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Judiciary Committee
January 31, 2014

[LB674 LB921 LB939 LB998]

The Committee on Judiciary met at 1:30 p.m. on Friday, January 31, 2014, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB939, LB998, LB921, and LB674. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Ernie Chambers; Colby Coash; Al Davis; Amanda McGill; and Les Seiler. Senators absent: Mark Christensen.

SENATOR ASHFORD: Good afternoon, everyone. We're a little late. I had a...my head cold started ten minutes ago so I was out trying to find something for my cold. Anyway, that's neither here nor there. My name is Brad Ashford and you're in the Judiciary Committee for today for four bills, starting out with Senator Wallman's LB939. Let me introduce my colleagues. Senator Les Seiler from Hastings is here; Senator Al Davis is here; Amanda McGill; Senator Ernie Chambers in the...and Diane Amdor is my legal counsel from Omaha; and Oliver VanDervoort is my committee clerk. We have...some of you haven't been here before. I don't recognize everyone. Sometimes we have these hearings and people come time after time and time, but once in awhile we have people from...that we don't see, so welcome. We have a light system which is kind of so we can get everybody in and have their testimony that wants to testify...that want to testify so we'd ask you to, when the yellow light goes on, to start summing up what you're talking about. And then the red light would indicate the time for you to stop, and then we can ask you questions about the topic. You have three minutes, so try to gauge it that way. I believe that there...my other colleagues I'm sure will be here presently, so let's start with Senator Wallman and LB939.

SENATOR WALLMAN: Good afternoon, members of the esteemed Judiciary Committee. For the record, my name is Norm Wallman, W-a-l-l-m-a-n. I'm here today to introduce LB939. Current Nebraska law requires proof of financial responsibility for operation of motor vehicles upon roads and highways, as well as for purposes of motor vehicle registration. Prosecutors have discovered that some individuals are presenting invalid insurance coverage which on their face look to be valid but upon further investigations are found to be expired, inactive, and in some cases fraudulent and misleading. LB939 creates the offense of false presentation. If a person furnishes proof of financial responsibility that he or she knows to be false or misleading to any peace officer or other official with the intent to impede a criminal investigation or to acquire a motor vehicle registration commits the offense of false presentation. So LB939 designates such an offense as a Class I misdemeanor. As you're aware, the maximum penalty for a Class I misdemeanor is not more than one year imprisonment or \$1,000 fine or both. There is no minimum penalty. It also requires that upon conviction the DMV will suspend vehicle registration to the person unless the person maintains for three years proof of financial responsibility. City attorney of Beatrice is here to give you more information on the need of the bill. And the first day I was elected, I was hit by an uninsured motorist, so...my wife was, I should say, so it's no fun. Thank you, Mr.

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President. [LB939]

SENATOR ASHFORD: Thank you, Senator Wallman. Do we have any questions of Senator Wallman? I don't. Senator Davis. [LB939]

SENATOR DAVIS: Senator Wallman, just a question about the fiscal note. Essentially what they're going to do is they'll have a computer system that hooks in with insurance companies so they'll be always able to know if they're current. Is that the plan? [LB939]

SENATOR WALLMAN: That's my presumption and I cannot figure why it's so high. [LB939]

SENATOR DAVIS: I wasn't as concerned about the highness; I just thought that would be a good way to know. [LB939]

SENATOR WALLMAN: Anybody else? Thank you. [LB939]

SENATOR ASHFORD: Seeing no other questions. Senator Lathrop has joined us from Ralston in Omaha. Hi, how are you? [LB939]

GREG BUTCHER: Good. Where would you like me to leave...? [LB939]

SENATOR ASHFORD: Oh, just... [LB939]

GREG BUTCHER: There you go. Thank you. [LB939]

SENATOR ASHFORD: Yeah, I... [LB939]

GREG BUTCHER: Good afternoon, Chairman Ashford, distinguished members of the Judiciary Committee. My name is Greg Butcher, that's G-r-e-g B-u-t-c-h-e-r, and I am the city attorney for the great city of Beatrice here in Nebraska. I want to thank Senator Wallman for introduction of this piece of legislation. What happened, I'll give you the background of kind of what led to this piece of legislation. The city of Beatrice, as you know, pursuant to state law, if you are cited for no proof of insurance while you get a traffic citation, you're given by state law ten days to provide proof that on that day you actually did have proof of financial responsibility. You'd bring that to either a county attorney or a prosecutor's office and that would be verified, and then we are required by law to dismiss that action or not to file it. The city of Beatrice has found out and ran into a few situations where we are being given what is essentially fraudulent and false proof of responsibility, of financial responsibility. The way we have to verify that is usually by trying to contact the insurance agency, which can be a reputable one such as a Progressive or a State Farm, or it may be a company that we've never heard of in any number of states and we have to try and track down that information. What we're

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presented with is either completely falsified and created; we may also find out that it was valid at one point but due to nonpayment or other reasons has become expired but based on the face of it, it would still show that they still had coverage at the time of that citation. After we tracked that down and we found out that some of these were particularly fraudulent, we tried to work with our county attorney's office to see what sort of charges we could implement to prevent that situation and file criminal responsibility for it. We looked at the fraud charges; we also looked at the false reporting and ultimately our county attorney decided that there was nothing that we could exactly fit this into. What LB939 does is makes the criminal act of false presentation. Most of the time, you're going to be presenting your financial responsibility to first the county treasurer when you apply for your registration. If it's not built into the current DMV system, you're required to show proof there at the time of registration by paper. The second time may be at the time of citation when you're pulled over for a number of traffic citations. You'll present that to a peace officer. And as I've noted before, the third time would be when you come into a prosecutor or county attorney to present to us to show that you've met the ten-day requirement in state law. What we'd like to do is shore this up and apply a penalty in regards to the misdemeanor I that is comparable to a false report but also include the penalty that requires financial responsibility for a term of three years, which is comparable to the driving without proof of insurance citation, because ultimately, for most of these, whether it's the treasurer or myself, you're actually not driving the vehicle at the time we interact with you, and so we can't apply that one, obviously. So I see my red light is up and so I'll discontinue this and answer any questions you have. [LB939]

SENATOR ASHFORD: Yes, Senator Seiler. [LB939]

SENATOR SEILER: I'm a little intrigued with this language: if such person gives or maintains for three years proof of financial responsibility. You buy a policy for three years? [LB939]

GREG BUTCHER: What you would do is you would provide... [LB939]

SENATOR SEILER: I don't know of a policy that you can buy for three years. [LB939]

GREG BUTCHER: It's similar to the penalty that's attached if you were to right now get a no proof of financial...no proof of insurance citation and you were found and convicted. You would have to maintain through an administrative process in the DMV, you would have to show them that you had financial responsibility for that vehicle for a term of three years. And so you file I think SR-22 with the Department of Motor Vehicles and that continues to maintain. And if it's ever dropped due to that style... [LB939]

SENATOR SEILER: So it's a prospective buy of the insurance. [LB939]

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GREG BUTCHER: Yes. [LB939]

SENATOR SEILER: It's not at the beginning of the three-year term you buy some to cover it. [LB939]

GREG BUTCHER: That you purchase three years' worth of insurance, no. [LB939]

SENATOR SEILER: Okay. Thank you. [LB939]

GREG BUTCHER: I believe the DMV would be informed if it were to drop. [LB939]

SENATOR ASHFORD: Senator Chambers, then Senator Lathrop. [LB939]

SENATOR CHAMBERS: There is attached to every bill what's called a fiscal note, what it costs to the state. This cost would be \$202,173. There would have to be some updating of their computer programming to attach to a database. It could take up to 18 months for that to be completed. So if this bill were to take effect, then they wouldn't have any way to make these determinations if they don't have the computer capability. Had you considered that when you brought the bill? [LB939]

GREG BUTCHER: I was able to get in contact with the DMV earlier this week prior to their issuance of the fiscal bill and they explained how they essentially have two silos of information, as they put it. One is our driver's license information and one is our motor vehicle registration information. And you may find that on your driver's license, due to the REAL ID Act and everything else, it's a very definitive name and how you describe yourself legally on that, and that's one silo. That's the silo that they would take your personal name, if you were convicted under this, out of to try and compare with the motor vehicle registration silo. And if you were to have a common name, such as a "John Smith" or any of the other common names, you're not required by your legal name, I believe, to register your vehicle. And so if you were a "Jonathan Smith" but you entered it as "John Smith," it's hard for them, as they've described it, to track who is who. And so they feel, to get that problem squared away, if I'm understanding their computer database system correctly, they feel that they'll need an extensive amount of time to do that. Thus, if we were to implement the bill within the 90-day period after passage, they would still need the 18-plus months and the \$200,000 plus to implement. I'm willing to work with obviously the DMV to work with how we track information, how the information, if upon conviction, the judiciary system sends that off to them for the administrative procedure of this, as we do now, and try to get that connected together. I think one of my big purposes of this is starting the dialogue in this state in regards to fraudulent and uninsured motorists. Just to give you a little perspective and data quickly, I know that...I don't think there's anyone testifying after me. But the state of Michigan, their secretary of state has conducted just in September a task force to address this issue. On one date when they checked the registrations that came in to be registered

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that day for motor vehicles, they took all of the paper...we have an electronic system now through most of the databases that send information to the DMV, so you don't even have to present your insurance card. They already know that your insurance information is there. But for the percentage that is given by paper that you do have to show, Michigan found out in one day that 16.1 percent of all their motor vehicle registrations that day had fraudulent or expired insurance that they would have not covered...they would have not caught if not for the verification that day that they do not do. Our county treasurer, I spoke with her. They do not verify. If the date on it covers the date they walk into their office, they assume that that's sufficient proof. [LB939]

SENATOR CHAMBERS: Do you have any figures on how many people were in accidents that would have required insurance to cover and it was found that they had presented this false information and, therefore, had no insurance to cover the accident? Or you're just talking about having found people who have this fraudulent information that they present? [LB939]

GREG BUTCHER: For the...in this...in my...our case here in Nebraska, is that correct, Senator Chambers? Ours is just in interactions with our office when they present it to me. I have no number in regards to how many are in accidents. [LB939]

SENATOR CHAMBERS: There may not have been any accidents though as far as you actually know. [LB939]

GREG BUTCHER: Yes. [LB939]

SENATOR CHAMBERS: There are some? [LB939]

GREG BUTCHER: Oh. [LB939]

SENATOR CHAMBERS: Or you don't have that kind of (inaudible)? [LB939]

GREG BUTCHER: I don't have that data. [LB939]

SENATOR CHAMBERS: Okay. That's all I will ask then. Thank you. [LB939]

GREG BUTCHER: Thank you. [LB939]

SENATOR ASHFORD: Senator Davis. [LB939]

SENATOR DAVIS: Just kind of a couple technical questions. But some automobiles are owned by corporations so they'll be titled under a corporate name with...how are you going to track the driver in the corporate car? [LB939]

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GREG BUTCHER: I haven't ever broached that question, but I imagine we would handle it the same way that we would prosecute and you would be ultimately guilty. If somebody came in on behalf of a corporation, because you could be driving a corporate car, if the car is uninsured, I believe you're still going to get the ticket, and then it will have to be sorted out with a judge and ultimately maybe the fact finder. [LB939]

SENATOR DAVIS: And then the... [LB939]

GREG BUTCHER: But I would imagine, if you were the one that presents the information, I mean, unless you're...someone else within your corporate entity was the one that created it and just handed you to walk off and go present it to me, I would imagine that determination would have to be made by the fact finder and by a judge ultimately. [LB939]

SENATOR DAVIS: Well, along the same lines then, supposing that you're...borrowed a car...if I borrowed Brad's car and I get stopped and Brad's insurance is fraudulent, is it...does it go back on Brad or does it go back on the driver of the car that may not have known anything about it? [LB939]

