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Transportation and Telecommunications Committee  
January 25, 2011

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[LB178 LB212 LB241]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, January 25, 2011, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB178, LB212, and LB241. Senators present: Deb Fischer, Chairperson; Galen Hadley, Vice Chairperson; Kathy Campbell; Annette Dubas; Charlie Janssen; Scott Lautenbaugh; LeRoy Louden; and Scott Price. Senators absent: None.

SENATOR HADLEY: Good afternoon. Welcome to the Transportation and Telecommunications Committee hearing. The senators to my far right is Senator Scott Price from Bellevue; Senator Kathy Campbell from Lincoln. My name is Galen Hadley and I am from Kearney and the Vice Chair of the committee. Next to me is Dusty Vaughan who is our legal counsel. And next to him is Laurie Vollertsen our clerk. And Annette Dubas who is from Fullerton. And Senator LeRoy Louden from Ellsworth. Our pages are Crystal Scholl from Lincoln and Kyle Johnson from Sutton. The pages will distribute any materials for you. We'll be hearing the bills in the order listed on the agenda. Those wishing to testify on a bill should come to the front of the room and be ready to testify as soon as someone finishes testifying in order to keep the hearing moving. Please complete the yellow sign-in sheet on the on-deck table so it is ready to hand out when you testify. For the record, at the beginning of your testimony please spell your name and also your last name and also your first name if it can be spelled in several different ways. Please keep your testimony concise and try not to repeat what someone else has covered. If you do not want to testify, but want to voice your support or opposition to a bill, you can indicate so at the on-deck table on the sheet provided. This will be part of the official record of the hearing. If you want to be listed on the committee statement as a testifier at the hearing, you must complete a yellow sign-in sheet and actually testify, even if you just state your name and position on the bill. If you choose not to testify, you may submit comments in writing and have them read into the official record. Please relax and try not to be nervous. If you need a drink of water, please ask a page. Please turn off all cell phones and any texting is not allowed. Appreciate you being here. The first bill we're going to hear is LB241 by Senator Hadley, so Senator Louden will be the Chair.

SENATOR LOUDEN: Thank you, Senator Hadley and Senator Hadley will open with his presentation of his LB241. [LB241]

SENATOR HADLEY: (Exhibit 1) If I could have the pages. Chair Louden, members of the Transportation and Telecommunications Committee, it's an honor to be here, such an outstanding, intelligent, articulate, great committee to be on. So I assume that we can just skip the rest of that. LB241 seeks to remedy a gap in the law regarding the sale of a wrecked or salvaged vehicle to a salvage dealer for scrap and parts only. Parts only is an important part, or an important concept, especially when we're dealing with

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salvaged vehicles and also for collector car, people who have cars that they restore and keep in a restored condition. Quite often a collector will have a parts vehicle that they use to take parts off of to keep their primary collector car running. Nebraska law requires that no person shall sell or otherwise dispose of a vehicle without (1) a title, and (2) a VIN number affixed to the vehicle. If a Nebraska car is wrecked in Nebraska, typically a claim is made to an insurance company. The company settles the claim by buying the wrecked vehicle from the owner. The company obtains the title and the vehicle title...obtains the vehicle and the vehicle title and surrenders the title to the DMV, Department of Motor Vehicles. The company then receives a salvage title to the vehicle from DMV. The company then sells the salvaged titled vehicle to a dealer who disposes it by scraping the vehicle or by selling it for parts. There are two situations in which the insurance company may not be able to comply with the law when selling salvage in the state. The first is when the company does not have title to the wrecked vehicle. This could occur because the vehicle is from another state and the company is required to surrender that title to that state. The second is when the VIN number on the car is no longer affixed or marred because of damage. When this instances arise, LB241 allows for the insurance company to sell the damaged vehicle to a salvage dealer with a bill of sale for a parts vehicle. The bill of sale would be...basically state that it is the intention of the insurance company to sell the salvage vehicle with the understanding it will be either dismantled or used for parts or recycled for scrap metal value. I will provide you with a copy of a sample of a bill of sale for parts. Testifiers following me will describe this gap in the law with more detail and will be able to answer your questions about this process. Again, I want to reiterate I have looked at this and talked to a number of people, this will not impact people who have collector cars and who have cars that...parts car for their collector cars. In fact, it should make it easier for them because (inaudible) missing a bill of sale because quite often older cars may not have a title with them or a VIN number with them. So by being able to use a bill of sale, it should make it easier for them. I will...if anyone has any questions, I'd be happy to answer them. [LB241]

SENATOR LOUDEN: Okay, thank you, Senator Hadley. At this time I'll appoint...for the record I will state that Senator Janssen and Senator Lautenbaugh has joined the committee. Questions for Senator Hadley? Senator Lautenbaugh. [LB241]

SENATOR LAUTENBAUGH: Thank you, Senator Louden. Senator Hadley, you explained this very clearly. Who is opposed to this and why? [LB241]

SENATOR HADLEY: I have not...I've asked and I have not...we have talked to these salvage yard people, we have talked to the collector car and the insurance companies and have not found anyone opposed to this change, Senator Lautenbaugh. [LB241]

SENATOR LAUTENBAUGH: Thank you. [LB241]

SENATOR LOUDEN: Senator Janssen. [LB241]

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SENATOR JANSSEN: Surprised to hear...thank you, Chairman Louden. This scrap metal (inaudible) I'm kind of wondering, is scrap metal people that will buy old cars just purely for the scrap metal, is there any effect on them that are possible opposition in something like this? [LB241]

SENATOR HADLEY: I don't believe there should be, because if they're buying it for scrap metal, they're probably buying it from a salvage yard that the title has been surrendered and was sold on a bill of sale to the salvage yard. So there should be no opposition. [LB241]

SENATOR JANSSEN: Just something interesting. I have one that's actually in...it's just outside my district, All Metals Market and they deal in quite a bit of scrap metal and I just wasn't certain that they were aware of this type of bill or how it would affect them and just at first glance here, I'm not certain either. [LB241]

SENATOR HADLEY: Senator Janssen, I think it should probably make it easier for them to consummate that kind of transaction. [LB241]

SENATOR JANSSEN: Perfect. Thank you. [LB241]

SENATOR LOUDEN: Senator Price. [LB241]

SENATOR PRICE: Senator Louden, thank you. Senator Hadley, my question comes from a slightly different perspective. You know, in an event that there's some nefarious actor out there who wants to operate a chop shop or doing something of that nature to combining vehicles, are we going to give them a tool by which they can make a legal...you know, wash a transaction through? I just had a bill of sale, I sold it as a scrap and now I didn't have a title, no VIN, so I'm concerned. [LB241]

SENATOR HADLEY: My understanding is that once that title is surrendered, that they basically cannot get the title back to have the car titled. So I...that would be a good question, maybe, to ask the people that are testifying behind me, Senator Price. [LB241]

SENATOR PRICE: Okay. Thank you. [LB241]

SENATOR LOUDEN: Any other questions for Senator Hadley? Seeing none, thank you, Senator. Okay first proponent for LB241. [LB241]

TIM SCHOONVELD: (Exhibit 2) Senator Louden and members of the Transportation and Telecommunications Committee, my name is Tim Schoonveld, Schoonveld is spelled S-c-h-o-o-n-v-e-l-d. I'm a claim team manager at State Farm Insurance Company in the auto claims total loss department located at 84th and O Street. I'm here

