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Judiciary Committee  
February 02, 2017

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[LB39 LB81 LB100 LB321]

The Committee on Judiciary met at 1:30 p.m. on Thursday, February 2, 2017, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB39, LB100, LB321, and LB81. Senators present: Laura Ebke, Chairperson; Patty Pansing Brooks, Vice Chairperson; Roy Baker; Ernie Chambers; Steve Halloran; Matt Hansen; Bob Krist; and Adam Morfeld. Senators absent: None.

SENATOR EBKE: Okay. Good afternoon. We're going to get started. Welcome to the Judiciary Committee. My name is Laura Ebke. I am from Crete and I represent Legislative District 32. I'm the Chair of the Judiciary Committee. I'd like to start off by allowing my colleagues who are here to introduce themselves starting...

SENATOR BAKER: Senator Roy Baker, District 30.

SENATOR KRIST: Bob Krist, District 10, Omaha and Bennington and unincorporated parts of Douglas County--try to say that real fast.

SENATOR HALLORAN: Steve Halloran, District 33, which is Adams County and south and west parts of Hall County.

SENATOR EBKE: And we will probably be joined at some point here by Senator Matt Hansen of Lincoln; Senator Patty Pansing Brooks, who will be over there, from Lincoln; Senator Ernie Chambers from Omaha; and Senator Adam Morfeld from Lincoln as well. Assisting the committee today are Laurie Vollertsen, who is our committee clerk; Brent Smoyer, who is our legal counsel; and the committee pages today are Sam and Kaylee, students of the University of Nebraska. Right? Okay. On the table at the front, right over there by that big post you will find some yellow testifier sheets. If you are planning on testifying today on any of the bills, please fill one out and hand it to the page when you come up to testify. This helps us to keep an accurate record of the hearing. There is also a white sheet on the table if you do not wish to testify but would like to record your position on the bill. We'll begin bill testimony with the introducer's opening statement. Following the opening, we'll hear from proponents of the bill, then opponents of the bill, followed by those speaking in the neutral capacity. And at the end, if the introducer would like to give a closing statement, he, or she in one instance, may. We'd ask that you begin your testimony by giving us your first and last name and spell them for the record. If you're going to testify, I would ask that you keep the on-deck chair over there with the yellow sheet on it filled so that we can get an idea of how many more we have on either proponent or opponent testimony. It also helps to facilitate quicker movement from person to person. If you have any handouts, please bring up at least 12 copies and give them to the page. If you don't have enough

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copies, the page can certainly help you make more now. We'll be using a five-minute light system. When you begin your testimony, the light on the table will turn green; the yellow light is your one-minute warning. And when the red light comes on, we ask you to wrap up your final thought and stop. The electricity begins flowing at ten seconds--just kidding. As a matter of committee policy, I would like to remind everyone that the use of cell phones and other electronic devices is not allowed during public hearings, though you may see some of the senators using them to take notes or to stay in contact with their staff. At this time I'd like to ask for everybody to take a look at your cell phones, make sure that they are on silent or vibrate mode. And we also would ask for no verbal outbursts or applause in the hearing room, helps us to keep things moving along efficiently as well. One more thing: You may notice today that some committee members will be coming and going. That has nothing to do with the importance of the bills being heard but, rather, you find that senators have other hearings introducing their own bills or they have meetings that they've had to schedule during the hearing time. So don't be surprised if someone gets up and don't take it personally, please. With that, we will begin our hearing on LB39. Senator Harr. [LB39]

SENATOR HARR: (Exhibit 5) Madam Chair, members of Judiciary Committee, my name is Burke Harr, H-a-r-r, and I am from Legislative District 8. Thank you for having me back here today. I am here on LB39 which prohibits the sale and trade of ivory. This bill was originally brought to me by a constituent and she and her daughter are here to testify and can talk a little bit later about the evils of ivory trading. But we...when brought to my attention, we looked at the legislation from New York, Hawaii, Washington, and California, as well as the federal regulations, and as Governor Heineman liked to say, we created our own Nebraska way. What this bill does is it makes it unlawful to purchase, sell, offer for sale, trade, or barter ivory. It provides a definition for the term "ivory" and it provides a penalty, Class II misdemeanor, for the unlawful purchase, sale, or offer for sale, trade, or barter of ivory. And it provides options for the disposition of ivory seized as contraband. I have an amendment here which I will hand out. This amendment makes unlawful, like I said, to possess with intent to sell, but it also provides exemptions if a musical instrument is less than 20 percent of the value of such instrument...volume, not value, excuse me. It no longer provides an exemption for manufacturer or hand-crafted items containing minimal amounts of ivory and it provides an exemption for firearms, knives, and their component parts containing ivory. If you do decide to pass this bill out, I would ask that that amendment be included. It was an agreement worked out with parties. There are others, as I said, and the Omaha Zoo, Dr. Morris will be after me, but I'd be more than happy to entertain any questions you may have. [LB39]

SENATOR EBKE: Do we have any questions for Senator Harr at this time? Thank you. You going to stick around? [LB39]

SENATOR PANSING BROOKS: I have a question. [LB39]

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SENATOR EBKE: Wait. Sorry. [LB39]

SENATOR PANSING BROOKS: I'm just...thank you. [LB39]

SENATOR EBKE: Okay. Senator Pansing Brooks. [LB39]

SENATOR PANSING BROOKS: Thank you, Chairman Ebke. I was just wondering, Senator Harr, what...is there an issue with this in Nebraska or what's happening on this issue? Is there a little history on this or is somebody behind you going to tell us what... [LB39]

SENATOR HARR: Well, someone can address it as well, but the answer is we already have the federal regs and states have done this, so why we do it on the local level I think is...and it's a pertinent and important question. The answer is, number one, it says we as Nebraskans do not stand for ivory sale. There is a federal ban and that really, more or less, addresses the importation of ivory. But then we have the ivory that's already here or some that's smuggled in and the feds, let's just say ivory is not their number-one priority most of the time. And so this is a way for us to address it on a state level and to use, if local law enforcement seizes ivory, to say that you can't and to address the issue here, to discourage it on a state level. It would largely catch smaller traders and dealers in ivory but it's still an issue and we want to make sure that no elephants are killed just so that...you know, I'll be honest, I went to Taiwan this summer and there was this beautiful quail and I looked at it and then I found out it was made of ivory. So it's still going on and you see it all the time. And I just want to make sure and I want to discourage it on a state level as well as a national level. [LB39]

SENATOR PANSING BROOKS: Okay. I have another question. So I'm interested because I talked to a piano tuner recently. It was just...it's purely coincidental. And that piano tuner said that if a piano needs to be fixed and it's an older piano that's from the '40s or '30s and you need to transfer it to...because there's only certain places that can actually fix pianos, like removing the sounding board or...that because the piano has...that's older, some of the older ones had ivory keys, that you cannot transport it through certain states. So I presume this would then make it one of the states where you could not transport a piano to be able to be fixed. Or how does that all apply? Did you think about pianos at all in this discussion? [LB39]

SENATOR HARR: Well, I have an ivory piano. [LB39]

SENATOR PANSING BROOKS: Yeah. [LB39]

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SENATOR HARR: And what I'll tell you is that there's an amendment on there and that's what the amendment does is keyboards I can't imagine would make up more than 20 percent of an instrument. Right? [LB39]

SENATOR PANSING BROOKS: Right. [LB39]

SENATOR HARR: So it wouldn't apply to old pianos that you are referencing there, so it wouldn't apply in Nebraska. [LB39]

SENATOR PANSING BROOKS: Okay, that's interesting. Okay, thank you very much. [LB39]

SENATOR HARR: Thank you. [LB39]

SENATOR EBKE: Any other? Senator Baker. [LB39]

SENATOR BAKER: Thank you, Chairman Ebke. Senator Harr, what would be the status? Say someone went over to Africa big-game hunting ten years ago, they came back with ivory. What's the status? Are they in possession of something illegal under this law? [LB39]

SENATOR HARR: Big game? Yeah, you can't bring back...I mean you can't kill an elephant and then bring back the ivory. [LB39]

SENATOR BAKER: All right. [LB39]

SENATOR HARR: You're prohibited on a federal level right now from doing that. [LB39]

SENATOR BAKER: Okay. All right. Take it back as before it was prohibited. I don't know how far that would be, do you know, at the federal level? [LB39]

SENATOR HARR: The federal regs, I could look it up. [LB39]

SENATOR BAKER: I mean, say, 20 years ago or something. [LB39]

SENATOR HARR: Okay. Okay. So, well, what happens if I have an antique elephant? [LB39]

SENATOR BAKER: If you have the ivory tusk of an elephant. [LB39]

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SENATOR HARR: Well, that's a good question. I mean it would...you could...you can't just trade it unless it's of an antique value or antique. And I can't remember. I'll have to look. [LB39]

SENATOR BAKER: You can't sell it but can you keep it? [LB39]

SENATOR HARR: No, you can't trade it. You can keep it. You can keep it, yes. There's nothing...if you have it already, you can keep it. [LB39]

SENATOR BAKER: Thank you. That's what I needed to know. [LB39]

SENATOR EBKE: Yes, Senator Krist. [LB39]

SENATOR HARR: So, sorry, and here it is. I'm sorry. It looks like if it's before 1975. [LB39]

SENATOR EBKE: Senator Krist. [LB39]

SENATOR KRIST: Thank you, Chair. Senator Harr, there's, I think, unless you...unless the amendment takes it out, it makes reference to the age of a piece of ivory. Is that easy to date? [LB39]

SENATOR HARR: Yeah. I mean at some point we have to choose a point in time to say this is good and that's bad. And so it's still...and I don't have the amendment. I think I handed them all out unfortunately. But, you know, and so the point in time for instruments chosen was 1975; antiques means like 100. [LB39]

SENATOR KRIST: I think it's line 27 on your original but I don't see it...line 27 on the original, "(iii) The item was manufactured or created before 1975." [LB39]

SENATOR HARR: Yeah, it's still 1975...yeah. [LB39]

SENATOR KRIST: Okay. And there's another reference in here that says if it's more than... [LB39]

SENATOR HARR: A hundred... [LB39]

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SENATOR KRIST: ...on page 3, (line) 15, "The antique is at least one hundred years old at the time of the transaction." [LB39]

SENATOR HARR: Yeah. [LB39]

SENATOR KRIST: So you could still buy something if you could prove it was 100 years old. [LB39]

SENATOR HARR: Yep. [LB39]

SENATOR KRIST: You could still transact. Is there...and I know you don't know this, but somebody behind you might. Is dating ivory as more than 100 years old an easy proposition or is it an expensive proposition or...? [LB39]

SENATOR HARR: You know, so it's funny. I mean there's a process of doing that. I have a golden eagle and you can't shoot a golden eagle now, but I have a mounted golden eagle that is over 100 years old. And it's--I apologize, Senator Chambers, I didn't shoot it (laughter)--and it's encased in glass. Right? And for years it was underneath plastic. But there was a process that we had to go through to prove how old it is and there...and you can do the same with ivory. There is a process of determining how old something is and you go through. The feds have a process for that. [LB39]

SENATOR KRIST: Okay, thank you. [LB39]

SENATOR EBKE: Any other? Senator Halloran. [LB39]