GREG BUTCHER: Again, I hadn't broached that question, to be honest. But I would imagine it would be whoever would be responsible for driving without insurance. And it talks about knowingly, so if you didn't know that Brad's...Senator Ashford's insurance was expired... [LB939]

SENATOR ASHFORD: Either is fine. I'm...I could... [LB939]

GREG BUTCHER: If you didn't know Senator Ashford's insurance was fraudulent or expired or unpaid, there is an element of mens rea, of knowingly presenting that to the peace officer. And so I'd imagine you, as the actor that was driving, would not be responsible under this citation. [LB939]

SENATOR ASHFORD: Yes, Senator Chambers. [LB939]

SENATOR CHAMBERS: I want to see if I heard Senator Ashford properly, correctly. With reference to your name, did you say, either is fine? [LB939]

SENATOR ASHFORD: Either and... [LB939]

SENATOR CHAMBERS: Thank you, Senator "Either." (Laughter) [LB939]

SENATOR ASHFORD: Yes. I should have been more clear,... [LB939]

SENATOR CHAMBERS: That's all right. [LB939]

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SENATOR ASHFORD: ...clearer. [LB939]

SENATOR CHAMBERS: That's all right. Just a moment of levity. [LB939]

SENATOR ASHFORD: No, it was a good moment. (Laugh) All right. I think that's it, Greg. I don't see any more questions. [LB939]

GREG BUTCHER: All right. Thank you so much. It was a pleasure. [LB939]

SENATOR ASHFORD: (See also Exhibits 1 and 2) Right. Thanks for coming. Any other proponents, those for the bill? Anyone against the bill, speaking against it? Neutral? Senator Wallman waives. Now when a senator waives, that means he's not going to talk anymore about his own bill, so we're...and we let them do that if they wish. Okay, let's go to Senator Karpisek who I believe is here. I saw him come in. Maybe he left. LB998. I see Dr. Simmons is here. It's the first time we've had the opportunity of having you here at least since I've...I don't know what happened to Senator Karpisek. He was here. [LB939]

SENATOR MCGILL: That last one must...may have ended quicker than... [LB939]

SENATOR ASHFORD: Alex, would you call him? [LB998]

ALEXANDER MALLORY: Yeah. [LB998]

SENATOR LATHROP: He was here just a second ago. [LB998]

SENATOR ASHFORD: Yeah, he just walked in. [LB998]

SENATOR LATHROP: I saw him behind the... [LB998]

SENATOR ASHFORD: Maybe he went out the back door or the window or something. (Laugh) You'd better go find him, Alex, yeah. [LB998]

SENATOR CHAMBERS: Should we go to the next bill? [LB998]

SENATOR ASHFORD: Well, I...yeah, we probably... [LB998]

SENATOR MCGILL: I don't know if they're here either. [LB998]

SENATOR ASHFORD: Oh, here he comes. Okay, Senator. [LB998]

SENATOR KARPISEK: Sorry. [LB998]

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SENATOR LATHROP: Well? [LB998]

SENATOR KARPISEK: Well, I should have just stayed here. [LB998]

SENATOR ASHFORD: All right. Welcome. LB998. Senator Karpisek from Wilber, Nebraska. [LB998]

SENATOR KARPISEK: With an "e," spelled with an "e," Senator Ashford. [LB998]

SENATOR ASHFORD: The great city of Wilber, yeah. [LB998]

SENATOR KARPISEK: (Exhibit 3) Judiciary Committee, for the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. I am handing out a letter from a father of a young man who is in a situation that I am trying to fix with this bill. LB988 deals with penalties dealing with ignition interlock devices. If a person has been charged with driving under the influence, they may be able to install an ignition interlock device in their vehicle. The ignition interlock device does not allow the vehicle to start if usually there is maybe .03 of a gram by weight of alcohol per 210 liters of his or her breath. I'm sure you're all familiar with ignition interlock devices. The issue with this is that if that person drives a vehicle that does not have an ignition interlock and is pulled over, they are guilty of a Class IV felony. LB988 would change that to a Class I misdemeanor unless that person has .02 or over in their blood or breath. If that is the case, it would still be a Class IV felony. So just what happens if I unfortunately would get a DUI, which of course couldn't happen, but get an interlock device, go to get in that vehicle in the morning, it doesn't start, dead battery, I'm late for work, maybe not this job because we can check out but at another job, I jump in my other car that doesn't have an ignition interlock device, get pulled over: It's a Class IV felony. I think that the punishment does not fit the crime here. I'm not trying to say that we should be easy on drunk drivers--why I have in the bill if it's over a .02, it would still be a felony. Even in the ignition interlocks there is a fail-safe and I...we've got a couple people here that know much more about interlocks than I do...that if there is a .02, .03 under, the car would still start if you had used some mouthwash in the morning or I think fresh-baked bread may trigger it. So again, I'm not trying to make it so anyone can drink and drive. And it would still be a Class I misdemeanor, which I think has mainly the same...a lot of the same penalties or up to it. It just doesn't make a felon out of a person who is trying to get to work. If you were to have three DUIs, lowers, you would have less of a record than driving once, stone sober, without your interlock device. There are other parts of the bill that talk about tampering with the device. I think that we'll have some testimony about that and I do have an amendment drawn up that might help with that, but I don't think I want to hand that out now because no one else has seen it. I thought, I'll hang onto that and in closing distribute it to the committee if that would help with that. With that, I would be willing to take any questions. [LB998]

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SENATOR ASHFORD: It's interesting that I was reading the...I don't know if anybody else saw in the Lincoln Journal this morning they had an article, Joe Nigro over at the Lancaster Public Defender's Office has to hire a new attorney at \$88,000 because of the 177 felony cases that were...have been brought in Lancaster County for this very problem. And so that's cost the taxpayers a substantial amount of money hiring a new public defender and so forth and so on, just primarily because of the...of this particular law. So I think it's something that's worthy of further investigation. [LB998]

SENATOR KARPISEK: And again, I don't want to make light of a DUI. I don't want to say that we should let them off. But really, something as driving a vehicle without an ignition interlock and being sober, I don't think it should carry a felony. [LB998]

SENATOR ASHFORD: Right. Okay. Any questions of...I don't see any, Russ. Thanks. [LB998]

SENATOR KARPISEK: All right. Thank you. [LB998]

SENATOR ASHFORD: Any of those for the bill, would like to speak about the bill in favor of it? We have a public defender person, young lady. It's not Joe Nigro but it's someone else. [LB998]

MANDY GRUHLKEY: Hello, Judiciary Committee. My name is Mandy Gruhlkey, public defender in Sarpy County, and I'm here on behalf of the Nebraska Criminal Defense Attorneys Association. We are in support of this bill and also the amendment that Senator Karpisek mentioned. One reason that we support this bill, our office in the Sarpy County Public Defender's Office has actually had a case that we had to defend that relates to this. Our client was a 19-year-old kid. He...there's been a lot of the adolescent brain development research here. First time DUI for this kid and completely immature thinking. He was ordered to have the interlock when he was driving. He had a dirt bike, a road bike that he had been working on, just wanted to take it for a test drive, was probably going a little bit too fast, was pulled over for speeding, and from there he was prosecuted as a felon. And this is the kind of instances that we would like to...we would like this bill to be passed so that we can avoid things like this. Another instance would be a farmer in western Nebraska. There's an emergency on the farm. He needs to get the injured party to a hospital as soon as possible. The vehicle that he may have available to him may not have that interlock device in it and he has to make a choice--do I get a felony charge or do I take this injured person to the hospital? We don't want these people to be faced with that sort of decision so we do support this. The amendment that we would want to also support, it goes to Section 1 of the bill. Where Section 1 actually only applies...it applies to people that tamper with the interlock device, but nowhere in there does it talk about the person...that person doesn't actually have to make the decision to drive, so we feel that that's penalizing a group of people

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and it's not the purpose for this bill. We really think that the...anyone that is sober should be only given a Class I misdemeanor because the purpose of this bill and the crime here in this bill is that anyone that's driving that is not sober that blows over that .02, those are the ones that should be given that Class IV felony. The Class IV felony is also...just, you know, briefly here I...there...the ones that...if these drivers or the people that are found guilty of these Class IV felonies, the other Class IV felonies are assisted suicide, stalking, strangulation, terroristic threats, and we just want to avoid having people like this kid that our office had to defend being put in with those class of felons. [LB998]

SENATOR ASHFORD: Senator Chambers. [LB998]

MANDY GRUHLKEY: Yes, Senator. [LB998]

SENATOR CHAMBERS: Will it affect cases that are pending at the time the bill takes effect? [LB998]

MANDY GRUHLKEY: You know, Senator, I am not sure whether or not it would. I would... [LB998]

SENATOR CHAMBERS: Why does it...and you didn't introduce it. I should have asked Senator Karpisek, and I can, but why it doesn't have the emergency clause in view of what it is we're looking at. And by asking you, when he comes up, he will be able to answer the question that's on my mind. [LB998]

MANDY GRUHLKEY: Okay. [LB998]

SENATOR CHAMBERS: But that's all I have. Thank you. [LB998]

MANDY GRUHLKEY: Okay. Thank you, Senator. [LB998]

SENATOR ASHFORD: Thanks, Mandy. [LB998]

MANDY GRUHLKEY: Thank you. [LB998]

SENATOR ASHFORD: Any other proponents of the bill? [LB998]

SCOTT GROPP: Good afternoon. My name is Scott Gropp. I'm here representing both the Criminal Defense Attorneys Association, as well as a sole practitioner...excuse me...a practitioner in southwest Nebraska who has had to deal with this case many times so far. Senator Ashford, I think it's very relevant that you point out that article because two of my clients...in fact, last year when I worked with Senator Karpisek on this bill in a different form...but two of my clients were sitting with pending cases that this

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directly affected. And as an outcome for those cases, both of them now are convicted felons with only prior misdemeanor DUIs on their record, and both of them had zero alcohol in their system at the time they were pulled over for driving. I won't go into their specific scenarios that brought them to that, but I can tell you that...their sentences: one received 30 days' jail and one received 60 days' jail. Both of them would have been easily handled under a Class I misdemeanor so there doesn't seem, to me, to be a reason that people who follow some of the scenarios that were previously testified about become felons when punishment and the deterrent could easily be handled under a misdemeanor. Again, as Senator Karpisek said, if these people who are continuing to drink and drive, they need a more substantial deterrent, then the blood alcohol level being over the .02 and making them a felon would be the way to do it. I also would point out that there are a number of scenarios whereby defense attorneys have tried to look at manipulating the way the structure is set up, and that is that if you currently...Department of Motor Vehicles has discretion when your criminal case is heard by the court. And depending on the outcome of that, they can take back the administrative license revocation, but that only happens under certain scenarios. But it's entirely possible that you could have no conviction for the DUI that you were originally pulled over for, but because of the administrative license revocation and your subsequent violation thereof, you would be a felon without the underlying crime ever being proven, depending on the circumstances. So I would point those out, too, and would take any questions. [LB998]

SENATOR ASHFORD: Yes, Senator Davis, Senator Chambers. Senator Chambers, then Senator Davis. [LB998]

SENATOR CHAMBERS: Do you have an opinion as to whether a bill like this, when it should take effect, would have an impact on cases that haven't reached a final conclusion? [LB998]

SCOTT GROPP: If there was an emergency clause in this, I think that would be wonderful. I would have...it would have been great if it would have been last year so that two of my clients wouldn't currently be felons. But anything that we could do to resolve it right now would be wonderful. [LB998]

SENATOR CHAMBERS: And I'm going to say this for the record: I don't know whether many people have a harsher attitude toward people who drink and drive, especially repeatedly. But I also look at the kind of sentencing structures that we have and we should never let an emotional reaction to a particular offense cause us to create a punishment that is out of all proportion to the nature of the offense. And you can have graduated penalties but not at the very bottom end such a harsh penalty that we have a lot of people in jail who really don't belong there when you look at the circumstances. And that's the context in which I ask the question. [LB998]