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representing State Farm in support of LB241. At this time, we would like to thank Senator Hadley for introducing this bill. We would also like to thank Bev Neth and her staff at the Department of Motor Vehicles for their help on this bill. LB241 was drafted to address certain compliance concerns that our department had with the salvage title law. Current Nebraska statutes require a seller of a vehicle to deliver a certificate of title to the buyer. In addition, the vehicle must have a vehicle identification number or VIN number attached to it. Occasionally, a vehicle is damaged to such an extent either by fire, collision, weather or some other event that we feel that the vehicle cannot be safely repaired for road use. Its only value is as a source of parts or scrap. Nebraska statutes provide an avenue to cancel or surrender the title to the Department of Motor Vehicles. When this is done, the DMV cancels the title and the VIN and this vehicle can never again be licensed for road use. The problem arises when we cancel a title or VIN, we then have no title to transfer ownership and dispose of the salvage and therefore cannot comply with the statutes requiring transfer of the title. I will give you a couple of examples. A vehicle from Wisconsin is involved in an accident in Nebraska rendering it a total loss with the damage exceeding 100 percent of the vehicle's actual cash value. We settle the claim and take possession of the vehicle and the title. We surrender the title to Wisconsin. Wisconsin stamps the title junk. That ends their responsibility under their law. They do not issue a transferable junk title back to Nebraska. Now we have a vehicle in Nebraska that we cannot sell to a salvage dealer because Nebraska law requires a title transfer at the time of sale. At the time of sale, we no longer have one because it is junked in Wisconsin. On the other hand, if in this example, we obtained a Nebraska salvage title by surrendering the title to Nebraska, we would be able to sell the vehicle to a Nebraska dealer. However, we would be out of compliance with the Wisconsin statutes where the vehicle was originally titled. Another example is a vehicle with a Nebraska title, destroyed by fire and the VIN plate is melted away. Nebraska statutes require a VIN plate on the vehicle before it can be sold to a salvage dealer. Nebraska salvage vendors are licensed in Nebraska and they are not permitted to sell a vehicle without a VIN plate. If such a sale were made, the loss of their license is at risk. An owner can apply for a Nebraska assigned VIN. In order to receive one, the vehicle must be inspected by a trained law enforcement officer. If the officer deems that a VIN plate should not be issued because of the total destruction of the vehicle, the dealer has no way to dispose of the vehicle for us. The solution to the problem is to allow for a sale of the totaled vehicle by a parts only bill of sale. The bill of sale states that the vehicle is a salvage motor vehicle that should not be rebuilt for road use as a motor vehicle. It also indicates that it is the understanding of the seller that it will either be dismantled and used for parts or recycled for scrap metal value. The way the dealer can purchase the vehicle and sell it for parts or scrap without the need for a salvage title. This bill changes the definition of a parts vehicle in (Section) 60-126 and adds a new section allowing for the sale of a parts vehicle on a parts-only bill of sale. We believe that this change will improve the efficiency and speed in disposing of these destroyed vehicles. It would also eliminate the need for a VIN inspection by law enforcement and the issuance of a state-assigned VIN by the DMV for a vehicle that is going to be dismantled or scrapped.

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Thank you for your consideration and I would be happy to answer any questions.  
[LB241]

SENATOR LOUDEN: Questions for Mr. Schoonveld? I would have one. What would happen if, oh you had a vehicle and you dinged the body up pretty bad, took the body off another vehicle and put it on the chassis of another one, for instance like, probably, pickups or Suburbans or something like that that had chassis. How do you handle that then either with or without this bill? [LB241]

TIM SCHOONVELD: Well the VIN number of that applies to...it would either be the VIN number from the chassis or the VIN number from the body and there would have to be...  
[LB241]

SENATOR LOUDEN: I know, but they won't match once you change. [LB241]

TIM SCHOONVELD: Right. And there would have to be a title or a state-assigned VIN which would require inspection by law enforcement. [LB241]

SENATOR LOUDEN: Okay, you'd have...just like buying...you would have to start all over again then. [LB241]

TIM SCHOONVELD: Correct. [LB241]

SENATOR LOUDEN: So that the chassis and the VIN number match on the body. Okay, thank you. Other questions for Schoonveld? Seeing none, thank you for your testimony. [LB241]

TIM SCHOONVELD: Thank you. [LB241]

SENATOR LOUDEN: The next proponent. [LB241]

BEVERLY NETH: (Exhibit 3) Senator Louden, members of the committee, I'm Beverly Neth, B-e-v-e-r-l-y N-e-t-h, director of the Department of Motor Vehicles appearing today to offer testimony in support of LB241. LB241 proposes to adopt a needed process relating to the disposal and resale of junked vehicles. The incorporation of the bill of sale form for transferring ownership of the parts vehicle will help DMV customers and will resolve a number of issues that we deal with on an ongoing basis. Currently the statutes do provide for a process whereby a current owner of a vehicle may surrender their certificate of title to the DMV and declare the vehicle as junked. This process cancels the title and serves, if you will, as a death certificate of the vehicle and its title. However, the statutes do not provide the next step which defines how a junked vehicle's ownership is transferred once the certificate of title is cancelled. Most statutes require a certificate of title be the only means for transferring ownership of a vehicle. A junked

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vehicle whose certificate of title is cancelled is limited, therefore, and the options for disposal and resale of the junked vehicle. The bill amends the definition of parts vehicle to include vehicles with a junked certificate of title and creates a bill of sale process for transferring ownership using a DVM prescribed form. The DMV will prescribe the bill of sale form and make it available to users on our DMV Web site. Prescribing the form and adding the number of forms...to the number of forms we currently have accessible on our Web site will be a very straightforward and economical approach to solving this issue. I'd be happy to answer any questions that the committee might have at this time. [LB241]

SENATOR LOUDEN: Any questions for...Senator Janssen? [LB241]

SENATOR JANSSEN: Thank you, Senator Louden. Director Neth, I'm just trying to follow this. If...say I have a car I just have this old junker, but it still works, it's operational, registered, I just have liability insurance on it, maybe a different scenario, it clunks out, it's not worth fixing. I want to take it to my local scrap yard and get just whatever they can get for it. Would this apply to that or not, or would I just be selling it or how...? [LB241]

BEVERLY NETH: You would most likely just be selling it as you would probably have a certificate of title for that vehicle. In the instance that we're dealing with here, this would be the kind of vehicle where it has gone through some kind of catastrophic event; a crash that destroys it beyond repair; a fire that may just engulf the entire vehicle and destroy the entire vehicle so that the vehicle really could never be used again as a vehicle. What would happen then is the owner of that would surrender that title to us and we would effectively kill the title and kill the vehicle, could never be retitled in Nebraska or any other jurisdiction. So what we're asking for and what this bill does then is give that owner of that vehicle another avenue to transfer ownership, because most of our statutes do say that you can only transfer ownership of a vehicle through the transfer of certificate of title. So the bill of sale, affected with this kind of vehicle, allows you, if that vehicle has been damaged beyond repair, it would allow you to sell it to the salvage dealer with that bill of sale. And then they could sell it for parts, do whatever they wanted to do with it. But it would never be retitled again. [LB241]

SENATOR JANSSEN: Once the salvage yard destroys it, they have no further obligation at that point? The car doesn't exist. [LB241]

BEVERLY NETH: No, it's really gone as far as we're concerned. [LB241]

SENATOR JANSSEN: Thank you. [LB241]

SENATOR LOUDEN: Senator Price. [LB241]

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SENATOR PRICE: Senator Louden, thank you. So, Director Neth, to go down with that, what I'm trying to wrap my head around, the question I asked earlier, somebody brings a car to a dealer or to a scrap yard and they just bring a bill of sale and say I don't have a title, I want to junk it, I want to give it up to you, here's a bill of sale. So then they take it as a parts or hangar queen and chop all the good pieces off and say, hey, I got a bill of sale. I'm in the free and clear. Does this bill say you can only take a bill of sale as a...in lieu of a title if the VIN and everything else is complete as far as...I'm just making sure that we're not going to give a back door to somebody to do a legal...make it a legal business for chopping up cars. [LB241]