SENATOR HALLORAN: Thank you, Chair Ebke. Can you sell your golden eagle? [LB39]

SENATOR HARR: What's that? [LB39]

SENATOR HALLORAN: Can you sell your, legally sell your... [LB39]

SENATOR HARR: Well, that's a different question, isn't it? [LB39]

SENATOR HALLORAN: It's a different... [LB39]

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SENATOR HARR: I don't know. I've never...I probably would never do it so I don't know. I've never checked into it. [LB39]

SENATOR HALLORAN: So the...but the driving motive or reason for doing this is to help discourage... [LB39]

SENATOR HARR: Poaching. [LB39]

SENATOR HALLORAN: ...poaching. [LB39]

SENATOR HARR: Yes. [LB39]

SENATOR HALLORAN: How about discourage what isn't...is legal in Africa, safari hunts for the sake of culling the herds at times to keep a healthy herd, for example? I know some may argue with that. That's fine. But is that...is this really going to inhibit or discourage, since it's already illegal, bringing ivory into the country? [LB39]

SENATOR HARR: Yep. [LB39]

SENATOR HALLORAN: International and national laws prohibit that. How does this really inhibit or discourage that kind of activity? [LB39]

SENATOR HARR: Well, Senator, let me start by saying I hunt as well and I don't have a problem with hunting. What I do have a problem with is poaching. And, yes, we have federal rules that prohibit poaching currently, or bringing the ivory, to discourage poaching. But the problem is once it's in this country, the feds at that point really don't care. It's too small of an issue for them. And I think it's incumbent upon us to discourage it on a state level and to say we do not want this done on a state level as well. And once it's in here, once you get it in here, don't worry about it, no one is going to enforce the law, and it's a way of us standing up and saying we think this is a bad thing. And I don't know anyone who thinks poaching of elephants...RINOs, maybe, in this Legislature, but elephants never. (Laughter) I've been working on that one. (Laughter) [LB39]

SENATOR KRIST: That's brutal. That hurt. (Laughter) [LB39]

SENATOR EBKE: Senator Chambers, are you...? [LB39]

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SENATOR CHAMBERS: No, no. [LB39]

SENATOR EBKE: Okay. Okay. Any other questions? Thank you. You going to hang around? [LB39]

SENATOR HARR: I will, thank you. [LB39]

SENATOR EBKE: Okay. Okay, so first proponent. And was there a question? Did I miss one? [LB39]

SENATOR PANSING BROOKS: No (inaudible). [LB39]

SENATOR EBKE: And as the first proponent is coming up, can I see a show of hands about how many are planning on testifying on this bill, either for or against? One, two, three, four, five. Okay. Great. Thanks. First proponent. [LB39]

CHERYL MORRIS: Dr. Cheryl Morris, C-h-e-r-y-l M-o-r-r-i-s. I am the chief conservation officer for Omaha's Henry Doorly Zoo and Aquarium. And on behalf of the Omaha Zoo and Aquarium, we fully support and stand behind LB39 banning the sale and trade of ivory and rhino horn in the state of Nebraska. Significant losses of elephants and rhinos in Africa are caused by humans, caused by humans because of this. This is a white rhino horn made up, if you can see it...this was an animal that died at the zoo about 20 years ago. This belongs to Dr. Lee Simmons, now lives in the office of Dennis Pate, our executive director. This is made of the exact same material--you can see the hair on it--that constitutes your fingernails and your hair: keratin. That is what those animals are being killed by and nothing else. If you come visit us at the Omaha Zoo, you will see the southern white rhino. There are about 20,000 of them left in Africa. Their near cousin, the northern white rhino, is extinct in the wild. Only three individual animals exist on the planet of the northern white rhino. Those are under 24 hour, 7 day a week monitoring and care. Central Africa has been particularly hard hit with poaching that has reduced elephant numbers by approximately 30 percent. That is overall approximately the same number that has affected the rhino population. Although large populations of elephants are on protected lands in Africa, 70 percent of range country, because elephants are transient and they migrate very, very large areas, those are unprotected lands. So as those elephants move because of drought which is affecting most of Africa currently, those animals are at great risk of poaching. The U.S. ban that has been already discussed certainly has helped reduce the import and the export of ivory, but it does not prevent the sale and the trade of ivory products and rhino horn products within the states themselves. This is problematic for several reasons. Primarily, in 2016, \$4.5 million worth of ivory was confiscated in September in one location in New York. That was from one art dealer and art gallery. That was one store alone. Any market that produces a market and any market

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increases the risk of poaching for these animals. Without state bans, law enforcement efforts are extremely difficult. Six other states, including California, New York, and Hawaii, have already passed similar bans that will help eliminate this and also help with assistance in law enforcement efforts for reducing these very active markets still in the U.S. The ban is critical. It is critical at every state level to reduce and ultimately eliminate the issues and the sale, particularly the trade, of these particular products of ivory and rhino horn that will help reduce poaching in Africa. That will help us with conservation efforts to sustain these populations at levels that will continue to allow them to be on our planet for generations to come. I would also like to extend my thanks to the...from the Omaha Zoo for all of your support for all of us at the zoo. [LB39]

SENATOR EBKE: Thank you, Dr. Morris. Questions? Senator Krist. [LB39]

SENATOR KRIST: Thank you for coming. [LB39]

CHERYL MORRIS: You're welcome. [LB39]

SENATOR KRIST: Dating is not a problem? We put the onus on someone to have this by dating it and saying, therefore, it's legal. [LB39]

CHERYL MORRIS: Dating, you meaning the age of the ivory itself? [LB39]

SENATOR KRIST: Um-hum. [LB39]

CHERYL MORRIS: The process is possible. It is expensive. The process can range up to \$500. It is typically carbon dating. The problem with the ivory itself is the animal will actually grow ivory on their tusk for over 60 years. So the ivory that's closest to the animal is the youngest; at the tip is the oldest. So depending on where you actually date that particular piece of ivory, it might be prior to the ban of 1975. It could be more recent. So that's the...that's the big problem with the dating technology. [LB39]

SENATOR KRIST: Okay, thank you. [LB39]

CHERYL MORRIS: You're welcome. [LB39]

SENATOR EBKE: Any other questions for Dr. Morris? Thank you for being here today. [LB39]

CHERYL MORRIS: Thank you. [LB39]

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SENATOR EBKE: Next proponent. [LB39]

DEBBIE GOEBEL: (Exhibit 6) Hi. [LB39]

SENATOR EBKE: Hi. [LB39]

DEBBIE GOEBEL: Thank you for having me. I'm Dr. Debbie, D-e-b-b-i-e, Goebel, G-o-e-b-e-l. I'm an ENT physician. I live in Omaha, Nebraska. I cannot imagine a world without elephants, but this is the direction that we are heading, and fast. In the early 1900s, approximately 5 million elephants roamed across Africa. By 1980, this had dropped to about 1.3 million. As of last year, a scientifically carried out great elephant census showed a mere 352,000 animals remaining in Africa. In just seven years, between 2007 and 2014, 30 percent of Africa's elephants have been wiped out, and they're being exterminated for their ivory tusks by poachers. About 35,000 elephants per year are killed. This equals 96 per day, or one every 15 minutes. If poaching continues as such--unchecked--elephants in the wild will be extinct within ten years. Within ten years, there will be no elephants in the wild. That is unfathomable to me and, frankly, unacceptable. There is a huge demand for ivory, especially in China where there is a burgeoning middle class and owning ivory is a status symbol. The U.S. is the second largest consumer of ivory. Tusks are an extension of the canine teeth and one-third of the tusk is embedded in the skull. To remove a tusk fully, the elephant has to be killed. Elephants are considered a keystone species, meaning that they are vital to shape the ecosystem around them. An example would be that they spread seeds far and wide in their dung. They also clear brush that changes the landscape for other animals' benefit. Without elephants, ecosystems may morph significantly or even collapse. Elephants are also incredible animals. They're the largest land mammal and their brains are three times the size of ours. They exhibit many humanlike qualities in that they're highly intelligent, emotional, self-aware, sentient animals. They've been shown to show altruism to other species, even human beings. They mourn their dead. They have a sense of humor. They live in closely knit herds that are led by matriarchs. A word about the poachers and the cruelty and the brutality of their methods, I can't understate (sic) enough how the cruelty is. Their killing methods are brutal. They use poison spears, snares. They poison water holes. They poison their food. They use guns, at times semiautomatic weapons, even AK-47s. Oftentimes, the elephants are not even dead yet before the grisly butchery takes place of hacking off the elephant's face and/or head with chainsaws and machetes to extract the entire tusk. Maybe you aren't an ardent animal supporter like I am. Perhaps we can consider another angle is that multiple terrorist groups are profiting hugely off of the ivory trade to fund their nefarious activities. It's been shown that al-Shabaab, Boko Haram, and the Lord's Resistance Army benefit from the ivory trade and clearly this would be an international security issue. In 2016, the U.S. passed a near total ivory ban at the federal level, as was mentioned. This limits imports, exports, and interstate trade but does not address the trade within each state. Ideally, every state would work together to further tighten restrictions on ivory, although to date only six have passed laws. Twenty-five

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states have taken no legislative action whatsoever and Nebraska is one of those states. I am asking that we put Nebraska on the map as a state that's working to stem this terrible tide of elephant poaching. Human greed and vanity are driving this iconic species towards extinction. Extinction is forever. What will we tell future generations if we allow such an amazing animal to go extinct on our watch? How can we let this happen? We must act now. I feel time is running out. LB39's impact will be felt far from Nebraska. This is a world issue. It's forcing us to examine our own humanity. I'm asking for your support for LB39. Thank you for having me. [LB39]

SENATOR EBKE: Thank you for being here, Dr. Goebel. Any questions? Senator Pansing Brooks. [LB39]

SENATOR PANSING BROOKS: I really like this picture that we received. Did somebody in the room do this? [LB39]

DEBBIE GOEBEL: She will be testifying. That was her outline for you to follow. [LB39]

SENATOR PANSING BROOKS: She will? Okay, good. Thank you. Thank you very much, Dr. Goebel. [LB39]

SENATOR EBKE: Any other... [LB39]

DEBBIE GOEBEL: May I comment on the dating question about ivory? Dating ivory is actually very difficult and it's easy to launder in newly poached ivory and stain it or disguise it to look old and therein lies the problem is a legal market can act as a cover for illegally poached ivory. [LB39]

SENATOR KRIST: Thank you. [LB39]

DEBBIE GOEBEL: Thank you. [LB39]

SENATOR EBKE: Any other questions? Thanks for being here. [LB39]

DEBBIE GOEBEL: Thank you very much. [LB39]

SENATOR EBKE: Next up. Welcome. [LB39]

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GRETCHEN GOEBEL: My name is Gretchen Goebel, G-o-e-b-e-l, age eight. I go to Harrison Elementary School. Why I like LB39: Elephants are amazing creatures. I can't imagine the world without elephants. I want people to stop killing elephants. I don't want people to buy ivory because elephants die. If elephants are gone, we are gone. I don't know why people want to buy ivory trinkets. People don't need ivory to survive. Elephants do. Please vote for LB39. In the bottom box picture, "now," I have a few elephants. The next box, "future," has no elephants if the poaching keeps going on. In the third box I drew lots of elephants with "different future with LB39." Please vote for LB39. [LB39]