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SCOTT GROPP: I would concur with that, with your opinion on that, Senator Chambers. [LB998]

SENATOR ASHFORD: Thanks. Senator Davis. [LB998]

SENATOR DAVIS: My main question is just because I'm unfamiliar with the penalties. But if you've got some second-offense DWI, what does that... [LB998]

SCOTT GROPP: With probation or without probation? [LB998]

SENATOR DAVIS: You'll have to work through to me with this. [LB998]

SCOTT GROPP: Well, if it was a nonaggravated second DUI, I believe that has ten days in jail, I want to say, \$1,000 fine. But here, you know, we... [LB998]

SENATOR DAVIS: And it's a Class I misdemeanor? [LB998]

SCOTT GROPP: It would be a...I think a nonaggravated is still a W, Class W misdemeanor. There...the only way you can get to a felony on your DUI, at least the easy way to say it, is if you're aggravated third and subsequent. So it certainly would be possible for a, you know, 21-year-old person to receive a DUI and before they're even adjudicated...or not adjudicated but tried on that. If they violate the administrative license revocation, then the next thing you know they're charged with a felony and... [LB998]

SENATOR DAVIS: It seems like quite an overreaction to me. [LB998]

SCOTT GROPP: And I understand that the original intent was to deter, you know, repeated, but that's not...it...the net has been cast far and grabbed way more people than that. [LB998]

SENATOR ASHFORD: Good comments. Thanks. [LB998]

SCOTT GROPP: Thank you. [LB998]

SENATOR ASHFORD: Any other proponents for the bill? I don't see anyone else. Anybody opposed to the bill? Neutral? Senator Karpisek. [LB998]

SENATOR KARPISEK: Thank you, committee, and thank you for the people who testified. Senator Chambers, I agree, if the E clause...I had this almost same bill in Transportation last year and I...it got killed. So I guess to even think about an E clause for me was... [LB998]

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SENATOR ASHFORD: You're in a different place this year, Senator Karpisek. [LB998]

SENATOR KARPISEK: (Exhibit 4) I understand, and Senator Chambers and I, we talked about it in Referencing and as usual he gets...between him and Senator Lathrop, they get the bills over here that should be. I will hand out the amendment. And again, I apologize for not having this earlier. Some of those things came up. In my committee, I don't like someone to come up and testify with an amendment because no one else has seen that and I don't think that that is fair. I hope that this deals with some of what we have heard. Again, the amendment mainly talks about if someone tampers with that device. If I have the device, my son takes my vehicle out to the basketball game, maybe has a couple beers, can't get the car started and tears out the wires, I get in, in the morning, I don't know it, I'm on the way to work, get pulled over, bang, I'm a felon again. So that is kind of what the amendment would do. And I'd be glad to answer any other questions if there are. [LB998]

SENATOR ASHFORD: Yes, Senator Seiler. [LB998]

SENATOR SEILER: Are you going to add the emergency clause to this? [LB998]

SENATOR KARPISEK: I would be very happy to add the emergency clause, Senator. [LB998]

SENATOR SEILER: But...okay, it isn't...I didn't see it in here. [LB998]

SENATOR KARPISEK: It is not...like I said,... [LB998]

SENATOR SEILER: Okay. [LB998]

SENATOR KARPISEK: ...I had this almost very exact bill in Transportation last year and it got killed, so I was more worried about getting it... [LB998]

SENATOR ASHFORD: You were somewhat...you had some trepidation. [LB998]

SENATOR SEILER: You're in a higher order. [LB998]

SENATOR KARPISEK: I understand that. Senator Price was very nervous about the .02 in there. Well, the reason for that is, is that some things you can get a false positive maybe on your readings. The interlocks are set to have a little bit in there, so again, that was a lot of trepidation last year. [LB998]

SENATOR ASHFORD: Senator Chambers. [LB998]

SENATOR CHAMBERS: Senator Karpisek had said he'd answer any other questions.

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I'm not going to stretch this out. What other committee are you on? Because I was before a committee that you're on, but I forget which one. [LB998]

SENATOR KARPISEK: Well, I chair General Affairs Committee. [LB998]

SENATOR CHAMBERS: Oh, it wasn't that one. [LB998]

SENATOR KARPISEK: No, it was Government Committee yesterday, Senator Chambers. [LB998]

SENATOR CHAMBERS: And we were probably nicer to you than that committee overall was to me. Would you agree? [LB998]

SENATOR KARPISEK: Oh, I don't think we were mean to you; we just didn't do as good a job as committee members as you thought. [LB998]

SENATOR CHAMBERS: The point of comparison was nicer, not meaner. [LB998]

SENATOR KARPISEK: (Laughter) Oh, well, yes, you were. But your bill maybe was a little more heated. [LB998]

SENATOR CHAMBERS: Okay. Thank you. [LB998]

SENATOR ASHFORD: Nonetheless, important. [LB998]

SENATOR KARPISEK: Very important, as we were told. [LB998]

SENATOR ASHFORD: Yeah. Thanks, Senator Karpisek. (Laughter) [LB998]

SENATOR KARPISEK: Thank you, committee. [LB998]

SENATOR ASHFORD: All right. Thank you, Senator. Now I don't...we have LB921 is next which is...we're...I'm looking forward to LB921. But I don't see Senator Nordquist, so...but... [LB921]

SENATOR LATHROP: Nicole is taking it. [LB921]

SENATOR ASHFORD: Nicole is going to introduce LB921. I think you told me that last night so. [LB921]

NICOLE BEHMER: (Exhibit 5) Mr. Chairman, members of the committee, thank you for your time today. My name is Nicki Behmer, that's spelled N-i-c-k-i B-e-h-m-e-r, and I am representing Senator Nordquist from District 7 in Omaha. He would like to be here today

but he is attending an executive committee meeting on the National Conference of State Legislatures. I am here today to introduce LB921 which seeks to prohibit the sale, possession, trade, and distribution of shark fins or shark fin products in the state of Nebraska and would make doing so a Class V misdemeanor. The issue LB921 seeks to address was brought to Senator Nordquist by students from the Zoo Academy. LB921 seeks to make a statement and deter shark finning, a particularly cruel process in which people cut the fins off of live sharks and return their bodies to the water. The sharks inevitably are left to suffer slow, painful deaths by drowning or blood loss. This process affects nearly 70 million sharks worldwide each year, many of which are endangered species. While we are a landlocked state, the product of this cruel process has been on our shelves in Omaha markets, so the issue is relevant to Nebraska. As both apex predators and scavengers that are an integral part of the food web, sharks are crucial to the survival of ecosystems by influencing sustainable harvested fish populations. Unlike many other fish populations, sharks take up to 15 years to mature and are slow to reproduce. Their fragile and slow reproduction rate means that their populations may never recover from the damage we have already inflicted. By prohibiting these products, our state is sending the message that we don't want to engage in any way in such cruel and unusual practices that indefinitely harm an ecosystem that benefits us all. Following me will be some students from the Zoo Academy and others who are passionate and knowledgeable about this issue, and I would like to enter into the record a letter from Max Allen. [LB921]

SENATOR ASHFORD: Okay. This is a...I've been looking forward to this hearing for quite awhile. We don't get to do stuff like this very often. Okay. How many testifiers do we have for the bill? Okay. Good. And now do you know to sign your...and those who are here for the bill and that...who do not wish to testify may sign a sheet and indicate their support. So we have a letter here. And why don't we start with those testifiers who are supportive of this bill. Dr...or is he...okay. [LB921]

BAILEY KUSTKA: Thank you, Senator Ashford and committee. My name is Bailey Kustka, K-u-s-t-k-a. I am here today to support LB921. Shark finning is the practice of fishermen pulling live sharks on board, cutting off their fins, and then throwing the rest of the shark back into the water to die of asphyxiation or to be eaten alive by other fish. When fishermen do this, they only take 5 percent of the shark and leave the other 95 percent. It is estimated that 70 to 100 million sharks are killed every year. Some scientific journals claim that 100 million is a conservative number. They claim that the real number 63 to 273 million. At least 50 percent of these deaths are caused bycatch. This is where the gear that is not meant to catch fish, they do. The most common method of landing these animals are by super trollers setting long lines. Unfortunately, the lines can reach 20 to 50 miles with hooks every 20 to 30 feet. Along with sharks, other major problem that is used will be a lot of bycatch--turtles, dolphins, seals, small whales, and birds. Sharks are the apex predator, so if they are taken out of an environment, the second-tier predators are able to reproduce and cause damage to an

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ecosystem. One example in where the sharks were overfished, the cownose ray populations dramatically increased, taking a large toll on scallop fishing in the mid-Atlantic, nearly bringing the practice to an end which had previously been going strong for over 100 years. Another example is the Humboldt squid populations have increased. This took a large toll on hake fish. The Humboldt squids have taken over the Pacific coast and have recently been found in the Gulf of Mexico. They are thriving on effects of climate change, decimating fish populations, and even begun attacking humans. These examples show that when an apex predator is taken out of an ecosystem, the balance is destroyed by the decrease and increase of certain fish populations. Thank you. [LB921]

SENATOR ASHFORD: It's very, very interesting. So how long have you been working on the shark issue? [LB921]

BAILEY KUSTKA: Personally, I've been working on this issue throughout this school year. We started in August--well, I personally started in August. It's been going for several years. [LB921]

SENATOR ASHFORD: How long has the group been working? [LB921]

BAILEY KUSTKA: I'm going to have to defer that question to my instructor. [LB921]

SENATOR ASHFORD: Well, thank you for doing it. Thanks for coming. Any questions we have? Thank you. Okay. [LB921]

SENATOR LATHROP: Can I just ask one? The number of sharks that are killed each year,... [LB921]

BAILEY KUSTKA: Um-hum. [LB921]

SENATOR LATHROP: ...how many of them are killed in this practice or for this practice? [LB921]

BAILEY KUSTKA: For this practice? I'm also going to defer that off to my teacher. [LB921]

SENATOR LATHROP: Okay. Okay. [LB921]

BAILEY KUSTKA: Thank you. [LB921]

SENATOR ASHFORD: You had a lot of good answers though in your comments. Okay. Next testifier. [LB921]

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BRETT HOMME: Thank you, Senator Ashford and committee. My name is Brett Homme, B-r-e-t-t H-o-m-m-e, and I'm here to support LB921. I'm here today to talk about the nutrition of the shark fins. By themselves, shark fins have very little nutritional value and almost no taste. However, they can contain high amounts of toxins that they...that the sharks obtain through a process called bioaccumulation. Bioaccumulation is a process where the heavy metals and pollutants get into water and are then absorbed by smaller organisms, such as plankton. Then, when a fish eats that plankton, they are able to absorb some of those toxic chemicals. As that fish eats more and more plankton, the chemicals build up in its body and that's a cycle that continues for larger fish as that fish gets eaten, and then another large fish as that fish gets eaten, all the way up to sharks. And because sharks are the apex predator and have very few natural predators, they will eat literally tons of fish in their lifetime and will almost never get eaten which means that with sharks the stockpile is huge. Some of these toxins can be very dangerous to humans, such as methylmercury, BMAA, which stands for beta-Methylamino-L-alanine, and arsenic. Methylmercury is a neurotoxin that can cause serious neurological and heart problems for humans, as well as infertility. BMAA has been linked to Alzheimer's and other degenerative brain diseases. Arsenic has been known to cause heart problems, stroke, diabetes, cancer, and respiratory diseases. The...my fellow student mentioned earlier that 70 to 100 million. That number was found from a research study that was published in a scientific journal, Marine Policy, in July of 2013. And the real number it actually said could be anywhere from 23 to 273 million and that the 100 million is a conservative estimate. Based on that information, two visual heavy artists found out that if they were to break that down by hour, that would be 11,400 sharks killed per hour. On the other hand, only about 12 humans are killed per year by sharks. If you break that 11,400 number down even further, to by second, that's about three sharks killed per second. To put that in perspective, by the time that I finish this sentence, more sharks will have been killed than will kill humans in an entire year. Thank you. [LB921]