BEVERLY NETH: Well, I think there's a distinct difference between someone chopping up a vehicle and selling the component parts and trying to retitling a vehicle with different VINs. There is a process in Nebraska for assembled vehicles, which is essentially what you're describing, is that major component parts of a vehicle that may not run as a total unit, the engine may still be viable, where the rest of the vehicle may be completely destroyed, as Senator Louden described. You could sell that engine or that motor which has a VIN on it to an individual who may put it into another vehicle. But now the VIN on the motor does not match the VIN on the chassis and so that person has an assembled vehicle where it has to be inspected; they have to show their ownership documents for that particular major component part. That would most likely be a bill of sale. It could also be a title that someone could give to the individual to say, here's the title for this vehicle. The only thing that's worth anything in it is the engine. So when you take it to have it inspected, you would show them that I have transferred this vehicle to you through this title or I've transferred it...I've given you a bill of sale for this major component part. That's usually how that process works. So with that assembled vehicle inspection process, the likelihood that you're going to...I guess the issue really is you're...whether or not you're stealing the parts, quite frankly. The likelihood that you're going to be able to use stolen parts in...and assemble a vehicle is pretty small in the state of Nebraska, given the current statutory structure. [LB241]

SENATOR PRICE: Okay, great. And just one more, when we heard earlier testimony talking about what part would drive this is, to be compliant in the state to have to surrender the title then, we no longer have one, so we're creating something that will let us work with other states. Is there any degree of reciprocity with other states when we do this? Now other states will say, and...is there a growing trend among states to have this type of law enacted now because of this problem of now I have to surrender to the original state? [LB241]

BEVERLY NETH: Well I will say that nearly every states' titling laws are different in some respect. But most states have a process for the transfer of this kind of vehicle. We're one of the few states that probably doesn't have any ability to transfer this kind of junked vehicle, even if it's surrendered. We do surrender...we do tell other states if a title has been surrendered to us and they likewise do the same with us. But for this piece,

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we're probably one of the few states missing this kind of piece. [LB241]

SENATOR PRICE: Great, thank you very much. [LB241]

SENATOR LOUDEN: Other questions for Director Neth? Yes, I have one. And I don't know if it would pertain to this. You're driving your car and you burn the engine out for whatever reason, you know. So you take it in to the local mechanic and he puts in a new engine or rebuilt engine, does that VIN number...how do you make that VIN number match the VIN number in the vehicle because that happens quite a lot? [LB241]

BEVERLY NETH: Sure. What's going to happen is when you transfer ownership of that, that's when that issue is going to come into play. So as long as you own that vehicle and you haven't transferred ownership, what you do with that vehicle and the kinds of VINs that are being created within that vehicle, we really don't know that until you would transfer ownership of that vehicle and it would trigger some kind of inspection. If you were to transfer, say that vehicle was a vehicle in Kansas and was brought here to Nebraska, that vehicle, because it is an out-of-state vehicle, would have to be inspected before it could be titled and registered here in Nebraska. And the inspection, just so I'm clear, is not a safety inspection. The inspection really is to verify VINs; to verify that this vehicle is...there aren't stolen parts on the vehicle and those kinds of things. [LB241]

SENATOR LOUDEN: How often do they look at that...at the VIN number on the windshield there and how often do they look at the motor to verify them? [LB241]

BEVERLY NETH: If they are doing a VIN inspection, they would look at all...they would look at every VIN on the vehicle and I think there are, depending on the type of vehicle, there are multiple VINs within a vehicle, VIN numbers that should all match. So there's one on the...usually on the engine; there's one in the windshield that you see, normally I think there's VINs on chassis; there's a number of different locations that a VIN (inaudible) on a vehicle. [LB241]

SENATOR LOUDEN: And a county sheriff crawls around and looks all those up? [LB241]

BEVERLY NETH: Yes they do, county sheriffs, State Patrol, and some DMV staff too. [LB241]

SENATOR LOUDEN: Okay, because I've had that...I've bought them out of state and brought them in and the only VIN number they looked at was the one on the windshield and signed the paper. [LB241]

BEVERLY NETH: You probably looked like they trusted you, I imagine. [LB241]



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SENATOR LOUDEN: I guess. Okay, thank you. Other questions? Thank you, Director. [LB241]

BEVERLY NETH: Thank you. [LB241]

SENATOR LOUDEN: Next proponent of LB241. [LB241]

RICHARD HEDRICK: I'm having troubles hearing, so. [LB241]

SENATOR LOUDEN: Okay, we'll speak up then. [LB241]

RICHARD HEDRICK: I'm Richard Hedrick. I live in Lincoln, Nebraska. And I'm not sure about this LB241. I think we got too many laws already. People go...tell us you got to vote for us and we'll...won't put any of these darn bills in, but they do the same thing. [LB241]

SENATOR LOUDEN: Would you spell your name for us? Spell your name...your name. Will you spell your name for the clerk? [LB241]

RICHARD HEDRICK: Oh, H-e-d-r-i-c-k. [LB241]

SENATOR LOUDEN: Okay. Go ahead. [LB241]

RICHARD HEDRICK: Well I'm not sure if this bill is going to affect me at all. I think it would have in the past. I have three cars I've had for 30 years; two Studebakers and I've been going to fix them up and I've never fixed them up. They're in a shed at Garland. And I don't know if I'm going to have trouble getting a title for them or not. I don't know if I...I don't even remember if I have a title for them. I bought them at a garage sale more or less. I don't know...in the past I have bought cars to fix up and according to what I ever read on this bill, this prevents anybody from buying a car and its...from the insurance company and fixing it up. I don't know if this is like the bill that affected my wife. Her father died and she had to buy...she wanted to buy...cremate her father, she had to buy a box to put him in. She complained about it and the mortician says, well, it's the law says you have to have a box. Well sure, the morticians lobbied, got a bill in to force you to buy a box to cremate a person. You can't put them in just a plastic bag. It is just for one thing only, money. Any other questions? [LB241]

SENATOR LOUDEN: Okay, well thank you for your testimony, Mr. Hedrick. Is anyone got questions? Seeing none, thank you. Next testifier. Are there any more proponents? With that then, are there any opponents to this bill? Anyone wishing to testify in the neutral? Seeing none. Senator Hadley waives closing. So with that we will go to the next bill and I'll turn the Chair back over to Senator Hadley. (See also Exhibit 11) [LB241]

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SENATOR HADLEY: Thank you, Senator Louden. The next one is LB178, change commercial driver license provisions. If the proponents would come forward. Legal Counsel Vaughan. [LB178]

DUSTY VAUGHAN: Thank you, Senator Hadley 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'm the legal counsel for the committee. LB178 was a bill brought to the committee by the State Patrol and Department of Motor Vehicles. The bill amends Nebraska law to keep the state in substantial compliance with federal laws governing commercial driver licenses, or CDLs, and commercial motor vehicles. There are two specific areas of compliance that require changes in Nebraska law. First, LB178 provides a new process for medical certification for a CDL holder. Federal law requires Nebraska to have these provisions in place no later than January 30, 2012, to remain in compliance. The bill also contains provisions to harmonize state statute with federal law pertaining to the operation of commercial motor vehicles and transportation of hazardous materials on Nebraska roadways. These required changes were identified in a 2009 federal audit by Motor Carrier Safety Administration. Failure to enact such changes puts the state at risk of losing 50 percent of its federal funds under the Motor Carrier Safety Assistance Program. And we do have representatives from the State Patrol and DMV to talk about how they will be implementing this process. So I will turn it back to you, Senator Hadley. [LB178]

