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Judiciary Committee  
September 28, 2007

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[LR99 LR144 LR178]

SENATOR ASHFORD: Thank you all for coming this afternoon. We have three hearings on three legislative resolutions, interim study resolutions that we will have today, to discuss. And the first one is LR144. We also have on the agenda LR99 and LR178. Senator McDonald is here. Before we get started though, I'd like to just suggest to you that we're going to try to limit the discussion on each resolution to 45 minutes. We are going to have our normal system here with the lights, that will tell you that you have three minutes to testify if you're not the introducer of the resolution, and when we get to the point where you have a minute to go, the orange light will go on, and then the red light will tell you when your three minutes are up. So that we can keep it moving, we will abide by that normal process. Senator McDonald is here, but I'd like to introduce the members of the committee in addition to Senator McDonald: Senator Pirsch, to my left; Senator Schimek; Senator Lathrop; and Senator McGill; Stacey Trout is legal counsel; and Jonathan Bradford is the clerk of the committee. I am Brad Ashford; I'm Chairman of the Judiciary Committee. So with that, Senator McDonald, would you like to introduce LR144. []

SENATOR McDONALD: Thank you. Senator Ashford and members of the Judiciary Committee, I'm State Senator Vickie McDonald, representing the 41st District. LR144 asks this committee to review Nebraska statutes to determine if our laws provide the public with reasonable and adequate protection from dangerous dogs. There are approximately 73 million owned dogs in the United States. Thirty-nine percent of the United States' households own at least one dog. There are over 4.5 million reported dog bites each year, according to the CDC. I was surprised to discover that there is no mandatory reporting of dog bites and no central reporting agency for dog bites at the state or federal level. Approximately 10-20 dog bites each year are fatal. One-third of all liability claims against homeowners stem from dog bites. Small children, the elderly, and postal service carriers, in that order, are the most frequent victims of dog bites. Nebraska's current dog laws are confusing, at best. We have laws which apply to

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counties with more than 80,000 in population, and laws which apply to counties with more than 15,000 in population...excuse me, of less than 15,000 population. Nebraska currently has 73 counties with a population of less than 15,000. Statute 54-604 allows any person to kill a dog that kills or does damage to livestock or domestic animals or is reasonably suspected of killing or doing damage to livestock or domestic animals. This was last amended in 1929. Section 54-605 requires all dogs in the state to wear a collar with a metallic plate that has their owner's name inscribed on it. I wonder how many dog owners do abide by this law? Nebraska's dangerous dog laws, 54-617 to 54-624 were enacted in 1989, and haven't been changed since then. Enforcement is an issue, particularly in the 73 counties with less than 15,000 population. Those counties are much less likely to have an official animal control authority or paid animal control officer. Local law enforcement officers, either city police or sheriff deputies, often handle animal control complaints as part of their duties. Local officials are unsure when or how to determine if a dog is potentially dangerous, and often reluctant to pursue charges against the dog owners. Unfortunately, there is no way to warn the public about the danger posed by a dog without the animal control authority, whoever that might be, going through the process of notifying the dog's owner that the dog is a potentially dangerous dog. If charges aren't brought on legitimate complaints, dogs may move very quickly from potentially dangerous dogs to dangerous. Keep in mind that a potentially dangerous dog has already bitten a human or injured a domestic animal without provocation, either on private or public property, chased or approached a person on public ground in a menacing manner, or shown a tendency for unprovoked attacks on humans or domestic animals. There are no statutory requirements for the owners of a potentially dangerous dog to keep their dog safely secure on their property or to post a warning sign about the dog. These requirements don't go into effect unless the dog kills or inflicts serious injury on a human being, kills a domestic animal without provocation while the dog was the owner's property or the dog was previously determined to be a potentially dangerous dog and then bites, attacks, or endangers humans or domestic animals. Once a dog has been determined to be dangerous, it must be kept on a leash or chain when off the owner's property. It must be securely confined on the owner's

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property, either in a secure, locked, and enclosed pen, or inside the owner's home. The owner is required to post a warning sign about the dangerous dog on their property, that it's clearly visible to the public. And a dog cannot be confiscated unless it's already been deemed a dangerous dog and it's owner has not followed the statutory requirements. A court may order a dangerous dog humanely destroyed, but this is not required by law unless the owner has been previously convicted of a violation of the dangerous dog statutes, and that the same dangerous dog again bites or attacks a person or domestic animal. An alternate scenario ends up with the dog destroyed, but the same bad owners are allowed to obtain other dogs, and the cycle starts all over again. Our statutes are too permissive. Texas recently passed one of the most restrictive dangerous dog laws in the country. The owner of a dog that kills or seriously injures someone can now be charged with a felony. Virginia has a dangerous dog registry run by the Virginia Department of Agriculture Division of the Animal Health and Welfare. The registry allows the public to check its dangerous dogs who live in their neighborhood. Pennsylvania has a dangerous dog registry which requires uniform warning signs and identification tags to be worn by the dog. Colorado requires microchipping of a dangerous dog. Local ordinances in some cities and counties in Nebraska are much tougher than the state law, and easier to enforce. Several people following me will talk about the differences between current state law and what they use at their local level. Some states require homeowners liability insurance for certain breeds of dogs. Unfortunately, that requirement often allows insurance companies to single out certain dog breeds as dangerous and uninsurable. The result is that good dog owners can't find reasonably priced insurance coverage, so their pets are turned over to shelters in high numbers. We need to be sure that Nebraska has reasonable and enforceable dangerous dog laws, and these laws should include: measurable objective criteria for determining a dangerous dog based on severity of behavior; defenses for the dog's behavior such as provocation; well-defined procedures for determining if a dog is dangerous, a complaint is filed, an investigation is made, a hearing is held, and so on, and this is the area where Nebraska's current statutes are sorely lacking; provide owners with an appeal process; set up the outcome of a potentially and dangerous

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destination, the destination to be determined how much the dog will be restricted, whether the dog should be sterilized, complete behavior training, classes, and so on; establish conditions for the care of the dog, which may include enclosure, microchipping, registration, sterilization, or liability insurance. These provisions are the minimum that a good law should meet. Nebraska's law meet some of these provisions, but we are sorely lacking in well-defined procedures. I'm sure that we have a problem that needs addressing and I don't have all the answers. I will have some people following me with some things that they're doing in their local areas to alleviate some of the problems, but I think our statutes are very vague and we need to step up to the plate and make sure that we are protecting our citizens. [LR144]

SENATOR ASHFORD: Thank you, Senator McDonald. Does anyone have any questions of Vickie? Thank you. I have a little list here of testifiers that have indicated they wanted to testify: Mark Langan, Bob Downey, and someone from the County Attorneys Association. Are there any other testifiers on this bill, people that would like to testify? If you're interested in the bill and don't wish to testify, there is a list that you can sign, as well, and put your name on the list. But with that, Mark Langan. Is Mark...? Yeah, there's Mark, of course. [LR144]

MARK LANGAN: (Exhibit 1) Thank you. Senator Ashford, I was asked by Senator McDonald's office to come down here today, and I was told I would have ten minutes for a presentation. I doubt I'll go ten, but I'll go longer than three, if that's okay, or I can talk really, really fast. [LR144]

SENATOR ASHFORD: Six, seven. [LR144]

MARK LANGAN: Thank you. It will be... [LR144]

SENATOR ASHFORD: Let me just put it this way: Senator McDonald is controlling on that issue, so if she told you ten... [LR144]

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MARK LANGAN: If I see her go like this, I'll stop; I promise. Good afternoon and thank you for this opportunity. My name is Mark Langan 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, but we routinely provide assistance and advice all throughout Nebraska. In our jurisdiction we have authority to conduct investigations, write citations, search warrants, and impound orders regarding animal control violations, including dangerous dogs. We work closely with the local and state law enforcement on animal control laws throughout our state. The city of Omaha dangerous dog ordinance is similar to some respects to state statutes in Chapter 54 of the state of Nebraska, however Omaha's are a bit more restrictive. In Omaha, we define a dangerous animal as one that attacks a human being or other domestic animal one or more times without provocation. The important aspects of this definition are that some towns allow one free bite. Also note that the Omaha ordinance says that the bite has to be unprovoked. Dangerous dogs are also defined as any animal with a history, tendency, or disposition to attack or endanger the public. This is important in that it allows us to seize a dog that has not actually bitten, but that is obviously dangerous to the general public. It's important to note that Nebraska statute 54-617 requires that severe injury, including disfigurement, cosmetic surgery, or one or more broken bones must be present before a dog can be declared dangerous and seized. The Omaha city ordinance does not specify these types of qualifications. It allows us to seize a dog who may have a series of smaller level bites or one who has attacked or not injured a person who was able to ward off the attack through physical force. The Omaha city ordinance on dangerous dogs also provides for the following. It is illegal to bring a judicially declared dangerous dog from another city or state into Omaha. We are allowed to impound the dog, pending court proceedings, if needed for public safety. This would be any dog that we deem dangerous. Per city ordinance, we require the owner to pay board fees up front for the impoundment on 30-day increments. Failure to do so allows for the dog to become property of the Nebraska Humane Society. If a court deems a dog dangerous and returns it to the owner, the dog must be spayed or neutered. This same dog then must

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be microchipped by the owner. A microchip is a small device implanted under the dog's skin with an identifying number which can be scanned by veterinarians or humane society personnel. As with the state statute, warning signs are required on a dog owner's house that possesses a judicially declared dangerous dog. Omaha city ordinances are more specific in that we require a certain-sized sign. Omaha has very specific requirements for the confinement of judicially declared dangerous dogs on the owner's private property. The size of the kennel is spelled out as determined by the size of the dog. Omaha city ordinance requires judicially declared dangerous dogs to be leashed and muzzled when off the owner's private property. In order to license a judicially declared dangerous dog, a person must present to the Nebraska Humane Society proof of liability insurance of not less than \$100,000. Any judicially declared dangerous animal may be immediately seized if in violation of any city of Omaha animal control ordinance. And finally, once a year the Nebraska Humane Society publishes a list of all dangerous dogs on file, including the name and address of the owner and type of dog. This is supplied to the media. My agency handles about 600 dog bites a year in the Omaha area. These bites range from minor to very serious in nature, and on average we issue an average of 30 dangerous dog citations per year. I was asked by Senator McDonald's office to address several issues regarding dangerous dogs. The first deals with the role of the local prosecutor or county attorney. It's imperative that prosecutors realize that dangerous dogs pose a real danger to the public, and indifference or lack of prosecution is not acceptable. Dog bites are frequently the lead story on Omaha television stations, and garner much publicity. In May, I was a guest on the nationally televised Nancy Grace show, regarding a mail carrier attacked by a dog in Omaha. Besides the publicity generated on dog bites, jurisdictions have been held liable monetarily, for negligence. In June 2007, a jury awarded a bite victim \$3.7 million in Delray, Florida, finding that city officials were negligent in not having previously determined the dog to be dangerous. Senator McDonald's office also asked me to talk about potentially not charging someone who is willing to have their dangerous dog euthanized. An example would be a dog that viciously attacks a person. At times we will allow the owner to surrender that dog, and in return not receive a citation. This is done

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on a case-by-case basis, and past history of the dog is a determining factor. However, the main goal is to ensure the dog does not attack again. In some situations, prosecution is secondary. Dangerous dogs are a challenging area in animal control and legislation, one that must not be taken lightly. Public safety must always be the top priority in my profession and yours as legislators. Again, thank you for having me here today, and I'll take any questions that you might have. [LR144]

SENATOR ASHFORD: Thanks, Mark. Any questions? Yes, Senator Lathrop. [LR144]

SENATOR LATHROP: Thank you. In your experience, is the problem that we have with dogs that you've defined for us, is it limited to a couple of breeds or is it a problem? You've given us statistics on how many dangerous you encounter in a year in Omaha and Sarpy County. Is it one breed that's the problem, or is it several breeds? What's your experience? [LR144]

MARK LANGAN: No, it's more than one breed. I would say that year in, year out, the top three bite dogs in Omaha are black Labs, German shepherds, pit bulls, Rottweilers are up there. Doberman Pinchers, Chihuahuas, Dachshunds, Yorkies. All types of dogs are involved in dog bites. Don't take those Chihuahuas lightly; they can go at you. [LR144]

SENATOR LATHROP: If we have a solution that's not something that should be limited to pit bulls, but something that's across the board? [LR144]

MARK LANGAN: I just told Senator McDonald before my testimony about pit bull bans across the country. I've talked to people that try to enforce the pit bull bans. They have not worked. They have cost city government much money to try to enforce the pit bull bans. People still have pit bulls; they keep them underground. There are still pit bull bites in jurisdictions that enact pit bull bans. So our position is a pit bull ban would not work in the city of Omaha. [LR144]

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SENATOR LATHROP: Okay. [LR144]

SENATOR ASHFORD: Thanks, Mark. [LR144]

MARK LANGAN: Thank you. [LR144]

SENATOR ASHFORD: Bob. Bob Downey. Is Bob...? May we have the next testifier, next witness? Scott. [LR144]

SCOTT TINGELHOFF: Good afternoon. Scott Tingelhoff, Saunders County Attorney, representing the Nebraska County Attorneys Association. This has been an issue that we have addressed probably the last three, four years in Saunders County. Some of the biggest issues is that the statutes aren't very clear, and it does not allow for certain things to be done, given the definitions that are set forth. For example, the dangerous dog and the potentially dangerous dog share some language, but some of the language doesn't carry over, such as the dangerous dog definition doesn't allow for a dog that approaches in a menacing fashion or apparent attitude of attack to be considered another violation, even though it is one of the categories or criteria for the potentially dangerous dogs. And then vice versa, a potentially dangerous dog cannot...a dog cannot be declared a potentially dangerous dog if the acts that it does occurs off of the owner's property on private property. It specifically limits it to streets, sidewalks, and public grounds. On the other area that is of issue, there are no increased penalties for second offenses. It's a Class IV misdemeanor for a violation, even for an individual that has a prior conviction. We are a metro area county of about 20,000 population. About two years ago we did have intense debate for about six months through our county board. We looked at breed-specific bans. We looked at enacting more restrictive ordinances in our county. And it came down to a county of our size and makeup would have a very difficult time. They felt enforcing some of these without the state statute being in place...the big issue is what we do with the farm dogs, given the rural nature of what we have even though we do have some areas that are, of course, in the town. I

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think that all the issues that Mr. Langan talked about would work great in Omaha. I'm not sure how great they would work in a rural setting. I would love it if they would. I just don't know if it's feasible or not. I also am on the board of directors of Saunders County Lost Pets. And one of the things that we have found is that most of the time the issue is not with the dog; it's usually with the owners. And we find that it's usually repeat offenders that are causing these problems. And there is nothing that really addresses that in the statutes, and that might be another area that we would appreciate some clarity on. [LR144]

