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Judiciary Committee
March 20, 2013

[LB293 LB352 LB451 LB602]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, March 20, 2013, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB293, LB451, LB602, and LB352. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Ernie Chambers; Mark Christensen; Colby Coash; Al Davis; Amanda McGill; and Les Seiler. Senators absent: None.

SENATOR LATHROP: My name is Steve Lathrop. I'm the Vice Chair of this committee and I'm going to preside until Senator Ashford gets here. I think he's been detained.

SENATOR MCGILL: Oh, there he is.

SENATOR LATHROP: Oh, there he is. Welcome. I didn't get very far into the speech.

SENATOR ASHFORD: Okay. Thank you. Excuse me, I'll...

SENATOR LATHROP: All I did was say who I was...

SENATOR ASHFORD: Okay.

SENATOR LATHROP: ...so you need to start from the top, Mr. Chair.

SENATOR ASHFORD: All right. Okay, so good afternoon. Welcome to the Judiciary Committee. We have four bills today, starting with LB293. Let me ask, who is here to testify on LB293? Okay. How about LB451? LB602? Okay, and LB352? Okay. Let's start with Senator Kintner. First of all, let me introduce my...go ahead and sit down, Bill. Let me introduce my...yeah, go ahead and sit down.

SENATOR KINTNER: Okay. All right.

SENATOR ASHFORD: Let me introduce my colleagues. Senator Les Seiler is from Hastings, Senator Colby Coash is from Lincoln, Senator Ernie Chambers is from Omaha, Senator Amanda McGill from Lincoln, and Senator Steve Lathrop from Omaha. LaMont Rainey to my right is my legal counsel, and Oliver VanDervoort is from Omaha and he's our committee clerk. So with that, I guess...we have the light system. Some of you have been here before, but the light system allocates three minutes for each person to testify, other than the introducer. And so when the yellow light comes on, we'd ask you to sum up your comments and so we can get everybody in. Senator Kintner, good afternoon.

SENATOR KINTNER: (Exhibits 1 and 3) Bill Kintner, B-i-l-l K-i-n-t-n-e-r. Thank you, Chairman Ashford, members of the committee. I appreciate your interest in this

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important issue that I'm about to address in LB293. I've designated this bill as my personal priority bill because I believe it's a very measured and balanced bill designed to address the issues of privacy, security, gun rights, law enforcement's need to access important handgun registration records. I'd like to note that I have offered an amendment to the green copy of the bill. The amendment is AM687, which I had redrafted to address concerns I've heard from the media and other important stakeholders on the bill. As a matter of fact, today the Omaha World-Herald had an editorial and they were talking about the bill and it was...and they didn't like it and they were absolutely right. Sometimes when you do a bill you address more concerns than you started out to. So I narrowed the scope of the bill and I wanted to make sure within this bill that we were not stopping the media from doing their job. And so if there's a crime involved with a gun, a firearm, a handgun, the media will be able to get that information. They'll be able to report on it. I understand that, I'm sympathetic to it, and I've addressed it in the amendment here. This rewritten version of the bill addresses the two instances in state law where the Legislature has required a Nebraskan who wants to purchase a handgun to obtain a permit or certificate to purchase from the local...from a local sheriff or a police chief. My amended bill would restrict those handgun permit applications or certificates from being released as public records. However, these records would continue to be accessible by all pertinent law enforcement agencies. I modeled this amendment from the current statutory language used in our Concealed carry Handgun Permit Act. The law has a verbatim provision...has verbatim provisions as to what I am proposing. As a writer myself, I have great respect for the media's perspective, and it's my hope this amendment takes care of any issue that anyone in the media may have with this bill. The fact this information is currently available to whoever requests it is unnerving and at times dangerous. Knowing what homes have firearms, as well as what homes do not have them, is a gold mine of information for potential criminals. If a home has a gun or several, a criminal could find this out and stake out the home until they knew it was empty and then they could steal the firearms. If a home does not have a firearm and it's identified as such, a criminal could use this information to determine which home has a low risk of personal injury to the criminal if he were to break in and rob the place, and that would make that home more likely to have an incident happen. Another important note is that many of our law enforcement officers have personal firearms. Judges have personal firearms, and to release their information or have their information out there to the public is not in their best interests. So once again, it's not only that the information is dangerous to people who have guns, but it's also dangerous for those sometimes that do not. And I'll say one last thing. This...I got this...I looked at what happened in New York when we had a newspaper that decided to print the name of all the permitholders in their area. They also matched it up with Google Maps, so you could go on-line, you could find every house that had a firearm, and that was not good. There was an uproar. They finally took the whole thing down. I just want to make sure that it doesn't happen in our state. I don't think any of our newspapers would be that irresponsible, but a Web site might. And I just think, as Ben Franklin said, an ounce of prevention is worth a pound of cure. With that, Mr. Chairman,

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I'll be happy to take any questions. [LB293]

SENATOR ASHFORD: I don't see any, Bill. Oh, I do, yes, Senator Seiler. [LB293]

SENATOR SEILER: Senator, would you look at page 1, line 5 and 6. Seems like you got something left out of there between...you go along and you say "to purchase, lease, rent, or receive" and then it starts out "transfer." It looks like there's something been left out. [LB293]

SENATOR KINTNER: "Or receive transfer of a handgun." I think it just goes "or receive transfer of a handgun," so if someone, you know, is transferring a handgun. That's how that should read. [LB293]

SENATOR SEILER: Okay. [LB293]

SENATOR ASHFORD: Okay. I don't...thank you, Bill. [LB293]

SENATOR KINTNER: I'll stick around and make some... [LB293]

SENATOR ASHFORD: Okay. Yes, Senator Chambers. [LB293]

SENATOR KINTNER: Okay. Sure. [LB293]

SENATOR CHAMBERS: Senator Kintner, I heard what you said. Why should these people be put in a category where this information is not public? [LB293]

SENATOR KINTNER: Well, I think it would be the same as our concealed carry laws. So we already do it for concealed carry. I just wanted to sync this up with it. [LB293]

SENATOR CHAMBERS: And that's the reason. [LB293]

SENATOR KINTNER: Yeah. [LB293]

SENATOR CHAMBERS: Well, why should it be done other than the fact that it's in the concealed carry law? [LB293]

SENATOR KINTNER: Well, we already thought it was a pretty good idea to do it once, and if it was a good idea once, I think it's good to be consistent across the board with all firearm permit information. [LB293]

SENATOR CHAMBERS: If a person buys a rifle, would that person have to give any information? [LB293]

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SENATOR KINTNER: No. [LB293]

SENATOR CHAMBERS: So the fact that a house is not showing somebody with a registered firearm doesn't mean there's no firearm there, does it? [LB293]

SENATOR KINTNER: That is correct. [LB293]

SENATOR CHAMBERS: And not everybody who has a firearm would be...have information accessible because they don't have to give information in the first place. [LB293]

SENATOR KINTNER: For rifles. [LB293]

SENATOR CHAMBERS: Correct? [LB293]

SENATOR KINTNER: That's correct. Yes, it is. [LB293]

SENATOR CHAMBERS: Will rifles kill? [LB293]

SENATOR KINTNER: I would think so, yes. [LB293]

SENATOR CHAMBERS: Would shotguns kill? [LB293]

SENATOR KINTNER: Absolutely. [LB293]

SENATOR CHAMBERS: Are rifles and shotguns used for protection of the home? [LB293]

SENATOR KINTNER: Yes, I think they are. [LB293]

SENATOR CHAMBERS: So then not everybody would have that problem that you're talking about where somebody is going to take the time...let me, before I ask that question, this is public information and has been for however long people were getting this kind of...making this...getting, obtaining this kind of weapon and having to give that kind of information. Has there been any instance where that information was obtained by anybody and made public? [LB293]

SENATOR KINTNER: In our state you mean. [LB293]

SENATOR CHAMBERS: Yes. [LB293]

SENATOR KINTNER: No. But this is a new age now where you can do the Google Map, the interactive map, and put it up. We couldn't do that ten years ago. This is new

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stuff. [LB293]

SENATOR CHAMBERS: Has it happened, to your knowledge, anywhere else in the country in any city, village, hamlet, where a newspaper or somebody got all of this information and published it? [LB293]

SENATOR KINTNER: Other than New York, no. [LB293]

SENATOR CHAMBERS: Now why do you think it will be done in Nebraska? [LB293]

SENATOR KINTNER: I don't think it will be done. I just don't...I want to make sure it doesn't happen. [LB293]

SENATOR CHAMBERS: So then it's looking for a problem. It's a solution looking for a problem. [LB293]

SENATOR KINTNER: No, it's preventing a potential problem from happening. I'm not worried about the Omaha World-Herald. I think they're pretty responsible. I'm worried about a blogger or someone just on a Web site that decides to do something like this. [LB293]

SENATOR CHAMBERS: Well, if they saw what happened in New York, they could have done it by now, couldn't they,... [LB293]

SENATOR KINTNER: Yeah. [LB293]

SENATOR CHAMBERS: ...because all this information is available, isn't it? [LB293]

SENATOR KINTNER: Yes. Or they could do it next week or the week after or next year or five years from now. [LB293]

SENATOR CHAMBERS: Or they may not ever do it, huh? [LB293]