SENATOR HADLEY: Are there questions for legal counsel Vaughan? Hearing none, thank you. Would the first proponent please come forward. [LB178]

BEVERLY NETH: (Exhibit 4, Exhibit 5) Senator Hadley, members of the committee, I'm Beverly Neth, B-e-v-e-r-l-y N-e-t-h, director of the Department of Motor Vehicles. I'm appearing before you today to offer testimony in support of LB178. I want to thank the Committee for introducing this bill on behalf of the Department of Motor Vehicles and the State Patrol. LB178 authorizes the department to administer new commercial driver license medical certification requirements as required by federal regulation. And I've referenced the federal regulation. This is the most substantial change in medical requirements for CDL holders since the federal regulations of CDL holders began with the Motor Vehicle Safety Act in 1986. This act requires that the state remain in substantial compliance with the federal commercial driver license laws. Failure to remain in substantial compliance can result in the imposition of monetary penalties associated with federal highway funds. The penalty for the first year of noncompliance is withholding of an amount of up to 5 percent of federal aid highway funds apportioned to Nebraska and up to 10 percent of those funds for the second or subsequent years of noncompliance. The deadline for compliance with this regulation is January 30, 2012. LB178 does not alter the medical fitness standards that CDL holders driving the interstate commerce must meet. Rather, those standards have been in place since the

imposition of the Commercial Motor Vehicle Safety Act of 1986 on the states and CDL holders. Rather, the new legislation changes how medical fitness of CDL holders is enforced. Currently CDL holders are required to carry their medical certificate with them. The CDL medical information is not provided to the DMV and is not available in any database. The new regulation requires every CDL holder to determine his or her medical fitness category. The regulation requires the transmission of the medical certification to the DMV. For a CDL holder who operates in interstate commerce and who moves to another state, the DMV is required to send the medical information as a part of the CDL record. Consequently, LB178 provides the certification categories that CDL holders will select from for self-certification, and authorizes the state to keep the medical certification information, to downgrade drivers who fail to self-certify or maintain current certifications and to transmit certification information to other states through the Commercial Driver License Information System of CDLIS. The change requires all CDL holders to provide medical certification information to the state no later than January 30, 2014. Any applicant who applies for a new or renewal CDL between January 1, 2012 and January 30, 2014, must meet the new medical certification requirements as a part of the application process. The DMV will notify CDL holders whose license expire after January 30, 2014, that they must provide current medical certification information by January 30, 2014. DMV must downgrade the CDL of any driver who does not provide required medical certification within 60 days of notification of a problem. To downgrade the CDL means the CDL is replaced with a Class O or a regular car license. The DMV must determine if a CDL holder's medical certification is complete and determine if the driver can hold a CDL with a medical variance if the driver cannot meet the medical standards. The DMV will deny a CDL to any applicant that is not medically certified and does not qualify for a medical variance. The fiscal note attached to this bill reflects the cost of programming of our driver license systems to accommodate new requirements and the additional employee needed to handle the workload. Of Nebraska's 84,227 CDL holders, 76,460 are subject to this rule. I'll be happy to answer any questions the committee might have. Before I do that, I might just reference, there is an attachment to the testimony that I handed out that describes the medical certification. This really describes the self-certification process that an applicant will go through. We will provide, probably this form, it may undergo some changes before it is formally adopted. But this form will help the applicant understand their self-certification process, into which category they fall, is there an exemption for them or a variance for them, and if not, what is the process they need to follow. And if there is a variance, then there would be another process. So we're hoping that this will be straightforward for CDL holders. Many of them...there are a lot of forms they fill out and they have a lot of regulatory compliance in this area, so the use of this kind of thing. But it is a new process for the CDL holders, as well as the DMV. So I'd be happy to answer any questions. [LB178]

SENATOR HADLEY: Thank you. Director Neth, thank you. Senator Campbell. [LB178]

SENATOR CAMPBELL: Thank you, Vice Chair Hadley. I have to say, I was somewhat

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struck when I looked at your chart, why is a beekeeper singled out? [LB178]

BEVERLY NETH: I don't know. I don't really know why beekeepers are singled out. There are a number of things within the statute. [LB178]

SENATOR CAMPBELL: They are singled out on both charts. [LB178]

BEVERLY NETH: The first chart is the four different exclusions or exemptions that talk about interstate commerce. And the second really are the intrastate commerce operators. And I am not really sure why that particular group has the...I'm going to use the word exemption, but I think that's actually a term of art in statutes. It's probably not exactly right in this case, but they are there. [LB178]

SENATOR CAMPBELL: They must be. [LB178]

BEVERLY NETH: People like honey, I guess. [LB178]

SENATOR CAMPBELL: They must be. [LB178]

SENATOR HADLEY: Are there other questions for...Senator Dubas. [LB178]

SENATOR DUBAS: Thank you, Senator Hadley. Thank you, Director Neth. So am I correct to understand that these changes are coming from the federal level down, for us to stay in compliance with federal regulations? [LB178]

BEVERLY NETH: They are. The commercial driver license program is a federally mandated and federally regulated program, so we adopt these kinds of rules on a regular basis. [LB178]

SENATOR DUBAS: So as a point of information for a new member on the Transportation Committee, what happens if we don't do this? [LB178]

BEVERLY NETH: If we don't do it, then we, potentially, could be found to be out of substantial compliance with the federal rules. The penalties associated with failure to be in substantial compliance are monetary penalties assessed against federal highway aid programs, funds that are used to build roads, as well as the MCSAP programs that are used to fund some of the carrier enforcement activities. So there are true financial penalties associated. [LB178]

SENATOR DUBAS: Okay. Thank you. [LB178]

SENATOR HADLEY: Thank you, Senator Dubas. Senator Janssen. [LB178]

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SENATOR JANSSEN: Thank you, Vice Chair Hadley. Director Neth, I kind of had similar question to Senator Dubas because we always hear in here that there's a potential that we could lose funding or a potential is kind of hanging over our heads a little bit. And I was looking at the federal register, did this come out in 2008 and we had until...you said, 2012, what January, 2012 to come into compliance? [LB178]

BEVERLY NETH: That's correct. [LB178]

SENATOR JANSSEN: Is there a reason that...that it was...this year...the only reason I can think of is because it is on page 73,096 of the manual so it probably took that long to read it, but...why is it this year instead of not last year or...? [LB178]

BEVERLY NETH: I think this rule...the date for the December 1, 2008, date was the date that the rule was first promulgated. There's always a comment period and then there's a final adoption of the rule. So the rule, I think, was finally adopted in late 2009, 2010, somewhere in that range, because there were a lot of comments to this particular rule. So in most instances with the Federal Motor Carrier Safety Administration they do allow a 3-year period for compliance. And it's almost always...it's always enough time for us to come into compliance with the programs and requirements. [LB178]

SENATOR JANSSEN: Is there any time that you can recall, since you've been director, or even prior to that working with agencies, that we have fallen out of compliance and then lost federal funding? [LB178]

BEVERLY NETH: Well, in this particular program, we are audited by FMCSA every three years. And they regularly find audit compliance issues. We've had a couple of conversations, really, over the last 6-year period that they have threatened in a couple of areas to deem us or to bring a substantial compliance action against us. The process really is, you're not automatically found out to be out of substantial compliance, Federal Motor Carrier Safety Administration will say, we think you're not complying fully with this area, we want you to take X, Y, Z steps to come into compliance and if you fail to, we can deem you to be out of compliance. There is some due process measures, as well, that are available. So we've never gotten to that step in Nebraska, although the last couple of audit periods we've had those kinds of conversations and I know that there are some substantial compliance letters that were issued in other jurisdictions that had to do with noncompliance with CDL rules. So they...Federal Motor Carrier does take the step occasionally. [LB178]

