWSKI: Yes. It depends upon what you're doing, but every traffic stop where we're out there just a minimum amount of time, we don't have to fall underneath those regulations. But otherwise if we're directing traffic or out there on an accident, we had to purchase the same type of ANSI compliant material, and our personnel are required to wear them as well. [LB331]

SENATOR STUTHMAN: So you feel that it should be required of the fire department? [LB331]

GERALD KROLIKOWSKI: It's not my call to make. It was a national...it's, yeah, OSHA or ANSI requirements, yes. And it's, I think it's been in the working, Senator, for many years. It's just a matter of everybody putting it off, and now it's here and it's costly, but it applies across the board. [LB331]

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SENATOR STUTHMAN: Yes. Okay, thank you. I wanted to get some information on that so I can respond to them, so. [LB331]

GERALD KROLIKOWSKI: I'm sure somebody could do a better job, but to my knowledge that's what it is. [LB331]

SENATOR STUTHMAN: Okay, thank you. [LB331]

SENATOR FISCHER: Other questions? Senator Hadley. [LB331]

SENATOR HADLEY: Thank you, Senator Fischer. Captain, since I'm kind of new to this type of thing, when you talk about almost 40,000 roadside inspections, are those the kinds of inspections when I see the signs on the highway that, you know, inspection ahead for trucks? I mean, are these inspections where you actually go out and pull over every truck or are these done at weigh stations or are they done when you ticket, pull them over for some other type of violation? I guess, what triggers an inspection? [LB331]

GERALD KROLIKOWSKI: Well, in Nebraska, we have several different levels of inspections: one through six. Well, actually there's seven now. But we really don't use that. On a national level, there's seven, but we use six. Level one is a full-blown inspection where we inspect every safety component on a vehicle: brakes, suspension, tires, safe loading, fuel systems, and to also include the driver. Level two is a walk-around: inspecting all that equipment that you can see as walking around rather than crawling underneath as well, and it includes the driver. Level three is driver only, their qualifications, hours, records of duty, hours of service. And then we have internal inspections on motor coaches and so forth. Our people, these inspections are done both at the static weigh stations and roadside by our portable operators. And also some of our traffic troopers as well when they stop a semi for speeding or a moving violation they'll typically do a level three inspection. So does that answer your question? [LB331]

SENATOR HADLEY: Okay. Yeah, it's interesting that we spend a lot of time, 40,000 for roadside inspections but you pull over a car and if you were to look and see that they had absolutely bald tires on a car, you might say something to them, but that's the extent that we could do, right? [LB331]

GERALD KROLIKOWSKI: Correct. There are some statutes in there that requires tire tread depth, but it's certainly not regulated like the commercial industry. [LB331]

SENATOR FISCHER: (Exhibit 8) Other questions? I see none. Thank you very much, Captain. Other proponents please. Are there any other proponents? I do have a letter in support of the bill from Ann Frohman, the director of insurance, Nebraska Department of Insurance. And we will enter that into the record. Are there opponents to the bill? Any

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opponents? Anyone here to testify in the neutral capacity? I thought maybe you were just visiting today. We'll see what you have to say. Welcome. [LB331]

LARRY JOHNSON: (Exhibit 10) Good afternoon, Senator Fischer and members of the Transportation Committee. My name is Larry Johnson, L-a-r-r-y J-o-h-n-s-o-n. And I'm the president of the Nebraska Trucking Association representing the trucking industry in Nebraska. As I mentioned, unofficially, normally, we would have been a proponent of this entire bill, had it not been for one small paragraph that pertains to the bill clarifying the process of transferring registration fees or obtaining a refund on a commercial motor vehicle registration. In my last-minute legislative committee meeting this morning that got over about 12:05, they had offered amended language that you all see that I handed out. And again, I apologize for the scratch-outs, but the copy didn't come through as well as it should have. To kind of capsulize that paragraph, our concern is that as much as we're proponents of making government more understandable and consistent across the county to the state plating and licensing, we feel that there is a difference between a commercial motor vehicle on the state versus the county level. And it has to do with the amount of time that a truck coming off of lease or being traded in by a large fleet has. And so when you turn that truck in, you take it out of service. It's no longer out for hire or on the highways, but it could take up to two months for the dealer or the truck manufacturer to come in, inspect that vehicle, and then be able to transfer ownership. We'd like to just add that, if possible, and again, we did not get this language over to Director Neth and her staff until about 12:15. So if we could just ask to have a little bit more time to visit with them on that issue, I'm sure that we can come up with a clarification one way or the other, either helping us better understand why or possibly explaining our side a little bit better. [LB331]

SENATOR FISCHER: Thank you, Mr. Johnson. Are there questions? Thank you very much. I appreciate you being here today. [LB331]

LARRY JOHNSON: Thank you. [LB331]

SENATOR FISCHER: Anyone else wishing to testify in the neutral capacity? I see none. With that, I will close the hearing on LB331, and I will open the hearing on LB28. I see Senator Pahls is here to introduce this bill. Good afternoon. [LB331 LB28]

