

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

Transportation and Telecommunications Committee
January 16, 2007

[LB14 LB35 LB43]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, January 16, 2007, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB14, LB35, and LB43. Senators present: Deb Fischer, Chairperson; Arnie Stuthman, Vice Chairperson; Ray Aguilar; Carol Hudkins; LeRoy Loudon; Dwite Pedersen; and DiAnna Schimek. Senators absent: Mick Mines. []

SENATOR FISCHER: (Recorder malfunction)...a sheet there on the on-deck table. And you may also submit your comments in writing to the committee and they will be part of the official record. I would ask that you turn off all cell phones. We don't like cell phones at committee hearings, so please turn all those off. And now I'd like to have a show of hands approximately on how many people are here to testify on each bill, either for or against or neutral. How many plan to testify on LB14? Thank you. LB35? Thank you. And LB43? Thank you very much. We have been joined by Senator DiAnna Schimek of Lincoln. And with that, I would open the hearing on LB14. Senator Mines was unable to be here today, and so, I believe, we have Stephanie Cude who will be introducing the bill on his behalf. [LB14]

STEPHANIE CUDE: (Exhibit 1) Thank you, Senator Fischer. My name is Stephanie Cude, C-u-d-e, and I'm the legislative aide for Senator Mick Mines, who represents District 18. And I'd like to begin today by expressing Senator Mines' regret that he could not be here today to introduce this bill. LB14 would provide for the issuance of one license plate instead of the current requirement of two license plates. The single plate would be displayed at the rear of the vehicle. The motivation behind this bill is to simply save our state and its citizens money. Currently, 19 states require that automobiles have a license plate on the rear only of their vehicle. This represents, roughly, 40 percent of the U.S. population. This includes several major states, including Florida, Michigan, and Pennsylvania, as well as other Midwestern states, such as Kansas or Oklahoma. Four of the 19 states have converted to a one-plate system since 1980 as a cost-saving measure. Most of you are aware that this is not a first...the first time a bill of this nature has been brought. As a matter of fact, returning members of the committee will remember that Senator Mines brought a bill in 2005 and 2003, I believe, that would have accomplished the same thing. However, a new and important problem with the current two license plates requirement has come to light in the last couple of years. This new problem is fraud. The two license plate system increases the likelihood of fraud, because a vehicle owner might put the second tag on another unregistered vehicle, thus evading registration taxes and fees. According to an Omaha World-Herald article, a growing number of drivers own two cars, but register only one, then split the plates between two vehicles. This is done by drivers and companies to save hundreds and thousands of dollars in registration fees and taxes, but it robs the city, county and state of money. The cost in Nebraska for driving without a front license plate equals \$66.50 in

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

Transportation and Telecommunications Committee
January 16, 2007

court costs and fines. Compare this with the \$2,200 in sales tax alone on a 2004 Ford Explorer, and you can begin to get an understanding of why individuals are willing to try to pull a scam of this nature. Of the 31 states that require two plates, 15 states reported to the American Association of Motor Vehicle Administrators that they have had problems with the front or back plate being used on two separate vehicles for tax fee evasion. Another reason why a bill of this nature is important is the cost and savings reason. Eliminating the need for a front license plate would significantly reduce the state costs associated with production, storage and shipping. Requiring only one license plate per vehicle would cut in half the storage area needed in county treasurer's offices. Additionally, many county treasurers have to keep plates in storage facilities. Cutting the number of plates in half would equal less plates that they'd have to store, freeing up additional spaces for these offices and lessening work for the county workers. Postage costs for two plates are about \$4. This cost would, obviously, be cut down significantly. And as an example of the savings in switching from two to one plate, Michigan went back to a single plate in...or went to a single plate in 1981. In 1986, a bill was then brought to bring two plates back into use, and the cost of the bill was nearly \$38 million. Additionally, the Indiana Legislature has considered changing its requirement from one plate to two, but the movement has been defeated because of the advantages of two plates has not shown...been shown to outweigh the costs. Law enforcement officials might be opposed to a measure abolishing the front license plate requirement because they might believe that losing the extra plate would make it more difficult for them to do their jobs in the most efficient manner. However, such opponents have provided no data to support this allegation. In the 19 states that have abolished a front license plate requirement there is no evidence of a decline in public safety as a result of the plate removal. In fact, as I mentioned previously, when Michigan attempted to return to two plates the Deputy Sheriff's Association of Michigan went on record at the time saying there was no substantial advantage to law enforcement and citizens with regard to requiring the additional plate. A recent survey, conducted in Texas, of several states requiring only one license plate found that none had experienced a serious police problem. A study using FBI Uniform Crime Report data has shown that there is no correlation between the effectiveness of fighting crime and having one or two plates. I have a handout. Thank you. If you look at this handout, it is important to note that the point that we're trying to make with it is not that these statistics...it isn't so much that they...the states with one license plate have a greater percentage of crime clearance, although in some cases this is the case, rather the point is that crime isn't worse in the states with one plate. And additionally, legislation of this nature has actually had support in the past from Nebraska law enforcement agencies. As recently as 2002, the Police Chiefs' Association of Nebraska endorsed then Senator Vrtiska's bill of the same nature. In closing, I have several individuals that will testify after me that can hopefully provide you with any additional information you might need. And thank you very much. And I encourage your support of LB14. [LB14]

SENATOR FISCHER: Thank you, Ms. Cude. Any questions from committee members

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

Transportation and Telecommunications Committee
January 16, 2007

on the introduction? Senator Louden. [LB14]

SENATOR LOUDEN: Do you have any place where it...what would it say, the state of Nebraska, by just having one plate and manufacturing and that sort of thing? [LB14]

STEPHANIE CUDE: Well, it definitely, if you look at the fiscal note you can see that it would kind of cost a little bit to implement it just because the cycle on which they would make them would require that there would be sort of some excess. But then once they eliminated and just would order the...just for one plate, I mean, we...it's hard to have a specific example of it. But you can only assume that cutting production in half would save money. But, no, I don't have any specific evidence of that. [LB14]

SENATOR LOUDEN: Okay, thank you. [LB14]

STEPHANIE CUDE: You're welcome. [LB14]

SENATOR FISCHER: Other questions? Senator Stuthman. [LB14]

SENATOR STUTHMAN: Thank you, Senator Fischer. You stated that, you know, with the one plate that in the county office, in the treasurer's office,... [LB14]

STEPHANIE CUDE: Um-hum. [LB14]

SENATOR STUTHMAN: ...there would be...take up less space and it would be less of a workload. So do you feel that there would be enough of a lesser workload that they could unemploy one out of the treasurer's office so there could be a direct property tax savings? [LB14]

STEPHANIE CUDE: It's certainly possible. It's hard to say. I mean, you know, someone...there is someone here today that's going to testify from the county, and so they could probably let you know a little bit on that. But there would certainly be savings in terms of storage for sure. [LB14]

SENATOR STUTHMAN: Thank you. [LB14]

STEPHANIE CUDE: You're welcome. [LB14]

SENATOR FISCHER: Senator Schimek. [LB14]

SENATOR SCHIMEK: Yes. Thank you, Madam Chair. I'm looking at the fiscal note that was prepared, I'm presuming on behalf of the...well, maybe Cornhusker State Industries; I'm not sure. But... [LB14]

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

Transportation and Telecommunications Committee
January 16, 2007

STEPHANIE CUDE: Um-hum. [LB14]

SENATOR SCHIMEK: ...what it says in this, as I read it, is that the license plates are going to cost more per plate because it's not as cost-effective to do more license plates. Is that your reading of it? [LB14]

STEPHANIE CUDE: I think that that's probably fair just to say, in general. [LB14]

SENATOR SCHIMEK: I mean to do fewer. [LB14]

STEPHANIE CUDE: But it would...but it would still be less because it would...each individual plate would cost more, but the over... [LB14]

SENATOR SCHIMEK: That's what I was trying to get at, yes. [LB14]

STEPHANIE CUDE: Yeah, but then...but the overall costs would still be less, but it wouldn't be directly cut in half, as you might imagine,... [LB14]

SENATOR SCHIMEK: Right. [LB14]

STEPHANIE CUDE: ...because it would be less cost-effective. [LB14]

SENATOR SCHIMEK: I just wanted to clarify that. Thank you. [LB14]

STEPHANIE CUDE: You're welcome. [LB14]

SENATOR FISCHER: Other questions? Thank you, Ms. Cude. [LB14]

STEPHANIE CUDE: Yeah, thank you. And I waive closing. I have another committee to go to. Thank you. [LB14]

SENATOR FISCHER: Thank you. I would like it noted that we have been joined by Senator Dwite Pedersen. Welcome. Are there proponents that would like to address the committee at this time? And could you hand your yellow sheet to... [LB14]

LARRY DIX: I'm confused. I'm sorry. [LB14]

SENATOR FISCHER: (Laugh) We're changing the rules a little bit here for our clerk. Thank you. Welcome. [LB14]

LARRY DIX: Senator Fisher, members of the committee, for the record my name is Larry Dix, it's spelled D-i-x. I'm executive director of the Nebraska Association of County Officials and appearing today in front of you in support of LB14. I want to give you just a

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

Transportation and Telecommunications Committee
January 16, 2007

little bit of background. And, I think, previously we had heard that this bill had been introduced before. In 2003, I think it was, our organization took a neutral position; in 2005 we took a position to support. This year our board has not met yet but, typically, when the bill has not changed we would carry over that position. Many of you may ask, and this is one of the bills that from time to time NACO will appear and representing a number of offices out there, law enforcement and county treasurers. Certainly, from the law enforcement side those folks would say, yes, we have some concerns about that. Certainly from the treasurers' side there is support for that. Previously, Senator Stuthman talked about the workload, and would it reduce a staff member? For the most part, when we look at the county offices, and there are a number of the, certainly, the smaller counties, there's not enough people. If you would reduce them you wouldn't have enough to cover some of the just normal vacations and things like that because some of those offices are so small. I would tell you though, by reducing that, one, you would reduce storage, there isn't any question about it. You would eliminate half of your storage volume. But as far as handling, actually taking care of the customer that comes to the counter, one plate or two plates, you still go through the same process. You would still wait on the counter, you go back, you pull the plate, be it one as opposed to two, carry it up and distribute it, or you take one plate and put it in an envelope as opposed to two. So I don't think that from a true workload, just simply the mechanics of it, probably are not going to see that much of a savings. It really does come down to the physical handling the weight, the volume of the plates. But...and so with that, our organization, in the past, has taken a position to support that for those reasons. And I know that following me there will be a county treasurer that can really get into the detail of the process that they go through in taking care of the plates in probably a little bit more detail from a county treasurer perspective. So with that, I'll end and try to answer any questions anybody may have. [LB14]

