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Transportation and Telecommunications Committee  
January 20, 2015

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[LB39 LB95 LB97]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, January 20, 2015, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB39, LB95, and LB97. Senators present: Jim Smith, Chairperson; Lydia Brasch, Vice Chairperson; Al Davis; Curt Friesen; Tommy Garrett; John Murante; and Les Seiler. Senators absent: Beau McCoy.

SENATOR SMITH: Good afternoon, everyone. Welcome to the Transportation and Telecommunications Committee hearing. This is the inaugural flight of the Transportation and Telecommunications Committee for the One Hundred Fourth Legislature, so please be patient with us. We may be working out a few kinks today as this is our first committee hearing. I'd like to start by introducing some of the folks with us today. To my far left we have Senator Tommy Garrett from Bellevue. Next to him is Senator Les Seiler from Hastings. Senator Beau McCoy will not be able to join us today; Senator McCoy is from Omaha. To the far right is Senator Curt Friesen from Henderson, Nebraska. Next to Senator Friesen is Senator Al Davis from Hyannis. And Senator John Murante from Gretna. And the Vice Chair of the Transportation and Telecommunications Committee, Senator Lydia Brasch from Bancroft. To my right is legal counsel for the committee, Mike Hybl. And Mike was saying it was about 15 years ago that he was in that seat and we're very happy to have Mike back with our committee. And to my left is committee clerk, Paul Henderson. We have two pages with us today; I'd like to introduce them. J.T., if you'd please stand; J.T. Beck from northern Virginia; he is a senior at UNL. And we have also Kelli Bowlin; Kelli is from Cody, Nebraska, and she is a junior at UNL. So thank you for being here today. We will be hearing 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 along. If you are testifying, please complete the sign-in sheet so it's ready to hand to one of our pages and they will take that from you when you come up to the table. For the record, at the beginning of your testimony please state and spell your name. That's important to be able to be placed into the record appropriately. Please keep your testimony concise and try not to repeat what is already being covered. We will use the light system and we'll ask you to limit your remarks to five minutes. And I'm going to apologize in advance if I need to interrupt you, if you go over that, we may just bring your attention to that. Whenever the green light is on, you're good to go. Whenever the amber light is lit, you have about one minute to wrap up your testimony. And then when the red light is on, please conclude your remarks. And there may be some questions and answers from the committee, so that might give you an opportunity to finish out your train of thought if you need to do so. If you do not wish to testify but want to voice your support or opposition to a bill, you can indicate so at the table by the entrance on the sheet that's provided. This will be a part of the official record of the hearing. If you want to be listed on the committee statement as a testifier at the hearing, you must complete a sign-in sheet and actually testify, even if you just state your name and

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position on the bill. Again, if you do not choose to testify, you may submit comments in writing and have them read into the official record. And we will have several of those today as well. We ask that you silence your cell phones. Also, I wanted to let you know that this is an electronics-equipped committee. Counsel information for these hearings is provided electronically to the members of the committee, as well as provided in paper form. Therefore, you may see committee members referencing information on their electronic devices. Please do not take offense at that. That's just an indication of the age we're in where we tend to use electronic devices much more than paper now. Please be assured that your presence here today and your testimony is important to all of us and is critical to the functioning of our state government. So thank you all for being here today. Again, we're going to limit remarks to five minutes. And with that we do have three hearings...three bills to be heard today. The first is Senator Kolowski, LB39. Senator Kolowski, welcome.

SENATOR KOLOWSKI: (Exhibit 1) Thank you, Senator Smith, and good afternoon, Chairman Smith and members of the Transportation and Telecommunications Committee. My name is Senator Rick Kolowski, R-i-c-k K-o-l-o-w-s-k-i, and I represent District 31 in Omaha. Before you is LB39 with an amendment that the Department of Roads presented to us last Friday. Ten months ago, a driver hit and killed a longtime Millard school teacher and friend of mine while he was riding his bike in western Douglas County. Jim Johnston had recently retired and was enjoying more time for his passion of riding his bicycle. I hired Jim in 1995 to teach human physiology, to be one of our two athletic trainers at Millard West High School. Jim was an excellent teacher and advisor for hundreds of students over his full career. His quality teaching and caring led countless students to move on to medical-related careers. Also, his outstanding work as an athletic trainer assisted our athletic programs to reach championship levels across all programs. The tragic loss of Jim Johnston had an impact on Jim's entire family and to the entire Millard community. His accident, and multiple other accidents since that time, could have been avoided. Our hope is that LB39 will positively assist to make that happen. It's time to make some changes in our laws so that we...that we better protect people who ride bicycles. LB39 clarifies laws already on the books by making the Rules of the Road more straightforward for people on bicycles and for people in vehicles. LB39 also better assists law enforcement officers in doing their work. First, it further defines the actions people in vehicles must take to pass a person on a bike. LB1030 passed in 2012, mandated that three feet of clearance be given when possible when passing a person on a bicycle, on foot, or using a motorized wheelchair. LB39 clarifies that motorists would be required to follow the same passing laws for bikes as they do for cars using lane markings where applicable, changing lanes to pass, if needed, giving no less than three feet of clearance. This is easier for motorists to remember and visibly easier for law enforcement to enforce. Second, it repeals the "mandatory sidepath law" that states whenever a usable path for bicycles has been provided adjacent to a highway, a person operating a bicycle shall use such path and shall not use such highway. This law has not been updated since 1968. This type of mandatory use law is

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problematic for people on bicycles and the League of American Bicyclists in Washington, D.C., states: laws that mandate that a bicyclist use a particular facility undermines the ability of a bicyclist to protect him or herself when those facilities are not well planned, designed, and/or maintained. There are numerous operational reasons why a dedicated bike facility might be rendered unsafe or impractical such as an accumulation of debris, illegally parked vehicles, and the need to make a left turn. And in such cases, cyclists need to be able to ride in the adjacent or parallel travel lanes without fear of prosecution. Third, LB39 gives people on a bicycle the right-of-way when operating lawfully in a crosswalk. Under current laws, a person on a bicycle that is riding lawfully in a marked crosswalk could be ticketed for failure to yield if hit by a person driving a vehicle. This is especially problematic for multiuse trails that have at-grade street crossings. Fourth and last, this bill clarifies that people on bicycles may legally ride two abreast on highway shoulders when it is wide enough to do so. We believe that these commonsense, legal clarifications strengthen the rights of people on bicycles and on foot, clarify a motorist's responsibilities, and assist law enforcement in their ability to enforce the laws that apply in these instances. The vision of the League of American Bicyclists that was established over 135 years ago is a nation where everyone recognizes and enjoys the many benefits and opportunities of bicycling and promotes a bike-friendly America. Public knowledge, public safety, and public action are the direct concepts behind LB39. Our society will face increased vehicular traffic and an equal increase in the number of bicycle riders. The centerpiece of this bill is the safety and security of all road users throughout all of Nebraska. I'll be happy to take questions in my closing comments. Thank you very much. [LB39]

SENATOR SMITH: Thank you, Senator Kolowski. Do we have any questions for Senator Kolowski from the committee? I do have one, Senator. [LB39]

SENATOR KOLOWSKI: Sure. [LB39]

SENATOR SMITH: The amendment that was distributed to us before the meeting began, is that something you will comment on in your closing? [LB39]

SENATOR KOLOWSKI: I'll be happy to, yes, sir. [LB39]

SENATOR SMITH: Okay. Thank you. [LB39]

SENATOR KOLOWSKI: Thank you. [LB39]

SENATOR SMITH: All right, thank you, Senator Kolowski. We will now receive testimony from proponents, those in support of LB39. Welcome. [LB39]

JULIE HARRIS: Thank you. My name is Julie Harris, J-u-l-i-e H-a-r-r-i-s and I'm here today representing the vice president of the Nebraska Bicycling Alliance. I'm a certified

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instructor by the League of American Bicyclists to teach bike safety and bicycle commuting classes and I'm here to enthusiastically support LB39 and I thank the senator for introducing this very important bill. As he mentioned, this bill effectively serves to clarify and enhance existing laws with key being...with safety being the key issue. It is crucial to remember that bicycling is not just a recreational activity that should be relegated to park paths and desolate roads. Bicycling is a transportation issue and needs to be recognized and treated as such. Whether or not you personally ride a bike or could even imagine riding a bike, there are many Nebraskans that do: our new Governor, UNL's new football coach, and Bellevue's mayor, just to name a few that you might know. And the laws of our state need to reflect this reality. Those that don't ride bicycles sometimes have a hard time understanding why people that bike do what they do. They seemingly put themselves in harm's way and they require you to drive your car in a different manner when you encounter them. It's hard to relate for some and I understand. I invite you to take that scenario and substitute that person on a bike with a person working road construction. They choose a job that puts them in harm's way. They are doing something for which their personal safety requires drivers to adjust. Even though many of us cannot imagine why someone would chose to do that job, we would never say that drivers should not have to change their behavior around them in order to maximize their safety. We would never allow outdated provisions to exist in our laws that put a motorist's convenience ahead of the rights and safety of people working on a road. However, this is the situation in which people that bike find themselves under some of the state laws as currently written. Encountering a slower-moving bicycle on a road is no different than encountering a piece of farm equipment on a rural highway or a delivery truck or a bus in a metro area. LB39 strengthens the current three-foot passing law and everyone benefits. The bill that repeals our outdated mandatory sidepath law is also very important. As the senator mentioned, this law was based on something that was written in 1968, the Uniform Vehicle Code. And that code actually repealed this mandate in the 1990s; however, it still exists in our current laws in Nebraska. And we are one of only four states that has this provision still in our laws. Requiring a person to ride a bike on a sidepath if one exists is like requiring a motorcyclist only to drive on Highway 6 or Highway 30 instead of I-80. Highway 30 or Highway 6 may run parallel to the interstate and at times have less traffic, but it may or may not get them where they need to go, it isn't as efficient, and it may be in poor condition depending on the circumstances. It's time for Nebraska to catch up to the rest of the country with this provision. My fellow proponents will also be providing additional information and perspective on the benefits of LB39. I hope we can count on your support on this very important safety legislation that clarifies some of the provisions already in our laws. I'd be happy to answer any questions that you have. [LB39]

SENATOR SMITH: Thank you, Miss Harris. Do we have questions from the committee?  
Senator Brasch. [LB39]

SENATOR BRASCH: Thank you. Thank you so much, Miss Harris, for your testimony.