SENATOR PAHLS: (Exhibit 11) Good afternoon, Senator Fischer and members of the committee. I am having the page hand out one sheet of paper, both sides, I think that will really explain the essence of this bill because it is basically relatively simple. This bill, LB28, would allow federal law enforcement agencies to use undercover license plates and undercover drivers licenses. We currently allow undercover plates for state, county, city, village, law enforcement agencies, in addition to certain enforcement officers in the Games and Parks Commission, the Brand Committee, the State Fire Marshal, the Department of Revenue, Department of Agriculture for special

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investigation and Department of Insurance Fraud. What we are asking you today is, is to allow federal agencies, and you can see on side A and side B, the ones that I already...that I mentioned that are already allowed and on side B, are the ones that we are asking these undercover license plates and licenses to be utilized by those agencies. The application is made to our Department of Motor Vehicles and any agency that utilizes this tool, they do pay the fees only required for plates and licenses. And of course, the records at the DMV are kept confidential. I think logic tells you why we may need such...this tool because of they do investigate fraud, extortion, drug dealers, terrorists, arrest fugitives, gun runners, sexual predators, they even deal with immigration issues. It is my understanding a number of states have already...they allow this and I do know for sure Iowa and Missouri do that. That basically is my opening testimony. But I'm asking you to take a look at A and B and you can see the distinct differences. [LB28]

SENATOR FISCHER: Thank you, Senator Pahls. Are there questions? Senator Hadley. [LB28]

SENATOR HADLEY: Thank you, Senator Fischer. Senator Pahls, just a quick question, when you list agencies you always run the risk of forgetting one. Would there be any value to adding a 13th at the discretion of the...some governmental agency, some state agency in a special situation? That one could be...I just think, for example, that you have the Air Force Office of Special Investigation. Well, I know the Army has an Office of Special Investigation, the Air...the Navy has an Office of Special investigation. [LB28]

SENATOR PAHLS: I do think we have to be careful that we do not make it too open-ended because then people will be able to get a little bit of suspect thinking, oh this is like the patriotic act, you know what I mean, where...maybe that question could be asked of one of the individuals who really works in this area that's following me, they may be able to say, yeah, right, maybe we could do that. [LB28]

SENATOR HADLEY: Okay, okay, okay. [LB28]

SENATOR FISCHER: Other questions? Senator Louden. [LB28]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well, welcome, Senator Pahls, to Transportation anyway. When you...as I look at the bill you just slipped a new wording in there, is federal. Is that correct? I mean that's all the changes in the whole statute is you just add federal to state, county, city, or village. [LB28]

SENATOR PAHLS: Yes, yes, but we wanted to make the distinction though, that if you take a look at that on side B. And I don't know, to be honest with you, if federal would be in some of those I have to be perfectly honest with you. [LB28]

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SENATOR LOUDEN: But I mean this piece of paper you have here, this was just...examples is all these are, isn't it? [LB28]

SENATOR PAHLS: Well I, it's my... [LB28]

SENATOR LOUDEN: Or did you intend to have these entered into the statute that these were the ones that would...could receive these plates? [LB28]

SENATOR PAHLS: Yeah, yeah. Well, that is my understanding, you know. [LB28]

SENATOR LOUDEN: That you would want to do these? [LB28]

SENATOR PAHLS: Yes. [LB28]

SENATOR LOUDEN: Okay. Now I guess then when you start naming those, I can understand the FBI but why the IRS and the Postal Inspection Service? Why would they need undercover plates? [LB28]

SENATOR PAHLS: Well, I think the Internal Revenue Service, I think there is the chance for fraud. I'm assuming... [LB28]

SENATOR LOUDEN: Yeah, but they don't...doesn't matter what kind of car they are driving into town with. I mean, when they get there it's all run through your bank accounts and all, your paperwork. [LB28]

SENATOR PAHLS: To be honest with you, you're asking me questions that I don't have the answers to, and I'm hoping that someone following me would be...more in-depth knowledge on that I would be honest with you. [LB28]

SENATOR LOUDEN: Did someone ask you to bring this bill forward for you? [LB28]

SENATOR PAHLS: Yes, and they will be here speaking. [LB28]

SENATOR LOUDEN: Okay, thank you. [LB28]

SENATOR FISCHER: Other questions? I see some people in the audience that look like they are federal agents to me, so would you prefer that we wait and ask questions of the people that are following you? [LB28]

SENATOR PAHLS: Yes. Right, because I heard their testimony last year and it was very clear and clean. I think you will be very comfortable after you listen to them. [LB28]

SENATOR FISCHER: Okay. Thank you, Senator Pahls. Are there proponents for the

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bill? We'll see who's in charge, who comes up first, right. Good afternoon and welcome. [LB28]