SENATOR ASHFORD: Okay. Are there any questions of Scott? [LR144]

SENATOR PIRSCH: Sorry, I missed the last part. What would need clarity? [LR144]

SCOTT TINGELHOFF: Well, there is...we find, a lot of times, that it's repeat offenders. It's on how you treat your dog and how you take care of your dog. It's not so much on how the dog starts out. If you have a good owner, that are doing all they can to care for their animal, you usually aren't going to have incidences that they aren't going to allow them to run free and be in a situation where they're going to attack somebody. And if that does happen where they do get free, and they get to the point where they're declared a potentially dangerous dog, that owner, if it's a good owner, is going to make sure that that dog does not get out or at least make sure that that...remove that dog from that situation of that happening again. And that may be giving it up for adoption or doing something to that effect. [LR144]

SENATOR PIRSCH: Do you think...just to follow up, do you think the law as it's currently written is effective for Sarpy County as... [LR144]

SCOTT TINGELHOFF: Saunders County? [LR144]

SENATOR PIRSCH: I'm sorry. Saunders County. [LR144]

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SCOTT TINGELHOFF: We had intense debate about that with our county board, and I do think that it probably isn't as clear as we would like it. It is difficult to enforce because you do have to go through procedures. We do not have an animal control authority. We're relying on law enforcement who are not necessarily trained in the background of determining what is potentially dangerous or dangerous, so they have to rely on description, going to a veterinarian or someone that may have experienced this before in trying to decide this. And the thing we don't want to have happen is we don't want to give them the one free bite. We want to be able to address the situations before something bad happens, and be proactive. So it is difficult in what we currently have, to do that [LR144]

SENATOR PIRSCH: Thanks. [LR144]

SENATOR ASHFORD: Yes, Senator McDonald. [LR144]

SENATOR McDONALD: You made a comment about farm dogs. Would you clarify what your thoughts are on farm dogs, and if they should be anything different than any other dog? [LR144]

SCOTT TINGELHOFF: You know, I don't know if I have an opinion one way or the other. That was just one of the issues that really came up when we discussed how to enact a countywide ordinance. I think everybody had solutions for the animals that they felt should be in a fenced area or in the home when you're talking inside a city. The problem came was when the farming community would say, you know, I have a couple dogs that are farm dogs in our yard and they run loose, and they don't want to have them necessarily licensed, and they don't want to have to have them fenced in. So I don't know if there is an easy solution to that, but I guess at least in our county, our county board treated them differently than they would a dog that would be inside the city. [LR144]

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SENATOR McDONALD: And as far as my testimony, I think I read that all dogs should have a collar. [LR144]

SCOTT TINGELHOFF: A collar, but not necessarily licensed. So the difficulty is in knowing what dogs are out there, because they aren't licensed. They're just required to have a collar, so you don't know who has what dog. [LR144]

SENATOR ASHFORD: Thank you. Any other questions? Thanks, Scott. [LR144]

SCOTT TINGELHOFF: Thank you. [LR144]

SENATOR ASHFORD: Does anyone else wish to talk about this issue? Senator McDonald. [LR144]

SENATOR McDONALD: I actually have another testifier, and I'm sure that she is probably looking for parking, which happens to be... [LR144]

SENATOR ASHFORD: Well, if she comes, we can just have her... [LR144]

SENATOR McDONALD: Okay. Which happens to be my daughter... [LR144]

SENATOR ASHFORD: Oh, your daughter. [LR144]

SENATOR McDONALD: ...and my granddaughter. [LR144]

SENATOR ASHFORD: And your granddaughter. [LR144]

SENATOR McDONALD: And driving all the way from Aurora, Nebraska, so. [LR144]

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SENATOR ASHFORD: Oh. Well, we'll keep this matter open until they come. [LR144]

SENATOR McDONALD: Anyway, and it's an issue that I don't normally...you know, because I don't own a dog. I had a dog when my kids were little, but never had to deal with a dangerous dog. But we kind of have a personal story in our family, and I will let her tell that story if that's okay. But, yeah, it's an issue. It's still an ongoing issue. And I think the problem that they're dealing with has to do with the way the county is handling it, and I think that's why we need to make sure the responsibility is there because the person that had the dangerous dog, that dog was euthanized, and now we have the same owners have another dog and it's creating the same type of dangerous dog aggression that the other one did, and it's becoming a problem, so. She will be here in a little bit, and when she comes if you would let her testify that would be great. [LR144]

SENATOR ASHFORD: Well, I think this is...absolutely. I think this is a very interesting issue and I'm glad you brought it because there is, amongst the public at large, I think a lot of confusion about what the rights and obligations of dog owners are, and it's a worthy effort. We will certainly keep this matter open and bring your daughter and granddaughter back up when they come. [LR144]

SENATOR McDONALD: Okay. All right, appreciate that. [LR144]

SENATOR ASHFORD: Thank you, Senator McDonald. [LR144]

SENATOR McDONALD: Thank you. [LR144]

SENATOR ASHFORD: LR99 is next. Senator Schimek [LR99]

SENATOR SCHIMEK: Thank you. Thank you, Chairman Ashford and members of the Judiciary Committee. For the record, my name is DiAnna Schimek. I represent the 27th Legislative District, in Lincoln, the "Historic District." I'm here today to introduce LR99.

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This study essentially arose from two bills. One was introduced by Senator Pedersen in this committee, and the other one was by Senator Hudkins. LB666 was indefinitely postponed by the Health and Human Services Committee, and LB669, the Hudkins bill, is being held by this committee. And as you probably are aware, both of these bills dealt with issues surrounding mental health in the criminal justice system. And just as an aside, I have to tell you that I have, not with frequency, but with a little bit of regularity, gotten letters from people in our criminal justice system regarding this issue, and I suspect some of the rest of you have, as well. There is a growing awareness of the interrelationship between the public mental health system and the criminal justice system. We are beginning to realize that where the public mental health system might falter, the criminal justice system often serves as the default system for individual who fall through the cracks of the mental health system. The Bureau of Justice Statistics, in 2002, estimated that 16 percent of the national prison population had a mental illness: 16 percent. The Human Rights Watch, in 2003, noted that nationally there are three times more individuals with mental illness in prisons than in mental health hospitals. And rates for mental illnesses within the prison population are two to four times more prevalent than for the general public. There is a trend that suggests that jails and prisons, although not designated to offer a therapeutic mental health continuum of care, are quickly becoming our nation's front line mental health providers. Most of Nebraska's inmate population are not serving life sentences. Once these individuals are released, they will be back on the streets. Take, for example, the scenario of an individual who happens to have a mental illness and is being released from a correctional facility. I'm told that he or she would be released with 15 days' worth of medication. Keep in mind that because this person was incarcerated, his or her Medicaid coverage would have been suspended and he or she would be required to reapply. Therefore it is conceivable that this individual could be without the necessary medication for 30 days, putting him or her at high risk of reoffending. There must be a solution to this simple problem. We ought to find some way to close just that gap, and that would be helpful. This interim study continues the public discussion surrounding the issue of persons with psychiatric disabilities in our correction system. It should provide suggestions of how Nebraska's

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corrections and health systems can collaborate on ways to provide the care, treatment, and support these individuals need so that they can recover, manage their conditions, and live lives of quality across the entire corrections spectrum, from incarceration to release and beyond. Thank you, Mr. Chairman. [LR99]

SENATOR ASHFORD: Thank you, Senator Schimek. Does anyone have any questions? I just have one. On LB669, which is the coordinating council, is that something that you think is a good option? [LR99]

SENATOR SCHIMEK: I'm not certain that's the right approach, but I do believe there needs to be, in some cases, maybe even some kind of oversight. And I think that you all received a letter or an e-mail yesterday with a suggestion for that. But something is desperately needed. [LR99]

SENATOR ASHFORD: Right, right. So that we can identify and then track... [LR99]

SENATOR SCHIMEK: Right. [LR99]

SENATOR ASHFORD: ...and follow those people. [LR99]

SENATOR SCHIMEK: Exactly. And come up with realistic, commonsense kind of solutions to some of these. [LR99]

SENATOR ASHFORD: Thanks, Senator Schimek. [LR99]

SENATOR SCHIMEK: Thank you. [LR99]

SENATOR ASHFORD: I have a list that has been--and we're not bound by this--but that's been submitted, of one, two, three, four, five. And Dr. Cameron White is on the list. Yes, there he is. Would you like to come up? How many others would like to testify

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on this bill...or on this resolution? Okay, thanks. Dr. White. [LR99]

CAMERON WHITE: (Exhibit 2) Good afternoon, Senator Ashford and members of the Judiciary Committee. My name is Cameron White, that's W-h-i-t-e, and I'm the behavioral health administrator for the Department of Correctional Services. I appear before you today to provide information about how the Department of Corrections is providing treatment for inmates with major mental illness. Please be aware that I've been in my current role for just over three years, and my primary goal has been to transform and improve the behavioral health system within NDCS. My goal has been to refocus treatment resources on high-risk, high-need populations, and to implement evidence-based interventions. We have prioritized inmates with major mental illness as the priority population to receive clinical services. This focus on inmates with serious mental illness is the major outcomes of the transformation of NDCS behavioral health services. In November 2005, I provided testimony on LR191 to this committee. I described our strategy to systematically assess the status of our services, conduct strategic planning, then implement needed changes. The plan has been followed and is moving forward. In April 2006, NDCS engaged a consultant with the National Institute of Corrections to review our behavioral health programs. His findings were similar to our internal reviews, which indicated that the department needed to focus treatment resources on high-risk, high-need groups, especially those with major mental illness, as opposed to providing generic criminal thinking treatment to the majority of offenders regardless of risk level. Our plan has been to identify, monitor, and provide treatment to all inmates with major mental illness in our system. We're doing a good job of identifying these cases at intake, and clearly identifying the cases we have in our population. The individuals are then seen on a regular basis by mental health staff to determine their status and their treatment needs, and they are receiving treatment. A wide range of clinical treatment services is provided by NDCS staff, including psychiatric services, outpatient treatment, and residential treatment. We have reviewed the treatment literature and have identified effective methods. We're in process of expanding our residential mental health unit at the Lincoln Correctional Center so we have additional

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beds and can provide a higher level of treatment to more acute cases. The Legislature provided funding for additional clinical positions, including nurses, a psychologist, and a social worker, that will enable us to implement this expansion. IN summary, the prioritization of inmates with major mental illness has been a primary focus of the transformation of DCS behavioral health services. By providing treatment to this group, we are addressing the needs of a vulnerable high-need population. I would be happy to answer any questions you may have. [LR99]

SENATOR ASHFORD: Any questions of Dr. White? Senator Lathrop. [LR99]

SENATOR LATHROP: If I can. Dr. White, I'm curious, it looks like the focus is on the major mental health challenges of the population. Do we have a population in the prison system that may be there because of something you wouldn't describe as a major mental illness problem? [LR99]

CAMERON WHITE: Could you rephrase that a little...? [LR99]

SENATOR LATHROP: Well, I'm wondering, we have people that come and sit in that chair and tell us that our prisons are getting overcrowded. Do we have an opportunity here, at least for this subject matter, to take some of the folks that may not be the major mental illness patients or population in the penitentiary, and move them somewhere else and make some room? Instead of punishing them, get them some treatment and get them back into society? [LR99]

CAMERON WHITE: Yeah. I'll tell you, that's a difficult question because I think, as was alluded to in the LR99, there's a greater number of people with mental illness in our prison system than there ever has been before, and we see that. And as I see it, that becomes somewhat of a court issues or a legal issue, and diverting people away from prison that don't need to be there. [LR99]

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SENATOR LATHROP: Are we talking about a few people or are we talking about a lot of people that might be better served by treating their mental illness rather than incarcerating them? [LR99]

CAMERON WHITE: I'll tell you, it's a complex issue and it's hard to quantify really, because you have to determine, first, what the issues are with an individual, and then figure out if a person is culpable for their behavior. But I would say that there are people in our system who have very serious mental health needs, and I think that is in part due to having fewer resources in the community that there have been in the past. [LR99]

SENATOR LATHROP: Okay. Thank you. [LR99]

SENATOR ASHFORD: It is a significant problem. And it probably exceeds 16 percent of the population, wouldn't that be a fair...? [LR99]

CAMERON WHITE: Yes. I would estimate it's slightly higher than that in our system. With major mental illness, that's a few percent of our population; not many--3 or 4 percent perhaps. But there are other disorders that account for the remainder of the, say, 15 percent or so, aside from personality disorders and substance-related disorders. [LR99]

SENATOR ASHFORD: Just one other quick question. Are there national standards--there are I assume--national jail standards, corrections standards, that apply to how mental health services are provided? [LR99]

CAMERON WHITE: That's correct. The American Correctional Association provides standards for all sorts of services in corrections, including mental health, for screening, assessment, treatment, those types of things. [LR99]

SENATOR ASHFORD: And those are reviewed by you and your department? [LR99]

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CAMERON WHITE: Yes. In fact, the Department of Corrections is one of just a handful in the country that's full accredited with all our institutions. I believe there are 13 of the 50 states that meet all those standards for the American Correctional Association. [LR99]

SENATOR ASHFORD: And how many psychiatric or M.D.s are there affiliated with the department, either directly or indirectly, I guess, by contract? [LR99]

CAMERON WHITE: Well, I tell you, we have one full-time consulting psychiatrist, and we're looking to hire another, and we have several other consultants. In addition to that, we have a behavioral health staff of roughly 100, and that includes substance abuse and mental health, evenly split, about 12 or 13 doctoral level psychologists, 25 mental health practitioners, 35 substance abuse counselors, roughly. [LR99]

SENATOR ASHFORD: And what's the prison population? [LR99]

CAMERON WHITE: Approximately 4,400. [LR99]

SENATOR ASHFORD: Senator Pirsch, I'm sorry. Did you have a question? [LR99]

SENATOR PIRSCH: Just kind of a (inaudible) what Senator Ashford's question is. You said a prison population, the Nebraska Correctional Services, of about 4,400? [LR99]

CAMERON WHITE: That's correct. [LR99]

SENATOR PIRSCH: And county levels? Is that correct? That includes, say, Douglas County? [LR99]

CAMERON WHITE: No. Actually that's just the state prison system. [LR99]

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SENATOR PIRSCH: Just the state prison. [LR99]

CAMERON WHITE: So the counties would be separate from that. So, for example, Douglas County has a very large jail population. [LR99]

SENATOR PIRSCH: Yes. Could you tell me how...? Do you know, or a good estimate, how large of the county populations there are? [LR99]

CAMERON WHITE: I really don't have that figure. [LR99]