SENATOR JANSSEN: Thank you, Director Neth. [LB178]

BEVERLY NETH: Um-hum. [LB178]

SENATOR HADLEY: Senator. [LB178]

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SENATOR PRICE: Senator Hadley, thank you. Director Neth, question comes in two parts. One, we've been doing this all along, right? We've always had...I mean, medical checks with CDLs? [LB178]

BEVERLY NETH: You're right, we have. We simply...the information, its, simply, never been transmitted to the DMV for any kind of regulatory oversight. [LB178]

SENATOR PRICE: Okay, great. The other part is, and I apologize, I don't have it, but when it was first brought to me, we were actually given the medical form and on the front of the medical form in the top part it said a doctor may discuss with a patient their condition, or patient may discuss with a doctor, and then at the bottom part it says, a doctor shall discuss. And I thought it was interesting in a federal...that's federal area, mind you, but I thought it was interesting that in one document it was in direct conflict with itself, because it said in Section A you "may" and in Section B you "shall" and I took that to be an interest because of the nationalization of our healthcare system and everything going on in that realm since '08, you know, and if you look at that, they're going to have somebody sitting there saying, did you talk to the holder about their high blood pressure or their BMI and means you didn't have to and then the next time it says you have to and that we as a state now will have to conform to a misguided document, but...you don't have to say anything on that one, I just wanted that to be on the tape. But we've been doing this all along. [LB178]

BEVERLY NETH: Well I, quite frankly, would be happy to point out to the Federal Motor Carrier if they have a conflict in their step, because they're quite liberal in pointing out conflicts in our statutes. So I'd be happy to point that out to them. [LB178]

SENATOR PRICE: I'll meet you afterwards, we'll talk about it. [LB178]

SENATOR HADLEY: Director Neth, I...just...being relatively new to the committee two years, so the CDL is a nationwide concept so that we know if there's a semitruck coming down I-80 that that driver has met some standards that are nationwide to get his or her license, is that a correct assumption? [LB178]

BEVERLY NETH: That is correct. CDL also is the one area where there is a one driver, one record concept in this country. Through the commercial motor vehicle...through the Commercial Driver License Information System, the states have the ability to determine if an applicant for a CDL holds a CDL in another jurisdiction, we use what's called the pointer system. So if you're an individual from Virginia and you've moved to Nebraska and you want to apply for a CDL here, we take your information and we will check with CDLIS to determine if you hold a CDL in another jurisdiction. And this...the pointer system will show us, yes, this person holds a CDL in Virginia. We then request that record be surrendered from Virginia and brought to Nebraska so that at all times there is

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one driver, one record. That same system doesn't exist in the Class O passenger area, but it does exist in the commercial driver area...arena. [LB178]

SENATOR HADLEY: The second question, for an operator of a motor vehicle in Nebraska, the normal car, we have a point system and people can lose their license, do we have the same kind of system for people who have CDLs who might get a ticket in New York and one in California and one in Washington? [LB178]

BEVERLY NETH: Absolutely. That...and it's even, I would say, more robust than what exists for passenger licenses in that there are probably, I'm going to guess, somewhere between 25 or 30 reasons why you simply could be disqualified from holding a CDL, more serious, more restrictive area of points, if you will, that you could be disqualified on for two or more serious violations while operating your commercial motor vehicle. It is a very, I think, highly regulated in terms of trying to maintain a level of safe operating of the commercial motor vehicle, as well as safe driving and safe driving behaviors. [LB178]

SENATOR HADLEY: Thank you. Any other questions? Thank you. The next proponent. Captain. [LB178]

GERALD KROLIKOWSKI: (Exhibit 6) Senator. Vice Chair Hadley and members of Transportation and Telecommunications Committee, my name is Gerald, that's G-e-r-a-l-d, Krolikowski K-r-o-l-i-k-o-w-s-k-i. As the commander of the Carrier Enforcement Division I am here today on behalf of the Nebraska State Patrol to testify in support of LB178 and express the agency's appreciation to Senator Fischer for introducing this bill. Under Federal Regulation 49 CFR 350.201(a), each state must assume responsibility for improving motor carrier safety and adopting and enforcing state safety laws and regulations that are compatible with the Federal Motor Carrier Safety Regulations, 49 CFR Parts 390 through 397 and the hazardous material regulations 49 CFR Parts 107(f) and (g) only; 171 through 173, 177, 178, and 180. Under 49 CFR 350.337, also known as the tolerance guidelines, states are not required to adopt 49 CFR Parts 398, 399, and then subparts (a) through (e) and (h) of Part 107 and subsections 171.15 and 171.16 as applicable to either interstate or intrastate commerce. 49 CFR 350.341 provides specific variances for motor carriers, commercial motor vehicle drivers and commercial motor vehicles engaged in intrastate commerce and not subject to federal jurisdiction. LB178 addresses three findings of incompatibility discovered and noted by a review of Nebraska's Motor Carrier Assistance Program which was conducted by the Federal Motor Carrier Safety Administration in June of 2009. I hope to explain these findings and the reasons for the recommended language changes found within this bill. The first finding deals with the compatibility of 49 CFR 390.3 General Applicability. In state statute 75-363(6) Nebraska exempts any nonprofit entities operating solely in intrastate commerce organized for the purpose of furnishing electric service. Through FMCSA's review they determined the following: although utility

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service vehicles including those providing electrical service are exempted from the hours of service requirements contained in 49 CFR 395.3, such vehicles are not exempted from the remaining parts of the Federal Motor Carrier Safety Regulations and should be included in Nebraska's adoption of compatible rules and regulations. They included a note: this industry was first exempted in LB854 effective 1998, and therefore does not qualify for the industry exemptions allowed by 49 CFR 350.341(c). For the committee's clarification, Section 350.341(c) reads: a state may retain those exemptions from its motor carrier safety laws and regulations that were in effect before April, 1988, are still in effect and apply to specific industries operating in intrastate commerce. According to the state power review board, only companies categorized as consumer public power can provide electrical service in the state of Nebraska. While many of these companies will continue to be exempt from the regulations because they are political subdivisions as allowed under 49 CFR 390.3(f), there have been four entities identified as not meeting this threshold. A list should have been provided for your reference. The two other findings deal with the state's adoption of the hazardous material regulations is found in state Statute 75-364. One is regarding agricultural operations within 75-364(2)(a), Nebraska did not accept Class II materials from the requirements of 49 CFR 172 Subparts (g), which is the emergency response information, and (h) which is training. In 75-364(2)(a)(ii), Nebraska conditioned the agricultural exemption with an effective date of July 1, 1998, where, in fact, the identical exemption under 49 CFR 173.5 has an effective date of October 1, 1998. The other is regarding nonspecification packagings. In 75-364(3)(c)(v), Nebraska did not provide the exemption from nonspecification packaging for gasoline when transported as a marine pollutant as contained in 49 CFR 173.8(d)(5). And once again we indicated July 1, 1998, date as opposed to October 1, 1998. A state's adoption of the hazardous material regulations must be identical to the HMRs, even for intrastate commerce. In conducting a thorough review of the HMRs and state statute 75-364, it is the State Patrol's opinion that by eliminating the reference to and actual exemptions found with 75-364, the state will not only retain all the exemptions currently allowed, but also eliminate any grammatical inconsistencies between statute and the HMRs. I've included a copy of the review for each of you. According to 49 CFR Part 350.355(c), states with incompatible laws or regulations pertaining to intrastate commerce will only receive 50 percent of their allocation and will continue at that level until those incompatibilities are removed, provided no more incompatibilities are created. The federal allocation for FY2011 is projected to be \$2,060,000. In closing I want to thank you for the opportunity to testify in support of the bill and request your favorable consideration. I'll be happy to answer any questions you may have. [LB178]