JIM LANGENBERG: (Exhibit 12) Good afternoon, Senator, members of the committee. My name is Jim Langenberg, J-i-m L-a-n-g-e-n-b-e-r-g, and I am the Assistant Special Agent in Charge for the Omaha Division of the FBI. As such, I am responsible for counterterrorism and counterintelligence investigations conducted by the FBI in both Iowa and Nebraska. I would like to thank the committee for allowing me to speak on behalf of the FBI concerning LB28, introduced by Senator Pahls. The FBI believes that passage of LB28 would significantly enhance the FBI's ability to conduct proactive investigations across all program areas to include terrorism, public corruption, and drug investigations. The FBI currently has approximately 50 agents working throughout the state of Nebraska. Of those, approximately 50 percent could utilize undercover drivers licenses. Furthermore, the ability of the FBI to register its vehicles utilizing undercover registrations would greatly enhance the safety of its employees. Should this bill pass, the FBI would register all of its vehicles covertly. Allow me to cite two examples of how this bill would benefit law enforcement. First, the FBI's Gang Task Force identified an out-of-state cocaine trafficker using a hotel in Omaha to cook kilogram quantities of crack cocaine for subsequent distribution in north Omaha. The traffickers selected a hotel where they could rely on a dirty hotel employee to detect law enforcement. The FBI could not get a room at that hotel because the agents would have had to utilize their true name identifications. The use of an undercover ID would have enabled the FBI to obtain a room in the vicinity of the bad guys' room, in order to closely monitor the illegal activity. Second, the FBI's number one criminal priority is the investigation and subsequent prosecution of corrupt public officials. These investigations frequently involve allegations of corrupt law enforcement officers. Should the target of one of these investigations become suspicious, they could easily run the tag of a vehicle and, without an undercover license plate, determine that the vehicle is registered to the FBI. Throughout my Bureau experience, I have been involved in numerous investigations where the subject was unable to obtain registration information concerning our vehicles. Since those vehicles were registered covertly, the investigations were not compromised. In summary, the FBI strongly supports the passage of LB28 for the reasons I delineated above, agent safety, and the ability to enhance our investigations. Again, thank you for your time. [LB28]

SENATOR FISCHER: Thank you, Agent. We're dealing with not just undercover license plates but also undercover IDs, drivers licenses, correct? [LB28]

JIM LANGENBERG: Yes, correct. [LB28]

SENATOR FISCHER: What do federal agents do in other states, what does the FBI do in other states when you're talking about registering 50 covert people here in Nebraska? [LB28]

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JIM LANGENBERG: I can speak on behalf...due to the FBI's Omaha Division covering Iowa, I also supervise people over in that territory. Iowa permits the use of undercover licenses as well as undercover license plates. That way, in Iowa, it's more expeditious, efficient, increases safety for those agents in Iowa being able to either if you're using an undercover license to rent a hotel for surveillance purposes or just using the undercover license plates for surveillance purposes in a vicinity they can get much closer to the subject and build a stronger case. [LB28]

SENATOR FISCHER: Do most states permit this? [LB28]

JIM LANGENBERG: I don't have the exact numbers. I have personally worked in New Mexico as well as Iowa and Nebraska, and New Mexico and Iowa do permit undercover licenses as well as license plates. [LB28]

SENATOR FISCHER: If an agent was going to rent a motel room, they would use their personal ID if they don't have this undercover ID? Is that correct? [LB28]

JIM LANGENBERG: That is correct. [LB28]

SENATOR FISCHER: They wouldn't necessarily use an FBI identification badge or anything. You could pull out your driver's license. If you live in Nebraska, pull out your driver's license from Nebraska. [LB28]

JIM LANGENBERG: Both would be in true name, your driver's license and your credentials would be in true name. [LB28]

SENATOR FISCHER: But you don't know what other states necessarily do on this? [LB28]

JIM LANGENBERG: Well, if you're asking as far as Iowa with the undercover... [LB28]

SENATOR FISCHER: No, just a total number of states that would allow this. [LB28]

JIM LANGENBERG: I do not know. [LB28]

SENATOR FISCHER: In looking at the list that Senator Pahls gave us, did you happen to get a copy of that? [LB28]

JIM LANGENBERG: I do not have a copy. [LB28]

SENATOR FISCHER: This is...would this allow for any federal agency that has investigative powers to be able to obtain federal license plates, or undercover license

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plates and undercover drivers licenses here in Nebraska? Any federal agency that does investigative work? [LB28]

JIM LANGENBERG: I can speak on behalf of the FBI, it would affect us. I don't have the list that he provided so I am not sure how expansive it is. [LB28]

SENATOR FISCHER: It was like Fish and Wildlife Service, Food and Drug Administration, well the Postal Inspection. I mean, I can see where some of these, well, you could make the case that all of them deal with national security in one way or another, but I am...the way I read the bill, it's not necessarily a limited number of agencies that are involved in this. It would be any federal agency? Or would it be any federal agency with investigative powers? [LB28]

JIM LANGENBERG: I'm not the sponsor of the bill, I'm just a proponent of the bill, so I would support the language to include federal, which would include the FBI. I cannot speak on behalf of Senator Pahls on how many other federal agencies he wishes to include. However, with the crux of our backing of this bill, it's for safety of the agent as well as safety of citizens. And I believe that would probably be constrained as exactly what you said, those...federal agencies that would involve investigative powers. [LB28]

SENATOR FISCHER: Exactly, and I certainly would want to see any law enforcement personnel protected. [LB28]

JIM LANGENBERG: Appreciate that. [LB28]

SENATOR FISCHER: Other questions? Senator Hadley. [LB28]

SENATOR HADLEY: Senator Fischer. Just a quick question, a procedural question, like in Iowa, do you go to the Department of Motor Vehicles and say, we need a license plate for a 2006 Chevy Impala? [LB28]

