

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 22, 2013

[LB30 LB35]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, January 22, 2013, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB30 and LB35. Senators present: Annette Dubas, Chairperson; Jim Smith, Vice Chairperson; Lydia Brasch; Galen Hadley; Charlie Janssen; Beau McCoy; Scott Price; and Dan Watermeier. Senators absent: None.

SENATOR DUBAS: Well, I'd like to take the opportunity to welcome you all to the Transportation and Telecommunications Committee hearing. We're here today to hear two bills introduced by Senator Hadley; those would be LB30 and LB35. So if you're here for another LB number, check out where you're supposed to be, but that's what we'll be hearing today. I'd like to take this opportunity, as I said, to welcome you and introduce my fellow committee members. So I'll start at my far right, Senator Charlie Janssen from Fremont. Excuse me. Senator Dan Watermeier from...you're not from Bellevue.

SENATOR WATERMEIER: No.

SENATOR DUBAS: There goes my bifocals here. (Laugh) Syracuse, excuse me.

SENATOR WATERMEIER: That will work.

SENATOR DUBAS: I just got new glasses, and I'm having a really hard time adjusting to my new bifocals, and so I'm like...if you see me doing a lot of this, it's...I'm trying to read my notes. Okay, sorry about that. Senator Scott Price is from Bellevue; the Vice Chair of the Committee, Senator Jim Smith from Omaha. Joselyn Luedtke is the legal counsel for the Transportation and Telecommunications Committee. To my left is Anne Hajek. She is the committee clerk, and so she is the one that really needs you to state and spell your name and get your testifier sheet in. She's the one that keeps the recordings of the committee hearings. To my left, Senator Galen Hadley from Kearney. Senator Beau McCoy will probably be joining us later. I know he has a bill in another hearing. And so I'd kind of like to point out, as senators get up and come and go, it's not that they aren't interested in the matters at hand; it's that they're introducing bills in other committees as well, so they will join us or leave us as needed. And then last, but certainly not least, is Senator Lydia Brasch from Bancroft. So thank you, committee members. I'll introduce our pages. We're fortunate to have two pages, Kaitlyn Evanko-Douglas and David Postier. Kaitlyn comes to us from Montrose, Colorado. She's a senior at UNL studying political science and global studies. David is from York. He is a sophomore and a secondary education major at UNL. So if you need to hand out...give handouts for the committee, your testifier sheet, any assistance you may need, these two young people will be there to help you with what you may need. Let's

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 22, 2013

see. I'd ask that you silence your telephones or any other electronic equipment you may have with you, as that can cause problems with our recording equipment. So if you'll turn those to silent, that would be greatly appreciated. You know, this is going to be pretty short hearings today, so we won't be using the lights. But should...at some time during the course of hearings, as we get into issues that may have a few more interested parties, we'd possibly go to the light system, but I don't see us needing to use that today. As you come forward, in preparing to testify, if you would state and then spell your first and last name, again, that's for the transcribers' and the clerk's benefit. Should they need to come back and look something up, they would be able to find you and have that accurately reflected in the record. Oh, let's see, what else am I forgetting here? If you have any handouts, again, if you could have about 15, then that way we're sure the committee and everybody that needs them...there will be enough to go around. If you're here today, you don't want to testify, but you do want to be on the record for your position on either bill that's being introduced today, this pink sheet is on a table back there, and it'll just...gives you a place to give your name and address and whether you support or oppose and write the bill number down. And then the testifier sheet is, again, for you to have filled out before you come out and testify and present to the clerk. Again, I ask you to silence your phones and, you know, if there is a need for any conversations we'd ask that you take those conversations out into the hallway, not to interfere with the testifiers. The microphones that we have before us are not necessarily for amplification. They're for recording purposes, so if there's any...for those of you who are at the testifier's table, even for those of us who are up here, any page rattling or pencil tapping or anything like that is picked up by these microphones and, again, causes problems for our transcribers and the clerks. So you don't need to fiddle around with the microphone, although that's typically our first inclination is to grab ahold of a microphone. But it should be in the position that it's needed to begin the recording. So I think with all of that, if I haven't missed any of my housekeeping duties--there, I just hit the microphone (laugh)--we will be ready for the first hearing and Senator Hadley.

SENATOR HADLEY: Chairman Dubas and members of the Transportation and Telecommunications Committee, I appreciate the opportunity--excuse me--for being here. For those of you that might be new to the process, the DMV and other departments quite often come in with what they call "cleanup" bills, just to basically clean up the statutes that we have to get them in accordance with any federal statutes that we have. And those are the reason that I'm introducing two bills today are basically to clean up the statutes to bring them into compliance. The first one is LB30, and it's introduced for the purpose of amending Sections 60-155 and 60-156, Reissue Revised Statutes of Nebraska, which relate to the deposit of motor vehicle title fees. In 2012, LB751 was introduced for the purpose of correcting statutory changes which had been enacted by LB276 in 2005. The 2005 recodification, LB276, had incorrectly designated the cash funds into which motor vehicle title fees were to be deposited. As drafted, LB751 in 2012 omitted some of the sections which directed the deposits of motor vehicle title fees into various cash funds. LB30 amends Sections 60-155 and 60-156