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What are the other three states that have not changed their laws? You said we are one of four. [LB39]

JULIE HARRIS: You have put me on the spot and I can look that up for you when I'm done testifying and get that to you at the end of the hearing. [LB39]

SENATOR BRASCH: Very good. And the other is, when you had mentioned other slow-moving vehicles such as tractors. Typically, in a lot of our agricultural communities, one of which I represent, they have an avoidance of rush-hour traffic, they have a courtesy to move to the side of the road when and where able. Will bicyclists, I guess, also be respectful of rush hour and...are they just in their own lane in rush hour and moving at a very slow speed and the line of cars is piling up behind them? Can you describe to me what a typical scenario would be during rush hour and a bicyclist? [LB39]

JULIE HARRIS: Sure. I would say that first of all, bicyclists are required to follow the same Rules of the Road as a vehicle does and that this involves...you know, the bicyclist has the opportunity to ride as safely as they possibly can on the right side of the road unless they need to be turning in a different direction. We teach bicyclists to ride in the farthest right lane that gets them to their destination. Now some may be fearless and want to stay on a main road, and some may want to be on a more adjacent road or an adjacent street that gets them to their destination. It depends on their own personal preferences and their own riding style. But they do have the legal right to be there. And as I mentioned, a car that comes up behind them, it's no different than coming up behind a bus in Omaha. If the bus is stopped waiting for passengers, then you need to go around. If there is a utility truck, you need to look, make a safe pass and go around. It's the same exact concept. And we need to focus on the people, not the mode. So regardless of whatever mode we find people riding or using for the road, whatever mode, it's the people we need to be safe around. [LB39]

SENATOR BRASCH: Very good. Thank you for your testimony. No other questions. [LB39]

JULIE HARRIS: Thank you. [LB39]

SENATOR SMITH: Senator Friesen. [LB39]

SENATOR FRIESEN: In my area in the country, there's a lot of bicyclists starting to use our two-lane blacktops. And my son did a lot of bike riding so this does interest me considerably. I was just wondering what responsibility there was for the bicyclist to make sure they're wearing some bright-colored clothing or something, because we get cases where it's dusk and they're driving with black clothes on and you just...you come upon them so fast, it's a rough country a little bit, and it just surprises you. And should

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there be some requirements put in place to put markings on a bicycle or make sure they have blinking lights or something a little bit to protect the motorist also that's coming upon them at a quite a different rate of speed? [LB39]

JULIE HARRIS: Yes, and that actually is part of the law that a bicyclist is required to have a front headlight and a blinking red rear light when riding after dark. Something that we teach in our classes is to make sure to wear reflective clothing if you're going to be out late at night. And it's definitely upon the person riding the bike to make sure they're doing so safely. It's also imperative that the drivers be attentive, as they would for anything, that they might encounter when they're driving on the roads. And so yes, I think both parties have a responsibility in that particular case. [LB39]

SENATOR FRIESEN: So you say it is required now. Is there a penalty for not having it? [LB39]

JULIE HARRIS: Again, I'd have to look that up to be sure. I don't want to misspeak on that. [LB39]

SENATOR SMITH: Senator Brasch. [LB39]

SENATOR BRASCH: Thank you. I have one more question. [LB39]

JULIE HARRIS: Sure. [LB39]

SENATOR BRASCH: You have mentioned classes. Are these mandatory classes? Motorcyclists need to take a class and have a special license. Is this also something that applies to a bicyclist...those rules? [LB39]

JULIE HARRIS: It's not a mandatory. It's something that we provide to enhance the safety. But something like that we have to remember that we have small children riding to school and, you know, older adults and everyone in between. And so it's something that...just like anything, you have to be responsible for your own safety and make sure that you can ride in places that you are comfortable riding and know the Rules of the Road and that's incumbent upon the person on the bike. And then it's incumbent upon the people in the cars to watch out for anything that might be in the road, including a person on a bike. [LB39]

SENATOR BRASCH: And how many people come through your classes? Is this offered statewide across Nebraska? Is it free to the public? Describe the access a person has to bicycle safety through your organization. [LB39]

JULIE HARRIS: Sure. We have...I think we have about 25 league-certified instructors in Omaha, and several in Lincoln...20 or so in Lincoln. They're certified to teach a wide

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variety of classes from kids to adults. In Omaha, we have a grant that we are working through that provides these classes free of charge. And we've done them at community centers, at schools, and at universities, and we do them for free. It's something that most of us feel very passionate about and would not charge for. [LB39]

SENATOR BRASCH: Very good. Thank you. [LB39]

JULIE HARRIS: Um-hum. [LB39]

SENATOR SMITH: Senator Garrett. [LB39]

SENATOR GARRETT: I believe I know the answer to this question, but a usable path for bicycles...bicycles are prohibited from using sidewalks, is that (inaudible)? [LB39]

JULIE HARRIS: It depends on the situation. Mostly not, but there are certain times like in downtown areas, downtown Omaha for instance. I'm sure there's probably a place in Lincoln in the downtown area where it's very crowded with pedestrians, that they don't allow bikes on sidewalks. But otherwise, they're allowed. [LB39]

SENATOR GARRETT: Okay, hence the crosswalk as well. [LB39]

JULIE HARRIS: Yes. [LB39]

SENATOR GARRETT: Okay. Thank you. [LB39]

JULIE HARRIS: Yes. And also children in some cases...if you imagine a child riding their bike to school, that's another example of when a bike would be in a crosswalk. [LB39]

SENATOR SMITH: Okay. Senator Davis. [LB39]

SENATOR DAVIS: So I just want a little bit of clarification. I come from a very rural part of the state. So the way I read this bill, if I come upon a bicyclist, I need to change lanes and pull into the opposite lane, is that your understanding of the bill? [LB39]

JULIE HARRIS: It would be the same as if you were passing a car. You would...you would look at the lane markings and you would do what you need to do, yes. [LB39]

SENATOR DAVIS: So, a lot of that country is areas where, you know, there might be a no-passing zone. So then what is the obligation then? Slow down and wait until we've gone around the car...or the bicyclist? [LB39]

JULIE HARRIS: Yes, you would need to follow the same safe passing that you would

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for a person in a car. [LB39]

SENATOR DAVIS: And...you know, I have to tell you, I think that might make it more hazardous for the bicyclist than you might think. [LB39]

JULIE HARRIS: I can appreciate that. I ride my bike on the roads for many, many miles. I would say that if you're out on the highway you're probably riding to the farthest right as possible. And in a lot of cases, you know, if we have personally...if I've been with a group that's riding and we're in that type of a situation, we have pulled over and let a car go by us. But again, it's all about the safety of the person. It doesn't matter if they're on a bike or a motorcycle or in another car, we need to be safe and follow the passing situation that would be most appropriate. [LB39]

SENATOR DAVIS: And I understand that. I guess my concern is people will pull over anyway because they don't want to be slowed down, and another car comes over the hill and we have a car accident which could involve the bicyclist at the same time. [LB39]

JULIE HARRIS: Yeah, I can see where that would happen perhaps, but I would say that would...the likelihood of that happening is probably fairly small. And again, it...we need to value the people, not the convenience. So we need to make sure we're safer on the...our fellow citizens, safe around the people, and that our convenience as a motorist that might require us to slow down for a short amount of time until we crest that hill is a small price to pay to make sure that person is safe. [LB39]

SENATOR DAVIS: Thank you. [LB39]

SENATOR SMITH: Senator Seiler. [LB39]

SENATOR SEILER: Thank you. Thank you for your testimony. I have just one question. As I understand this new law, changes, say, I'm coming in from...on Highway 2 from the east, I'm from Iowa and I turn right to go into Misty's or one of those restaurants over there, I cross that bike path. How am I to know Nebraska law says I've got to yield to anybody near that bike path? [LB39]

JULIE HARRIS: Well if you're coming from Iowa, then you're coming from a state that has the same legislation. The three-foot... [LB39]

SENATOR SEILER: Okay. Say I'm from Missouri. [LB39]

JULIE HARRIS: Oh, okay. Well, I would say at last count over... [LB39]

SENATOR SEILER: My question is: Do you foresee signage that says--pedestrians and

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bikes have the right-of-way? [LB39]

JULIE HARRIS: That is something that... [LB39]

SENATOR SEILER: And the next question is--who pays? [LB39]

JULIE HARRIS: Thank you. Yeah, that is something that we are working with the Nebraska Department of Roads to clarify, because that is a concern that we have. [LB39]

SENATOR SEILER: Okay. [LB39]

JULIE HARRIS: And we're very fortunate that NDOR has been quite responsive and great to work with on this. They've introduced an amendment and we're continuing to have that dialogue with them. [LB39]

SENATOR SEILER: I didn't see anything on the fiscal note on cost, that hasn't been worked up. Is that right? [LB39]

JULIE HARRIS: I don't believe there's been a fiscal note that's been attached, no. [LB39]

SENATOR SEILER: Okay. Thank you. [LB39]

SENATOR SMITH: Any further questions from the committee? Thank you, Miss Harris. [LB39]

JULIE HARRIS: Thank you. [LB39]

SENATOR SMITH: We appreciate your testimony and your passion on the issue. Welcome. [LB39]

JIM BLUE: Good afternoon, Senator Smith, members of the committee. Thank you for the opportunity. My name is James R. Blue and my day job is... [LB39]

SENATOR SMITH: And please spell your last name. [LB39]

JIM BLUE: B-I-u-e, just like the color. My day job is service as the president and chief executive officer of CEDARS Youth Services. We focus on vulnerable children and families in southeast Nebraska. This is a little different capacity for me. Usually, I am speaking about advocacy issues for kids and child welfare issues. And there have been a number of those in the past. But today I am here in a personal capacity. It was a little over three months ago that, much to my wife's chagrin, I was nearly killed. She reminds

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me of that chagrin every time I go out on my bike. "Be careful or I will kill you" I think is what she said last time. (Laughter) It was Labor Day morning, I went out for a quick little hour and a half ride. About 10:30, my kids were in town from Omaha. There were pancakes, sausage and eggs waiting for me on Labor Day morning. I was on a two-lane blacktop about Southwest 1st and Saltillo coming home. Blue skies, not one other vehicle on the road, and I was, of course, right on the edge of that road when what we believe to be a 2000 Silverado with a passenger side view mirror hit me in the shoulder. Now I had no earphones in because I was listening for vehicles...that's how fast this truck was going. I flew, thankfully, did not land on the concrete or asphalt, I landed on the hard-packed dirt on my head. Cracked my helmet, which I ceremoniously put in the garbage can two weeks ago to move past that, still got a concussion; rolled, acquired broken ribs, various other issues on the left side of my body. And I sat there on the side of the road with my bike draped over me and looked to see what the heck just happened and I saw the pickup speeding up to get over the next hill. Now it seems like we have a couple of things going on. We did not have a vehicle that was passing a cyclist as if they were passing another car, but I think we had a mean-spirited person who was trying to scare a cyclist and got way too close. When I stood up, the entire side-view mirror assembly, including the bracket where it bolts onto the truck, was on the ground scattered around me. Yesterday was a beautiful day, 60 degrees, took a ride. I live in the area west of Denton, Nebraska, and I took a little ride to beautiful Pioneers Park. I really am not a daredevil by nature. I'm not one of those fearless cyclists that Julie referred to. One of my goals is to live a long, healthy, happy life, and so I don't like taking great risks. Yesterday, as I was out for my ride, many motorists were very kind, several waved, they were role models. I was "buzzed" several times, including two pickups where I could hear the exhaust pipe as they stepped on their accelerator to get past me. And one of those drivers also decided to provide me with his middle finger. I have no idea what is in the minds of people. And I was reminded that yesterday was a day for peace with Dr. Martin Luther King. I don't know why people are so angry out there and so impatient. There is not one panacea that is going to protect cyclists, but I really appreciate your and the senator's goodwill and foresight to put this solid block in the foundation so that, hopefully, we can have a community for everyone to be safe and have fun. Thank you. Questions, please? [LB39]

SENATOR SMITH: Thank you, Mr. Blue, for your testimony. Do we have questions from the committee? I see none. Thank you for your passion on this issue. [LB39]

JIM BLUE: Thank you, sir. [LB39]

SENATOR SMITH: We'll continue with proponents, those wanting to testify in support of LB39. Please come forward. Welcome. [LB39]

ISRA SOMANAS: (Exhibit 2) Thank you. Greetings, senators. I am very happy that I have this opportunity to talk to all of you and I want to thank you for your time. My name

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is Isra Somanas. Isra is spelled I-s-r-a, Somanas is spelled S-o-m-a-n-a-s. And I've just passed copies of both my testimony and a Lincoln Journal Star article regarding an accident that I had last year on July 15...no sorry, in 2013...July 15, 2013. In 2009, I traveled to America from the country of Thailand to pursue a college degree. I arrived here with little more than my two suitcases, my backpack, and friends in town. One of the first things I encountered was the vitality of a car to live in America. I did not have a car. And though I did not have a car, I decided to make due with what I owned and live off the seat of my bicycle. On the 14th of January, 2013, I was not able to find a ride to my weekly dance hall, the Pla Mor Ballroom. Being a young man in America, I decided to get through on my own muscle and ride my bicycle. Shortly after I mounted my vehicle for the return journey, I slipped into a very deep dream and awoke to the news that a Camaro had collided with me at 50 miles per hour. I proceeded to undergo recovery for the next two months and I still suffer from the effects of my severe traumatic brain injury. I want you to know that I support LB39. I once had no other means of transportation other than my bicycle, my legs, and the buses. And I can tell you--it is hard enough. Lincoln has a wonderful system of bike routes and the buses have bike routes which are very helpful. However, my accident has shown me that there is a dire need for the alleviation of the gap between a car driver and a bike rider. The driver needs to know that while she is protected by her car's infrastructure, the rider's helmet is all that he has for safety. Thank you very much. [LB39]