SENATOR FISCHER: Thank you, Mr. Dix. Senator Stuthman. [LB14]

SENATOR STUTHMAN: Thank you, Senator Fischer. Larry, it was stated in the opening remarks that some companies that have a lot of registrations that they don't buy all the registrations for a vehicle, and they would split up plates. Do you see that happening? [LB14]

LARRY DIX: You know, I can't sit here and give you an example. I heard anecdotally that that does happen. We have heard from some of our county treasurers that, you know, some of them probably could give you a specific and say that that happens. We have heard that that happens on some farm vehicles, not just companies. But we have heard folks that will have multiple vehicles on a farm and a lot of times they'll store a vehicle in a barn. And they'll pull some plates off another car and drive to town in the other vehicle and never register it, so not just companies, but we have heard that on farm vehicles also, which is disturbing. [LB14]

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

Transportation and Telecommunications Committee
January 16, 2007

SENATOR STUTHMAN: Thank you. [LB14]

SENATOR FISCHER: Other questions? Thank you, Mr. Dix. [LB14]

LARRY DIX: Thank you. [LB14]

SENATOR FISCHER: Next proponent, please. [LB14]

RICH JAMES: Good afternoon, senators. I'm Rich James, that's J-a-m-e-s. I'm here in support of LB14. I'm the treasurer of Sarpy County. I'm here in support of this bill, I guess, perhaps on behalf of myself as well as the taxpayers. There's approximately 1.7 million two-plated vehicles in the state of Nebraska, and at \$3.25 per plate we're taking out of their pockets millions of dollars out of the taxpayers' pocket so that they can have that second plate. That works out to, for the plate in the front, over \$5 million. Now I understand why the price of two plates, if you get rid of one of them, is not going to reduce the price by a half, and that's because there's some overhead built into those plates. But as long as I've been in this business, the general figure that we seem to come up with for a price of one plate all by itself, without the overhead built in, and by overhead I mean the delivery charges and the equipment that we rent in order to produce those license plates, it's always been in the \$1 to \$1.50 range. And what that tells me is that we could save the taxpayers over \$2 million by eliminating the front license plate. In this day and age, we keep trying to save money, and sometimes one of the ways to do that is to reduce what we do. And I'd like to see the taxpayers benefit by that. Other advantages to one plate--I asked my supervisor of motor vehicles why she'd like to have one or two license plates to see what she had to say about it. And without even pausing for a second, she said, one license plate. And I thought after working in the office for a number of years I thought I knew most of the answers, and maybe that's the political answer to that. But she said, because there's a lot of vehicles nowadays, and I can't quantify "a lot," neither could she, but there's a lot of vehicles out there that come without a fixture in the front of the car to put the second license plate on. So they come to our counter, we give them two plates, they say, what do I do with the first plate, the front plate? And we tell them to go back to their dealership, and then they rant at us a little bit because they're going to have to go buy a fixture to put on the front of their car. I'm not here to say we should have one license plate because we're not prepared to take the occasional complaint by the taxpayer. But I would say that we're disserving our people if we're forcing them to pay \$40 or \$50 for a fancy bracket to put on their car so that they can have a license plate. So that's perhaps some of the citizen's point of view. I know, two years ago my sister-in-law, who lives in Missouri, bought a vehicle without the front license plate. And my nephew and I had the privilege of figuring out how to affix it to her front bumper, because she didn't want to pay \$40 to go down to the Nissan dealership and get it put on the vehicle or to buy the bracket. The...some of those stories are anecdotal about people using two plates and putting them on different vehicles. I have observed it happen. I can't say I observed it happen a lot. I observed it

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

Transportation and Telecommunications Committee
January 16, 2007

happen once. But obviously, with the opportunity to do that somebody who's looking to save money may do that. I have indeed heard other treasurers tell me stories about how they know so-and-so did it. And I didn't ask them if they called the sheriff or not, but I've heard a number of those stories over the years. Storage at the counties would indeed be reduced, especially in the larger counties. We went to aluminum plates which saved us some space. To reduce the space in half that we need would be a great benefit to us. We in Sarpy County are spending millions of dollars to expand our courthouse, and I thought that meant I'd get more space, but it turns out I get just about the same, if not a little bit less. It's very expensive to build new facilities. And storage is, indeed, at a premium in most of the courthouses, from talking with my colleagues. Especially those that are...do not have alphanumeric plates like the large three counties have, they continue to library their plates, if you will, put them on shelves in numerical order, so that they can provide the same number plate back to the same citizen. If they could reduce their shelving in half to what they have now, it would be a great boon to them. Also, at some point these plates get thrown in the landfill. That's perhaps just a secondary or tertiary issue to this. But I think not having to throw those things in the landfill, by not having two, would be to our benefit. I'm available for any comments or questions, if you have any. [LB14]

SENATOR FISCHER: Thank you, Mr. James. Questions? Senator Pedersen. [LB14]

SENATOR PEDERSEN: Thank you, Senator Fischer. Mr. James, I've been on this committee for 14 years. We've heard this bill every year that I've been here. Has there been any effort at all by the treasurers to go to the Department of Corrections and ask them to take over the shipping and the handling of the plates, so you wouldn't even have to touch them? [LB14]

RICH JAMES: I've heard that that's been discussed before. I don't know that the treasurers have ever asked for that. [LB14]

SENATOR PEDERSEN: With today's computer services all they'd have to do is press a button and the Department of Correctional Services put the address on them and mails them right out. Could be all done without you ever handling them. It has been looked at, but I don't think anybody has ever taken it serious. Law enforcement has had a real hang-up for a long time about not having both plates. And then as far as landfill, can't they recycle them? [LB14]

RICH JAMES: They're aluminum, they should be recyclable. [LB14]

SENATOR PEDERSEN: I would think... [LB14]

RICH JAMES: But not every citizen is going to make that effort. Like I said, that's a tertiary issue. [LB14]

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

Transportation and Telecommunications Committee
January 16, 2007

SENATOR PEDERSEN: Yeah, that would be, that would be the... [LB14]

RICH JAMES: I don't know that that's of great consequence. [LB14]

SENATOR PEDERSEN: The money savings is something, I think, that could be looked at if it's worth that much for the actual law enforcement service loss. And I would be willing to take more of a look at...but this is not a new issue for the committee. It's been here for 14 years that I know of, and now we're back for my 15th year. So, thank you. It's good to see you again. [LB14]

RICH JAMES: Yes, sir. [LB14]

SENATOR FISCHER: Senator Stuthman. [LB14]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. James, you mentioned a cost saving to the taxpayers of millions of dollars. You know, in my opinion, you know, these millions of dollars, you know, are paid by citizens for this license. But the funds go to a revenue-receiving entity of taxpayers. So in my opinion, and you may not agree with me on this, but those millions of dollars savings is going to have to be taken up in some other taxable form because of those entities that are doing the license plates, doing the handling of it, the county workers and stuff like that. Those are all revenue-receiving people of taxpayers. You know, taxpayers are saving \$2 million from the license plates. But in my opinion, there's going to be \$2 million in additional property tax or something like that to be left. Do you feel I'm right in that statement? [LB14]

RICH JAMES: With due respect, sir, I don't think I do. And the reason I say that is because the whole process consumes the license plate and consumes the money. When you produce a set of license plates the \$3.25 per plate is either consumed in the cost of shipping somewhere, the actual cost of the aluminum and the paint and the overlay that goes on that plate, and obviously corrections has some overhead built into that figure. Now you asked the question, if we reduced the amount of plates I had would I be able to eliminate an employee? And I would suggest in my case the answer to that is no, because I still have to service the 120,000 citizens or plates that get handed out every six years with the issuance, new issuance of license plates. So the fact there's two or one when I hand them to the citizen is probably moot. But if we've got people at some other state agency doing half the work they used to do, I would suggest the state has the opportunity to reduce the amount of labor that's involved. That \$3.25 is pretty much consumed. It's not like it goes to the Department of Revenue and they use it to help somebody with a disability, or they use it for state aid back to counties. From my perspective that \$3.25 per plate is consumed totally at the state level buying aluminum, buying paint, paying for the overhead, paying for shipping of those plates, and paying for the rental of the equipment that produces those plates. [LB14]

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

Transportation and Telecommunications Committee
January 16, 2007

SENATOR STUTHMAN: Then you feel...well, maybe I need to ask you this question, Mr. James. What portion of the license fee does the county retain? [LB14]

RICH JAMES: Of the plate? [LB14]

SENATOR STUTHMAN: Of the plate portion. [LB14]

RICH JAMES: We don't keep any portion of the plate. [LB14]

SENATOR STUTHMAN: But of the licensing of it? [LB14]

RICH JAMES: I believe it's like \$2 or \$2.50 of the registration fee we keep. [LB14]

SENATOR STUTHMAN: Of the registration, and then that would be paid, that's paid no matter if you have one plate or two plates. [LB14]

RICH JAMES: Correct. [LB14]

SENATOR STUTHMAN: Yeah. [LB14]

RICH JAMES: Or how often we register. Every year when the citizen comes to visit us, we get the same fee for registering a vehicle. [LB14]

SENATOR STUTHMAN: Is there any additional charge, a plate fee, that goes somewhere else, to another entity? [LB14]

RICH JAMES: Well, as part of the registration fee there's all kinds of, and I can talk about some of them, if you'd like. The registration fee, there's a property tax on there, of which 60 percent goes to the school district which the vehicle is situated in (sic). If the person lives in the city, they get 18 percent of that property tax, and the county gets 22 percent. If it's outside the city, the county gets 40 percent of the property tax, and the schools get 60 percent. Now there's also a registration fee on there of which, I believe, most of it goes to the Highway Trust Fund, and there's a motor vehicle fee, there's a couple other little fees that I'm not even going to try to, because I'll get it wrong, but they go to a variety of different places. But I don't...I can't see how the taxes would go up to the citizen if one plate is issued instead of two. [LB14]

SENATOR STUTHMAN: Okay. Thank you. [LB14]

RICH JAMES: Yes, sir. [LB14]

SENATOR FISCHER: Senator Aguilar. [LB14]

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

Transportation and Telecommunications Committee
January 16, 2007

SENATOR AGUILAR: Thank you, Madam Chairman. Are counties able to monitor the difference in number between registered vehicles and licensed vehicles? [LB14]

RICH JAMES: The difference between registered and licensed? [LB14]

SENATOR AGUILAR: Yeah, like say there's 20,000 registered vehicles in Hall County, and people only come in and get plates for 15,000 of them. I'm using the example where you say that some people are buying a plate,... [LB14]

RICH JAMES: Oh, I see what you're saying. [LB14]

SENATOR AGUILAR: ...and putting one on another vehicle. [LB14]