SENATOR PIRSCH: More in the county systems than in the state systems? [LR99]

CAMERON WHITE: I would doubt it. My understanding is that Douglas County has well over 1,000 inmates on any given day, and that's our largest jail population in the state. Lancaster County has significant number, as well, so I think it would be somewhat less than ours, but it may be close. [LR99]

SENATOR PIRSCH: Thank you. [LR99]

SENATOR LATHROP: Any other questions? All right. Thank you for your testimony. [LR99]

CAMERON WHITE: Thank you. [LR99]

SENATOR LATHROP: Next. [LR99]

TRAVIS PARKER: (Exhibits 4 and 5) Good afternoon, Senator Ashford and distinguished members of the Judiciary Committee. My name is Travis Parker, P-a-r-k-e-r. I am the director of the behavioral health jail diversion program of Lancaster

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County. I'm here to speak to you today regarding Lancaster County's strong support for LR99. Lancaster County was fortunate enough to be the pioneer in Nebraska in launching mental health jail diversion through a federal grant from the Substance Abuse and Mental Health Services Administration, or SAMHSA, Lancaster County began diverting individuals with a severe and persistent mental illness or cooccurring substance use disorder from the Lancaster County jail in November 2003. Incarcerating persons with a severe and persistent mental illness or cooccurring substance use disorder is a growing problem for Nebraska's communities and communities around our country. Jails and prisons have become America's de facto mental health and substance abuse treatment facilities, which they were never designed to become. I can speak firsthand of this, as I worked for six and a half years in various Nebraska state prisons, providing mental health services prior to becoming the director of our jail diversion program. To date, we have diverted close to 160 persons with a severe and persistent mental illness or cooccurring disorder out of the jail and back into community-based services in the Lancaster County area. We are able to provide these persons with therapeutic services, intensive case management, medication management, assistance applying for Social Security benefits, substance abuse evaluations, and treatment, that these persons might otherwise not receive. Just as importantly, we help people meet their basic needs, such as obtaining food, clothing, a safe place to stay, resources to pay for their medications, transportation, and other necessary components of daily living. After almost four years of providing jail diversion services to Lancaster County residents, here are a few key highlights. Two out of every three people we divert from jail, stay completely out of jail. Of those people who do return to jail, they are doing so far less than they used to prior to entering the jail diversion program. In other words, the revolving door in and out of the criminal justice system has slowed down significantly for these individuals, and it gives treatment a chance of having a lasting impact on their lives. Virtually every participant of the jail diversion program has reported that the symptoms of their mental illness have improved. And at the time of diversion, 40 percent of our participants identified themselves as unemployed and looking for work. At 18 months postdiversion, only 4

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percent of the participants identified themselves as being in that category. The Technical Assistance and Policy Analysis Center for Jail Diversion estimates that 800,000 severely mentally ill persons enter the prison and jail systems each year, the vast majority of which also have substance abuse problems. Additionally, 77 percent of the women who have been incarcerated have been victims of physical and/or sexual abuse at some point in their lives. Moreover, half of the individuals with severe mental illness who are incarcerated, are imprisoned for nonviolent crimes. In Lancaster County, we help to remove these persons from the county jail setting, and placed them back in the community where they belong. While this has been helpful for staff in the jail, it has more importantly improved the quality of life for these persons with mental health issues, and returned them back to the community where they can become more productive citizens. Additionally, the services and oversight jail diversion programs provide the communities decreases the public safety risk thee persons pose to their communities, and provides a significant benefit and service to taxpayers. Thank you all for your time, and I'd be happy to try to answer any questions. [LR99]

SENATOR ASHFORD: Any questions? Yes, Senator Pirsch. [LR99]

SENATOR PIRSCH: What is the total number of prisoners there in Lancaster? [LR99]

TRAVIS PARKER: On a daily basis, we hover a little above that 300 mark. It seems to be 300 to 325. But what we're finding is an increase in our bookings at the county jail each year. We used to consistently be around 10,000 bookings per year, and that's inching closer toward 12,000 this year if we continue in the same trend. [LR99]

SENATOR PIRSCH: Okay. And is that postdiversion trend? Twenty-five prisoners post...? [LR99]

TRAVIS PARKER: No, no. I'm not talking about diversion. I'm talking about the number that are in the county jail on a daily basis. Between 300 to 325 persons sit in the county

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jail on a daily basis. [LR99]

SENATOR PIRSCH: So the ones who are in diversion would not be included (inaudible)? [LR99]

TRAVIS PARKER: No, because we remove them from the jail. [LR99]

SENATOR PIRSCH: Okay. And when did that program start again? [LR99]

TRAVIS PARKER: We diverted our first individuals the very beginning of November 2003. [LR99]

SENATOR PIRSCH: That's about four years of experience to go, and so that's...your statistics, two out of three stay out of (inaudible) over a four-year period or whatever time period. [LR99]

TRAVIS PARKER: Yeah, over a four-year period. [LR99]

SENATOR PIRSCH: What are the...? Are there certain types of crimes that are not eligible for these, ones that involve violence, or...? [LR99]

TRAVIS PARKER: And part of that is going to vary from community to community, depending upon your county attorneys office. Right now, we don't divert anybody who has committed a violent act, a serious violent act, such as sexual assault, a serious assault on other persons. So really we steer away from crimes of violence. We still divert felony-level offenders, but sometimes the difference between a felony-level offense and a misdemeanor offense may be a dollar amount, for example, with a shoplifting charge or a robbery. [LR99]

SENATOR PIRSCH: Yeah. And so is that on a...? Is it...? who makes the

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determination? Are there any guidelines or rules as far as who qualifies for diversion? Is it the county attorney right now, in every (inaudible) decide on an ad hoc basis? [LR99]

TRAVIS PARKER: Sure, and that's a real good question. And what's happened is it's evolved into more of a team effort. When we identify somebody at the booking desk of the jail, our licensed mental health practitioner, our screening clinician, will do a face-to-face assessment with the person, and then make a recommendation to really three bodies: the public defender's office; the city or county attorney's office, depending upon the level of the charge; and then we'll also work with the judge. Ultimately, it's the judge's decision as to whether or not a person gets diverted, but input from all four parties is taken into consideration. [LR99]

SENATOR PIRSCH: Yo said diversion. What's the...? Is this pretrial diversion then? [LR99]

TRAVIS PARKER: Yes. This is post-booking in, but preadjudication, so it's...we try to...what we're doing is we're trying to gather a lot of information on a person in a very short time, so when they go for their first court appointment, which sometimes can be less than 24 hours, we're there, with those offices, making a recommendation for diversion. [LR99]

SENATOR PIRSCH: And you're saying the judges, not the county attorneys, are making those determinations? [LR99]

TRAVIS PARKER: Well, the judge will ultimately decide if a person is going to get out of jail and into the program or not. But certainly the public defender and the county attorney or city attorney, again which ever level the charge is at, will make recommendations to the judge for diversion or not. And we've got a really good track record. We've made, I believe, a little over...right around 160 recommendations, and only two of those have been denied. [LR99]

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SENATOR PIRSCH: I'm sorry? How many recommendations? [LR99]

TRAVIS PARKER: About 160, and only two have been denied. [LR99]

SENATOR PIRSCH: By the judges. [LR99]

TRAVIS PARKER: By the court system as a whole, meaning that the prosecuting attorney had a serious problem with it. [LR99]

SENATOR PIRSCH: Thank you. [LR99]

SENATOR ASHFORD: Any other questions? Thanks, Travis. [LR99]

SENATOR McDONALD: I just have one comment. [LR99]

SENATOR ASHFORD: I'm sorry, Senator McDonald. [LR99]

SENATOR McDONALD: Your maps do not show the current legislative districts. Did you know that? [LR99]

TRAVIS PARKER: There should be. Are there 49 in there? [LR99]

SENATOR McDONALD: Yeah, but they are prior to the Census of 2000. [LR99]

TRAVIS PARKER: Okay. We'll go back and remap those maps. Thank you. [LR99]

SENATOR ASHFORD: Oh, my. [LR99]

BRAD MEURENS: (Exhibits 6 and 7) I try to be thorough. There is a CD-ROM. [LR99]

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SENATOR SCHIMEK: Well, at least you have them all in one file. [LR99]

SENATOR ASHFORD: Brad? [LR99]

BRAD MEURRENS: Yes. [LR99]

SENATOR ASHFORD: Okay. [LR99]

BRAD MEURRENS: Good afternoon, Senator Ashford and members of the Judiciary Committee. For the record, my name is Brad Meurrens, M-e-u-r-r-e-n-s, and I am the public policy specialist and registered lobbyist for Nebraska Advocacy Services, Inc., The Center for Disability Rights, Law, and Advocacy. I would like to thank the committee for holding this hearing. I'm here today to provide the committee with information regarding LR99, and more specifically, the transition from incarceration to community. Recognizing that the majority of offenders are not incarcerated for life and will return to their communities, it is imperative that Nebraska implement policies and legislation to create a seamless and supported transition from Nebraska prisons and jails for offenders with mental illness. We have prepared a handout and accompanying CD of our research in this area. One of the key findings is that significant negative outcomes, such as increased recidivism, are certain to occur without such a supported transition. The 2003 study by the Human Rights Watch, which is included in your handout, concluded that the highest risk of recidivism is within the first six months after a person's release. One of the most effective tools for creating a successful transition from incarceration to community for ex-offenders of mental illness, is Medicaid. This program can provide the supports and assistance needed for offenders with mental illness to have a successful transition to their community. Our position is supported by the Council on State Governments, Human Rights Watch, and the Bazelon Center for Mental Health Law. In fact, we used the Bazelon Center for Mental Health Law's model law, which is included in your handout, in developing LB666. Nebraska has elected to

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terminate an individual's Medicaid coverage upon his or her incarceration, even though the federal Medicaid legislation does not mandate termination and does allow for the suspension of benefits during incarceration. When an offender with mental illness is discharged from prison, they are then required to reapply for Medicaid benefits, which takes 30-45 days. Upon discharge, ex-offenders are given a 15-day supply of medications they were taking during their sentence, with little thought given to how these individuals will be able to renew their prescriptions for days 16 through 45. Currently, there is what can be called a piecemeal approach for assisting inmates to apply for public benefits or connecting them to community-based mental health services ahead of their discharge date. At an approximate cost of \$35,000 per person, per year, to incarcerate individuals in state correctional facilities, Nebraska would be better served by adopting alternative approaches providing the supports for offenders with mental illness when released from incarceration. A more beneficial approach would be to suspend rather than terminate Medicaid assistance for inmates with mental illness. Then ex-offenders with mental illness could receive Medicaid benefits immediately upon release, enabling them to acquire needed medications and mental health services. Both the Human Rights Watch report and the Bazelon Center commentary on model law provide empirical examples of successful state and municipal efforts to provide coordinated and comprehensive discharge planning and public benefits programs for ex-offenders with mental illness. This concludes my testimony this afternoon. I would be happy to entertain any questions the committee may have. [LR99]

SENATOR ASHFORD: I just read this while you were giving your testimony. (Laughter) It does raise some significant...no, that's fine. I don't have any questions of Brad. Senator Pirsch. [LR99]

SENATOR PIRSCH: Just briefly, you had mentioned...you said Nebraska terminates Medicaid coverage with incarceration. Is that (inaudible) incarceration? [LR99]

BRAD MEURRENS: I'm sorry. What? [LR99]

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SENATOR PIRSCH: Is that certain types of incarceration? [LR99]

BRAD MEURRENS: I don't think so. My understanding is that if you are incarcerated, you...you know, whether that's in the state pen or on the local level for an extended period... [LR99]

SENATOR PIRSCH: For a misdemeanor for a day? Would...? [LR99]

BRAD MEURRENS: I don't know about a day. That I would have to go back and check. But I know when you're talking about...you know, like the state pen type of a situation, that level of incarceration, your Medicaid would be terminated, yes. [LR99]

SENATOR PIRSCH: That would be a felony-type of situation. I was just wondering about if there are (inaudible). [LR99]

BRAD MEURRENS: Well, you know, that's a good question, and I don't really know. I would have to go back and check that out. [LR99]

SENATOR PIRSCH: Brad, if you could check on that. [LR99]

BRAD MEURRENS: Sure. [LR99]

SENATOR PIRSCH: How much...? Are you familiar with the program in Lancaster County, the mental health diversion program? [LR99]

BRAD MEURRENS: Somewhat. [LR99]

SENATOR PIRSCH: Familiar enough that you're familiar with the costs per person, per year, as compared to...? I know you mentioned costs there (inaudible.) [LR99]

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BRAD MEURRENS: I saw, in a presentation done maybe a couple of years ago, the number I saw was \$3,500 per person to divert them into the jail diversion program. That's the number I've seen, but I don't know. You would have to ask Travis probably more about that I would know. [LR99]

SENATOR PIRSCH: Okay. You mentioned that there is a...that the possibility exists, at least, for the state of Nebraska, you said, to suspend...that it's the state of Nebraska making the policy choice to terminate Medicaid coverage due to incarceration. And perhaps I didn't understand you. I would just like some clarification. Are you suggesting that there is a better (inaudible)...that suspension during the period of incarceration would be a better alternative? [LR99]

BRAD MEURRENS: Yes. [LR99]

SENATOR PIRSCH: And could you just briefly explain why? [LR99]

BRAD MEURRENS: Well, simply put, if Nebraska terminates Medicaid, then when an offender comes out of prison, they would have to figure out a way to apply for Medicaid to resume, and there's nothing saying that that would happen on day-one after that person gets out. And when they do go and reapply for Medicaid coverage, it takes, on average, 30 days for that process to be completed, up to 45 days. So the question becomes, there's a gap between release from incarceration, the end of your 15 days' worth of medications, the 15 more days to 30 more days will take for your process to go through the system, to be processed through the Medicaid system. Suspending Medicaid, on the other hand, would allow that person, when they're discharged, the Medicaid benefits wouldn't be paid while they were incarcerated, but when they're out those benefits come back onto those person and could resume those benefits on day-one, once they are released, rather than waiting the 30-45 days. [LR99]

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SENATOR PIRSCH: That would just recommence by operation of law without having to take any further positive action on behalf of (inaudible) to indicate status (inaudible). Okay. And is that the sole reason, or are there other benefits of having suspension as opposed to termination? [LR99]

BRAD MEURRENS: I would say that's probably the major one; yeah. [LR99]

SENATOR PIRSCH: Okay. [LR99]

BRAD MEURRENS: It eliminates that gap in the time where there is very little to nothing supporting that individual. And like I said, within the first six months, that's the critical time for persons to either reoffend or not to reoffend. [LR99]

SENATOR PIRSCH: Thank you. [LR99]