SENATOR HADLEY: Are there questions for Captain Krolikowski? I have to say, Captain, that was very clear. Senator Louden, did you have a question? [LB178]

SENATOR LOUDEN: Yes, as I look through your material here where you've outlined it in dark letters, those are the corrections that need to be done, is that what I



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understand? [LB178]

GERALD KROLIKOWSKI: In the handout, sir? [LB178]

SENATOR LOUDEN: Yeah, in these other handouts as I took them apart there, you have some of these that are in dark colored like that, that's...those are the differences that have to be resolved? [LB178]

GERALD KROLIKOWSKI: That's simply the synopsis of our comparison of the state statute to the federal regulations. And you should see in there that there's only minor grammatical errors, except for those sections that I clearly noted in my testimony and that's reference the agricultural commodity, not including cost to materials from the requirements in subparts (g) and (h). We didn't have that in there, so the people will now get it in intrastate and also under ag exemptions we had July 1, 1998, instead of October 1, 1998. That might not have much influence, but the one on the Class 2 where we didn't exempt them or accept them, they will now get that. [LB178]

SENATOR LOUDEN: Okay, now, then in Nebraska laws, all you can haul is a pickup load of ammonium nitrate and the federal laws you can haul a truckload, is that the difference? The tonnage is different on the two, am I correct on that? Did I read that correctly? [LB178]

GERALD KROLIKOWSKI: I'm not sure I understand the question, sir. [LB178]

SENATOR LOUDEN: Okay, I was looking at where they had...400...on that bulk packaging, I guess, the amount of liquid and that sort of thing, but on the federal deals you're allowed to carry a little bit more? [LB178]

GERALD KROLIKOWSKI: We should be exactly the same as the federal. [LB178]

SENATOR LOUDEN: Exactly the same? [LB178]

GERALD KROLIKOWSKI: Yes. [LB178]

SENATOR LOUDEN: Okay. I'll read...and we're exactly the same now? [LB178]

GERALD KROLIKOWSKI: Yes. With the amounts and the type of material are...our exception is the same as the federal regulations. [LB178]

SENATOR LOUDEN: Okay, thank you. [LB178]

GERALD KROLIKOWSKI: Yep. [LB178]

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SENATOR HADLEY: Are there any other questions? Seeing none, thank you, Captain Krolikowski. Are there any other proponents? Are there opponents? [LB178]

KRISTEN GOTTSCHALK: (Exhibit 7) Senator Hadley, members of the Transportation and Telecommunications Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the government relations director and registered lobbyist for the Nebraska Rural Electric Association. I represent 35 rural electric service providers in the state of Nebraska that provide electric service to over 400,000 meters on 80,000 miles of distribution line. So pretty big business in this state. And the Nebraska Rural Electric Association is here to oppose three simple lines within this 38-page bill. And I want to caveat my testimony today in that we do not want to put at risk any federal funds that come apart as part of this. But I think it important to note that sometimes its just important to make a statement when confined with federal law doesn't make common sense. As Mr. Krolikowski or Captain Krolikowski stated that we removed the exemption for any nonprofit entity operating solely in intrastate commerce organized for the purpose of furnishing electric service. In Nebraska that means rural electric cooperatives. And we have three rural electric cooperatives on my list. We also have what we call an electric G&T that would be impacted by this, but they don't have any retail customers and they don't have any service vehicles that would make them practically impacted. Now keep in mind there's approximately 170 electric utilities in this state; of that, only the three are electric cooperatives. And under the current law, we hear there is an exemption for the three co-ops that enables them to be treated the same as every other electric utility in the state. Because the federal law does allow for an exemption for government subdivisions and in the unique organization of electric utilities that we have, most of our utilities are government subdivisions and are not subject to the provisions of the act. In 1990, we actually passed legislation and worked with the State Patrol to clarify the exemption for the government subdivisions. It wasn't needed because the federal law actually fully exempted them. But then in 1991, rather than 1998, as the Motor Carrier Safety Administration audit stated, we did pass LB854 which included the language that exempted the electric cooperatives. And this was done simply to keep all electric utilities on the same playing field when it came to motor safety regulations. Safety does continue to be a high priority for the Rural Electric Association. This exemption that is in statute at no time has ever lessened our commitment to vehicle safety, it just provides equity to electric providers. And in our mind, either...there seems to be a little bit of a conflict here. If we exempt all utilities, except for three, we're no less safe, more safe by including them under the Federal Motor Carrier regulations. Do understand the issue of compliance, but as was stated before, I'm not sure that complying with these three lines in the statute would put us substantially out of compliance. And so it's with that...and I have included here those three cooperatives, Niobrara Valley Electric Membership Cooperative in O'Neill; the Midwest Electric Cooperative Corporation in Grant, Nebraska; and the Panhandle Rural Electric Membership Association. We also have six other electric co-ops that serve members or consumers in the state of Nebraska, but because they're headquartered in

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other states they are participating in interstate commerce and would be covered under the provisions of the Federal Motor Carrier Safety Regulations and we would not seek for an exemption there. But with that, we would respectfully ask you to consider retaining the exemption for electric co-ops so that all electric utilities in the state fall under the same regulations and actually create an ease of administration of those regulations. So with that I'll answer any questions you might have. [LB178]

SENATOR HADLEY: Are there questions for Ms. Gottschalk? Senator Louden. [LB178]

SENATOR LOUDEN: Yes, thank you, Senator Hadley. Well as I look at this list here, they've got Midwest Co-op out of Grant and, of course, Nebraska Electric G&T Co-op out of Columbus; Niobrara Valley and Panhandle Rural Electric, now, are they just exempt from the hours as I read this? In other words, they could operate these trucks longer hours or what does that exemption...? [LB178]

KRISTEN GOTTSCHALK: The exemption in the...the current exemption in statute exempts them from the Federal Motor Carrier Regulations under 49 CFR 390.3. [LB178]

SENATOR LOUDEN: All of them? [LB178]

KRISTEN GOTTSCHALK: It exempts them from all of them. The same as all government subdivisions, all of the other electric utilities. [LB178]

SENATOR LOUDEN: Okay. And then...okay, then does the bill change that? [LB178]

KRISTEN GOTTSCHALK: Yes, the bill would remove that exemption. Those four entities, the three co-ops and the G&T would then be subject to those provisions and have additional requirements that other utilities do not have. [LB178]

SENATOR LOUDEN: Okay and those requirements be they could only operate a vehicle for a certain length of time and that sort of thing? [LB178]

KRISTEN GOTTSCHALK: No, actually the hours of service which was a major component of that section of statute, federal statute, up until about two years ago, hours of service regulations were changed for all electric providers, I believe, two years ago. So they are currently exempt from hours of service regulations. [LB178]

SENATOR LOUDEN: Okay, thank you. [LB178]

SENATOR HADLEY: Are there other questions? Ms. Gottschalk, are we basically saying it is basically...that these three call themselves something different than the others, 170, is that the reason? Or are they really different than the other 170? [LB178]