RICH JAMES: I have no way of knowing how many vehicles are in my county. If they don't come to register it, if they do what I described to you, I'd have no way of knowing it. Law enforcement, probably, could address that subject. [LB14]

SENATOR AGUILAR: But say, for instance, they buy the vehicle,... [LB14]

RICH JAMES: Yeah. [LB14]

SENATOR AGUILAR: ...they come in and register it and get license plates. The following year they don't come in and get license plates. [LB14]

RICH JAMES: And then a year later they come in? [LB14]

SENATOR AGUILAR: Is there any way to red flag that? [LB14]

RICH JAMES: Well, we could monitor that. I would say that from my own experience that doesn't happen very often. People can, if they put it in storage for over one registration period,... [LB14]

SENATOR AGUILAR: Right. [LB14]

RICH JAMES: ...come in and say, my car was in storage for over one registration period and I'd like to put it back on the road now; 99.9 percent of the time those are old cars that you would believe they were working on that car, it's not a brand new Lexus that, you know, they put in storage for two years. We get very few people requesting that form. So my reaction to that is if they swap counties and jump around a little bit, they could probably do that. But our experience is there's very few people doing that. [LB14]

SENATOR AGUILAR: Okay, thank you. [LB14]

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

Transportation and Telecommunications Committee
January 16, 2007

RICH JAMES: Yes, sir. [LB14]

SENATOR FISCHER: Other questions? Thank you, Mr. James. [LB14]

RICH JAMES: Thank you for your time. [LB14]

SENATOR FISCHER: Other proponents? Welcome. You need to bring your sheet up here to the clerk, please. [LB14]

LOY TODD: Oh, sorry. (Inaudible remark.) Senator Fischer, members of the committee, my name is Loy Todd. I'm the president and legal counsel for Nebraska New Car and Truck Dealers Association, testifying in favor of LB14. I'll just be very brief. Our single benefit that we see from this piece of legislation, from our standpoint, is simply this: more and more we are seeing vehicles that are manufactured without a front plate bracket. In fact, they list it as an option now on a lot of vehicles. It's an option at no charge on new vehicles. So there's...but the transition is it used to be standard equipment and now it's an option. And you have to actually order it separately or get it separately. It ends up that the dealer eats that because, you know, there is a cost to it, obviously. It's a little awkward to try to pass that on to the consumer, and so it ends up costing our dealers. Selfishly, we see some benefit to this. We understand the concerns that people have. So, you know, we're not going to come bother you about this. We're not going to...it isn't going to change life for us in any way yet. We see so many other states, and the trend is going there, I can tell you this that before long there are going to be some serious charges to it. And also, on used cars they come in without it, somebody buys it, they come in and people are very unhappy when you have to charge them \$30, \$40, \$50, more dollars for that. And some just hate it, they just hate the looks of it. You know, somebody buys a high-end car, they don't like it. So from that standpoint, we think that there would be some real benefits. If law enforcement can't catch people anymore because they only got one plate, then I guess that's the way you ought to go, too. So that's our position. [LB14]

SENATOR FISCHER: Thank you. Any questions? Mr. Todd, it's my understanding that most states require two plates. Do you know if that's true? [LB14]

LOY TODD: I was just listening to the presented testimony. I think the indication was that 19 states have a single plate, so that would leave the rest. So I think numerically the majority still have a two-plate system. And I don't see it with every manufacturer. Surprising enough, my last car was a Ford and it didn't have one. [LB14]

SENATOR FISCHER: Why are manufacturers only putting the brackets on for the rear plates and not the front plates? Do you know? [LB14]

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

Transportation and Telecommunications Committee
January 16, 2007

LOY TODD: I'm sure it's just a cost savings. They, you know, they put a pencil to everything. And I assume that they've figured out that it's cheaper for them to make the dealer do it as an aftermarket. You know they love to pass the costs on to us. It costs them nothing to not do it. If they can pass that onto the local dealer, they've just passed on that expense to somebody else. So I don't think there's anything more interesting than that about it. It's just another way to duck costs. [LB14]

SENATOR FISCHER: Okay, thank you. Questions? Thank you very much. [LB14]

LOY TODD: Thank you. [LB14]

SENATOR FISCHER: Other proponents? We have the opponents to LB14, please? Any opponents? Welcome. [LB14]

JACK MOORS: (Exhibit 2) Senator Fischer, members of the committee, my name is Jack Moors, M-o-o-r-s, J-a-c-k. I am here on behalf of Minnesota Mining and Manufacturing Company, better known as 3M. We are here in opposition to this bill from a safety standpoint. I realize that I may be self-serving, because we manufacture the plates. But we have gathered information for you from around the country, for your review. I have no formal testimony, but I do have a letter for you from the chief of police of Lincoln, and chief of police of Omaha, who strongly urge the defeat of this bill. With that, I will stop my testimony and answer any questions you may have. [LB14]

SENATOR FISCHER: Are there any questions for Mr. Moors? Senator Stuthman. [LB14]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. Moors, with two license plates on and when you're...you know, in Nebraska we still have a lot of two-lane roads, quite a number of them. You know, you meet a lot of traffic. [LB14]

JACK MOORS: Um-hum. [LB14]

SENATOR STUTHMAN: You do see the license plate on the front, and a lot of people observe that. It's easy to pick, I mean, to see if there's a plate that someone is looking for, where, you know, if you were going down the interstate, you know, you only see the rear license plate of probably two or three vehicles that you pass. And I see why law enforcement would support this, because you very seldom would ever see if you have one license plate on a two-lane road, I mean, unless you're really looking in the mirror to see that or know the type of vehicle that it's on. Would you say that the majority of law enforcement support two license plates or not? [LB14]

JACK MOORS: Yes, sir, they do. And of interest to you might be that less than 10 percent of the roads in the United States are four-lane, I think it's something like 9

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Transcriber's Office

Transportation and Telecommunications Committee
January 16, 2007

percent. Seventy percent of the apprehension, and this comes from safety studies done by our company and other companies and law enforcement, 70 percent of the infractions or the arrests are made from oncoming cars, taken from the front plate. That's why we feel this is extremely critical. A reflective plate has good visibility up to something like 74 yards in advance, and that's part of, I think, part of the answer to your question. [LB14]

SENATOR STUTHMAN: Thank you. [LB14]

SENATOR FISCHER: Senator Louden. [LB14]

SENATOR LOUDEN: Thank you, Senator Fischer. You represent the city of Lincoln, Jack, is that... [LB14]

JACK MOORS: Not...no, not anymore, I do not. [LB14]

SENATOR LOUDEN: Okay. Are you familiar with these cameras they have in the intersections here in Lincoln now? [LB14]

JACK MOORS: Yes. I believe the city has 40 of those now in place,... [LB14]

SENATOR LOUDEN: Okay. [LB14]

JACK MOORS: ...and they are primarily...they are set up to read license plates. [LB14]

SENATOR LOUDEN: Okay. My question is, are they set up to read the front plate or the back plate? [LB14]

JACK MOORS: As I understand it, they're set up directionally, and there are certain intersections where they can pick up both the rear and the front, not just one or the other. [LB14]

SENATOR LOUDEN: Okay, but they can pick up...always, they can always pick up both? [LB14]

JACK MOORS: Yes, sir. [LB14]

SENATOR LOUDEN: Okay, thank you. [LB14]

SENATOR FISCHER: Other questions? Mr. Moors, in the introduction it was stated that when this bill was introduced it did have support from law enforcement, previously when it was introduced. Do you know anything about that? And if so, can you tell me why the position of that particular law enforcement group changed? [LB14]

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

Transportation and Telecommunications Committee
January 16, 2007

JACK MOORS: Senator, I can't answer your question directly. I, like Senator Pedersen, have been here 14 times, minimum. And I think in the year 2002 the Police Officers' Association passed a resolution, which is part of this packet. I do not know what transpired when they went in and when they went out. And I'm sorry, I...I'll find the answer for you. [LB14]

SENATOR FISCHER: Okay, thank you. [LB14]

JACK MOORS: You bet. [LB14]

SENATOR FISCHER: Thank you very much. [LB14]

JACK MOORS: Thank you. [LB14]

SENATOR FISCHER: The next person in opposition to the bill, please. Welcome. [LB14]

TIM KEIGHER: Thank you. Good afternoon, Senator Fischer, members of the committee. My name is Tim Keigher, that is K-e-i-g-h-e-r. I appear before you today in opposition to LB14 on behalf of the Nebraska Petroleum Marketers and Convenience Store Association. We represent over 250 members, operating over 2,200 retail outlets in the state of Nebraska. Our opposition to this bill is that we have a terrible problem with drive-offs, lately. Nationwide, it averages about \$1,000 per month per location. And we feel that having the front plate helps our employees and video cameras that we have at our locations identify potential drive-offs, or drive-offs, I guess I should say, and also helps law enforcement in apprehending those drive-offs. So with that, I would be happy to answer any questions. Thank you. [LB14]

SENATOR FISCHER: Thank you, Mr. Keigher. Senator Pedersen, question? [LB14]

SENATOR PEDERSEN: Thank you. Are not the video cameras trained to hit both front and back? [LB14]

TIM KEIGHER: Correct. I mean, they are strategically placed throughout the location to capture as much information as they can. [LB14]

SENATOR PEDERSEN: Thank you. [LB14]

SENATOR FISCHER: Other questions? Thank you, Mr. Keigher. [LB14]

TIM KEIGHER: Thank you. [LB14]

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

Transportation and Telecommunications Committee
January 16, 2007

SENATOR FISCHER: Other opponents? [LB14]

JOE KOHOUT: Chairwoman Fischer, members of the Transportation Committee, my name is Joe Kohout, K-o-h-o-u-t, registered lobbyist, appearing on behalf of the Nebraska Fraternal Order of Police, appearing in opposition to LB14. The fundamental truth of LB14 is that we will continue to do our job, we will continue to investigate crimes, we will continue to do all those things that you've heard the list of horrors about so far today. The reality is this, is that in many cases our officers deal with this stuff on a day-to-day basis. And they find it easier in circumstances where there are two plates. Some of the circumstances that have been highlighted to me in conversations with our organization are...is the drive-off scenario, where a camera may catch...may not be able to catch the front, but it's able to catch the back, or where they don't even have a camera, frankly, and where a clerk is able to maybe even catch the license plate as it pulls out of the parking lot, or those kinds of circumstances. Also, hit-and-runs, you'd be amazed at the number of times when a hit-and-run accident actually results in a front license plate dropping off the vehicle and actually being left at the scene as the person drives off. So those are the couple of circumstances where we find it's beneficial. Like I said, we'll continue to do our job and we'll do it well. But those are just for our ease and for us to do our job. We just find it's easier with two license plates. [LB14]