SENATOR ASHFORD: I think it's a great point, and I don't know whether it is a function of allowing the application to occur in the last 30 days of incarceration or some other process, but it would seem...it seems illogical, with the data being the way it is, to...with the recidivism to be so great in the first several days or months, that we didn't react to that. Because obviously we're paying...the state would be paying significant dollars that are not Medicaid...not...they don't get a share from the federal government to take care of those people anyway. So if they go right back, you know. So we're paying for the same service, basically, or arguably...the same kind of service, 100 percent of the cost. [LR99]

BRAD MEURRENS: Right; exactly. It's sort of like the old saying: you pay a little now, you'll pay a lot more later. You know, either it's a 60-40 match with the Medicaid money, or it's all on the state's dollar when persons are cycled back into the prison system. [LR99]

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SENATOR ASHFORD: I mean, this committee last year did some...addressed the issue of prisoners as related to child support. And I guess the thinking is trying to get prisoners an opportunity, when they're released into society, an opportunity to succeed, not to fail, is a matter of significant public policy, in my mind. So I think you've raised a good issue. Thank you. [LR99]

BRAD MEURRENS: Thank you. [LR99]

LYNN DARLING: I'm Lynn Darling, here in Lincoln, Nebraska, and I'm representing those of us who have mentally ill children. My adopted son, not knowing at the time, was an alcohol syndrome baby; turned out to be a sociopathic alcoholic, and during puberty was schizophrenic. His goal in life was to kill me. I also have been on the Lancaster County Mental Health Board for eight years back when. I also managed a home for the chronically mentally ill for Mary Hepburn O'Shea for a number of years. I have recently been on the committee with the Unitarian Church that has gone to four county jails to look into the mental healthcare of these prisoners. And, by George, everything is just wonderful. So you talk to the people whose children are in there or parents or what have you: It's not all beautiful. And the biggest problem I have is the follow-up. And the alternative program that man was talking about is absolutely the best thing that's happened since Kleenex. So the issue that I am trying to bring forth is that we are way, way behind on what has to be done. Think of what the alternative program could do with \$94 million for a new jail that produces nothing more but the same problem. My son was extremely...his IQ was off the chart, so he knew how to manipulate the people in the prison system, so he was not physically injured. But, boy, talk about an education. I hope that each one of you finds several ex-prisoners and families of prisoners to talk to. It is essential that you get the other side of the story than just from people that are employed in the systems, because there is an awful lot going on. There isn't one single person that's mentally ill, labeled such, that should be in the prison system. That is cruel. They are unspeakably treated by the other people. And if you weren't mentally ill before you went in, you are when you got out. I also was

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instrumental working with Senator Wesely to get an alternative place to put a person that was mentally ill picked up for robbery or whatever: shoplifting, a lot of it. And, by George, after, what was it, six years? We've got 14 beds out at the regional center. We could have used 14 times 14. So I have been through the mill. I have still...my son is 43; he is still very sociopathic; you still deal with it. But you must talk to the people that are actively in or experienced the system, because this is a wonderful bill. And thank you, thank you. [LR99]

SENATOR ASHFORD: Thank you, Lynn. Just a moment; there may be a question. We do appreciate your work and your heartfelt testimony. It is important, and this committee does listen to issues raised by prisoners, and we're sensitive to it. So we appreciate your comments. [LR99]

LYNN DARLING: Good. I'll send some more to you. [LR99]

SENATOR ASHFORD: All right, give us some more. We have... [LR99]

SENATOR SCHIMEK: And she will, too. [LR99]

SENATOR ASHFORD: Well, and we love to get at good issues. Thank you. It's Pat, is that right? How are you? [LR99]

PATRICIA TALBOTT: I'm fine. How are you today? Senator Ashford and honorable members of the Judiciary committee, my name is Patricia Talbott, and that's T-a-l-b-o-t-t. I am a resident of Lincoln, Lancaster County, Nebraska. I am a consumer of mental health services, and have been in recovery from a serious mental illness and substance use disorders for many years. It is my privilege to work with the Mental Health Association of Nebraska, facilitating workshops that teach recovery skills to persons with serious mental illness, as well as to educate about recovery from mental illness and how to overcome the stigma related to being mentally ill. I have also been

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working with the behavioral health jail diversion project in Lancaster County since 2003, conducting 6-, 12-, and 18-month research interviews with program participants. Even though I am not a professional mental health worker, my personal experiences with mental illness and substance abuse give me a unique opportunity to work with and understand others with similar experiences. Over these past five years I have been able to hear from divertees how the diversion program has made a difference in their lives. I have talked with people who began the program with little or no hope for their futures, and to see their excitement as new beginnings make futures possible. The intensive case management model that is used in Lancaster County has proven to be a very effective way to engage participants and to help them in their recovery journey. You will receive much information regarding the cost savings of jail diversion programs over the coming months. I want you to see from a personal level how lives are being changed and how program participants are moving out into their home communities to work and to volunteer and to become proud citizens and taxpayers. The whole community benefits when we have a successful divertee, as families can be united and tax dollars can be used where they are really needed. And I thank you for your time. Senator Pirsch, I did have a couple of answers to questions that you brought up, if you don't mind. The Medicaid benefits are terminated after 30 days of incarceration. [LR99]

SENATOR PIRSCH: Okay. [LR99]

PATRICIA TALBOTT: The second one is that the cost of jail diversion for a person in Lancaster County is \$3,500 per year. [LR99]

SENATOR PIRSCH: Well, thank you so much for those answers, and for doing all you do. [LR99]

PATRICIA TALBOTT: Any questions? [LR99]

SENATOR ASHFORD: Thank you, Pat. [LR99]

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PATRICIA TALBOTT: Thank you. [LR99]

SENATOR ASHFORD: Do we have the next testifier? How many other testifiers do we have on this particular resolution? Two more. Why don't you come on up to the front, if you would. [LR99]

MARGARET BROWN: Senator Ashford and committee members, my name is Margaret Brown, and I'm also a member of Lynn Darling's committee, but I am also the director of corrections for the state League of Women Voters. And by now I think everybody here knows that there is a national trend for prisons to be...accept mentally ill persons, and it's getting worse. And the local Lincoln jail is the same. But I was astounded when our governor, and I think this is part of the national trend, announced that we were going to close Norfolk and Hastings, places to put mentally ill people. I don't know what's happened in Hastings. I heard they were working with perpetrators, and that seems to be a huge issue in our society. And Norfolk, I think, only has 23 or 24 beds, so when somebody on the streets exhibits bizarre or dangerous behavior, where do they go? To the Lincoln/Lancaster prison. And there is no other place for them to go. I have personally, to a friend of mine who gave Christmas presents to the adolescent unit at the regional center about four years ago, she told me that she delivered, her church delivered Christmas presents to the adolescent unit. And the week before Christmas there were 42 adolescents in that unit. And just this last spring I heard they want to close the adolescent unit at the regional center. Now, what's going to happen to these kids? I do not know. And myself personally, I've met with some alcohol and drug counselors, this last month, twice, and I was saying, well, my goodness, I'm involved with teenaged girls some 40 years now, who have been in several foster homes and have dangerous behavior, high-risk girls. And I said, well, the girls...this is...things are pretty difficult. And they said to me, oh, things are much worse now with the drugs and the broken families. So I can see down the road things are not going to get any better. And I hope...when I heard Travis Parker, I hope he has made some dent in this

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Lincoln/Lancaster jail, because even this new jail, by the time they finish this new jail it's going to be full. We're going to have to hire more staff. I think maybe they have a part-time or maybe two part-time psychiatrists there. And I'm also astounded to hear--I can't believe this--ten years ago I heard that they only had one psychiatrist for the whole Nebraska prison system. And they still only have one. And, believe me, particularly with some of these mental patients, they have to have an M.D. for their medication. So I hope that this will pique your interest in the prison system. [LR99]

SENATOR ASHFORD: Margaret, thank you. I think our interest is piqued. I can say that with some assurance. Thank you. [LR99]

J. ROCK JOHNSON: My name is J. Rock Johnson. That's initial J. Rock, R-o-c-k J-o-h-n-s-o-n. Chair Ashford, members of the committee. I want to make some rather global statements here; philosophical, if you will. We have an attitude toward people who are incarcerated that is punitive. It goes very deep. It's been that way for a very, very long time. So we set up institutions and structures that punish people. The previous testifier mentioned perpetrators or people who are sex offenders, many of whom now are at the Norfolk Regional Center. What do we do? We put these individuals into jail, where they can potentially become, quote, hardened criminals, and then we have them sent to receive treatment. How much sense does this make? It doesn't make a lot of sense, but it's consistent with this punitive attitude. The second point that I want to make is that language picks up phrases and then they come to be seen as true. And we hear that correctional institutions are the largest hospitals or therapeutic facilities. These are not therapeutic facilities. They were designed to punish. They are not there to provide therapy. They are not there to provide healing and to provide recovery. I think the jail diversion program is one of the best things that we've had happen in our community, and that is needs to be expanded and emulated. What we're really seeing is transinstitutionalization. Instead of people having been put into mental institutions, they now end up into prisons and jails. And as far as the mental institutions go, people can live in the community if they have the supports. But those supports also cost money,

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and it means you have to have a commitment to serving people in the community. I wanted to note, as well, the situations of people who are juveniles and who come into...what they come into is an institutional system, and they learn--because I can speak from my experience. You know, I learned a way of thinking and being, and it wasn't productive. I'm not saying that juveniles become criminals. I am saying this is no way to treat our young people if we expect them to turn into the kind of citizens who won't continue a punitive attitude toward people who have committed such, what we often call lifestyle crimes, such as urinating in the alley, and so forth. So moving away from the punitiveness, getting services and housing for people with mental illness in the community, and not seeing jails and prisons as being therapeutic. If you haven't been in one, you have to go to see one to see how difficult and what a kind of way that clamps down on the way people think. I'm at a loss for words. But having been in jails and in prisons, they are really no place for human beings. Let me simply end with that. Thank you. [LR99]

SENATOR ASHFORD: Thank you. Any questions? Thanks very much. [LR99]

DEAN SETTLE: Good afternoon, Senator Ashford and senators on the committee. I'm Dean Settle. I'm the executive director of the Community Mental Health Center of Lancaster County. I was not going to say a word today, but I'm compelled to share one observation. We've talked today about corrections. You've heard about Medicaid. You've heard about a local program that I administer here with Travis Parker and his fine team, and that has turned out to be a model, a national model of jail diversion. The Community Mental Health Center also here in Lancaster County is the only sex offender treatment program of perpetrators in the state, and we operate that primarily because of the inordinate number of sex offenders that are discharged into this county. I come before you with one observation. We've heard from lots of different perspectives, but the large absence of any kind of testimony today from HHS it seems to me is overwhelming. We need to know what HHS will do to help coordinate the recovery and the rehabilitation and the necessary sustaining monies for mentally ill prisoners and persons

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coming back into our community. And I see that lack of testimony, a huge, huge hole in giving senators like yourselves the needed information about a coordinated approach to rehabilitation and recovery of mentally ill prisoners. Thank you. [LR99]

SENATOR ASHFORD: I think that is a good point, but that doesn't mean HHS has to come up and spend all afternoon. [LR99]

DEAN SETTLE: Understood. [LR99]

SENATOR ASHFORD: We'll call them. [LR99]

DEAN SETTLE: I think it's essential. [LR99]

SENATOR ASHFORD: But I think your point is well-taken. [LR99]

DEAN SETTLE: I think it's essential. [LR99]

SENATOR ASHFORD: And a coordinated approach, whether we're dealing with this population or other populations in need, coordination really is essential. And I think we're hopefully starting down that road towards better coordination. But I think...and I wasn't being flippant. I think your point is well-taken, so thank you. Don, you're...how many other...? The reason I'm asking is my good friend, Senator Christensen, has to leave, so I'm going to...how many more witnesses do we have on this particular resolution? Okay. [LR99]

DON WESELY: This is a two-minute history lesson; very quick. Mr. Chairman and members, I'm Don Wesely, representing Norfolk, and formerly representing the 26th District. And as was mentioned earlier, I carried the legislation about 20 years ago that banned the jailing of the mentally ill. But what we did is we delayed the effective date in anticipation of more beds being opened in crisis centers that were established around

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the state. As Lynn Darling talked about, it took us years to finally get those in place, and frankly, far too long. And we only ended up with a few beds in Omaha, Lincoln, Norfolk, a few other areas. And the problem just overwhelmed us. We just totally did not anticipate the hundreds of people that needed additional services. They had been pent up, waiting on services, going in the back seats of police cars waiting for some place to go to, ending up in jail. Sometimes getting into the regional centers. And what we didn't realize, is as bad as that was, there were even more people that needed the help than we anticipated. So all of that is to tell you that we tried to do something about it 20 years. Time has passed, and now, as was mentioned by previous testifiers, the situation has actually gotten worse, because what we did is, these regional center beds have been cut back. And instead of focusing on the EPC issue to make sure that we added more beds that have long been needed, they've actually been reduced. And now I would encourage the Judiciary Committee to check in with law enforcement. I know Lincoln law enforcement, I know Norfolk law enforcement, I know law enforcement across the state was very worried about losing these beds and what it would mean to the EPC situation. And I'm sure the situation has only gotten worse. So the solution is we've got to have a place for these folks to go to. It's not the jail. We've got to look at what's happening on the downsizing of the regional centers, got to make sure beds are available for EPCs, we've got to make sure these crisis centers aren't as overwhelmed. I mean, all of this is very complicated. But HHS has been working on this; the Health and Human Services Committee has been working on this. This is a judicial issue and I would suggest this committee has a role to play to find out how the last three years have gone in terms of EPCs. And our expectation is that things have gone from very bad to even worse. [LR99]

SENATOR ASHFORD: Thanks, Don. I agree it is a Judiciary Committee issue, certainly in part. [LR99]

DON WESELY: Yes. [LR99]

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SENATOR ASHFORD: And I was with you when we.... [LR99]

DON WESELY: Yeah, do you remember that? [LR99]

SENATOR ASHFORD: ...when we did that bill before, as was Senator Schimek. And it was landmark legislation, and so I certainly appreciate your point. [LR99]

DON WESELY: Thank you. [LR99]

SENATOR ASHFORD: Senator Schimek, do you wish to speak on this further? [LR99]

SENATOR SCHIMEK: I will waive closing. (Also Exhibit 3) [LR99]

SENATOR ASHFORD: Now, Senator McDonald's daughter is here and granddaughter, and I'm glad they're here. But I am going to...before we're going to just take one brief moment, and Senator Christensen, would you introduce your resolution, if you could? And then we'll have Senator McDonald's granddaughter speak to us. [LR178]

