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Transportation and Telecommunications Committee  
February 10, 2015

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[LB498 LB570 LB641]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, February 10, 2015, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB498, LB570, and LB641. Senators present: Jim Smith, Chairperson; Lydia Brasch, Vice Chairperson; Al Davis; Curt Friesen; Tommy Garrett; Beau McCoy; John Murante; and Les Seiler. Senators absent: None.

SENATOR SMITH: Good afternoon and welcome to the Transportation and Telecommunications Committee hearing. I am Jim Smith from Papillion and I'm the Chair of the committee. I'd like to introduce you to my colleagues that are here with us and some will be joining us as we go through the hearing today. To the far left is Senator Tommy Garrett from Bellevue. Currently absent, next to Senator Garrett, is Senator Les Seiler from Hastings and Senator Beau McCoy from Omaha are members of our committee. To the far right is Senator Curt Friesen from Henderson. Next to Senator Friesen, Senator Al Davis from Hyannis. And then Senator John Murante from Gretna. And the Vice Chair of the Committee is Senator Lydia Brasch from Bancroft. Committee staff--on my immediate right is Mike Hybl; Mike is legal counsel to the committee. And to my left is Paul Henderson, committee clerk. I see Senator McCoy has just joined us. We have pages with us today: J.T. Beck from Centreville, Virginia. J.T. is a senior at UNL. I'm not certain if we have Kelli with us today, but we also have a page, Kelli Bowlin from Cody, Nebraska, and Kelli is a junior at UNL. We will be hearing the bills in the order listed on the agenda. Those wishing to testify on a bill should come to the front of the room and be ready to testify in order to keep the hearing moving. If you are testifying, please complete the sign-in sheet so it's ready to hand in to one of the pages when you approach the testifier table. And for the record, at the beginning of your testimony, please both state and spell your name. Please keep your testimony concise and try not to repeat what has already been covered. I see we have a number in the audience today to testify on the three bills so we will use the light system today. Please limit your testimony to five minutes. When the green light is on you may proceed and you'll have four minutes before the amber light lights up. At that point you have one minute to wrap up your testimony. And when the red light comes on, we would appreciate if you close your testimony. If you do not wish to testify, but do want to voice your support or opposition to a bill, you can indicate so on the sheet that is provided on the table as you came into the room. This will be part of the official record of the hearing. If you do not choose to testify, you may submit comments in writing and have them read into the official record. I ask that you please silence your cell phones. Also, we are an electronics-equipped committee and information is provided to committee members in paper form, as well as on their electronic devices. Therefore, you may see committee members referencing their electronic devices. Please be assured that your presence here today and your testimony are important to us and is critical to the operation of our state government. I see Senator Les Seiler has joined us, as well as Senator Al Davis. I will be chairing the majority of the session. I will need to leave for a few minutes to introduce another bill. At that time I will turn the hearings over to Senator Brasch. So with that, I believe we're ready to begin with testimony on LB498, and we invite Speaker Hadley to join us. Welcome.

SENATOR HADLEY: Welcome. [LB498]

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SENATOR SMITH: Former Transportation and Telecommunications Committee member.  
[LB498]

SENATOR HADLEY: (Exhibits 1-3) Yes. You know, I spent six great years before this august committee with Senator McCoy was there, Senator Brasch was there, Senator Murante was there for a while. So it's kind of like old-home week at this point in time. I have to say though, it's a little easier being on that side of the table than on this one. But anyway, thank you. My name is Galen Hadley, that's G-a-l-e-n H-a-d-l-e-y. I represent the 37th District which is, basically, Kearney and part of Buffalo County. And I'm here on LB498 and I'm passing out AM325 which I would like to open on because it does become the bill. We've been working on this quite awhile and I appreciate the help of Mr. Hybl who has helped us, Loy Todd who has helped us, Larry Dix has helped us work on this. Last year, we passed LB814. If you remember that, it dealt with the taxation of ATVs and UTVs. And when we did that, inadvertently we created a loophole in our taxation of ATVs in Nebraska. The general taxation rule is that you collect sales tax on the basis...they call a "situs" of the transaction. In essence, meaning the place that the consumer takes possession of the item determines where the sales tax is collected. For example, and these are two important examples: A Nebraska citizen right now who goes to Iowa and buys a TV and an ATV puts both of them in their pickup to return to Nebraska, they will pay Iowa sales tax on both the ATV and the TV set, because they are taking possession of those in Iowa. They are taking possession of them in those states. The way LB814 was written, if an Iowa citizen comes to Nebraska and buys a TV set and an ATV and loads both of them in their pickup, they pay Nebraska sales tax on only the TV set because the way we wrote LB814 they would not pay tax...Nebraska tax on the ATV even though they took possession of it in the state of Nebraska because we set it up in LB814 that the tax would be paid at the county treasurer's office in Nebraska. And of course out-state people who come to Nebraska to buy an ATV, pick it up in Nebraska, do not register and title it in Nebraska, so they do not pay sales tax in Nebraska. Yet on TVs, which is another personal property, when you pick it up, you pay the sales tax of where you take possession. Our current taxation requires the county treasurer of the county that the ATV is titled in to collect the sales tax. Titling of ATVs has been required in Nebraska since 2004. So it's not new; we're not changing that at all, they have to be titled. Now I'm a person who takes the ATV from Nebraska to Iowa never pays Nebraska sales tax, even though they took possession of the ATV in Nebraska, but they would pay Nebraska sales tax on the TV where possession was taken in Nebraska. This bill clears up the concerns of Nebraska losing sales tax on new sales of ATVs and used sales of ATVs. It does so in this manner: We're going back...this bill brings us back to the system we had before LB814. That is, all new and used sales of ATVs sold by Nebraska dealers and delivered in the state of Nebraska are to have the sales tax collected at the time of sale. If they take their truck with their trailer, or without a trailer, and go in and pick up an ATV at a dealer, they pay sales tax to that dealer. This is the manner that was done before LB814 last year. Nebraska residents then are to obtain a title and a new concept of registering the ATV at the county treasurer. There will be an \$8 one-time-fee to register. They will get a decal that shows it's registered in Nebraska. The fee will stay with the county treasurer; we're not trying to set an unfunded mandate down to the county register. The county treasurer will obtain the registration decal from the Department of Motor Vehicle. We assume there will be just a small charge for that. This assures that all sales by dealers delivered in Nebraska have the sales tax collected and remitted to the state of Nebraska. A private sale between two private parties of a used ATV to a Nebraska resident would have the transaction taxed in the following manner: The purchaser would go to the county treasurer to have an ATV titled and registered...titled because by current law they have to go and have it titled and the new law they

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will have to register it. At the time the appropriate sales tax on the transaction would be collected by the county treasurer. The registration decal would be affixed to the ATV. It's important that all sales that are exempt right now from sales tax would follow the current law. What this means, if a purchase is currently exempted from sales tax payment, it will remain exempted. For example, if a sale meets the requirement for a agricultural exemption, it would be exempt...still continue to be exempt under this bill, same for hospitals, churches, whatever. If they are currently exempt on purchases from sales tax, they would continue to be exempt. So it does not impact the ag community whatsoever. I've given you a couple handouts. One, I've given you the white copy of the amendment, AM325, which I am opening on. I've given you a sheet that's called LB498 as amended by the amendment. And we worked with the Legislative Research Office and the Department of Revenue and looked at all the states around us to see how they do it so that we don't get into questions about border bleed, about one state having advantage over another state in the way they handle sales tax collection. You'll notice that every state, except Wyoming and Nebraska, they must be registered. Nebraska and Wyoming are the only states now that do not register ATVs. Sales tax collected: every state, besides Nebraska, collects it from the retailer. The county action, each state does it a little differently, but, basically, the key to the county action is that if there is proof that sales tax has been paid, the county will collect it. Now, the question has come up before of what happens if I go to Iowa and I buy an ATV and I pay Iowa sales tax, do I have to pay sales tax when I take it to the county treasurer to have it registered and titled? You get a credit for the amount you paid in Iowa and you only pay the difference if there is a difference between them. I think this is the fairest way to do it. I've also given you another handout that, basically, details how this does impact. I think it's fair because it treats Nebraska citizens fairly, but it also, I think, treats the state of Nebraska fairly. I think our goal is to collect the appropriate sales tax. This is not a new sales tax. This is not a different amount. It's a way of collecting the sales tax on these sales so that the state of Nebraska gets the appropriate one. I would appreciate your passing out the bill as amended by AM325. And I would be very happy to answer any questions you have on what the change is, how it came about, what it means. [LB498]