SENATOR FISCHER: Thank you, Mr. Kohout. Questions? Would you happen to know the answer to the question that I asked Mr. Moors, about previously there had been a group, either police, sheriff, some law enforcement group that supported this idea? [LB14]

JOE KOHOUT: Um-hum. I believe, if I remember what Stephanie said, it was the Police Chiefs' Association of Nebraska who came out in support. And that was news to me. And, obviously, there are numerous law enforcement organizations in the state. And I'm not aware, I wasn't part of the scenario at that time, so I don't know off the top of my head why that would change. But I can look into that as well. [LB14]

SENATOR FISCHER: Okay, thank you very much. Thank you. [LB14]

JOE KOHOUT: Thank you. [LB14]

SENATOR FISCHER: Other testifiers in opposition to the bill? Would anyone like to testify in a neutral capacity? [LB14]

BEVERLY NETH: I do have a copy of my testimony. [LB14]

SENATOR FISCHER: Page. Thank you. [LB14]

BEVERLY NETH: (Exhibit 3) Chairman Fischer, members of the committee, I am

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

Transportation and Telecommunications Committee
January 16, 2007

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 neutral testimony concerning LB14. I am not here today to discuss whether or not Nebraska should issue one plate or two plates. That's a public policy decision and certainly within your purview. My goal today is to provide you with the impact of changing the law in the middle of a license plate reissuance cycle. Beginning with the 2005 license plate issuance, Nebraska moved from a three-year plate cycle to a six-year plate cycle. The existing license plate design will be issued until December 31, 2010. LB14, as written, requires that one plate be issued beginning January 1, 2008, which is, of course, halfway through the 2005 plate series. The DMV is responsible for the license plate and registration sticker design, production orders, inventory control, and the funds appropriated to pay for plates and stickers. A transfer from the Highway Trust Fund funds the budget with which DMV pays the Department of Corrections--Cornhusker State Industries--for the manufacturing and delivery of plates and stickers. A license plate fee is collected when a new set of plates or a plate is issued to the customer. That fee is then deposited to the Highway Trust Fund. The current cost of a set of license plates and the registration stickers issued over the six-year period is \$6.50 per set. That cost was based on an estimated number of license plates and stickers that Cornhusker State Industries will manufacture and the DMV and 93 counties will issue over the six-year period of approximately 7.9 million license plates and 28 million registration stickers. Changing the law to require only one license plate will alter the number of plates to be produced, which will impact the cost per plate due to fixed manufacturing costs. Changing the law in 2008 will also result in the need to destroy some of the existing inventory that will have been delivered. Essentially, one plate of a set manufactured in 2007 would be issued in '08, the other plate will have to be destroyed. Both plates will have been paid for, but only one will be sold, resulting in a loss of revenue to the Highway Trust Fund. To the extent possible, the DMV will control inventory. But if all 93 counties have 100 sets of plates left at the end of 2007, then the total destroyed inventory will be 9,300 plates at a cost of \$3.25 per plate. Mitigating the monetary impact to the Highway Trust Fund and Cornhusker State Industries can be achieved by amending LB14 so the effective date coincides with the beginning of a new reissuance cycle and so that it provides for an increase in the discretionary fee authority that governs the price of a license plate. If the committee wishes to advance LB14 with the January 1, 2008, date intact, then mitigation can still be achieved by increasing the discretionary fee authority. That fee authority is currently capped at \$3.50 per plate. The fiscal note filed by the DMV in this instance reflects a cash expenditure of \$67,000. This is an estimate of programming costs associated with this proposal. The DMV no longer has the programmer who helped build the VTR system in its employ. Additionally, we lost a programmer with two years experience at the end of '06. Our sole programmer, although competent, has very little experience with the VTR system. I anticipate that we will need to seek outside contractors to assist with the programming needs associated with this bill, the cost of which is the estimate in the...included in the fiscal note. There is also a technical drafting issue that I wish to bring to your attention. LB14 proposes language that appears to eliminate all plural nouns in some of the statute sections. It

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

Transportation and Telecommunications Committee
January 16, 2007

does not seem necessary to eliminate all plural references to such things as "motor vehicles" or "trailers" to accomplish the purpose of the bill. As drafted, the changes could have a substantive effect on the current law in other ways than just moving Nebraska to a one-plate state. I respectfully request the bill be reviewed to determine which plural-to-singular changes are necessary to carry out the purposes of the bill. I thank you for the opportunity to comment on this measure. And I will answer any questions you might have. [LB14]

SENATOR FISCHER: Thank you, Director Neth. Any questions? Senator Schimek. [LB14]

SENATOR SCHIMEK: Thank you, Madam Chair. Director Neth, I have a question about the part of your testimony that dealt with the programming costs. [LB14]

BEVERLY NETH: Um-hum. [LB14]

SENATOR SCHIMEK: I'm always amazed at programming costs. But tell me why that would cost so much? [LB14]

BEVERLY NETH: Well, we estimate that it would probably take about 900 hours of programming to program. [LB14]

SENATOR SCHIMEK: Oh, that's not what I mean, I guess. [LB14]

BEVERLY NETH: I can elaborate for you. [LB14]

SENATOR SCHIMEK: Okay, please. [LB14]

BEVERLY NETH: There are a number of subsystems within the VTR system that will have to be affected with this change. One is there is a plate management system that is essentially the system, it's not essentially, it is the system that is used by counties to request orders from the department. Senator Pedersen made a comment earlier about could the counties just go to Cornhusker State Industries and order a certain amount of plates. That's not how it happens. How inventory control happens in Nebraska is the counties are issued...the counties request a certain amount of plate inventory. We review that request to make sure that they're not over-inventorying themselves and then make a determination about the amount of plates that will be ordered and delivered. That's all done electronically through the system, which is a "subpiece" of VTR. That system would have to be affected. There would be assessment. The assessment piece of VTR would also be affected, which is where we collect the fees associated. VTR is the "overcompassing" system that is used to do about everything associated with the registering, titling and issuing of motor vehicle plates and titles. So a piece of that puzzle is fee collection. VTR, essentially, says what fee should be collected for what process

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

Transportation and Telecommunications Committee
January 16, 2007

that's occurring. VTR is where we collect the \$3.50 per plate, or \$3.25 per plate. That piece would have to be affected. There are also other plates. A specialty plate would be affected. There is an undercover registration component of VTR that would also be affected. We do issue undercover plates in Nebraska. There are just a number of different components of VTR that would have to be touched, and this is our best estimate on the amount of time it would take to program--essentially, upwards of six months. Not every day, but it could take six months to program for this type of a change. [LB14]

SENATOR SCHIMEK: Thank you, that does explain it. [LB14]

SENATOR FISCHER: Senator Pedersen. [LB14]

SENATOR PEDERSEN: Thank you, Madam Chair. Ms. Neth, has there been any negotiations or even looking into the possibility of having...contracting with the Cornhusker State Industries to take care of the shipping of all plates on an individual basis? [LB14]

BEVERLY NETH: Well, when we moved to the digital license plate production method we had those kinds of, I will call them, forward-looking conversations about what kind of flexibility does the digital plate production method give to the state of Nebraska. That is certainly one piece of it. We would have to engage in, I think, much more extensive conversations with Cornhusker State Industries about how that would occur. It would...because the plate issuance happens on a county level, you know, it's hard to conceptualize exactly how that would happen. But you would almost either have to bypass the DMV and make that process happen county to Cornhusker State Industries, or there would be some other elaborate process that would occur. Certainly, it's not unfeasible that that could happen. But the way things stand right now, I mean, maybe it doesn't go without saying, counties don't pay for plates. The state of Nebraska pays for the plates, and that... [LB14]

SENATOR PEDERSEN: Um-hum. [LB14]

BEVERLY NETH: ...that inventory is delivered to the county. This isn't an indictment of anyone or, I mean, I can certainly understand when you have frontline customers that you want to have the inventory to give them. But we do see at the end of plate cycles that there is a tendency to over order plates. And there's a tendency to be desirous of having a very large inventory so you don't run out of plates. And really, there is no negative impact to the counties to do that. They don't pay for the plates. So whether they have 1,000 plates at the end of the plate cycle, or 100 plates at the end of the plate cycle, it's not coming out of their pocket, so to speak. So I'm a little bit concerned about bypassing the DMV without putting some kind of fiscal impact to the counties, if that's the way we would go. We certainly could explore all kinds of things, though. [LB14]

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

Transportation and Telecommunications Committee
January 16, 2007

SENATOR PEDERSEN: Would we need a change in statute to do something like that? [LB14]

BEVERLY NETH: I suspect we might. I don't have the command of the exact statutes right now, but we probably...probably so. [LB14]

SENATOR PEDERSEN: Thank you. [LB14]

SENATOR FISCHER: Other questions? Director Neth, you were just saying that the counties don't pay for the plates, and so you believe that they have a tendency to perhaps order more than they need. Do you have specific data on that? [LB14]

BEVERLY NETH: Well,... [LB14]

SENATOR FISCHER: Do you keep track per county... [LB14]

BEVERLY NETH: We absolutely do. [LB14]

SENATOR FISCHER: ...how many they have? [LB14]

BEVERLY NETH: We absolutely do. We control...we, through our plate management system, control the inventory ordering process, as well as the delivery. We...when a county orders plates, we go back through and review the inventory, the plate inventory they have in stock. We do that by reviewing the plates that have been issued to an individual against the inventory that we believe they still have in stock. So we can come up with what we think is a very educated guess of the number of plates they still have. From that we make a decision about the order that they are placing--whether or not it's prudent to fill the entire order, or whether we should scale back the order some based upon where we are in the plate cycle. And it happens, I don't mean to say that counties are out there just trying to get a large inventory of plates, that's not...but it just...it mostly happens at the end of a plate cycle where there's a tendency to be very cautious about running out of plates. [LB14]

SENATOR FISCHER: You brought up in your testimony that you felt there should be an amendment, if this bill came out, dealing with the date of implementation. I gather that's because the cycle is over December 31, 2010? Do you have a suggestion for a date? Obviously, it would be January 1, 2011, or... [LB14]

BEVERLY NETH: That's correct. That's correct. [LB14]

SENATOR FISCHER: Okay, thank you. [LB14]

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

Transportation and Telecommunications Committee
January 16, 2007

BEVERLY NETH: Then you could get right to the heart of the issue that has been discussed a little bit here about plate splitting. When you still have a valid design and you're going to go from two plates to one plate, I think you could potentially increase that problem, because it would be...although that plate number exists in VTR, available for law enforcement when they run the plate and the type of vehicle that plate is issued to, there may not be a...certainly that would require law enforcement to run nearly every plate to make sure it's valid. [LB14]