JIM LANGENBERG: Yes, Senator. What we do is we have a point of contact at the Department of Motor Vehicles that we deal directly with, and they are aware of our existence and our request and that's kept confidential. [LB28]

SENATOR HADLEY: And there would be the security... [LB28]

JIM LANGENBERG: Exactly. Yes there is. [LB28]

SENATOR HADLEY: ...is there so you don't... [LB28]

JIM LANGENBERG: We don't go in just like a normal citizen would go in and apply for a...we have a point of contact we deal directly with. [LB28]

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SENATOR FISCHER: Other questions? Senator Stuthman. [LB28]

SENATOR STUTHMAN: Thank you, Senator Fischer. When you're talking about these occasions when you have to go to a motel or hotel to investigate a buying station, I would call it, how often does this occur? Weekly? Monthly or... [LB28]

JIM LANGENBERG: It could occur weekly or monthly, it really depends on the pace of a drug investigation, quantities of drugs and how, you know, as soon as we, I guess, identify...we try to identify as many people involved in a drug investigation before essentially going after, you know, once we find out and once buys are done. We do allow these investigations to run their course so we can identify as many people as possible so we can prosecute as many people as possible. So... [LB28]

SENATOR STUTHMAN: And you may go to that same motel on a weekly basis on the buy deal and everything like that, also, right? [LB28]

JIM LANGENBERG: We try to use different locations. We try not to repeat ourselves in the same location just for our safety and the safety of either sources we are meeting with and/or whether drug deals are occurring. It's more or less just a method that we use to try to spread ourselves out and not become...we don't want to saturate a particular neighborhood with our presence, so we do more around. [LB28]

SENATOR STUTHMAN: Would you say it occurs in a lot of communities in the state of Nebraska or just in some of the larger communities? I'm from the Columbus area and I know we have an officer there that does investigations and stuff like that. [LB28]

JIM LANGENBERG: Right. [LB28]

SENATOR STUTHMAN: And there's been buys at motels and stuff like that. [LB28]

JIM LANGENBERG: Absolutely. Drug investigations run the gamut across Nebraska. We have agents not only in Omaha but also Lincoln, Grand Island, North Platte, and their responsibility is to cover the entire state. So, the drug issue is not just located in Omaha, it is in other smaller communities as well. [LB28]

SENATOR STUTHMAN: Okay, thank you. [LB28]

JIM LANGENBERG: You're welcome. Thank you. [LB28]

SENATOR FISCHER: Other questions? I see none. Thank you, Agent. [LB28]

JIM LANGENBERG: Thank you for your time, Senator. [LB28]

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SENATOR FISCHER: Other proponents? Are there other proponents for the bill? Good afternoon. [LB28]

THOMAS HARDING: (Exhibit 13) Good afternoon, Senator Fischer, members of the committee. My name is Thomas Harding, and I thank you for the opportunity to come before you today to speak on behalf of the U.S. Postal Inspection Service in support LB28. I am the supervisory agent of the Postal Inspection Service in the state of Nebraska. Postal Inspection Service is a federal law enforcement agency charged with the investigation of over 200 federal statutes dealing with the U.S. mail, postal property, and postal employees. Locally, agents of the Postal Inspection Service investigate crimes committed against the citizens of Nebraska in areas such as mail theft, identity theft, fraud, and dangerous articles transported through the mail. During the course of our investigations it's often necessary for postal inspectors to conduct undercover operations and surveillances in an effort to apprehend criminals throughout our jurisdiction. With emerging technology, we are finding the sophistication levels of these criminals is growing to the point where criminals are conducting surveillance and countersurveillance of their own in order to avoid detection and capture. Various Internet search engines and pay sites have been found to contain information which would allow criminals to gain the identity of law enforcement agency vehicles and personnel. By not enacting a means in which to safeguard the agent's identity through undercover license plates and identifications, the current licensing regulations place in jeopardy some of our more critical and sensitive investigations, not to mention the safety of the investigating agents. Passage of LB28 would put the state of Nebraska in line with the majority of the states within the U.S. which allow for undercover vehicle registration and licensing. Through the passage of LB28, the federal agencies investigating crimes within the state will have the advantage of an added level of security with which we can better protect the citizens of Nebraska. Thank you for your consideration of this legislation. [LB28]

SENATOR FISCHER: Thank you, Inspector. Are there questions? Senator Louden. [LB28]

SENATOR LOUDEN: Yeah, this is one of the questions I had. The Postal Inspection Service, how many agents do you have in Nebraska? [LB28]

THOMAS HARDING: For the state of Nebraska we have seven agents. [LB28]

SENATOR LOUDEN: Seven of you? Would each one of you, then, have to have a car with an undercover license plate on it, or how much surveillance do you do to require those type license plates? [LB28]

THOMAS HARDING: Each one of the agents within our office does conduct criminal

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investigations on a variety of different crimes. As I mentioned, there's 200 statutes ranging from child pornography to drugs, crimes involving the mail, burglary and robbery of postal facilities. We are the investigative agency that handles each of those. And each one of the agents within the office does have a need to conduct these types of investigations. [LB28]

SENATOR LOUDEN: And you do a lot of surveillance work, then, with the postal service? [LB28]

THOMAS HARDING: We do. [LB28]