SENATOR SMITH: Thank you, Senator Hadley, for your opening. Do we have any questions for the Speaker? I see no questions. Thank you. [LB498]

SENATOR HADLEY: I will stay for closing. Thank you. [LB498]

SENATOR SMITH: All right. Thank you. We now move to proponents of LB498, those wishing to testify in support of LB498. Welcome. [LB498]

JEAN SIDWELL: Thank you. Good afternoon, Senator Smith and members of the Transportation Committee. My name is Jean Sidwell, J-e-a-n S-i-d-w-e-l-l. I am Buffalo County treasurer and I'm appearing today in support of LB498 as amended. Today, I'm representing county treasurers across the state and also NACO. In hearing the presentation made by Senator Hadley, I think I have a good grasp of what the amendments are doing to change LB498. We are very much, the county treasurers, are very much in support of a new direction with sales tax collection on ATVs. LB814, last year, caused quite a bit of confusion at the county treasurer level. It was implemented in October. So we've been in a state of collection of it for about four months and it has not become easier or a better way to collect sales tax. We think with LB498 we

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can get rid of the problems with collecting sales tax. The problem that occurred is that the county treasurers, if you bought an ATV in Papillion, but you lived in Buffalo County, Kearney, Nebraska, you came to my office to title and put a lien on that ATV and I was to collect the sales tax for the state of Nebraska at 5.5 percent, and also collect the sales tax for the city of Papillion. You can imagine that most county treasurers have no idea of what sales tax rates are in individual cities and villages across the state. It is true, there are tables that (Department of) Revenue has given us, but it's a very awkward thing to stop and have to try to figure out what the additional rate of sales tax is on the collection of an ATV for the city sales tax that may be due on an ATV bought out of your county. So if LB498 is successful, then it brings us back to the status quo before October of last year when we were not collecting sales tax on ATVs. We'll continue to do the titling; we'll do the lien; and as proposed, there's a registration added to the process which I don't think any county treasurer will object to. It will be pretty straightforward and easy to do. So I am here again, county treasurers across the state would really appreciate your help in getting rid of something that became complicated last October. [LB498]

SENATOR SMITH: Thank you, Ms. Sidwell. Do we have questions from the committee?  
Senator Davis. [LB498]

SENATOR DAVIS: Thank you, Senator Smith. Thank you, Ms. Sidwell. I think I get this, but Senator Hadley talked a little bit about private sales and I was just wondering if you would go over that one more time with me. Ag sales are exempt from private sales? [LB498]

JEAN SIDWELL: Ag sales would be exempt if they're private sales and we would not collect sales tax. However, you could have private individuals selling to other private individuals that do not get the exemption because it's not ag related and then the sales tax would be due. But it would be due at the county where they have situs, tax situs. So the confusion would not be there that exists now. [LB498]

SENATOR DAVIS: And that's kind of what I wanted to know. So a used ATV is still subject to sales tax unless it's for ag purposes, correct? [LB498]

JEAN SIDWELL: Yes. Right. [LB498]

SENATOR DAVIS: Thank you. [LB498]

SENATOR SMITH: Further questions? Seeing none, thank you very much for your testimony. We continue with proponents, those wishing to testify in support of LB498. Welcome. [LB498]

LARRY DIX: Good afternoon, Senator Smith, members of the Transportation and Telecommunications Committee. My name is Larry Dix, L-a-r-r-y D-i-x, appearing today in support LB498. We certainly thank Senator Hadley for bringing this up to try to solve a little bit of the confusion that was going on and certainly appreciate being able to work with Senator Hadley to try to work through the process so that we...really, we had a number of calls in our office from county treasurers that this really did create some significant confusion. And as you

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know, from the county treasurers point of view, we act as the agents for the state of Nebraska in the collection of that sales tax. And so we want to make sure that we collect the tax that is due and so that the loophole that was created in LB814 no longer exists so that we are getting our citizens to pay the amount of tax that they should be across the state. We believe this bill, as amended, will solve this scenario of what was going on and close that loophole. So with that I'd be happy to answer any questions. [LB498]

SENATOR SMITH: Thank you, Mr. Dix. Do we have questions? I see no questions. Thank you. [LB498]

LARRY DIX: Thank you. [LB498]

SENATOR SMITH: We continue with proponents, those wishing to testify in support of LB498. Seeing no further proponents, we move to opponents, those wishing to testify in opposition to LB498. Those in the neutral capacity wishing to testify. I'm sorry... [LB498]

ROBERT KAY: Opponent. [LB498]

SENATOR SMITH: Opponent, okay. [LB498]

ROBERT KAY: Good afternoon, Senators. My name is Robert Kay, R-o-b-e-r-t, last name is K-a-y, and I own Star City Motor Sports. I'm against this bill because it sounds so good in theory and doesn't work so well in practice for us the dealers. The LB814 change that took place last year was a tremendous relief for our business and for businesses across the state, from the dealers that I've spoken with. The problem that we've had in the past is a person will phone us or call us up or drive in or whatever looking for an out-the-door price on an ATV. And we'll give them a price of, say, \$10,000 plus the sales tax, \$10,700. He'll then call the dealer across the state line somewhere and that dealer is only too happy to either deliver it to his house or claim that he delivered it to his house, which is more common scenario, and say that same \$10,000 machine stays a \$10,000 for that customer. He's supposed to come in and report this purchase and pay the sales tax. But if he's that kind of a person, he's not going to do it. So you get the honest guy who is willing to pay the tax whether it be at the dealership or at the DMV level, and you have the dishonest person who isn't willing to pay the tax and no matter what you guys do, he's not going to pay the sales tax. One of the reasons why he can get away with that is because he uses it on his own property. Nebraska really provides almost zero opportunity to use an ATV on public ground. So if a person buys it to use on his own property, whether it's a farmer or just a guy who owns some land, there's no way to know if he's ever registered his vehicle or not. So he's not going to pay the sales tax if he's so inclined. The LB814 change made it good for us; it helped our sales, especially that we stopped losing sales to the cross-border people. If the guy was inclined to pay his taxes, he was going to pay it no matter what. But a lot of these people aren't inclined to pay the sales tax. I've been told that the new method is quite a hassle for customers because they have to go down to the DMV and pay the tax down there. They're going there anyway to get their titles. So it's not an extra step that they have to do, short of writing that second check for the sales tax. I've been told that the old method is...the current method is too complicated for the county treasurers to compute the sales tax. I've got the chart with me for

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collecting that tax, it's one and a half pages, list of all the cities and what the tax rate is. I'm certain that if our staff is capable of doing it, their staff is; that's their business. One of the problems, and it sounds like I'm speaking out of school a little bit, but there are dealers that are collecting the sales tax in the past, but that's as far as the process goes. They never send it in to the state, they just keep that tax. And I don't want to name names. I do know people specifically that have been guilty of that in the past, dealerships that have been guilty of that and, again, it puts the honest customer and the honest dealership in a bad position. I would love to see a registration requirement, but I think that needs to be coupled with an opportunity to use the machine on public grounds somewhere. It's not fair to require a guy to register his ATV if he's going to use it 100 percent on his own land. It's simply a raising money because we can raise the money answer to the problem. There's no sheriff that's going to run out to the guy's farm to look for a sticker on the side of the ATV someplace if he's using it on the guy's own farm. So it's just a way to charge people \$8 and give them nothing in return. I'm concerned about the lack of concern Department of Revenue has had with the Nexus stuff. The guy is driving across the border delivering ATVs as a routine business, those guys should be collecting tax and remitting it. They don't. I talked to Department of Revenue about it; they don't seem to care. I guess that's all I have. [LB498]