SENATOR ASHFORD: Because they're an apex, they're at the top of the chain. [LB921]

BRETT HOMME: Yes. [LB921]

SENATOR ASHFORD: So when they are killed or they die after their fins are removed, then they...these toxins then...what...they go into the water I suspect and then infect other organisms. Is that the point your make... [LB921]

BRETT HOMME: Are you talking about if they die naturally? [LB921]

SENATOR ASHFORD: Yeah. [LB921]

BRETT HOMME: Then... [LB921]

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SENATOR ASHFORD: Well, no. If you...if the...you're indicating so many have been...are killed through this process. [LB921]

BRETT HOMME: Well, they...when the fins are taken off, the fins are mostly just high amounts of fat, and that is where most of the chemicals end up being stored is in the fat. So then when that...when...because as my student said, we really only take most...the fins and then just leave the rest of the shark to die. When we take those fins, because that's where the high amount of chemicals and toxins are held, then that's what we end up eating is mostly just chemicals and toxins. [LB921]

SENATOR ASHFORD: Oh, the fins themselves are what causes the toxins to get into the...for human consumption. [LB921]

BRETT HOMME: Yes. [LB921]

SENATOR ASHFORD: Okay, that's a wonderful point. Any other questions? [LB921]

SENATOR LATHROP: Can I ask one? [LB921]

SENATOR ASHFORD: Senator Lathrop. [LB921]

SENATOR LATHROP: Is there a...there's a certain part of the population that eats these, right? That's what they're used for? [LB921]

BRETT HOMME: For the shark fins? [LB921]

SENATOR LATHROP: Yes. [LB921]

BRETT HOMME: I don't know. I don't have the actual numbers, but there...as we have found cans of soup in spots, in markets around Omaha, Asian markets around Omaha... [LB921]

SENATOR LATHROP: But that's why they're harvesting the fins. [LB921]

BRETT HOMME: Yes, because recently, I believe it was in the mid '90s or so, the...it used to be that the bowls for shark fin soup could cost up to \$100. But then they became more readily available, and so then the prices started going down and then the demand increased. So it's really been only within the past couple of decades where the numbers have been really increasing and fisherman have only gone out and specifically either hunting sharks or with the long line trollers and catching sharks and cutting them off by much more...much larger numbers than they were before. [LB921]

SENATOR LATHROP: For those who eat these fins, is there some benefit associated

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with it? [LB921]

BRETT HOMME: There is. [LB921]

SENATOR LATHROP: Do they think they...like, it helps their joints or... [LB921]

BRETT HOMME: They...there... [LB921]

SENATOR LATHROP: I mean, is there some nutritional thing that people think is helpful? [LB921]

BRETT HOMME: It is considered a delicacy by some cultures. [LB921]

SENATOR LATHROP: Okay. [LB921]

BRETT HOMME: And then there is possible that some people also consider it to have herbal effects of some kind, sort of like some natural medicine. [LB921]

SENATOR LATHROP: Okay. [LB921]

BRETT HOMME: But in reality, there is almost no nutritional value and they have very little taste. [LB921]

SENATOR LATHROP: Okay. [LB921]

BRETT HOMME: And dishes such as shark fin soup, they're accented with things, such as crabs and other spices, to make it have a taste, but by themselves they don't have any. [LB921]

SENATOR LATHROP: Okay. Thank you. [LB921]

SENATOR ASHFORD: Okay. Thank you very much. I don't see any other questions. Good presentation. Okay, let's go to the next testifier. [LB921]

MERRITT POLOMSKY: Hello. My name is Merritt Polomsky, P-o-l-o-m-s-k-y. I will now present to you a series of letters written by several Nebraskan advocates for LB921. This first letter is from the Association of Zoos and Aquariums, of which the Henry Doorly Zoo and Aquarium is a member. I will be reading this for Jim Maddy, president and CEO. Dear Senators, as president and CEO of the Association of Zoos and Aquariums, or AZA, I'm writing to express my support for LB921 which would prohibit the possession, selling, offering for sale, trade, or distribution, of a shark fin or any product containing shark fin, except for AZA-accredited zoos and aquariums and accredited museums. Founded in 1924, the AZA is a 501(c)(3) nonprofit organization

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dedicated to the advancement of zoos and aquariums in the areas of conservation, education, science, and recreation. AZA is the independent accrediting organization for the premier zoos and aquariums in America and the world, including four institutions in Nebraska--Omaha's Henry Doorly Zoo and Aquarium, Lee G. Simmons Conservation Park and Wildlife Safari, Lincoln's Children's Zoo, and Riverside Discovery Center. Fewer than 10 percent of the 2,800 wildlife exhibitors licensed by the U.S. Department of Agriculture under the Animal Welfare Act meet the more comprehensive standards for AZA accreditation. AZA represents more than 200 institutions in the United States and overseas which collectively draw more than 182 million visitors annually, generating more than \$21 billion in annual economic activity and support more than 204,000 jobs. They also spend annually \$160 million on field conservation, supporting more than 2,600 projects in 130 countries. As centers for conservation involvement, AZA-accredited zoos and aquariums are essentially...are essential to science and economic education. AZA-accredited facilities train 40,000 teachers each year, supporting state science curriculum with teaching materials and hands-on opportunities for students who otherwise have no firsthand experience with wildlife. Sharks are essential to maintaining the balance of marine life. As their populations decline, the health in the world's oceans and marine ecosystems will be significantly threatened. Therefore, I urge the Legislature of Nebraska to pass LB921 and join with the growing number of U.S. states and territories that are banning the trade of shark fins. Thank you for your attention to this matter. Sincerely, Jim Maddy. I also have letters from the Nature Conservancy of Nebraska; a photographer, Mr. Thomas Mangelsen; and I also have one from Mr. Joel Santore, a National Geographic fellow. And I will stop. [LB921]

SENATOR ASHFORD: That was very well done and right on time. [LB921]

MERRITT POLOMSKY: Yeah, I saw the light and I kind of started panicking. [LB921]

SENATOR ASHFORD: No, you didn't seem like you were panicked. So, okay. Any questions? We are indeed fortunate to have our four zoological facilities, aren't we? [LB921]

MERRITT POLOMSKY: Yeah. I enjoy working there very much. [LB921]

SENATOR ASHFORD: Yeah. It's been great for the state. Thanks. Thanks, Merritt. Okay. That's fine. I don't see any other questions. Yeah, we'll make copies and make sure everybody gets the letter and...next proponent, next testifier. Who would like to come up? Okay. [LB921]

KATHY VIRES: My name is Kathy Vires, that's V-i-r-e-s. I have been with the Omaha Henry Doorly Zoo and Aquarium for over 40 years as an animal area supervisor and curator and now educator for the Omaha Zoo. Twenty-six of those years were spent managing two of the zoo's aquariums and developing a volunteer scuba diving team to

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help keep it clean and everything. And in this cleaning of all the systems and educating people, the divers and the employee divers spend many hours diving with these sharks, these, quote, man-eating sharks. And then that's just to say these are just amazing animals. They aren't out there trying to kill people. It's just that we've done a little bit too much building and swimming in their homes, and that's why we run into each other once in awhile. But these are majestic animals. They are the top predator of the oceans and we will have an extreme amount of damage with their numbers declining and declining. I want to say how impressed I am with the research that the students from our Zoo Academy have done, and they have been spot on in everything that they have said this afternoon and I am very proud of them. [LB921]

SENATOR ASHFORD: We all are proud of them, and thank you for 40 years of service. It...the gate just doesn't open and people come in and then leave. There's more to a zoo than that I think. [LB921]

KATHY VIRES: Oh, yeah, much more, much more. [LB921]

SENATOR ASHFORD: Okay. Thank you. [LB921]

SENATOR DAVIS: Senator Ashford, can I ask a question? [LB921]

SENATOR ASHFORD: Yes, Senator Davis. [LB921]

SENATOR DAVIS: This bill specifically exempts zoos from this requirement, and can you explain why that would be? [LB921]

KATHY VIRES: Of capture of? [LB921]

SENATOR DAVIS: It just says that this section does not apply to any zoo or aquarium accredited by the Association of Zoos of America or zoos or aquariums or any accredited museum that possesses, sells, trades, etcetera. So I just wondered if you could explain... [LB921]

KATHY VIRES: Oh, by possessing sharks. [LB921]

SENATOR DAVIS: Shark fins. [LB921]

KATHY VIRES: Oh, okay, yeah. We would have artifacts from animals that have passed away. I think that's probably what we're trying to cover because we use a lot of animal artifacts to educate our public that come through the gates. And one of the things that I think is very crucial to what we do and what we make people understand about conservation education is that they have to see these things and they have to experience these things by the...our total immersion exhibits by walking through them

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and talking to our employees, reading our graphics, to totally understand what we're working toward. [LB921]

SENATOR DAVIS: I just kind of wanted to get that on the record. [LB921]

KATHY VIRES: Okay. [LB921]

SENATOR DAVIS: I figured that was the reason. [LB921]

KATHY VIRES: Yeah. [LB921]

SENATOR DAVIS: But I thought it was important to be part of the record. [LB921]

SENATOR ASHFORD: Thanks, Kathy. [LB921]

KATHY VIRES: Um-hum. [LB921]

SENATOR ASHFORD: And by the way, Senator Coash has snuck in, from Lincoln, so we're glad that he's here. Okay, the next person in favor of the bill that would like to...over here, and then we'll... [LB921]

MARK ROBERTS: Good afternoon. My name is Mark Roberts, that's M-a-r-k R-o-b-e-r-t-s. I'm from Omaha and I'd like to make one thing pretty clear, I guess, up front and that is that shark fin soup is really nothing more than a status symbol. There's no taste to it, there's no value to it. It's simply a status symbol. Okay. According to figures from the Pew Charitable Trusts and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, shark finning, the practice of catching a shark, slicing off its fins, and then discarding the body at sea, takes a tremendous toll on shark populations. Up to 73 million sharks are killed every year, primarily to support the global shark fin industry. Seventy-three million per year, that's in the neighborhood of 200,000 sharks a day. In contrast, as you heard earlier, sharks kill about an average of a dozen humans every year and most of those deaths are unintended. Sharks occasionally mistake us for seals or other sea life that they really like to eat. It's very rare that a shark actually eats a human. It seems a little lopsided that we kill 6 million times more sharks than they kill us. Those are big numbers. The fact is, we're quickly destroying our most valuable resources, the world's oceans. All ecosystems are dependent upon a complete range of creatures, from the top of the food chain to the bottom, our oceans more so than any other. Removing a link from that chain disrupts the entire system. As we all know, sharks are the sea's apex predator. As such, they serve what may be the most important purpose in a healthy ecosystem. Without them, fish populations become unbalanced and overuse the resources, the food, and space that are required to maintain healthy populations. If sharks become extinct, which is a real possibility at the rate that we're killing them, it's only a matter of time until our

oceans will no longer provide us with food, increased scientific knowledge, and the beauty that we as humans enjoy via swimming, snorkeling, scuba diving, fishing, and boating. Evidence of this decline becomes more obvious every time I go scuba diving. There are fewer fish, and certainly fewer sharks, and less coral every year. Everything in the ocean is dependent upon everything else, and we seem to be ignoring that. I've had the pleasure of diving in places around the world for more than ten years now. I can tell you from personal experiences that shark sightings have declined rapidly. But all is not lost. If we act quickly, we can reverse that trend. A few months ago, via People to People cultural exchange program, I was able to dive in the Gardens of the Queen, which is a marine protected area off the southern coast of Cuba. The gardens comprise more than 1,000 square kilometers of what we call a no-take zone. Fishing of any kind is prohibited and that mandate is strictly enforced. During my few days there, I witnessed elkhorn coral growing nearly 20 feet tall. That coral is virtually gone from any other Caribbean waters. I saw larger schools of fish than I've seen anywhere else in Caribbean waters and, with that, larger fish than I've seen in a long time. I also saw sharks on every dive, sometimes dozens of them. The ecosystem in the Gardens of the Queen is healthy and strong. The entire food chain exists and works naturally to maintain the balance it needs. Sharks do their job, and everything else follows in synchronicity. As well, Cuban fisherman harvest more fish than ever with the gardens acting as a huge nursery supplying legal fishing zones with greater and greater catches. Those harvested fish are a huge component of Cuba's economy and food, as they are around the world. I believe that established a model for the rest of us and we need to wake up, pay attention, and take action. And I see I'm out of time, but be happy to answer any questions. [LB921]