SENATOR EBKE: Thank you for being here today. Senator Pansing Brooks. [LB39]

SENATOR PANSING BROOKS: I want to thank...oh. I want to thank you, Ms. Goebel, for your brave testimony today and your beautiful artwork that you have given to us and I hope that you will teach others to be as brave and courageous and standing up on important issues as you. Thank you for your leadership today. [LB39]

SENATOR EBKE: I think Senator Chambers...do you have a question, Senator Chambers? [LB39]

SENATOR PANSING BROOKS: Senator Chambers? [LB39]

SENATOR CHAMBERS: No. [LB39]

SENATOR EBKE: You looked like you...okay. Okay. Okay. We won't grill you today. [LB39]

SENATOR KRIST: I have a comment. [LB39]

SENATOR EBKE: Oh, wait, wait, wait, wait, wait. Okay. [LB39]

SENATOR KRIST: Young lady, that's a keepsake. That's a special drawing from Senator Chambers. [LB39]

SENATOR PANSING BROOKS: That is special. [LB39]

GRETCHEN GOEBEL: Thank you. [LB39]

SENATOR CHAMBERS: You're welcome. [LB39]

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RICHARD HEDRICK: (Exhibit 7) I'm Richard Hedrick, H-e-d-r-i-c-k. I am testifying for the bill LB39 to prohibit the sale and trade of ivory. My daughter Carol Ann and family went to Kenya, Africa, last October. Carol is a birder and went to Africa to count birds. I called Carol to see if she had any idea about ivory trade from their trip. Carol e-mailed this letter I will be reading: My name is Carol Fugalgi and I live in New Mexico. In October of 2016 I traveled to Kenya for six weeks with Dr. Dale Zimmerman to conduct a bird population survey. Once there, I was mesmerized by the intelligence and grandeur of elephants. Elephants are being poached for their ivory at an alarming rate--one killed every 15 minutes. The latest studies show there are only 350,000 African elephants left in Africa. This means that in a closed system, with no new elephants coming in, elephants will be extinct in 11 years if the killing continues. The critical large endangered black rhino, which is also poached for its ivory, has lost 90 percent of their population since 1970 and numbers are estimated at fewer than 2,500 animals remaining. Not only are we trying to preserve these majestic animals, but wildlife tourism in Kenya and southern Africa is an integral component of their economy. Without these large charismatic mammals, tourism has and will continue to drastically decline. I, finally, I find support for LB39 to prevent (sic--prohibit) the purchase and sale, offer of sale, to barter ivory as prescribed. Carol Fugalgi. [LB39]

SENATOR EBKE: Thank you. [LB39]

RICHARD HEDRICK: I was...I have been perturbed about the destruction of confiscated ivory. I believe they should be...ivory should be marked and then sold to buy...hire guards to protect the wildlife. To destroy the ivory is not wise but I cannot get my daughter to go along with my presumption. Thank you. [LB39]

SENATOR EBKE: Thank you, Mr. Hedrick. Any questions? Thank you for being here today. Next proponent. Do we have any more proponents? How about opponents of the bill? Any opponents? [LB39]

JON MOORE: My name is Jon Moore; last name is M-o-o-r-e. I'm a self-employed knife maker. And although I don't use elephant ivory yet, I use imitation ivory and synthetics. Now let me start out by saying I don't want to see elephants disappear. I love elephants just as much as everybody. Okay? But something that I feel hasn't been addressed is that there's lots of different animals that also have ivory. You have walrus ivory, you have narwhal whale ivory, you have warthog tusk, and you have hippo tooth. And let's also remember that mastodon elephants have been extinct for thousands of years, maybe millions of years, but there's literally millions of tons of elephant ivory buried all over North America, Alaska, Siberia, Russia. I have brought some pieces with me if someone would like to see some later but I have a piece of mastodon ivory that was actually sucked up into a sand pumper in Grand Island, Nebraska. It plugged up the

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machine. Now my knife-making friends, they use massive amounts of mastodon ivory and its colors are fantastic. It's beautiful. Something else I'd like to point out is that once ivory is cut, now I've seen elephant ivory at shows. It's old. It's, you know, dated whatever. It's legal ivory before 1975. But what I'd like to point out is once the ivory is cut and processed, it would take an expert to be able to tell whether it was elephant ivory or what animal it came from. So if this law was to be enacted, I could see massive problems with enforcement because how would you know what you were looking at? Like, say, for instance, I was doing a show somewhere, I was displaying my knives, and I had some imitation ivory on my table, which is what I use, and some person from law enforcement who wasn't skilled or whatever, he came along and saw my stuff. He would say, oh, that's ivory. And I'd say, well, no, it's not. And he'd say, well, prove it. Well, how can you prove it? Well, there are ways to prove it that I can prove it's fake, but why should I...it's like I'm being...I'm guilty until proven innocent. I have to prove that what I have is not the real thing. So my problem with this law is I think it's very vague. It would be so hard to enforce. My parents were missionaries in Africa for a number of years and they brought back some warthog ivory and it was carved. At that time the only way it could be brought in would be to be carved. It couldn't be a raw tusk or whatever. And to see the problems that come up with that kind of a thing and like people who have chess sets, antique chess sets or statues or broaches, rings, figurines, I mean, ivory is what it is. It's a beautiful product. But how would you prove beyond a shadow of a doubt, number one, well, is it ivory? Is it elephant ivory or is it some other ivory? The dating process, like this one individual said, it's a very expensive dating process. The dating process would probably cost more than the value of the item. Maybe it's a keepsake. Maybe it's something...maybe it's an heirloom that was passed down. How are you going to date this? I see nothing but problems with this. I'd really like to see this law go by the wayside. I, like I said, have nothing against elephants. I love elephants too. Hey, they're God's creations, okay? And I did bring some samples of some of my fake ivory if you wanted to, care to look at it later. [LB39]

SENATOR EBKE: Okay, thank you, Mr. Moore. Any questions for Mr. Moore? Thank you for being here today. [LB39]

JON MOORE: You're welcome. Thank you. [LB39]

COBY MACH: Good afternoon. My name is Coby Mach, C-o-b-y M-a-c-h. I have testified before for others. Today I'm strictly here to testify on behalf of myself. I collect Civil War artifacts found mainly in Nebraska. Some of my items have been used by museums. Some of my Civil War items have also been published in books, as well as magazines. You may not realize it, but during the Civil War soldiers were coming to Nebraska; after the Civil War soldiers came to Nebraska as well. The Indian Wars were going on here. They brought many items with them and many were stationed at Fort Kearny. Many of those items that they brought from other states do contain ivory. While I oppose the bill, I also want to go on record that I oppose the illegal

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poaching of ivory. But this law, this law exempts items that were created before 1975. It's using the word "created." The federal law exempts items and ivory imported prior to the year 1990. The federal...and that is important if you are using publications as proof that items were in the United States. There are auction catalogs. There are books that feature historic items and those books can be used as proof as to when an item was brought into the United States. The federal government is equipped to handle ivory laws. This bill references state statute for enforcement and for confiscation. I would ask if our police officers and if our county sheriff is really trained to deal with this. Ivory and bone are often misidentified or confused for the other. The bill does not provide for an appeal process except for costly use of the court system. And speaking of cost, there were knives recently auctioned off in an antique auction where the certified appraiser was charging \$1,500 per knife to certify the age of the antique fighting knife that would have been used in the Civil War that did contain ivory. While I oppose the bill, I want to go on record as saying we do have laws in effect at the federal level that are handling this. The feds do take it serious and so do many of the auction houses across this great country. And again I want to go on record as saying that while I oppose this bill, African elephants are being poached at an unprecedented level to supply the illegal ivory trade and I oppose that too. Thank you for your time. [LB39]

SENATOR EBKE: Questions for Mr. Mach? Let me ask you a question. You don't have a copy of the amendment, I presume. [LB39]

COBY MACH: I do not, no. [LB39]

SENATOR EBKE: Okay. [LB39]

COBY MACH: Was that just presented... [LB39]

SENATOR EBKE: It was just presented. [LB39]

COBY MACH: ...at the meeting? Yeah. [LB39]

SENATOR EBKE: Yeah, just a few minutes ago. And I presume you're talking about things like firearms and knives as far as your Civil War type of things. [LB39]

COBY MACH: Correct. For me it's strictly based on antiques, but antiques are also, if you can certify that they're over 100 years old, would fall into the exemption as well. But the problem really has to do with the dates that are in this bill. [LB39]

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SENATOR EBKE: Sure. The exemption, the amendment, as I'm scanning it quickly, it looks like there's a 20 percent...that the ivory being 20 percent of the value. Is that correct, Senator Harr? Nod. And then firearms, knives, or other, or their component parts containing ivory. Does that allay any of your concerns if you...maybe take a look at the amendment,... [LB39]

COBY MACH: Sure. [LB39]

SENATOR EBKE: ...see if you can get a copy of the amendment and let us know if it... [LB39]

COBY MACH: I will tell you that there are knives that are called a dirk and the handle might be this long and the blade only this long to where the handle, the ivory handle could encompass perhaps even more than 50 percent of the total volume of the item. [LB39]

SENATOR EBKE: Okay. Great. Any other questions? Thank you for being here. [LB39]

COBY MACH: Thank you. [LB39]

SENATOR EBKE: Any other opponents? [LB39]

WAYNE JANSSEN: (Exhibit 8) My name is Wayne Janssen, W-a-y-n-e J-a-n-s-s-e-n. I'm appearing on behalf of the members of the Nebraska chapter of Safari Club International. We have about 250 members. Safari Club International has about 50,000 members worldwide. SCI has submitted a letter to the committee and I've also provided some additional information with just numbers and such that we don't have time for. Sport hunting gives value to these animals. Just as an example, if you had an elephant in your backyard and he was tearing up your yard, tearing down your trees, you'd want to get rid of the elephant no matter what. And so you might take matters into your own hands and kill it. You might have a poacher come in and kill it and take off with the tusks and have no benefit to you. Or you might have somebody who say, look, I know someone who will come here and pay you tens of thousands of dollars to be able to hunt this elephant. If that was the case, you'd probably put up with the damage to your trees and your bushes and such because you knew that you or your community was going to actually profit from use of that animal. Sport hunting has helped bring these elephants and rhinos back from the brink of extinction. It's been so successful in some areas that culling operations may have to be implemented. Sport hunting actually finances a lot of the antipoaching activities that take place in Africa. It's not appropriate for Nebraska to meddle in this successful program. The situation is watched on the national level by trained professionals. They are privy to much-needed research on these issues. It's been portrayed here as pretty much an emotional issue but that's not really what it should be. It should be a scientific issue. Elephants and rhinos may someday be delisted.