SENATOR SMITH: Thank you, Mr. Kay. Do we have questions from the committee? I see no questions. Thank you for your testimony. [LB498]

ROBERT KAY: Thank you, sir. [LB498]

SENATOR SMITH: We will continue with opponents, those wishing to testify in opposition to LB498. Seeing no further opponents, we move to those wishing to testify in a neutral capacity. Welcome. [LB498]

LOY TODD: Senator Smith, members of the committee, my name is Loy Todd, that's L-o-y T-o-d-d. I'm president and legal counsel for the Nebraska New Car and Truck Dealers Association. In selecting to whether to be a proponent or opponent or neutral, one of the considerations you make as an association exec is what's going to get me in the least trouble, so I selected neutral. I really want to thank Senator Hadley for his hard work in trying to find a method of making this work, and it hasn't been easy. Going...falling to the registration process, seemed to be the one opportunity that there was to find a way to still collect taxes on private sales, Internet sales, and sales coming in from other states where there wasn't such a thing. I do have to clarify one thing for this committee, and that is the early complaints about this were the tax computations and treasurers in one county having to compute the tax from another county and also local taxes, keep track of them, remit them to the state. And I agree, that's work and it caused some variance from working with a computer and a hand computation. But the dealers do that every day. It isn't that tough. If keeping track of that, I'm sure, is a nuisance, but I want to clear up one thing: the tax situs is not changing--point of delivery is the tax situs for these units. It is not...it is the dealership if that's where the delivery was made. It is the person's residence if that's where the delivery is made. It's a cornfield somewhere if that's where delivery was made, or a different local jurisdiction. And that is not going to change. And we can't change that in Nebraska because of the streamlined sales agreement that Nebraska has entered in to. And so that was one of the "complicaters" that we kept trying to have to overcome. It would have been

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wonderful if we could have simply made them taxed like motor vehicles. But they're not a motor vehicle. And if the treasurers think that they no longer are going to have to do this computation and not have to keep track of these other things, I think they're mistaken. They're still going to have to do it, but they're only going to do it on the private party transactions. And the dealers are going to have to do a very similar computation on the dealer transaction. So, so the rub is still there. Now we do have the situation where if everybody follows the rules, then there's going to be the taxes we collect and remit in accordance to what's dictated. And there may be some need down the road to do some kind of identifier about which taxes that are being returned to the state on a monthly basis are for ATVs or UTVs, I assume the regulators can handle something like that, if it has to be part of the bill that might happen. We work diligently to try to find something that worked. I can tell you that prior to...and LB814 is working wonderfully from our purposes. If you look at it, over \$200,000 were collected in the first three months all going to Game and Parks. It was working nicely. And selfishly I will say this--we don't think it's all that awful that people would want to come here from Kansas because they can buy something without tax and take it back to Kansas. At least we get the sale. We get the income...the dealer gets the income; they can hire employees; they build a building. When those people come back to get service, it is taxed. When they buy a helmet or other equipment or accessories, it's that way. It's sort of the reverse of what we got going with the casinos right now, you know, a similar thing. So, I don't want the community to be surprised that the current dealers like LB814. Senator Hadley is 100 percent accurate that we were...we are losing the sales tax revenue when someone coming here and taking it away, but, like I say, from the industry standpoint, that isn't the worse thing that we've ever seen. And so I will be available to continue to work with committee counsel and the senator all I can to try to help. It is something that is very complicated with all the rules that exist. So thank you. [LB498]

SENATOR SMITH: Thank you for your testimony. Do we have questions for Mr. Todd? Senator Davis. [LB498]

SENATOR DAVIS: Thank you, Senator Smith. Do you have any comment on the Nexus issue and Mr. Kay was talking about earlier with Iowa sales and retail prices? [LB498]

LOY TODD: Thanks, Senator. I did a lot of calling around and research and it's sort of the "wild west" out there regarding what's happening with border bleed and people delivering to other states and whether it's real or not. I talked to dealers from Iowa and South Dakota who were very candid with me about what they do to help people avoid taxes. Because as was indicated, they're operated, especially in Nebraska, they're operated almost entirely on private property. There is no place where you go and become exposed to law enforcement. We have a few laws where we can cross the road at an intersection or where there is a light or if the local community lets farmer come into town and get parts and different things. Where the limited operation exists, there's an opportunity to catch someone who doesn't have the registration sticker if we go to that registration process. If that didn't exist, people are sort of invisible. But where they get fleshed out in the current system is that you have to have a title. Now nobody is going to come chase you down if you don't have one, but then to resell it you have to have the title. And so if you came into one of the dealers and wanted to trade in your used ATV and you don't have a title, that dealer can't take it. They will try to arrange it...they'll send you back to the courthouse--go get a title. Some counties are very diligent about trying to then collect the sales tax for the previous transaction or require proof that someone paid it. Others, not so much. You know, I can't tell you

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that we have a true uniform practices in all 93 counties. So I hope that answers your question. And the other dilemma, and I know my time is up, but the Form 6 ATV that was created by the department to deal with the new system is helpful in a way to compute it. And so that...if we could have a system where the revenue was following up on those, because when that form was generated, it's sent to (Department of) Revenue, it's also sent to the courthouse and given to the customer. There are two notifications to the state that the tax is due. No one does anything with that. (Department of) Revenue puts it in a box and the courthouse doesn't do anything unless someone shows up. And so even though we've told on our customer, it isn't getting collected. And I will tell you that if we get the new VTR system in a couple years, which I hope everyone will support the funding of, that computer will generate those follow-ups. Someone hasn't...Form 6...ATV...6 comes in, the follow up on that will be done by the computer and it will generate a notice of someone who didn't appear in 30 days. And we can really start serious enforcement. So help is coming, you're going to have to fund it. [LB498]

SENATOR DAVIS: But you say that...really that process could be in place already by the forms that are generated. [LB498]

LOY TODD: Yes. [LB498]

SENATOR DAVIS: But it's just not always followed up on. [LB498]

LOY TODD: It's just not followed up on. [LB498]

SENATOR DAVIS: And how does that deal with dishonest dealers? [LB498]

LOY TODD: Well, if someone is going to...if someone is going to manipulate the documents and not file them and not send things in, we're never going to find that unless someone gets exposed by the registration or the operation of the unit and some follow-up on that. And the ag exemption form that comes in, I think is a very good thing, it's necessary. The other states all do that. The problem with the ag exemption...it's not a problem, it's...dealers have a difficult time of it because they're having to take the customer's word that they're exempt. The customer signs the exemption form and swears that it is accurate. But let's say it's something that you're suspicious of. They've got a Lincoln address and they're saying they're ag exempt. Dealers in no position to challenge that and shouldn't have to. And so...one thing I want to make clear in the record, there ought to be an absolute understanding that if the customer does that without a conspiracy, that the dealer has to accept that in the way that's meant and shouldn't have to be punished for accepting that. [LB498]

SENATOR DAVIS: Would it make more sense to have the dealer collect it and then refund it? [LB498]

LOY TODD: I think that would be very, very awkward and I think the...our friends in agriculture would be extremely upset at that system. I think they more likely would go to Kansas and hope nobody ever sees them again. [LB498]



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SENATOR DAVIS: Thanks. [LB498]