SENATOR KINTNER: Or they may not do it. [LB293]

SENATOR CHAMBERS: And you know that we formulate policy in the Legislature and we don't just pass laws because somebody wants us to pass them. You're aware of that, aren't you? [LB293]

SENATOR KINTNER: I'm aware of that. [LB293]

SENATOR CHAMBERS: And you cannot show me where this is a problem in Nebraska, can you? [LB293]

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SENATOR KINTNER: Not yet it's not, and I aim to make sure it never becomes a problem, with this legislation. [LB293]

SENATOR CHAMBERS: That's all that I have of you. [LB293]

SENATOR KINTNER: Okay. [LB293]

SENATOR CHAMBERS: Thank you. [LB293]

SENATOR ASHFORD: Thanks, Bill. [LB293]

SENATOR KINTNER: Okay. [LB293]

SENATOR ASHFORD: Senator Al Davis has joined us. Our full complement of members are here. [LB293]

RON JENSEN: Chairman Ashford, members of the Judiciary Committee, my name is Ron Jensen. I'm a registered lobbyist, appearing before you this afternoon on behalf of the National Rifle Association. I have prepared testimony I've got to depart from because I'm used to Health and Human Services where they give us five minutes and I wasn't aware of Senator Kintner's amendment. The editorial he referred to in one of the major news media outlets in Nebraska this morning casts this bill as a conflict between two rights--the First Amendment right to speech, the Second Amendment right to keep and bear arms--but it really isn't. It's a conflict between the right of free speech, taking that conceptually to the public's right to know, and the right to privacy. As the members of this committee know, the clash between two rights is not that rare and, in fact, makes the practice of law possible. Because I'm not one, I had a visit with my personal attorney preparing for this hearing about the right to know and the right to privacy, which I found the legal establishment of which dates back to a 1928 Supreme Court decision. What I was advised by counsel is that the right to privacy has been repeatedly reaffirmed in case law, while the right to know exists more as a conceptual extension of the right to free speech. Counsel said to me that the right to privacy is here; the right to know is here. I think what he was conveying was the essence of Justice Brandeis' writings that the right to privacy, what Brandeis referred to as a right to be left alone, is the most comprehensive of rights and the right most valued by civilized men, and I should think women. That's not to take anything away from the rights of nor the importance of a free press upon which our liberty depends. But the established fact is the public does not have the right to know absolutely anything and everything about a given individual just because they might want to. They have no right to know our credit card number. They have no right to know our Social Security number. And I believe it could be argued in this regard that the public has no more right to know that a given individual owns a firearm than they do to know that a person owns a toaster. I appreciate that the editorial

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condemned the completely irresponsible use in another state of firearm ownership information and allowed that it could indeed lead to the theft of firearms. I don't appreciate that the editorial's bland response to that event was to state essentially that it could not happen in Nebraska. I think that we have to keep in mind that the Freedom of Information Act applies to everyone. It applies to all media, all individuals, all organizations. They have complete access to all that information and they can make whatever use of it they see fit. They can broadcast it, they can print it, they can speak it, and they can turn it loose on the information highway, as they did in New York. I think this is a good bill. We ask for your support of it and hope you'll advance it to General File. I'll try to answer questions, emphasis on "try." [LB293]

SENATOR ASHFORD: Senator Chambers. [LB293]

SENATOR CHAMBERS: Did the NRA give you a standing authorization or instruction to appear and speak against any bill that seems to interfere, as gun owners would call it, with their right to have a gun or... [LB293]

RON JENSEN: No. [LB293]

SENATOR CHAMBERS: Oh, so then they contact you on each individual bill that comes up? [LB293]

RON JENSEN: The person I report to there and I discuss legislation that's been introduced in the state. I did not ask Senator Kintner to introduce this bill, but together we identified it as one we thought was important and good legislation. [LB293]

SENATOR CHAMBERS: But here's what I'm asking you. [LB293]

RON JENSEN: And I was asked to support it. [LB293]

SENATOR CHAMBERS: Were you instructed by the NRA to come and speak specifically on this bill? [LB293]

RON JENSEN: Yes. [LB293]

SENATOR CHAMBERS: And you contacted whoever your manager is with the NRA? [LB293]

RON JENSEN: She contacted me,... [LB293]

SENATOR CHAMBERS: And told you... [LB293]

RON JENSEN: ...if I'm following you. [LB293]

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SENATOR CHAMBERS: And told you to come and speak against this bill. [LB293]

RON JENSEN: She asked me to speak in favor of this bill. [LB293]

SENATOR CHAMBERS: I meant speak in favor of this bill. [LB293]

RON JENSEN: Sure. [LB293]

SENATOR CHAMBERS: Did she prepare or anybody with the NRA prepare your testimony or that's your own concoction? [LB293]

RON JENSEN: I prepared my testimony. [LB293]

SENATOR CHAMBERS: And do you feel...well, you're speaking for the NRA so I won't even ask you that question because it will be a matter of a personal opinion. Was this lady who contacted you aware of any imminent threat or danger, if gun owners want to call it that, of somebody knowing they've got a gun? [LB293]

RON JENSEN: No. In Nebraska you mean? [LB293]

SENATOR CHAMBERS: You don't have a gun on you right now, do you? [LB293]

RON JENSEN: No, I don't, just my tongue. [LB293]

SENATOR CHAMBERS: If you did and I ask you, would you tell me that you have one or you would not? [LB293]

RON JENSEN: I'd tell you. [LB293]

SENATOR CHAMBERS: Do you feel you have a right not to tell me though? [LB293]

RON JENSEN: I feel I have a right not to tell you. [LB293]

SENATOR CHAMBERS: And if this information is now available to the public, we could decide, as a policy, that it should remain just as it is,... [LB293]

RON JENSEN: You can. [LB293]

SENATOR CHAMBERS: ...as a Legislature. [LB293]

RON JENSEN: Sure. [LB293]

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SENATOR CHAMBERS: And when not shown an existing problem then I don't know that it's a wise thing for a Legislature to say that somebody thought that this might happen, therefore pass a law against this when it has not happened. [LB293]

RON JENSEN: Right, but it is a problem that is conceptualized and it was conceptualized at the time of enactment of the concealed carry law in Nebraska. And now that we've had this incident in New York State, where a publication put 44,000 gun owners' names... [LB293]

SENATOR CHAMBERS: So there's a fear. Gun owners have a fear that this might happen. [LB293]

RON JENSEN: Well, the cat is out of the bag. [LB293]

SENATOR CHAMBERS: But they have a fear. [LB293]

RON JENSEN: I think there's a concern. [LB293]

SENATOR CHAMBERS: They're operating from fear, not knowledge of this having happened here ever, but it's fear. Correct? [LB293]

RON JENSEN: I don't want to pick at this, but they're concerned about it, okay? [LB293]

SENATOR CHAMBERS: Okay. Well, one of my colleagues who has been described as one of the most ardent gun rights people said you cannot legislate against fear. The fear is always there. You can't legislate against that. So I think he may have given...stated a principle that has excellent application in this case. But that's all I have to ask you. Thank you. [LB293]

RON JENSEN: Thank you, Senator. [LB293]

SENATOR CHAMBERS: And by the way, I ask you the questions and the introducer because the citizens won't have to go through any interrogation from me because I'll just be listening to them to get their opinion. [LB293]

RON JENSEN: I appreciate that and I'm sure they do too. (Laughter) [LB293]

SENATOR CHAMBERS: (Laugh) Okay. [LB293]

SENATOR ASHFORD: Thanks, Ron. [LB293]

SENATOR CHAMBERS: That's all I have. [LB293]

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RON JENSEN: Okay. Thank you. [LB293]

JEREMY CADY: (Exhibit 2) Hello, members of the committee. I'm here to present a letter from our...from the chief lobbyist of the Nebraska Firearms Owners Association. My name is Jeremy Cady, last name C-a-d-y. Mr. Chairman and committee members, I'm Andy Allen from...the chief lobbyist representing the Nebraska Firearms Owners Association in support of LB293, as proposed by Senator Bill Kintner of Papillion. Our members are very knowledgeable about issues of privacy and information, as well as the impact of rules, regulations, and resultant costs and loss of freedoms by government agencies. We understand the public's perceived need for the collection of information related to the sale, use, or transfer of firearms, but we feel that such information should be retained only for the use of law enforcement departments and agencies, as well as persons requesting after-the-fact police reports of an incident involving a firearm. Situations involving the release of information about gun ownership on a large scale in the last several months have put a great number of persons in jeopardy. This was true both for those who legally owned guns as well as for their neighbors who do not. For example, some police and jail personnel in New York State were harassed by those who now had their families'...their and their families' address and contact information. Former criminals who were interviewed admitted that such information is a veritable gold mine for those pursuing criminal activity. The concealed carry permit is already protected, but many cities', counties' registration and sales records do not have adequate and necessary protections for the information that they keep on firearm owners. Therefore, we of the NFOA fully support LB293 and look forward to protecting both public safety and individual privacy through the judicious use and careful protection of this information. This is respectfully submitted by Andy Allen of the Nebraska Firearms Owners Association. If there are any questions regarding this position, I ask that you contact Andy Allen directly. [LB293]