SENATOR LOUDEN: When you would...would you need the drivers license also, or just license plates on cars? [LB28]

THOMAS HARDING: There are times when the need for undercover identities are required also. It's not as frequent or not as common as the undercover vehicle licenses. [LB28]

SENATOR LOUDEN: When you get into these surveillance type deals, do you usually include the FBI in some of your work or do you do it, do you wing it yourselves? [LB28]

THOMAS HARDING: We will commonly work with some of the other federal law enforcement agencies, but it's not frequent. Now we do work with local, state, and other federal agencies when we conduct our investigations, but the majority of our investigations are stand-alone investigations that involve the mails. [LB28]

SENATOR LOUDEN: Okay, one last question. What if...how much authority do you have when it comes to making arrests and that sort of thing? Does it have to be mostly with...has something to do with Postal Inspection or Postal Service or do you make arrests on other...can you make arrests on drugs if they are not being mailed through the...shipped through the mail? [LB28]

THOMAS HARDING: Right now our investigative jurisdiction and our powers of arrest require some connection to the mail, to postal facilities or to postal people. It's common for us to make arrests of individuals who assault or threaten our postal employees. [LB28]

SENATOR LOUDEN: It has to have something to do with the Postal Service? [LB28]

THOMAS HARDING: It does, it requires a nexus to the Postal Service in some way. [LB28]

SENATOR LOUDEN: Okay, thank you. [LB28]

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THOMAS HARDING: Yes, sir. [LB28]

SENATOR FISCHER: Other questions? Senator Hadley. [LB28]

SENATOR HADLEY: Just, I guess, Senator Fischer, more of a comment. It seems to me that logic tells me that we have side A, that we allow eleven state agencies to do it, why would we not allow federal agencies who are in the law enforcement business just as much as a sheriff or a police officer or someone else enforcing laws in the state of Nebraska? So logic would tell me that we ought to make this...so I commend what you do. [LB28]

THOMAS HARDING: If I could make a comment, Senator. There are a finite number of agents within the state, and while not every federal law enforcement agency is represented, I believe what we see represented here are the agencies that have agents assigned to the state of Nebraska. And I believe some of the following proponents will be able to speak more in detail on that. [LB28]

SENATOR FISCHER: Other questions? How many employees do you have in the state of Nebraska that you think would be requesting these? [LB28]

THOMAS HARDING: In my office? [LB28]

SENATOR FISCHER: Yes. [LB28]

THOMAS HARDING: We have seven agents and seven vehicles. [LB28]

SENATOR FISCHER: And do you know what other states do? [LB28]

THOMAS HARDING: It's my understanding that every state except Nebraska. [LB28]

SENATOR FISCHER: Thank you. Other questions? Thank you very much, Inspector, appreciate you coming today. [LB28]

THOMAS HARDING: Thank you. [LB28]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB28]

JOHN CLEVELAND: (Exhibit 14) Good afternoon, ladies and gentlemen. My name is John Cleveland, J-o-h-n C-l-e-v-e-l-a-n-d, and I am the acting United States Marshal for the district of Nebraska. Over 200 years ago, President George Washington appointed the first 13 U.S. Marshals. As the nation expanded westward in the 1800s, marshals were appointed in new states and territories, carrying with them the full law enforcement

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authority of the federal government. They represented the power of the federal courts, the Congress, and the President. That job remains much the same today. U.S. Marshals and their deputies serve the federal courts and protect judges and court officers, track down and arrest fugitives from justice, transport prisoners, manage hundreds of millions of dollars in assets seized from criminals, protect government witnesses, arrest sex offenders who fail to register in violation of the Adam Walsh Act, enforce the orders of the courts and of the President, and perform many other law enforcement tasks essential to the operation of the federal system of justice. I appear before you today asking for your support of LB28, a bill that would give federal law enforcement officers the same undercover capabilities as their counterparts on the local and state levels. Passage of this bill would not only enhance federal law enforcement officers safety, but would ultimately provide better protections to the public they work with on a daily basis. By way of example, United States Marshal Service of the District of Nebraska is currently in charge of the Metro Area Fugitive Task Force. This task force is made up of officers from city, county, state, and federal agencies. Their purpose is to track down and arrest wanted fugitives. Many times the task force relies on the cooperation and information provided to us by members of the public. Because we have not been afforded the use of undercover Nebraska license plates, we have had to seek license plates from other states like Iowa. You can imagine what happens when we drive into communities across the state of Nebraska with Iowa tags. Immediately our vehicles draw attention. That unwanted attention could jeopardize not only our officers, but members of the public who cooperate with us. I am simply asking that you give federal law enforcement officers the same protections that you have already given to our local and state counterparts. I appreciate the opportunity you have given me to appear before this committee and would be happy to answer any questions you have. [LB28]

SENATOR FISCHER: Thank you, Marshal. Other questions...any questions? I see none. Thank you very much. [LB28]

JOHN CLEVELAND: Thank you very much. [LB28]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB28]