SENATOR SMITH: Thank you, Mr. Somanas, for your testimony. Do we have questions from the committee? I see none. Thank you very much for coming today. [LB39]

ISRA SOMANAS: Thank you. [LB39]

SENATOR SMITH: Next testifier in support of LB39. Welcome. [LB39]

KAREN GRIFFIN: (Exhibit 3) Hello, Senator Smith and committee members. My name is Karen Griffin, G-r-i-f-f-i-n. I'm the current president of the Great Plains Trails Network. On behalf of the Great Plains Trails Network, I write in strong support of LB39 to change the provisions regarding passing bicycles and bicycle-operating regulations. This legislation is important to the mission of our organization and we strongly urge its passage. As you are keenly aware from the testimony of the representatives of the bicycling community today, that commonsense information in LB39 strengthens the rights of pedestrians and cyclists, clarifies a motorist's responsibilities, and assists law enforcement in their ability to enforce the laws that apply in certain instances. In case you're not aware, the Great Plains Trails Network is a group of citizens, 800 members at this point in the city of Lincoln and Lancaster County, who advocate and support a network of trails in and around Lancaster County for jogging, bicycling, walking, and horseback riding. GPTN seeks the acquisition, development, and wide availability of trails by securing funding from public and private sources, working cooperatively with government agencies like NDOR, NRDs and other organizations. We lobby in for

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favorable legislation which is why my board has suggested that I speak in front of you today. By providing opportunities for people to learn more about trails, their value, and their proper use, so on behalf of the Great Plains Trails Network I urge that you pass LB39 to the Legislature for full debate. We are optimistic that this type of noncontroversial legislation will be...will gain support of the state senators across Nebraska. We thank you for your steadfast commitment to safety of our citizens. And if you have any questions, I'd be happy to answer them. Thank you. [LB39]

SENATOR SMITH: Thank you, Ms. Griffin. Do we have questions from the committee? I see none. Ms. Griffin, just tell me very briefly... [LB39]

KAREN GRIFFIN: Sure. [LB39]

SENATOR SMITH: ...tell me about your membership and the Great Plains Trails Network, how large of an organization do you have? [LB39]

KAREN GRIFFIN: Our organization is over 800 members at this point. And we are the ones that help build the trails in Lincoln and Lancaster County. We have over 130 miles of trails that have been built over the last 25 years. Lincoln was designated as one of the great spaces in America because of our trails network. This legislation really helps bridge that gap...when you're riding a trail and you're crossing crosswalks, there's been a lot of questions to our group of how they are to approach those situations. So this really helps our members understand the laws. [LB39]

SENATOR SMITH: Okay. Thank you very much again for your testimony. And we will continue with proponents, supporters of LB39. Welcome. [LB39]

JEFF BLIEMEISTER: (Exhibit 4) Good afternoon, senators. My name is Jeff Bliemeister, B-l-i-e-m-e-i-s-t-e-r. I serve as the Chief Deputy for the Lancaster County Sheriff's Office and I also ride my bike on the roads of the state of Nebraska. I'm here to support the changes in legislation presented in LB39. As a law enforcement agency, we're committed to ensuring the safety and security of those traveling on the roadways in Lancaster County. This includes those in motor vehicles and riding bicycles. In 2012, amendments to Nebraska Revised Statute 60-6133 added the language--a safe distance of no less than three feet clearance, referring to vehicles passing bicycle riders. Estimating a distance of less than three feet by a deputy watching a vehicle pass a bicycle while driving at highway speeds is difficult. The violation can be subjective and difficult to enforce. Unfortunately, the majority of the time we would only issue a citation to a motorist for this violation when they've actually struck a person riding their bike with the motor vehicle. The proposed changes as they specifically relate to passing a person riding a bike will allow enforcement in a more objective manner. Mandating that drivers move to the lane to their immediate left on multilane roadways or pass in the lane left of the center line on two-way roads provides clear direction to the motorists. These

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amendments will allow our deputies to stop motorists that violate these provisions and educate the drivers with either a verbal or written warning, or in some cases issue a citation. The passage of this legislation will provide law enforcement with a tool to intervene with drivers of motor vehicles who violate the statute. Safe travel on the roads of Lancaster County and the state of Nebraska is the joint responsibility of motorists, people riding bikes, and law enforcement professionals. By sharing the road, educating both drivers and bicycle riders, and enforcing the traffic statutes of the state, we can work towards elimination of many of the crashes that you've heard about in testimony today. I appreciate the opportunity to testify in front of you and take any questions that you have. [LB39]

SENATOR SMITH: Thank you, Mr. Bliemeister. Do we have questions? Senator Davis. [LB39]

SENATOR DAVIS: Thank you, Mr. Bliemeister. I'm assuming you've read the bill, I just wanted to know what kind of comments you had on the penalty phases of this and if you could kind of enlighten us I appreciate...that would be pages 3 and 4, I believe, of the... [LB39]

JEFF BLIEMEISTER: I believe that the amended copy of LB39 refers to a misdemeanor II offense...or excuse me, a misdemeanor III offense for a first offense and then a misdemeanor I for any subsequent if you've been a previous conviction. And these seem in line with other traffic statutes that provide punitive...some type of punitive penalty, I guess, for lack of a better term, similar in nature to other traffic statutes. [LB39]

SENATOR DAVIS: And that was what I was wondering if they were harmonious or if they were somewhat different. Some of them, I guess, some surprised me a little bit. That's it, thank you. [LB39]

SENATOR SMITH: Senator Brasch. [LB39]

SENATOR BRASCH: Thank you, Mr. Chairman. Are you testifying as Officer Bliemeister or Mr. Bliemeister today? [LB39]

JEFF BLIEMEISTER: Both. [LB39]

SENATOR BRASCH: Both, okay. Officer Bliemeister, (laugh) are there Rules of the Road for the bicyclists? Are they mandated to be on the far side of the lane to allow for more passing distance? Is that in the statutes that they should be... [LB39]

JEFF BLIEMEISTER: Cyclists are required, when they're traveling on the roadways as described in this bill, to ride on the far right, unless there is some type of obstacle or

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interference in front of them. So yes, that's the mandate in the statute. [LB39]

SENATOR BRASCH: And if they are not...I have seen bicyclists take the center of the road, I have seen them ride in triplets where there's...on 60-mile-per-hour-highway where it's a beautiful day and they pay taxes too; they're out enjoying the road. Is there a penalty or fine or some sort of way to prohibit that? [LB39]

JEFF BLIEMEISTER: We'll use your example of riding three abreast on a roadway, and, yes, there are penalties in place that if bicyclists are violating those provisions that they can be stopped just like any motorist could be by a law enforcement officer in a cruiser and given either a warning or a citation. I can't speak to the exact fine of that without conducting further research. [LB39]

SENATOR BRASCH: So an officer would then ticket the bicyclists according to all motor vehicle penalties just the same for not being in the right or riding two or three abreast across the road, correct? [LB39]

JEFF BLIEMEISTER: The statutes that you're referring to do have penalty provisions as to whether or not, as commented by Senator Davis, if they're the exact...I can't sit here and tell you that today because I don't know off the top of my head. [LB39]

SENATOR BRASCH: Okay. I have no other questions. Thank you. [LB39]

JEFF BLIEMEISTER: Thanks. [LB39]

SENATOR SMITH: Senator Seiler. [LB39]

SENATOR SEILER: Officer, the only thing that really bothers me about this is the part that gives right-of-way to the bicyclist who is on his right-of-way and it's crossing an intersection. And I'm kind of reminded of the intersection entering...you have...the person on the right has the right-of-way, doesn't do you much good if you're run over. And I'm just wondering if the...which is easier to stop, a bicycle or a 2,000-pound car going through an intersection? That part just bothers me a little bit. [LB39]

JEFF BLIEMEISTER: Senator Seiler, you bring up very important points. And even similar in nature to whether one is riding a mountain bike or if they're riding a road bike, the stopping distances based on the type of bike that they're riding or the experience of that rider in skills is going to be variant. And you're correct. Even if legislation is passed where it gives the right-of-way to the bicyclists, if there is an impact with a motor vehicle, unfortunately, in most circumstances, the injuries are going to be far worse than any punitive measures provided by legislation. [LB39]

SENATOR SEILER: That's right. Thank you, Officer. [LB39]

SENATOR SMITH: Senator Friesen. [LB39]

SENATOR FRIESEN: Officer Bliemeister, when it says a...when a bicyclists lawfully enters like a roadway...when you're talking a bike path crossing a highway, is there an obligation on his part to yield the right-of-way, but once he has entered the crosswalk then that's when he receives his right-of-way? [LB39]

JEFF BLIEMEISTER: To comment on that specific part, so on visualizing the different crosses here...both here and in urban environment within Lincoln and those in Lancaster County where the Jamaica Trail intersects with Highway 77, or something like that, I believe that intersections on the trail network that intersect with the right-of-way...excuse me, the highway itself, are marked with stop or yield signage; which would also be just common sense. But I guess I don't quite understand exactly what you're asking. [LB39]

SENATOR FRIESEN: Well, I drive a truck sometimes and so the stopping distance there and you're always aware of people, especially at those bike paths, they're usually marked. But if I see them parked on the side of the road there, is it my decision then that I must yield the right-of-way to them or do they enter the crosswalk...I mean, what responsibility is it of theirs to make sure that they're visible first? You know, if you're driving along and they come out of the growth and underbrush of a trail...I can't see them at the last minute and get stopped. What responsibility of the bicyclist to lawfully enter that crosswalk? [LB39]

JEFF BLIEMEISTER: I do see what you're asking and to be able to comment on the specific facts and circumstances of every type of intersection...so, if I'm envisioning a highway, and there's signage that's saying bicyclists you need to yield the right-of-way for oncoming traffic on Highway 77, I don't know that this legislation would change that. Certainly, it...certainly be incumbent upon the bicyclist itself for their own personal safety to make sure that the intersection is clear prior to proceeding through. [LB39]

SENATOR FRIESEN: Well, that's...it's the same with a pedestrian, I mean, if you, obviously, you know, you see oncoming traffic it's advisable sometimes to stand and wait a little bit. But when I read this at times here it depends on what kind of markings are on that trail. If they have the right-of-way the whole time, there is no obligation on their part to even look. It's saying I must...the car must yield the right-of-way. At times that's a little much to ask from some of the trails I've seen that cross the highway. [LB39]

JEFF BLIEMEISTER: You know, I think I'd have to defer to Senator Kolowski and the other testifiers who may have more specific knowledge of the legislative intent of that portion of the bill. I came here today to kind of talk to you about the enforcement of the

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three-foot rule which has really been the emphasis...we, meaning the Lancaster County Sheriff's Office, have worked several of these accidents on roads described similar to Mr. Blue on the three-foot passing law. And that portion of this legislation, in my opinion, it does definitely strengthen, more objectify, and provide clear guidance to the motoring public of how to pass. [LB39]

SENATOR FRIESEN: How do you see enforcement of the three-foot rule when a deputy is not there? I mean, that's the problem I see is that these guys that have an aversion to bicyclists and they want to prove a point, I mean, how does a bicyclist go about proving that they were too close unless they're hit? You could have a camera, maybe, or something, but I mean, it would be interesting to see how that could be enforced. [LB39]

JEFF BLIEMEISTER: Absolutely. As the legislation currently stands, without this proposal, it is very difficult to enforce. And so if I'm traveling on a bike and I feel that some motorist has passed me within the three foot, one, it's going to be frightening because that's really close at highway speeds. And if I take the opportunity to record the plate mentally and I call in to the sheriff's office, it's incumbent upon our deputies to go out and contact this registered owner of this vehicle if we've gotten the plate. And we can certainly interview them, see what their perception was when they passed me on a bicycle. I know from conversations out in the hall prior to this testimony today that there are several cyclists that will probably testify with you today that do have cameras on their bikes. And with the improvement in technology, it's capturing license plates and maybe even the face of the driver or the occupants of the vehicles. And so that would provide us with more objective evidence that we could go and contact these individuals; maybe issue them a citation, maybe issue them a warning trying to educate them. And then again, we have discretion in doing that based on the totality of the circumstances. So as it currently stands, very difficult to enforce. If the three-foot where it mandates a multilane...there's two lanes or more, they move over to the left, much easier to objectively enforce. And the same is true on two-lane roadways where you're required to move all the way over to the left of the center line. [LB39]