SENATOR ASHFORD: You made your point very well. Thanks, Mark. Any questions of Mark? That must be exciting to do. [LB921]

MARK ROBERTS: Absolutely. Let's go. Thank you. [LB921]

SENATOR ASHFORD: Yeah. Okay, I think there was someone over here. There we go. [LB921]

TAMI KASCHKE: (Exhibit 10) Good afternoon. Thank you very much for your time. My name is Tami Kaschke, T-a-m-i K-a-s-c-h-k-e, and I spent most of my life out west from North Platte as a John Deere dealer out there. And five years ago, my life kind of took a turn as I went to Gansbaai, South Africa, for what I thought at the time was a one-month adventure to work with sharks, and it's now turned into a full-time position where I split my time between here and South Africa researching great whites. So for those that say that Nebraska doesn't have any connections to sharks, you've got a homegrown Nebraska girl right in front of you that would beg to differ on that. But the issue of shark finning has been absolutely devastating to the world's populations. As many people have stated, the latest sighting study says that between 70 and 100 million are killed

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each year simply for their fins. And the team that I work with in South Africa just released the first population estimate for that area and the numbers are really scary. After comparing over 20,000 photos from six years, we were only able to match 532 individual sharks. So if that trend holds worldwide, that means there's less than 5,000 white sharks left in the world, making it a critically endangered species. And I think Nebraskans kind of understand the issues surrounding declining populations, as we face it every day in our small towns. We hate losing that small-town work ethic and charm, and we understand how much of an impact it makes when we lose some of that population on our statewide economy. So sharks are in kind of the same boat, so to speak, that once they're lost you can just never recapture that magic that they have. And the process of finning is a very brutal process. Most often, they're brought onto the boat, their fins are cut off while they're live, and they're thrown back in because the fishermen simply don't want the extra weight on their boat. When I was in Cape Town two years ago, a troller was caught with 1.5 million pounds of shark fins on one single boat, so again, conservatively estimated, that's at least 200,000 sharks on simply one vessel. So as you can see, it's an extraordinarily wasteful process. The fins themselves are used, as we've said, mostly for shark fin soup or for medicinal purposes. However, there have been no scientific evidence that there are any health benefits to them. So I can't think of anything more careless than taking a two-ton animal and, you know, using it for just a few pounds of soup seasoning. And to me, in this state I would liken it to taking a cow and just eating its ears. I mean, you're wasting that much of the extra product that are there. And one of the greatest problems that the sharks face is really an image problem. The media loves to fuel that dark obsession that they have with what's under the water and Jaws certainly didn't help them. But I always say, just as Nebraska doesn't want to be seen as a hick state, sharks don't want to be seen as man eaters. And with proper education, we can demonstrate the critical role that sharks play in our environment. And I've also heard it mentioned that shark finning isn't a big problem in our state so we should just kind of ignore the issue, and I couldn't disagree with that more. So I found a quote from Jacques Cousteau and he said: However fragmented the world, however intense the national rivalries, it's an inexorable fact that we become more interdependent every day; we forget that the water cycle and the life cycle are one. So in conclusion, I just want to say that a little-known fact about white sharks is that they can never sleep. They have to constantly be in motion to keep water going over their gills, and if they stop swimming they die. So I want to encourage this committee to kind of be like a shark and keep the state of Nebraska moving forward towards better ideals. I'm extremely proud that my home state of Nebraska is on the forefront of this matter and I hope that we can encourage and set a great example for the rest of the country. So thank you very much for your time. [LB921]

SENATOR ASHFORD: I think it's going to be relatively hard for us to ignore this issue. There are other issues we should be ignoring. This is not one of them. But do you document your work in South Africa? [LB921]

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TAMI KASCHKE: Uh-huh, I do. And actually, I'll leave you...this is our latest publication that I talked about with that population estimate that I've got there. [LB921]

SENATOR ASHFORD: Good for you. And you're going to eventually come back and... [LB921]

TAMI KASCHKE: Yeah. I split my time right now between North Platte and there, but it's becoming more time there all the time. (Laugh) [LB921]

SENATOR ASHFORD: Okay. [LB921]

TAMI KASCHKE: Absolutely majestic animals that you can't avoid. [LB921]

SENATOR ASHFORD: Good for you, Tami. Thanks. [LB921]

TAMI KASCHKE: Yeah. Thanks. [LB921]

SENATOR ASHFORD: Okay. Senator... [LB921]

SENATOR LATHROP: Can you tell me how much of the shark fin is done for people that live in the United States? Are we just like a little part of it and most of it is happening in Asian countries and more... [LB921]

TAMI KASCHKE: The majority of the problem, certainly the bigger numbers are certainly in Asia. But I think you're also seeing increased numbers. I mean, I take the example of just...I went to New York City and went into Chinatown and walked around and I didn't find a restaurant yet because I refused to go to one that had shark fin on the menu. And finally, my friends were kind of like, really, can we just go have Italian? You know, (laughter) so it is a more widespread reaction than you think and it's...I think you've got to address the program from that demand side. I don't blame a fisherman that's trying to, you know, get money to pay for his family. You've got to address it and say, no, we're not going to allow this product to be there. If you take that demand side out, that's when you start to take away the issue and the problem. [LB921]

SENATOR LATHROP: Thanks. [LB921]

SENATOR ASHFORD: Thanks, Tami. [LB921]

TAMI KASCHKE: Um-hum. Okay, thank you. [LB921]

DEAN HOLLIS: Good afternoon. My name is Dean Hollis, D-e-a-n H-o-l-l-i-s. I'm here as a proponent of the bill. If this were just about shark fin soup in Nebraska, I wouldn't be wasting your time. It's about a much bigger issue than that. So I'm really here to support

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sharks because they aren't here to support themselves. As you've heard from other people, I've had a lot of personal interactions with sharks, and they don't intend to hurt us and they certainly don't intend to kill us. We certainly do intend to hurt and kill them. And they aren't here to support themselves, so I hope I'm here to support for them. I'm also here to support our zoos and these wonderful students. I mean, that's incredible, the amount of research and passion, the work they've done for this cause. I'm also here to support our generations, and hopefully you're going to hear from one of my generations, and the importance that these interactions with our oceans have for our future generations. I'm also here to support our ecosystem. Seventy-five percent of the world...the planet is comprised of water, so it's a very, very important part with us. I think we'd all like to potentially have a debate with Al Gore around global warming, especially those people in Atlanta and the East Coast. But clearly we have to be sensitive and aware of what's happening to our ecosystem, what's happening to the water, and that's a very, very important part. And the way to do that, as you just heard, is we can't impact the supply side. I mean, the world is too big and the oceans are too big and there's too many people out there that are doing this. We have to impact it by addressing the demand side. And the way that we can address the supply side and the harmless killing of these sharks is to address the demand side with shark fin soup, and we can start that in Nebraska and we can support the other states that have done that and send the signal that, yes, in Omaha, Nebraska, it's important to us and our ecosystem is important to us, our future generations are important to us, and we're going to do something to address the demand side. I thank you for your time. [LB921]

SENATOR ASHFORD: Thanks, Dean. Yes, Senator Seiler. [LB921]

SENATOR SEILER: Let me just ask one question. On restaurants, do they sell shark, or grocery stores? [LB921]

DEAN HOLLIS: Yes, there are restaurants and stores that sell shark fin soup. [LB921]

SENATOR SEILER: Okay. Do they have the fins on them or...? [LB921]

DEAN HOLLIS: No. The soup, the actual...they use the cartilage and they cut the fin up and they boil that in the soup to... [LB921]

SENATOR SEILER: No, I'm talking about the legal restaurants and people that aren't just using the fin, that they're using the whole shark. [LB921]

DEAN HOLLIS: Most of them use just the shark, just the fin, because, as you've heard, it's so hard and it's inefficient for these...for the fishermen to bring the whole shark back. That's why they just use the fin, because that has the highest return. [LB921]

SENATOR SEILER: Nobody sells them through the grocery stores--not the fin but the

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shark meat--for restaurants? [LB921]

DEAN HOLLIS: Somebody will be more, you know, more knowledgeable about that than I am. [LB921]

SENATOR ASHFORD: I think you can certainly buy shark. [LB921]

DEAN HOLLIS: You can buy shark. And a lot of times when you buy fish, you think it's another...you may think it's a certain fish but it's actually not that fish. It's...you know, it could be shark or it could be anything. [LB921]

SENATOR SEILER: Okay. Thank you. [LB921]

SENATOR ASHFORD: Thanks, Dean. [LB921]

DEAN HOLLIS: Thank you for your time. [LB921]

MARK LANGAN: Good afternoon, Senator Ashford, Senators of the Judiciary Committee. My name is Mark Langan, M-a-r-k L-a-n-g-a-n, vice president of field operations for the Nebraska Humane Society. I'll be very short and brief. We applaud the efforts of the testifiers here, particularly the young people, the homework they did, and we support this bill as stated. That's all I have to say. Any questions? [LB921]

SENATOR ASHFORD: Short and sweet, to the point. [LB921]

MARK LANGAN: Thank you. [LB921]

SENATOR ASHFORD: Thanks, Mark. [LB921]

MARK LANGAN: Thought you'd like that. [LB921]

SENATOR ASHFORD: Okay. Next proponent. We'll go to this young man over here, and then over on that side. [LB921]

TRENT HOLLIS: Hello. I am Trent Hollis, H-o-l-l-i-s. Dean Hollis, I'm his generation, so (laughter). I... [LB921]

SENATOR ASHFORD: You look younger. (Laughter) But I...I mean, you never know. No, go ahead. [LB921]

TRENT HOLLIS: Okay. Today, I just want to talk about how, like, I'm a certified scuba diver and there...I just wanted to talk about how the oceans today, how when I scuba dive, are nothing compared to people like my dad when they got certified because of the

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way the sharks have been killed and eliminated because they're the apex predators and they just...so I just wanted to say how when I got certified I saw eight sharks and it was just amazing. It was an amazing sight that you get to see. Whenever...if you go diving and you get a see a shark, it's just like, oh, my gosh, this is awesome. I'm here today and they did not kill me. (Laughter) So why do we have to kill them? I mean, more people die from being...by vending machines than they do from sharks. So right now we should probably go kill the vending machines because... [LB921]

SENATOR ASHFORD: No, I agree with you on vending machines. [LB921]

TRENT HOLLIS: They're just terrible. [LB921]

SENATOR ASHFORD: (Laughter) I...keep going, keep going. You're on a roll. [LB921]

TRENT HOLLIS: And like how people have talked about the shark fin soup, the cartilage in the fins are literally just for the texture. So, like, you should...might as well just find something that's easier to get and is just better for you and just has a little bit more taste. So, yeah, that's all I have to say. [LB921]