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KRISTEN GOTTSCHALK: It's more than semantics. They're organized differently. Government subdivisions and municipalities and the public power districts are organized under a general election process to elect board members to run the utility for them. Now the co-ops are run, simply, like a farm co-op where every person who receives electricity on that service line is a member of that cooperative and the membership then elects a board of directors. So there are some substantial differences, but in the state of Nebraska co-ops and public power districts operate substantially the same. [LB178]

SENATOR HADLEY: Has there been any discussions with either entities within Nebraska or at the federal level for exempting these types of entities? [LB178]

KRISTEN GOTTSCHALK: We, well of course in 1991, when we did get the exemption passed within our statute those discussions began. This issue has come up before because we didn't fall under the grandfathering clause which if we had put the exemption in place in 1988 we'd be grandfathered, there would be no problem. We put it in 1991, three years too late, too sorry, for us to qualify for that. We have discussed that, but what typically happens, not at the state level, and I should say that the DMV and the State Patrol have been very open and willing to have these conversations. They understand the situation, but there is that need to comply at the federal level. When you get to the federal level, they say this is federal law and that's all there is to it. [LB178]

SENATOR HADLEY: One last question. What would be the additional cost for these three cooperatives to comply and not be exempt. Can you quantify? [LB178]

KRISTEN GOTTSCHALK: That, right, the additional cost is going to be dependent on the number of vehicles that fall into play. It won't be significant at the onset. We would have to have DOT numbers; there has to be drug testing, so we're going to add additional regulations and record keeping that we currently haven't had to do. So the cost...I would not say the cost is significant as the inconvenience and the inconsistency in the way they operate compared to other utilities. [LB178]

SENATOR HADLEY: Okay. Thank you, Ms. Gottschalk. Are there any other questions? Thank you. Are there any other opponents? Is there anyone who wishes to testify in the neutral capacity? Seeing none, we will close the hearing on LB178. And let's...Mr. Vaughan you...okay, the next one is LB212, adopt revisions of federal laws and regulations relating to motor vehicles. [LB178]

DUSTY VAUGHAN: Thank you, Senator Hadley. Members of the committee, once again for the record my name is Dusty Vaughan, spelled V-a-u-g-h-a-n, I'm the legal counsel for the committee. For those of you returning, this is a bill that you have seen before. For those new members, this is a bill that you will see for the first time and you will see again, probably, every year that you're on the committee. LB212 updates

several references of federal law in the Nebraska motor vehicle statutes. This is our annual updating of dates that reference federal law in the motor vehicle statutes. These updates are necessary for Nebraska to remain in compliance with federal law. A theme that we heard from the last bill. Failure to do so could result in the loss of federal highway funds. Sections updated include references to handicapped permits, the International Registration Plan, commercial drivers' licenses, motor carrier safety and hazardous materials transportation, and the Unified Carrier Registration Act. LB212 also authorizes the towing of certain types of trailers by minitrucks. The Legislature passed LB650 last year, I'm sure some of you remember it, this committee passed it out and the full Legislature passed it last year. What LB212 does is it corrects an oversight as to the towing of trailers by these minitrucks. It was just something that we missed last year and in just trying to correct that oversight. With that, Senator Hadley, I'll end my testimony and answer any questions that you have. [LB212]

SENATOR HADLEY: Any questions for Mr. Vaughan? Seeing none. Would the first proponent please come forward. Captain. [LB212]

GERALD KROLIKOWSKI: (Exhibit 8, Exhibit 9) Vice Chairman Hadley and members of Transportation and Telecommunications Committee, my name is Gerald, that's G-e-r-a-l-d, Krolikowski, K-r-o-l-i-k-o-w-s-k-i. As Commander of the Carrier Enforcement Division, I am here today on behalf of Nebraska State Patrol to testify in support of LB212 and to thank Senator Fischer for sponsoring this bill. I promise that this one won't be as detailed as last. 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 8, line 1, Section 6 adopts 75-363, Federal Motor Carrier Safety Regulations. And on page 12, line 13, Section 7 adopts 75.364, Federal Hazardous Material Regulations which were in effect January 1, 2011. Everyday our troopers strive to make our highways safe. In FY2010 the Nebraska State Patrol conducted 29,538 roadside inspections; 6.6 percent of those drivers inspected were placed out of service. Of the 9,380 vehicle inspections, an average of 3.4 violations per vehicle was discovered with 34.6 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 FY2010 the Carrier Enforcement Division of the Nebraska State Patrol conducted 55 public education seminars and 4 town hall meetings across the state targeted at commercial motor vehicle owners and operators. A total of 1,780 people attended these seminars and town hall meetings. During the calendar year of

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2009, Nebraska experienced 44 fatality crashes involving trucks and no fatalities involving buses. This continues to be 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. Please find attached handouts summarizing the latest Federal Motor Carrier Safety and Hazardous Material Regulations that are being adopted through this update. 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. [LB212]

SENATOR HADLEY: Thank you, Captain Krolkowski. Are there questions for the Captain? Senator Louden. [LB212]

SENATOR LOUDEN: Yes, thank you, Senator Hadley. Well as I look at this bill, we're talking about minitrucks here some place, right? Registered...properly registered minitrucks. [LB212]

GERALD KROLIKOWSKI: Yes. It's my understanding that Director Neth with DMV will be testifying in regards to that. [LB212]

SENATOR LOUDEN: Okay. Because that was my next question, I didn't know we registered minitrucks yet, but maybe we have. I thought we went through that once and them little Japanese jobs, I didn't know if they made it or not. And your testimony has mostly to do with safety inspection of vehicles. [LB212]

GERALD KROLIKOWSKI: Yes, that's correct, just changing the annual date so we keep it on top and make sure that we're...everybody is in concurrence that we should be adopting the federal regulations. [LB212]

SENATOR LOUDEN: And that's all this...that's all this law...this bill affects you is just changing that date? [LB212]

GERALD KROLIKOWSKI: Primarily, that's what I'm here to testify on. [LB212]

SENATOR LOUDEN: Yeah, that's what I mean. [LB212]

GERALD KROLIKOWSKI: Certainly the minitrucks will have similar affects in some way, but. [LB212]

SENATOR LOUDEN: Okay, thank you. [LB212]

SENATOR HADLEY: Any other questions? Seeing none, thank you, Captain. Next

proponent. [LB212]