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There's been mention about rhinos, white rhinos in South Africa. Most of those white rhinos are on private land and those private landowners are maintaining those rhinos because they think eventually there is going to be profit in those animals and they are now being hunted. Safari Club members go and dart rhinos for a heck of a price and such. All of that goes towards preservation of these animals. If for some reason it becomes necessary to relax the controls on a national basis, we would still have 50 state laws that would have to be dealt with on the issue of ivory. Changing 50 state laws would take valuable time and resources and the possible...one of the possible intents of this type of legislation is to impede the appropriate implementation of the Endangered Species Act. Environmental destruction and starvation may require swift action and LB39 could be detrimental to the species it claims to protect. Beyond being hunters, SCI members, Nebraska chapter members are also residents and taxpayers of Nebraska. Nebraska has a budget problem. Part of the budget problem is the justice system and prisons. Do we need to burden local systems with the enforcement of this act? Law enforcement will need to keep abreast of the complex federal law because our law references federal law, so they're going to need to know about that. They're going to have to determine whether something is more than 20 percent of the value of an item that they may have come across. They're going to have to determine whether there are significant dates that apply to a particular item, whether it's 100 years old or even 1975 or 1990, all of these things. And there could be future changes in the law that you're going to have to stay abreast of. All of these items make it difficult for our law enforcement to know whether a crime has been committed or not. State government is always looking for federal dollars. Well, there are already federal dollars appropriated for this problem--cheaper and faster to inform, to inform the federal authorities of potential cases. It's time to look past expensive, feel-good measures and look at the needs of our citizens and the elephants. This is of no benefit to our citizens and hurts elephants and rhinos. LB39 should not be advanced. On the issue of selling ivory, since I have a little...a few moments left, you know, I'm not advocating it. But it may become necessary to sell the ivory to pay for the antipoaching methods that will be required. And if there's no place to sell the ivory because 50 states have put in these kinds of laws, there will be no antipoaching processes made available. I thank you. [LB39]

SENATOR EBKE: Thank you, Mr. Janssen. Any questions? Okay, thank you. [LB39]

WAYNE JANSSEN: Thank you. [LB39]

SENATOR EBKE: Any other opponents? Anybody testifying in the neutral capacity? Senator Harr, would you like to close? [LB39]

SENATOR HARR: Yes. Thank you, Madam Chair, members of the Judiciary. This is a unique bill. And I have never heard some of the reasonings against this ever before. Let me just start by saying the burden of proof is always on the prosecution. An individual doesn't have to prove

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they're innocent; they're not guilty until proven innocent; they are innocent until proven guilty. That burden never, nor should it ever, change. All right? It may be expensive to determine the date but it is possible to determine the date of ivory. We heard that. I heard, well, we don't want to...I don't use it, I'm against it, but we real...other people like to use it on knives. I heard, I collect it for Civil War. That's great. You know what? Under the bill as amended, those are both exempted. So there is no worry. We specifically state, line 2...or page 2, line 23, firearms, knives, and their component parts containing ivory are exempted. Civil War is prohibited for anything over 100 years. Last I checked, the Civil War ended in 1865. That's over 100 years ago. I heard concern about hunting. Well, thanks to modern technology, I received an e-mail and I can tell you who it is if anybody wants to know. I'm not sure if I have permission to give his name but it's a sportsman and he represents a foundation. And you can still hunt those animals and you can still bring them back but you got to have a license. So that alleviates some of the concern about people hunting them or not being able to hunt them and bring them back. You can do it. Is it difficult? You bet. Is it going to take a little while? Probably, maybe up to six months to bring it back but you can do it. I find these concerns are more...I don't know what the real cause of them is because I don't think they're valid. This is something we don't...I love the, I don't like poaching but I don't like the...this is too expensive to do. You know what, that's like saying I don't like murder but we got to lock these people up, let's just let them go, let's not lock them up. If you think poaching is bad, you got to cut off the demand. You got to cut it off because we can't cut the supply. So let's get at the demand. That's what this bill does. It's a simple bill. It is not meant to inconvenience. We have made exemptions that...so large Orson Welles could walk through it. Right? We eliminated knives, we eliminated firearms, we eliminated antiques, we get instruments. But what we're saying is this is a bad thing. What we're saying is we should not encourage, like I was intrigued by this summer, a little ivory quail. Right? Those are bad because that supply and that demand is what causes elephants to be killed just for their tusks and that's what we're trying to stop--illegal poaching. Thank you, Senator Ebke. I'd entertain any questions you may have. [LB39]

SENATOR EBKE: (Exhibits 1, 2, 3, and 4) Any questions for Senator Harr? Guess not. We do have some letters for the record. We have Robert Mitchell from the Elephant Protection Association, opposed; Larry Higgins from Safari Club International, opposed; Linda Karst Stone on behalf of herself, opposed; and Jocelyn Nickerson of the Humane Society of the United States in support. That will close our hearing. [LB39]

SENATOR HARR: Thank you. [LB39]

SENATOR EBKE: Thank you, Senator Harr. [LB39]

SENATOR HARR: Appreciate it. [LB39]

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SENATOR EBKE: Yep. Next up is Senator...oh, Senator Stinner. There you go. You snuck in. And we will open the hearing on LB100. Let me have a show of hands. About how many people might be testifying on LB100, for or against? Just a couple? Okay. Thank you. Just a reminder, if you're going to testify in support, let's make sure we're up towards the front so we can keep things moving. Senator Stinner. [LB39 LB100]

SENATOR STINNER: Good afternoon, Senator Ebke and members of the Judiciary Committee. My name is John Stinner, spelled J-o-h-n S-t-i-n-n-e-r, and I represent District 48. I bring LB100 to the committee on behalf of the mental health board in Judicial District 12, which presides over Scotts Bluff County, where I reside. Mental health boards are tasked with the designated...designating treatment to individuals who are deemed mentally unstable. In addition to this designation, mental health boards have an authority to place disqualifications on individuals from possessing firearms or applying for a concealed firearm permit, but not all mental conditions are permanent or severe enough to merit a lifelong disqualification. It is the duty of the mental health board to execute a fair and equitable process in the removal of such disqualifications. LB100 would require mental health boards to use clear and convincing standards of proof when determining the removal of disqualifications on a petitioner from the possession of firearms and when applying for a permit to carry a concealed firearm. The bill also changes the word "subject" to "petitioner" throughout its provision to more accurately reflect the individual person. I'd also like to take a moment to give you a synopsis of how this bill came about. The District 12 Mental Health Board enacted its own rule some time ago requiring that clear and convincing evidence be established during its hearing process regarding the removal of disqualifications once it had determined that the petitioner was mentally fit to possess firearm...a firearm or obtain a firearm permit. Currently, mental health boards are required to use clear and convincing evidence standards of proof when making determinations that an individual is mentally unstable. However, this same standard doesn't apply when the individual petitions the board to remove their disqualification. District 12 Mental Health Board brought this bill to me with the intent of standardizing the disqualification process throughout its life cycle. I introduce it to the body...I introduced it to the body as of LB815 on 2016. It was voted out of the committee 8-0 but, unfortunately, it became caught up in everything else in the agenda. I've been in discussions with multiple groups who are in support of this bill, some of whom will testify after me. I believe it is important that the application of law is consistent throughout the state and standards of proof are applied in an equitable manner throughout the entire disqualification process. That's why I'm in favor of the concept applied in this bill and would urge your consideration of its provisions. Thank you. Any questions? [LB100]

SENATOR EBKE: Thank you, Senator Stinner. Are there any questions for Senator Stinner? Okay. [LB100]

SENATOR STINNER: Thank you. [LB100]

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SENATOR EBKE: You going to stick around for a few minutes? First proponent. [LB100]

TOM PERKINS: (Exhibit 4) Senator Ebke and members of the Judiciary Committee, I am Tom Perkins and that's spelled T-o-m P-e-r-k-i-n-s. I am a member of the 12th Judicial District Board of Mental Health. And prior to my retirement I was the Region I Behavioral Health program administrator and director of the Mental Health Center in Scottsbluff, Nebraska. As a member of the board of mental health, along with a number of other colleagues in the Panhandle and across the state of Nebraska, we have agreed to assess the needs of people who are alleged to be dangerous and mentally ill. We know that we must balance the rights of the person alleged to be dangerous and mentally ill with the community's need to be safe. The statute, 71-925, is quite specific about the state's responsibility regarding the subject's rights. The state has the burden of proof by clear and convincing evidence that the subject is mentally ill and dangerous. In the event that an individual is determined by the evidence to be dangerous and mentally ill, the board chair will present the board's findings at the end of a hearing and will give this to the subject and notice of possible consequences under 18 U.S.C. Section 922(g)(4), and the notice indicates: "Because of this finding, it may be unlawful for you to possess or purchase a firearm including a rifle, pistol, or revolver, or ammunition, pursuant to federal law." It is always the board's concern to subject the...to respect the subject's constitutional rights and it may be for this reason that 71-963 addresses the interest of the restoration of one's rights to possess a firearm. The section outlines the evidence that the subject must provide at a hearing so that a board may consider the request for firearms restoration. However, it is unclear as to what the burden of proof may be required to determine whether or not the subject is actually in control of one's mental illness and the dangerousness has dissipated. As a result of a previous experience during which a subject did request the restoration of his right to own a firearm, I concluded that the statute needed to be provided...provide more guidance for boards of mental health. Very few have had to address this issue of the restoration of gun rights, which is my language, and I would add that few board members might feel qualified to render a decision relative to the restoration of one's right to own a gun. Admittedly, this is based on a single experience. Yet this may be a very challenging and sobering experience for members of boards of mental health and it is a grave responsibility. When the issue was brought to the attention of the Division of Behavioral Health, Department of Health and Human Services, the division concluded that perhaps each board should develop its own policy related to the level of proof that would be required. Should that happen, it is possible that there would be an inconsistent response to requests for the restoration of gun rights. In my discussion with colleagues regarding the standard of proof that is used to determine whether or not to restore one's right to own a firearm, the consensus seemed to be that it needed to be clear, greater than preponderance of evidence, why not use the clear and convincing standard as used at boards of mental health to determine whether or not a person is both dangerous and mentally ill? The board of mental health has a grave responsibility balancing the needs and the rights of the subject with the needs and the rights of the community to be safe. By inserting into Section 71-963(2)(a): The petitioner must prove by clear and convincing evidence, and then the board of

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mental health shall grant a petition filed under this section if the board determines that the presenter...the petitioner has presented clear and convincing evidence that the disability disqualification provision set forth in subsection (1) of this section should be removed. I believe that this will help to balance the needs of both the public and the subject by giving the boards clear and convincing evidence as the standard of proof. [LB100]

SENATOR EBKE: Thank you, Dr. Perkins. Do we have any questions? Thank you for being here today. [LB100]

TOM PERKINS: Thank you. [LB100]

SENATOR EBKE: Next proponent. [LB100]

ROD MOELLER: Good afternoon, Senator Ebke, members of the Judiciary. My name is Rod Moeller, R-o-d M-o-e-l-l-e-r. I am speaking in support of LB100 on behalf of the Nebraska Firearms Owners Association. The process repealing a firearms disability is an important and serious matter. Having a clear and consistent process is critical to the fair evaluation during that appeals process. And we do believe that the language presented in LB100 does a good job of providing that clear and consistent standard. It is important that a consistent standard exist across the state and not allow each individual agency or group to be able to determine their own standards. It's for that reason we thank Senator Stinner for introducing this bill. Thank you for your consideration. [LB100]

SENATOR EBKE: Questions? Senator Chambers. [LB100]

SENATOR CHAMBERS: Have you appeared before this committee before while I was a member of the committee? [LB100]

ROD MOELLER: I recall doing that on a couple of occasions, Senator, yes. [LB100]