SENATOR ASHFORD: Let me just, for the record, one of the reasons we don't like...this is not any reflection on you, sir, but we don't normally allow someone to read the testimony of somebody else, and the reason for that is because it's really up to Mr. Allen to come to the committee in a public hearing and be... [LB293]

JEREMY CADY: Uh-huh. Yeah, he just couldn't make it today so we... [LB293]

SENATOR ASHFORD: I know, and that's fair. But just so everybody understands, we went ahead and let you do it but...and the reason for it is not...is because if someone does raise a point that we'd like to ask questions about, they're not here, makes it hard to do. [LB293]

JEREMY CADY: Yep. [LB293]

SENATOR ASHFORD: But that's no...I understand you didn't understand that rule or

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Mr. Allen probably didn't. But anyway, thanks. [LB293]

JEREMY CADY: Yeah. [LB293]

SENATOR ASHFORD: Do we have any questions of this person, this witness? Thank you, sir, very much. [LB293]

JEREMY CADY: Thank you. [LB293]

SENATOR ASHFORD: All right, next proponent. Do we have any opponents? You're pro? Okay. Come on up. We have a couple of seats up in the front if we have other proponents, only two seats I guess. But you may want to come sit up in the front. Oh, we have a few more at the end and then we can...good afternoon. [LB293]

JOHN MORROW: Good afternoon. My name is John Morrow and I'm from Lincoln, Nebraska. It's M-o-r-r-o-w, just like tomorrow except today. I'm not currently a gun owner. I grew up with guns. I grew up in western Nebraska, had shotguns, rifles, never had a sidearm or a pistol, and taught my boys how to use firearms safely, but I do not have any now. I gave them away. I didn't answer a questionnaire when I gave them away but I just gave them away to one of my sons. I'm here to testify on behalf of this particular bill, not as a Second Amendment issue nor as a...even a right to self-defense issue but, rather, as a...concerns about privacy and public safety. It seems to me that there is a difference between desire to know and need to know, and it would seem to me that currently we have people, who need to know, having the ability to know. And I would think that it would be a good thing to have a bill that would prevent those who just desire to know but don't need to know. There are certain aspects of my life, my personal health records, my Social Security number, my other personal information that somebody might desire to know but they don't necessarily have a need to know. So from my perspective, this is just a matter of protecting those that would seem to be more vulnerable, I would think, in terms of, for instance, if my wife needed to have a gun. She doesn't, but if she did, I would like to have her have that ability to protect herself. And I would think that even though shotguns and rifles can kill people, I wouldn't keep a rifle or a shotgun in my bedroom. I wouldn't want to have access to a handgun in my bedroom if I were using that as a means of self-defense. So I guess my concern here primarily is to look at the people that are more vulnerable in terms of this information being available and that it also seems to me that the major deterrent to criminal attacks is to have to deal with the uncertainty that the assailant is going to be met with deadly force. And I think that uncertainty can be a major deterrent. And that's the end of my little testimony. [LB293]

SENATOR ASHFORD: Thank you. I don't have any questions. It just strikes me that...not...I don't necessarily disagree with the theory of...that Senator Kintner is talking about, as far as right to privacy though, some ironic way, if someone knows you have a

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gun permit, that in and of itself could be a deterrent, could it not? [LB293]

JOHN MORROW: If they know you have a gun permit? [LB293]

SENATOR ASHFORD: I mean if we...if someone knows you have a gun permit, then they would be less likely, possibly, to confront you in your house if they feel, my goodness, this person has a gun permit, they could use deadly force to protect their home. I'm not necessarily espousing that. I'm just...I'm just asking you. [LB293]

JOHN MORROW: Well, I don't personally feel a need to carry a gun myself but... [LB293]

SENATOR ASHFORD: No, but I'm just saying theoretically if...and I'm not for turning all these records over to the public necessarily. But what I'm asking though is if someone...I mean the argument always for possessing...one of the arguments for possessing a firearm at home is for self-protection. And if someone had a firearm and people knew that, it potentially could be a deterrent to someone who wished to do harm to that family, if they knew he had a gun. [LB293]

JOHN MORROW: Okay. If I can separate out the two things, when I grew up in western Nebraska, virtually everybody had shotguns and rifles in the home, so it wasn't a question of do they have one. You just assume that they do. But not everybody had firearms that they carried with them. They didn't have concealed carry at that time. And so it would seem to me that, in answer to your question, knowing that I had a...theoretically had a concealed carry and then somebody was aware of that and where I lived and wanted to watch and see when I was home and when I was not home, when I was away on a business trip or, in my case, I travel to other countries quite frequently. So I'm away, I'm out of the country. And so the question is, all right, he's gone, the sidearm is gone, then what? [LB293]

SENATOR ASHFORD: I've seen signs that homeowners have posted that said, you know, we have firearms in the house or we're armed or whatever, and they have a right to be so. Sometimes that can be a deterrent. That's my only point, but okay. [LB293]

JOHN MORROW: I think that's true. [LB293]

SENATOR ASHFORD: Okay. [LB293]

JOHN MORROW: Thank you. [LB293]

SENATOR ASHFORD: Thank you. Thank you, sir. Next proponent. [LB293]

MARTIN HAHN: Good afternoon. I'm Martin Hahn. I'm from Plattsmouth, in support of

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this bill. My opinion is that it's going to help to keep private information private and that it really isn't any of anyone's business whether someone has a permit to own a rifle or a shotgun or a handgun or any other weapon. I don't think it's any of the public's business to know that. And one of the comments earlier, has this ever happened here, I don't know that it has. But if we wait until somebody publicizes a whole list of all the gun owners, you can't take that back. And it's been done elsewhere so it is a risk, and it can be prevented and it can be prevented through this legislation. If an individual wants to publicize that he has a weapon, he can do that. He can do that, you know, kind of innocuously with like an NRA sticker on a car or a sign on his house that says we're armed, enter at your own risk. That's his business. That's all I have to say on it. Any questions? [LB293]

SENATOR ASHFORD: Thank you, Mr. Hahn. I don't see any questions. [LB293]

MARTIN HAHN: Thank you. [LB293]

SENATOR ASHFORD: Thank you, sir. Next proponent. [LB293]

TONY ARNOLD: My apologies, I don't have a copy for the statement but I do on another statement. My name is Tony Arnold. I'm from Ashland, Nebraska, out of Cass County. I appreciate your time. Honorable Senators, I am an American, a Nebraskan, and I'm very happy to speak in front of you today about this. In my profession, I am actually a professional marketer. I was an executive at Infogroup, I was an executive at Sears Holdings, and I was...hold an executive position in a Fortune 50 company currently. And in that position my job specifically is to round up as much marketing and background information on all of the customers that we have, compile that information, and leverage it in different ways. Obviously, from a marketing perspective you can see that being able to capture this information, such as covered in LB293, could have potential marketing advantages. Some in the shooting sports may decide that that is a great marketing tool. However, in this case, I believe it is an invasion of privacy. I think it not only puts those individuals and Nebraskans at danger, because we are talking about the rationale that most people have maybe elected to hold a concealed carry permit is for personal defense. And in that case, they may want to do it privately and they may want to do it publicly. So I say that the rationale to make public this information is we should really fight against that as much as possible. The information that's available is it's the same reason we have elected to do a concealed carry permit versus an open carry permit. There are those people that want to carry privately and those people that want to make it a little bit more public. So I think it's important that we do not disclose this information. If any part of that information is available, whether it be just the name or the address or any small identifiable piece of information, I can guarantee those people, like myself, can dig in and figure out exactly who those people are. And we'll see incidents like we have on the East Coast where some of those people that had...that were targeted because their information was published publicly. And I think

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that is an invasion of our privacy as Nebraskans. Thank you. [LB293]

SENATOR ASHFORD: Yes. Yes, sir, Senator Davis. [LB293]

SENATOR DAVIS: Mr. Arnold, I've been thinking all along about how somebody was going to approach the private industry and what they would do with that information. I think you've really hit that on the head. And I appreciate you bringing that to the table, because I think we're all focused on the newspaper issue, but really it all boils down to an erosion of privacy across the board. So thank you. [LB293]

TONY ARNOLD: It does. I appreciate, you know, I appreciate the time and the opportunity to speak on this. I think it's very important. I firsthand, within those companies and the clients I've worked for, I have seen what happens when people use that data incorrectly and it becomes an invasion of privacy, bad things happen. There was an odd case, Target, as an example, sent a letter to the family e-mail that says congratulations on your new baby. Well, the reality was the models and the data that were pulled together indicated a purchase behavior that said, oh, they're getting ready to have a new baby. It turns out the teenage daughter had not really told her father yet that she was pregnant. That's what we do as marketers. And I guarantee people like me should not have that type of information. I would not want that type of information. And people that would do...use it inappropriately should definitely not have that information. So I...you have my full support to pass this proposed legislation. [LB293]

SENATOR DAVIS: Okay. [LB293]

TONY ARNOLD: Thank you very much for your time. [LB293]

SENATOR ASHFORD: Next proponent. [LB293]

RALPH BODIE: My name is Ralph Bodie, B-o-d-i-e, citizen, Liberty, Nebraska, in support of this bill. I can assure you that the privacy concerns are well addressed here and that we must all understand that those privacy concerns extend to all citizens within Nebraska. So I believe that by not addressing this publicly, you're securing the blessings of liberty to all Nebraskans. Thank you. [LB293]