SENATOR SMITH: Thank you. Further questions? I see none. Thank you, Mr. Todd. [LB498]

LOY TODD: Thank you. [LB498]

SENATOR SMITH: Anyone else wishing to testify in a neutral capacity on LB498? Seeing no further testimony, Senator Hadley, you're invited to close. [LB498]

SENATOR HADLEY: Chairman Smith, members of the committee, thank you very much and I'll be quite brief. We could certainly carry it to the extreme the idea that people from out of state can come into Nebraska and buy something and because they're out of state not pay the sales tax. Would you do this when we make a rule that if you came in from Iowa with Iowa driver's license you could buy a TV set from Nebraska Furniture Mart and carry it out in your car and because you're from Iowa you don't have to pay tax in Nebraska? Or if you're from South Dakota on food? You know, you have to...some place along the line you have to collect the tax. This is a collection problem. I understand there's going to be cheaters, but there's some pretty serious penalties, and I hope people who are listening out there understand that one of the penalties they talk about is 100 percent...a hundred times the sales tax owed. That could get pretty expensive. A \$10,000 ATV that you evade the tax of \$500 suddenly becomes a \$5,000 penalty because you did not report and pay the tax. I'm trying only to make sure that Nebraska gets...obtains the sales tax that is due them legally. You're going to have people that try to get around the system. I understand that. Senator Davis, my understanding is the ag exemption is either...either new or used equipment that if an ag farmer goes out and takes the Form 6 ATV, it's filled out, takes it to the county treasurer to...they're exempt. As far as the registration, I think this would help in theft. It's registered--the VIN is registered with the county treasurer. A theft occurs--they have that information. I think this is a way of clearing up the system that we have. One last thing, we talked about how easy it is to do city sales tax. We looked at one dealer here in town that advertised that he had a Lincoln address, but he didn't collect Lincoln city sales tax because he was not in the city of Lincoln. So when you have treasurers out...you have a Gretna address, you may not be in the city of Gretna to collect the Gretna sales tax. So you, you know, the county treasurer has to not just look at the town to determine whether a city sales tax is appropriate. I think this is a good bill. I really think this will get more funding. But it will also help the people of Nebraska who are honest people pay the appropriate taxes. I will be happy to answer any other questions, Senator Smith. [LB498]

SENATOR SMITH: Thank you, Senator Hadley, for your closing. Any questions? Senator Davis. [LB498]

SENATOR DAVIS: Just one that I...a brief one. You have the date as October 1...October 15, 2015, October 1...would an E-clause make any more sense? [LB498]

SENATOR HADLEY: I think it would certainly help. I vacillated about the E-clause to make sure we give time for the...I want to talk to the Revenue Department to get the appropriate forms

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out and that. And that would be the only reason I wouldn't want an E-clause because it is something that I think is important to get going quickly. [LB498]

SENATOR DAVIS: You think that would be worth looking at? [LB498]

SENATOR HADLEY: Yes. We will look into that. [LB498]

SENATOR DAVIS: Thank you. [LB498]

SENATOR SMITH: Further questions? Seeing none, thank you for your closing. [LB498]

SENATOR HADLEY: It's fun to be back before the outstanding Transportation Committee. [LB498]

SENATOR SMITH: It's great to have you back. [LB498]

SENATOR HADLEY: Thank you. [LB498]

SENATOR SMITH: That concludes the hearing on LB498. We now move to the hearing on LB570, 5-7-0. There's still just a little transition taking place so we'll give it just a minute. Welcome, Senator Brasch, you're invited to open on LB570, 5-7-0. [LB498]

SENATOR BRASCH: Thank you, Chairman Smith. And good afternoon fellow members of the Transportation and Telecommunications Committee. I am Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I represent the 16th District of the Nebraska Legislature. I'm here to introduce LB570 which I have brought to you at the request of a constituent, Jay Schrad, who co-owns a golf cart sales and repair business in Blair. This bill would, basically, expand the authority of a city, village, or county to adopt an ordinance authorizing the operation of a golf car vehicle within the limits of their respective jurisdiction. In 2012, I introduced LB930 which permitted a city, village, or county to authorize the operation of a golf car vehicle on streets only contiguous or adjacent to a golf course. This bill was eventually signed into law and is the current statutory provision regarding golf car usage. LB930 initially remedied the issue whether a golf car vehicle operator could use public streets and roads that cut through or run next to a golf course. During the time I brought LB930, three years ago, and still today, many individuals, whether the average citizen or somebody working in the golf car vehicle industry, they continue to express the desire to operate a golf car vehicle within their city, village, or county. Please note that LB570 must be carefully weighed and enacted solely by each city, village, or county as to the safety and good public policy for their respective community. In other words, a local decision and partnership. The use of golf car vehicles are requested for a variety of uses and activities. For instance, somebody may want to keep their golf car at home and drive it to their local golf course, especially if they live relatively close to their golf course. Another person may want to drive their golf car to a nearby place of employment. Somebody else may want the ability to run errands downtown. Perhaps those of our elderly community would like to use a golf car to get around town or make a quick

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trip to their local citizen center. Others may want to go for a ride on a beautiful summer evening and enjoy the weather. I suppose if we sat and talked more, we could envision a whole variety of alternative uses. Basically, these individuals are only looking for a short distance, local, and economic means of travel for adults. The benefits to our community and state may see the expended use of golf car vehicles, if authorized by a city, village, or county, and they are numerous. For instance, we could see an increase in job opportunities and a means for income whether for somebody selling the golf cars or for another person expanding their repair and maintenance shop. Additionally, while we are experiencing favorable gas prices at the moment, the use of golf cars would assist those who wish to keep their fuel expenses to a minimum by operating a fuel-efficient or electric golf car. I would like to note that all of our neighboring states statutorily authorize golf cars on certain specified roadways. Four of these states, Iowa, Kansas, Missouri, and South Dakota provide for the use of golf cars on certain public roads is permitted if authorized by ordinance of their local governing body which is what I am offering today. For example, Iowa has authorized the use of golf cars since 1982. And based on research of city ordinances by the Legislative Research Office, at least 17 of their municipalities in Iowa authorize golf cars on city streets. The ordinances of these municipalities vary to a certain extent as each community is able to tailor the exact safety requirements to the needs of their respective communities. Nevertheless, there are a variety of common denominations in every ordinance regarding safety such as the age of the operator or the driver's license requirement, insurance liability, the hours of permissible operation, and operation on roads with certain speed limits. The bill I bring before you recognizes not only do golf cars provide a variety of benefits, they do also implicate a number of safety concerns to be identified and addressed by each local governing body that chooses to adopt this bill. LB570 addresses some of these safety concerns by establishing several baseline safety requirements that every city, village, or county would have to implement. LB570 would only allow the operation of a golf car vehicle between sunrise and sunset. It would prohibit the use of golf cars on streets with a posted speed limit of over 35 miles an hour. And it would allow for the crossing of streets where the speed limit might be over 35 miles per hour only as designated in the adopted ordinance of the local governing body. In addition, the operator of the golf car vehicle would need a valid Class O operator's license and have liability insurance coverage for the golf car vehicle. Violation of the operator's license and insurance coverage requirement would lead to a Class IV misdemeanor. A Class IV misdemeanor means no imprisonment, but a minimum of a \$100 fine or up to a maximum \$500 fine. LB570 would also give the Department of Motor Vehicles the ability to prohibit the operation of golf car vehicles on any highway under its jurisdiction if it determines that the prohibition is necessary in the interest of public safety. For example, if a community permitted the use on a highway that runs through town or allowing for golf cars to cross a highway that runs through their town, the DMV would have a trump card, so to speak, or over the local governing body if it finds necessary public safety reasons for prohibiting the use on the highway is at issue. With the safety requirements outlined, I want to make it clear that I am more than willing to work with this committee and other interested parties in ensuring that we set the necessary and reasonable baseline safety requirements. If this means adding some additional requirements or reworking some of the wording on the bill, I would be in favor of this. In fact, the Nebraska Golf Alliance has already addressed a couple of unintended consequences this bill may have on the original statutory provision that we are amending. As we move forward, we would like to work with them, among others, to produce a bill that benefits interested parties, as well as highly-valued safety concerns. I would also like to note that there are at least a handful of communities that have already permitted expanded use of golf cars within their jurisdiction in our state. All of these communities have had their ordinances in place for at least four years. While I do not wish to discuss whether the original ordinances were within their authority at the