SENATOR CHRISTENSEN: Thank you, Chairman Ashford and members of the committee. I appreciate your time. It's an honor here to sit in front of you to discuss the concealed carry and the complications that arise by cities exempting out and being able to set their own laws and how that affects the complication of citizens passing through. With the passage of LB454, the concealed handgun act, highlighted Nebraska's problems in not having a local ordinance creating a patchwork of firearms. It creates an environment where law abiding citizens unwittingly break local firearms as they travel through the state. There are some places, like in Omaha and La Vista, and corridors where I guess I would ask you, which lane do I stop in, in the intersection, to move the gun to come into compliance, because they are drastically different. And so all of a sudden, you're breaking the law if you go through the intersection or if you move it before you go through. Another example of Kearney, a law officer told a friend of mine,

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he said we don't want any guns here; if you're going through the interstate and we see it and know it, we're going to arrest you. Because they have jurisdiction on both sides of the interstate. Little things like this can make law-abiding citizens become unlawful. And so lawmakers need to be very careful in how they...public policy affects the day-to-day lives of citizens and should not construct a regulatory system that is complicated and difficult to comply with. Lawmakers have an obligation to do their best to provide consistent regulations that support our basic constitutional rights, and not confound them. Now, I just ask for your help here, that we make a commonsense solution to the problem of honest citizens becoming law breakers by not being able to have the knowledge of what every town is or a sign that forewarns at every town's entrance so they can transport guns safely. You know, I believe the state (inaudible) it would be the best solution, but also knowing this study we could look at, having one place that a gun could be placed in the car that was legal statewide. You know, there's a variety of ways of looking at it, and I've been told that several people have options for us, and I'm excited to be able to read the testimony on that. And so I guess I'm going to quit right there and just again thank you for your time, and just hope that we can put something together that would be good for everybody. Are there questions? [LR178]

SENATOR ASHFORD: Thanks, Mark. Senator McDonald's family members are here, so we're going to have them come up. On LR99, how witnesses or testifiers do we have on that? Lynn is here, and...okay. I'm sorry, LR178. Sorry, I noticed...there I go. That's what I expected. Okay, go ahead. [LR178]

MELISSA GRIFFITH AND RILEY GRIFFITH: Hi. I'm Melissa Griffith and this is my daughter Riley, and we live in Hamilton County, and we've been having problems with dangerous dogs with our neighbors since before January 29, 2006. We do live out in the country on the farm. We have several stray and tame cats. We first started noticing that some of our cats would be missing when we would go to feed them and stuff. And we would wake up in the morning and there would be two over here and sometimes three over there, and I would have to get my husband up before the children would get up.

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Riley is six and my son is three. And we started calling the police when kept finding more and more cats, and we would notice that the neighbors had two dogs and they would come over and start killing our cats. Well, we had gotten Riley a baby puppy last year for her birthday, and we came home one day and the dog was mutilated in our garage. And we called the police and we told them, and they said they would go over, they would take care of it. They went over and told the neighbors that they needed to keep their dogs restrained. And they always would. Every time we would call, we kept calling, like around May 9, telling them that the dogs are still here, cats are missing. One day I had stayed home because Riley was sick from school, and I heard this terrible sound out on our deck. And the two dogs were on there, killing our cats. And I had pulled out our rifle to try to shoot it to try to protect ourselves, and I hit it just to protect us, and I called the police and they went back over. And they said, you know, the dogs are restrained. Well, we live 15 miles from town. By the time that they get the dogs back, sure, they're going to have them tied up or whatever they had them. Finally, on May 9, when the dog was killed, we had them come over and they took pictures of our dog. We had an autopsy done. And they euthanized one of the dogs. The other dog that they had had, had babies, and they were not going to euthanize the mother until the babies were old enough to be given away, and then they would do that at that time. The police told them that they were supposed to get rid of all their dangerous dogs, and to get rid of the babies as well. They kept one of the babies. The police had also told us that they were supposed to never have another dangerous dog species again, and they kept one of the babies. I did call the police back in August and told them that they had another dangerous dog and that we were very concerned with the past history that we had had before. Just this summer we were out in our pasture. We had planted some trees. Our neighbors live a little over a quarter- to a half-mile away. My husband and my two children and I, we were outside. The dog came clear down the country road, barking, foaming at the mouth. The only reason why it didn't get through the fence was because we had tight barbed wire. Riley peed her pants she was so scared, and I was holding my son--it's all right--and my son. And every time we would try to walk off, the dog would try to walk off, the dog would try to charge us. So my husband would walk

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towards the dog so that it would attack him and not my children or myself. We did call the police. The county attorney was gone, he was on vacation. And the commissioners had taken the dog away. Riley has had a hard time at school. All her journal entries are because she is scared to death of these dogs. The one that they have now that tried to attack us, it chases cars. I have letters from Southern Power when we lost power back in the storm last New Year's Eve, in Hall and Hamilton County. I have letters from the bus driver; the dog tries to chase us. The commissioners did take the dog away for a week, and until it bites, severely injures, or hurts someone or something, there is nothing that they can do but give the dog back. They told them that it does have to be restrained. The dog is on, oh, a clothesline with a leash, so it can run back and forth. They do have a duck that's in a 10 x 10, six-foot-tall kennel, so it stays away from the dog. I do know that the dog is in Lincoln right now with the son, so we are safe now. But this is the same thing that happened before with the other two pit bulls or the dangerous dogs that they had before, too. The dogs were in Lincoln and they had been moved out because they had been warned that the dogs were aggressive and dangerous. That's why they came back to Hamilton County to the parents' house, and now we're having problems again. There was a letter sent to our neighbors, saying that it is a potentially dangerous dog, and defined under Nebraska law that they do need to keep it restrained. Therefore, I mean, it has not. It still chases cars. They know the times we go to work. They let it out when we're gone. We're continuing to have the same problem, even sometimes on the weekends, so. [LR144]

SENATOR ASHFORD: Okay. That is a rough story. Well, I thank you for coming, and thank you for coming. It's not so easy, is it, to sit there. [LR144]

MELISSA GRIFFITH: And that's why you live in the country, so. [LR144]

SENATOR ASHFORD: Does anybody have any questions? [LR144]

MELISSA GRIFFITH: Did you want to tell them anything? [LR144]

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SENATOR ASHFORD: Do you have anything to say? [LR144]

MELISSA GRIFFITH: Do you want to tell them anything? We need you guys' help. We really do. I know when we did talk to the county attorney, he said, we needed to contact our local legislation, and that they needed to look at the laws. And they've not following them--the county attorneys and stuff aren't, so. [LR144]

SENATOR ASHFORD: Senator Pirsch, do you have a question? [LR144]

SENATOR PIRSCH: Can I just ask a question? Ultimately, this is the...the puppy now is grown up, right; they got rid of it. Did they...? They did send a letter to the owner, then, saying that the dog is now declared to be potentially dangerous and they needed to take care of that, or they haven't done that? [LR144]

MELISSA GRIFFITH: They had, after we had told them before. But we had warned them back in August when it was a baby, after they were supposed to have gotten rid of all their dogs, that they had another and it was the baby. And they did tell them that it was supposed to be confined, and, you know, every time they would come over, by the time the police got there--there is no animal control in Hamilton County out in the county, but in the city there is--and we continue to fight that they do not keep it secure. [LR144]

SENATOR PIRSCH: Thank you. Very nice job. [LR144]

SENATOR ASHFORD: Yeah. Thanks for coming. [LR144]

MELISSA GRIFFITH: Thank you. [LR144]

SENATOR ASHFORD: Thanks, Vickie, for bringing this to us. Okay. It's ten after 3;

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we're going to go to 4:00, so let's start the discussion on LR178. I don't know who wants to go first, but. And I would ask maybe if the...as you proceed, if one or two of the testifiers could come up to the front table and sign in and get ready to come up, that'll be great. [LR144]

ANDREAS ALLEN: (Exhibit 8) I am Andreas Allen; that's A-I-I-e-n, Omaha, Nebraska. Chairman Ashford, members of the Judiciary Committee, first, thank you for the opportunity to appear before you today and discuss the inconsistencies in our firearm laws. My remarks will focus on problems where I live, in south Omaha, including the challenges faced when traveling in communities and neighborhoods surrounding my home. Consistent with my beliefs that I should not point out problems without offering solutions, I have an example of a proposal for you, as well. I will not take up the committee's time by reading the laws that I am addressing verbatim, but will be referring to several specifically during my testimony. The Constitution of Nebraska was amended in 1988 to include protections for the right to bear arms. This created specific protections for these rights that were not enumerated previously but could have been considered protected under Article I, Section 26, which protects all rights, not specifically named or delegated. But as the courts correctly found, the constitutional right to keep and bear arms is subject to reasonable regulation by statute, if the statute does not frustrate the guarantee of the constitutional provision. Thereby, it is a reasonable use of the state's police powers to perform some regulation of arms. The only regulation of arms that has been passed from the state to cities has been the regulation of concealed carry of weapons. Though many cities have created overreaching ordinances further restricting firearms far beyond that of the state, the city of Omaha does this, claiming home rule authority. But even under home rule authority, cities are subject to the limits of the constitution and statutes of the state. Now, this summer has been a violent time in Omaha. In an effort to conform to the violent illegal use of firearms in Omaha, Mayor Fahey brought forward several changes to the Omaha city code. I will use these changes to demonstrate the conflicts between city and state statute. The first change in the ordinances of Omaha was to make the sale of firearm to

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a minor by any person punishable. Previously the ordinances only said adult. This made the "who" should be punished match the state statute. Unfortunately, the definition of a minor in Omaha is anyone under 21, where state and federal law use the age of 18. I do need to point that federal firearm licensees are barred by state and federal law from selling a concealable weapon to anyone under 21, but the possession of a concealable weapon, which may have come to the person through an inheritance, is not illegal. Also the city of Omaha defines a concealable weapon as any firearm having a barrel less than 18 inches, whereas the state defines a short-barreled weapon as having a barrel of 16 inches or less, matching federal legislation. But the largest problem in the city of Omaha is that they're taking a crime that is a Class IV felony subject to habitual criminal penalties, and they're making it a misdemeanor. Again, in the penalties for possession in the city of Omaha, they're using the 21-year age basis where the state and federal law used the 18. But this time, instead of trying to go easy on anyone convicted of this crime, they try to take what state law has as a Class III misdemeanor, carrying a maximum of three months imprisonment or a \$500 fine, or both, and try setting a mandatory sentence of double the state maximum. I'm just going to kind of skip forward to the end. I have put a proposal here for you requesting you to take and do preemption. The wording that I have offered to you is how several other states, one of the first of those being Maine, have protected their citizens from conflicting city laws. This wording has been corrected to match what the Nebraska Constitution and statutes, and has withstood legal challenges and court interpretation within other major states. And I would like to thank you for your deep consideration on these facts, and your quick and positive action on these challenges. [LR178]

SENATOR LATHROP: Very good. Thank you, Mr. Allen. Anybody have any questions? All right. Thanks for coming down today. We appreciate it, and the proposal, as well. Next witness, please. [LR178]

JAMES PARRIOTT: My name is James Parriott. I'm from Murray, Nebraska. [LR178]

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SENATOR LATHROP: Can you spell your last name, sir? [LR178]

JAMES PARRIOTT: P-a-r-r-i-o-t-t. [LR178]

SENATOR LATHROP: Thank you. [LR178]

JAMES PARRIOTT: The Nebraska State Constitution, Article I-1: All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, the pursuit of happiness, and the right to keep and bear arms for security or defense of self, family, home, and others, and for lawful common defense, hunting, recreational use, and all other lawful purposes, and such rights shall not be denied or infringed by the state or any subdivision thereof. That was amended in 1989, State v. Comeau: The constitutional right to keep and bear arms is subject to reasonable regulation by statute if the statute does not frustrate the guarantee of the constitutional provision. I can't think of anything more frustrating than trying to travel across the state or just to Omaha from Murray, and trying to follow the law, going through the expense of taking the class, getting the permit, and all that. And you can be arrested driving through Plattsmouth because they only allow open carry of handguns. They have a city ordinance--it's just a misdemeanor but it's still the idea. I was legal before I passed the sign; I'm subject to arrest and losing my firearm on the other side of the sign; and a mile down the road when I am back out of Plattsmouth, and I'm legal again. I know about that but I'm sure there are probably 20 other small towns that I don't know about. That's all I had to say. Questions? [LR178]

SENATOR LATHROP: Senator Schimek. [LR178]

SENATOR SCHIMEK: Yes, thank you, Mr. Chairman. I'm not exactly certain what you're trying to accomplish here. As I'm reading this preemption section it says that the state intends to occupy and preempt the entire field of legislation concerning the regulation of firearms. [LR178]

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JAMES PARRIOTT: I didn't submit that. I'm just...this is my problem. From where I'm standing, if I...I'm a concealed handgun permit holder. If I decide to carry, going to Omaha today, and drive through Plattsmouth on my way, I'm breaking the law going through Plattsmouth. [LR178]

SENATOR SCHIMEK: So you're only concerned about this crossing into other territories and... [LR178]

JAMES PARRIOTT: I would, at the very least, cities that do this need to post it. If I'm going from...I don't know what the law is in Holdrege or Lexington or...I can't possibly research that much information. Even with the Internet, you (inaudible). [LR178]

SENATOR SCHIMEK: I understand what you are saying then. Thank you. [LR178]

SENATOR LATHROP: Are there any other questions? Seeing none, thank you, Mr. Parriott. [LR178]

JORDAN AUSTIN: (Exhibit 9) Good afternoon. Members of the committee, my name is Jordan Austin and I'm here on behalf of the National Rifle Association of America. I'm a registered lobbyist, appearing before you today to inform you of the need for firearms preemption laws here in Nebraska. The purpose of this legislation is to establish a statewide preemption on local firearms ordinances, and allocate the Legislature to occupy the entire field of regulation of firearms and ammunition. This would include the purchase, possession, transfer, ownership, carrying, storage, or transportation of firearms, ammunition, or any components or combination thereof. Preemption laws prevent local jurisdictions from imposing ordinances at variance with laws passed by the state legislature and, in some cases, rescind local ordinances to ensure uniform laws statewide. The current situation in Nebraska results in a complex patchwork of restrictions that change from one local jurisdiction to the next. It is unreasonable to