SENATOR FISCHER: Okay, thank you. Senator Pedersen. [LB14]

SENATOR PEDERSEN: Thank you, Madam Chair. Ms. Neth, on the specialty plates today, are they handled the same way as the other plates? [LB14]

BEVERLY NETH: Special... [LB14]

SENATOR PEDERSEN: If I order my plate, which has my name on it, who mails me that plate? [LB14]

BEVERLY NETH: That plate, the application for a specialty plate is made directly to the Department of Motor Vehicles. We review the application to determine whether or not it falls within the criteria of the statute so that there is no profanity and those kinds of things on it. We then, as a general rule, approve the application, request that the plate be produced by Cornhusker State Industries, and Cornhusker State Industries then mails that plate or delivers that plate to the county of issuance. It's ultimately issued at the county of residence of the individual. It's not... [LB14]

SENATOR PEDERSEN: So the county is actually mailing me the plate from their office? [LB14]

BEVERLY NETH: It... [LB14]

SENATOR PEDERSEN: It goes from Cornhusker State Industries, even the specialty plates, to the county treasurer's office, and then they mail it out. [LB14]

BEVERLY NETH: Yes. [LB14]

SENATOR PEDERSEN: Thank you. [LB14]

SENATOR FISCHER: Other questions? Thank you. [LB14]

BEVERLY NETH: Thank you. [LB14]

SENATOR FISCHER: Appreciate it. Is there any other testimony in the neutral

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

Transportation and Telecommunications Committee
January 16, 2007

capacity? The introducer has waived closing. So with that, I will close the hearing on LB14, and we will open the hearing on LB35. Senator Janssen has been patiently waiting. Welcome, Senator Janssen, and thank you for waiting. [LB14 LB35]

SENATOR JANSSEN: That's fine. I didn't know that you moved those around. I was in a meeting. But that's fine, it worked out just fine. [LB35]

SENATOR FISCHER: We apologize. [LB35]

SENATOR JANSSEN: No. No, no. No, it worked out fine for me. Good afternoon, Senator Fischer, members of the committee. For the record, my name is Ray Janssen, representing the 15th Legislative District, and that we like to call the "Pathfinder District." I'm here today to introduce this piece of legislation to you under the name of LB35. Currently, the state statutes require that any freeway located in Douglas County has a speed limit of 60 miles per hour. This bill would change that speed limit on all freeways that are part of the state highway system to 65 miles an hour. This would not include any freeways that are part of the interstate system. This bill applies to my legislative district since U.S. 275 is a freeway that runs from Fremont to Omaha. It's currently posted at 60 miles per hour, although the current law would allow that portion of the freeway that is in Dodge County to be 65 miles an hour. It's a stretch of about, I would say, four miles, five miles, something like that, about four miles. The Department of Roads has kept it at 60 to be consistent with that portion that is in Douglas County. That's understandable because you'd go the first four miles at 65, and then have to slow down to 60. This bill would allow that the entire freeway be posted at 65 miles per hour. I might add that we did change that for Douglas County, I can't remember how many years ago it's been, because traffic was moving too fast within the city of Omaha. So there was legislation that was introduced and passed to lower that to 60 miles an hour. And as our system has developed throughout eastern Nebraska, that no more...no longer has to be at 60 miles an hour, according to Department of Roads. I believe there are people here who will testify after my introduction. I believe the director, John Craig, is here, that's what I have...I understand anyway, from the Department of Roads, or someone who can speak for him who can further explain the need for this change. And with that, I'd like to answer any questions that you may have for me. [LB35]

SENATOR FISCHER: Thank you, Senator Janssen. Are there any questions? Senator Louden. [LB35]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Senator Janssen, on page 5 of your bill here, where you've struck some of the language, "Until September 1, 1996, fifty-five miles" would be out? [LB35]

SENATOR JANSSEN: Um-hum. [LB35]

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

Transportation and Telecommunications Committee
January 16, 2007

SENATOR LOUDEN: And then it says, beginning on or after September 1, sixty miles per hour upon any part of the state highway system other than expressway or freeway. Could that 60 be raised to 65? [LB35]

SENATOR JANSSEN: Not without this legislation. [LB35]

SENATOR LOUDEN: But I mean, could that be amended to put 65 in there? [LB35]

SENATOR JANSSEN: Yeah, and that's probably what we're going to do. You know, that will happen, um-hum. [LB35]

SENATOR LOUDEN: And would you be...would you still support the bill if it was in here? [LB35]

SENATOR JANSSEN: If it was raised to 65? That's what we're after. [LB35]

SENATOR LOUDEN: Well, this is...would be, "upon any part of the state highway system other than an expressway or freeway." [LB35]

SENATOR JANSSEN: Um-hum. [LB35]

SENATOR LOUDEN: It would be raising it to 65. [LB35]

SENATOR JANSSEN: Yes. [LB35]

SENATOR LOUDEN: Um-hum, okay. And it would be the same thing, they could still go five miles over that? [LB35]

SENATOR JANSSEN: Yeah. [LB35]

SENATOR LOUDEN: Okay, thank you. [LB35]

SENATOR JANSSEN: Sure. [LB35]

SENATOR FISCHER: Other questions? Thank you, Senator Janssen. [LB35]

SENATOR JANSSEN: I think I'll stick around... [LB35]

SENATOR FISCHER: Okay. [LB35]

SENATOR JANSSEN: ...to close. All right? [LB35]

SENATOR FISCHER: We will have you close then. Thank you. [LB35]

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

Transportation and Telecommunications Committee
January 16, 2007

SENATOR JANSSEN: All right, thank you. [LB35]

SENATOR FISCHER: Do we have proponents for LB35? If you would come forward and hand the clerk your sign-in sheet, please. Thank you and welcome. [LB35]

JOHN CRAIG: (Exhibit 1) Thank you. Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. My name is John Craig and I'm the director of the Nebraska Department of Roads. I am testifying in support of LB35. I also have with me today the state traffic engineer, Randy Peters, who will be available to answer any technical questions. Randy, if you could just raise your hand. I'll call on Randy if I need him; if not, I won't. As Senator Janssen testified to the current law provides that the maximum speed limit shall be 60 miles per hour for any portion of a freeway and the national system of interstate and defense highways located in Douglas County. We believe this language, when it was enacted in 1996, was not intended to encompass future noninterstate freeways within rural Douglas County, such as the recently completed freeway between Fremont and Omaha, comprised of segments of three highways, U.S. 275, L28B, and U.S. Highway 6. This freeway was designed and constructed to safely accommodate a posted speed limit of 65 miles per hour, but now, due to an unintended provision of the law, must be posted at 60 miles per hour. The new language in LB35 would establish a maximum speed limit of 65 miles per hour on all non-interstate freeways, while retaining the current 60 mile per hour maximum speed limit on Interstates 80, 480 and 680 within Douglas County. Thank you. And I would be happy to answer any questions at this time. And if I could ask the clerk to pass these out. Thank you very much, thank you. [LB35]

SENATOR FISCHER: Are there any questions for Director Craig? Senator Louden. [LB35]

SENATOR LOUDEN: Thank you, Senator Fischer. Well, Director Craig, welcome today. And I'll ask you the same question. On page 5 of this bill, line 6 there, could that be raised from 60 to 65 in this bill? Would you still support that? [LB35]

JOHN CRAIG: Well, the intention of this bill, I'm going to respond to that, and then I'm going to ask Randy to try and run you through more details of it. The intention of this bill, when the speed limits were adjusted to 60 miles per hour within Douglas County it was just, as was stated earlier, to keep any freeway within Douglas County, primarily oriented toward the interstate, at 60. And so that's the intent of this bill. Beyond changing other speed limits, Randy, do you want to come up? [LB35]

SENATOR FISCHER: And since the director is being joined at the table, could you please just pull up a chair. That's fine. If you would introduce yourself and also spell your name, please, for the record. [LB35]

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

Transportation and Telecommunications Committee
January 16, 2007

RANDY PETERS: Good afternoon, Chairman Fischer, members of the committee. My name is Randy Peters, P-e-t-e-r-s, and I am the state traffic engineer for the Department of Roads. Senator Louden, the question regarding the language about 60 miles per hour upon any part of the state highway system, other than an expressway or a freeway, this bill was enacted in 1996, and that was the time period when the state repealed the national maximum 55-mile-an-hour speed limit on all two-lane roads. And so, many roads during that period were designed with elements that are not nominally safe for 65 miles an hour. And that is the reason that the, I believe, that the responsibility was given to the Department of Roads to perform an engineering study before a road was raised to 65 miles an hour. [LB35]

SENATOR LOUDEN: Okay. Well, my concern is when you go down some of these highways, you go a ways at 65, then you go a ways and then it's 60, and then it goes back up to 65 again. And presently, thank God, we have patrolmen that aren't vicious and they're not using it as a speed trap. But it can be used that way. Sometimes some of the local law enforcement use it as angles like that. And I'm wondering if there couldn't be a little bit more uniformity. I mean, if you're going to start down, like, Highway 2, if you're going to go 65 all the way, why out there in the middle of it you have about a 20-mile stretch that you can only go 60? And is it designed that bad that 65 wouldn't be all right? I don't know if you're familiar there east...or west of Mullen. That's got a surface shoulder on it, but yet that's 60-mile speed limit on that area there. Some people are going on the contention if it's got a surface shoulder then it's 65 miles an hour, but yet that isn't always true. This is what I'm getting at. [LB35]

JOHN CRAIG: Let me respond to that in general. In that section of highway, Randy, I don't know if you know, I can't pull it up on my radar screen. The concern you're expressing, Senator, is not unique to that stretch of road. It occurs, and there are...we are liable monetarily, and if I ask my attorneys what's our liability exposure, they'll say about \$50 million a year. That's a common term that's used. We are responsible and accountable for everything that does or does not occur on the state highway system, including is it built to accommodate certain speeds of traffic? And so, in fact, that will happen for one reason or another, speed limits will increase or decrease due to horizontal visibilities, vertical visibilities, but it's not unique to that section of highway you're talking about. In some across the state there are cases where speed limits increase and decrease depending on the circumstances. Randy, I don't know if you know other details about that section of highway? [LB35]

RANDY PETERS: I would prefer to do more research before I commented on the segment west of Mullen. There is a piece of Highway 2, I know, that doesn't have the full width surface shoulder, and that's the primary reason. There is another provision of the Department of Roads' criteria on what makes a two-lane road eligible to be posted at 65 miles per hour, and that is that the county request or concur in its being raised to

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

Transportation and Telecommunications Committee
January 16, 2007

65 miles an hour. And I'm not sure, west of Mullen, which of these criteria come into play. [LB35]