SENATOR MCGILL: Awesome. [LB921]

SENATOR LATHROP: Well done. [LB921]

SENATOR ASHFORD: That was very, very well done. Thank you. So how many years have you been diving? [LB921]

TRENT HOLLIS: Just two. I got certified when I was ten, which is the age limit. [LB921]

SENATOR ASHFORD: Okay. Good for you. [LB921]

TRENT HOLLIS: So... [LB921]

SENATOR ASHFORD: Good. Well, thank you for... [LB921]

SENATOR LATHROP: And you are Senator Wightman's grandson. [LB921]

SENATOR MCGILL: No, no. [LB921]

TRENT HOLLIS: No. I was just here with a friend today. [LB921]

SENATOR LATHROP: Oh, okay. Okay. [LB921]

TRENT HOLLIS: So, yes, I am... [LB921]

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SENATOR LATHROP: I had that wrong. Okay. [LB921]

SENATOR ASHFORD: Well, Anna (phonetic) is here, I see, and...but thank you very much for coming. [LB921]

SENATOR LATHROP: You did a nice job. [LB921]

TRENT HOLLIS: Okay. Thank you. [LB921]

SENATOR ASHFORD: Good job. All right. You know, everybody in the state could be watching you, Dean. We have these little...you're on everywhere. (Laugh) We have these little cameras and we're not NSA but we have cameras. (Laughter) [LB921]

ANGELIKA BYORTH: I have a procedural question before you start the light. My son, who needs to be at work right now, sent along his written testimony. [LB921]

SENATOR ASHFORD: Sure. [LB921]

ANGELIKA BYORTH: And it would take less than a minute to read. Mine will be less than a minute. Can I read it or do I need to pass it on? [LB921]

SENATOR ASHFORD: Go ahead and read it if you'd like to. [LB921]

ANGELIKA BYORTH: (Exhibits 7 and 8) Thank you, and here is for you. [LB921]

SENATOR ASHFORD: That's an exception to the rule, by the way. (Laugh) But it's... [LB921]

ANGELIKA BYORTH: His and mine, okay? Okay. I'll read it just like he wrote it. My name is Carl W. Byorth, C-a-r-l W. B-y-o-r-t-h. I live at 2800 S. 33rd, Lincoln, 68506. My phone number is (402) 304-8012. I am testifying as an individual person who is not affiliated with an organization. Please enter my testimony into the record as for LB921. He writes: I believe that the Nebraska Legislature has a moral obligation to pass this bill which bans the possession or sale of shark fins. The majority of sharks are caught in an inhumane manner where animals are harpooned and brought aboard. Then the fins are cut off the still-live fish, who are then kicked back to the bottom of the ocean where they die a defenseless death. I fully understand the role of shark fins in Chinese and other countries' cuisine, but we cannot allow the custom in Nebraska because of our moral obligation. I know that it seems like I may be upsetting some culture's tradition and I'm not trying to oppress other people's traditions. But this issue is about right versus wrong on a worldwide scale and it includes Nebraska. Even though our state is located far away from any ocean, I want everybody in this room to ask themselves how they're

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going to live with themselves if they don't do what they can to take a stand against the possession and/or sale of shark fins. I ask the committee and the people in this room to please side with Senator Nordquist to do the right and moral thing for sharks. [LB921]

SENATOR ASHFORD: Okay. That would...you want to say some things too? [LB921]

ANGELIKA BYORTH: Now my own testimony. My name is Angelika T. L. Byorth, A-n-g-e-l-i-k-a T. L. B-y-o-r-t-h. I live at 3027 Plymouth Avenue. [LB921]

SENATOR ASHFORD: Angelika, I think you can skip that part because we have that. Just go down to where "I am testifying," and start there. [LB921]

ANGELIKA BYORTH: Okay. I am shocked and enraged about the abuse and killing endured by the world's shark fishes; but I am pleased to say that it is my 28-year-old son who made me aware of this calamity. He is a member of the new generation who continues to give me hope that they will do a better job protecting the wonderful creatures of our earth environment than the generations who preceded them. My son told me that sharks are caught and have their fins cut off for use in Chinese and other cultures' cuisine. Then these mutilated and bleeding fish are dumped back into the ocean to die a prolonged death. He talked about respecting other cultures' cooking traditions but having a moral obligation to see right versus wrong and to put an end to the atrocities committed against sharks. Most people, like myself up until now, ignore this hugely important issue because Nebraska is not a coastal state. But young people, like my son, continue to remind us elders that the world we live in today is interconnected from one country to the next and that the survival of our global human family depends on our saving as many animal and plant species as we can. I thank Senator Jeremy Nordquist for trying to help sharks, thus, setting a good example for our children and grandchildren. [LB921]

SENATOR ASHFORD: Thank you. Thank you very much. [LB921]

ANGELIKA BYORTH: Thank you. [LB921]

SENATOR ASHFORD: Okay. Next. Yes, sir. [LB921]

PAT PURKHISER: (Exhibit 9) I have a packet here for each member of the committee. It's got a DVD in it showing this horrible act. [LB921]

SENATOR ASHFORD: Okay. [LB921]

PAT PURKHISER: And it has some--oh, sorry--information from some other states that have passed this. Thank you, Senator Ashford, Judiciary Committee. My name is Pat Purkhiser, P-u-r-k-h-i-s-e-r. I initiated this idea seven years ago because as a teacher of

science I had continually seen and talked to concerned scientists around the world about this subject. Students of the Papillion-La Vista Omaha Public Schools Zoo Academy have researched and also spoke with people around the world via Internet and Facebook, things like that, and subject...they...this all come together today to support LB921. The video that's in here, it comes from a friend of mine in Costa Rica, Randall Arauz. He's the founder of PRETOMA. It's a fairly large conservation group down there for sea turtles and sharks. The video is less than two minutes long, but what happened is he paid an artisan fisherman \$200 to ride with him one night to see what happens, and this video will show it. I'm the dive safety officer at the Omaha Henry Doorly Zoo, a scuba diver since '73 and an instructor since '89. I'm also on the board of directors for Fins Attached, and I've been lucky enough to have swam with sharks for over 50 years, since I was a young kid in Puerto Rico. I've participated in shark research with the great whites in Guadalupe, Mexico, hammerheads in Cocos Island, whale sharks in Socorro, tiger sharks in the Bahamas, and bull sharks in Playa del Carmen. The reason I tell you this is I have unfortunately seen the horror of this shark finning. Being a lead instructor at the Zoo Academy puts me in a very unique position. I'm able to share my travels and thoughts about the environment and conservation with these students. Four years ago, I started this subject of shark finning. Since then, students have taken hold and have not let it rest. You see my college students out here that are from Lincoln down here to support this. We've worked weekly, if not daily, for this topic, all for this bill and today. I know the movie Jaws was probably the worst thing to ever happen to sharks. Peter Benchley came to realize the negative effect of his movie and before he died he became one of the strongest shark advocates of his time. People don't find sharks cute and fuzzy, but being the apex predator in the ocean, they seriously need protecting. We understand this is a not-in-my-backyard subject, but we all live on this planet. I'm very proud to live in the United States and even prouder to live in Nebraska. I urge you to be stewards of this planet and be the next state to pass this law. Thank you. [LB921]

SENATOR ASHFORD: Thanks, Pat. Thanks for working with the kids. [LB921]

PAT PURKHISER: My pleasure. [LB921]

SENATOR ASHFORD: Good job. Yes, Senator Davis. [LB921]

SENATOR DAVIS: You put in several bills here, I think from other states, which I think will be useful. [LB921]

PAT PURKHISER: Um-hum. [LB921]

SENATOR DAVIS: And I guess the main question that I had is, are we going to be able to differentiate shark fins from shark meat... [LB921]

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PAT PURKHISER: Um-hum. [LB921]

SENATOR DAVIS: ...with what we do with this legislation? [LB921]

PAT PURKHISER: You're probably going to set this up for shark fin soup. It is canned. Some of these students sitting in the back went out in Omaha, found shark fin soup in markets. They also found sharks lying on ice, the full shark, you know. They aren't large sharks, but they were there. This is mainly about shark fin soup. [LB921]

SENATOR DAVIS: Um-hum. But, I mean, if the fin comes in with the shark, what do we do with that? This is Judiciary and we all get into the weeds with this stuff. [LB921]

PAT PURKHISER: Good question. [LB921]

SENATOR ASHFORD: Yeah, we ask questions like this. I don't (laugh)... [LB921]

PAT PURKHISER: Absolutely. Good question. [LB921]

SENATOR ASHFORD: That's a good question. [LB921]

SENATOR DAVIS: Anybody know the answer to that? [LB921]

SENATOR ASHFORD: I don't know. Dr. Simmons, if he doesn't know, nobody knows. (Laughter) [LB921]

PAT PURKHISER: Yeah. But I would say this is for shark fin soup. Most of the sharks that are harvested are picked up for shark fins. That's gold compared to the meat. Brett was talking about the bioaccumulation. It's in the whole shark. So when it goes back into the ocean, the animals that eat it will accumulate the toxins that were in there. [LB921]

SENATOR ASHFORD: So the idea is because when you have the shark meat itself you're...the whole shark is coming out of the water but then now you're putting the... [LB921]

PAT PURKHISER: The whole shark has the toxins. [LB921]

SENATOR ASHFORD: With just the fins you're putting the fish back in the water and that's... [LB921]

PAT PURKHISER: Yeah, and then will be eaten by other fish and those toxins will be...go up through that food chain. [LB921]

SENATOR ASHFORD: How we differentiate is, I think, Senator Davis' question. I don't

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know. We'll figure it out. We'll figure it out. [LB921]

PAT PURKHISER: I would say a shark fin soup. [LB921]

SENATOR ASHFORD: We'll figure it out. [LB921]

PAT PURKHISER: It's a delicacy. It's a waste. [LB921]

SENATOR ASHFORD: Diane is our legal counsel. She can just whiz right through this. [LB921]

PAT PURKHISER: Okay. [LB921]

SENATOR ASHFORD: Okay. Thanks, Pat, very much. [LB921]

PAT PURKHISER: You bet. [LB921]

LEE SIMMONS: Thank you, Senator Ashford and the members of the committee. My name is Lee Simmons, S-i-m-m-o-n-s, and I'm currently chairman of the Omaha Zoo Foundation but was for 40 years director of the Omaha Henry Doorly Zoo. I'm here as a proponent of this bill and in support of these incredible students we've got in the Zoo Academy. As has been testified, sharks are the apex predator in the ocean. And just as we all know that the wolf packs and a healthy wolf population keeps the caribou strong and healthy in, you know, in the north, the sharks have that same purpose for the ocean. Right now, it's estimated that over 25 percent of the shark species in the world are threatened with extinction. At the rate of harvest, at the rate of exploitation...I don't really want to call it a harvest because I'm not against harvesting, I'm not against eating shark steak. I've eaten shark. Shark can be very good. But at the rate of exploitation for shark fin soup, the shark population of the world cannot survive. And when the apex predators go down, then the whole ecosystem goes down, meaning we're affecting everything in the ocean both in the pelagic open ocean and in the reefs. And the, as has been mentioned, the, you know, the primary use or the primary consumers of shark fin soup are in Asia, primarily in mainland China and ethnic Chinese. I don't want to necessarily be picking on the Chinese, but that simply is a fact of life. And it is a very difficult...this has been ingrained in their culture for years. It's a very difficult thing to change a culture. But it is possible and it can begin here with Nebraska and the other states that adopt legislation. Just this morning, I had about four e-mails that I would have even a month ago said were not possible. Hong Kong has just decided to destroy all of their African elephant ivory...not just African, but the elephant ivory stash, some 33 tons of it. That's something that none of us could have believed would have happened, and it happened because of world opinion and world pressure and so it can happen. It's a long process and it takes a lot of pressure to change a culture, but it can happen. And so I would encourage this body to pass this and then hopefully other states and other