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require citizens, whether residents of Nebraska or a person passing through or visiting this state, to memorize a myriad of laws. When a situation such as this is present, law-abiding citizens run the risk of violating ordinances and restrictions that they don't know even exist. This can affect hunters, target shooters, and firearms collectors who travel through multiple jurisdictions on the way to hunting areas, shooting ranges, and exhibitions. Individuals who travel with firearms for personal protection are at risk of breaking the law simply by crossing from one jurisdiction to another. If charged with violation of a local ordinance, the honest gun owner faces, at the very least, great expense and devotion of times to clearing his or her good name in court, and retrieving any firearms or other property confiscated by law enforcement officials. Nebraska is not a test case for this type of legislation. In fact, to prevent the problems associated with restrictive local ordinances, 47 states have either enacted firearms preemption laws, or have it through judicial ruling. Preemption legislation is also not new to Nebraska. In fact, I was easily able to discover several sections of Nebraska code where various aspects of state law preempt local law. The issue of firearms regulation, with regard to the aforementioned provisions, is one of statewide importance. Consistent and uniform state laws should be a goal of this legislative body in order to protect the rights of law-abiding citizens. In studying the local ordinances in various cities in Nebraska, I noticed many differences in how each locality handled issues such as concealed carry, transportation, and even possession. One city in Nebraska has even added offenses to their list of misdemeanors that would prevent one from possessing a firearm. Someone who is a law-abiding citizens in every other city in Nebraska all of a sudden becomes a criminal when they enter that city's jurisdiction. It is unfair to require citizens to memorize this patchwork legislation of laws. In 2006, the legislative body passed into law a personal protection act which provided all the citizens of Nebraska, who passed the necessary background checks and training requirements, the right to concealed firearms. Without this preemption legislation in place, local municipalities can continue to have and pass new restrictions on carrying concealed firearms. I am positive that was not the intent of LB454. The language in that bill clearly states that once an individual passes all the necessary requirements, "A permit to carry a concealed handgun is valid

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throughout the state." That bill was intended to allow all citizens who are granted a concealed carry permit the right to carry throughout the state. If that was not the case then there would have been language in the bill stating the contrary. This preemption legislation is a chance to correct the misconceptions of what LB454 was originally intended, and also to provide the citizens of Nebraska with the comfort of knowing they can travel throughout the state and not unknowingly break the law. I appreciate the opportunity to speak today and I would be happy to answer any questions you have. [LR178]

SENATOR LATHROP: Thank you, Mr. Austin. Any questions? Oh, pardon me. [LR178]

SENATOR SCHIMEK: Thank you. And thank you for being with us today. I actually should have saved my question for you regarding preemption. You are suggesting a preemption law and you are selling it as a statewide preemption, but in actuality aren't you talking about a national preemption law? Wouldn't you use the same rationale: You would be passing from jurisdiction to jurisdiction, from state to state, so therefore we should have a national preemption law? Wouldn't that be the next step in this progression? [LR178]

JORDAN AUSTIN: Well, the transportation...there is already a federal transportation law on the books which allows transportation of firearms from state to state. And there is a bill before Congress now to have a nationwide reciprocity law for right to carry, as well. So there are already steps being taken for that. [LR178]

SENATOR SCHIMEK: Whatever happened to local control? Whatever happened to the right for the city of Beatrice to have its own ordinance regarding the carrying of firearms? I mean isn't that important too? [LR178]

JORDAN AUSTIN: But the state passed a right to carry bill last year which entitles anyone who passes the requirements to carry throughout the state. The language was

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clear in the bill. [LR178]

SENATOR SCHIMEK: We pointed out to you at the time that the language was clear in statute that it was up to each city in the primary and metropolitan and first-class categories that they had the right to regulate their own city, and that's still in statute. [LR178]

JORDAN AUSTIN: I didn't see that in the bill, though, when it addressed the... [LR178]

SENATOR SCHIMEK: You guys didn't read the bill very well. [LR178]

JORDAN AUSTIN: Well, I have the bill right here. It actually says...I have the preemption section highlighted in here, which... [LR178]

SENATOR SCHIMEK: Well, I'm sorry. I don't mean to pick a fight with you. I'll visit with you afterwards and show you the language we did point out to you on the floor of the Legislature. So we can talk about it afterwards so we don't take up the committee's time. [LR178]

JORDAN AUSTIN: Okay. [LR178]

SENATOR ASHFORD: Thanks. Thanks, Jordan. [LR178]

JORDAN AUSTIN: Thank you. [LR178]

SENATOR ASHFORD: Thanks, Jordan. Okay, the next testifier [LR178]

DON C. WILLIAMS: (Exhibit 10) Good afternoon, Senator Ashford and the committee. I thank you for allowing me to be here to support LR178, resolution. My name is Don C. Williams, W-i-l-l-i-a-m-s. I've got some handouts here, and instead of reading the whole

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entire handout which I was going to do, I'm just going to do some excerpts from it, and hopefully I'll stay under my time limit. Thank you for allowing me the opportunity to express my opinions to the committee regarding LR178, a resolution that will allow the Judiciary Committee to conduct an interim study of the nature and consistency of the local firearm regulations throughout the state of Nebraska. After years of trying to get some type of concealed carry legislation passed in this state, we, the pro-concealed carry enthusiasts and state legislators, finally succeeded. I attended the required classwork, applied for the permit, paid the fees, and am comforted by the fact that Nebraska has recognized that I am not a threat to public safety, but instead trusts me with my rights granted to me by the United States constitution, as well as the Constitution of the State of Nebraska. I believe that the 2007 Legislature passed a concealed carry law that is fair and attainable by anyone who can pass the requisite background checks and classwork. You all did a great job. Where the bill fails however is in the consistency in which the law is applied to all areas within the state. This is very perplexing and results in persons who can carry in one locality and subject to arrest in another. Can you imagine the chaos that would ensure if this were the case with the state-issued driver's license? How about a license to practice law in the state of Nebraska? If those aren't recognized statewide then we have a big problem. What would happen if my hometown of Hastings passed an ordinance that required all drivers to pass their driving test that has been approved by the Hastings City Council? Can you imagine the uproar that this would result from such an ordinance? How many out-of-city drivers would purposely avoid the city of Hastings? What would happen if 15 or 20 other cities decided to do the same thing? Again, chaos. As of February 2007, the materials I received in my concealed carry class referenced a total of 17 localities in Nebraska that still maintain their anonymity and have opted out of the state law. You must have a list in your vehicle just to avoid violating a local ordinance. What a mess. As one can see, there is a significant likelihood that a permit holder might someday be arrested and have to defend him or herself in the court, at great expense. This is an outrage and should not be allowed. The real point here however is that the state has spoken. Our legislators drafted, debated, and passed a law that is fair and affordable. There is no logical reason

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why state law should not be followed in this instance. However, in an attempt to appease those localities that seem to be under the impression that they have the right to opt out of this particular state law, we absolutely must pass a preemption law in 2008. It is imperative that those of us who have walked the walk and done things according to the law are afforded the courtesy of preemption. Studies that were conducted by John Lott and David Mustard, in conjunction with the University of Chicago, concluded that criminals, we found, respond rationally to deterrence threats. While support for gun control laws has been the strongest in large cities where crime rates are highest, that's precisely where the right to carry laws have produced the largest drop in violent crimes. My last thoughts are to hope and pray that you, the Judiciary Committee, will draft and encourage the passage of a preemption law that will once and for all spell out in plain English to the individual localities within the state that they cannot opt out of current concealed carry legislation that we have all worked so hard to pass. The concealed carry argument has been passed, and whether or not someone is for or against concealed carry is irrelevant. This is more of a point of being fair. I thank the committee and I'll take any questions. [LR178]

SENATOR ASHFORD: Any questions of Mr. Williams? [LR178]

SENATOR LATHROP: Just one. Were you involved in the passage of the concealed carry? [LR178]

DON C. WILLIAMS: Only in writing to my Congress person. That was all. [LR178]

SENATOR LATHROP: Your state senator, you mean? [LR178]

DON C. WILLIAMS: Yes. [LR178]

SENATOR LATHROP: Okay. You weren't down in the Rotunda or involved in the discussion? [LR178]

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DON C. WILLIAMS: No, I was not. [LR178]

SENATOR LATHROP: Okay. Good. Thank you. [LR178]

DON C. WILLIAMS: Thank you. [LR178]

SENATOR ASHFORD: Thank you, sir. [LR178]

BILL SCHULTZ: (Exhibits 11 and 12) Good afternoon, Senator Ashford and members of the Judiciary Committee and other participants. My name is Bill Schultz. I reside...spelled S-c-h-u-l-t-z. I reside in District 12 in Omaha. I'm a registered lobbyist and represent the 900-plus members of the Eastern Nebraska Gun Club and the Nebraska Marksmanship Association. I'm pleased to rise in support of LR178. The Eastern Nebraska Gun Club membership and the membership of the Nebraska Marksmanship Association collectively support LR178. Preemption laws relating to firearms create uniform standards across the state by not allowing local governments to pass any ordinance more restrictive than state law. This will keep law-abiding gun owners, including myself, from unknowingly violating a local law while traveling throughout the state. Many law-abiding Nebraskans and out-of-state gun owners travel to various shooting ranges throughout the state of Nebraska to compete in various types of shooting sport events. Nebraska's sportsmen deserve the same considerations to enjoy the Nebraska state concealed carry, or actually any firearm, preemption law as many other governing states bodies have already implemented across this great nation. Now, from what I understand, there is at least 46 of the 48 states that have concealed carry authorized, have preemption laws. I believe the only ones that don't is like Nebraska and Hawaii, so there's really no reason for Nebraska not to have that type of law. The handouts that I gave out to you guys are the same ones I sent you an e-mail yesterday, so if you've read that you don't need to read these documents. The thing that I did want to point out basically with these documents in the magnitude of what you're

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looking at for this legislation. The first sheet that has the National Rifle Association header on it, shows you that there are 38 registered national rifle association clubs in this state, and that has the addresses and what type of disciplines they offer and all that type of scenario. The other one is ATA; that's the Amateur Trapshooting Association. They also have 24 clubs in Nebraska. There are many more 4-H clubs which do a lot of shooting, which mainly is air gun and .22. There's also a number of Izaak Walton clubs that have shooting ranges that are not on that list. There are also many other clubs that are not registered on any list anywhere that have just...they're all little shooting ranges, like at Genoa. I know the University of Nebraska even has their own shooting team but I don't know where they shoot at. But anyway, what I'm trying to tell you is that every one of us is carrying firearms every day, seven days a week, 365 days a year, someplace, somewhere, to shoot in an event. That's besides the hunting that goes on in the state of Nebraska. So that's about all I have to say. I just want to make sure you're aware of the volume of firearms traffic there is in this state. If you have any questions? [LR178]

SENATOR ASHFORD: Bill, welcome back. [LR178]

BILL SCHULTZ: Thank you. I'll be back every time. [LR178]

SENATOR ASHFORD: Oh. It's good to have you back again, but I had just a couple quick questions. The permit to purchase law, which we have in Nebraska, is a statewide law. Everybody has to get a permit or whatever in order to...and that would...your same reasoning would apply to that? I mean, that's not a trick question. I mean, if someone...we don't want convicted felons to get handguns, so... [LR178]

BILL SCHULTZ: No, I'm aware of all that annotations to the constitution. [LR178]

SENATOR ASHFORD: Okay. And so that's a statewide... [LR178]

BILL SCHULTZ: Yeah. [LR178]

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SENATOR ASHFORD: And the trapshooting, which is a great sport, these are mainly long guns... [LR178]

BILL SCHULTZ: That's true. [LR178]

SENATOR ASHFORD: So it wouldn't... [LR178]

BILL SCHULTZ: But what I was saying by preemption, we don't want all of these different cities out here having...like to give you a better example, I carry an M1; I also carry an AR-15; I also carry a couple of precision Hans Schulz rifles; I also carry a couple of shotguns and my 9mm Glock. I shoot three days a week someplace, anywhere in the state where I happen to feel like I'm going to go to this range today and check it out. I'm one of at least 100 guys I know that do that. We usually carry anywhere from 5,000 to 10,000 rounds of ammunition. If I drive down the interstate and some cop at Kearney stops me and throws me in jail, he is going to say, oh, my God, this guy is an idiot. [LR178]

SENATOR ASHFORD: No, I...yeah, I get the...no, I get the point. But if you...and it's always about Kearney. I've got to go out there. (Laughter) [LR178]

BILL SCHULTZ: Well, I don't care. I'm from Wisner. I go through (inaudible) the same issue up there. [LR178]

SENATOR ASHFORD: Kearney is Kearney, and we have to deal with it. But the... [LR178]

BILL SCHULTZ: I just happened to mention that because other people do. [LR178]

SENATOR ASHFORD: My question, I guess, is...well someone mentioned early on that

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there were some alternatives out there for the case like you're talking about when you are legitimately going out and shooting at a range and you've got these weapons, these guns that you want to be able to carry. If we had something that would protect you from doing that, I guess Senator Christensen remarked that there were some other options that might be available that would exempt carrying weapons in the vehicle, for example, outside of your control, or some other...does that make sense? [LR178]

BILL SCHULTZ: Well, yeah. I guess the only thing that I could see along those lines that I may go along with would be if you belonged to a shooting club you can carry any firearm you want, anyplace. [LR178]

SENATOR ASHFORD: But do you want it to be...? [LR178]

BILL SCHULTZ: Anytime, anywhere. [LR178]

SENATOR ASHFORD: Okay. Well, what about the idea, the example you're giving where you're going, as you do three days a week, and that is a legitimate...you are carrying on a legitimate activity, you don't want to be arrested for doing that. And I fully understand that. But if there was some sort of provision that would allow you to, in all cases, to carry that weapon in an area that isn't on your person but is locked in the trunk or some other place, is that a...? [LR178]

BILL SCHULTZ: Besides the concealed carry permit? [LR178]

SENATOR ASHFORD: Right. [LR178]

BILL SCHULTZ: I don't know. I guess that's another issue. [LR178]

SENATOR ASHFORD: Okay. I mean, I just wondered if there are any other options to what you're talking... [LR178]

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BILL SCHULTZ: I don't have the answer to that right off the top of my head. But thanks for your time. [LR178]

SENATOR ASHFORD: Thanks, Bill. [LR178]

LYNN REX: Senator Ashford, members of the committee, my name is Lynn Rex, representing the League of Nebraska Municipalities. I'm rather astounded by the testimony today because I can tell you that when the legislation passed authorizing concealed carry, unequivocally we were told, others were told, and cities were told, that in fact the option was there. And for those of you that were state senators at the time, you know that this bill would have never passed if there was a provision saying that there would not be a local option permitted. If it was clearly a state preemption it would have never passed. They didn't have the votes. We knew they didn't have the votes. But the reality of it is, there are opportunities and ways in which this can work. We have a group working on model ordinances. We have cities all across the state that always have a number of things. Whenever you go into any city, whether it's Lincoln, Omaha, Kearney, the beloved Kearney, which we love Kearney, and other cities, from the small ones to the big ones, they have varying ordinances. But whether you're talking about the types of engine brakes that you have to have, or any other kinds of things, there are ways in which we're developing posting requirements, other things, exceptions, if you will, for traveling through the jurisdiction. We right now have a legislative request pending that came from Norfolk. There are two city administrators here today to talk about that so that we can come forward and discuss the fact that we do want to retain the local option. There are two ways to do that. One is for municipalities to adopt voluntarily their ordinances and municipal ordinances and model ordinances. They have done this historically in the past when the Legislatures has put in place the subtitle D regulations on landfills, any number of things. I could probably list any number of things where municipalities have indeed adopted those types of model ordinances, and they have done so voluntarily. We have a group of attorneys and others that will continue