SENATOR FRIESEN: Thank you. [LB39]

SENATOR SMITH: Any further questions from the committee? I see none. Thank you, Mr. Bliemeister, for your testimony. Thank you for your law enforcement service too. [LB39]

JEFF BLIEMEISTER: Appreciate it. [LB39]

SENATOR SMITH: Next proponent, supporter of LB39. Welcome. [LB39]

DAMON HERSHEY: Welcome...thank you. My name is Damon Hershey, D-a-m-o-n

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H-e-r-s-h-e-y. I'm here today on behalf of BicycLincoln. On behalf of BicycLincoln we are in strong support of LB39. BicycLincoln is a community group that supports and promotes cycling in the city of Lincoln. Our mission is to provide a unified voice for bicycling advocacy in an effort to make cycling more friendly, safe, easy, accepted, and so that more people bike and bike more often. The change of provisions regarding passing people on bikes and bicycle-operating regulations is not only important to our mission, but to those on bikes and for the safety of all road users. We have seen firsthand the rise of people on bikes, not just for recreation, but for transportation. This rise has created the demand and the need for safer roads and better infrastructure. This legislation also ties in with the Department of Transportation's 30-year plan that was recently released. And to quote Secretary Foxx--the bike and pedestrian movement is a real game changer. Again, thank you and we do urge you to pass on LB39. [LB39]

SENATOR SMITH: Do we have questions from the committee? Seeing none, thank you very much for being here today and for your testimony. [LB39]

DAMON HERSHEY: Thank you. [LB39]

SENATOR SMITH: We are continuing with proponents, supporters of LB39. Welcome. [LB39]

JIM CARVETH: (Exhibits 5-8) Hi there. My name is Jim Carveth, J-i-m C-a-r-v-e-t-h. I'm here to support LB39. I'm current president/owner of the Bike Rack which is a two-store chain, Lincoln and Omaha; been in the cycling business for over 24 years. I serve on many local advocacy boards and I'm current vice president of the National Bike Dealers Association which serves over 4,000 dealers nationwide. I personally enjoy the bike as a means of recreation, therapy, and exercise. I've been associated with many different types of cyclists from the elite racer, weekend warrior, or just the child trying to get to school on his bike. I'm a strong supporter of LB39 to change the provisions regarding passing bicycles and bicycle operation regulations. This bill not only strengthens the rights of pedestrians and cyclists, it also makes it safer, as well as assists law enforcement to enforce laws that apply. I handed out, and you guys can read...read some of these at leisure, I just wanted to point out a couple things as far as the economic impact of cycling not only locally but statewide. The local impact...this is from the Outdoor Industry (Association) states that outdoor recreation generates over \$5.7 billion in spending in the state of Nebraska, \$1.7 billion in wages and salaries, \$74,000 in direct jobs, \$396 million in state and local tax revenues. Over 65 percent of Nebraskans participate in recreation every year. Nationally, the outdoor recreation consumers have spent over \$646 billion in outdoor recreation and employs 6.1 million people, which is only second to professional technical and scientific jobs. In Nebraska, there's over 95 retail outlets employing over 442 jobs generating a sales of currently over \$27 million. The past ten years our stores have seen an increase of over 68 percent in bags and commuting accessories for the bicycle which is, in large part,

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increase in bicycle community...bicycle commuting locally, excuse me. In closing, I'd just like to say I've seen a major shift in the use of the bicycle. It's not only used for exercise and just to get out and enjoy the day, but it's used as a transportation piece. It's used much differently than it ever has before. I've seen this in the last ten years. As you can see from the statistics, from the state and local, that cycling is not going away, it's actually becoming more and more popular. And I think we owe it to those people that are using these types of vehicles to have safer places to ride their bicycle, whether it be on a trail or a state road. Thank you for listening. I really appreciate you all sitting in here and listening to all this testimony. If you have any questions, I'd be glad to try and answer them. [LB39]

SENATOR SMITH: Thank you, Mr. Carveth. Do we have any questions from the committee? Seeing none, thank you. [LB39]

JIM CARVETH: Thank you. [LB39]

SENATOR SMITH: Hello. Welcome. [LB39]

STEVE CLEMENTS: Thank you. Good afternoon, my name is Steve Clements, it's spelled C-I-e-m-e-n-t-s. And I'm a bicycle enthusiast. Part time I'm on a voluntary basis the treasurer of the Great Plains Bicycling Club which is not to be confused with the Trails Network, although we cooperate with them quite a bit. But I am speaking today on my own behalf, not on the bike club. I'm certain that in tomorrow's board meeting they will have their position, they just, timing wise, didn't work out. I do want to state that this really isn't an "us" or "them" situation, because I find that the behavior of the majority of motorists is to be cautious, not to pass a car within three foot...not passing, bicycle. But I think every bicyclist that is on the road will tell you there's that minority, that's 20 percent, I don't think it's that high, or if it's 5 percent, who have either...don't understand how dangerous it is to come close to a bicycle even if you're to the right side of the road, which is where I ride. The fact that a bicycle might have to avoid and move over a few inches to a foot all of a sudden you're in the way of a car. And it's not that you're trying to jump in front of the car, it just happens. And, in fact, in my own case in August, late August of 2013, I was out on a long ride with a buddy of mine, we were probably three hours into the ride and had stopped for lunch, beautiful, gorgeous day, sunny, and we got back on the road and probably rode a mile and a half when all of a sudden I had a sharp pain in my right...left hand and my bicycle was out of control. I didn't know what had happened to me. I know I said a few choice words on my way down because I knew this wasn't going to feel good. Unlike Jim, Mr. Blue, thankfully it didn't hit my body per se, it hit my hand and caused this. It's not always people who are intentionally trying to haze bicyclists. In this case it was a 95-year-old-gentleman, nice man, he came...he stopped...that was the first time I realized what had happened to me because I was skidding down the highway or the county road. He stopped. That's when I realized what had hit me...what had happened to me, and he came back to me and his statement

was--what happened? There was just a hell of a racket. And I said--sir, I believe you hit me. And then he realized with his mirror strewn all over the road. This is now over two...well, a year and a half later, still have problems with the shoulder. I landed on top of the shoulder and what else I really don't know. I didn't know I hit my shoulder. But it is...there is no way to compare the safety of a vehicle versus a vehicle called a bicycle. And so I think...this is a...this bill that I'm totally in support of is a good first start. I think it will help in educating motorists. Hopefully, it will eliminate some of these folks because I think every bicyclist will tell you that they've experienced the hazer, the person that tries to come as close as they can, the person that throws full pop bottles at you as they're going by you. They think it's fun, it's not. It certainly isn't for the bicyclist and it can be very dangerous. So I urge the passage of this bill. It's a good start. We need a lot more public education. Hopefully it will help that. It doesn't change the fact that we need better signage. We need more things to bring awareness, because bicycles are more difficult to see than a vehicle. I would never question that. We did...I got involved in...I'm not somebody that comes to board meetings and those types of things, but after Dr. Dalke was run over on Saltillo Road, I put in a comment to our county commissioners here in Lancaster County. Boy, you get on their radar pretty quickly and they've got my name. So went and spoke to them and it was...I thought they did a delightful job. They brought the chief deputy and we did a public service announcement together. And my only wish is they would find somebody younger and more attractive than me to be in that PSA and, hopefully, with time they will. So that almost concludes my comments. I did want to comment on the training process for bicyclists and how it might vary and be different, Senator Brasch, than a motorcyclist. A bicyclist, most people by the time they're adults in...by the time they're young children, for that matter, have learned how to ride a bicycle. They, perhaps, haven't learned all the safety, but it's pretty well taught by parents and by schools and by some programs, the Kiwanis clubs in the area, put on. A motorcycle is a whole different beast. It's got a lot of power and it has a lot of balancing process and so that is way different. As to the crosswalks, I did want to mention just the fact that when you're in a crosswalk as a pedestrian, the automobiles are required to stop for you. And so when you come up on a crosswalk as a motorist, it behooves you as a motorist to watch and anticipate somebody walking in the crosswalk. Normally on a busy street, a pedestrian doesn't walk into a crosswalk, but it can happen. So there is responsibility on the side of the bicyclist and the motorist. And as I say, the majority do a great job and I appreciate it. There are a few that either through lack of attention or through a mean spirit don't get there. So that would conclude my comments. [LB39]

SENATOR SMITH: Do we have questions? Senator Brasch. [LB39]

SENATOR BRASCH: Thank you, Mr. Chairman. And thank you, Mr. Clements, for your willingness to come and testify today, and also for answering some of my earlier-asked questions. [LB39]

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STEVE CLEMENTS: You're welcome. [LB39]

SENATOR BRASCH: I do have one question and concern when you talked about the near grazing of...by vehicles. And you did mention that's 5 percent or not...it doesn't happen often, is that correct? [LB39]

STEVE CLEMENTS: It certainly is not the majority. It's the minority that...most people are fairly conscientious on a...in a vehicle. [LB39]

SENATOR BRASCH: And what would you say is the typical distance that vehicles do move over if they see you on the side of the road, or others? [LB39]

STEVE CLEMENTS: The typical distance if they have seen me? [LB39]

SENATOR BRASCH: Um-hum. [LB39]

STEVE CLEMENTS: The typical distance I see is a full lane. Most people will pull to the left lane to pass me. Once in a while they'll go by fairly closely. But as you would not pass an automobile in the same lane, most people will move over. In fact, they will sit and slow down behind you until they can get over into the other lane. So that's been my experience with conscientious drivers. [LB39]

SENATOR BRASCH: And an addition that I would have wanted to make is that this ability is key, make sure the riders are properly geared up, however, the Department of Roads workers have the same situation, but they have bright yellow vests on and cars are constantly coming way too close to the workers. So I would, moving forward, say regardless to proceed as a bicyclist with extreme caution, even if a three-foot law exist, there are the grazers for whatever may be in front of them. Thank you so much for your testimony. [LB39]

STEVE CLEMENTS: You bet. And I would comment on the bright clothing--most bicyclists would wear what most people would consider flamboyant colors. And it's not because we're flamboyant, I normally would not dress in anything flamboyant...on a bicycle I put on some pretty bright colors. [LB39]

SENATOR BRASCH: Very good. Thank you. [LB39]

SENATOR SMITH: One more question; Senator Davis. [LB39]

SENATOR DAVIS: Do you know if any surveys have been done in the state of Nebraska to deal with some of these accidents in terms of what has caused them before...a record of safety violations or, you know, driver error, bicyclist error, has that ever been put together? [LB39]

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STEVE CLEMENTS: I assume there have been some studies. I certainly...it's way outside of my expertise. I'm an accountant by nature. [LB39]

SENATOR DAVIS: Maybe...well, that's a good thing for an accountant to be in. But maybe one of the later testifiers might know that information. [LB39]

STEVE CLEMENTS: Could be. [LB39]

SENATOR SMITH: All right, no further questions. Thank you, Mr. Clements, for your time. [LB39]

STEVE CLEMENTS: Thank you very much. [LB39]

SENATOR SMITH: We continue with proponents, supporters of LB39. Welcome. [LB39]