SENATOR LOUDEN: Now does the county request that, but then the Department of Roads has to okay that? Who has the final say, the county or the Department of Roads? [LB35]

RANDY PETERS: The authority is with the Department of Roads. It is the Department of Roads' policy to ask for concurrence from the county that the highway is going through. [LB35]

SENATOR LOUDEN: Okay, thank you. [LB35]

JOHN CRAIG: Any other questions? [LB35]

SENATOR FISCHER: Other questions? I would say when we met this summer, Director Craig, I brought up that piece of highway west of Mullen that was a concern. And so, Senator Louden, I have Senator Craig...or Director Craig's response on that. So I'll...I can get that to... [LB35]

JOHN CRAIG: I probably responded to it, and I don't remember the answer that I gave. (Laugh) [LB35]

SENATOR FISCHER: You responded to a lot of things, I remember. So I have that, I believe, in my office, too. So thank you very much, both of you. [LB35]

JOHN CRAIG: Thank you. [LB35]

SENATOR FISCHER: And, Mr. Peters, if you could fill out a form and bring it to the clerk then afterwards, that would be great. [LB35]

RANDY PETERS: I will. [LB35]

SENATOR FISCHER: Are there other proponents to LB35? Are there any opponents to the bill? Anyone wishing to testify in a neutral capacity? Welcome. [LB35]

MIKE HYBL: Senator Fischer, members of the committee, my name is Mike Hybl, that's spelled H-y-b-l. I'm the registered lobbyist for the Nebraska Trucking Association. Was not planning on testifying on the bill, but just wanted to make sure on the point that Senator Louden raised. If you do consider making that specific amendment on page 5, strongly encourage you to look at the rest of the language there, because Mr. Peters did lay out what happened in '96, when the state did get speed limit authority back. And as that section now reads, basically, the state highway, other than expressway and

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

Transportation and Telecommunications Committee
January 16, 2007

freeway, there's a presumption that the speed limit will be 60 miles an hour, with the ability to raise the speed limit to 65, if the requirements are met. And if we just change that language to 60, with the way the section now reads, you have the potential, based upon an engineering study, where the maximum speed limit could go to 70 miles an hour. And, if you look at the change there, then I'd encourage you to look at the way the rest of that section is drafted. I think from the perspective of the association, maximum speed limits are what you need to...think they need to be, as policymakers, as long as we're sure that the highway is designed in a way to handle the traffic in a safe manner on the road. And other than that, that's all I have. [LB35]

SENATOR FISCHER: Thank you, Mr. Hybl. Any questions? Thank you very much. Is there anyone else who would like to testify in a neutral capacity? Seeing none, I would close the hearing then on LB...oh, I am so sorry, Senator Janssen. I make you sit, and then I'm ready to ignore you. Would you like to close? [LB35]

SENATOR JANSSEN: No. [LB35]

SENATOR FISCHER: Senator Janssen waives closing. Thank you so much. And I will close the hearing on LB35. I see Senator Heidemann is here, so I will open the hearing on LB43, please. Welcome, Senator Heidemann. [LB43 LB35]

SENATOR HEIDEMANN: (Exhibit 1) Good afternoon, Chairperson Fischer, members of the Transportation Committee. I am Senator Lavon Heidemann, spelled H-e-i-d-e-m-a-n-n, from Legislative District 1. And I'm here to introduce LB43. LB43 would allow for the mowing and hay harvesting of highway right of ways. Landowners...I believe that landowners and taxpayers in the state of Nebraska could all benefit from the passage of this bill. This bill would establish a permit system to be administered by the Department of Roads. Applicants would pay a fee to cover all administrative costs and sign a liability waiver. I have copies of an amendment which I would like to include with this bill. We originally drew up this bill under the same thing that was in last legislative session that passed through the Transportation Committee and got up to General File, but died because of lack of time to do it. It was our intent just to reintroduce that same bill. When we drew that up, we had heard there was some concerns with Game and Parks and the Department of Roads. And at that time, we brought everybody together and we talked to them. And because of that, we decided to draw up this amendment to try to alleviate some of those concerns. This amendment would...it would add to the bill that the landowner with the land abutting the highway is given first priority to obtain the haying permit. It gives them until July 15 to July 30 to ask for and to receive this priority. It also sets a start date for the haying season, not to begin before July 15. July 15 would be the starting date. That was put in there to try to alleviate some nesting concerns. It also allows permits to be given every other year, at most, for a certain stretch of land. This would not only include provisions under this bill, but also under the drought designation. It was the hope that because of this being

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

Transportation and Telecommunications Committee
January 16, 2007

added that you wouldn't be able to hay something every year. It allows regrowth so it helps the nesting the next year if you do not mow. These three provisions were added to the bill to ease concerns about pheasant populations and their nesting habits, as well as to clarify dates for the program and priority status and to ease administrative concerns. The other thing, the limit...amendment does is to limit the miles a nonabutting landowners can hay per year to five miles. This provision of the amendment addresses the concern of commercial operations from out of state coming into Nebraska to profit from haying harvesting on the right of ways. We would hope with this in there you're not going to get some haying company from out of state buying up 30 to 40 miles at a time and hauling the hay back out and more of at a for-profit type of deal. Currently, the state allows for mowing and hay harvesting in highway right of ways when the Governor declares a drought designation for certain areas of the state. The Department of Roads administers a permit for the program when this kind of designation is made. They collect fees based on the number of miles to be hayed, and the applicant signs a liability waiver. Currently, the contract mowers also sign a liability waiver. We would assume that the Department of Roads would administer the proposed program much like they do when the drought designation is made. I would want to point out that other states currently have statutes, rules, and regulations in place that allow for mowing and haying of right of ways. Kansas, for example, has shown that it really does benefit everyone involved. Farmers are able to harvest hay and Kansas allocates the money to highways and bridges that they have otherwise used to pay contract mowers. This bill has no fiscal impact. Again, there is language in the bill that would set the permit costs to cover all administrative costs. Also, would like to note that this bill is a reintroduction of LB1117 from 2006, which made it to General File last year, but never made it to the floor for debate. At this time, I would try to answer any questions that you might have. [LB43]

SENATOR FISCHER: Thank you, Senator. Senator Stuthman. [LB43]

SENATOR STUTHMAN: Thank you, Senator Fischer. Senator Heidemann, have you got any idea what the state is paying right now for the custom people that just shred the roads? How much per mile it comes to, or the cost of what the state...you know, the state, I think, still has some miles that they do with their equipment and their staff? [LB43]

SENATOR HEIDEMANN: I don't have that...those figures in front of me. I could try to get them later on. [LB43]

SENATOR STUTHMAN: And this is just mowing every other year the complete right of way, or is there going to be a distance that they can mow? [LB43]

SENATOR HEIDEMANN: This would be the complete right of way, the way I understand it, yes. And you could only do it every other year. [LB43]

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

Transportation and Telecommunications Committee
January 16, 2007

SENATOR STUTHMAN: Every other year. [LB43]

SENATOR HEIDEMANN: And we put it in...there was talk at some places three years, and some places five years; we put it...we stopped it at two. We...with our understanding maybe that one year, one side of the road could be mowed, and then the next side, the other side of the road. So there would always be some places for wildlife to, you know, establish and to nest and other things. [LB43]

SENATOR STUTHMAN: Okay, thank you. [LB43]

SENATOR FISCHER: Other questions? Senator Louden. [LB43]

SENATOR LOUDEN: Thank you, Senator Fischer. Senator Heidemann, what's not in there now? Can't we hay along the right of way now? [LB43]

SENATOR HEIDEMANN: I don't believe so without that drought designation. [LB43]

SENATOR LOUDEN: Well, up in our area they...I thought you could go out there and get your permit for ten bucks and get a mile of road. Perhaps, we'll have to ask the Department of Roads people. But you say we can't do that, unless you give drought designation? [LB43]

SENATOR HEIDEMANN: That's the way I understand it now. At one time...and I'm sure there might be some people following me up, if not, I can try to get that for you, but they...at one time there was talk, at least I'd heard there was talk about maybe trying some experimental. And I don't know if they tried that up in your area or not; I'm not aware of that. But, I believe, otherwise it has to be under drought designation. [LB43]

SENATOR LOUDEN: Now next question: We have areas out there where people go and they'll mow along the highway for, oh, a couple hundred yards each way, which amounts to about a quarter of a mile on each side of a turnoff or someplace where you might want to cross cattle in the wintertime. How will that affect that, if we don't do that? Is that going to put a stop to that, or are you going to have to have a permit to do that? [LB43]

SENATOR HEIDEMANN: I'm not for sure how that works. I'm not for sure if they should actually be doing that under the current law, the way it stands. You would have to ask somebody else that, or I could try to get you that information. [LB43]

SENATOR LOUDEN: Well, the difference is in the wintertime you don't have deep snow to work through if there happened to be grass, and weeds, and everything else there, that's what it is, is more or less to... [LB43]

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

Transportation and Telecommunications Committee
January 16, 2007

SENATOR HEIDEMANN: And I understand that. I'm not for sure, though, that really legally right now that they should be on there, to be right truthful. It's probably just being done. [LB43]

SENATOR LOUDEN: Okay. Thank you. [LB43]

SENATOR FISCHER: Thank you, Senator Heidemann. Will you be staying for closing? [LB43]

SENATOR HEIDEMANN: If there are further questions...I have to get back to Appropriations. If there are further questions my legislative aide can answer them, otherwise we will just waive. [LB43]

SENATOR FISCHER: Okay, thank you. [LB43]

SENATOR HEIDEMANN: Thank you very much. [LB43]

SENATOR FISCHER: I would like to announce for the record that we've been joined by Senator Carol Hudkins from Malcolm. And now, are there proponents to LB43? Good afternoon. [LB43]

PETE McClymont: Afternoon, Senator Fischer and members of the committee. My name is Pete McClymont, M-c-C-l-y-m-o-n-t. I'm here representing Nebraska Cattlemen as a registered lobbyist and provide testimony in support of LB43. I'd like to begin by thanking Senator Heidemann for authoring LB43 and the seven cosponsors. As you have heard from Senator Heidemann's opening, LB43 would allow the Department of Roads to establish a permit system mowing and harvesting of hay on the state's right of ways. Nebraska Cattlemen sees two positives of this bill, and I would share them briefly with you this afternoon. First off, the harvesting of right of ways can provide cattlemen a much needed source of feed. The damaging and persistent effects of the drought throughout Nebraska continue to negatively impact cow/calf producers, and as you, Senator Fischer and Senator Louden, have seen firsthand. Harvesting of the roadsides can provide much needed relief for cow/calf producers. LB43 allows the Department of Roads to regulate the times allowed for harvesting, thus allowing for positive wildlife habitat management. Additionally, it should be noted that while the quality of the hay harvested would not be superior, it can certainly be a value of feed, if nothing more than fiberfiller to be supplemented with additional protein. The second point I'd like to make is harvesting of accumulated grasses along roadsides can substantially reduce the risk of unwanted and very harmful range fires and grass fires. Last year as we saw looking to our neighbors to the south in Oklahoma and Texas, many of the fires that have devastated rangeland, homes and businesses began along roadsides. The accumulated grasses are very dry and combustible and allow for wildfire to spread