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countries will follow suit. And to answer the question on the shark fins versus the...the amount...the number of sharks that are taken for food is sustainable if they're...whereas, the number that are taken for shark fin soup is totally not sustainable. Thank you. Any questions? [LB921]

SENATOR ASHFORD: Dr. Simmons...that...yep. [LB921]

SENATOR LATHROP: Maybe to get to the point my colleagues were trying to make, and that is, do they ship...if you're going to buy shark at the Absolutely Fresh Seafood place,... [LB921]

LEE SIMMONS: Yeah. [LB921]

SENATOR LATHROP: ...do they ship that shark whole? [LB921]

LEE SIMMONS: Yes. [LB921]

SENATOR LATHROP: With the fins? [LB921]

LEE SIMMONS: Yes. [LB921]

SENATOR LATHROP: So are we creating a crime out of the people that are trying to get the shark steaks... [LB921]

LEE SIMMONS: I think with... [LB921]

SENATOR LATHROP: ...because the fins come with the rest of the shark? [LB921]

LEE SIMMONS: Yeah, I think you could...I think you could very easily... [LB921]

SENATOR ASHFORD: Define it. [LB921]

LEE SIMMONS: ...define this and write around that and establish that. [LB921]

SENATOR ASHFORD: It's a good point though, but we have to figure out... [LB921]

LEE SIMMONS: ...because I think none of us, if you're going to harvest the animal and eat, you know, and eat the shark steak and then, you know...half the time when you order scallops what you're getting is shark anyway. I mean, people don't know that, but that's the truth. But that is a sustainable harvest, and I think none of us really object to that. It's the finning, where they're cutting the fins off a live shark, throwing them back, because now you're talking about millions and millions and millions, you know, hundreds of millions of tons of biomass that's going back into the ocean to be wasted

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and it's decimating the population. [LB921]

SENATOR LATHROP: Good. Thank you. [LB921]

SENATOR ASHFORD: Thanks for your incredible service, Dr. Simmons, to our state. [LB921]

SENATOR SEILER: Thank you, Doctor. [LB921]

SENATOR ASHFORD: Anyone else? [LB921]

JULIE ANDERSON: Good afternoon. I'm...my name is Julie Anderson, A-n-d-e-r-s-o-n. I'm the supervisor for the education department at the Henry Doorly Zoo. And I'm going to sound like a baby compared to the two that have gone before me. I've been there 11 years as opposed to 40. So just to keep it to the point, I think that you guys are under the understanding now that it is a brutal practice and is not sustainable, but I'm here to support the students...work directly outside of my office. I've been there, like I said, for 11 years seeing them and I think it is an amazing thing to see someone as young as them have such passion for a subject. And I can probably say with confidence that you guys probably don't see students this young come before you very often, so I would encourage you to support what they've worked hard for, for the last few years, and just know that the zoo also supports their efforts. Thank you. [LB921]

SENATOR ASHFORD: Thanks, Julie. [LB921]

SENATOR DAVIS: I have one question. [LB921]

SENATOR ASHFORD: Yes, Senator Davis. [LB921]

SENATOR DAVIS: Let's take the worst-case scenario and we end up only with captive sharks 20 years down the road. [LB921]

JULIE ANDERSON: Um-hum. [LB921]

SENATOR DAVIS: Will we be able to take those captive sharks and be able to repopulate the oceans if that were to happen? [LB921]

JULIE ANDERSON: I'm sure Dr. Simmons would be able to better answer that than me. [LB921]

SENATOR DAVIS: I should have asked him. [LB921]

JULIE ANDERSON: There are... [LB921]

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SENATOR ASHFORD: He's got his hand up. [LB921]

SENATOR SEILER: We'll let him answer that. [LB921]

JULIE ANDERSON: Yes, yeah. [LB921]

SENATOR ASHFORD: We'll let him answer that. Go ahead, Lee. [LB921]

LEE SIMMONS: Oh, well, they...it's very simple. Sharks, I mean, they're an incredible animal, they really are. But unfortunately, they take a long time to mature and they reproduce very slowly, even though...for instance, take a sand tiger shark. When they breed, they very likely will have 12 or 14 embryos that develop into fetuses and all. They're very unique in the standpoint that they do intrauterine cannibalism. [LB921]

SENATOR ASHFORD: Hold on, Lee, hold on. Julie, we're going to ask Dr. Simmons to come down... [LB921]

JULIE ANDERSON: Yeah. [LB921]

SENATOR ASHFORD: Yeah, we're going to ask you because we're getting to the substance of the matter here. [LB921]

LEE SIMMONS: Well,... [LB921]

SENATOR ASHFORD: So why don't you explain. [LB921]

SENATOR COASH: Restate your name for the record. [LB921]

LEE SIMMONS: So, you know, an animal that could be 10 or 12 feet long, you know, won't reproduce until it's over ten years old. And even though it may produce a lot of embryos, they only generally give birth to two because they...the embryos eat...the fetuses, they eat each other in utero, and so only the two toughest, strongest guys survive. So they reproduce very, very slowly and there's no way that if you took all those...all the aquariums in the world that we have enough capacity to preserve all the species and/or to even pick out two or three species and preserve enough of those to repopulate the wild. So it's...the short answer is no. Sorry. (Laughter) [LB921]

SENATOR ASHFORD: Lee, could you give your name again? [LB921]

LEE SIMMONS: Oh. [LB921]

SENATOR ASHFORD: I'm sorry. [LB921]

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LEE SIMMONS: I'm sorry. Lee Simmons, S-i-m-m-o-n-s. [LB921]

SENATOR ASHFORD: I'm sort of the traffic cop here and I'm... [LB921]

LEE SIMMONS: (Laugh) Yeah. [LB921]

SENATOR ASHFORD: Okay. Thank you. [LB921]

LEE SIMMONS: Okay. Sorry about that. [LB921]

_____: I might just (inaudible)...that white sharks do not survive in captivity (inaudible)... [LB921]

SENATOR SEILER: Thank you, Doctor. [LB921]

SENATOR ASHFORD: Okay, great. Come on up. [LB921]

TROY SOLBERG: Thank you, Senator Ashford and committee. My name is Troy Solberg, S-o-l-b-e-r-g. I work at the zoo. I'm the youth volunteer manager. I have a chance to work with these guys and a lot more that are just as enthusiastic about this as these are, so hats off to these guys, the work they've done. And they've kind of stolen my thunder. They've used up all of the, you know, the tremendous amount of information that you've been presented here today. So I think you do have a very clear picture. Also, I'm a former aquarist, shark aquarist, shark keeper in the aquarium building. Fascinating animals, and deserving of our respect and attention. That's something that we can do right here in Nebraska. Landlocked... [LB921]

SENATOR ASHFORD: It's incredible what we do in Nebraska, what people... [LB921]

TROY SOLBERG: It is. It is. We're an amazing state. [LB921]

SENATOR ASHFORD: It's incredible what people do here. It's...(laugh) yeah. [LB921]

TROY SOLBERG: We're an amazing state, so. [LB921]

SENATOR ASHFORD: Yeah, we really are. Okay. [LB921]

TROY SOLBERG: So do absolute support for LB921. Thank you very much for your time. [LB921]

SENATOR ASHFORD: Anyone else like to say a few words? I don't...does anyone oppose to this? (Laughter) Is...Dr. Rikli, are you opposed to this? [LB921]

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ANDREW RIKLI: I am not opposed and (inaudible). [LB921]

SENATOR ASHFORD: Thanks to Dr. Rikli and the Papillion Public Schools for doing this career work. And I know Andy has been a big proponent of career education. Okay. Any neutral testifiers? Thank you all very much for coming. We would applaud but it's against the rules so we won't. (See also Exhibit 6) Senator Chambers is on his way and then we will do LB674. [LB674]

SENATOR CHAMBERS: Bear with me. [LB674]

SENATOR DAVIS: You're out of order, Senator Chambers. [LB674]

SENATOR ASHFORD: Senator Chambers,... [LB674]

SENATOR CHAMBERS: Yes. [LB674]

SENATOR ASHFORD: ...welcome back. [LB674]

SENATOR CHAMBERS: (Exhibit 11) I'm glad to be back. Members of the committee, my name is Ernie Chambers. I represent the 11th Legislative District. I'm going to introduce and try to persuade you to advance LB674, but before I do that I owe you somewhat of an explanation. There is some activity going on involving the County Attorneys Association. I received a copy of a letter purportedly written by their association. I was trying to do some legwork to find out what was going on, And if I seem a little upset, it doesn't show but I am. I tried to find out how this letter came into being. I asked the executive director of the association, did the county attorneys have a meeting? They didn't. I said, then how did they arrive at this decision? Well, they did it by telephone. So I asked how many people, how many county attorneys there were. Well, there it got a little hazy then. So I said, since you're an employee, I don't want to go into this with you, even though her name was on the letter. I said, when you put praise for an individual senator, that goes beyond merely taking a position, so I want to know the name and phone number of the executive director, which was given to me. When I called, the lady who answered the phone said, she is on another call in front of you, so I left my number and was expecting a call back. No call came, so when I called, she's not on a phone call now. She's taking depositions and can't talk to me. So things are kind of "owly" for me right now and I let her know I'm going to pursue it. But I wanted the committee to know that it was not for a trifling reason that I was not here and I was not trying to shirk my responsibility to function as a member of the committee. So I'm offering my mea culpa only because I left you all hanging, plus people who may have had an interest in this bill, and I felt they were entitled to an explanation. I promise you that I will not be a long time on my introduction and, in fact, I will base it on my statement of intent and that will kind of keep me on point. The following, as our

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statements of intent will say for the record, are the reasons for this bill and the purposes which are sought to be accomplished thereby. This bill addresses the matter of restrictions on animal ownership. And I'll state it briefly and if you need more details I'll give it. There are two types of animal cruelty that the statute defines. One relates to cruel mistreatment, the other with cruel neglect. They're misdemeanors but they can be felonies. And if it rises to the level of a felony, then under cruel mistreatment this person who is convicted can be prohibited from owning, being with, or having, you know, possession of an animal for...from 5 to 15 years. When it comes to a misdemeanor for cruel neglect, there is no provision to allow a five-year restriction on owning the animal. This bill attempts to strike a cross-reference to another section in the sentencing part of the statutes that creates what you might call this loophole. So by striking that language, if a person is convicted of cruel neglect and it's a misdemeanor, then the five-year restriction can be imposed. In a case that happened that may illustrate it--sometimes when you try to explain interrelationships between statutes it's more confusing than enlightening--because a plea was reached, the dogs, who were treated very, very cruelly--feces-encrusted cages, no water, no proper treatment, left in very cold conditions, it was horrendous, the judge, as stated in this statement of intent, referred to it as "an animal Auschwitz"--the puppy mill proprietor was allowed to plead guilty...no contest to cruel neglect. Since the judge, even though he wanted to impose a five-year restriction on ownership, could not do so, the maximum probationary period that he could impose he did, and he could only make that restriction coextensive with a period of probation as a condition of probation. This law, to try to make it as simple as I can, would simply make it possible for the five-year restriction to obtain in the case of cruel neglect as obtains in cruel mistreatment. The main difference between those two items is the way or the means by which the cruelty is inflicted, although along the way the animal may suffer equally and ultimately die. I think this is a very reasonable piece of legislation and I'm going to have handed out to you a copy of an article that appeared in the paper yesterday about a woman who was forbidden to own animals for 15 years. She was convicted of the felony aspect of it for letting this dog starve to death and the judge said that it's hard to understand why this woman would do this, she's intelligent, she has no criminal record. All of the things that would indicate that the dog would be properly cared for were present when she adopted the animal from the Humane Society. Nobody felt that she should get jail time but this restriction was appropriate. And as a person connected with the Humane Society said, and I agree with that opinion, she should never have another animal. If you have any questions of me, then I will answer them. And I'm doing the very best that I can under a burden of what for me is great agitation, if not anger and outrage, not connected with the committee at all but the other activity I was engaged in before coming here. And if you all could see how roiled up I am inside, if I were converted to a geographical feature, I would make Mount Vesuvius look like a smoking cigarette. So if you have any questions, I'll answer them. [LB674]