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 22, 2013

Reissue Revised Statutes of Nebraska to reflect the proper division of the motor vehicle title fees to be deposited in the amount of \$4 into the DMV Cash Fund and \$6 into the Motor Vehicle (sic) Division Cash Fund. LB30 further repeals the original sections and declares an emergency. Director Beverly Neth is here to answer any specific questions you might have. Thank you, Chairman. [LB30]

SENATOR DUBAS: Thank you, Senator Hadley. Are there any questions for Senator Hadley? Senator Janssen. [LB30]

SENATOR JANSSEN: Thank you, Chairman Dubas. Could you state your name and spell it for the record? [LB30]

SENATOR DUBAS: (Laugh) Thank you, Senator Janssen. [LB30]

SENATOR HADLEY: Let's see. I'd say it, but my only...I've only got so many words left with this voice. (Laugh) [LB30]

SENATOR DUBAS: I thought I'd catch him on the next bill, but thank you. [LB30]

SENATOR JANSSEN: It's his first rodeo. [LB30]

SENATOR DUBAS: Any other questions? All right, thank you. [LB30]

SENATOR HADLEY: Thank you. [LB30]

SENATOR DUBAS: We have the first proponent for LB30. [LB30]

BEVERLY NETH: I'm sorry, I wasn't listening to the instructions. [LB30]

SENATOR DUBAS: (Laugh) That's all right. [LB30]

BEVERLY NETH: (Exhibit 1) Chairwoman Dubas, members of the committee, I'm Beverly Neth, director of the Department of Motor Vehicles, appearing today to offer testimony in support of LB30. [LB30]

SENATOR DUBAS: Excuse me, Director. Can I ask you to spell your name, please? [LB30]

SENATOR HADLEY: Yes. Beverly, B-e-v-e-r-l-y, Neth, N-e-t-h. [LB30]

SENATOR DUBAS: Thank you. [LB30]

BEVERLY NETH: Thank you. I do want to thank Senator Hadley for introducing this bill

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 22, 2013

on behalf of the department. As Senator Hadley said, this is a cleanup of a bill that was brought last year, LB751. You have my testimony. It's pretty much a reiteration of what Senator Hadley had to say. This bill is required because we brought a cleanup bill last year, LB751, and unfortunately we missed two sections of the laws that needed to be corrected due to the error that took place with LB276 in 2005, the recodification bill. The two sections that were left out of LB751 last year had to do with the deposit split for liens of motor carrier titles with liens on them issued by the Motor Carrier Services Division, as well as duplicate titles issued in that same division. We're bringing LB30 to clean up the errors that were made in the recodification process and would ask for your support on this bill. And I would be happy to answer any questions the committee might have. [LB30]

SENATOR DUBAS: Thank you, Director Neth. Are there any questions? Seeing none, thank you so much. [LB30]

BEVERLY NETH: Thank you, thank you very much. [LB30]

SENATOR DUBAS: Further proponents for LB30? Are there any opponents? Anyone in the neutral capacity? Seeing none, Senator Hadley, would you like to close? Senator Hadley waives his close. And with that, that closes the hearing for LB30, and we'll move on to LB35. Senator Hadley. [LB30]

SENATOR HADLEY: Chairman Dubas, members of the committee, my name is Galen Hadley, G-a-l-e-n H-a-d-l-e-y. I represent the 37th District in the state of Nebraska in the Legislature. LB35 was introduced for the purpose of updating date references in statutes referring to federal law or interstate agreements under the regulatory authority of the Department of Motor Vehicles. The updates keep Nebraska law current and in compliance with the newest version of the referenced law or regulations. The date updates do not include substantive changes in the referenced laws or agreements. LB35 further repeals the original sections. [LB35]

SENATOR DUBAS: Thank you. Any questions for Senator Hadley? Seeing none, thank you. [LB35]

SENATOR HADLEY: Thank you. [LB35]

SENATOR DUBAS: Do we have our first proponent for LB35? [LB35]

BEVERLY NETH: (Exhibit 2) Chairwoman Dubas, 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 LB35. Again, I want to thank Senator Hadley for introducing this bill on behalf of the Department of Motor Vehicles and the State Patrol. This is a reference date update bill that is introduced each year to keep the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 22, 2013

DMV and State Patrol consistent with federal laws and regulations. LB35 amends reference dates for several DMV programs that are governed by federal law. LB35 adopts the most recent version of the International Registration Plan, known as IRP. Nebraska has been an IRP member jurisdiction since 1975. Membership in IRP allows Nebraska-based trucking companies to pay registration fees in Nebraska for all 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 will allow Nebraska to follow the IRP agreement as of January 1, 2013. LB35 also updates Nebraska's statutory references to federal regulations governing motor vehicles--commercial motor vehicles, excuse me--and the issuance of commercial driver licenses. The change will allow DMV to follow federal regulations as they existed on January 1, 2013. If Nebraska fails to comply with these laws, the Federal Motor Carrier Safety Administration, known as FMCSA, has the authority to withhold funding for the Nebraska Motor Carrier Safety Assistance Program, or MCSAP, and federal highway funds. LB35 updates Nebraska statutes that adopt the federal Unified Carrier Registration Plan governing interstate motor carriers and reference to federal security standards for background checks for persons involved in driver license issuance. Both references to federal code will be updated to January 1, 2013. LB35 also updates references to federal regulations governing handicapped parking permits as they existed on January 1, 2013. The representative from the State Patrol is here, and he will address the portion of the bill relative to the State Patrol. At this time, Chairman Dubas, I'd be happy to answer any questions the committee may have regarding the DMV provisions. [LB35]