BRENT DAVIS: (Exhibit 9) Thank you. Good afternoon. My name is Brent Davis, B-r-e-n-t D-a-v-i-s. I'm here today on behalf of...primarily on behalf of Nebraska Bicycle Alliance. I'm the president. You've heard a few of our board members speak as well. I'll try to touch on a few different things that have come up here so far and try to address those as best I can, and get some of those answers that you've already asked. I, myself, currently ride, obviously, quite a bit. I've been an avid cyclist for 17 years. I'm also a league-certified instructor as well, so I do teach. We talk about teaching, we get out in front of the schools and businesses and anybody in the community that will listen to us and want to better ride their bikes, we work on that. So we do that. The city of Lincoln got a grant a few years ago to get a bunch of us certified, so we are very active in trying to continue to get out in the schools and educate. I get to my kids' school as much as I can. I still have a teacher...my oldest, his second grade teacher still has me come every year to teach their class, so we get a bunch of us together, we go knock out about 80 classes at Maxey Elementary School every year, so enjoy doing that. So I do all forms of bicycling from racing to touring to commuting. I put on about 6,000 miles among all my bikes every year. So, again, married with two boys, second, fifth grade, currently, and they all enjoy riding with me as well. I was going to give you a little background on the Nebraska Bicycling Alliance. Formed in 2013, we became a nonprofit in June of 2014, so very recent. So right now, currently, we're all volunteers working on this to advocate and improve cycling education in Nebraska. Kind of started when the Department of Roads came around when we had the south beltway come up for Lincoln in summer of 2013. That kind of got...hit a bunch of our radars. So we weren't formed yet as an organization, but that was really kind of a send off for us to get started and to get organized. So we talked about that. The first plans of that south beltway would cut off the existing major bike paths for us to get out of Lincoln south, which in the summertime is where you're headed when you're heading into the wind. So Highway 77 and Highway 2 are prominent places to ride and the beltway kind of cut us off. Then in

the January of 2014, there was a great video out on the NDOR's Web site. They looked at the design of the south beltway and were able to accommodate the infrastructure so that bicyclists can now get out. So when that does come into play and is beginning to be built, there is accommodations for bicyclists to still get out on Highway 2 and get out on Highway 77, which is a major...major bike route for a lot of us. The other thing we have, and what I passed out to you, I'll look at, is the state report card, and I've been here before and recognize some of the senators that are still here, and we've talked about how Nebraska ranks. And you currently see that the sheet I gave you...the top sheet is our current...most current ranking; 2015 is not out yet, 2014 where we rank, we're 45th, which is pretty low. And that kind of highlighted some things on there for you, but the 2000 card, you also have attached, we ranked really low as well. And on that 2013 card, sorry, 2013 card, it talks about our mandatory sidepath law, which is one of the components of this bill. That was something that the League of American Bicyclists endorsed as well and said we need to change in Nebraska. Our ranking over the years has continued to get worse. So that's why Nebraska Bicycle Alliance is supporting LB39. Again, everybody has talked about its transportation, its work and school. Here in Lincoln we're in...because of who I work for, I also spent 20 years...I currently work for Union Bank and Trust, so by day I'm a banker, but talking to the city of Lincoln, they're working on a bike share program. And Omaha has already the Heartland B-Cycle. So it's not like bicycling is getting less and less; it's continuing to grow. The city of Lincoln hopes to have their bike share program up by 2016. Again, recreation tourism is huge, the dollars it brings in, Jim Carveth talked about that. It's not just the highways, it's also the gravel roads too. Gravel road movement to ride is huge. It's quieter, there's less traffic, it's beautiful, it's scenic. The health and wellness aspect is what got me into cycling to stay healthy and fit is primarily why I ride. And you expect to see people riding year-round, it's not seasonal; we've got the gear and the bikes and the equipment, and we talked a little bit about cameras. I also have...this is the camera I use on my bike; just recently started playing with it. But this is what is mounted so I can see everything that has happened when I'm on the road. So again, the components are important. We need to get LB39 passed. We're working with Department of Roads. You see the amendments are here, I'll touch on those briefly. Working with Roads, we've talked a lot about signage. We didn't want to mandate signage because of a fiscal note with that. We're looking at signage. We've met with city and county engineers to talk about signage and what's appropriate. There's only two signs currently in MUTCD which is the federal guidelines we have to follow that allow us to put up specific signs, so there's just those two signs, and we're working on that piece currently. So really, our plan is, you know, if we get this passed we want to continue the education. We've worked with the Grand Island law enforcement training center, Bill Muldoon, to talk about the continuing education credit hours that law enforcement receives. We can create a training class to help educate them which spills out to everybody. That's our goal when this passes. In closing, it's time to think about complete streets and further accommodate all forms of transportation. A person riding a bike will always put themselves in the safest position based on the conditions and situations. And this bill is a step in the right direction for

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Nebraska. We know we cannot stop the drunk or distracted drivers, but this bill helps create the education and awareness that is desperately needed to clarify the Rules of the Road to everyone. If this bill does not pass, I hope everyone is prepared to face the families of someone that's been killed. So with that today, I want to say I thank you for your time. Please...please pass LB39 out of committee. Senator did want me to talk about and if there is any questions on the amendments, we worked with Department of Roads last Friday at the last...kind of the last afternoon to talk about the slight changes. We didn't have any concerns with the amendments that they made. We appreciated their input. The dialogue with them has been great. They've been very supportive. They clarified the "center line" on page 3 of the bill. They also talked on page 2 about the designated...the roadway when bicycle is not in the roadway about how to overtake them. And then we removed a section that really was ruled redundant. So that really cleaned up the bill a little bit. So I guess at this point, if there is any questions I'd be happy to answer any. [LB39]

SENATOR SMITH: Thank you, Mr. Davis. Do we have questions from the committee? I see that you wanted to address just briefly the amendments. And it sounds like you're part of that working group that worked on the amendments. [LB39]

BRENT DAVIS: Yes. [LB39]

SENATOR SMITH: I'd like to ask you a little bit about that if I could. [LB39]

BRENT DAVIS: Sure. [LB39]

SENATOR DAVIS: And I'm not certain if the committee members have had a chance to look at this closely, but in Section 3...Section 3(a), it's line 30 and 31 in the green copy. There's a caveat placed in there that says "when the lane is available and moving into the lane is reasonably safe." And that is applying to the case where there are multiple lanes going in each direction. And if we look a little bit further down in (b), same section number on page 3, and this would be, roughly, line 5; would not that same addition be applicable in that case where there are only two lanes each going in opposite directions? And again, I'm looking at adding the language "when the lane is available and moving into the lane is reasonably safe." So...you know, I can kind of read through that (inaudible)... [LB39]

BRENT DAVIS: Yeah, yeah if you would. [LB39]

SENATOR SMITH: In (b): "if there is only one lane for traffic proceeding in the same direction on an undivided two-way roadway move the vehicle to the lane to the immediate left"...and I would insert there "when the lane is available and moving into the lane is reasonably safe." [LB39]

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BRENT DAVIS: In case there is oncoming traffic is what you're... [LB39]

SENATOR SMITH: Um-hum. So applying the same language as was in the multiple-lane language, would that...do you think...do you see any problems there? [LB39]

BRENT DAVIS: I don't. I mean I see what you're saying. I mean if there is oncoming traffic and the lane is not clear, is that what you're referring to? [LB39]

SENATOR SMITH: Yes. [LB39]

BRENT DAVIS: Yeah. [LB39]

SENATOR SMITH: And this goes back a little bit to when Miss Harris was testifying before and Senator Davis had some questions about...in those cases where it's not safe to move into that other lane. Can you step through...maybe describe what you would see that change doing to this discussion? [LB39]

BRENT DAVIS: I guess, maybe, if I don't completely understand the question, but if you're on a road...and here's where working with Department of Roads maybe...maybe this helps clarify it, if you're on let's say Highway 77, which is a four-lane road, and you're on a shoulder, the vehicle would not have to change lanes. Okay? I guess just to clarify that. If you're on...the bicyclist is on the other side of the white line using the shoulder that's adequate, the vehicle does not need to change. Okay? But when you're talking about a two-lane road...same situation, if I'm on a shoulder of a two-lane road, there's no reason for them to change lanes. Okay? Now if you're talking where I'm on the roadway...and that's where we've talked about...and where Department of Roads had us add in "the bicycle proceeding in the roadway and not a designated bicycle lane" that language we added in because if I'm on the roadway and I'm, yes, will be as far to the right as I can, but I may need to use the full lane and that's where the vehicle will have to pass and follow the normal passing laws...okay?...because I may need to take the full lane because of potholes or debris or whatever is happening. Or I may be starting to signal to change lanes; I may be needing to make a left-hand turn so I'm going to be signaling. Okay? So, yeah, I think if that helps clarify understanding how this law would work...does that kind of help clarify that? [LB39]

SENATOR SMITH: Yes. Yes, thank you. Are there any other questions for Mr. Davis? Senator Davis. [LB39]

SENATOR DAVIS: Thank you, Mr. Davis. So I think Senator Smith brought up some good points and I'd like to follow up a little bit with those. So you made reference to (Highway) 77 where there is a shoulder. [LB39]

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BRENT DAVIS: Right. [LB39]

SENATOR DAVIS: And so you're...you said that the driver would not have to move into the next lane to the... [LB39]

BRENT DAVIS: No. [LB39]

SENATOR DAVIS: ...for coming north or would be the next one to the west. But what if your bicyclist is in...is not on the shoulder? [LB39]

BRENT DAVIS: Then they have...you're talking four lanes and for some reason I'm not on the shoulder, I'm using the lane, which is a right, but I...I guess...I kind of...in all my years of cycling, have a hard time seeing anybody wanting to do that because we know the speed of traffic. [LB39]

SENATOR DAVIS: Well, but you made reference to potholes and things like that. You know, I think we...I think we really need to clarify what we're talking about because there's a lot of gray area here. There's a pothole here and you come over...and the normal course of the driver would be to stay where he is, does he have to jump over? [LB39]

BRENT DAVIS: Yeah. [LB39]

SENATOR DAVIS: Then we get into these issues with some roads in Nebraska don't have shoulders at all. [LB39]

BRENT DAVIS: Right. And that's where...and that's where...when we're on the road where there's no shoulder at all, that's where this definitely applies. I may use the full lane. I'll be as far to the right as possible so that the vehicle just would follow the normal passing laws. Again, like we talked about, no different than passing a tractor or a combine or anything else. Now, the other thing when we teach cyclists too is that we expect cyclists to be predictable. And that's one of the first things that we teach as an instructor--you need to be predictable and follow the Rules of the Road. For someone to jet out across the white line on Highway 77 would be way out of the norm. I mean, that would be careless and reckless. I mean, no different than someone in a vehicle driving on the shoulder swerving over, which they're not suppose to drive on the shoulder either. I mean, so that's...I guess... [LB39]

SENATOR DAVIS: And I recognize that you're right about that. Doesn't mean that everybody does that though. [LB39]

BRENT DAVIS: Right. [LB39]

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SENATOR DAVIS: And that's one of the problems that we're going to have to address as a committee is how to sort of drill into what we're trying to do to make sure that everybody is treated equally. [LB39]

BRENT DAVIS: Right. And again, I go back to...Julie talked about the convenience. Really? What is the inconvenience worth? Is it worth my life? That's...that's...you know, is that 20 seconds...you know...that's...I mean...we expect, again, I, as a cyclist, we always try to put ourselves in the safest position possible. But...and that's where rarely...and you can't...again with motorists, we don't paint them all with the same brush, as we've talked. Most of them are generous. I see a lot currently...and I've got...filmed it, because I do film it for good examples, it's amazing how many people already move all the way over. I wave at those folks. I'm pleased with those folks, not everybody does that. That's what we're trying to clarify. And then give law enforcement the ability...even if seeing this footage, they can easily tell that they crossed the center line or not. So, I mean, did they put this person in harm's way or not? That's what this law will help clarify. [LB39]

SENATOR DAVIS: So do you envision yourself then in your...and bicyclists, using these cameras as kind of pseudo police? Is that what you...? [LB39]

BRENT DAVIS: No, I use it...no, that's not how...I mean... [LB39]

SENATOR DAVIS: I mean, that's kind of what you're implying with--I have my camera and I'll be able to tell. [LB39]

BRENT DAVIS: Well, it's...and you know why I think we're not too far away from...every car...you haven't paid attention to technology and how it is changing, every vehicle pretty soon will have a camera in it...if we're going to have a dash-cam on everybody's car, it's going to all get recorded. So, I mean, that's just where it's going. I think this helps us...gives my family the ability to defend what my actions were if this should occur. [LB39]

SENATOR DAVIS: Thank you. [LB39]