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time they were established, I do want to note that these communities have been successful in meeting the needs of the citizens by permitting the use of golf car vehicles by ordinance and establishing essential safety requirements such as the need for liability insurance, putting into place registration requirements with the city clerk, and safely administering crossing of highways that may run through the communities. I firmly believe, looking at the examples of other communities in Nebraska and in neighboring states and across the country, as well as some of the communities here, provides hard evidence of the success and safety of adopting this type of legislation. Finally, I would note that this bill carries no fiscal impact. And as I conclude, I would like to thank those behind me who will testify on the bill. I'm sure they will be happy to answer any additional questions. And again, I thank you for your time. And I would also be happy to answer any questions. [LB570]

SENATOR SMITH: Thank you, Senator Brasch. Do we have questions? Senator Seiler. [LB570]

SENATOR SEILER: I notice you have municipalities and counties and cities in your (inaudible) bill, one thing that I was wondering is did you contemplate the sanitary improvement district (inaudible) because they have their own golf courses and have their own roads? [LB570]

SENATOR BRASCH: I believe they may have been covered through our original legislation that addressed that use that is adjacent and contiguous to a golf course. I will confirm. [LB570]

SENATOR SEILER: But they have swimming pools and stuff like that they could run around on. But they own their own road system and would not fall under the others, that's why I was asking. [LB570]

SENATOR BRASCH: I would be happy to look and see what impact that would have. Thank you. [LB570]

SENATOR SMITH: Senator Davis. [LB570]

SENATOR DAVIS: A couple of questions, Senator Brasch. First, the word "golf car" is that the same as a "golf cart?" [LB570]

SENATOR BRASCH: Good question. There is a difference. They are used interchangeably. A golf car has the power to move and a cart is truly something that is pulled. [LB570]

SENATOR DAVIS: Okay. That's good to know. I've been making mistakes all my life. [LB570]

SENATOR BRASCH: I learned that an hour ago. So it's a great question. [LB570]

SENATOR DAVIS: Second question has to do with state highways which go through a community. And so who has the authority over that decision to let those golf cars be used on a

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state highway where the speed limit might be below 35? Does Department of Roads have that veto power there or would the city trump them? [LB570]

SENATOR BRASCH: The DMV, to my knowledge, could...would have the final authority if they deem it unsafe. However, we recently heard a bill for the UTVs and ATVs that Senator Schumacher introduced and I've had conversations with him and we are looking at the need to add into statute how these golf car vehicles would cross a highway. That is something that we are looking at. [LB570]

SENATOR DAVIS: Cross a highway, but what about go down the highway? [LB570]

SENATOR BRASCH: I don't believe they...unless it's 35 miles an hour or less, that's a restriction. It would not be on a highway. Technically,... [LB570]

SENATOR DAVIS: Unless it's below 35. And that's kind of what... [LB570]

SENATOR BRASCH: Thirty-five, it's a street, and it's up to the...also, the bottom line here is a local decision as well. And it would be a local street or road that is under the jurisdiction of that community. When it comes to state highways, I believe they are not allowed nor should be allowed, that would be an endangerment. And at this point, what we're looking at is the ability to cross to get past a highway situation safely without incident. And because it is taking place already in Nebraska and our surrounding states, you know, we're confident that a good solution is at hand. [LB570]

SENATOR DAVIS: Thank you. [LB570]

SENATOR SMITH: Senator Friesen. [LB570]

SENATOR FRIESEN: Thank you, Chairman Smith. Senator Brasch, I noticed you mentioned many times in here--liability insurance. But at no point did you spell out the minimum amount that would be required or is it tied to some other statute? [LB570]

SENATOR BRASCH: That I can find an answer for you. But they would have their typical operator's license and insurability that comes along with driving the vehicle. I don't know that there would be extra insurance required for a golf car considering it has limited use, limited speed limits. Mostly likely it would be in communities that that I would see would not be high risk situation. [LB570]

SENATOR FRIESEN: I guess I wouldn't either, but when we start talking about bicycles and motorcycles, if a golf car would cause an accident and they wouldn't have sufficient liability insurance, then again the motorist themselves would be caught in that not having enough insurance. So I would think that we would want them to have at least the minimum amount that's

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required of a car. And I don't think insurance companies, just because you have an operator's license, would not cover the golf car. [LB570]

SENATOR BRASCH: That is a good point. We, as I said, we are trying to make this a bill that is reasonable and workable. And that could also be something perhaps that the counties, you know, they can...every city, village, or county can put more stringent requirements here. They could prohibit certain hours of use, for example. They cannot be, you know, on this street between 5:00 and 6:00 P.M. They can find ordinances that will be tailored to the flow of traffic, to the location of streets prohibited, that's the beauty of this bill is that we put it back in the local decision and those individuals must obey those laws or there will be a penalty. And that's for a city use. The golf course adjacent and contiguous, that's a whole different area of use that is already in place today. And the need to expand penalties or...as far as we know is not there, is not needed because that's a certain, specific situation. What we want to do is to make sure that once they leave the adjacent contiguous to, that those roads that are used by that community fall in line with their specific needs. [LB570]

SENATOR FRIESEN: I guess from my point, I mean, I think you did a good job of spelling out when and where and allowing the locals to do that, but I guess from my standpoint whenever they're operating on a public street with bicycles and motorcycles, they do pose a hazard. They're probably not going to cause a great deal of damage, but they could cause an accident or a motorcyclist or a bicyclist is severely injured and if they had proper liability coverage I think that would be needed. [LB570]

SENATOR BRASCH: I think that's a good suggestion. Thank you. [LB570]

SENATOR FRIESEN: Because I know there's a lot of carts operating on small-town streets already. [LB570]

SENATOR BRASCH: That's what we've learned. [LB570]

SENATOR FRIESEN: Thank you. [LB570]

SENATOR BRASCH: And we're trying to make it a better, safer environment, especially for those who have taken it on themselves. [LB570]

SENATOR FRIESEN: Thank you. [LB570]

SENATOR BRASCH: Thank you. [LB570]

SENATOR SMITH: Senator Garrett. [LB570]

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SENATOR GARRETT: Thank you, Chairman Smith. Senator Brasch, would you be willing to amend this bill to require operators to wear a helmet? Just kidding. But from a safety...I applaud you for bringing this. Arizona...communities all over Arizona now allow golf cars to be used in their communities. But I am concerned, having played a little golf in my life seen people tumble out of golf cars on a course...seat belt requirement? I'm just a little concerned about that...the safety aspects of it. [LB570]

SENATOR BRASCH: Every community can adopt that. One of the testifiers behind me today had mentioned that they do install seat belts in some of their golf car vehicles; that you can customize...affordability and efficiency to whatever you feel safe. And a city ordinance could come in and say that each of these must have a seat belt, put further age requirements on it. The city councils, the communities, the village boards, if they choose, it's not required, they can pass on this law, if they choose, they can call a special meeting and add those items in. If they want them to wear helmets, they could require them to wear a helmet. [LB570]

SENATOR GARRETT: That was just a joke. [LB570]

SENATOR BRASCH: I know you were kidding. Humor is good. [LB570]

SENATOR GARRETT: I know there was a fatality last year of a lady who fell out of a golf car and so I was just thinking in terms of a seat belt or something, especially on the street. [LB570]