SENATOR CHAMBERS: Do you have a twin? [LB100]

ROD MOELLER: I do not. [LB100]

SENATOR CHAMBERS: One of us is off the beam because we both agree on this bill. (Laughter) [LB100]

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ROD MOELLER: Stranger things have happened. [LB100]

SENATOR CHAMBERS: You aren't kidding. That's all I have though. [LB100]

SENATOR EBKE: (Exhibits 1, 2, 3, and 5) Any other questions? Thank you for being here today. Any other proponents? Do we have any opponents to the bill? Do we have any in the neutral capacity? Senator Stinner? Senator Stinner waives. We have a few letters. ACLU of Nebraska has sent a letter in the neutral capacity; Mary Sullivan of the National Association of Social Workers supports the bill; Kevin Spencer, the chief of police of Scottsbluff, is in support; and Jerald Ostdiek--does that sound right, okay--Mental Health Board 12th Judicial District is in support. That closes the hearing on LB100. We're going to take a five-minute break, let my staff...let the staff get up and stretch. We will start promptly at 20 till. [LB100]

BREAK

SENATOR EBKE: Okay, we will open the hearing on LB321. Senator Lowe, I believe this is your maiden voyage before the Judiciary Committee, so welcome. [LB321]

SENATOR LOWE: Thank you. I will try not to be too nervous in front of this esteemed body. [LB321]

SENATOR EBKE: Go right ahead. [LB321]

SENATOR LOWE: Thank you, Senator Ebke, and thank you, members of Judiciary Committee. I am Senator John Lowe, that's J-o-h-n L-o-w-e, and I represent the 37th District. Today I'm here to introduce LB321. LB321 is a similar bill heard by this committee in 2015, LB225, which was brought by Senator Schnoor. LB321 would address a one-word change in regards to lawful possession of firearm at a university or college. Currently, the language states: firearms which may be lawfully be possessed by a member of a college or university rifle team, within the scope of a person's duties as a team...of a member...of a member of a team, excuse me. LB321 would remove the word "rifle" from the statute. This would be done to ensure that if a university or college decided to have a sports team that used firearms other than a rifle, they would have the option to safely secure those firearms on campus. Other collegiate or university teams that could use a firearm include trap shooting, skeet shooting, sporting clay, muzzle loading, and pistol competition. There are at least two universities that have these types of club sports at this time: the University of Nebraska-Omaha and the Nebraska College of Technical Agriculture. Midland University, Doane University, Hastings College, and Concordia University offer shotgun and shooting as an official varsity sport for men and women. Several other schools have shown

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interest or have had similar club teams in the recent past. LB321 does not change any other statutes and does not pertain to high school competitive teams. Senator Baker brought up to me that he may sometime like to have high school added to this. If you don't know that in Doniphan they have the state high school trap held every year and it is Nebraska's safest sport...collegiate or high school sport. I ask you for your support for LB321 and will take any questions. [LB321]

SENATOR EBKE: Do we have any questions for Senator Lowe? Senator Chambers. [LB321]

SENATOR CHAMBERS: Senator Lowe, not to beat around the bush, you may have heard of my attitude toward firearms and firearms legislation. [LB321]

SENATOR LOWE: I've not heard. [LB321]

SENATOR CHAMBERS: You've not heard my reputation? [LB321]

SENATOR LOWE: No. Pro or against? [LB321]

SENATOR KRIST: That's the wrong (inaudible). [LB321]

SENATOR CHAMBERS: Either way. (Laughter) You haven't heard of it? [LB321]

SENATOR LOWE: No, I haven't. [LB321]

SENATOR CHAMBERS: Okay, then I don't have any questions of you. [LB321]

SENATOR EBKE: Any other questions for Senator Lowe? Okay. Thank you. You're going to be here to close? [LB321]

SENATOR LOWE: Yes. [LB321]

SENATOR EBKE: Okay. First proponent. [LB321]

ROD MOELLER: Good afternoon, Senator Ebke, members of the Judiciary. Again, my name is Rod Moeller, R-o-d M-o-e-l-l-e-r. I am speaking on behalf of the Nebraska Firearms Owners Association in support of this bill. Each year, over 2,500 high school kids compete in the Cornhusker state trap shoot in Doniphan, Nebraska. The number of high school participants

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grows each year. This amazing growth has led to many Nebraska colleges adding trap as a team sport, keeping kids active in a sport as they become young adults supports their transition to adulthood. Shotgun sports are one of the few sports that allows for lifelong participation. Current law does not allow these teams to store their shotguns on campus. When UNL wanted to create a rifle team, the law was changed to allow for the safekeeping of team equipment on campus. Unfortunately, the wording for that exception was limited to "rifle" teams. This bill just strikes the word "rifle" so that other teams may have that same allowance. LB321 would allow all collegiate teams to do the same. It is important to point out that this allowance is only for actual team sports. To accommodate current law, college teams must keep their shotguns stored off campus in a variety of ways. Some of those methods are more complex...or more secure than others. I was told about one team that got a Conex box for storing their team's equipment. As you can imagine, that does not allow for very good climate control. That is far from ideal for a number of reasons. Environmental conditions alone are of great concern when storing expensive, purpose-built shotguns that sometimes can cost many thousands of dollars. I know at one college, a local gun shop has offered a gun safe specifically for the trap team to use. Allowing the college and its coaching staff the right to develop a process in a defined, secure location for storage is a need that didn't exist just ten years ago. This need is growing every year as more colleges add shotgun sports programs. We respectfully request your due consideration, and I appreciate your time. I'm available for any questions. [LB321]

SENATOR EBKE: Mr. Moeller. Senator Chambers. [LB321]

SENATOR CHAMBERS: If this bill were enacted as written, it would expand the groups or group who could bring weapons on campus and it would expand the type of weapon that could be brought on campus. Is that correct? [LB321]

ROD MOELLER: It is correct that it would expand the type, but it would be limited to teams that were sanctioned by that college. So if a team didn't have a pistol team or if a college didn't have a pistol team, pistols would not apply. If they didn't have a trap or any shotgun sports team, shotguns would not apply. It would only apply to the universities that have established a shooting sports team and those specific firearms for that specific sport. [LB321]

SENATOR CHAMBERS: Now from your having appeared before this committee for while I've been a member, you do know what my reputation is as far as firearms and the expansion of firearms. [LB321]

ROD MOELLER: I am familiar with your reputation on that, Senator. [LB321]

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SENATOR CHAMBERS: So then you wouldn't be surprised to know that I have no opposition to this bill, would you? [LB321]

ROD MOELLER: That you are opposed? [LB321]

SENATOR CHAMBERS: Say it again? [LB321]

ROD MOELLER: I'm sorry. I didn't...I didn't hear. [LB321]

SENATOR CHAMBERS: Then you would be surprised to know that I have no opposition to this bill. [LB321]

ROD MOELLER: You have no opposition then. That might surprise me. [LB321]

SENATOR CHAMBERS: You sound surprised. (Laughter) [LB321]

ROD MOELLER: Yes. [LB321]

SENATOR CHAMBERS: I just thought I'd break it to you gently. (Laughter) [LB321]

ROD MOELLER: I appreciate that. [LB321]

SENATOR CHAMBERS: Okay. [LB321]

SENATOR EBKE: Senator Baker. [LB321]

SENATOR BAKER: Thank you. Mr. Moeller, do you know what governs trap...high school trap teams? You referenced them and they do exist. My district had a trap team and the range was on campus. Do you know, are there laws that address that now that say you can or cannot? [LB321]

ROD MOELLER: Currently, the high school teams, the law does not allow for any high school participant to have their shotgun on school property. That would include stored in the trunk of their vehicle on the parking lot within school property. So, no, this is...high schools would not be allowed. [LB321]

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SENATOR BAKER: Well, then one more time I was breaking laws, because we were doing it and I knew it. But would you think it appropriate to amend this to include high school trap teams? [LB321]

ROD MOELLER: I think that that opens up a broader scope of potential opposition. You know, high schools are viewed differently than a college campus, which is young adults predominantly, so I know that it would be a concern. Would I be supportive of that? Absolutely. As someone who has a lot of friends and family who has been active in the high school level trap teams, it has been a big inconvenience to have to leave school, drive home to pick something up, and then go. And sometimes you're heading ten miles the other direction than where you normally would have, in some districts possibly more than ten miles. So I mean we certainly are supportive of that if there was enough support within the Legislature for that. [LB321]

SENATOR BAKER: Thank you. [LB321]

SENATOR EBKE: Senator Krist. [LB321]

SENATOR KRIST: My concern, although I support the sport itself, my concern is, and follows with your discussion, most of the high school students that I know or junior high, for that matter, who are competing in some kind of a competitive shooting contest are not doing it on school property. Most, I would say the preponderance, of kids in the state do not do it there. It would be the anomaly that you would have it on school property. [LB321]

SENATOR BAKER: Yes. [LB321]

SENATOR KRIST: And what I would be concerned with is that for sake of convenience the team would realize this is a day of our competition and they would transport to the campus and then transport to the range. I understand it's an inconvenience to go home, get what you need to do, and go to the range of where the competition exists. I agree with you, it opens up a whole new group of concerns, but I think an anomaly can be dealt with. Maybe legal counsel can give us some idea on how to do that, where there are ranges that exist and are supervised at any academic level with the same constraints in mind, where your campus was obviously big enough to include another sporting arena on your campus. But to blanketly say that, I have really a very good friend, family friend, and she is now nationally rated. She went to Marian High School. Marian High School is probably the last place I want to have guns in the trunk of a car where she would go to school and then go someplace else. I'd be afraid for...I would be concerned about that security. So your concerns are well-founded. So thank you very much. [LB321]

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ROD MOELLER: Senator, just to respond, I'm assuming that your comments are directed specifically to... [LB321]

SENATOR KRIST: High school. [LB321]

ROD MOELLER: ...Senator Baker's high school... [LB321]

SENATOR KRIST: Right. [LB321]

ROD MOELLER: ...remarks. And the other thing to support... [LB321]

SENATOR KRIST: (Inaudible) again would be an anomaly in terms... [LB321]

SENATOR BAKER: Sure, it would. [LB321]

ROD MOELLER: And the other difference, too, is high school students who participate in these sports are living at home with their parents or whomever their family is, where in a collegiate environment, many times somebody is a resident of either rather cheap off-campus housing or campus housing where you couldn't store that. So it would...it would certainly be a lot safer to store team equipment in a much more secured environment on campus versus off campus or, in some cases, where they wouldn't even have an off-campus opportunity. [LB321]

SENATOR KRIST: And just one last comment: I believe that the family I'm talking about wouldn't want that weapon stored anyplace but their home for the amount of investment they have in that special piece of weaponry, so. [LB321]

ROD MOELLER: When you're talking \$10,000 sometimes for an item,... [LB321]

SENATOR KRIST: (Inaudible) yeah. [LB321]

ROD MOELLER: ...yes, absolutely. [LB321]

SENATOR EBKE: Senator Chambers. [LB321]

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SENATOR CHAMBERS: When I'm sad, I sing, and then the world is sad with me. As far as Senator Baker and this bill (singing): it's the wrong time, it's the wrong space, though this bill is tempting it's the wrong place. (Laughter) [LB321]