SENATOR SMITH: Thank you, Mr. Davis. Any further questions from the committee? I seen none. Again, thank you for coming today and testifying. [LB39]

BRENT DAVIS: Thank you. [LB39]

SENATOR SMITH: Let me have a raise of hands, how many further proponents of LB39 do we have? Okay, a couple more back there. Okay, thank you. Welcome. [LB39]

JIM THOMPSON: Thank you. Jim Thompson, J-i-m T-h-o-m-p-s-o-n. Thank you for the

opportunity to speak on this important bill. And I want to take some liberty of Senator Kolowski's statement of intent. What I feel on this is part of the intent is a philosophical change of what bicycling is in this state. And it is a mode of transportation, and you heard some of that before. This, I call it not necessarily a minor change, a significant change, but it's one of the continuing changes that we as citizens need to have to incorporate bicycling in our daily lives. I live in midtown Omaha, there's a concept called Complete Streets that's starting up and it talks about bike-friendly, pedestrian-friendly streets in the big cities. That remains to be seen how effective we're going to be on that. But LB39 is another tool that can be used with this philosophical change. Transportation and Telecommunications Committee, if we look at Department of Roads, and we've heard testimony about Department of Roads, their purpose is moving cars. I've been an advocate of trail change for almost two decades in my capacity on the NRD board, Papio NRD, we build trails. And they're wonderful. They're trails dedicated for pedestrian and bicycling use. What we're talking here is the addition or expanding the philosophy of using our roadways as transportation areas. If I had my way, I'd change Department of Roads to Department of Transportation. It's philosophically using bicycling as transportation. We did not nearly heard from those who use it to ride to work and back...work and back. Want to go to the store, it's two miles away, I'd rather ride my bicycle rather than hop in the car and burn the gas and all that that it takes. If it's on Dodge Street, it's a highway; if it's on Maple Street, it's a highway. That's where the Department of Roads needs to change their philosophy that they are part of the transportation solution in our society. Perhaps I'm digressing too far on that point, but I do want to make that. There's been some talk about signage. An example of my midtown neighborhood, when trails are designed, they're designed according to national design standards. And I don't know the acronym of what that institution is, but they say put a stop sign at the trail. And on Turner Boulevard and Mason, there's a stop sign for the trail users, but it's surprising how many cars stop at that little stop sign. It's not an aluminum one, it's a small one shield so cars should not...know how to stop, but it's kind of nice to have cars stop in that situation. Throughout the rural areas there's "do not litter" signs all over the place; litter picked up by Kiwanis clubs and all that. If signage becomes an issue of expense and so on, I can probably be assured that the trail organizations that have been before you would chip in and buy some. They're really not that expensive. It's normally the labor that gets involved in establishing...they're putting signs up periodically. It really is an education process; LB39 is an education process. We need more of that; we need, in our drivers training manuals, implication that bicycles are a mode of transportation and beware and be concerned. And the same with the cyclists. I've seen them go through stop signs, they themselves are not immune to violating the law. But they also...there's a bicycle shop owner here, that kind of philosophy needs to be educated and passed on to those who procure bicycles. I just want to highlight my support for that bill. And I thank you for your time and I'll take any questions if you have any. [LB39]

SENATOR SMITH: Thank you, Mr. Thompson. Do we have questions from the

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committee? I see none. Thank you for your testimony. Proponents of LB39? Welcome.  
[LB39]

JOHNNY DAVIS: Thanks. Unexpected, but I'm here as a local business owner. My name is Johnny Davis, D-a-v-i-s. I own and operate a bicycle business via salsa, so I deliver food through the city of Lincoln, be it the trails or the streets. So just knowing that...well I'm for LB39, so it's like I'm going more for the aspect of safety and the three-foot law or so be it. But it's not...it's like there's times where I'm just bicycle only or I'm hauling a trailer. A trailer is no more than maybe a half a foot per each side of the bike, so it's central. But more times than not, I'm on the street. I do take up a good chunk. I don't stay to the curb because then the trailer is going to be on the curb. So I'm roughly about half of the lane. And I still get cars...well, not all cars. Some actually do pull into the next lane or switch over, especially in the downtown. They either wait as if I was like a bus or whatever; especially rush hour, they do pile up behind, but if there's a way I can get onto, like let's say P Street or M Street or N Street to...I'm not on O (Street) or 27th Street, I move to those. Or if I hit a side street that's a lot better, I go with those. But like let's say...let's mark side streets. We've got full lanes that are actually bicycle marked for bicycle traffic going east and west, north and south, but not all of them are taking in the best care. There's more potholes on those lanes than any other main streets. So it just seems like they advocate us all of the wrong streets or they just don't care to take care of the bike lanes. I utilize a lot of our trail network for wherever I'm going. I'd rather be on them than I don't have to deal with cars as much. But there's another aspect to just the three-foot rule, it's like you've got the cars that will pass you...if you're in downtown Lincoln, let's say going east on O (Street), I utilize the right lane unless I have to go north. But it's like so a car will pass you, it will give you your three foot, but ten feet down the road he pulls in front of you and stops at a stop light. So it's like he can't wait for you to get through a lane or a light because you're stopping at a light. But he wants to be in a rush, or she want to be in a rush and wants to be ahead of you because they don't want to be stuck behind a bicycle. And it's not just on the metro area, it is in residential. They'll just speed by you; they don't care about the three foot. Like most say, they'll come...like they're just angry car drivers and they just want to make you angry or prove their point that they're in a car and they're bigger than you and they've got more right to a road than you do. I get hollered at, beer cans, bottle cans thrown at you because you aren't supposed to be on the street...or for what they say you should be on the sidewalk. Some lanes I can be on the sidewalk, but if I'm hauling a trailer, then I'm taking the full sidewalk. So if I've got a pedestrians walking up and down the street, going to the grocery store or whatever, then I've got to pull into the street which I'd just rather stay in the street because cars see you better on the street, for the most part. If you're on a sidewalk and you're coming up across a side street, they're going south and they're turning right, they might look. But if you're coming from the south, they're only looking from the north. So they don't look for you coming up this way. So they'll pull right out in front of you, even though I'll slow down. But some are just coming up and barely stopping and running through. So it's more of like better

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signage as with crossing highways. Some of our...a good chunk, have stop signs for the pedestrians for them to stop, for crossing any streets, like let's say where 33rd crosses where...yes, Pioneers Boulevard connects the two, over by the Bike Rack, there's two sections there. But more times than none, you're going to stop unless you can definitely see there's nothing coming across. But it's just more of just cars getting more aware of that we are there and we're going to stay. I'm done. [LB39]

SENATOR SMITH: Thank you, Mr. Davis. [LB39]

JOHNNY DAVIS: Yep. [LB39]

SENATOR SMITH: Thanks for coming in and testifying. Do we have any questions?  
Senator Brasch. [LB39]

SENATOR BRASCH: Mr. Davis, first of all, I want to thank you for coming to testify today. [LB39]

JOHNNY DAVIS: Um-hum. [LB39]

SENATOR BRASCH: Have you ever testified before a committee before? [LB39]

JOHNNY DAVIS: Never, that's why (laugh)... [LB39]

SENATOR BRASCH: I saw you three or four times trying to go for the chair and you turned around several times. [LB39]

JOHNNY DAVIS: Right. [LB39]

SENATOR BRASCH: So it does take courage for anyone to come forward. And you're doing your civic responsibility and I do want to thank you for that. And you're also...is this your own business that you have? [LB39]

JOHNNY DAVIS: Correct. Owned and operated. [LB39]

SENATOR BRASCH: Delivering food? [LB39]

JOHNNY DAVIS: Um-hum. Well, I deliver specifically just salsa through the city. [LB39]

SENATOR BRASCH: Salsa through the city. [LB39]

JOHNNY DAVIS: Salsa. Salsa like salsa chips. [LB39]

SENATOR BRASCH: Oh, okay, all right. Very good. [LB39]

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JOHNNY DAVIS: Yep. [LB39]

SENATOR BRASCH: So do you deliver it during lunch hour? [LB39]

JOHNNY DAVIS: To local businesses. [LB39]

SENATOR BRASCH: To the restaurants? [LB39]

JOHNNY DAVIS: Restaurants. Retails. I do all the...well, I will be doing all more markets this summer. So it's just...or I just residential...I do anything--residential, business, or throughout...I'm on the road a good 50 percent of the day either delivering whatever. So it's like I see all aspects of the city streets in the downtown area as to the residential. [LB39]

SENATOR BRASCH: Well, you know the traffic very well. And I did want to thank you for being persistent and getting your seat here today. I don't have any other questions. Thank you. [LB39]

SENATOR SMITH: Any additional questions? I see none. Thank you, Mr. Davis. [LB39]

JOHNNY DAVIS: Thanks. [LB39]

SENATOR SMITH: Welcome. [LB39]

KENNETH C. WINSTON: (Exhibit 10) Good afternoon, Chairman Smith, members of the Transportation Committee. My name is Ken Winston, K-e-n W-i-n-s-t-o-n, appearing on behalf of the Nebraska Chapter of the Sierra Club. And most of the things that need to be said about this bill have already been said so I won't repeat all of that other than to say that we support LB39 as a means of...because of the fact we support bicycling for the health benefits and also to encourage use of bicycles for transportation. And we think that LB39 is a way of making cycling safer so we'd like to promote that. [LB39]

SENATOR SMITH: Thank you, Mr. Winston, for your testimony. Do we have questions? I see none. [LB39]

KENNETH C. WINSTON: Thank you. [LB39]

SENATOR SMITH: Proponents of LB39. Welcome. [LB39]

RICHARD DRAPER: Good afternoon. My name is Richard Draper, D-r-a-p-e-r. I'm a 76-year-old-retired cyclist in Lincoln. I know all of the bike paths intimately. I wanted to address one particular part of the bill about cyclists and crosswalks...pedestrian

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crosswalks. I don't know how many senators here are from Lincoln, but one example is the Antelope Valley Parkway going onto the UNL campus. There is a bike path that comes along the north side, there's a pedestrian path there. And this bill, as I read it, will clear up the fact that a bicycle can ride across that pedestrian path. I'm a lifelong computer technician, I deal in logic. To me it is illogical to come up to the light, wait for the light and the pedestrian light to turn green, ride out into kind of the traffic way, go across, not in the pedestrian bike path, then get back on on the other side of the street. And I certainly hope this bill is passed because it's logical, it clears up a...what I think is a total flaw in the bill. There's many places in Lincoln with the 130 miles of bike path that you really need to use a pedestrian crosswalk. That's my point. I'm done. [LB39]

SENATOR SMITH: (Exhibits 11 and 12) Thank you for your testimony. Do we have questions from the committee? Seeing none, thank you. Continuing with proponents of LB39, do we have any more proponents of LB39? I see none. We have a number of letters of support that will be entered into the record. We're not going to read through those, but those will be entered into the record. Do we have opponents, those in opposition to LB39 with us today? Seeing none, do we have anyone...oh, we do have those in opposition to LB39 and those letters that were sent into us, they will be entered into the record as well. Do we have anyone wishing to testify in a neutral capacity on LB39? Seeing none, Senator Kolowski, you're...please give us your closing. [LB39]

SENATOR KOLOWSKI: Thank you, Senator Smith. And thank you, committee, for your patience and for all the testimonies that have been given today. As a point of personal privilege, I'd also like to recognize in the audience Mr. John Winkler from the Papio NRD. As Mr. Thompson was talking as a board member of the Papio, they have also been very active, as you know, with the development of many, many miles of trails throughout the Omaha area, which we enjoy and that's...it's been a pleasure working with them over the years. I would also like to point out, if I may, both Jeff Johnston and Jed Johnston are here, they're brothers of Jim, that I talked about, if they would raise their hands please and be recognized. We thank them for taking the time today to...and their caring about this bill to be with us as we wrap this up at this time. The bicycle industry is big business, as you've heard, not only in Nebraska but nationwide. Tied to that, the travel industry or Nebraska tourism is tied right in with that when you have such things as the BRAN, Bike Ride Across Nebraska, and other events that take place throughout the state. We have a great opportunity with tying in the recreation as well as has been described the use of bicycles in the way of transportation. Many times the only transportation some people have and use on a yearly basis. Our friend, Senator Davis, here, you know, last year talked about the Cowboy Trail up north in the state and the development of all these possible trails crisscrossing the state is economic indicators of great success in our state and drawing people from all over to enjoy the grandeur of our state. I hope with our concentration in not just our urban areas, but the availability of making all of Nebraska available to bikers that we'll be able to pass this bill and to move on to greater safety and security for all Nebraskans and others as they come to our