SENATOR BRASCH: There are those exceptions and we're aware of that. That's where we definitely want whoever adopts this, whatever communities, and several, as I've said, have been operating for four years or more, perhaps they have put in things that you and I have not thought of that makes it a safe and good public policy. [LB570]

SENATOR GARRETT: Thank you. [LB570]

SENATOR BRASCH: Thank you. [LB570]

SENATOR SMITH: I see no further questions. Thank you, Senator Brasch, for your opening on LB570. We now would like to hear from proponents, those wishing to testify in support of LB570. Welcome. [LB570]

JAY SCHRAD: Good afternoon, Senators. My name is Jay Schrad, J-a-y S-c-h-r-a-d. And with me today is my business partner, Chad Anderson, and we are the owners of Balls Out Motors of Blair, Nebraska. Real quick introduction about us: I've been married to my wife for eight years and we are the proud parents of two beautiful little girls. I also served nine years in the Army National Guard and a one-year tour in Iraq with the Nebraska Army National Guard. Chad's wife's name is also Angie. They have been married for 13 years and they have two wonderful kids as well. A quick history on how we got started in the golf car business: Chad and I were both employees at a large Internet-based company in La Vista when we started talking about our

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dream to start our own small business. In February of 2011, we decided to push all of our chips in and start the business we are still operating today. We currently have five employees working at our facility and are looking towards continued future growth. I'm here today to support...in my support of LB570, I believe that this bill offers a lot of benefits to communities around the state, as well as to small business owners like myself and Chad. Simply put, golf cars are not just for golf anymore. Last year, we sold 155 personal cars and we are currently growing at a 130 percent year over year. Of the golf cars that we have sold, we estimate that close to 80 percent of those cars never see a golf course. Most are used in small towns, city subdivisions, farms, acreages, and campgrounds. We equip almost 75 percent of the golf cars that we sell with accessories that are not specific to golf; items like utility boxes, rear seats, lights, and windshields. My point being that people are starting to see the value and capability of golf cars across a variety of use cases. I should also mention that we currently service several hundred golf cars per year and believe that number would continue to grow not only for us but for small engine repair shops across the state. I'd also like to take a quick minute to address some of the concerns around safety. Regardless of the vehicle being driven, they are typically only as safe as the person driving them. Any motorized vehicle needs to be treated with care and respect and the same goes for golf cars. As for the performance of these machines themselves, I think there are several added benefits to golf cars that you won't get out of many other motorized vehicles. First is speed. Golf cars are set from the factory to only achieve 14 to 19 miles per hour. Golf cars can be modified to go faster, but in most cases they will only be reaching their earlier mentioned speeds. Second, unlike your typical ATV or four wheeler, you sit "in" a golf car as opposed to "on" it. This lowers the center of gravity of the entire vehicle and makes roll-overs less likely. Lastly, golf cars can easily be equipped with additional safety accessories like windshields, slow moving signs or flags, and even seat belts. Ultimately, I believe that passing LB570 will offer an affordable, low-cost option as a means of transportation to communities in Nebraska. We get the questions all the time in our shop and I've talked to dealers around the state getting the same request. I believe that with the right requirements in place such as requiring liability insurance and other restrictions regarding the operator of the golf car, both of which are covered in this bill, golf cars can be a very effective means of transportation. I also see the benefit to each city, village, or community being able to add their own requirements to their local ordinances. I realize that this might not be a good solution for every community across the state, but this will at least give them the option should they choose that it is. I appreciate your time today and look forward to the opportunity to serve my community and many others as this moves forward. Thank you. [LB570]

SENATOR SMITH: Thank you, Mr. Schrad, for your testimony. Do we have questions? I see no questions. Thank you. We continue with proponents, those wishing to testify in support of LB570. Welcome. [LB570]

JIM EGR: (Exhibit 1) Senator Smith and senators, my name is Jim Egr, J-i-m E-g-r, just three letters. When my great grandfather came over from Bohemia, we didn't bring any extra vowels so that is why my name is so nice and short. I am here to speak as a proponent. I am the city attorney for the city of David City, Nebraska, which is about 55 miles north of here and I'm passing out our city ordinance that we have dealing with golf cars that we passed in 2011. And I know lawyers in the room would probably...you probably have five lawyers give you five different opinions if we could have passed that or not. I reference this particular statute number where I thought that we were okay in doing the same. I'm a proponent primarily because some of the things that are in the bill, we have covered already in our ordinance--sunrise to sunset



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operation, we got speed limit, we have about not going on highways, we got the insurance requirement. I even brought my insurance statement in case you want to ask any questions on that. The biggest thing is, as a city attorney, to keep the local control. Our ordinance was drafted by reason of a committee from the city council, law enforcement, and myself. We have 26 permits in the city of David City. We're 2,800 people. We have not had any problems. We've not had any accidents. We've not had any law enforcement problems. Everything has worked out fine. I have one of those licenses on there, even though my golf cart is in a golf...well we should say "golf car," sorry senator, but it is in one of the golf car sheds on the golf course in David City. Sometimes I like to take it home for cleaning up or to take my grandkids for a ride. The only thing that I would question is the need for a Class O license. And I'll explain that. If you notice in there, we have in there that if you've lost your driver's...you got to be, first of all, 16. Secondly, if you've lost your license for any particular reason, you cannot get a permit in the city of David City. The other reason is...and I think there's eight other cities that have an ordinance dealing with that, and all of them have a particular...have particular things. And in David City we have a young gentleman who just received two weeks ago community service award for all the things he does in the community, but he has a challenge. And he is able to get...he's got his own home, a little nice home in David City, and he drives a golf cart. But I don't know if he could pass a Class O license. Okay? But his is enclosed; it's got a heater; it's got an air conditioner. And we made...we eliminated the requirement of a driver's license, but kept the requirement that if you lost your license, you could not get a permit to operate a golf car within the city limits of David City. Primarily because this is a way for him to get around. It's just pure and simple. He does a lot of good community service work; he has a job. He's a good member of the community and we did not want to have him denied that opportunity to get around. As to...maybe I should just wait for the question. My policy cost me...and I've got a little extra coverage because it's a newer cart to cover any kind of collision, my policy is \$65.20 a year. And my insurance agent, a national insurance company, I don't think we're supposed to say company names at hearings, says I've got all the liability coverage I need to have from that standpoint. It's kind of a unique-type policy, but they were able to fit me with that policy. My big thing...and keep the local control. Local people know what they need; they know what they have. We don't allow people to drive on Highway 15, which is the main drag through David City. We got provisions on the second page as to how you cross that highway; you got to go at a 90 degree angle, etcetera, K(1-4). But local control is a big thing from the city of David City's standpoint. Not requiring the license, so the cities can address those particular situations if they may have like I mentioned about our young gentleman. With that, I'll handle any questions you want to ask me. [LB570]

SENATOR SMITH: Thank you, Mr. Egr. Do we have questions from the committee? Senator Davis. [LB570]

SENATOR DAVIS: Just a couple, and I understand what you're trying to do with your driver situation, but, essentially, then there really is no sort of way to make a decision about whether someone is capable of doing so or not? Thinking about, say, someone with senility issues, how are you going to restrict their ability to operate if they are required to have a license or something? [LB570]

JIM EGR: I can't speak for any other cities except David City, and some of the second-class cities and villages, everybody knows everybody. You know who you can give a permit to or not give a permit to. And if the family is doing what they're supposed to do with their parent, which I

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had to do with my father, to take the car away and the license, that should take...I would think that would take care of the problem. I think that would take care of the problem. [LB570]

SENATOR DAVIS: And I wish it did. But I'm afraid it probably won't... [LB570]

JIM EGR: I know. [LB570]

SENATOR DAVIS: ...when it gets to this level. So when you put this into place, did you work with Department of Roads to get this done? [LB570]