SENATOR DUBAS: All right, thank you, Director Neth. Any questions? Senator Hadley. [LB35]

SENATOR HADLEY: Thank you, Chairman. I just...not a question. But I know Director Neth is leaving at the end of the month, and I just wanted to thank her for all of her work for the state of Nebraska and the DMV. And she's been a pleasure to work with the last four years on this committee, and we very much appreciate all the help she's given the state of Nebraska and... [LB35]

BEVERLY NETH: Well, thank you, Senator. It's been my honor to serve the citizens of Nebraska and serve as the Department of Motor Vehicles director. I've been a lucky director. I've got a great staff, and it's been a great ride. [LB35]

SENATOR DUBAS: Senator Smith. [LB35]

SENATOR SMITH: Thank you, Madam Chair. Director Neth, are...is every other state mandated to be a part of the IRP as well? [LB35]

BEVERLY NETH: It's not really a mandate. It is a federal program that most states in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 22, 2013

the contiguous states are a part of. I believe that Alaska, Hawaii, and D.C. are not part of those plans. IRP also includes the Canadian provinces, and I believe most Canadian provinces are a part of that. It really is...it was really adopted in the early '70s as a better way to regulate motor carriers, the industry. Before IRP, a carrier company that wanted to operate in multiple jurisdictions had to go to each jurisdiction to register, so it was a very difficult and cumbersome process to comply with the regulations. This way, a Nebraska-based carrier, for instance, a Crete Carrier or a Werner, that runs all over the country, they come to Nebraska, they file their mileage with us for all the jurisdictions in which they travel, we collect one sum from them, and then we do the distribution of that through a clearinghouse. And so it's much more convenient and easy for the carrier industry to comply with the regulation under this kind of program. There's also a corresponding program that exists for fuel tax called the International Fuel Tax Agreement. The DMV oversees that program as well. These programs really run hand-in-hand. It's a fuel tax collection, pro rata shared distribution as well for mileage traveled. [LB35]

SENATOR SMITH: And so we incur receipts as well. [LB35]

BEVERLY NETH: We incur... [LB35]

SENATOR SMITH: We have receipts as well from other states. [LB35]

BEVERLY NETH: Oh, absolutely, yes, we do. [LB35]

SENATOR SMITH: Okay, thank you. [LB35]

BEVERLY NETH: Um-hum. [LB35]

SENATOR DUBAS: Other questions? Seeing none, thank you, Director. [LB35]

BEVERLY NETH: Thank you. [LB35]

SENATOR DUBAS: Further proponents. Welcome. [LB35]

GERALD KROLIKOWSKI: (Exhibit 3) Thank you. Chairwoman Dubas and members of the Transportation and Telecommunications Committee, my name is Gerald, 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 LB35. 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 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

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 22, 2013

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 6, line 2, Section 6 adopts 75-363, Federal Motor Carrier Safety Regulations. On page 11, line 3, Section 7 adopts state statute 75-364, which is the Federal Hazardous Materials Regulations. And on page 12, line 5, Section 8, which adopts 75-366, enforcement powers as such regulations were in effect January 1, 2013. Every day state troopers strive to make our highways safe. In FY 2012 the Nebraska State Patrol conducted 28,785 roadside inspections; 8.4 percent of those drivers inspected were placed out of service. Of the 9,447 vehicle inspections, an average of 2.91 violations per vehicle were discovered, with 34 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 2012 the Carrier Enforcement Division of the Nebraska State Patrol conducted 78 public education seminars in 9 town hall meetings across the state, directed at commercial motor vehicle owners and operators. A total of 3,936 people attended these seminars and town hall meetings. During the calendar year of 2011, Nebraska experienced 43 fatality crashes involving trucks and two fatalities involving buses. This continues to be a dramatic reduction from the 115 fatality crashes in 1989, when the Patrol began enforcing these Safety and Hazardous Materials Regulations. The Nebraska State Patrol's 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 Materials Regulations that are being adopted through this update. I want to thank you for the opportunity to testify on behalf of this bill and will be happy to answer any questions that you may have. [LB35]

SENATOR DUBAS: Thank you so much. Are there questions? Going to make it easy on you. [LB35]

GERALD KROLIKOWSKI: Thank you. Wonderful. [LB35]

SENATOR DUBAS: Thank you so much for coming forward. Are there other proponents? Any opponents? Anyone in the neutral? Seeing none, that will close the hearing for LB35 and our hearings for today. I thank you all for taking the time to come. I'd like to promise that it's all going to be this quick and easy, but probably not. (Laugh) (See also Exhibit 4.) [LB35]