SENATOR ASHFORD: I don't see any questions. Thank you, sir. Any other proponents? [LB293]

MATT SCHAEFER: Senator Ashford, members of the committee, Matt Schaefer, M-a-t-t S-c-h-a-e-f-e-r, appearing today on behalf of the State Troopers Association of Nebraska. Just briefly, many of our members are gun owners and they thought it would be helpful to have one last piece of information out there that could be used to identify where they live and have somebody track them down and do harm to them. Thank you

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for your time. [LB293]

SENATOR ASHFORD: Okay. Thank you. Yes, Senator Chambers. [LB293]

SENATOR CHAMBERS: Since he is a member of law enforcement, I feel that I'm not dealing with just a common citizen, and you're here to represent your organization. [LB293]

MATT SCHAEFER: I am not a state trooper. [LB293]

SENATOR CHAMBERS: Oh, but you represent the state troopers. [LB293]

MATT SCHAEFER: I do. [LB293]

SENATOR CHAMBERS: You're an attorney. [LB293]

MATT SCHAEFER: I am. [LB293]

SENATOR CHAMBERS: Do you know whether information is available to let people know who would have a dog licensed? Would information about a person having a licensed animal be available to the public? [LB293]

MATT SCHAEFER: I don't know the answer to that question. [LB293]

SENATOR CHAMBERS: Do you think it should be made available or it should be made confidential? [LB293]

MATT SCHAEFER: I don't...I don't have an opinion on that. [LB293]

SENATOR CHAMBERS: Suppose a person had a pit bull. If somebody knew that person had a pit bull then it might be similar to a person having a gun. (Audience outburst) [LB293]

SENATOR ASHFORD: All right, here's the deal. [LB293]

SENATOR MCGILL: Brad. [LB293]

SENATOR CHAMBERS: Just...just...just... [LB293]

SENATOR ASHFORD: Here's the deal. Just a second, Senator. [LB293]

MAN FROM AUDIENCE: It's hard to load a pit bull. [LB293]

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SENATOR ASHFORD: All right, here's the deal. Senator Chambers, please, just a second. Just a second. That gentleman will be...whoever that...do you know, Tom? Could we ask that gentleman to leave, please? And then we'll get started after that happens. [LB293]

SENATOR CHAMBERS: And, see, part of the difficulty, we're always told about law-abiding citizens, so I didn't think we'd have that today from this group. But as a member of the Legislature, I'm going to do what my job is. I don't care who is here. I don't care what they think. I don't care how they feel. And when people come here, they are treated with respect and they ought to respect the Legislature if they're law-abiding people, as I always see written about them. Now a person could have a pit bull for the protection of the home. So if notification is made available as to who has a pit bull and who does not, then somebody could make a determination about which houses to perhaps burglarize and which houses to avoid. Is that so? [LB293]

MATT SCHAEFER: I suppose so. [LB293]

SENATOR CHAMBERS: You believe that this information should not be made available to the public on these guns? [LB293]

MATT SCHAEFER: I think our members' concern came from the fact that if a list was published then it would be available for someone who wanted to seek out a trooper who had wronged them or who had arrested them to get some sort of revenge or do something to that house. And then it would be more easy to find them, even if the trooper has taken steps to not be listed in the phone book, etcetera. [LB293]

SENATOR CHAMBERS: I can understand what you're telling me, but I get threats even here in the Legislature on my telephone. My phone number is in the book. My address is in the phone book, and I constantly get threats. I've even had the FBI notify me of threats that they took as being credible. But I don't carry guns. My phone number is in the book. My address is in the book. I don't hide from anybody. I don't run from anybody. Troopers are armed members of law enforcement, aren't they? [LB293]

MATT SCHAEFER: Their families may not be though. [LB293]

SENATOR CHAMBERS: But then they're afraid for what might happen to their family? [LB293]

MATT SCHAEFER: I'm certain that they are, yes. [LB293]

SENATOR CHAMBERS: Is that what they told you is their fear or that...I thought you said that a trooper might be taken out by somebody. [LB293]

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MATT SCHAEFER: Well, I didn't say it like that, but I said that this information could be used to locate where they live. [LB293]

SENATOR CHAMBERS: So the troopers themselves don't have any fear of anything happening to them. [LB293]

MATT SCHAEFER: I think they are afraid of what could happen to them or their family. I'm sure they would be more able to defend themselves but not in every instance, and they may not be around to defend their family. [LB293]

SENATOR CHAMBERS: Okay. Thank you. [LB293]

SENATOR ASHFORD: Yes, Senator Davis. [LB293]

SENATOR DAVIS: So, Matt, the fact is if we don't have this legislation and somebody decides to use this information, we're going to know where all the legal guns are but we're not going to know where the illegal guns are. Isn't that true? [LB293]

MATT SCHAEFER: I didn't hear the second part. [LB293]

SENATOR DAVIS: I said we're going to know where all the legal guns are but we're not going to know where the illegal guns are. [LB293]

MATT SCHAEFER: Potentially, yeah. [LB293]

SENATOR DAVIS: Would you say that's the case? [LB293]

MATT SCHAEFER: Yeah. [LB293]

SENATOR DAVIS: Do you think a pit bull and a gun are the same thing? [LB293]

MATT SCHAEFER: Obviously not. [LB293]

SENATOR DAVIS: Thank you. [LB293]

SENATOR ASHFORD: Okay. Well, that was good. Okay, thanks, Matt. (Laugh) [LB293]

MATT SCHAEFER: Thanks. [LB293]

SENATOR ASHFORD: We've established something today. All right. Any other proponents? Opponents? [LB293]

SHAWN RENNER: (Exhibit 4) Good afternoon, Senator Ashford, members of the

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Judiciary Committee. My name is Shawn, S-h-a-w-n, Renner, R-e-n-n-e-r. I am a lawyer here in Lincoln. I'm a registered lobbyist. I appear today on behalf of Media of Nebraska, Inc. As the name suggests, Media of Nebraska is a nonprofit corporation comprised of the state's press and broadcast news media. The constituent members are the World-Herald, the Journal Star, the Daily Publishers Association, the Weekly Publishers Association, the Nebraska Press Association, and the Nebraska Broadcasters Association. I appear today to oppose LB293. Let's be clear about what's going on here. We are not deciding, in the first instance, if this information should be public. The bill that is being amended, the law that's being amended was passed in 1991, 21 years ago. This information... [LB293]

SENATOR ASHFORD: Don't remind me... [LB293]

SHAWN RENNER: I'm sorry? [LB293]

SENATOR ASHFORD: ...of the years ago. [LB293]

SHAWN RENNER: A long enough (laughter) time ago... [LB293]

SENATOR ASHFORD: Okay. [LB293]

SHAWN RENNER: ...that the question is not should, from the start, the information be public. It's been public for over 20 years now. And at least so far as the evidence today has revealed, it's not been a problem. It's not been an issue in the state. I'm certainly not aware of any instance of the news media in Nebraska doing some kind of blanket reporting on everybody that has a certificate, as the term is used in the statute. I don't know much about gun laws and so I had to do a little bit of research. We got Senator Kintner's amended bill yesterday and this bill differs significantly from that. And he is accurate, it does take care of some of the concerns that my clients have. In preparing for today's hearing, I took a look at the federal statute, because if you look at our gun statutes, the certificate statute dovetails with the federal statute. What it says is the police chief or the sheriff who is the permitting authority--that's what we're talking about here is granting a permit to have a government benefit, the right to carry a weapon--has to verify that people that are prohibited from owning a handgun under federal law do not get them here in Nebraska. And I had no idea what federal law required in that regard, so I took a look. The federal statute that sets out who can and can't own guns is about 16 pages long, single-space type, and is a pretty dense statute. It took me the better part of an hour to wade through it today: indicted for a crime; fugitive from justice; unlawful user of controlled substances; adjudicated mentally defective; alien in U.S. illegally; someone dishonorably discharged from the military; renounced U.S. citizenship; subject to a court order, restraining or harassing, for stalking an intimate partner; convicted in any court of a misdemeanor crime of domestic violence. Those are all provisions in federal law that our state law requires our sheriffs and police chiefs to

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enforce. The bill prohibits information, if it were passed, to be released not only about people that have guns but denials of those certificates as well. And the news media believes that the ability to have access to that information allows it to better do its job to report information to the public. The World-Herald editorial was mentioned earlier that provided three specific examples of where the World-Herald has used these records to report on what it believed were important matters. The south... [LB293]

SENATOR ASHFORD: Larry, let me just stop you for just a second. What...the World-Herald had some objections. Can you reflect those in your comments? [LB293]

SHAWN RENNER: The objections are, well, one, that the impetus to the bill appears to be one newspaper's decision in New York, and that appears to be painted on every bit of the news media everywhere. One of the World-Herald's points was that this information has been accessible to everybody in Nebraska for over 20 years now and there's never been such an instance. There's not been a suggestion that I've heard other than it might happen, that it's likely to happen here. And I'm here to tell you that I don't think it will happen. People...the nature of public records is they're public, and I can't guarantee you that no public record will ever be abused. I don't think our news medias here are abusers or likely to become abusers. And I do think that, given the important duties that the statute gives to our sheriffs and police chiefs, it is not inappropriate that the public have access to information to allow it to learn whether those laws are being adequately enforced. We do it with other licensing situations. If I'm a doctor and someone complains about my license, the fact that I have a license out there is public information. The fact that someone has complained about it is public information. [LB293]