SENATOR KRIST: Warning issued and received. (Laughter) [LB321]

SENATOR EBKE: That's right. Any other questions for Mr. Moeller? Okay. Thanks. [LB321]

ROD MOELLER: Thank you for your time. [LB321]

SENATOR EBKE: (Exhibit 1) Next proponent. Any other proponents? Any opponents of the bill? Anybody testifying in the neutral capacity? We have a couple of letters and if Senator Lowe wants to close. We have one letter in support from Christopher Kopacki of the National Rifle Association. Do you want to close? [LB321]

SENATOR LOWE: A wise man once said when you're in the lead just waive off. [LB321]

SENATOR EBKE: Okay. (Laughter) Thanks for that answer. [LB321]

SENATOR KRIST: Right answer. [LB321]

SENATOR EBKE: This closes our hearing on LB321. LB81, Senator Blood. [LB321 LB81]

SENATOR KRIST: Before they walk out, this is a group of interns from the First National Bank that came to visit today. [LB81]

SENATOR EBKE: Great. Welcome. [LB81]

SENATOR CHAMBERS: They don't have their guns with them, do they? (Laughter) [LB81]

SENATOR KRIST: Not that you know of. [LB81]

SENATOR EBKE: Okay. Senator Blood. [LB81]

SENATOR BLOOD: (Exhibit 2) Good afternoon and thank you to Senator Ebke and the Judiciary Committee for scheduling my bill, LB81. My name is Senator Carol Blood, C-a-r-o-l

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B-l-o-o-d, and I represent the good people of District 3 in Sarpy County, Nebraska's fastest growing county. On its face, LB81 is a relatively simple bill and because of that I will be brief. This bill would change just one word in the statute that has to do with handgun certificate fees. However, LB81 is vitally important to the counties I've spoken with because, while the processing fee for these certificates have stayed the same for the last 25 years, the number of certificates the counties are having to process have gone up as much as 400 percent in just the last 10 years alone. In order to illustrate how much the demand for these permits have increased, I've submitted a chart from the Sarpy County Sheriff's Office, which I think you have, showing a monthly (sic) breakdown of the number of certificates applied for in just the last few years. With the massive increase in the number of handgun permits that need to be processed, the costs and staff time have increased exponentially as well. In Sarpy County alone, the sheriff's office has an administrative assistant that spends about 80 percent of their working day on purchase permits. Between taking the application, doing the background, printing, scanning, and mailing the permits, it's estimated that at least \$10 per hour of that employee's time is spent on these purchase permits every day. And I think that the Sarpy County Sheriff is here today and could probably give you even finer details on that. That was my own estimate. Then there's the sergeant who spends a portion of each day reviewing the applications and contacting other agencies about questions that have arisen with certain applicants. This certainly is not an efficient use of staff. And because the \$5 fee doesn't even come close to paying for that time spent, we end up seeing a waste of taxpayer dollars on a daily basis. With my bill, the fee will increase to \$25 per permit and it will take the time and effort that is currently...that it's currently taking to go through the process to even out with what the county is charging the applicants. I want to be really clear that the crux of this issue for me is, first, about making sure that the counties have the resources that they need in order to make sure they are following the laws we have required them to follow. Second, this is about public safety. I've heard from law enforcement officials who truly believe these permits help them when it comes to doing their job and keeping the public safe. There are obviously some out there who wish the handgun permit fees would simply go away. This argument is made, that if they get rid of the fee entirely there wouldn't be any need to burden the counties with the extra work, and I personally don't believe that this is a realistic argument. For the time being, the fee is going to be in place. We even saw one senator bring a bill to do away with the process, only to pull that bill soon after introduction this year. Clearly, he was made to understand that while some find it unpalatable, it's necessary and needed. My office has talked to law enforcement officials who have made it clear to me that they believe the handgun permit does help them do their job when it comes to keeping the public safe. Having said that, I have reached out and talked to a number of gun owners' rights advocacy groups. They express some concern about the increase in fees. Over the last few weeks we have had several discussions about finding some kind of middle ground that will probably not make everyone happy but that might provide an end product in the form of a possible committee amendment that would be palatable to everyone. As a final thought, I want to underline once again that this isn't a bill that is taking aim at law-abiding gun owners and putting undue pressure on them. I have been a

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member of the NRA, I worked in the corrections system, and qualified on particular weapons. I understand the need to protect one's self. This truly is just about making sure that we are not also putting an undue burden on the counties and on law enforcement as they work 24/7 to protect us. With that in mind, I thank the committee for its time and I hope you'll consider moving LB81 to the floor and General File. Thank you. [LB81]

SENATOR EBKE: Thank you, Senator Blood. Any questions? Senator Baker. [LB81]

SENATOR BAKER: Thank you. Senator Blood, do you realize how fortunate you are? [LB81]

SENATOR BLOOD: In what fashion? [LB81]

SENATOR BAKER: Well, these kinds of things went before and if former Senator Bloomfield was here he'd say, a 500 percent increase. [LB81]

SENATOR BLOOD: Yeah. You know, and that's a valid point. But here's the thing, and you're probably going to see a lot more of me over the next few years. One of the things I did when I was on the Bellevue City Council was I revisited the ordinances, our statute. And what you're going to find in a lot of statute is, because it's not sexy like new bills, is that it needs to be updated and fees need to be updated. And this is one of those times. [LB81]

SENATOR BAKER: I understand that. I had one of those myself... [LB81]

SENATOR BLOOD: Yeah. [LB81]

SENATOR BAKER: ...a couple years ago. Thank you. [LB81]

SENATOR EBKE: Senator Halloran. [LB81]

SENATOR HALLORAN: Thank you, Senator Ebke. Senator Blood, what...I probably missed it, you probably said, but back to the amount of time it takes to... [LB81]

SENATOR BLOOD: Uh-huh. [LB81]

SENATOR HALLORAN: ...conduct these, authorize these permits. [LB81]

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SENATOR BLOOD: You know, in Sarpy County, because I think you see the chart and how many people, and we have people here that will talk on it and give you more details, but with the research that I saw is that out of...the person who takes the permits for Sarpy County, 80 percent of their time is spent on these permits. [LB81]

SENATOR HALLORAN: Eighty percent of one person's time? [LB81]

SENATOR BLOOD: Of one person's time is spent on these permits alone. [LB81]

SENATOR HALLORAN: Okay. So we're going from \$17,690 at the current rate for 2016 to \$88,450. [LB81]

SENATOR BLOOD: Are you looking at the fiscal note in regards to that (inaudible)? [LB81]

SENATOR HALLORAN: No, I'm just doing some simple math of \$25 times the current number of permits versus \$5. [LB81]

SENATOR BLOOD: Well, and the one thing that you have to look at, it's not just one employee that takes in these permits. That's just the one employee that I know for sure is that's pretty much to him is a full-time job for them in Sarpy County is that their salaries also were not stagnant. You know and I know that there are no municipal county state employees that are making the same wages they made 25 years ago and benefits go up. So it's not just about the amount of money that they take in as much as the staff that they're paying the money that they take in. And again, Senator...or Senator, Sheriff Davis I believe is here and he can answer those questions more acutely. I don't want to speak out of school because this is not an area that I think I can talk intelligently on, only because I don't deal with it day to day. I only got my stats that I gleaned from my research. [LB81]

SENATOR HALLORAN: From a farm boy's perspective, I tend to look at everything relative to what...how many bushels of corn something costs... [LB81]

SENATOR BLOOD: Uh-huh. [LB81]

SENATOR HALLORAN: ...or relative to how much corn costs back in 1991, relative to a \$5 permit, compared to what a bushel of corn costs today, relative to a \$25 permit. You're talking about going up 500 percent and it's just...and I'm just talking about relative cost of things... [LB81]

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SENATOR BLOOD: No, I hear what you're saying. [LB81]

SENATOR HALLORAN: ...versus the amount of income someone has. In 1991, corn was at \$2.30 and right now it's at \$3.41, 48 percent increase, versus a 500 percent increase. I'm sensitive to increasing permit costs as...adjust for inflation, but somewhere in between there might be more palatable. [LB81]

SENATOR BLOOD: I hear what you're saying and I went with \$25 because, again, it had not been changed in 25 years. I guess it's a dollar for each year. I was looking to not have to revisit it again for quite a while as well. So we could do it incrementally, is one of the areas of middle ground that I'd be willing to go. And also, as I know we're going to have people who speak that oppose this bill because they just don't believe in the permit as well, you know, I am happy to discuss middle ground, maybe give them an extra year for the...going up on the fee. And I think that you'll find that our sheriffs are flexible to a point as well. The thing I'm not flexible on is, you know, this has nothing to do with the permit. That's a whole other bill and a whole other issue. This has to do with we continue to put unfunded mandates on municipalities, on counties, on public entities. And with all due respect, and I don't mean this to sound snarky, you know, you do the bill, you pass it on, and it's out of your hands. Well, then it becomes a burden to the taxpayers at the lower level. They want to know why their property tax continues to go up. We can't keep asking counties and public entities to do more with less if we're not going to update state statute to make it worth their time. [LB81]

SENATOR EBKE: Senator Chambers, did you still have a question? Any other questions? [LB81]

SENATOR BLOOD: I thought you were going to sing to me. (Laughter) [LB81]

SENATOR EBKE: Okay. First proponent. [LB81]

JEFFREY DAVIS: (Exhibits 3 and 4) Good afternoon. My name is Jeffrey L. Davis, J-e-f-f-r-e-y L. D-a-v-i-s. Madam Chair, members of the Judiciary Committee, I am currently the Sarpy County Sheriff. I've been in law enforcement for 43 years and the Sarpy County Sheriff for 12 years. I'm here today to ask you to give great consideration to LB81 which would increase fees required by those individuals seeking a gun certificate. We take this responsibility very seriously and put an enormous amount of time in doing research and background investigations on every applicant to ensure that they have no previous record that would prevent them from purchasing or selling a handgun. When this law was placed on the books in 1991, over 25 years ago, it provided for a \$5 fee for the agency issuing the gun certificate. As you might imagine, our costs have increased over time and I can give you example from my county. Last year we issued over

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3,500 gun certificates. The costs to our agency include 80 percent of a full-time clerical person's salary and benefits, and 15 percent of a sergeant's salary, plus costs involving mailing, envelopes, and other paper materials. This total cost exceeds \$80,000. The revenue for gun certificates last year was just over \$17,000. Currently all of the taxpayers are covering the additional costs. By advancing LB81 you would be placing the fiscal burden back on the individuals who are using the gun certificates to purchase a handgun. I added in my information that I gave out--you can do with it what you wish--I just thought maybe if you had something in your hands that gave you an idea of what is filled out by our people, by the person who's asking for the permit. And then the information on the pages after that show the record checks that are done. I used myself. Thankfully, I didn't have a record. (Laughter) But even I had similarity hits that you can see on there and each of those have to be checked out. We consider this a simple check. It takes approximately 16 minutes from start to finish, and on the average we do about 15 a day. But there are other ones that are more difficult that cause us to do a great deal of research to make certain that it's not a similarity hit or that there was an adjudication involved in a mental health situation. We certainly don't want to give out certificates to somebody that we shouldn't. With that, I'll answer any questions if you have any. Yes, sir. [LB81]