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state to enjoy our state. Thank you very much for your time today. And I'm open for any questions you might have. [LB39]

SENATOR SMITH: Thank you, Senator Kolowski. Do we have questions for Senator Kolowski from the committee? I see none. Senator Kolowski, I know there were certain questions that I had that Mr. Davis answered, that I think there are some questions I have on the amendment... [LB39]

SENATOR KOLOWSKI: Sure. [LB39]

SENATOR SMITH: ...but looking forward to working with you outside of the committee to see if we can get those addressed. [LB39]

SENATOR KOLOWSKI: Thank you. [LB39]

SENATOR SMITH: Thank you for your time today, appreciate it much. [LB39]

SENATOR KOLOWSKI: Thank you, Senator Smith. Thank you very much. [LB39]

SENATOR SMITH: I'm going to ask us to stand at ease for just a moment. We're going to transition. Senator Brasch is going to take the reins and there's a couple bills that I have that I'm going to introduce and she will run the committee for those two bills. [LB39]

EASE

SENATOR BRASCH: Welcome. I think we're ready to begin here. And welcome, our Chairman Smith, and he will be testifying and telling us on LB95. [LB95]

SENATOR SMITH: Yes. Good afternoon, Senator Brasch and members of the Transportation and Telecommunications Committee, for the record my name is Jim Smith, J-i-m S-m-i-t-h and I represent the 14th Legislative District in Sarpy County. I'm here today to introduce LB95. LB95 would define electric-assist bicycle. For those of you who were on this committee last year, you might recall this bill. It was advanced without opposition out of committee and was on the list to be a consent calendar bill, but it didn't make it on the agenda due to time constraints during the session. That is why it is before you again today. An electric-assist bicycle is not a Moped and it is not a motor scooter. It is simply a standard pedal bike that has a small motor to assist with propulsion. I have one of these bikes in my office today, so I invite the committee members and those that are behind me today to drop by Room 1110. Take a look at it. It's a beautiful green bike and it has a small motor on it. It's really an amazing piece of technology. Under LB95, an electric-assist bicycle, or an e-bike, is defined as a bicycle that has two or three wheels, fully operative pedals for propulsion by human power, an

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electric motor with a capacity of 750 watts or less, which produces one brake horsepower or less, and has a maximum speed of 20 miles per hour on level ground. This definition is based off the federal definition of an e-bike. I'm introducing this bike on behalf of a constituent whom I would label as one of the state's experts on electric transportation. Bill Moore is the editor of EV WORLD and he will be following me today with his own testimony. I would ask that you direct the more technical questions on the bike's details to him please. Why is LB95 needed? These bikes are growing in popularity across the country. And as Mr. Moore explained to me, these bikes are particularly useful for individuals with joint problems and older riders. It gives them a little extra push as they need to get up the hills or keep up with other riders. It's important to definitively clarify that these devices are, in fact, bikes. They should be allowed on bike paths and in bike lanes and they should be subject to the same Rules of the Road as the traditional bike. In fact, if you go to my office and take a look at this bicycle that's on display there, it's hard to see many differences between this bicycle and a standard bicycle. Without this bill under our current statutes, these bikes fall somewhere between the definition of a Moped and a motor vehicle, both of which are subject to more prohibitive requirements such as licensing and helmets. In addition, our current laws are not aligned with federal allowances of electric bikes on federally-funded bike trails. With an aging population that tends to be more active and health conscious, and with more and more people looking for alternative methods of transportation, I anticipate that these bikes will continue to increase in popularity. I would encourage you to advance LB95. And with that I'll take any questions. [LB95]

SENATOR BRASCH: Thank you, Chairman Smith. Are there any questions from the committee? Seeing there are none, I will ask for the first proponent to step forward. Welcome. And will you please say and spell your name. [LB95]

BILL MOORE: Thank you. Madam Vice Chairman, I guess it would be, right, and committee members, my name is Bill Moore, B-i-l-l M-o-o-r-e and I'm a resident of Papillion, Nebraska. In addition, I am the founder, publisher and editor-in-chief of EV WORLD.COM, which is, perhaps, the longest-running Internet publication devoted to the world of electric vehicles. I'm here in support of LB95 and also I certainly express my support for LB39 as well. LB39 seeks to improve the safety of bicycle riders. LB95 seeks to encourage more people to ride bicycles for what I would like to say is fun, fitness, and saving some green, and by that I mean money, as well as of course we could include the environment in that, obviously. I was privileged to testify on behalf of LB756 last year. Like that bill which was unanimously voted out of this committee, LB95 defines an electric-assist bicycle as a bicycle as long as it complies with US Consumer Product Safety Commission guidelines, which Senator Smith has already spelled out to you so I won't go into any detail on that. Defining them as bicycles opens up more safe cycling opportunities to e-bike riders allowing them to be ridden on bike paths currently restricted as the signs will tell you to motorized vehicles. Because e-bike riders tend to be 50 years and older in age, granting them access to the trails and paths, away from

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busy streets and highways, will enable them to get back on a bike and ride safely with greater confidence. Finally, in speaking of saving some green, it turns out that promoting cycling in general, I think this has been touched on some, but I will repeat it, can be a huge economic boon to the community and the state. A 2012 study in Europe, found that promoting bicycle tourism was worth an estimated \$57 billion in economic impact across their union. Oregon, similarly, found that it generated \$400 million, and Michigan concluded it contributed \$668 million in "economic benefits to Michigan's economy from employment, retail revenue, tourism expenditure, and increased health and productivity." Promoting more cycling, both conventional and electric-assist, for those of us who may need it or who may want it, will be good for the state and its citizenry in terms of both our physical health and our economic wealth. Thank you, and I'll be happy to answer any questions you may have. And also, if you have the opportunity, take a look at the bike that is in Senator Smith's office. It's a remarkable piece of technology. [LB95]

SENATOR BRASCH: Thank you, Mr. Moore. Are there any questions from the committee? Yes, Senator Friesen. [LB95]

SENATOR FRIESEN: Yes, thank you. So this bike, the electric portion of it, all by itself will allow you to go up to 20 miles an hour? [LB95]

BILL MOORE: There are two technologies that we have. In Europe, and I'll just speak to that now for the moment, I'll bring up the hybrid system, in Europe you are not...there...unless you pedal the bicycle, there is no assistance. So the bicycle, for example, in Senator Smith's office is that kind of a bicycle. In the U.S., there is allowed a hybrid system which allowed you to switch between what is called "pedal on demand" which you have to pedal to get assistance and what is called a "throttle on demand" system. So the bike may have either a little thumb throttle or a twist throttle that allows you to get assistance. So in that particular bike's case, yes, you could stop pedaling, you could use the throttle, assuming you're on level ground, and you could be propelled up to 20 miles an hour. At which point then, the technology then turns the motor off so you're not allowed to go any faster then. Combining the two, pedaling and using the throttle for example, still you cannot go faster than 20 miles an hour. The motor will then kick out. [LB95]

SENATOR BRASCH: Are there any other questions from the committee? [LB95]

BILL MOORE: And personally I prefer the European model, but I have both so. Okay? [LB95]

SENATOR BRASCH: Seeing there are none, thank you, Mr. Moore. [LB95]

BILL MOORE: Thank you for the opportunity, I appreciate it. [LB95]

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SENATOR BRASCH: Next proponent. If you plan on testifying today, please move forward so we can get you through the line here. Thank you. [LB95]

PEGGY ADAIR: (Exhibit 1) Senator Brasch and members of the committee, for the record my name is Peggy Adair, P-e-g-g-y A-d-a-i-r and I'm speaking on my own behalf today in support of LB95. And I actually do have a hybrid and I think the easiest thing for me to do to explain to the new members of this committee is how these bicycles work in that you...it's a bicycle, as you can see from the photos that I have on my testimony there. You get on and you start pedaling just like a regular bicycle. At that point, the electric components in the bicycle sense the fact that you're moving and so a little bit of electric assist will kick in. It just kind of takes away some of the force that's required to pedal the bicycle. I also do have a throttle on my bicycle and it's really helpful in urban traffic because, as some of the previous bicyclists have discussed, sometimes you need to get out of a situation in a real hurry. And it really helps to have that throttle to give you that extra little burst of energy in case you need to get across that crosswalk in a big hurry. So that's how they work. My husband is a 100 percent service-connected-disabled veteran. He cannot ride a traditional bicycle anymore. In fact, the last time he tried he fell which was extremely scary for both of us. So this electric-assist bicycle allows him to once again get on the trails and get on a bicycle and get out and get exercise. And it gives him that freedom and independence that he was lacking in the past. So it's really been a wonderful, wonderful experience for my husband as a disabled veteran. And that's all I have and I would welcome any questions about the bicycle, how it works, how it doesn't work. [LB95]

SENATOR BRASCH: Thank you, Ms. Adair, for your testimony. Are there any questions from the committee? Seeing there are none, next proponent, please. [LB95]

BARBARA FRASER: Good afternoon. My name is Barb Fraser, F-r-a-s-e-r. I'm a member of the Lincoln Pedestrian/Bicycle Advisory Committee, or the PBAC. In the past couple of years, a policy subcommittee has discussed the issue of electric bikes and how they relate to our community. They offer green technology and benefit trail visitors with disabilities and mobility restrictions as you've heard. It's also very appealing when some summer days the temperature gets high and the humidity tends to get high as well, this allows you, maybe, to put forth less effort if you're using the bike for transportation. There appears to be a definite need for clarification in the definition of these bikes and where they may be ridden. As stated in a January 14, 2014, letter sent to the Lincoln mayor from the PBAC: Is the opinion of the Pedestrian/Bicycle Advisory Committee that creating a definition of e-bikes at the state level is the first necessary action. The federal government currently has a definition for e-bikes which has been largely adopted by many states. The PBAC recommends that the city encourage and support legislation on the state level which defines an e-bike following this federal precedent. As such, the PBAC supports this clarifying legislation. And I might note just

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on a personal level too, I think...as I've had numerous ankle surgeries and wondered if I'd get back on a bike, that always seemed like an appealing option if that were needed. And I do think that speed is a concern, as it's mentioned, with a 20 miles per hour, but you can easily see regular cyclists reach speeds of 20 miles per hour quite easily with their own power. So it doesn't differ that much in terms of speeds that could be seen as people are out and about. Thank you. [LB95]

SENATOR BRASCH: Are there any questions from the committee? Seeing there are none, next proponent, please. [LB95]

KENNETH C. WINSTON: (Exhibit 2) Good afternoon, Chairperson Brasch. My name is Ken Winston, K-e-n W-i-n-s-t-o-n, appearing on behalf of the Nebraska Sierra Club. And I have no personal experience in these kinds of things. Basically, we're...our understanding was that this would be...that e-bikes would be a good benefit for people who are using bicycles for commuting. And we support that, for those reasons and also for the reasons that other people have spoken of this afternoon. So we would be in support of LB95 for those reasons. [LB95]

SENATOR BRASCH: Thank you, Mr. Winston. Any questions from the committee? Seeing there are none, next proponent, please. [LB95]