DAVID SULLIVAN: Good afternoon. Senator, committee, I appreciate your time today on this issue that I consider to be very, very important. I'm Special Agent David Sullivan, S-u-l-l-i-v-a-n D-a-v-i-d, I'm with Homeland Security with Immigration and Customs Enforcement. I'm out of Omaha. We've got 12 agents in our office in Omaha, we've got 4 in Grand Island and an office of 3 in North Platte. We've got, I believe, eight in Sioux City which cover the northeastern portion of the state of Nebraska. I don't want to reiterate a lot of things that have been said, but there's two basic issues here, and that's effectiveness and security, safety of us. What we have done, which it sounds like every other federal agency who is trying to deal with this issue, is we've gone to Iowa. We've

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got two or three agents in our office that have undercover licenses from the state of Iowa, and everybody else has license plates from the state of Iowa (sic). In working in Omaha, it's not a huge issue, we're close enough to Iowa. The bad guys don't usually think it unusual that you have Iowa plated vehicles. We get out to this part of the state, it's a problem, and quite honestly, the tags that were issued from our vehicles are issued in numeric order. So you get five, six guys out in different vehicles and it's pretty obvious. It was also stated about the computer, the Internet. You can run registrations of vehicles. We simply can't use Nebraska license plates. We won't. We have enough areas that we can investigate if we think it's going to be a safety issue, we'll move on. And quite honestly, we are here to support the state in which we are located. We...with Homeland Security after the merger of Customs and Immigration, we do some investigative areas that are only unique to us, and we also augment a lot of the state officers and what they do. We do child pornography investigations, we do guns, we do gun trafficking, we do drugs as it is related to illegal aliens. And then we also do some strictly illegal alien investigations, and by not having this capability, it is only impeding our ability to support the local law enforcement and to prosecute the bad guys that live amongst the citizens of the community that are trying to do the right thing. I thank you for your time. I don't, like I said, I don't want to reiterate what's already been said, but it's pretty much how we feel at Immigration and Customs Enforcement. [LB28]

SENATOR FISCHER: Thank you, Agent Sullivan. Are there questions? Senator Stuthman. [LB28]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Sullivan, and this has just entered my mind. If we would have, you know, the undercover plate, you know, issued to you, would you change that on a regular basis or would you keep that plate for years? And would that be a situation where an individual, once someone finds out, you know, that that number, that plate is an undercover agent, you know, and this word spreads very fast, you know, amongst that group of people? [LB28]

DAVID SULLIVAN: You know, I believe that that's usually dictated by the state that issues the plate. Certainly if the state wanted to change plates at any frequency, we wouldn't be opposed to that. We'd be just happy to have them. I think with our Iowa plates, they get moved around. Guys among the office move them around because we have, like say we have numerous vehicles so that if you have been in an area conducting an investigation you don't see the same plate or the same vehicle in the area at the same time. So, yeah, I think there is some rotation, but again, that would probably be decided from the state. And you wouldn't see a lot of opposition from our agency, we'd just be very pleased to have them. [LB28]

SENATOR STUTHMAN: The situation that I was thinking of, you know, when we are issued a plate it is for five years, and if you get an undercover plate for five years, I'm sure by year two they are going to know who that plate belongs to. [LB28]

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DAVID SULLIVAN: Yeah, very likely. Very likely, sir. [LB28]

SENATOR STUTHMAN: Okay, thank you. [LB28]

SENATOR FISCHER: Other questions? I see none. Thank you, Agent, for being here. [LB28]

DAVID SULLIVAN: Thank you. [LB28]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB28]

JON EDWARDS: Good afternoon, Senators. My name is Jon Edwards, J-o-n E-d-w-a-r-d-s, and I'm with the Nebraska Association of County Officials. And I think you have clearly heard all of the necessary reasons for this bill. In examining the legislation we certainly don't see any apparent problems with it and therefore are just here to record our support for LB28. [LB28]

SENATOR FISCHER: Thank you, Mr. Edwards. Are there questions? I see none. Thank you very much. [LB28]

JON EDWARDS: Thanks. [LB28]

SENATOR FISCHER: Other proponents? Good afternoon. [LB28]

TIMOTHY KASUN: Good afternoon, Senator. My name is Tim Kasun, T-i-m K-a-s-u-n, I'm a special agent with the U.S. Treasury, IRS Criminal Investigation, and, however, I am here on behalf of FLEOA, Chapter 65, which stands for Federal Law Enforcement Officer Association. Chapter 65 would be Nebraska-Iowa. And this has been an issue that we have been dealing with for a long time. I don't know if you know the history of how this all came about? There was an audit done in 1996 by the, I think it was Kate Witek, the State Auditors Office, of the DMV. They ended up finding a bunch of undercover licenses and plates, and they didn't know who they belonged to. Well, it turned out, it belonged to state, local, and federal law enforcement agencies. At that time, I think they introduced, I think it was LB256, I could be wrong on the number, but anyhow, federal was actually included in that. Unfortunately there was some...for some reason or another, federal was taken out of it. And then we were assured by other people that we would be able to get the undercover plates and undercover drivers licenses so we could effectively do our job. That actually worked all the way up to 2000, because what happened there was another audit that was done, and I believe it was the Attorney General for the state of Nebraska that said we could, state and local agencies could basically adopt a federal agency. So, in other words, we could go through a state or local agency to be able to secure undercover plates and undercover licenses. But