SENATOR EBKE: Senator Krist. [LB81]

SENATOR KRIST: She's got to give me permission first. Thank you, Sheriff Davis, for coming and thanks for all the help you've given me in the past. I appreciate it. If you will, could you just describe to me how this package has evolved? I mean if we were looking at 1991, were those gun permits issued with the same clarity and differentiation that you do today? [LB81]

JEFFREY DAVIS: They have. There might have been some minor changes since 1991, but basically the state does pay for this portion of it that you have here and the certificate. All of the other paperwork is paid for by the county. But it's similar to it has been for 25 years. [LB81]

SENATOR KRIST: Thank you. [LB81]

SENATOR EBKE: Senator Chambers. [LB81]

JEFFREY DAVIS: Yes, sir. [LB81]

SENATOR CHAMBERS: Sheriff Davis, I'd never met you before. I've heard good things about you. But when I was sitting...I saw you sitting over there and the first thing I thought of was The Godfather movies. (Laughter) And then when he came up to testify, I was ready to say right

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away before I found it was Sheriff Davis, I'm willing to raise the fee to \$100 if that's all right with you. [LB81]

JEFFREY DAVIS: Yes. Thank you. [LB81]

SENATOR EBKE: Senator Hansen. [LB81]

SENATOR HANSEN: Thank you, Chair Ebke. Thank you for coming and testifying, Sheriff Davis. I had the opportunity last summer to shadow our Lancaster County Sheriff's Office on this matter. I've had other legislation looking at this area of my own. Won't get into that. But can you walk me through what...walk me through the process. So I'm a constituent of Sarpy County. I come and I want to apply. What process applies to me and what do you and your staff do respectively? [LB81]

JEFFREY DAVIS: You will come in and fill out this application form and give us a copy of your driver's license, which we take a copy of and hand you back. You're told it will take approximately three days and we will send you the gun certificate. Then our person, our clerical person, begins the process to run you on NCIC, NCIS, local, locally to see if you have had any charges in the past, and then to make certain that you haven't had any mental health adjudications. And some of those local charges are not limited to but may include domestic violence situations, certainly situations where we would not want to hand somebody a certificate to allow them to go purchase a gun. That is where you run into some of the time constraints. When you get similarity hits or you have one that shows maybe they weren't totally honest on this application and there becomes an issue, that is when those are forwarded to our sergeant, who reviews each and every one of those before the certificate is sent out and/or denied. [LB81]

SENATOR HANSEN: So can you give me a listing of all the different databases you checked? I think you ran through them real quick. But there's state ones as well as the NCIS? [LB81]

JEFFREY DAVIS: NCIC, NCIS, local charges, whether it be our county, Sarpy County, state of Nebraska, Douglas County, Lancaster County. One thing that we're trying or currently is being changed, we currently, as I understand it, will not be able to detect somebody who has had a mental health adjudication in another state. We're working to change that. That's unfortunate but that could happen where we hand out a certificate to somebody who has moved up here from Florida or a different state; we are not aware of the fact that they have these issues or had these issues in the past. [LB81]

SENATOR HANSEN: Great. Thank you. [LB81]

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JEFFREY DAVIS: You bet. [LB81]

SENATOR EBKE: Any other questions? Senator Halloran. [LB81]

SENATOR HALLORAN: Thank you, Senator Ebke. Thank you, Sheriff Davis, for your testimony. It's very helpful, a very complimentary picture too. [LB81]

JEFFREY DAVIS: Well, thank you. (Laughter) [LB81]

SENATOR HALLORAN: Just for clarification, if I have a concealed carry permit do you still charge me \$25, \$5 or potentially \$25? [LB81]

JEFFREY DAVIS: No, you don't have to have a certificate if you have a concealed carry permit. [LB81]

SENATOR EBKE: Any other questions? Thank you, Sheriff Davis. [LB81]

JEFFREY DAVIS: Thank you very much. [LB81]

SENATOR EBKE: Next proponent. [LB81]

KEVIN CONLON: (Exhibit 5) Good afternoon, Senators. My name is Kevin Conlon, spelled K-e-v-i-n, last name C-o-n-l-o-n. I'm here today to speak in support of LB81 on behalf of my employer, Douglas County Sheriff's Office. I have worked for the Douglas County Sheriff's Office for 25 years and am currently a captain with the Administrative Services Bureau. One of the duties of my bureau is to accept and process state of Nebraska applications to purchase, lease, rent, and receive transfer of handgun...of a handgun as mandated by the state statute 69-2404. It is my understanding that the handgun purchase permit process started in the early 1990s with a \$5 application fee and remains at that same rate as of today. It is my testimony that this 25-year-old fee is no longer feasible for a law enforcement agency to process the applications due to our operational costs increasing over that time. These operational costs include personnel, equipment, and supplies. A search of our electronic records dating back ten years indicates a substantial increase in the number of handgun permit applications. While a full accounting of these annual numbers can be found at the end of my written statement, a brief sampling shows that in 2007 we processed 2,425 applications, and in 2016 the number increased to 7,342 applications. It is estimated that it takes our staff, personnel, an average of 30 minutes to process each application from start to finish. After starting out with one employee assigned to processing handgun applications in the 1990s, we currently have two full-time employees

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primarily assigned to processing the handgun permits for the approximately half million residents living in Douglas County. One of the justifications we are including for the fee increase is our labor cost. For example, going back 15 years to the year 2001, the personnel assigned to processing the applications were paid \$12.96 an hour. Today that rate has increased to \$20.32 an hour. Last year alone we budgeted over \$120,000 in wages and benefits for the personnel completing the applications. The equipment set up in our office to process the application includes two desktop computers used to access electronic criminal histories of applicants, a fax machine to correspond with outside agencies, a copy machine, and a printer. Thousands of pages of record checks, which are part of the handgun application process, are printed out every month by our agency. Agencies are also required to purchase the state application forms which are filled out by the public. An example of this form is attached to my handout. We have spent over \$2,000 in the last year ordering these forms from an approved vendor. Twenty-five years after the handgun permit process started, we continue to process over 6,000 firearm applications a year at a fee of \$5. This brings in annual revenue of roughly \$30,000, but as detailed in my testimony our costs are over \$120,000 and continue to rise. In closing, I would respectfully request that the committee support LB81. Thank you. [LB81]

SENATOR EBKE: Thank you. Senator Chambers. [LB81]

SENATOR CHAMBERS: You didn't come here to take a message back to Sheriff Dunning, so you don't have to pass this on. But if you remember it, you can tell him that although he was disappointed all those years ago when he wanted to see me arrested as a result of my protest before the courthouse, and I wasn't, maybe my support of this bill will kind of mitigate that disappointment that he felt at that time. [LB81]

KEVIN CONLON: I'll pass that along, Senator. [LB81]

SENATOR CHAMBERS: Okay. [LB81]

KEVIN CONLON: Thank you. [LB81]

SENATOR EBKE: Any other questions? Senator Hansen. [LB81]

SENATOR HANSEN: Thank you, Chair Ebke. Mr. Conlon, thank you for testifying. I could have asked this of the previous testifier but I just thought of it now. But the Sheriff Davis shared a copy of the firearm purchase certificate. I presume that's pretty standard statewide? [LB81]

KEVIN CONLON: Yes. [LB81]

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SENATOR HANSEN: It's a little card that says state of Nebraska (inaudible). [LB81]

KEVIN CONLON: Yeah, I brought a pad of them here if anybody would like to see the originals. [LB81]

SENATOR HANSEN: I believe Mr. Davis gave us a copy. I was just clarifying that because it looked similar to what I'm familiar with in Lancaster County. But on the bottom it talks about there's a date it's issued, and his example was today, 2-2-17, and says it's valid for three years from the above date, which would be 2-2-2020. Is there anything your agency does if there's someone in your county who loses their rights to the firearms? They get some sort of conviction that loses their firearm rights. Is there any way you can track these cards, go back and get these cards? Is there any sort of established process there? [LB81]

KEVIN CONLON: Well, there's not like an electronic process such as tied to a driver's license like the concealed weapon permits are, but there is a manual process. If we would find out somebody is disqualified, we would have to manually go out and pick that up from the person and knock on their door and retrieve it. It's a, you know, as you see, a piece of paper like a fishing permit. [LB81]

SENATOR HANSEN: Sure. [LB81]

KEVIN CONLON: So, yeah. And, so, yeah, it would be a manual process to do that. It's possible but it's not very efficient right now. [LB81]

SENATOR HANSEN: And so that's an added expense on your agency that you do have to do sometimes, is in order to track down people in that three-year span who have lost their... [LB81]

KEVIN CONLON: That's correct. [LB81]

SENATOR HANSEN: ...firearm possession rights. [LB81]

KEVIN CONLON: Yes, sir. [LB81]

SENATOR HANSEN: Great. Thank you. [LB81]

SENATOR EBKE: I have a question. [LB81]

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KEVIN CONLON: Yes. [LB81]

SENATOR EBKE: Following up on Senator Hansen, how often does that happen that somebody who has a firearm permit, a firearm purchase permit, has...for some reason becomes disqualified? [LB81]

KEVIN CONLON: It probably happens more frequently than we know because, like I said, there's not a process from the courts to let us know and we don't keep records of these permits. Once they go out the door, there's not an electronic database, so to speak. There's no databases talking to one another. So, yeah, we would probably collect less than 100 a year through the manual process. [LB81]

SENATOR EBKE: Okay. Any other questions? Thank you for being here. [LB81]

KEVIN CONLON: Thank you. [LB81]

SENATOR EBKE: Any other proponents? Any opponents? [LB81]

ROD MOELLER: Good afternoon, Senator Ebke, members of the Judiciary Committee. For the record, my name is Rod Moeller, R-o-d M-o-e-l-l-e-r. I am speaking on behalf of the Nebraska Firearms Owners Association today. We are opposed to the increase of fees that are proposed in this particular bill. First, the increase is rather dramatic. A five times increase is very dramatic. Five dollars may not cover the costs anymore, but twenty-five dollars definitely seems excessive. It's not something that should be considered a moneymaker. In fact, I don't have this to cite exactly but I do recall reading in the past where the Supreme Court of the United States has ruled that if you're going to impose a fee on exercising a right, that it cannot be a fee that exceeds the actual costs. So we need to be very careful about determining what the real cost is and not just coming up with something we think is going to cover us for the next ten years or so. Ten dollars I think would be a more appropriate amount to increase this to, especially when I heard testimony saying that they're talking about the hourly cost went from \$12.96, I think, to \$20. That's certainly not a fivefold increase. That seems like a doubling of the cost might be a lot more appropriate. Next, we also oppose the idea that we need to cover the costs for a government-imposed fee to exercise our natural rights. When purchasing a handgun from a dealer, a background check could be performed at the time of purchase by the dealer, so this is something extra the state decided in 1991 that they want to impose. Obviously, there's some benefits to us as well in having this. There's a convenience fee. And if we could increase the period of time where this is valid from three years to the federally limited maximum of five years, then we could see some value to be had in the increase of fees. So an increase to five years and maybe a \$10 increase would seem like a reasonable compromise. The current permit acts as a precheck, as an