SENATOR ASHFORD: Well, I suppose you could get a situation where there's been...a gun offense has been committed and the World-Herald or anybody would in your...their business would want to know whether or not that person legally had a permit to carry, and in the case of our law it's a handgun, but a handgun. If a handgun was used in the commission of a crime, to verify whether or not that person had a permit would be of public interest, I assume. [LB293]

SHAWN RENNER: I believe the World-Herald would view that way. I think most newspapers would. I think citizens would. And the Robert Butler shooting was one of the instances identified by the World-Herald. The Von Maur shooting was also another one. In both instances there the records were checked to determine who owned the handgun and both instances of those checks turned up information that would not have appeared through the court records otherwise, or arguably might not have. I've overstayed my time. I'd be happy to answer any other questions. [LB293]

SENATOR ASHFORD: Senator Coash. [LB293]

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SENATOR COASH: Thank you. Thanks for coming. I'm going to ask you some questions. And if you don't know the answer, I'll tee it up for Senator Kintner. [LB293]

SHAWN RENNER: Sure. [LB293]

SENATOR COASH: But my questions have to do with public records, which I think you have some expertise in. With regard to the topic Senator Kintner is trying to address, we have the registration for a permit to have a handgun and then we also have, once you have that handgun, you have to register the ownership of that handgun. As the law is now, are both of those public, the permit and the registration? [LB293]

SHAWN RENNER: I believe so, and I want to qualify slightly because I'm truly not a gun law expert. [LB293]

SENATOR COASH: Okay. [LB293]

SHAWN RENNER: I hadn't looked at it before today. The general rule in Nebraska is that every record in the hands of government is a public record, unless the public record statutes or some other law says it is not. I'm not aware of any other law that would say it is not, in the instances you've described, so I believe both those documents are public. [LB293]

SENATOR COASH: Because I could go and apply for a permit through my local sheriff and get approved, have a permit to have a handgun, but then I may not have the money to go purchase one. So I might have the permit to own one but may not actually have one that's registered. And maybe Senator Kintner, when he closes, can answer. I'm just trying to wrap my head around which of these lists, so to speak, the permit and the registry, this is seeking to address, one or the other or both? [LB293]

SHAWN RENNER: I believe the term in the statute is certificate, and I believe that's what's being addressed. I don't know, the registry I assume is the list of the various applications that's kept by the State Patrol, but we're escaping my familiarity. [LB293]

SENATOR COASH: Okay. Well,... [LB293]

SHAWN RENNER: So I think that's probably one you better ask Senator Kintner about. [LB293]

SENATOR COASH: Fair enough. Thank you for your time. [LB293]

SENATOR ASHFORD: I don't see any other questions. [LB293]

SHAWN RENNER: Thank you. [LB293]

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SENATOR ASHFORD: Any other opponents? [LB293]

DAVE BUNDY: Chairman Ashford, Senators, I'm Dave Bundy, D-a-v-e B-u-n-d-y. I'm the editor of the Lincoln Journal Star and I'm speaking today in my capacity as president of the Media of Nebraska. First off, I'd like to thank Senator Kintner. We do appreciate his efforts to amend this bill. He did address two very specific concerns that we had. However, it doesn't address the fundamental concern that we have with Media of Nebraska and that's the goal of the bill, which is to conceal from the public information that's currently part of the public record. Contrary to what you might think, the public record is not something that reporters use just to make elected officials lives miserable and clerks busy. It's the record of our government and it's bought and paid for by taxpayers. The public record belongs to the public. So this isn't about keeping information from the news media. This bill is about keeping information from the public. I'm glad that the situation about The Journal News in New York State came out. In that case, a news organization made a very bad, very irresponsible and reckless decision. To my knowledge, and I guess I've had it confirmed here today, no media outlet in Nebraska has made a decision like that or even pursued that kind of information. My guess is that sometime today or tomorrow someone who is a Second Amendment proponent here will throw out a line that's something along the lines of the actions of a reckless, irresponsible gunman should not harm the liberty of responsible law-abiding citizens. And I'd think that very same argument here today regarding this public information. Our handgun and registration processes have been carefully considered in this state. They've been enacted to ensure our safety. Citizens have a right to know how well and how these processes are being administered by the state. We have these open records for a reason. Citizens have the right to judge for themselves whether our system works through the information that we could gather with this. Nebraska's news media and its citizens have given lawmakers no reason to deprive the public of this information. That's why Media of Nebraska opposes LB293 and urges you to do as well. Thank you. [LB293]

SENATOR ASHFORD: Thank you. Yes, Senator Coash. [LB293]

SENATOR COASH: Thank you, Chairman Ashford. Thanks, Mr. Bundy. Right now, if someone has a concealed carry permit, you're unable to...you or anybody, the media or the public, can access a list of people who have gone through that concealed carry process. Is that correct? [LB293]

DAVE BUNDY: That is my understanding. We don't have that information available to us. [LB293]

SENATOR COASH: Okay. Has that been a problem from your time at the Journal Star where you would have wanted that and was unable to do it or...? [LB293]

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DAVE BUNDY: No. It hasn't been a problem at all. [LB293]

SENATOR COASH: Okay. All right. Thank you. [LB293]

SENATOR ASHFORD: Thank you, sir. [LB293]

DAVE BUNDY: Thank you. [LB293]

SENATOR ASHFORD: Do we have any other opponents? Any neutral testifiers? Bill, do you wish to close? [LB293]

SENATOR KINTNER: Yes. Thank you, Mr. Chairman, committee. You know, if you go to the doctor and you get a wart removed, we have HIPAA laws. They cannot release that to anyone. You own a gun, you might can get that information. It's not 1991 any longer. We're in a new age, the new information age. There are Web pages and bloggers. It's not just newspaper and media. There's an awful lot of ways to pump information out there, and that's what this bill is aimed at. I'm not worried about the World-Herald or the Journal Star. They're pretty responsible news organizations for the most part. But I am worried about this information being out there for people that don't have that kind of journalistic reputation to protect, people that want to stir up problems. And I think this is a measured, reasonable way to deal with that, to head off any problems before they happen. Before we make any headlines in our state, this is the way to do it. I want to point out that should someone break the law, should someone take a concealed weapon where they shouldn't take it, should someone use a gun in a crime, that information is available to the news media. They have a right to the information. They need to do their job and I'm very sympathetic to that. This bill does not change that, does not harm that in any way. I urge you to vote this out of committee, put it on the floor, and let's have a good debate on it. Thank you very much. [LB293]

SENATOR ASHFORD: Bill, I just have one question. [LB293]

SENATOR KINTNER: Yeah. [LB293]

SENATOR ASHFORD: I don't...I guess I should know this, since that was my bill in 1991. But the...and I think for the most part most people, gun owners, whatever, feel that that is...the permit is an added level of protection for them as well because it ensures that there's a check and that they're law-abiding citizens and so forth and they can have a gun, a handgun in this case. But...I lost my train of thought. But if you...I'll defer. I had a question. I lost it. [LB293]

SENATOR COASH: Senator Ashford. [LB293]

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SENATOR ASHFORD: Yeah, Senator Coash. [LB293]

SENATOR COASH: Thank you, Senator Ashford. Senator Kintner, I'm just... [LB293]

SENATOR ASHFORD: Oh, here is my question. What I was...(laughter) what I was going to...and I really don't...and I don't really know. But these permits are issued by the sheriff... [LB293]

SENATOR KINTNER: Or police chief, depending on... [LB293]

SENATOR ASHFORD: ...or a police chief. They're locally issued and the sheriff and police chief go through a check and they utilize the federal information and the state information, I believe. And then also if the sheriff or police chief has access to...their own personal knowledge that someone may be a law violator or whatever, they can check further. Those records are kept on the local level or are they kept at the State Patrol level? I can't recall. [LB293]

SENATOR KINTNER: Well, they...the way I understand it, when you apply for a permit, they run it through the computer. I guess it's the national computer. [LB293]

SENATOR ASHFORD: That part, yeah, but do they keep a list at Douglas County, for example, of who has a permit or who is...? [LB293]

SENATOR KINTNER: Yes. [LB293]

SENATOR ASHFORD: Okay. So I don't know if there's a central repository, and maybe we can find that out later. [LB293]

SENATOR KINTNER: I think in my county, Sarpy County, the sheriff has the information on the permits. [LB293]

SENATOR ASHFORD: Okay, but not the state. [LB293]

SENATOR KINTNER: You know, we...yeah, in Sarpy, you don't have to have permit to have the gun. You just have to have the state permit to buy it. [LB293]

SENATOR ASHFORD: Okay. But...okay, I guess we can ask, we can get that information as we go along. [LB293]

SENATOR KINTNER: Well, one other thing I'd point out, you said, well, isn't it a benefit if the criminals know you have a gun? Well, yes and no. Yes, they won't break in when you're there, but they might break in when you're not there. [LB293]

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SENATOR ASHFORD: Yeah. [LB293]