DAVID CARY: (Exhibit 3) Good afternoon. My name is David Cary, C-a-r-y. I am the acting director of the Lincoln/Lancaster County Planning Department here in support of LB95. Just to introduce myself, our department is responsible for helping plan for the near and long-range bicycle system here in Lincoln and Lancaster County. It is within that context that I'm here providing testimony in support of the bill. Also representing the city of Lincoln in that capacity. Electric bikes, or e-bikes, are a growing part of the bicycle market in Lincoln, across the United States and worldwide. E-bikes are already in use on Lincoln streets and trails today and becoming increasingly common sight over the next few years as this technology becomes more widespread. E-bikes have many benefits including being an attractive alternative for individuals with mild physical ailments that are not able to handle the regular exertion of a standard bicycle. Also some e-bike users are those looking for an alternative to driving for daily trips...trip needs and commuting. As a result, e-bikes can be expected to be an increasingly important part of the transportation system in Lincoln, Lancaster County, and throughout Nebraska. This proposed legislation will help clear up a gray area for the definition of e-bikes in Nebraska. Currently, there is no separate category or definition at the state or local levels for e-bikes. Federal law does allow e-bikes to be ridden on shared-use paths and trails if they are permitted by state and local laws. Neither Lincoln nor the state of Nebraska has laws forbidding their use. With this state legislation becoming law, Lincoln and other local governments could pass related ordinances permitted e-bike use on shared-use paths and trails to be in concert with state and federal law. It is important that this legislation use definitions and language that is consistent with

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other potential bills related to bicycles and that it retain the current rights of bicycles on our highways as having the same rights and responsibilities of motor vehicle drivers. This legislation uses the federal definition of e-bikes. It should be noted that the use of the federal definition for e-bikes is important because it limits the size and speed of these types of bicycles which helps address potential safety issues on shared-use paths and trails and allows them to be defined as bicycles. Using the federal definition also provides consistency for e-bike use on federally-funded trails and on street bicycle facilities. And with that I'll be happy to answer any questions. [LB95]

SENATOR BRASCH: Thank you, Mr. Cary. Are there any questions from the committee? Seeing there are none, next proponent, please. [LB95]

DAVID CARY: Thank you. [LB95]

SENATOR BRASCH: Thank you. Welcome, Mr. Thompson. Please say and spell your name. [LB95]

JIM THOMPSON: Jim Thompson, J-i-m T-h-o-m-p-s-o-n. I'm here on behalf of the Papio NRD Board. We did pass language in our policy about this particular topic. As a matter of fact, verbatim as to Senator Smith's proposal. We wanted to get ahead of the curve. We recognize the number of miles that we have built with our trail system. There are a lot of users out there...potential users, that could use an electric-assisted bicycle. Bill Moore mentioned the elderly. That would include me, because I'm over 50, and with my knees I probably need something like that. A few years ago I went down to Bellevue on the Keystone Trail, wonderful visit, However, coming back the wind was horrendous, I could have used one of these bicycles back then. But this is all good. It's all good. We built these trails...soon the MOPAC Trail will be connected with the trail that the Lower Platte South is building to connect on the Lied Bridge. I can envision this type of vehicle in use in that capacity as well. During our discussion of our policy changes, there was some questions that, okay, how fast do these things go? Well, they don't go as fast as some ordinary cyclists zoom down the trail. Also, this is not intended for mountain biking, off-road biking. There's a group in the metropolitan area that loves those trails. I can't imagine anyone taking a \$2,000 bicycle and beating it up on rocks and gravel. So the intent of this, certainly, is to enhance the trail system that we've invested in and increase the usage for those who would like to get out and use that asset. With that I'll answer any questions. [LB95]

SENATOR BRASCH: Thank you for your testimony. Any questions from the committee? Seeing there are none, thank you again. [LB95]

JIM THOMPSON: Thank you. [LB95]

SENATOR BRASCH: Welcome, Mr. Winkler. [LB95]

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JOHN WINKLER: (Exhibit 4) Senator Brasch, thank you. Members of the committee, my name is John Winkler, J-o-h-n W-i-n-k-l-e-r. I'm the general manager of the Papio-Missouri River Natural Resources District. However, today I'm testifying on behalf of the Nebraska Association of Resource Districts, which is made up of the 23 NRDs throughout the state of Nebraska. Director Thompson mentioned our discussion at the Papio NRD with the language in LB95 and it mirrors it exactly for our rules and regs. What it came down to for us, and I think through other discussions with the NRD, is access, specifically, handicapped elderly. We have a number of veterans that use our recreational facilities and they have specialized chairs to be able to hunt outdoors and fish and things like that. And I believe this just allows more access for those folks as well. So, it boiled down to opening up our outdoors and our recreational areas for more and more people to enjoy. I want to thank Senator Smith for introducing this language. I think it's very important that it gets advanced to the full Legislature for debate. And I'd be happy to answer any questions you might have. [LB95]

SENATOR BRASCH: Are there any questions from the committee? Seeing there are none, thank you, Mr. Winkler. [LB95]

JOHN WINKLER: Thank you. [LB95]

SENATOR BRASCH: Welcome. [LB95]

JULIE HARRIS: Thank you. I'm Julie Harris, J-u-l-i-e H-a-r-r-i-s. And I have a different hat on this time. I'm here representing my employer, Live Well Omaha. We're a nonprofit organization in Omaha that works to make Omaha the healthiest city it can be to live, work, and raise a family. And I will just say very briefly that I...that we support this as well. It's a clarification under the law that will make things a little bit easier for everyone. And expanded access, as Mr. Winkler just talked about, is our main thing. We want people to have as many opportunities to enjoy healthy lifestyle as possible and we recognize that these electric-assist bikes afford that to an expanded group of people that can still get on and ride and enjoy and...for recreation and transportation. I will also add that I had personally ridden one, took one for a test drive, and I can assure you that it assists but does not replace the amount of pedaling needed. And on the very hilly streets of Omaha, it was quite helpful. So I will let you know that it is something that I can see as very helpful to many people to continue a healthy lifestyle. Thank you. [LB95]

SENATOR BRASCH: Very good. Thank you, Miss Harris. Any questions from the committee? Seeing there are none, thank you again. Are there any other proponents that would like to come forward? Any opponents? Anyone in the neutral? Senator Smith waives closing. And that concludes LB95. Senator Smith, would you like to come forward and introduce LB97? [LB95]

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SENATOR SMITH: Good afternoon again, Senator Brasch, and members of the Transportation and Telecommunications Committee. For the record, my name is Jim Smith, J-i-m S-m-i-t-h and I represent the 14th Legislative District in Sarpy County. I am here this afternoon to introduce LB97. LB97 would eliminate the extra annual \$5 fee that is charged for Pearl Harbor Survivor and Disabled American Veteran license plates. I consider this bill to be a continuation of action we took last year. I introduced a bill that would have eliminated this fee for both of these plates, as well as for Purple Heart and Ex Prisoner of War plates. For some reason, and I can't recall the discussion, only portions of my bill were amended into LB383 which created the Military Honor Plates. What we were left with is a license plate system that treats different veterans differently. An annual \$5 fee is charged to those veterans who are Pearl Harbor survivors or disabled, but nothing is charged for Purple Heart recipients or ex-POWs. I continue to have the same mind-set as I did when I brought my original bill and that is no veteran should have to pay to be recognized for their service to our country. Having said that, I would like to point out that in LB383, passed last session, we did eliminate the fee for two of the plates, but then created the Military Honor plates and added an annual \$5 fee to those plates. A constituent and a veteran brought this to my attention and asked for that fee to also be eliminated. He mentioned that he, along with other service men and service woman, feel it is actually an additional tax on the military persons. Though small, a tax nonetheless. I am aware that there are several states that honor their veterans and don't charge for these plates. We ran out of time to draft a bill eliminating the fee on military honor plates. And since LB97 had already been scheduled for a hearing, I thought it would be appropriate to ask this committee to consider an amendment as well for LB97. As you can see by the fiscal note on this bill, adoption of this bill would result in \$6,730 being cut from Veterans Cemetery System Operation Fund. This fund is used for the operation and maintenance of the veterans cemetery in Alliance. According to the Fiscal Office, eventually a \$20,000 to \$30,000 appropriation may be necessary to offset the loss of these funds. The military honor plates was expected to be a big revenue generator, but those plates aren't available until 2016. Getting rid of this \$5 fee would have no impact on the cemetery fund. Military honor message plates will also be available in 2016 for a \$40 fee with 75 percent of that going to the cemetery fund. I am not asking that we change the law with respect to personalized message plates. Additionally, an extra \$5 fee is charged for Gold Star Plates which are plates available to family members of those who have died while serving our country. I will leave it up to the committee to determine if the Gold Star Plates should be exempt from the \$5 fee. Again, personalized message plates for Gold Star are available for \$40. And I ask that we keep that fee intact. And as per the DMV's request, 25 percent goes to their cash fund. All of these plates are intended to honor our active members and our veterans. These individuals have made unimaginable sacrifices and this state should consider...our state of Nebraska should consider covering the cost of these plates as a very small token of recognition of their service to our country. Thank you. [LB97]

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SENATOR BRASCH: Thank you, Senator Smith. Are there any questions from the committee? Yes, Senator Davis. [LB97]

SENATOR DAVIS: Thank you, Senator Brasch. Senator Smith, I'm just...the fiscal note you're talking about here, the \$6,730, is only related to this bill. [LB97]

SENATOR SMITH: Yes. [LB97]

SENATOR DAVIS: But you are proposing some amendments. Do you have any idea what the fiscal note will be? [LB97]

SENATOR SMITH: I think the ultimate fiscal note on that could be up to \$20,000 to \$30,000. [LB97]

SENATOR DAVIS: So then the replacement revenue for the cemeteries will need to come from the General Fund? [LB97]

SENATOR SMITH: If there were replacement funds, yes. [LB97]

SENATOR DAVIS: But within two years, you'll think there will be additional revenue from the \$40 fee? [LB97]

SENATOR SMITH: That was the plan when we enacted that piece of legislation so, yes. [LB97]

SENATOR DAVIS: And so...where does that funding go? Does that funding go to this cash fund? [LB97]

SENATOR SMITH: I believe that goes as well to the cemetery...I'll have to...yes, cemetery fund. [LB97]

SENATOR DAVIS: So what we would have is a couple of year gap where the cemetery fund is going to be short the funds. [LB97]

SENATOR SMITH: Yes. [LB97]

SENATOR DAVIS: (Inaudible.) Thank you. [LB97]

SENATOR BRASCH: Are there any other questions from the committee? Seeing there are none, any proponents? [LB97]

PEGGY ADAIR: Good afternoon, Senator Brasch and members of the committee. For

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the record my name is Peggy Adair, A-d-a-i-r. I wasn't going to speak on this bill, but I thought well, I'll just hold you guys another five minutes since Senator Smith introduced it and I will tell you about my own experience with this. My husband is a 100 percent service-connected-disabled veteran. And when he looked at the law about this particular license plate, he misread the law and thought that he could actually register a vehicle for the \$5 fee and disregarding the actual cost of a license plate. So he filled out all the paperwork and he was very excited and thought, well, this is a wonderful thing for a disabled veteran. This is a wonderful thing that the state is doing to honor us. Filled out all the paperwork and then when he got the bill, it was \$5 plus the \$300 or whatever it was for. So he was...first of all he was kind of embarrassed because he misread, you know, the way the law worked. But secondly, he got, you know, he was thinking...so for the privilege of being a 100 percent service-connected-disabled veteran, I get to pay \$5 more than everybody else. So it was very disconcerting and very embarrassing for him. I have to say that until last year when Senator Pirsch introduced the Homestead Exemption bill for 100 percent service-connected-disabled veterans, there really wasn't any kind of support for veterans except "thank you for your service." And "thank you for your service" is pretty empty words when it's not followed by action. So even though it doesn't have anything to do with this particular bill, I just wanted to say that I really appreciate what Senator Pirsch did last year. And I appreciate all of you senators who voted in support of that homestead exemption bill because for the first time you actually put action behind those words of "thank you for your service." Okay, now you can go home. I'm done. [LB97]

SENATOR BRASCH: Thank you, once again, Miss Adair, for your excellent testimony. Are there any questions from the committee? Seeing there are none, I believe there are no other proponents. No opponents that I see or anyone in the neutral. Thank you. Would you like to close? Senator Smith waived closing. That ends the committee hearing today. (See also Exhibit 1) [LB97]

SENATOR SMITH: And that concludes the hearings on the three bills today. I would like for the committee to go into a very brief Exec Session. [LB97]