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February 11, 2000 LB 1004

SENATOR ENGEL: Thank you, Mr. President, members of the body. LB 1004 was heard on January 31st in front of the Transportation and Telecommunications Committee, I wish they'd change that to just the Transportation Committee, and unanimously advanced with an attached amendment. This bill provides for the use of prior out-of-state driving while under the influence, herein after referred to as DUI, and refusal to submit to a chemical test, herein after referred to as refusal, convictions for penalty enhancement purposes. The attached committee amendment adds the same language to the portion of the statutes pertaining to the 12-year time frame and clarifies when the prior conviction must constitute a crime in the state of Nebraska. As the law currently stands, only prior Nebraska DUI and refusal convictions can be used for penalty enhancement purposes. And this means an offender can be charged and convicted with DUI or refusal in Nebraska, but his or her prior out-of-state DUI and refusal convictions cannot be employed to increase the current penalty. The defendant in this case, for example, would be considered a first time offender instead of a second or third time offender, depending upon the number of prior convictions. It's important to mention that all of Nebraska's bordering states consider these out-of-state DUI convictions, either by statute or case law. In fact, over 40 states make use of such convictions. This means that practically every state considers Nebraska's convictions, but Nebraska does not consider theirs. This is problematic, not only for the entire state of Nebraska, but particularly so for those communities bordering the other states. I reside in South Sioux City, which borders both Iowa and South Dakota, and I find it quite troublesome that an offender can merely move a few miles and essentially receive a clean slate because he or she knows that they are not held accountable for their prior out-of-state convictions. Nebraska is a safe haven for these offenders, and to combat this LB 1004 amends Nebraska Revised Statutes, 60-6196 and 60-6197, to include language permitting the use of conviction from the other states, the United States, or any territory subject to the jurisdiction of the United States for enhancement purposes. The language applies to laws as well as ordinances. Additionally, only those convictions that would be punishable under Nebraska law can be utilized. Such language was intentionally added due to the different statutory prescribed blood alcohol content levels found in other states DUI laws. So, members, I urge your