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

Transportation and Telecommunications Committee
January 16, 2007

quickly when coupled with low humidity and wind, two things which are present here in Nebraska almost daily. LB43 allows for good management of accumulated grasses, thus lowering wildlife danger, which favors both landowners and wildlife enthusiasts. Nebraska Cattlemen view LB43 as a win-win for both the state of Nebraska and livestock producers. The state receives a much needed service of care of right of ways, and a revenue source from the permits, and livestock producers receive a feed source. Nebraska Cattlemen would respectfully request the committee to advance LB43 out of committee. And I appreciate your time and would be happy to answer any questions. [LB43]

SENATOR FISCHER: Thank you. Any questions? Senator Stuthman. [LB43]

SENATOR STUTHMAN: Thank you, Senator Fischer. Mr. McClymont, is there anything in the regulations right now when the hay has to be removed from the right of way, like big bales or little bales, or anything like that? Are you aware of anything? [LB43]

PETE McCLYMONT: I'm not aware of that, and I can find out. [LB43]

SENATOR STUTHMAN: ...as to whether it's, you know, October? I think there is a date, but I'm not sure that, you know, when the bales are put there. They've got to do it. You know, I truly support this, too. Because I think if this is allowed, I think we're getting two jobs done in one. We have this adopt a mile for beautification, that can be done at the same time, because you pick up all the cans and trash and everything. They all come in anyway. So it's all cleaned up after you're done baling. So I think that's a good idea. [LB43]

PETE McCLYMONT: Well, it would stand to reason and be the hope that if somebody is harvesting the hay, because they have the need for their livestock to provide additional forage, the hope would be they would remove it as soon as possible for the need that they would have for the care of their livestock. But, as you state, there may be somebody and some individuals that would be negligent and a rule in there would be beneficial so we don't accumulate those bales on the side of the road. [LB43]

SENATOR STUTHMAN: Thank you. [LB43]

SENATOR FISCHER: Other questions? Thank you, Mr. McClymont. [LB43]

PETE McCLYMONT: Thank you. [LB43]

SENATOR FISCHER: Are there other proponents for the bill? Good afternoon. [LB43]

WES SHEETS: Thank you, Senator Fischer, members of the Transportation Committee. My name is Wes Sheets. That's spelled S-h-e-e-t-s. I've been in committees

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

Transportation and Telecommunications Committee
January 16, 2007

with many of you before, and you'll recognize me as a sportsman and an outdoorsman. If you look at my witness sheets, you'll note that I switched my testimony from that of being an opponent to a proponent. That's based on the amendments that Senator Heidemann offered. And I would trust that those amendments specifically could be amended into the bill. I'm representing the Nebraska Division of the Izaak Walton League. We're a conservation organization that's been in Nebraska now for 83 years, I guess it is, representing 19 chapters, from Imperial to Wayne, Nebraska, and everywhere in between. We were very concerned when LB43 was introduced in its original language. And we would be very concerned if it was not amended with the items as Senator Heidemann has offered. We believe that that right of way resource is a really important component of the environment that we live in as a public resource providing those things that's been identified as bird habitat, specifically. We all know that we're concerned about the quality of life in Nebraska and we're concerned about folks leaving the state or those wanting to come back, specifically to hunt pheasants, I guess would be the best example. Highway right of ways, as well as county right of ways are a primary and almost total source of nesting and wintering habitat for many of our upland birds, particularly pheasants and bobwhite quail. There are some counties that that's extremely important to. Probably not so important to the Sandhills, you know, because there's not that many pheasants in a lot of portions of the Sandhills, but certainly in central Nebraska it's a very important attribute to our environment. So we would recommend that this bill does go forward, as long as it recognizes the importance of those aspects of standing grass, standing cover for birds to winter in. And certainly, that July 15 date is a very standard date, which if there wasn't any mowing prior to that it would eliminate most of the impact on ground-nesting birds. We certainly support the adjacent landowner's opportunity to make use of that public resource to take care of his livestock and cattle. And I was very pleased to hear Senator Heidemann address the issue of perhaps limiting nonresident commercial haying operations from making use of that public resource. I think we would all recognize that if that was in the best interests of the state of Nebraska in a monetary sort of way, if there is competitive bidding on that resource, well that might soften the blow a little bit. But all in all, if the conditions that were outlined in the proposed amendments are met, then we would stand to support the activity. With that, I'd be happy to answer any questions. [LB43]

SENATOR FISCHER: Thank you, Mr. Sheets. Senator Stuthman. [LB43]

SENATOR STUTHMAN: Thank you, Senator Fischer. Thank you for testifying, Wes. It brought up a concern of mine. In this amendment it states in here that you cannot mow until July 15, right? [LB43]

WES SHEETS: That is my understanding. [LB43]

SENATOR STUTHMAN: Okay. Will that have any impact on counties, you know, that give notice that roadsides must be mowed once by, is it, June 15, and once by

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

Transportation and Telecommunications Committee
January 16, 2007

September 15? [LB43]

WES SHEETS: I... [LB43]

SENATOR STUTHMAN: Will this change that part of it, you know? [LB43]

WES SHEETS: Certainly, that would recognize a conflict. It would be my understanding that this would not relate to county roads. It says "state highways," so I believe that this would be limited to state highways. [LB43]

SENATOR STUTHMAN: So... [LB43]

WES SHEETS: We're very concerned that you destroy habitat prior to July 15 on any right of way. But as pertains to state highways, why we can live with that. [LB43]

SENATOR STUTHMAN: So you feel that by putting this in this, and this is the mowing privilege of the state highway system, shouldn't affect what counties do? You know, the counties give notification, you know, it's in the paper, it has to be advertised twice a year that roadsides must be mowed by June 15 and September 15, I think it is. [LB43]

WES SHEETS: I can't remember, was it last year or the year before there was some legislation pertaining to that very thing. And I'm sure we said the same thing, you know, that protection of that habitat, through that nesting period, is pretty important. And we recognize the need to clean up the right of ways. You know, I've got a cedar tree project right now on a county road right of way that needs to be taken care. So we all appreciate the safety in cleanup aspects. [LB43]

SENATOR STUTHMAN: Thanks, okay. [LB43]

SENATOR FISCHER: Other questions? Thank you, Mr. Sheets. [LB43]

WES SHEETS: Thank you for being here. [LB43]

SENATOR FISCHER: Other proponents, please. Welcome. [LB43]

JOE HERROD: Welcome, I mean, thank you. (Laugh) Welcome to you, as a new chairman, and nice to meet you earlier. [LB43]

SENATOR FISCHER: Thank you. [LB43]

JOE HERROD: My name is Joe Herrod, H-e-r-r-o-d. I live south of Lincoln. And I'm here representing the Nebraska Council of Sportsmen's Clubs. We have over 100 clubs and several thousand members, and this is the first time in my, I believe it's 26 years of

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

Transportation and Telecommunications Committee
January 16, 2007

testifying that I've ever been in this committee. So this is nice and it's nice to see all the familiar faces. I am not going to say anything that Wes Sheets didn't already say. He said...he covered it totally. So I crossed out my opposition box and put in a support box, just like he did. And I will close in saying that you probably all, hopefully, have received your invitation to our game feed at noon Monday, over at the Women's Club, right over across the street. That's hosted by us, with the game donated by the sportsmen of the state, and prepared by the cooks at Mahoney State Park. And we look forward to seeing you there. And I wish we could support every bill that came through this Legislature, but we probably won't. But we're doing pretty good right now. [LB43]

SENATOR FISCHER: Thank you. [LB43]

JOE HERROD: Thank you. [LB43]

SENATOR FISCHER: Thank you for keeping it short. Any questions? Thank you, Mr. Herrod. Other proponents? Senator Louden, do you have a question? [LB43]

SENATOR LOUDEN: There's Department of Transportation personnel here. I was wondering if they would be willing to clarify us on what the rules are now on mowing along right of ways. [LB43]

SENATOR FISCHER: Perhaps we should wait until after the testimony here on the hearing, please. [LB43]

SENATOR LOUDEN: Okay. [LB43]

SENATOR FISCHER: Okay. Are there opponents to the bill? Anyone to testify in a neutral capacity? Director Craig, would you possibly like to come up at this time and answer... [LB43]

JOHN CRAIG: I'm going to testify in a neutral capacity, if I might. [LB43]

SENATOR FISCHER: For neutral? Thank you. [LB43]

JOHN CRAIG: (Exhibit 2) I think I'll ask you to pass the testimony out in advance here. Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. I am John Craig, the director of the Nebraska Department of Roads and I am here today to testify in a neutral capacity on LB43. The bill is intended to provide hay to landowners by allowing hay operators along state right of way. This is not a new idea and has gotten a good deal of discussion over several years. My sole purpose today is to provide some the myriad issues that need to be addressed and have not as yet. They are as follow: In order to comply with the existing and long-range... [LB43]

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

Transportation and Telecommunications Committee
January 16, 2007

SENATOR FISCHER: Could we pause just for a moment, Director Craig? [LB43]

JOHN CRAIG: Yes. [LB43]

SENATOR FISCHER: We're having problems with the tape. [LB43]

JOHN CRAIG: Oh, sorry. I'll just hang on. I'm familiar that tapes run out. [LB43]

SENATOR FISCHER: The transcribers need this, word-for-word. [LB43]

JOHN CRAIG: Would you like me to start all over, or is there a point that... [LB43]

SENATOR FISCHER: I think we're all right where you stopped previously. [LB43]