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what happened was, the law changed and basically you had to show proof of insurance. Well, then one of the agencies, I don't know if it was a sheriff's office or if it was the State Patrol, but one of them ended up trying to sponsor us, and then DMV said, well, that's going to a federal vehicle. We can't allow that to happen. And then it kind of went and...there was kind of like a gray area for a couple of years, and eventually it turned out that we needed to be put into this bill in order for us to be able to secure the tools that we needed to be able to operate. So what happened, I believe in 19, excuse me, 2003 was the first bill that was introduced, and I think it was LB81, and...that may have been the second one. But anyhow, 2003 then 2005 and last year was LB1097 or LB1067...I apologize for that. But so anyhow it kind of got turned down. We went before the Judiciary Committee, and they were very receptive to it. Even one of the senators who is no longer here actually thought we had a better chance this year. So anyhow, that's why we're here. And I'm just going to give you two examples that I have personally been on. And one was an undercover operation that I actually was conducting. We ended up going into a place, the undercover agent had out-of-state drivers license and was actually from Missouri. Person was up, they go into the place, the bad guy requests identification, produce identification, the identification was out-of-state. He asked are you moving up here, what's going on? And the undercover agent said they were moving up with her sister and currently just staying with her sister. And I was in the car and there was another individual in the car, and we have different security on the perimeter in case something does go bad. But we started getting hinked up when the third time he asked, why are you up here, what is your address? And I remember the other agent going to me, he goes, man, this doesn't sound good. I said just wait, just wait, you know, they haven't said the word to be able to go in. Then all of a sudden they continued with the operation, and we didn't need to go in, they came out, boom, that was it. We kind of think the bad guy didn't do what we were hoping they would do, and we kind of figured that they were kind of hinked up with regards to the drivers license. So, that's one example why the drivers license is important. With regards to the plates, and I just like some of the other federal agencies were saying, when you do go out to certain areas and stuff, if they start seeing a lot of Iowa plates. You know, sometimes I ran Missouri plates, currently on my vehicle there are Iowa plates on it. I know my neighbors kind of know what I do because they always go, how can you have Iowa plates on a vehicle? So, and, we're not talking a ton of plates. We're talking from all federal agencies, maybe 200 plates that would be tracked. And with regards to undercover drivers licenses, we're looking at maybe 100 drivers licenses from the state of Nebraska. And there would be a point of contact, it's not like we just go in there and nobody knows. The DMV would know, and it would be done just like the state and local law enforcement. I thank you for your time. [LB28]

SENATOR FISCHER: Thank you, Agent Kasun. Any questions? Senator Hadley.
[LB28]

SENATOR HADLEY: Senator Fischer. Just a quick question. On the page that is in front

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of you there, on side B, you said you're kind of a representative for all the federal agencies. I guess the only concern I have is if we have one, I don't want to leave out an agency that... [LB28]

TIMOTHY KASUN: Yes. Right and I think one thing is, is a lot of people don't understand the way the federal government works. And this issue is probably a little bit more to my heart because I grew up in Elkhorn, so I'm from here. And to get in federal law enforcement you have to move. I was in Chicago eight years before I made it back here. So, but anyhow, the way it works is there is a classification called a GS-1811, and that's a special agent. That's FBI, Secret Service, DEA, ATF, ICE, Postal...well, Postal Inspectors, but it's the same classification. You are given federal authority to investigate, and everybody has different jurisdictions. The FBI has the broadest jurisdiction of all. Everybody else has different jurisdictions and stuff. I kind of agree with you that there are other agencies and stuff because these agencies...I'll give you an example. Like my agency, it says IRS. When people say...I never even knew this agency even existed when I graduate from UNO, and actually I couldn't even apply for it for the first couple of years because I didn't have the accounting, but all these agencies are basically separate from the main, like the IRS. We're actually IRS Criminal Investigation for the agency that I actually work for, and it is a direct line to the commissioner of the Internal Revenue Service. There is no connection between the civil side which people conduct audits and collect tax, and Criminal Investigation. Criminal Investigation is probably about maybe 3 percent of the IRS. And one reason, for example, you talk about smaller agencies, is we...the way it operates is...the reason we're in IRS, for example, is because we enforce...we're the only federal agency that can enforce criminal income tax. So if you ever hear of anybody being charged with Title 26, our agency is the only agency that can enforce that. However, ever since I have been hired, I've been doing my job since '91, there's always been a push to be able to take us out and put us in the main treasury. Because when Secret Service was attached to the Department of Treasury, I would get detailed to Secret Service, and I'd go on Secret Service assignment, and I would be a Secret Service Agent for three weeks on, three weeks off. Even in my capacity now, you have Jim from the FBI who actually spoke, and I'm actually assigned to the FBI on a part-time basis to the Joint Terrorism Task Force. So these smaller agencies are actually assigned to other agencies at times. But with regards to specifically like IRS, they also enforce Title 18, which is your money laundering statutes and basically that would be terrorists, that would be drug dealers, that would be Mafia, anything dealing with...when somebody receives illegal funds and they try to clean that money up, and that's where we get involved. The other thing would be is your Title 31, which would be your bank security fraud. And I think what happens is with some of the other agencies that are not as well known, people just assume that well, you know, they really aren't part of the enforcement activities. The training that usually happens, you have Quantico for the FBI and DEA, and then you have the Federal Law Enforcement Training Center, which is in Brunswick, Georgia, and there is something called the CI School, which stands for Criminal Investigator. However, that