BEVERLY NETH: (Exhibit 10) Senator Hadley, members of the committee, I'm Beverly Neth, B-e-v-e-r-l-y N-e-t-h, director of the Department of Motor Vehicles here today to testify in support of LB212. I want to thank the committee for introducing this on behalf of the DMV and State Patrol. This bill keeps the DMV and the State Patrol statutes consistent with federal laws and regulations affecting the two agencies. LB212 amends the reference dates for three specific DMV programs governed by federal law. First LB212 adopts the most recent version of the International Registration Plan, or IRP. Nebraska has been a member of IRP since 1975. Membership in IRP allows trucking companies in Nebraska to pay registration fees in Nebraska for all the jurisdictions through which the company operates. We distribute the collected registration fees to other jurisdictions based on a pro rata share of mileage that the carrier travels in each jurisdiction. This bill allows Nebraska to follow the IRP agreement changes through January 1, 2012. LB212 also updates the references to federal regulations governing commercial motor vehicles and the issuance of commercial driver licenses. The changes allow the DMV to follow the federal regs as they exist on January 1, 2011. It is important for Nebraska to remain in compliance with federal laws in this area, as you've heard earlier. If Nebraska fails to comply with these laws, the Federal Motor Carrier Safety Administration or FMCSA has the authority to withhold funding for Nebraska's Motor Carrier Safety Assistance Program and federal highway funds. LB212 also updates the references to federal regulations governing handicapped parking tags. This bill also includes a statutory cleanup associated with LB650 passed in 2010 that allows for the operation of minitrucks on highways of the state. LB650 did not include any provisions regarding the types of trailers that a minitruck can legally tow. DMV proposes that Nebraska Revised Statute 60-3,221 be amended so that a properly registered minitruck could tow the following kinds of trailers: a cabin trailer, a utility trailer, a farm trailer, and a dealer-plated trailer. These trailers do not require the pulling unit, or the minitruck itself, to carry registered weight and can be towed by a passenger vehicle, such as a minitruck. The language would also...language would also be added to the same statute to remind the public of other provisions of law dealing with towing. The proposed language is, "Nothing in this section shall be construed to waive compliance with any other provisions of The Rules of the Road or Chapter 75 of the Nebraska Revised Statutes." Lastly, I am respectfully requesting the committee amend LB212 on behalf of the DMV. The DMV recently implemented the Electronic Lien and Titling System or ELT as we call it, authorized by LB202 passed in 2009. The ELT system allows the DMV to communicate electronically with lending institutions regarding noting and releasing motor vehicle liens. The certificate of title with a lien is held in the DMV database. A paper title is not mailed to the lienholders. LB202 missed a statute that requires the mailing of titles of apportioned vehicles. The proposed language eliminates the mailing requirement for titles for apportioned vehicles and that apportioned vehicles' titles will be issued using the ELT process. I believe that the committee was provided a copy of that amendment prior to today. I'd be happy to answer any questions that the

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committee members may have at this time. [LB212]

SENATOR HADLEY: Thank you, Director Neth. Are there questions for Director Neth? Senator Louden. [LB212]

SENATOR LOUDEN: Okay, thank you. Well, okay, Director Neth, as your last part of your presentation you talked about the electronic lien and titling, evidently you can't use it on apportioned vehicles now and that's what you want cleared up so you can do that? [LB212]

BEVERLY NETH: Well, we are using it on apportioned vehicles. We want to clean up the statutory language. Right now the language would say...says that we would mail that title to the lienholder and because our system has been reprogrammed to be a process whereby the title, if it has a lien on it, it's held electronically. The lienholder is notified the title has been issued, but also notified that the lien has been noted, but there is no actual physical title printed for the individual. We're doing that both in the regular vehicle titling registration system as well as in the apportioned vehicle system. [LB212]

SENATOR LOUDEN: Okay, then to the first part of your presentation, this is something I'm wondering about this International Registration Plan. Can you tell me right quick how that works? I mean, evidently a trucker drives across Nebraska and then he's supposed to tell somebody how many miles he drove and then he's...he pays a fee for driving that far in Nebraska. [LB212]

BEVERLY NETH: There are...there's...it's a couple of steps, actually. Carriers are required to register in their home-base state. So many common carriers that you know in Nebraska, carriers like Werner Trucking, Crete Carrier Corp., are Nebraska-based trucking companies, so they register their trucks here in Nebraska. How we determine their registration fees are...that's determined by them reporting their miles traveled in every jurisdiction in which they run. We then take their miles traveled by the registration fee, the percentage of the registration fee that should be collected in each jurisdiction is collected and distributed to every jurisdiction. So a large carrier like Crete or Werner probably runs in nearly every jurisdiction. I think there are 50...the 50 states, D.C. doesn't...actually 48 states, Hawaii and Alaska don't participate, D.C. doesn't participate and most of the Canadian providences do participate. So, they probably run in almost all of them. Some percentage of the fee, the registration that are paid are distributed to every jurisdiction by the state of Nebraska. That particular program we collect, I believe last year we collected about \$79 million from all of our Nebraska-based carriers. We retained somewhere, I think, about \$27 million for Nebraska and distributed the rest to other jurisdictions. [LB212]

SENATOR LOUDEN: Now how do you reconcile all of that to make sure that everybody is reporting what they have to. I mean, I've known some cattle truckers that I don't know



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if they reported everything because they usually didn't even have their book up to date. [LB212]

BEVERLY NETH: Well, we can audit the carriers, and we do audit the carriers. We had an audit unit as a part of our motor carrier division. We audit large carriers, small and medium sized carriers. Every year we have a certain number that we're required to meet to conform with the plan that we're a member of. A couple of years ago we...in conjunction with 17 other jurisdictions, audited Crete Carrier. It was a very, very large, very, very, large audit. Glad to say the carrier did a good job of reporting their miles. They're required to keep their odometer information. They're required to keep all kinds of paperwork so that when we would come in for an audit we have all of that stuff available to us. [LB212]

SENATOR LOUDEN: Yeah, well I mean, Werner and Crete Carrier I wouldn't be worried about them, but I'm wondering about these somewhat independent truckers out of Missouri or New York or Saskatchewan or someplace that are going through there. How do you reconcile what they do in Nebraska? [LB212]

BEVERLY NETH: Those jurisdictions are required to audit their base carriers as well. So let's say you're a carrier in Wisconsin. Wisconsin's, whether it's the DMV or the Department of Revenue, or wherever their administrative oversight rests, they're required to perform a certain number of audits, as well, every year. We...if we are an affected jurisdiction we have the ability to participate in the audits. We also have the ability to question the audit under dispute resolution process. A couple of years after I took this office, we entered into a dispute resolution on process with the state of Wisconsin. There was a large carrier that they audited. They said that Nebraska owed just a little over a half million dollars in taxes back. We went in and disputed their audit process and their audit findings. Ultimately we prevailed and we ended up...it ended up Wisconsin, I think, giving us about \$67,000. So there's a...I think there's a pretty robust dispute process that states can engage in if we think that a state is not auditing to appropriate standards or if we think they aren't auditing the way we think they should be. So I think we do have some safeguards in place under the parameters of the International Registration Plan that will help us in those kinds of instances. [LB212]

SENATOR LOUDEN: And each state then is like Nebraska, each independent trucker in Nebraska, you have a way of keeping track of how far they drive, not only in Nebraska, but if they go into Kansas or some place like that? [LB212]

BEVERLY NETH: That's right. They're reporting those miles and our methodology for keeping track of that is random auditing of those individuals. All manner...small carriers, medium-sized carriers, and large carriers, they're really a random audit that goes...a process that we follow. If we do find a carrier that we think, maybe they are a small carrier, sometimes with the small carriers, it's a complicated...the IRP and the IFTA, the

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fuel tax programs, are complicated programs, so if you're new to the business, occasionally you might not put your miles in correctly. We try to work with those kinds of carriers. If we find some audit problems, we can assess some fees that maybe weren't paid appropriately, we can assess some penalties and some interest. And then we also, from time to time, do a little bit of hand holding of that carrier. Go back and do some periodic checks of how they're reporting their miles. Are they conforming with the rules that we think they need to conform with and we find the compliance...they're very willing to comply with the laws. [LB212]

SENATOR LOUDEN: Now you have a full-time employee that does that? [LB212]

BEVERLY NETH: We have a number of full-time employees that do that. We have the motor carrier division, I'm going to take a guess, I think there are, probably, about six motor carrier clerks that are engaged in the titling, collection process in IRP and IFTA. And then we have an audit unit within that division. There are five or six auditors and two support staff in that particular unit. [LB212]

SENATOR LOUDEN: Okay, thank you. [LB212]

SENATOR HADLEY: Are there other questions for Director Neth? Seeing none, thank you. [LB212]

BEVERLY NETH: Thank you. [LB212]

SENATOR HADLEY: Are there further proponents? Seeing none. Are there opponents to the bill? Those that wish to testify in the neutral? Seeing none. I will close the hearings and thank you. [LB212]