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working on this in that regard. Secondly, the other option and the legislative request before us from one of our members is to look at codifying that in state law. Our board has not yet made a determination on that. But what we're saying by that is basically codifying so that if you are a concealed carry city, here's what you have. If you're not a concealed carry city, then this is the way that you deal with that. But I can assure you, you would not be here today discussing this issue because the NRA at that time knew they did not have the votes. It's just that simple. Now perhaps they think they do now and they can come in with state preemption. And it kind of occurs to me that this is a little bit of incrementalism, and that's life, legislatively, and I understand that, because I've been involved in this for 30 years, as well. But I also know that when you deal with something like this, previously, even though they didn't have folks opposing them on that area, they will have that now if that's what they want. I would be happy to respond to any questions you might have. [LR178]

SENATOR ASHFORD: Senator McDonald. [LR178]

SENATOR McDONALD: Getting back to the legislation with concealed carry, am I correct in thinking that someone could carry a gun; they just can't conceal it. Is that true? Or can anyone even carry a gun out in the open? Is that against the law to carry a gun out in the open? Or are we just dealing with concealed carry? [LR178]

LYNN REX: We're dealing with concealed carry. That's specifically the issue before us. [LR178]

SENATOR McDONALD: So someone could have a gun on a holster but you could see it, and they could carry it anywhere? [LR178]

LYNN REX: Well, I'm not an expert...no, oh, I'm sure not. No. I mean, you can't go into the city-county building with it. [LR178]

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SENATOR ASHFORD: Well, there is no state law that prevents somebody from carrying a weapon in plain sight. [LR178]

LYNN REX: That's correct. But, Senator Ashford, in the same token... [LR178]

SENATOR ASHFORD: No, I wasn't...just... [LR178]

LYNN REX: But my point was, can you carry...? In response to your question, Senator McDonald, can you carry it anywhere? The answer is no. I mean, you're not going to take a weapon into the city-county building, which quite frankly have more protection than the state Legislature has. [LR178]

SENATOR McDONALD: But the legislation only dealt with concealed carry. [LR178]

LYNN REX: This is only concealed carry. [LR178]

SENATOR McDONALD: But the city ordinances deal with right to carry. [LR178]

LYNN REX: What we have is...I've got copies here and Norfolk will be presenting this information to you, but there are at least 18 or 19 cities, I'm sure there are others as well, that have already passed ordinances that ban conceal carry in their jurisdictions. There are cities that are in the process of developing the types of signage that would be required. I think that does need to be uniform. So those are the kinds of things that people are looking at. But what cities are doing is passing and have been passing...and I will also tell you, many municipalities had already passed this way before the Legislature dealt with the issue of concealed carry. It was a ban on concealed carry in those jurisdictions. [LR178]

SENATOR McDONALD: But is it a ban on the right to carry a gun also? [LR178]

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LYNN REX: No. It's concealed carry. [LR178]

SENATOR McDONALD: Okay. [LR178]

SENATOR ASHFORD: Just to follow up. I think, Senator McDonald, this is confusing, I think, to a lot... [LR178]

LYNN REX: Unless I'm misunderstanding your question. [LR178]

SENATOR ASHFORD: No. No, you're not. But it's always been confusing to me. I mean, if you...under state law, if you carry a handgun in plain sight, you're not violating state law. You may be violating a local ordinance if you haven't registered the firearm or...you may, in Omaha, for example, the weapon must be registered, and that could be a violation. But if you carry a weapon, a handgun in plain sight in Omaha, and it's registered, I don't believe you violate anything. Maybe you do. Okay. Okay, maybe you do violate some. So there may be...if, in fact, the state...if we had a...the state were to say that carrying a handgun, a concealed handgun, outside of the...if it's in a vehicle, outside of your ability to get it, get ahold of it while you're driving your car, would that offend any...? I'm just trying to see what...if that offends anything. The idea that Bill talks about, which I've heard a lot about, is I'm just driving around, going to do a legitimate thing, and cities and municipalities have a legitimate interest in protecting the health and safety of their citizens. But if there's...if we...if there's a place that this gun could be carried that doesn't...where it's very unlikely if not impossible that any harm would be done to anybody and wouldn't violate these ordinances, is that something that... [LR178]

LYNN REX: Well, sure. We're willing to work with anyone with respect to this. I mean, we have been working on it internally, but we're certainly prepared to work with the NRA, with Senator Christensen, and with anyone. [LR178]

SENATOR ASHFORD: Yeah. and I'm just trying to see what's real and if it's not going to

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be a...if it's not...if it's carrying a weapon in the trunk, for example, is not...certainly isn't going to, it would seem to me, would not be a significant problem unless it is. I don't know; I'm just throwing that out there to...Bill has raised, I think, a legitimate point, and I'm just trying to address that. [LR178]

LYNN REX: Right. Well, for example, Mike Nolan will be following me in testimony, and then Peggy Sheldon who is the city administrator of Hemingford. And Mike will be outlining what his chief of police has recommended to our legislative committees about getting some uniformity and how to accomplish that. So I do think that there are a number of options available. We're prepared to work on that. But in closing, Senator, there is one thing that we are not prepared to concede: We will not concede local option and the right for municipalities to have that option. [LR178]

SENATOR ASHFORD: I think that point is clearly made. [LR178]

LYNN REX: Thank you, Senator. [LR178]

SENATOR ASHFORD: Thank you. [LR178]

LYNN REX: Thanks for your time. [LR178]

SENATOR ASHFORD: Hi, Mike. [LR178]

MICHAEL NOLAN: (Exhibit 13) Senator Ashford, members of the committee, my name is Michael Nolan, N-o-l-a-n. I'm the city administrator of Norfolk. I'm here on behalf of the Norfolk police division to communicate their sentiments on this important resolution. The sentiment of the mayor and city council, which supports the police, occurred after every sworn law enforcement person in the city was asked his or her opinion about concealed carry. And so consequently we're not trying to impose any kind of a statewide position, but in Norfolk we do support the local option. We understand that everything

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that the NRA spokesman said today and the other proponents have said has some basis to it that we need to encourage your correction of. Now, we've been to the league on two occasions with these ideas, and we've actually talked to Senator Christensen's LA and some others. And the gist of what we're suggesting is that let's have a model that everybody follows for concealed carry; that we do it all the same way. And the ones that don't want to have concealed carry we do it all the same way in those communities. And essentially it could be taken care of with the second paragraph of this memo, and maybe some other things that you could use to embellish that so that we would have the kind of uniformity. I don't think there's one police officer in Norfolk who wants to do an "I gotcha" to somebody who is bringing a concealed weapon to town who believes that in fact because Nebraska has a concealed carry statute, that they should surprise that person because we've got an ordinance that precludes concealed carry. So certainly this type of solution that the police have put together here, I think would allay all of those kinds of concerns. At the same time I think the police believe they've got a legitimate reason to feel that Norfolk doesn't want to have concealed carry. And the police or the people that we pay to protect us, and they put themselves at risk a lot for us, and so the elected officials have instructed staff that this will be our position and that's the one we're communicating to you. If you have any questions, I would be happy to answer them. I would...just my own opinion on one other thing. I think if the committee looks at doing something like this, I think having some kind of a protocol process for when the police approach vehicles all over the state that's standardized, ought to be considered as well so that they're all asking the same questions about concealed carry and are not intruding on the legitimate rights of people who are following the concealed carry statute. [LR178]

SENATOR ASHFORD: Thanks, Mike. Any questions? (Recorder malfunction)...legitimate point. I mean, he's a law-abiding citizen and he...there should be some way to accommodate what he's talking about. [LR178]

MICHAEL NOLAN: That's right. Absolutely. [LR178]

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MARGARET SHELDON: Hello. My name is Margaret Sheldon, S-h-e-l-d-o-n, and I really thank you for the privilege of being allowed to address this committee. I come here wearing a number of hats. I've been a city administrator for 21 years in a small town in western Nebraska, and I'm an NRA-certified pistol and personal protection instructor, a member of the Alliance Rifle Club; my husband and I shoot cowboy action. And most of all, I am a mother of six and a grandmother of eight, and we're in the process of becoming instructors for concealed carry. And I can answer a couple of questions. Local control is real important, and I've seen that over the last 21 years. I've seen a lot of laws be written. I've seen a lot of laws be written on the local level. I know how important it is that they're reasonable. I think to your citizens, they have to be reasonable to be carried out or they're not very enforceable. I'm very in favor of a model ordinance for everywhere across the state. When I drive to Lincoln, as I do on a regular basis with my job, I always end up driving at night, sooner or later, because there is no way to get here other than that. And I do carry a gun, and I want to be legal. And to answer Senator McDonald's question about whether it's concealed or not, the very fact that I have my young grandchildren with me, I put my pistol in a case and I lay it on the floor because I would never want it to be flying around if we were in an accident. Right now, without a concealed carry permit, the discretion of an officer, I would be illegally carrying. And so some things that concealed...a lot of people have visions of what that means, you know, the holster under your jacket and everything, but there's other things that can be conceived as being concealed, and I want to be legal. But I want the right to put that gun in my purse when I stop at a rest stop, and the only other vehicle there is someone I can pretty much look at and figure he's not going to fit the concealed carry right to carry. And I want to be able to do that and I want to be legal. I want to be able to stop in Kearney, since everybody is bringing that up, and have dinner as I'm going through. [LR178]

SENATOR ASHFORD: I was starting...it's a great town, don't get me wrong. [LR178]

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MARGARET SHELDON: Yeah, it is. It is. I stop there often. I have a niece in college there. We stop there and eat. Sometimes we're on our way to a cowboy match. We've traveled all over the United States doing that. We carry 45 pistols in our car, and I want to be legal and I want to know what's legal. I want it to be the same everywhere that I go. I want it be well-posted. I think the model ordinance, if the league can come up with them...I do serve on the legislative committee, and so I hope to be an active part of us coming up with an answer that's right for everybody, because I understand where everybody is coming from. And I thank you. [LR178]

SENATOR ASHFORD: You wear a lot of hats. Thanks, Margaret. Any questions of Margaret? Thanks for coming down. Next testifier. How many more testifiers do we have? [LR178]

DENISON CAMPBELL: My name is Denison Campbell, C-a-m-p-b-e-l-l. I'm here to speak about another problem that no one has addressed as far as uniformity in firearms laws. I am a student at the University of Nebraska. I've been active in student government and I would have loved to have had a chance to speak on this issue when I could actually claim to represent the students of the university, but I'm no longer in that position so I'm here on my own behalf. Last week, two university students were cited for violating the policy, which is both university policy and state law, that you may not have a firearm on the University of Nebraska property. They were carrying their firearms, in cases, past the Union. The way the policy is written, you have to take your firearm to the university police station and register it, and you may keep it in a locker there. What is not addressed is the fact that, as these two students found out, you are subject to being cited and having your firearm confiscated if you're carrying it on university property, and it doesn't matter if you're just carrying it from where you live in one of the dorms, to the police station. If you happen to have someone call in a complaint against you while you're transporting the gun to where it has to be, from your car in the parking lot, your dorm room, wherever, you can be cited; your gun can be taken away. So I just wanted to point out to this committee that it's not just cities and counties that have serious

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conflicting policy problems. And I'm not in any way suggesting that the policy, that it's against the law to have a firearm on university or other government property, be removed. I would love to see an exemption for persons who are transporting it or if it's in a locked case, or just something to protect people when they're trying to obey the law by taking it to where it needs to be, so that it's not confiscated in transit. I think that's a serious problem that should be addressed. [LR178]

SENATOR ASHFORD: Okay. Senator Schimek. [LR178]

SENATOR SCHIMEK: Thank you. Thank you for being here. Could I ask, what was the purpose of transporting those guns? I read it in the paper and I couldn't figure out what on earth they were doing with them in the first place. [LR178]

DENISON CAMPBELL: I wish I could answer that question. I am aware that the article in the paper raised a lot of eyebrows because they mentioned the two guns that were being carried. One was a generic .22 caliber rifle, and the other they felt the need to designate specifically it was an AR-15, rather than just calling it a .223. And it became very clear that the reason that they had done that was, well, this is an assault rifle; it's not just another gun. Well, the fact of the matter is, that's one of the most common competition target rifles out there. The university, as was mentioned earlier, does have a NCAA-licensed competitive shooting team; it's one of the best in the nation, and it's one of the women's sports that we have under Title IX. We also have a men's rifle club, and that's the reason that I was transporting my firearms across campus, and the reason this issue is particularly close to me. [LR178]

SENATOR SCHIMEK: It really seems to me that the campus can solve that problem itself. It probably doesn't need to be state statute that does that. [LR178]

DENISON CAMPBELL: I would agree with you aside from the fact that they were not just cited for violating university policy. They were cited for violating state law, which I

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cannot claim to know the circumstances of their transportation. I just know that there are a lot of students that would be subject to the same penalty for engaging in a legitimate purpose, and they are violating state law so that's why I bring that before you folks here today. [LR178]

SENATOR SCHIMEK: I guess I just can't think of too many legitimate reasons to be transporting guns on a campus. I mean, you understand why. I mean, we've had some terrible, horrible incidents happen. [LR178]

DENISON CAMPBELL: Absolutely. [LR178]

SENATOR SCHIMEK: And it's a safety thing in a lot of people's minds. [LR178]

DENISON CAMPBELL: Absolutely. [LR178]

SENATOR SCHIMEK: So there ought to be some kind of protocol for somebody who does belong rifle club or whatever; it can be done and they won't be prosecuted, but everybody else around them can feel safe. [LR178]

DENISON CAMPBELL: I agree 100 percent. And it's an exception for a locked case or some kind of proof that they are engaging in a legitimate purpose. Anything would be preferable to the circumstance that is currently...under the circumstance, I guess. [LR178]

SENATOR SCHIMEK: Thank you. [LR178]

SENATOR ASHFORD: I think you're...Denison, I think you speak very well, and I think you make a persuasive argument. I mean, the unfortunate part about all of these discussions is if somebody on campus or somewhere else wants to do harm to others, nothing we say or do is going to make any difference. And that is very, very sad for all of