JOHN CRAIG: My purpose here today is to provide some of the myriad issues that need to be addressed and have not. They are as follows: In order to...first, in order to comply with the existing and long-range...a existing and long-term agreement between Roads and Game and Parks, this has been alluded to a little bit, that assures protective hatching of game birds, only one side of the road is available for haying every four to five years. Two, contracted and department mowing, which has been alluded to again, will need to be carefully coordinated with hay permits. Three, wide use of a variety of chemicals in weed spraying may result in some areas being unsuitable for forage. Also debris along roadsides, some of it toxic--tires, urine bags, drug paraphernalia, etcetera--may create other issues for landowners. Four, the transporting of invasive or noxious weeds to private property might become an issue, and periodically it comes up, including by some members of the committee, I believe. Number five, there is potential conflict between LB43 and the Governor-declared drought emergency per existing Executive Order. That's been mentioned as well. Six, no mow-outs occur between April 15 and August 15. Our contract mowers, as an example, are not allowed to do mow-outs until after August 15. The nutritional value of roadside hay is frequently low and may have contributed to declining hay permits being sold under the Governor's declared drought emergencies. The last couple have continually gone down, for one reason or another. Number eight, to issue permits with priority by landowner would require the Department of Roads to coordinate all highway reference points to legal property description and verify land ownership. No computerized system is currently available to perform this function. To manually perform this duty would significantly increase process time and, thusly, the cost of the permit. Nine, even with the shift of liability the landowners for roadside haying, the department has significant concerns about safety, especially along the interstate system. In spite of the attempt to shift liability to the landowners, and the fact that we would need to require liability insurance from landowners, I have been advised that there are still significant liability concerns for the Department of Roads and the state, depending on the particular facts. These liability

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

Transportation and Telecommunications Committee
January 16, 2007

issues have been concerns for many years. In addition, I would point out there is no liability cap for the Department of Roads, and this may be an issue for future discussions. Thank you. And I would be glad to answer any questions at this time. [LB43]

SENATOR FISCHER: Any questions? Senator Schimek. [LB43]

SENATOR SCHIMEK: Yes, Director Craig. I don't mean to put you on the spot, but I didn't hear anything in favor of this bill,... [LB43]

JOHN CRAIG: They're all... [LB43]

SENATOR SCHIMEK: ...but I heard a lot of stuff negative, and I'm wondering how you characterize this as neutral. [LB43]

JOHN CRAIG: No, and I wouldn't take it that, I wouldn't take it either positive or negative. There are issues that need to be addressed and I would say they have not been yet. [LB43]

SENATOR SCHIMEK: So as this bill stands, you would not be supportive. Is that right? [LB43]

JOHN CRAIG: I'm neutral. [LB43]

SENATOR SCHIMEK: (Laugh) Okay. [LB43]

JOHN CRAIG: I simply don't know. There are issues that need to be addressed. As an example, the reason we don't do any full mow-outs between April 15 and August 15 is because there is a Federal Migratory Birds Act, for example, which we weren't aware of until only a few years ago. I think that was originated in 1917. And so if we need to do clearing and grubbing, including for a project, we now, typically, let those clearing and grubbing contracts so that the work can be done prior to April 15, prior to the construction season. And that's a recent issue. This is one more moving part, and we...I sent a letter, either in October or November, to the regional director of the Fish and Wildlife Service saying, why are we being singled out for...as a state, and it appeared we were, and I provided the evidence why I believed we were, to comply black and white with this rule? And oh, by the way, it includes every species of bird, except for three, basically sparrows, starlings, and another bird. And they came back just Friday, and I have not read it; it's several pages long, or at least I haven't digested it yet. My staff is looking at it. It is a interim proposal until that issue gets resolved at the...really at the national level. So I'm just illustrating issues that would need to be addressed. It doesn't mean it couldn't be done, but they need to be addressed somehow and overcome. And frankly, as this has been...I can recall eight, nine years ago when Merlin

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Transcriber's Office

Transportation and Telecommunications Committee
January 16, 2007

Carlson was the director of the Department of Agriculture, we had several discussions about is there a way to hay the right of way, reduce our costs, and provide higher nutritional hay to ranchers? And the problem was then storage, it was who was going to pay for the storage. I think that, obviously, the landowners would do that here. We never got that to move forward. And as a result of that and other conversations of any...I'll call it significant conversation, we just simply have never addressed these other issues that I list here. And certainly, there are others, but these are the primary ones that I point out. [LB43]

SENATOR SCHIMEK: May I follow up with one question? [LB43]

SENATOR FISCHER: Certainly. [LB43]

SENATOR SCHIMEK: On the fiscal note...and I appreciate your answer, by the way. The department says that in order to verify land ownership that the costs of these permits could go up. Are we talking appreciably, or are we talking...or do you even have any idea at this point? And would you have to actually verify ownership? I mean, could it be done through some kind of a statement from the applicant that would be notarized or whatever? [LB43]

JOHN CRAIG: The director answer is, I don't know. Senator Heidemann provided really kind of the touchstone, I'll call it, for how we have done this under a Governor's declared emergency, which has been every four, five, or six years. So it's not been all that frequent. And I would say, by and large, we use the honor system. We take people's word for it. And because it's been so infrequent, it really has not been a significant problem. Sometimes there is an issue that somebody else is mowing or haying somebody else's property, but that is relatively rare. I have no idea what the cost would be to do that. [LB43]

SENATOR SCHIMEK: Thank you. [LB43]

SENATOR FISCHER: Other questions? Senator Louden. [LB43]

SENATOR LOUDEN: Thank you. Director Craig, and as I look over these points you have here, as someone who's lived along the highway all my life, and hayed part of it, why, I probably agree with most all of them. When you talk about mow-outs, now you mean that's when you go down next to the fence and mow clear to the fence. [LB43]

JOHN CRAIG: From right of way fence to right of way fence, yes. [LB43]

SENATOR LOUDEN: Yeah, you're not talking about just when they go up and down each side of the highway. [LB43]

JOHN CRAIG: No. [LB43]

SENATOR LOUDEN: Right. And most of that is true. And when you talk about why they didn't sell quite as many under this last drought deal, there's many places that musk thistle was so thick in that hay that nobody wanted to do it. So consequently, when you guys sheared it all off flat, why it was a lot better. This way you guys scattered the seed all over the place there in August rather than us loading it up and hauling it home. (Laugh) [LB43]

JOHN CRAIG: We take some criticism for that from time to time, too. [LB43]

SENATOR LOUDEN: And anyway, at the present time, what is the procedure? Because my understanding is if you go get a permit, you just mention a highway marker, between highway markers, where you want hay, and that was...is it \$10 for a mile? [LB43]

JOHN CRAIG: It's...I can't remember exactly. There are...the only time we issue permits are when the Governor declares a drought emergency and typically, by the time it's a drought emergency, hay is probably at, if not at its lowest, close to its lowest level of nutritional value. It's little more than filler forage. We will give the adjacent landowner, and this is where I say it's by and large the honor system, first right of refusal, that is if it's adjacent to their property they can hay that. And we'll give it some time frame, and I don't remember what that is, a week or so for that first right of refusal. If they elect not to hay it, then we will open it to whomever wants to hay it. While I'm talking, you asked what is our normal process for mowing? I mentioned for the full mow-outs it's every four or five years, typically, twice in a summer, and it varies depending upon the conditions, but by and large twice during a summer we will mow 15 feet out from the shoulder and then preserve the rest of that land for wildlife habitat and save ourselves some money by not having to worry about mowing. [LB43]

SENATOR LOUDEN: Now, I asked Senator Heidemann about where a lot of these people on their ranch areas they'll mow a couple hundred yards each way from where you're going to cross cattle or something like that. Has that ever been a problem with the Department of Roads? I mean, do you send the law after them? Or is this something you just overlook because it kind of cleans up the place a little bit and makes it a little bit easier to do something? (Laughter) [LB43]

JOHN CRAIG: I'll be careful how I answer that. Has it been a problem? No. Does it get to be an issue from time to time? Sometimes. But, frankly, if somebody mows or hays adjacent to their right of way, unless it becomes an issue or someone else complains, we ignore it for all practical purposes. We try and be good citizens, and I think that's what the vast majority of Nebraskans want to be, are good citizens. And from a certain perspective they're doing us a favor, so it's not been a problem. And it happens. [LB43]

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Transportation and Telecommunications Committee
January 16, 2007

SENATOR LOUDEN: Just a sidebar question: How many times have you went out and painted NDR on them big, round bales sitting along the road? (Laughter) [LB43]

JOHN CRAIG: I can't say that we have. Although, I heard the question asked earlier by someone. And there is, typically, when the Governor declares a drought emergency and hay is baled, there is a time designated when it must be off the right of way, otherwise we will haul it off. [LB43]

SENATOR LOUDEN: But at the present time, the only way that can be hayed is if it's declared an emergency drought? [LB43]

JOHN CRAIG: Correct. That is correct. [LB43]

SENATOR LOUDEN: You don't issue permits? [LB43]

JOHN CRAIG: No. [LB43]

SENATOR LOUDEN: Categorically? [LB43]

JOHN CRAIG: Currently not. [LB43]

SENATOR LOUDEN: Okay, thank you. [LB43]

SENATOR FISCHER: Any other questions? Thank you, Director Craig. [LB43]

JOHN CRAIG: Thank you. [LB43]

SENATOR FISCHER: Other neutral testimony? Good afternoon. [LB43]

KIRK NELSON: Good afternoon, Senator Fischer. Senators, my name is Kirk Nelson, spelled K-i-r-k N-e-l-s-o-n. I work for the Nebraska Game and Parks Commission as an assistant director. We are here today to testify in a neutral capacity to LB43. We've been working with Senator Heidemann and his staff on several of the revisions that are before you today. We feel fairly confident that some good things have come out of those discussions. Our roadsides in Nebraska are some of the last remaining habitat in certain areas of the state that wildlife has, not just game species, but nongame species also. The senator was very gracious about working with us, with our concerns. We have cooperated in the past fully with the Governor on emergency haying for our roadsides when we had a drought situation, and we will continue to do that in the future. The bill is a little less than we had. You've heard that we had a 20-year agreement with DOR, and that was for a 4- or 5-year rotation on roadsides. That's, obviously, a better setting for us and for wildlife. But when you go into these kind of situations, you do what you can to work with people. The senator asked for two years, that's what we have at this point,

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Transportation and Telecommunications Committee
January 16, 2007

and that's why we're staying neutral. But it isn't a major concern for us. The Migratory Bird Treaty Act you've heard of, that's a federal issue. And the Department of Roads has to deal with. But July 15 has been identified as the date that these Fish and Wildlife Service folks have said most nesting is finished by that time and their concerns are satisfied. Everything else has pretty much been said. I will end my comments. [LB43]

SENATOR FISCHER: (Exhibit 3) Thank you, Mr. Nelson. Are there any questions for Mr. Nelson? We appreciate it, thank you very much. Any other testifiers in the neutral capacity? I do have a letter here from Nebraska Farm Bureau in support of LB43, and we will have that entered in the record. And I'll have copies for the committee members. With that, I will close the hearing on LB43 and also close the hearings for today. Thank you. [LB43]

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Transportation and Telecommunications Committee
January 16, 2007

Disposition of Bills:

LB14 - Held in committee.

LB35 - Advanced to General File, as amended.

LB43 - Advanced to General File, as amended.

Chairperson

Committee Clerk