JIM EGR: No, no. It was a committee from the city of David...a committee from the city council, our law enforcement, and myself-the city attorney. We had a number of citizens approach the city, and that was when gas prices were high, saying that, you know, it would sure be a lot easier if we could make use of golf cars in the spring or summer time. My barber was four blocks away from where his business is and he is sort of...semiretired and he can go that four blocks without using the car, then go...he's an avid golfer, go down to the golf course and come back if he's open in the afternoon versus in the morning on alternate days. [LB570]

SENATOR DAVIS: Thank you. [LB570]

SENATOR SMITH: Further questions? Seeing none, thank you, Mr. Egr, for your testimony. [LB570]

JIM EGR: Thank you very much. [LB570]

SENATOR SMITH: We continue with proponents, those wishing to testify in support of LB570...supporters of LB570. Welcome. [LB570]

ROBERT BAUERLE: Good afternoon, Senators. I'm Robert Bauerle, R-o-b-e-r-t B-a-u-e-r-l-e. And it's very interesting because I didn't know who was going to be here today and I wanted to bring up David City as a very good example of how it works well, but I wasn't going to because I didn't know if it was...if they were doing things the way they were supposed to or not. But the thing that I...I know numbers of people, the young man that doesn't have a driver's license, if you all knew him, you would say that young man should be in a golf car because he does all kinds of things for the city and should have one. You would all agree with that if you saw him and knew him. Now how you make those decision as to who should and who shouldn't, that makes...it's very difficult, but the one thing I know, here's a young man that would be homebound, pretty much, that is able to help the city a lot. The other thing that I wanted to bring up is just the elderly. My mom is 91, lives in Florida, and does much of her travel by golf car. Everybody there should celebrate that because if she was in the car, which she does sometimes also, much less safe. And it...the elderly, many of them, are going to be in cars to get someplace and if they had the alternative of being in a golf car, they would many times do that and we would all be safer as a result of that. So, again, maybe they shouldn't have a driver's license at all, but many of them

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do and many of them would like to be safer and they would like to go that direction. I'm not going to retalk about what was talked about here. But one of the things that maybe would be the greatest sell of all to you, last year we sold \$428,000 worth of golf cars out of state. That was \$32,060 of tax revenue that Nebraska lost, that's just us. I think if we were...if the communities were buying golf cars, we would have sold many of those in Nebraska. But we are the Club Car golf car distributor so we get many trade-ins every year and have to move them someplace. I think the local communities would be a great place to be able to do that. That's it. Question? [LB570]

SENATOR SMITH: Thank you for your testimony. Do we have questions? I see no questions. Thank you again. [LB570]

ROBERT BAUERLE: Thank you. [LB570]

SENATOR SMITH: Any additional proponents, supporters of LB570? Seeing none, we move to opponents, anyone wishing to testify in opposition to LB570? Seeing none, anyone wishing to testify in the neutral capacity on LB570? Welcome. [LB570]

GARY KRUMLAND: Senator Smith, members of the committee, my name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. I'm appearing neutral today. We've got cities who are on both sides of the issue, but I did want to appear to...because I do think it is very appropriate that the decision be made by the local-elected officials and we do support that part of the bill that...if this bill goes forward. They're the ones who know the situation; they're the ones that can determine whether it's appropriate to allow golf cars within the city and then put the appropriate restrictions on them. So for that reason I do think...that's why I wanted to at least bring this to the committee and tell you that we do support the local control provision of the bill. [LB570]

SENATOR SMITH: Very good. Thank you, Mr. Krumland. Questions from the committee? I see none. Thank you. Any additional testimony in the neutral capacity on LB570? Seeing none, Senator Brasch, you're invited to close. [LB570]

SENATOR BRASCH: Thank you, committee members, and I want to thank all those that testified today. There have been some excellent suggestions made by the committee that we will research and make amendments to this bill to cover questions asked such as liability. Perhaps, if not, operators license, some type of official determination, be it a physician or a qualified agent to understand a person's ability to operate. And again, it is a local decision. And if there are any other questions today or off the floor, I'd be happy to answer them. Thank you. [LB570]

SENATOR SMITH: Thank you, Senator Brasch. Any additional questions from the committee? I see none. Thank you, Senator Brasch. And that concludes the hearing on LB570. We are now transitioning and we will begin the hearing on LB641. And at this time, I have to leave to introduce a bill in another hearing, so I'm going to turn this hearing over to Senator Brasch. So, Senator Brasch, LB641. [LB570]

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SENATOR BRASCH: Welcome, Senator Garrett. Please proceed in introducing LB641. [LB641]

SENATOR GARRETT: (Exhibits 1-3) Thank you, Senator Brasch. Good afternoon, members of the Transportation and Telecommunications Committee. I'm Senator Tommy Garrett, T-o-m-m-y G-a-r-r-e-t-t, and I represent District 3. LB641 extends the rights and responsibilities of pedestrians to bicyclists and disabled persons using a manual or a motorized wheelchair on a sidewalk or crosswalk. When I was brought the idea for this bill, I was astounded to learn that the Nebraska statute currently does not allow those in wheelchairs or those on a bicycle to legally use the sidewalks and crosswalks in our state. Since I'm sure that this is a ludicrous claim to you...since I'm sure this is a ludicrous claim to you as it was to me when I first heard it, please reference the three statutes I distributed to you. State Statute 60-616 and state Statute 60-662 respectively define crosswalk and sidewalk in both specified that each are for pedestrian use. Correspondingly, the definition of pedestrian is needed and that definition is spelled out in state Statute 60-647: "Pedestrian shall mean any person of foot." Those persons in wheelchairs and on bicycles are, by Nebraska statute, not included in the definition of a pedestrian. This needs to change. In light of the need, LB641 accomplishes two things. It allows those persons using select wheeled forms of transportation to utilize the sidewalks and crosswalks; in extending the rights and responsibilities of a pedestrian to these specific groups of people, LB641 is providing legal recourse in the case of a collision of a car and a bicyclist or wheelchair-bound person on a sidewalk or legally using the crosswalk. Thank you for your attention and I'd like to entertain any questions you may have. [LB641]

SENATOR BRASCH: Thank you, Senator Garret. Are there any questions from the committee? Seeing there are none, we'd like to welcome the first proponent. You're a proponent? Please fill out your green sheet and come forward. Anyone wanting to testify? Welcome. Will you please say and spell your name. [LB641]

KATHY HOELL: (Exhibit 4) Yes, my name is Kathy, K-a-t-h-y, Hoell, H-o-e-l-l. And I'm here in support of LB641, which would allow any disabled person operating a manual or motorized wheelchair or a person operating a bicycle on a sidewalk. I've been in my chair 30-plus years. I'm a national disability-rights advocate. I work in the disability rights arena here in Nebraska. I've traveled all over the country. My husband was in the Air Force. We've moved multiple times since I've been in the chair and I've never heard anything so ludicrous that I was not a pedestrian. However, finding this out does explain a few things that have happened to me since I've moved to Nebraska. People don't stop when they come to crosswalks. They bump into them. People don't look before they turn right on red. I always assume this was because I move differently. I mean, I even freak out the animals by the way I move. And I'm not six feet tall, I'm relatively short. But I have almost been hit numerous times. One time a bumper was maybe only six inches away from me and at the time I only had use of my right hand, but my right arm was on their hood. So I really hope that you can correct this oversight. And the one last thing I would like to add, I am not a lawyer, I don't play one on TV, but I've been working with the Americans With Disabilities Act for 25 years and the fact is I question whether or not that this is even legal not to recognize us as pedestrians. Anyway, I will gladly answer any questions if I can. [LB641]

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SENATOR BRASCH: Thank you, Ms. Hoell, for your testimony and your husband for his service to our country and the sacrifices you've made in your travels with him. And also thank you for your work and your travels for the disabled. It's a great tribute to you and your family. Are there any questions from the committee? Yes, Senator Davis. [LB641]