SENATOR KINTNER: And obviously, if you don't have a gun and the permit information out there, you're a target. They know you don't have a gun. [LB293]

SENATOR ASHFORD: Right. No, I get it. Okay, Senator Coash. [LB293]

SENATOR COASH: Thank you, Senator Ashford. Senator Kintner, I'm just trying to wrap my own head around it and get it on the record. You've got a permit process where you have to go to the local sheriff or police chief and apply for and be granted a permit... [LB293]

SENATOR KINTNER: To buy a gun. [LB293]

SENATOR COASH: ...to buy a gun. [LB293]

SENATOR KINTNER: To buy a handgun. [LB293]

SENATOR COASH: Right. [LB293]

SENATOR KINTNER: Yes. [LB293]

SENATOR COASH: So you have the permit process, but then should you buy that gun you have to register that handgun. [LB293]

SENATOR KINTNER: In... [LB293]

SENATOR COASH: In some jurisdictions you do. [LB293]

SENATOR KINTNER: ...some cities, yes. Yes. [LB293]

SENATOR COASH: Some jurisdictions you do. So I think Omaha, for example, you have to register your handgun. Which of those two processes are you seeking to protect? [LB293]

SENATOR KINTNER: Both. Both. [LB293]

SENATOR COASH: Does this, this amendment... [LB293]

SENATOR KINTNER: Yes. [LB293]

SENATOR COASH: ...addresses both of those. Okay, that's the question I wanted to under...thank you. [LB293]

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SENATOR ASHFORD: Senator Chambers. [LB293]

SENATOR CHAMBERS: Senator Kintner, as a member of the Legislature, you also will participate in the establishment of policy. Do you genuinely believe that this group you referred to as criminals are accessing this information, compiling lists of people in Nebraska who have guns and who don't have, and they're making...they're plotting a chart of homes to burglarize? And they watch, surveil those homes to see when people are not there so they can come when they're not there to use their gun? Is that what you think is happening? [LB293]

SENATOR KINTNER: I don't know. I don't know. [LB293]

SENATOR CHAMBERS: I'm asking what you think. I'm asking for...you don't have an opinion about that? [LB293]

SENATOR KINTNER: No, I do not know if it's happening. I just want to make sure it doesn't happen. That's it. [LB293]

SENATOR CHAMBERS: Does it seem reasonable to you that a criminal is going to do that? I know they do a lot of things, but they're going to sit with a computer. If people believe that then I think that we as public officials are not doing our duty in allaying the fear of people in this society, because it seems rampant. They're very afraid, very afraid. And that's why they have all these guns. And I'm not afraid of anything and I get the threats. And if you are protected by the Secret Service and you're the President, you can still be shot, as I believe was it Ronald Reagan who was shot while he was being guarded by the Secret Service? So if somebody wants to do something to you, as Oscar Wilde said many years ago, a half a penny of lead in the hands of the right person can end anybody's life, from the king down to the king's coachman. So I'm going to phrase the question a different way. You brought this bill because you said you want to prevent something from happening as happened in New York. And the reason you think that what happened in New York is bad is because people who you describe as criminals could look at that list and find out all of the people who own guns that would have to be registered or a permit would have to be obtained to obtain a gun. But I think you also acknowledge that not every gun requires a permit. So there would be people with guns whose names would not be on that list. How does a criminal know that the names not on that list do not have homes where there are shotguns and rifles? That person wouldn't know. There could be assault weapons in those homes, couldn't there be? Couldn't there be? And they wouldn't be on the list, would they? [LB293]

SENATOR KINTNER: No, rifles would not be on the list. That's correct. [LB293]

SENATOR CHAMBERS: Nor assault, I want to use that term, assault weapons with

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magazines that will hold 100 rounds. Those could be in those homes, couldn't they?
[LB293]

SENATOR KINTNER: I guess. [LB293]

SENATOR CHAMBERS: And they're not on the list. [LB293]

SENATOR KINTNER: I guess they could. I don't know. [LB293]

SENATOR CHAMBERS: So a criminal... [LB293]

SENATOR KINTNER: I know rifles could be, shotguns could be. I don't... [LB293]

SENATOR CHAMBERS: ...a criminal wouldn't know...a criminal... [LB293]

SENATOR KINTNER: I don't know about what you mean by assault rifle. [LB293]

SENATOR CHAMBERS: A criminal know if an AR-14, AR-15. You know what they mean by assault weapons. And if you don't, I'll show you pictures of some but not here. How is a criminal going to know that those houses are not equipped in such a fashion? They won't know, will they? [LB293]

SENATOR KINTNER: The same way he knows if there's a pit bull or not. He doesn't...
[LB293]

SENATOR CHAMBERS: Right. [LB293]

SENATOR KINTNER: ...till he breaks in. [LB293]

SENATOR CHAMBERS: He doesn't know. So if he doesn't know, then what's going to stop him from breaking into that house, the fear of the possibility of there being a gun?
[LB293]

SENATOR KINTNER: Well, I think they're betting on it being unarmed or maybe not home when they go in. I don't know. I'm not a criminal. I just don't think that way.
[LB293]

SENATOR CHAMBERS: You said yet. (Laughter) That's all I have. [LB293]

SENATOR KINTNER: You know, I would like to say one thing. You know when President Obama comes to town, you know, the Secret Service comes in, they check in dumpsters. Is there someone probably hiding in a dumpster or a bomb? No. They get on top of every building. They look under every car. They look in every bush. Is there

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really a big chance of something being in the bushes? No, but they don't take the chance. [LB293]

SENATOR CHAMBERS: But here's what they have allowed. [LB293]

SENATOR KINTNER: They don't want to gamble and... [LB293]

SENATOR CHAMBERS: Here's what they have allowed with President Obama. They have allowed gun owners to walk where he is with rifles on their shoulders, and they've been photographed. There have been discussions of why the Secret Service and no local law enforcement will stop those people from bringing those guns within range. And then they say, well, they have a right to carry them. But until a black President was there, it never happened before. And you can check any records you want to and you'll find that it had never happened before. That's the reality and that's what I deal with as a policymaker. And there are people who want to pretend these things don't happen, but I know that they do and I go by what my mind tells me and not what a lot of angry, frightened people want to say in trying to deter me from doing what my job is. [LB293]

SENATOR ASHFORD: Thanks, Bill. (See also Exhibits 5, 6, 7, and 8) [LB293]

SENATOR KINTNER: Thank you. [LB293]

SENATOR ASHFORD: Let's go to the next, Senator Janssen. Let's try to...the reason that I asked that everybody kind of be quiet is that we want...two reasons: one is out of respect for the institution, clearly; but also out of respect for each other and for the introducer and for the testifiers, because what's important...first of all, this hearing is unique, not totally unique but somewhat unique, in that it's being televised on statewide public television. So I think it's important that for the public to be able to hear what's being said, so just, if we could, just try to keep our expressions and comments and things down to a very low level. Thanks. Senator Janssen. [LB293]

SENATOR JANSSEN: Thank you, Chairman Ashford. Good afternoon, Chairman Ashford and members of the committee. I am Charlie Janssen; that's C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent District 15 in the Nebraska Legislature, which is Fremont, all of Dodge County, including the town of North Bend. I appear before you today to introduce LB451. LB451, also known as the Nebraska Gun Rights Act, provides that any new federal restrictions on firearms, ownership, or registration beyond the restrictions that existed in Nebraska in the United States before January 1, 2013, shall be unenforceable in Nebraska. The Nebraska Gun Rights Act is similar to legislation introduced in several other states to protect the constitutional rights of our citizenry against the overreach of federal government on this issue. Responsible gun ownership is part of Nebraska's culture and our way of life. I'm confident the members of this committee would agree that the vast majority of legal gun owners in our state and

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across the nation are law-abiding citizens who follow existing firearm requirements. Our state, in particular, has a strong constitutional right to keep and bear arms enshrined in our constitution. Nebraskans felt so passionately about it that we included it in our Article I, Section 1. It reads, "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. To secure these rights, and the protection of property, governments are instituted among people, deriving their just powers from the consent of the governed." There is little doubt that the illegal ownership and illegal use of firearms can result in tragedy. We are not strangers to such tragedies here in Nebraska. While I have great sympathy for the victims of illegal gun violence around the country, these tragedies cannot and should not be used as rationale to abridge the constitutional rights of responsible Nebraskans. Our country has a long storied history debating and defining the appropriate scope and powers of proper roles for the federal government and state governments. Gun rights, REAL ID Act, marijuana laws, are currently subjects of such debate. I'm also concerned about the growing use of executive orders to implement policy. In this presidential administration and previous administrations, executive orders seem to be the preferred method to implement controversial policies. LB451 points out the need to object when the executive branch overreaches. Many legislators object to the executive overreach in several other areas. First Amendment rights have been targeted throughout our nation's history. We must object when Second Amendment rights are under attack as well. I would point out that LB451 is not unlimited in its scope. It addresses only registration and ownership; and registration and ownership laws in existence before January 1 would remain in effect. An estimated 270 million of 310 million firearms are in private ownership in the U.S. That's approximately one firearm per person in our country. Gun ownership is part of our culture and part of our heritage. There are better solutions to combat violent crime other than laws that aren't working. Further restrictions on ownership or registration only distract from effective solutions to violent crime. I do not want to take up any more of your time or the time of the members of the public who are with us today. LB451 makes it clear that our Second Amendment right is indeed an essential liberty that would not be further eroded by the federal government merely to provide a false sense of safety. And I urge your passage. And I would say on a personal note, with your permission, Senator Ashford, I've been appearing in this body now for five years, much less than yourself. [LB451]