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additional requirement imposed by the state to exercise our rights. There are many who find the current process a hindrance. I have many examples of citizens, including legislative staffers that I know around this building, that have had delays in acquiring a handgun due to the hours of operation of the county sheriff in issuing the permits relative to their work hours here at the Capitol. Many citizens have constraints due to their work schedule. The permits are only issued between 8:30 a.m. and 4:30 p.m. Unless you work very close to the sheriff and you take...or...unless you work very close to the sheriff, you will need to take vacation time to seek out a permit. That obviously won't work for someone living in Sarpy or Douglas County but working in Lincoln. The cost may not seem prohibitive to you and I because everyone in this room is financially stable enough to afford the costs associated with these regulations. Fact is many of those in need of tools for self-protection live in the most economically challenged areas. To many of these citizens, even \$15 is a hardship. I imagine that it's difficult for many of us to really, truly understand and comprehend. We could accept a small increase in the fee if this permit became optional, if the permit was not a requirement for purchase at a dealer. It becomes an item of convenience for those who find enough value in obtaining the permit. It does make the checkout process faster because you don't have to wait the extra 10 to 15 minutes for the NCICs check to be done at the dealer. For those that purchase frequently, that would be a fee that they'd gladly pay for the convenience of checking out faster. Similarly, if the permit were to be valid for the five years, like I already said, versus the current three-year period, there will be some value to account for that increase that we could support. We're willing to work with Senator Blood on incorporating some of these changes to address our concerns and I have met with her and shared some discussions on this already. We just have not come to an agreement on what specific terms that we could find as an agreeable compromise between her, her staff and myself. [LB81]

SENATOR EBKE: Questions? Senator Chambers. [LB81]

SENATOR CHAMBERS: Well, Mr. Moeller, the honeymoon is over. (Laughter) However, two out of three on gun bills with me is not bad. If you were a baseball player and your hitting average was 660, that would be pretty good. If you were in basketball and your shooting percentage was 66 percent, that would be pretty good. So why do you think that your members would expect you to be better percentagewise than a baseball player who would make it into the baseball players' Hall of Fame with the percentage you've got, a basketball player who'd make every all-star team with the percentage that you've got, a quarterback in the NFL who would be a candidate at least for MVP with your percentage? Does that make you feel a little better now? [LB81]

ROD MOELLER: It does. Thank you. [LB81]

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SENATOR CHAMBERS: Okay, good. Let's quit while we're both winning. Oh, wait a minute, though. You said you wouldn't mind if it was an increase to \$15. [LB81]

ROD MOELLER: I believe I said \$10, but \$15, if we have some other concessions like increasing the (inaudible). [LB81]

SENATOR CHAMBERS: Okay, that's \$10...that's \$10 more than what it is now. Then here's what I'd suggest. You say \$15, Senator Blood says \$25. Let's split the difference and make it \$30. (Laughter) [LB81]

ROD MOELLER: You know, I appreciate you offering to help negotiate, but I think I hit it off pretty well with Senator Blood and I'm more than happy to continue working with her directly. (Laughter) [LB81]

SENATOR CHAMBERS: Okay. I tried. [LB81]

SENATOR EBKE: Senator Krist. [LB81]

SENATOR KRIST: You know, the intriguing part of your testimony, and we're talking about the right increase in fee, we're not...I want to be very clear, I'm not jesting. It's \$5. It was \$5 since 1991. The analogy of what corn costs or what bullets would have cost or even what fuel would have cost back then, let alone salary increases, and I would say that \$5, given the 25 years, would be conservative. If you took six years and doubled the permit and you raised it to \$15 or \$20, I think everybody would be happy. But that would be, I think, a starting point for you to get to where you need to go. If we increase the permit, and I'm just going to take a head nod, would there be a problem with increasing the permit, period, from the sheriff's department you think? No? Yes? [LB81]

JEFFREY DAVIS: We'd have a problem. [LB81]

SENATOR KRIST: You have a problem. You would like to keep it at three years. [LB81]

JEFFREY DAVIS: If I could speak... [LB81]

SENATOR KRIST: Yeah, you can come up to the mike after he's done just to put it on the record, but I think that's an important...if that's okay, Madam Chair,... [LB81]

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SENATOR EBKE: Yeah, absolutely. [LB81]

SENATOR KRIST: ...that's an important question to ask. Because if we start negotiating on time and on monetary value, we might get ourself in a twitter. But that's okay. Thank you. That's all I have. [LB81]

SENATOR EBKE: Any other questions for Mr. Moeller? Thank you. You want to come back up, Sheriff Davis. [LB81]

SENATOR CHAMBERS: You know sheriffs are licensed to carry, don't you? You knew that, don't you? [LB81]

ROD MOELLER: Of course. (Laughter) [LB81]

SENATOR CHAMBERS: Okay. [LB81]

JEFFREY DAVIS: Jeff Davis, Jeffrey L. Davis. Again, let me answer that. We talked about that and there might be some room. But here's one of the problems. And what they told you happens in Douglas County is infrequent that we're able to catch somebody who, in that three-year period, has a violation and we're able to go back out and take that certificate away. That doesn't happen all the time by any means. And so by increasing it from three to six, you greatly improve the chances or odds of somebody that has a mental health issue or a domestic violence conviction and they're not caught. They're still out there with that permit. I don't want to say that increasing it a year might not be possible. We talked about that. Maybe that's a possibility. But I think six years is way out there. And if we do devise a program that allows us to capture all over the United States and in Nebraska when somebody who has been issued a certificate violates one of those procedures, whether it be domestic violence or a health issue...a mental health issue or a felony conviction, then that's great, we can go back out and get that certificate. That is another labor intensive...we would have to physically go out, pull those certificates, and then you're talking about a lot of money that we're paying to do that. I wouldn't be opposed to it. I'm just saying six years is a long time. [LB81]

SENATOR KRIST: Okay. Thank you. And thank you, Chair, for allowing him. [LB81]

SENATOR EBKE: You bet. Let me ask you some...another question. How often in your experience does somebody...is somebody adjudicated who has a purchase permit, not somebody that for some reason has had...you have to pull the permit from but somebody in Sarpy County

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who has a permit that you've issued? I mean is it just a matter that the databases aren't talking to each other? [LB81]

JEFFREY DAVIS: That's correct. [LB81]

SENATOR EBKE: Okay. But you have a database on who's... [LB81]

JEFFREY DAVIS: We do. But like our database does not... [LB81]

SENATOR EBKE: Doesn't talk with the others. [LB81]

JEFFREY DAVIS: ...connect to or talk to Douglas County's or Lancaster County's. And so then you have situations where somebody is involved in a domestic violence issue in a neighboring county or convicted in a neighboring county. And if we're not aware of that, they still have a permit. Now when they go use that permit and purchase a weapon, if they're a felon they're in violation and if they get caught, of course, they could be arrested for it. But they still were allowed to purchase that permit and it's not the fault of the seller, Cabela's or wherever they go, because they had a legal permit issued by my office. [LB81]

SENATOR EBKE: Okay. Any other questions? Thank you. [LB81]

JEFFREY DAVIS: Thank you. [LB81]

SENATOR EBKE: Any other opponents, while we swerved back into the proponent. But do we... (Laugh) [LB81]

SENATOR KRIST: Sorry. [LB81]

SENATOR EBKE: That's okay. Do we have any other opponents? Any testifying in the neutral? Senator Blood, would you like to close? [LB81]

SENATOR BLOOD: I would, thank you. So you're probably going to hear me say this a lot over the next three years. One of the things I like about numbers is that numbers never lie and they're all the same in every language. So I'm looking at what Sheriff Davis handed out and it speaks to what Senator Halloran said where that the cost to our agency include 80 percent of a full-time clerical person's salary, approximately 15 percent of the sergeant's salary, plus costs involving mailing, envelopes, and other paper materials. This total exceeds \$80,000. The revenue for gun

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certificate last year was just over \$17,000. I...one of the benefits of being a freshman senator and senator...excuse me. I keep on calling him a senator. Maybe I know something you don't. Sheriff Davis will tell you that the people that know me know that I hit the ground running and it's to a fault. And I know that about myself. You noticed that when I first came here, the first thing I did is I had all my bills done and I turned them in right away because I didn't know any better because I was excited, I was enthusiastic. And this was one of the bills I turned in that I was enthusiastic about. And the first thing I did was we picked up the phone and we called the NRA and we called NFOA. We didn't wait for them to come to us. And we said, what's your middle ground? And to say that we did not come to terms I'm a little confused about because we did talk about what middle ground was. And I think I said that in my introduction, that we were happy to find middle ground. But the bottom line is that I'm not going to go to a middle ground that affects public safety. On my way home last night I got a call from Officer Cvitanov from the Bellevue Police Department. You can't take the Bellevue out of the girl, I guess. They still call me about things. And he made it really clear the benefit of those certificates. And he just spoke in reference to the officer that was shot in Omaha and he knows that he's going to be looking through these certificates and through the information at the law enforcement entities and there's going to be multiple layers before they figure out where that gun came from. But chances are pretty good that it was stolen. Why would we want to take away effective tools when, quite frankly, you couldn't pay me to be a cop right now? And I know that my experience with law enforcement is very different than yours, Senator Chambers, and I respect that. But where I come from law enforcement does a, excuse my mouth, kick-ass job and I'm proud that I'm from Sarpy County. So one of the things that I also learned is that we got information today from a Cuming County Commissioner--I don't know if anybody is from Cuming County on this Judiciary Committee--and he said, well, you know, it only takes 15 minutes to fill out the background information and then law enforcement sends it up the pole and it's done. So I had my staff, because I was going into a meeting, call and talk to the person who actually handles it and they were very clear that, yeah, well, that's part of it, but it doesn't cover the costs for the county to purchase the forms, cover the cost of the postage, and to mail it out. So be your county big, be your county small, everybody is suffering from this fee. Does \$25 sound like a lot? Well, when I hear somebody compare it to, gee, there's people that don't have means, that have these guns, that need protection, with all due respect, I don't come from money. If I couldn't manage a \$25 fee for a gun I think I'd be buying groceries instead. And I don't mean to sound flippant or rude. I think everybody has a right to protect themselves and I know the further out west you go it becomes an even greater need because it can take a sheriff an hour or longer to come to you and you have to protect yourself. I get that. But this is about fees and the one thing I knew before I even became a freshman senator is you put the word "gun" on something and it becomes controversial. But I think that it's really telling that we reached out to the NRA. And by the way, I don't know if you know that the new person that's in charge of the NRA is actually a retired cop, and I believe they sent a letter opposing. But they're not here and they didn't do phone calls against it. They have to oppose fees because that's what they do, but you don't see them lining up to tell us that we have a

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bad bill. So I just...I really want you to consider the true cost to the counties. If you keep handing unfunded mandates down to people, it's going to be the taxpayer ultimately that pays for this. I ask you to seriously consider what our proposal says and does, and to please pass it on to the floor for debate. [LB81]

SENATOR EBKE: Questions? Thank you, Senator Blood. [LB81]

SENATOR BLOOD: Thank you for your time. [LB81]

SENATOR EBKE: (Exhibit 1) We do indeed have a letter from Christopher Kopacki of the NRA in opposition and that's all we've got right now. That concludes our hearing on LB81 and our hearings for the day. Thank you. [LB81]