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would be like the police, going to the police, the state police academy and every agent goes through it. It's just that what happens is all agencies have their specialty. So they'll go through the Law Enforcement Training Academy, and everybody goes together. You'll have people from all different agencies. Then what happens is, and that's about 12 weeks, 13 weeks. Then everybody goes to a secondary school. And mine was financial crimes, so basically I specialize in financial crimes for another 12, 13 weeks. [LB28]

SENATOR FISCHER: Other questions? Senator Louden. [LB28]

SENATOR LOUDEN: Yeah, you would be the one to ask on this. What about money now? Do we charge for those plates, or how do you handle that, or do they... [LB28]

TIMOTHY KASUN: Yeah, my understanding, and, you know, is...and that was another issue, too, is that actually since we have to get plates from Iowa, you know, we pay for the fees, we pay for everything. We don't have a problem paying the fees and paying whatever, you know, needs to be paid. We understand that, and we would actually pay you for... [LB28]

SENATOR LOUDEN: Okay, because, like in Nebraska you would have to get that little registration slip to go with your license plate because the first time you got stopped by a police officer and you didn't have that and had to explain it away, why there went...you blew your cover right there. [LB28]

TIMOTHY KASUN: Right, right, and the thing is, is we would, we would register the plates, you know, just like all the other, the state and the local agencies, and, you know, if we do have to pay we have to pay. I don't see that being a problem. [LB28]

SENATOR LOUDEN: Okay, now would they do like...when you mentioned that audit, then, I kind of remember something about that. There was a bunch of plates set aside for these different agencies to do that with, and if I remember correctly, part of the problem back then was that there was, I don't know if there were other agents, but there were other people taking those plates and using them and getting by without paying the fees back at that time. Now, I don't know where those plates were set aside and the fees weren't paid on them or what, but... [LB28]

TIMOTHY KASUN: Well, you know, and I agree with you, the fees need to be paid. And each agency should be accountable for that, and they should pay the fees. And if there are any fines or whatever, the agency refuses to do it, they should have to pay the fees. [LB28]

SENATOR LOUDEN: Okay, then you wouldn't be just...a set of how many would you say, 50 or 100 plates or something, set aside for just that. Then you would come and

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pick those plates up as was needed so that those plates would work out through the multitude of other plates so there wouldn't be any special numbers or anything. [LB28]

TIMOTHY KASUN: Well, actually the way we kind of imagined it, or I should say I imagined it, is it would work similar where every agency has a point of contact that actually deals with plates. At least, I know for our agency, and I am assuming the other federal agencies do too. So anyhow they have a point of contact to be able to receive the plates. And so, and then there would be the point of contact with the DMV. And so in other words, the DMV would know, you know, if the request came through, they would have to deal with this person. It's just that not any agent or any personnel could go down there and get...you know, the plates are undercover, drivers licenses, there would be basically... [LB28]

SENATOR LOUDEN: But my question was, then, when you bought the plates would you buy them in a bunch and perhaps, as one of the testifiers, said they showed up with concurrent numbers, or... [LB28]

TIMOTHY KASUN: Right, usually what happens, and I know we have roughly about seven people in our office, too, and what happens is, it depends when the plate is due and when the vehicle was purchased and when the plates expire. And so usually what happens, there will be like maybe three cars that we have that will need to be registered, for example, say in April. Well, they'd go, say okay, three plates, we're renewing these plates or we're purchasing, you know, getting these three plates registered. And then when the other plates came due, they would do it as they come due. And I think that would be similar in conjunction with regards to the state and local law enforcement agencies, the way they handle it. [LB28]

SENATOR LOUDEN: Okay, thank you. [LB28]

SENATOR FISCHER: Other questions? I see none, thank you very much. [LB28]

TIMOTHY KASUN: Thank you, thank you. [LB28]

SENATOR FISCHER: Other proponents for the bill? Any opponents to the bill? Are there any opponents to the bill? Anyone wishing to testify in the neutral capacity? Senator Pahls, would you like to close? I would like to thank the agents and inspectors who came today. I appreciate that you took the time to come before the committee and answer our questions. Senator Pahls. [LB28]

SENATOR PAHLS: Thank you, Senator Fischer. I'll just...a couple comments. I was told that this list of 12 was the list that was given to us, and we may have to take another look at that. I was also informed that in the bill, it does say that they will pick up the fees, so it's not going to cost the state of Nebraska. Also, the director has an awful lot of

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authority with helping with the plates. In other words, if we need to rotate the plates, the director has a lot of that authority. So if you get issued plate 36, you won't be stuck with 36 all your life, unless you live in Holt County. Oh that's besides Cherry, I'm sorry. Thank you. [LB28]

SENATOR FISCHER: Thank you, Senator Pahls. With that, I will close the hearing on LB28. That takes care of our hearings for the day, and we will close the hearings. Thank you very much. [LB28]

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Disposition of Bills:

LB28 - Placed on General File.
LB48 - Placed on General File.
LB219 - Placed on General File.
LB331 - Placed on General File.

Chairperson

Committee Clerk