SENATOR ASHFORD: Maybe it's best not to ask. (Laughter) But it's up to my

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colleagues. Okay, I don't... [LB674]

SENATOR DAVIS: I've got one. [LB674]

SENATOR ASHFORD: Yes, Senator Davis. [LB674]

SENATOR DAVIS: So, Senator Chambers, the difference between neglect and cruelty is cruelty is physical abuse of the animal but neglect is starvation and/or... [LB674]

SENATOR CHAMBERS: Right, when you're denied the care... [LB674]

SENATOR DAVIS: Um-hum. [LB674]

SENATOR CHAMBERS: ...that the animal should have, but in the process of denying that care you can create circumstances that, in fact, are torturous. For example, if you're going to let the animal starve to death, the denial of care is what was involved, but along the way the suffering of the animal was unconscionable. The cruel mistreatment would be like the infliction of physical torture and things of that kind. [LB674]

SENATOR DAVIS: Um-hum. [LB674]

SENATOR CHAMBERS: There are more ways than those mentioned in the definition of the offense to torture an animal, and some of those would happen under the rubric of neglect. But neglect goes beyond, say, not giving the animal water today or not enough to eat tomorrow, but it's an ongoing bad situation. [LB674]

SENATOR DAVIS: What you're trying to do is synchronize the penalty faced for both categories. [LB674]

SENATOR CHAMBERS: Yes, and make it possible...right. The...there will still be a misdemeanor and a felony if you...depending on whether it's a repeat or what is entailed. What this really goes to is allowing in the case of cruel neglect the restriction on owning animals in the same way that it would be for cruel mistreatment. [LB674]

SENATOR DAVIS: Were you in the Legislature when we had a case in Morrill County of horses that starved to death some years ago? [LB674]

SENATOR CHAMBERS: When what? [LB674]

SENATOR DAVIS: There was a case in Morrill County of horses that starved to death basically on a ranch there. [LB674]

SENATOR CHAMBERS: I would have to know the date because I got out of here

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in...well, my last session was 2008. [LB674]

SENATOR DAVIS: I think it was probably before that. [LB674]

SENATOR CHAMBERS: But there have been some... [LB674]

SENATOR DAVIS: And it's, really, it's irrelevant to my conversation but... [LB674]

SENATOR ASHFORD: It's since I've been back. I remember. [LB674]

SENATOR DAVIS: Is it since you've been back? [LB674]

SENATOR LATHROP: Yes. [LB674]

SENATOR ASHFORD: Yeah. [LB674]

SENATOR MCGILL: Um-hum. [LB674]

SENATOR LATHROP: We dealt with it because we were trying to figure out who pays to feed them while they're... [LB674]

SENATOR ASHFORD: We dealt with the Morrill County thing. [LB674]

SENATOR DAVIS: Well, that's what I (inaudible)... [LB674]

SENATOR ASHFORD: Yeah. [LB674]

SENATOR CHAMBERS: And I'm sure those who are testifying will have specifics on all of that. And I have seen stories on television that were horrendous where they would show horses. Now I don't play a marimba well, but I could have played "La Malaguena" on the rib cage of those horses, it was that bad. It looked like leather or tight skin stretched over bones, hardly any flesh, fat, or anything that would make it look like an animal that could even be alive. And at this point I want to just mention that the Humane Society does a tremendous amount of good work because they don't automatically euthanize animals. They treat them. They have vets who will work with them. They try to rehabilitate them. And to be frank, I'd seen some animals in such bad shape I thought that they had to be euthanized, then you'd see a later story where they had managed to nurse this animal back to health. If I had...if I won the lottery--you can't win if you don't play and I won't play--but if I had the money, I would share it with the Humane Society. But I'm sure they're able to get more in the way of donations than Hearts United for Animals. And since I'm a man of means by no means, I had to make a choice. And since Hearts United for Animals is where Cindy got two little animals and I had visited with them, I think they might could use my little bit maybe more than Humane Society.

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So I'm not making them second fiddle but I can only do so much. [LB674]

SENATOR DAVIS: So you're the king of the road. [LB674]

SENATOR CHAMBERS: Say it again? [LB674]

SENATOR DAVIS: You're the king of the road. [LB674]

SENATOR CHAMBERS: (Laugh) That could have so many meanings, I'm just going to accept it in line with the song that I quoted from, and thank you very much. But if you have no more...oh. [LB674]

SENATOR ASHFORD: Senator Seiler has. [LB674]

SENATOR SEILER: I was...I hope your bill is interpreted through the eyes of a human because in about an hour and a half hunting season is going to close and my Brittany is going to be really mad since I don't get to come home and take her out. [LB674]

SENATOR CHAMBERS: I'm not even going to address that. (Laughter) But I am through if there are no more questions. Thank you. [LB674]

SENATOR ASHFORD: Thank you. We have some proponents here, I see. Mark. [LB674]

MARK LANGAN: (Exhibit 12) Good afternoon, Chairman Ashford and members of the Judiciary Committee. My name is Mark Langan, M-a-r-k L-a-n-g-a-n, and I'm the vice president of field operations for the Nebraska Humane Society. We provide animal control service in the Omaha area and Sarpy County and routinely provide assistance and advice throughout Nebraska. On November 15, 2013, defendant Julia Hudson was sentenced in Lancaster County Court on the charge of cruelly neglecting dogs under the Nebraska State Statute 28-1009. Hudson had been operating a puppy mill type operation in Malcolm for years, and was finally prosecuted for allowing dogs to live in filthy conditions while suffering from a variety of medical conditions. Some of the issues that her dogs suffered from were ear infections, congenital leg issues, heart murmurs, skin conditions, dirty and crusted paws, infected wounds and sores, umbilical hernias, eye infections, and most seriously, several dogs had missing and rotted teeth and missing lower jaws. In fact, the conditions of this puppy mill were so horrendous that when Judge Timothy Phillips of the Lancaster County Court sentenced Hudson to two years' probation he referred to this puppy mill operation, as Senator Chambers referred to also, as an "animal Auschwitz." Both Judge Phillips and the Lancaster County Attorney's Office expressed frustration that Nebraska State Statute 28-1019 could not be applied in the Hudson case. This statute allows the sentencing judge to impose animal ownership restrictions to those convicted of animal cruelty for up to five years on

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a misdemeanor charge. Why was Judge Phillips not allowed to impose the five-year restriction? It's best explained by pointing out that Nebraska State Statute 28-1008 defines two distinct types of animal cruelty. First, cruelly mistreat means to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal. Second definition, to cruelly neglect means to fail to provide any animals in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health. Currently, state statute 28-1019 only allows judges to impose a five-year ownership restriction for those convicted on the misdemeanor charge of cruelly mistreating animals and not for those cruelly neglecting animals, which is what Julia Hudson was sentenced...convicted of. It is the position of the Nebraska Humane Society that judges should be allowed to impose a five-year animal ownership restriction for those who either cruelly mistreat or cruelly neglect animals as defined by the state statute. I think it's important to point out that LB674 does not change the portion of the state law which gives judges the discretion to impose the five-year animal ownership restriction in misdemeanor cases. Judges currently have the choice in misdemeanor animal cruelty cases and we're not trying to change that portion of the statute. Thank you, and I will take any questions that you have. [LB674]

SENATOR LATHROP: Thank you. I see no questions. Thanks for coming out, Mark. [LB674]

MARK LANGAN: Thank you very much. Appreciate it. [LB674]

SENATOR LATHROP: Next proponent. [LB674]

PATRICK CONDON: Good afternoon, members of the Judiciary. My name is Patrick Condon, P-a-t-r-i-c-k C-o-n-d-o-n. I am the chief deputy Lancaster County attorney, here on behalf of the Lancaster County Attorney's Office and the Nebraska County Attorneys Association, here in support of this bill. It was in the prosecution of Ms. Hudson that we learned of the difficulties in imposing the more serious restriction on her ownership of animals. We did brief the issue. Judge Phillips did take some time to look at this issue and then came to the same conclusion as we did in our brief, that we would not be able to or he would not be able to impose the five years' restriction on the animals that we were seeking due to this language of the statute. So we are here in support of this, the change in this statute. If I could say anything in addition to that, I guess I would suggest that we look also at the licensing of an individual and if an individual is licensed to have a kennel or something of that...which Ms. Hudson was, that a conviction under this would require her to surrender that license and maybe even limit her ability or limit another individual's ability to obtain a license if they've been convicted under this statute. And with that, I would have nothing further and would answer any questions. [LB674]

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SENATOR LATHROP: Okay. Senator Chambers. [LB674]

SENATOR CHAMBERS: Would you mind jotting down your thoughts along that line and sending them to me over here at the Capitol Building? [LB674]

PATRICK CONDON: Sure. [LB674]

SENATOR CHAMBERS: And by the way, I appreciate the fact that you all took the action that you did. I saw some of the animals because I was at one of the demonstrations. And when you see a little dog with no lower jaw trying to drink water, the tongue will hang out because there's not enough bone to support it, teeth are gone, and yet there are people who adopted these animals and are trying to make up for what had happened to them, you'd find it hard to believe that human beings could deal with an animal or animals over the period of time that it would be necessary to bring them to this horrible condition and not feel any conscience whatsoever. So there's one other thing that...well, maybe I'll save it for whoever else might testify. But on your part, I appreciate that. And you did all that you could do and that's why I'll pick up the ball from this point. But I hadn't even considered the aspect that you're mentioning. That's why I would ask you to jot it down and we won't have to take the time now and I'll try to write notes on it. [LB674]

PATRICK CONDON: Sure. I'll get that to you, Senator. [LB674]

SENATOR CHAMBERS: Thank you very much. [LB674]

PATRICK CONDON: Thank you. Thank you. [LB674]

SENATOR LATHROP: Next proponent. Anyone else here to speak in support? [LB674]

SENATOR MCGILL: I think we've got one back there. [LB674]

SENATOR LATHROP: Oh, didn't see. Good afternoon. [LB674]

CAROL WHEELER: (Exhibit 13) Good afternoon, Senators. I am Carol Wheeler, C-a-r-o-l W-h-e-e-l-e-r, 1910 16th Street in Auburn. I am the founder of Hearts United for Animals, a dog-and-cat shelter/sanctuary that has been in existence for 25 years and I have been a volunteer for that amount of time. I only really need to add that I appreciate the people who have testified so far and Senator Chambers' explanations because they've said everything so well that I hardly have anything to add. We were the shelter who took most of the dogs in the recent county case. And of course I've been familiar with dogs like these for quite awhile and certainly think that if LB674 had been in place during the recent county case, justice would have been far better served. And I can think of nothing else that I really need to add. [LB674]

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SENATOR LATHROP: Very good. Thank you, Ms. Wheeler. [LB674]

CAROL WHEELER: Thank you. [LB674]

SENATOR LATHROP: Doesn't look like there's any questions either. [LB674]

CAROL WHEELER: Okay. All right. Thank you. [LB674]

SENATOR LATHROP: Anyone else here that cares to testify in support of LB674? Anyone here in opposition to LB674? Seeing none, is there anyone here in the neutral capacity on LB674? I see none. Senator Chambers waives closing. That will conclude our hearing on LB674 and our hearings for the day. (See also Exhibit 14.) [LB674]