SENATOR ASHFORD: No, you can most certainly give your personal views. [LB451]

SENATOR JANSSEN: Well, I'd like to say when I first met Senator Chambers, the first day of this legislative session, he said there are two good things about you, Senator Janssen--and I was with my wife and children. He said: your children and your wife; and those are the two good things. So I brought my wife with me today, the first time that

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she's been down here to listen. [LB451]

SENATOR ASHFORD: Well, that's...well, I must say, Senator Chambers was probably generally correct on that comment. [LB451]

SENATOR JANSSEN: I appreciate that. [LB451]

SENATOR ASHFORD: And we could say that about all of us, Senator Janssen. [LB451]

SENATOR JANSSEN: Probably so. [LB451]

SENATOR ASHFORD: Okay. Senator Chambers. [LB451]

SENATOR CHAMBERS: Senator Janssen, you were unfair. You took advantage. He did blunt my thanks to some extent, but I still am required by my concept of my duty to pose some questions to you. [LB451]

SENATOR JANSSEN: Certainly. [LB451]

SENATOR CHAMBERS: You talked about executive orders, but your proposal says any federal law. A federal law is not an executive order, is it? [LB451]

SENATOR JANSSEN: It is not. Well, right. [LB451]

SENATOR CHAMBERS: It's an enactment of Congress. [LB451]

SENATOR JANSSEN: Right. [LB451]

SENATOR CHAMBERS: Senator Janssen, the U.S. Constitution...and if people make a distinction between the amendments and the original articles, an original article in the U.S. Constitution sets out the oath which must be taken by federal officials and every members of every legislature. And the Nebraska Constitution mirrors that oath, and that oath is found in Article XV, Section 1, of the Nebraska Constitution. "I do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the State of Nebraska," and then it goes on to talk about things in Nebraska. You took that oath, didn't you? [LB451]

SENATOR JANSSEN: I did. [LB451]

SENATOR CHAMBERS: And if you refused to take the oath, you couldn't hold the office. So it's obvious you took it. Article VI is a part of the constitution that you took an oath to uphold. Article VI says, in effect, that the United States Constitution, federal laws, treaties entered into by the United States, are the supreme law of the land, and

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they're binding, anything in any state law or constitution to the contrary notwithstanding. Supreme means top. There is no law in this country that trumps federal law. I don't think you do your constituents a service by suggesting that we in this Legislature can put something on the books in Nebraska that will trump federal law. Doesn't the language that you have in this proposal state that federal law will be unenforceable within the boundaries of Nebraska; doesn't it say that? [LB451]

SENATOR JANSSEN: As it relates to gun laws, yes. [LB451]

SENATOR CHAMBERS: Isn't that contrary to what the Supremacy Clause of the constitution makes clear? [LB451]

SENATOR JANSSEN: You bring up...if you're done, I'll...are you done, Senator Chambers? [LB451]

SENATOR CHAMBERS: Say it again? [LB451]

SENATOR JANSSEN: Are you done? I'm sorry. Are you done with your question? [LB451]

SENATOR CHAMBERS: That's my question. I'm asking you that question. [LB451]

SENATOR JANSSEN: Okay. All right. You bring up a good question. You know, we've had this debate...well, not... [LB451]

SENATOR CHAMBERS: I don't think it's a debatable question. [LB451]

SENATOR JANSSEN: Well, I kind of do, in the fact that we have right now we're undergoing debates on marriage laws. Colorado and another state passed marijuana laws which is the supreme law, the federal law. So people are challenging the federal government on various issues. And this is an attempt for Nebraska to do the same. [LB451]

SENATOR CHAMBERS: Senator Janssen, if you'll bear with me, and I apologize to your wife and your... [LB451]

SENATOR JANSSEN: Do I have a choice? (Laugh) [LB451]

SENATOR CHAMBERS: But we must do this just as if you chose to pursue prizefighting as your vocation. Maybe your family couldn't bear to watch it, but nevertheless, once you climb into the ring the counsel is defend yourself at all times; so when you brought this bill, you opened yourself for questions. Do you believe that the federal laws and the U.S. Constitution are the supreme law of the land in America? Do you believe that?

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[LB451]

SENATOR JANSSEN: They are supreme but they can be challenged. [LB451]

SENATOR CHAMBERS: Do you...when you took this oath to support the constitution, do you agree to support the part that says that the constitution and the laws are the supreme law of the land? [LB451]

SENATOR JANSSEN: I do support the constitution but I will not blindly do so. If I feel that something is going wrong or rights are being taken away from citizens, I must stand up. I can't speak for you but I listen to you, and I know you seem to feel the same on a lot of those issues but I'm certainly not speaking for you. [LB451]

SENATOR CHAMBERS: I believe that federal laws are enforceable anywhere. You can challenge them in court but that's not what you're doing. You're asking the Legislature to say that in this state federal law is not enforceable if it pertains to guns. Isn't that what this law says? [LB451]

SENATOR JANSSEN: To the laws that were imposed after January 1, 2013. That doesn't do anything with the laws that we have on the books right now or the laws that had come before that. [LB451]

SENATOR CHAMBERS: You didn't draft this language yourself, did you? [LB451]

SENATOR JANSSEN: Well, I did in the Nebraska Legislature. But it was language used in several different states as well. [LB451]

SENATOR CHAMBERS: Is this one of those excretions of ALEC, the American Legislative Exchange Council? [LB451]

SENATOR JANSSEN: I followed off a Wyoming law. I can't tell you where it came from other than that. [LB451]

SENATOR CHAMBERS: And you feel comfortable suggesting to the people of this state, as you are, that the Legislature can declare a federal law unenforceable. You feel comfortable doing that. [LB451]

SENATOR JANSSEN: I do. [LB451]

SENATOR CHAMBERS: You declared yourself to be a candidate for Governor, didn't you? [LB451]

SENATOR JANSSEN: I have. [LB451]

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SENATOR CHAMBERS: And the Constitution of Nebraska says that the job of the Governor is to see that the laws are faithfully executed. But as Governor you would be saying, however, federal law is not enforceable in Nebraska, and that's your opinion, and you would be the chief executive of this state and that's your view, that the federal laws are not enforceable. [LB451]

SENATOR JANSSEN: I would continue to press the federal government when they overreach at the state government levels. Yes, I would. [LB451]

SENATOR CHAMBERS: Now when you mention these various things such as--and when I say these things, which would not be enforceable if the federal law required it--a federal ban or restriction or an attempt to ban or restrict ownership of a semiautomatic firearm or any magazine of a firearm beyond those firearms which are already restricted in Nebraska. Now you're talking about firearms but not who can own the firearms, isn't that true? [LB451]

SENATOR JANSSEN: Could you say that again? [LB451]

SENATOR CHAMBERS: You're talking about firearms and not those who can own the firearm in your legislation, correct? [LB451]

SENATOR JANSSEN: It deals with only gun ownership and registration, yes. [LB451]

SENATOR CHAMBERS: Requires that any firearm, magazine, or other firearm accessory be registered in any manner beyond those firearms, magazines, and so forth, that are required now under Nebraska law to be registered. So if the federal government outlawed a magazine that would have 100 rounds, that law could not be enforceable in Nebraska. That's what your law would say. [LB451]

SENATOR JANSSEN: Under this legislation, yes. [LB451]

SENATOR CHAMBERS: How would you enforce this law? [LB451]

SENATOR JANSSEN: I would leave that to law enforcement. [LB451]

SENATOR CHAMBERS: So then... [LB451]

SENATOR JANSSEN: It wouldn't be a law in Nebraska, so. [LB451]

SENATOR CHAMBERS: If the federal law said that certain types of guns cannot be owned and you have people in Nebraska owning these guns and selling them, and the federal government said we have to stop that; so they got the team of FBI agents;

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members of Alcohol, Tobacco, Firearms, and Explosives; Homeland Security; federal marshals; and came in to Nebraska to stop that, then they would be violating this law, wouldn't they? [LB451]

SENATOR JANSSEN: Just like they would be violating Colorado's law for marijuana usage. [LB451]

SENATOR CHAMBERS: Well, I'm talking about here. But they would be violating this law, wouldn't they? [LB451]

SENATOR JANSSEN: Yes. [LB451]

SENATOR CHAMBERS: And when they violate the law, they're to be arrested, aren't they? [LB451]

SENATOR JANSSEN: Not by the provisions of this bill. [LB451]

SENATOR CHAMBERS: So then they could violate the law and there's...so it's not a crime for the federal government to enforce the law within the borders of Nebraska, is it? The federal government can enforce its laws within Nebraska, can't it? [LB451]

SENATOR JANSSEN: They can enforce their laws in Nebraska, Colorado, you name the states. [LB451]

SENATOR CHAMBERS: Let's keep it with Nebraska and just what you're talking about in your bill. This that you wrote is unenforceable, isn't that a fact? This is a nonlaw, isn't it? [LB451]