SENATOR DAVIS: Thank you, Senator Brasch. Thank you, Ms. Hoell, for coming today, I really appreciate it, and bringing a great case to us. Just a question, you've had these near misses with automobiles, do you have any idea if those people were ticketed when that happened? [LB641]

KATHY HOELL: No, they weren't. In a few of the instances, there were police actually right behind them in the line of traffic and nobody ever says anything. [LB641]

SENATOR DAVIS: So no one was...they were not ticketed when that happened. I'm with you, I can't imagine you're not considered a pedestrian. So it seems to me they should have been ticketed. And that demonstrates that we do have a real need for this legislation. Thank you. [LB641]

SENATOR BRASCH: Are there any other questions from the committee? Seeing there are none, thank you so much again for coming forward today. [LB641]

KATHY HOELL: Okay, thank you. [LB641]

SENATOR BRASCH: Are there any other proponents who would like to come forward? [LB641]

BRENT DAVIS: Good afternoon, Senators. My name is Brent Davis, B-r-e-n-t D-a-v-i-s, president of Nebraska Bicycling Alliance. It's a pleasure to see you again. We're in support of LB641 for obvious reasons with the bicycle event happens to our state. I think it's apparent today with the different modes of transportation we continue to hear and see coming up that things are changing in how people get around. It's obvious with the golf car situation; it's obvious with the E-bike bill that's been already out of committee that we've seen earlier this year. Continuing to see forms of transportation are evolving and we need to evolve with that. Nebraska is, unfortunately, behind in that respect and we continue to see movements nationwide that are continuing to support all forms of transportation. And keeping in mind our angle from the bicycling perspective, it comes from multiple reasons, we talk about as a viable form of transportation, recreation tourism, not to mention the economic impact when we look at tourism. I've seen things recently about the brain drain from Nebraska, wanting to keep the companies and jobs here and encourage that kind of growth. They're expecting this type of transportation. Again, we...I think actually today the city of Lincoln is working with the hotels in downtown Lincoln to talk about the bike-share program that they have coming in place for 2016. So we continue to see the growth and the movement in bicycling as well. So to get through a crosswalk safely on a bicycle, which a lot of times is kids and families, you're not talking about bicycles that are going crazy fast. You're talking about the kids that are recommended to be on the sidewalks and on the multiuse trails to get around. So keep in mind that that's a large...that's a

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majority of who we're talking about that are using these. On Thursday, January 22, not long after, I think, I was here on a different bill, the U.S. Transportation Secretary, Anthony Foxx, launched a "Safer People (and) Safer Streets" initiative. And, basically, in that it's identifying and addressing barriers to make streets safer and convenient for all road users including people of all ages and abilities and those using assisted mobility devices. That's one of the bullets in his challenges--improve walking and biking safety laws and regulations. Exactly what we've been talking about. So, again, the liability aspect for a person in a wheelchair or a kid on a bike is that they get hit by a drunk driver in a crosswalk, they're...that drunk driver is not liable because that person is on a vehicle with wheels. Think of that as a stroller, a kid in a Burley trailer being pulled behind a bicycle or pushed by their parent. Does that make sense? It's no different that I was...again, as well, blown away that that wheelchair is not in that definition and allowed to safely cross through a crosswalk. Yet Nebraska still has the mandatory side-path law that says I have to be on that path. So, again, we need to get things in a line in Nebraska. Again, I ask that you support LB641 for that reason. Any questions? [LB641]

SENATOR BRASCH: Very good. Thank you, Mr. Davis. Are there any questions from the committee? Seeing there are none, thank you so much. [LB641]

BRENT DAVIS: Thank you. [LB641]

SENATOR BRASCH: Next proponent. Please say and spell your name. [LB641]

JORDAN MESSERER: Thank you. My name is Jordan Messerer, J-o-r-d-a-n M-e-s-s-e-r-e-r, and I'm here to speak in favor of LB641. First, I'm a family man, five members in my family, and we're a single-car family. And my bicycle, our children's bicycle is a form of transportation of how we move around town, how we shop, and how we experience Lincoln. It's a reason I brought our family back to Lincoln was the mode, the trails that exist here in this town. Second of all, I'm a bike instructor with the League of American Bicyclists. I work...I teach students on campus, throughout the city on safe rules of how we can use our bikes as a mode of transportation and recreation. And third, I'm a bike advocate so I sit on committees through cities with mayors, with different universities on forming good policy. With that said, families on bikes is a huge...is huge to me personally and it's the industry standard. We are taught that children ages 8 to 10 should be on sidewalks. And so that...and I mean, the farmers markets in town, all that, the libraries, that's how we get around as a family. And to have...as my children get older and as they're riding, I'd like them to be recognized as not a second-class citizen that doesn't have rights when they're not on a sidewalk or on a road. But also, I'm not a militant advocate. As a cyclist instructor, we teach adults that they ride on the road. That cyclists fare best while they're on roads, they're predictable, and that they follow the...they drive their bike as a vehicle and then they're part of the traffic. And so where the line is blurred is as cities have started developing trail systems that have...that are in Lincoln that now these sidewalks have become bike trails. And in reality they've been paved with transportation money. But now it's no longer a viable transportation where I'm asked to get off and walk my bike across every crosswalk. And so we ask drivers to be diligent and visible and attentive when they come to the intersections, just as we'd ask a cyclists to be attentive when they come to an intersection. And so, again, I just believe that it makes sense that we look at this issue. The third part of it is just the economics of bikes. Trends looking forward, young professionals are living closer to their areas of work. Young

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adults are waiting longer and longer to get driver's license. And so, the use of a bike as a form of transportation is just growing. The numbers are...look at any hip city and you'll see that bicycle is part of that. And it's attracting the young professionals. And when companies come and talk to me about cycling or recreation in a town, economic development, you have to talk about quality of life. And transportation of bike, that's all part of that. And the towns that are leading the nation in cycling are also very vibrant towns. And so I think the two are tied together. But I...and then going back to it, you know, it's laws like this, the League of America...American Bicyclists, they rank Nebraska 45 out of 50 states based on part of these laws that are on the books. And I think for us to be...to put ourselves out there economically and say we're a vibrant state, we're moving forward, we can't be ranked number 45 out of 50 by a state. So with that said, I'd love to answer any questions. And again, ask you to support LB641. [LB641]

SENATOR BRASCH: Thank you for your testimony, Mr. Messerer. And are there any questions from the committee? Seeing there are none, thank you. Are there any other proponents? If so, please come forward. Seeing there are none, are there any opponents? Seeing there are none, is anyone here to testify in the neutral? Seeing there are none, would you like to close, Senator Garrett? [LB641]

SENATOR GARRETT: Thank you. Thank you, Vice Chairman...Vice Chairwoman Brasch. Members of the Transportation and Telecommunications Committee, I'd like to thank Mr. Chris Abboud for bringing this bill as well. This really is one of those few things where, if you'll forgive the term, this is a no brainer. When I heard that the folks in wheelchairs and bicycles don't have the same rights as a pedestrian in a crosswalk, I was astounded. And actually this came about because somebody was struck in a crosswalk and did not have legal recourse because they weren't technically pedestrians and didn't have the rights of a pedestrian in a crosswalk. So this is one of those gaps that we have that we just need to...we need to close that gap. And I really thank Kathy Hoell for coming. She's a constituent of mine in District 3, and the testimony of Brent Davis and Jordan Messerer, I'd like to thank them for coming forward and testifying as proponents on this bill. And... [LB641]

SENATOR BRASCH: Thank you, Senator Garrett. Are there any questions for Senator Garrett? Seeing there are none, this concludes the hearing on LB641 and our agenda for today. I want to thank everyone for coming here. Thank you. [LB641]