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us because there are very few things we can do, and I think as a society we try as best we can to keep our kids safe, you know. And one of the things we do is try to keep guns away from a school environment, but, I mean, you make a persuasive case. [LR178]

DENISON CAMPBELL: That's very true. [LR178]

SENATOR ASHFORD: Thank you. [LR178]

NATHAN RICE: Good afternoon. My name is Nathan Rice, R-i-c-e. I would just like to start off by saying that I'm a college student at the university. I'm an Eagle Scout. I'm active in my church. And I'm a criminal. I live here in Lincoln right now for school, and I own four handguns, yet if I want to go back to my family's home in Omaha, I can't take them with me because they're not registered there. So according to the state, anywhere outside of Omaha, I'm a legal citizen, I follow the rules, but when I go there, no, I'm nothing more than a common criminal. I just don't feel that the idea that Omaha can do it better than the state and that we need to pile on these different things on top of state regulations, is appropriate. I mean, to purchase a handgun in Nebraska you have to get a permit, you have pay the fee, you have to go through the background check. And then in Omaha you have to do that again. You have to pay another fee for another check and register. There is very little benefit gained from this. [LR178]

SENATOR ASHFORD: But you are registered the gun as opposed to...don't you have to bring the gun in to the police station? [LR178]

NATHAN RICE: Well, to purchase a handgun in Omaha, you have to have the permit. You then go to the dealer, give them the money. They give you the information. You go to the police station. You fill out the paperwork. You go back. You can then pick up the handgun. [LR178]

SENATOR ASHFORD: Right. You don't have to take the gun to the station. [LR178]

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NATHAN RICE: I'm not sure on that. I've never purchased one in Omaha because I feel that all this extra legwork behind it is unnecessary, and I've resided outside of Omaha with my guns since that point. The other issue that comes to mind, again, is more of this multiple layers, which really does nothing to reinforce safety or anything along that nature. When it comes to getting federal permits, the way the federal statutes are set up, you can apply for a Class III license to own fully automatic weapons and other weapons that are generally not around there, and it's a grueling process. You have to pay taxes, you have to go through an FBI background check, and you have to give multiple sets of fingerprints. But in the end, it comes down to the chief law enforcement officer in the area where you reside. If he doesn't want to sign it, then it doesn't matter that you've just gone through one of the strictest, harshest background checks that you can go through; you're not allowed. I just feel that uniform laws, not just for the concealed weapons, but for weapons in general, are very important. Someone made the comment about they don't feel that the police are out there trying to catch people, but I've always noticed that there is a definite discomfort in certain areas with law enforcement agents in regards to weapons, so. Thank you. [LR178]

SENATOR ASHFORD: Thank you very much. Any questions? Thank you. Thanks for your comments. Next testifier. [LR178]

JUSTIN HOBSCHIEDT: I'm extremely terrified of public speaking. If I pass out, just drag me off to the side and splash some water on me, and I'll be fine. Don't make a big deal out of it. (Laughter) [LR178]

SENATOR ASHFORD: There are a lot of us in room that have the same malady, so don't worry about it. [LR178]

JUSTIN HOBSCHIEDT: I had a brief presentation, but I also have so many responses to what was brought up. I'll try to just do this briefly. My name is Justin Hobscheidt,

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H-o-b-s-c-h-e-i-d-t. I'm your typical resident of the state of Nebraska, a pretty good cross-section of who you folks represent actually. I'm a working class man from a rural community. I was raised on a farm by Catholic family who instilled in me a sense of pride, responsibility, civic duty, faith, and family values. I carry a firearm for my protection and the protection of my family. I am not a criminal nor do I have any desire to become one. I obtained a Nebraska concealed handgun permit for the same reason I wear my seat belt and have smoke detectors in my home: because I have a family and their safety is paramount to me. More than likely I will never be involved in a motor vehicle accident in which a seat belt will save my life or the lives of my loved ones. The chances of my house catching fire while my family is asleep and the smoke detectors alerting us to danger is very slim. The probability of ever facing a violent attack by a man or beast, requiring the use of my weapon for defense, is minimal. However, I can tell you I do not intend to quit wearing my seat belt, let the batteries in my smoke detector go dead, or leave my firearm locked in the safe. It is because of this desire to actively take steps to increase our safety that I stand here speaking before you today. Because of the inconsistent gun laws throughout the state, it becomes quite easy for a law-abiding citizen like me, doing what I can to protect my family from criminals, to inadvertently become a criminal myself by doing nothing more than crossing a line on a map. And I can tell you, I am probably the most conservative, local-knows-best-for-me person that you will ever run across, and I'll get into that later. So I am not on the other side of that either. We, as law-abiding permit holders, are not criminals, nor should we be treated as such, and I cannot stress that enough. I don't know why the connotation is that everybody with a gun is doing something wrong. I think that's the exception to the rule, not the norm. But unfortunately real life doesn't make good news, and so all we ever see on the news is the few bad things that happen, not the plethora of us that are doing nothing wrong. A Nebraska concealed handgun permit should allow the person holding the permit to do just that: carry a concealed handgun anywhere in the state of Nebraska. While this may sound like common sense, the reality is, this is not the case. The permit is not valid throughout the state, and worse yet, there is no way for any resident of the state to go to one source for a complete and comprehensive list of

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locations which do not honor the state permit. Even the Nebraska State Patrol Web site does not give complete or accurate information. For example, two cities within 15 miles of my residence, Plattsmouth and Nebraska City, do not recognize the state permit, but neither city is listed on the Nebraska State Patrol's list of prohibited places. I frequently have to enter their city limits while passing by on the state highway en route to other destinations. It is only because I actually called each city that I found out I would become a criminal if I drove into their city limits while otherwise legally carrying a firearm concealed. Not only that, but the first time I called Nebraska City, I was given incorrect information. I was told it was legal to carry concealed currently, but the council members were going to be considering an ordinance to ban concealed carry. It is only because I called back to speak with a different person about this, about when this might be on the agenda, that I learned that concealed carry was, in fact, illegal, and the change in the ordinance would have to be considered to make it legal. Had I not called back, I would have unknowingly illegally carried a concealed weapon the next time I visited the city. Because the state law requires me to immediately inform police officers and emergency workers, when officially contacted, of the fact I am carrying, if I had been pulled over for a burned out headlight or involved in an accident, I most likely would have ended up being arrested for illegally carrying a concealed weapon when I thought I was going out of my way to do everything strictly by the book. Not only are there communities that simply ban concealed carry despite a state permit, there are also cities who deviate from the norm by doing other things, such as regulating specific areas that are off limits, besides those already listed in the state law; requiring a permit to carry a firearm openly, even though open carry is legal across the state without a permit; requiring firearms to be registered with the city even though they need not be anywhere else; and limiting the hours in the day when firearms can be carried. At least I believe they do; but in many instances even the individual cities themselves cannot give a clear answer. There is simply no way for the average person who wants to do nothing more than legally carry a tool for their protection, to possibly be aware of every law and every change of law in each municipalities across the state. Am I about done? Do I have a couple minutes?

[LR178]

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SENATOR ASHFORD: Well, I think you're out of time, but you've made your point well, so I think...there may be some questions, though, Justin. Any questions of Justin?  
[LR178]

JUSTIN HOBSCHEIDT: Can I just address...? As far as local control, being a former member of the very tiny town board that I was on, and I'm also the assistant fire chief, I 100 percent agree that the local community knows best. Someone 100 miles away from me doesn't know what's best for me in that city. And I agree with that. However, it can't go to the point of harassing a citizen like myself too. It's just like a driver's license. Can the city of Plattsmouth tell me that my state driver's license is not valid while driving on the highway through Plattsmouth? That doesn't make sense. So I don't think it can make sense that my state permit cannot be valid while driving through the city. Even if it was just that the city itself can...I might even go along with that. I don't agree with it but I might concede to that fact. I just don't have to spend money in that city. I'll go make my purchases somewhere else. But I should be able to drive through the town without being a criminal, is my biggest point of contention on that. [LR178]

SENATOR ASHFORD: And I think it's...I understand your point and you made your...I mean, you did a good job making your point, and I think that's good. Any other questions? Thanks, Justin, very much. Come on. Your's is quick. Well, then you can go first then. [LR178]

BUD CALLAHAN: Thank you. I'm Bud Callahan, Pleasant Dale, Nebraska. That's C-a-l-l-a-h-a-n; no relation to the coach. (Laughter) One thing... [LR178]

SENATOR ASHFORD: Do you have any comments on that, Mr. Callahan, because we could use some I think. [LR178]

BUD CALLAHAN: No. And local control is fine, such as it is, and so on. For me, it would

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be like carrying it, walking the streets. If there is a way that you could allow all federal and state highways and the right-of-ways to be exempt, that would certainly allow people to go on through, and instead of stopping at...and so I say the right-of-way so you have a flat tire, for heaven's sakes...but to pass on through. And then they should placard or put the signs out by the edge of town so you would know that this is not the town to stop and spend your money; please, just go on through. Obey the speed limits and so on, and then go on and then go where you feel welcome. And... [LR178]

SENATOR ASHFORD: I think you make a good point. In your mind, there's a difference between carrying... [LR178]

BUD CALLAHAN: Yes. Just let those people pass on through that are concealed carry, and they can spend their money somewhere else. And if they want to walk the streets, then they go secure their gun in another fashion. But at least let them have the opportunity to go through the town. [LR178]

SENATOR ASHFORD: I think you make a good point. Thanks. [LR178]

BUD CALLAHAN: So if you can fix that. Yes. [LR178]

SENATOR PIRSCH: Just briefly. (Inaudible) in your (inaudible) a limited preemption, is that what it's saying, for right-of-ways and state highways? [LR178]

BUD CALLAHAN: Yes. That's right. The state and federal highways are exempt, so if you go through Kearney, you go through Omaha, whatever, as long as you stay on the highway, you're good to go. [LR178]

SENATOR ASHFORD: Thanks. That was a good point. Thanks. [LR178]

BUD CALLAHAN: You bet. Thank you. [LR178]

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SENATOR ASHFORD: How are we doing? Any other testifiers? Yes, sir. No, you're all doing a good job. Don't get me wrong. I'm not trying to cut anybody off here. Just myself, hopefully. [LR178]

JAMES PRICE: Good afternoon, or good evening as it may be now. My name is Jim Price. I'm from Doniphan, Nebraska. So thank you, Senator Ashford and the committee members, and especially staying late. I live in Doniphan and I am concealed carry instructor, and I do classes in Hastings, and I also go out on the road occasionally and do classes at remote locations. One of the questions that these people have in regards to what they do when they come to these areas, that they can carry concealed in that particular city or town, as it may be. I would like to remind everybody the three largest cities in Nebraska, Omaha, Lincoln, and Grand Island, all allow concealed carry within their city limits. So if they're getting along all right, I would suggest that maybe some of the other towns could too. In direct response to local area, Hastings, for instance, it doesn't allow concealed carry. Hastings, Beatrice, some of these other places, depend on people coming into their city to buy their goods and services. They absolutely need all the people in the surrounding counties to come in, so it's very, very important. So I don't think that they want to take a long look at eliminating those people from coming to town. There are a lot of other cities that are in the same predicament. People in the counties, for instance, where you can carry concealed, go into those areas. My one thought in regards to the list and the way the State Patrol has written the rules, it seems to me that if the gun stays in the car, regardless of where they're at, I'm not so sure that they're liable to be arrested. And I think there probably would be a test case would have to go all the way through the court system. And, of course, nobody wants to step forward and do that. But if they were allowed to stay in the vehicle while they were traveling through these areas, I think everybody would be well in acceptance of the rules as they stand now. Any questions? And I'll be happy to bow out. [LR178]

SENATOR ASHFORD: How are getting along without Dowd's (inaudible), because

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Dowd's was in Doniphan wasn't it? Where was Dowd's? Dowd's? Was Dowd's in Doniphan? [LR178]

JAMES PRICE: No, Dowd's is actually in Alda, and so, and Grand Island. And so we're getting along all right without them, but I guess I appreciate that. [LR178]

SENATOR ASHFORD: That was a loss. [LR178]

JAMES PRICE: Yes, it was. Yes, they had excellent meals. [LR178]

SENATOR ASHFORD: Thank you very much. Yes, Senator Lathrop [LR178]

SENATOR LATHROP: Can I ask a question? You strike me as somebody knowledgeable about the rules that maybe I don't know all that much about. But Senator McDonald was asking a question, if I'm going through...and pick whatever town, you said Hastings is a town that doesn't permit these. [LR178]

JAMES PRICE: Right. [LR178]

SENATOR LATHROP: IF I'm going through Hastings and I have my handgun tucked underneath the seat of my car, I'm carrying a concealed weapon, am I right? [LR178]

JAMES PRICE: Yes, that's correct. [LR178]

SENATOR LATHROP: That would be an example of carrying a concealed weapon. If I sat that weapon on the seat next to me and I'm driving through town, is that concealed? Is that...? That's no longer concealed, is it? [LR178]

JAMES PRICE: Well, there is what we basically call the old rules, and where you could lay it out on the seat, that type of thing. But the State Patrol--and I'm speaking just from

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my interpretation of the rules--does not want you to do that. They would prefer that when they walk up to a vehicle, that they did not see the gun. Therefore, if they see the hands on the steering wheel, which we advise everybody to do, they at that point in time know that the situation is under control. So they don't want to walk up there and see hands, and then see the proverbial gun laying on the dashboard type of thing. That they don't want to do. So, no, I would suggest not. And some people are thinking that if they go through these areas, that if they were to put the gun in the open and then they would therefore be under the hold rules of open carry. It just isn't advisable. We want these people to be safe when they are out there. We want these officers to feel comfortable when they are approaching the vehicle. And they can't under those circumstances. [LR178]

SENATOR LATHROP: You've heard this Mr. Callahan just suggest that perhaps accommodation is an exception for state highways? You've talked to...you are training these people; is that a viable...? [LR178]

JAMES PRICE: Yes, it certainly is. If they...my feeling is, if they stay within the vehicle. If they were to drive through X city that doesn't allow concealed carry, and the handgun and the person stayed in the vehicle at the time, I can't see where there would be a problem. If they were to get out and stop and go to a C store, then there are problems. [LR178]

SENATOR LATHROP: So the exception, you would leave the...or you would get around the opt-out law by allowing someone to not be violating the local ordinance in the event that they drove into a city without getting out of their car and didn't take the handgun out; in other words, the people that are passing through. [LR178]

JAMES PRICE: Stayed in their vehicle. Absolutely. [LR178]

SENATOR ASHFORD: Excellent points. Thanks a lot. Any other questions? Any other

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testifiers? I guess that concludes the hearing. This has been a good hearing. Senator Christensen is gone. [LR178]