SENATOR JANSSEN: It depends if somebody wants to enforce it, much like REAL ID. [LB451]

SENATOR CHAMBERS: Who's going to enforce it? [LB451]

SENATOR JANSSEN: If we talk like Colorado, nobody. [LB451]

SENATOR CHAMBERS: We're talking about Nebraska and you're running for Governor. So tell the public what you mean and what you think in terms of the enforcement of this that you're asking us to put into law. Are you going to tell me that you want to put on the books an unenforceable law and mislead the public; make them think that this law is serious; that it, in fact, will prevent the federal government from enforcing certain federal laws yet there is no mechanism in Nebraska to enforce this law? Why would you want to put a law like that on the books? [LB451]

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SENATOR JANSSEN: We've got 20,000 gun laws right now that can be enforced in the state of Nebraska. [LB451]

SENATOR CHAMBERS: No, I'm talking about this law. Senator... [LB451]

SENATOR JANSSEN: And I don't think we would help anything more. Did you ask me if I wanted to have it enforced, is that your question? [LB451]

SENATOR CHAMBERS: Senator, why would you want to put on the books a law that nobody in Nebraska can enforce? Here's the way this law would be enforced. It says that no law passed by the federal government with reference to the subject matter of this bill can be enforced in Nebraska; shall be unenforceable within Nebraska. The federal government has agents and officers who can enforce federal law. They have FBI agents in this state. They have federal marshals in this state. They have people. They have Secret Service agents in this state. They have agents who work for the Bureau of Alcohol, Tobacco, and Firearms. These people carry guns and they're going to enforce the federal law in Nebraska. Now in order to enforce the federal law, they're going to violate this law that you're putting on the books. You cannot, and nobody in Nebraska can enforce this law against the federal government, isn't that true? [LB451]

SENATOR JANSSEN: Well, I would see a challenge coming probably through the judiciary system in that case. [LB451]

SENATOR CHAMBERS: I don't think you're going to answer the question directly, so I won't ask it anymore; but I'm just going to read once more this oath. "I do solemnly swear (or affirm) that I will support the constitution of the United States." And a part of that constitution declares the U.S. Constitution, which you swore to uphold, is the supreme law of the land, but you don't believe that because you're not challenging a particular enactment of federal law in court. You want to put it as a law that the state of Nebraska will not allow the enforcement of federal law in the state. So I will not pursue you except to point out something that was decided by the Nebraska Supreme Court. The exact form of oath to be taken by officials in Nebraska is that set out in the constitution that I read. That's the exact form of the oath that must be administered and must be taken. And when a person swears that oath, it must be taken and then I will stop, because I want to read it from..."Any such officer or member of the legislature who shall refuse to take the oath herein prescribed, shall forfeit his office, and any person who shall be convicted of having sworn falsely to, or of violating his said oath shall forfeit his office, and thereafter be disqualified from holding any office of profit or trust in this state unless he shall have been restored to civil rights." And when an oath is taken, it's without that term they use that indicates there is something in your mind that is not really consenting to the oath. So if a senator, in my opinion, swears to uphold the constitution, then tries to bring a law that says the constitution, the provision that declares the federal law to be the supreme law of the land, doesn't accept that, then I

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think that person is not living in accord with the oath that was sworn. That's my opinion. But I'm through now, thank you. [LB451]

SENATOR JANSSEN: I will say I probably should have brought my children as well if that was taking the fangs out. [LB451]

SENATOR CHAMBERS: I wouldn't have said anything in that case. [LB451]

SENATOR JANSSEN: Thank you, Senator Chambers. [LB451]

SENATOR ASHFORD: Charlie, let me just fully...I'm reading this and I think I understand the breadth of this, and so my assumption is very broad, meaning the sense that it would restrict any federal law from being applied in Nebraska that attempts to require that any firearm, magazine, or other firearm accessory be registered in any manner, bans or restricts, or attempts to ban or restrict ownership of a semiautomatic weapon. So essentially are you saying that...I mean, I don't read it any other way. For example, if we put in some rules and regulations on gun shows to try to make sure that people who go to a gun show have the legal ability to purchase a firearm, would that be...if that kind of federal law that would deal with gun shows, would that be violative of this section? [LB451]

SENATOR JANSSEN: I believe those are already in place, the laws we have in place. [LB451]

SENATOR ASHFORD: Well, I don't know if...I think there's...well, I think not. I mean, I think there are some. There's some...there is not a federal law that deals with gun shows that requires a background check for every purchase, that I'm aware of, or at least to make certain that there's been...I mean, it doesn't...I'm sure...if there is a federal rule or regulation that is enacted after this date that would tighten up gun shows so that someone who goes to a gun show and purchases a firearm would have to go through the same check as someone who goes to a registered firearms dealer. Would that be violative of this? [LB451]

SENATOR JANSSEN: Well, as we talked about it, it caps the restrictions that we already have, the 20,000 restrictions. Now, I would prefer that us as a legislative body, if we come together to make policy based on the state of Nebraska for gun laws, for gun shows, and even at the federal level if they suggest, I think we could fully vet that and I think we would. [LB451]

SENATOR ASHFORD: Well, you know...and I agree with you that we do need to have further restrictions on gun shows. And I'd be happy... [LB451]

SENATOR JANSSEN: Well, I want to be clear, I didn't agree to that, so. [LB451]

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SENATOR ASHFORD: Oh, okay. So, but I...sometimes it's necessary through to do the...in doing these... [LB451]

SENATOR JANSSEN: Understood, yes. [LB451]

SENATOR ASHFORD: When you're doing a background check, at least most law-abiding citizen gun owners that I know have no problem with background checks. I mean, at least I've not talked to any that I can... [LB451]

SENATOR JANSSEN: And it's a difficult...it's not an easy process. [LB451]

SENATOR ASHFORD: Right. But, I mean, you're going to want to make sure that somebody is able to buy a firearm is legally able to do so, so you're not opening up the floodgates to anybody buying something who has significant mental illness or whatever it is. So oftentimes you have to do a federal check in order to get a full and complete check. So if we did...it's not a gotcha question. I'm just trying to understand. If the federal government said we're going to tighten these rules up; we're going to tighten the background check portion of this up; we're going to apply it to all firearms, not just...or maybe let's say, you know, assault weapons and handguns, for example, that...but clearly, that would prohibit that. This law would... [LB451]

SENATOR JANSSEN: But it wouldn't prohibit us as a legislative body from enacting that. [LB451]

SENATOR ASHFORD: Well, no. But, I mean, it would prohibit us from... [LB451]

SENATOR JANSSEN: And I think as a reasonable body we would approach it in a reasonable manner and... [LB451]

SENATOR ASHFORD: We would pass...we would do something with gun shows, do you think? [LB451]

SENATOR JANSSEN: I think, you know, in reasonable manner I think we would look at... [LB451]

SENATOR ASHFORD: Well, okay. All right. But then...okay. Just then... [LB451]

SENATOR JANSSEN: I can't predict what we would do. I couldn't predict what we were going to do yesterday or today, so. [LB451]

SENATOR ASHFORD: Okay. So you'd be skeptical, though, of the federal government tightening the rules on background...on gun shows, is that...? And so if this were in

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place...does Wyoming have this law in place now? [LB451]

SENATOR JANSSEN: I don't think it's actually in law in Wyoming. It's proposed up there. And I can get back to you on that, so I don't have the full answer on that. [LB451]

SENATOR ASHFORD: Okay. I don't have any other questions. Yes, Senator Seiler. [LB451]

AUDIENCE: It's passed. Wyoming passed it. [LB451]

SENATOR ASHFORD: Okay. [LB451]

SENATOR JANSSEN: So there's that. [LB451]

SENATOR ASHFORD: Senator Seiler. [LB451]

SENATOR SEILER: Senator Janssen, in your research on this bill, did you see any articles or any instructions that this is a way of setting up a federal lawsuit as to who has control between the Supremacy Clause and the Article II in Section 10...or Article XX of the Constitution, so they clash, that this is how you get it to federal court to make a decision? [LB451]

SENATOR JANSSEN: As I talked earlier when I was addressing Senator Chambers, this certainly would probably be classified the same as your REAL ID laws. [LB451]

SENATOR SEILER: But was there any information that this is the way to set up that lawsuit? [LB451]

SENATOR JANSSEN: That wasn't the goal in mind, no. [LB451]

SENATOR SEILER: Okay. I have nothing further. [LB451]

SENATOR ASHFORD: Thanks, Charlie. [LB451]

SENATOR JANSSEN: Thank you. [LB451]

BRYAN VAN DEUN: (Exhibit 9) Good afternoon, ladies and gentlemen. I'm Bryan J. Van Deun, B-r-y-a-n V-a-n D-e-u-n. I'm an unpaid registered lobbyist representing the Nebraska Firearms Owners Association in support of Senator Janssen's LB451. There are many instances of defense of gun use by an armed individual fighting off multiple armed attackers. In these situations it should be the citizen who decides what is a sufficient magazine capacity to defend against two or more individuals who may all be armed. In January of this year, a 15-year-old boy used his father's AR-15 to defend

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himself and his 12-year-old sister against two burglars at their home just north of Houston, Texas. Two men entered the home. The boy grabbed the AR-15 and shot at them. The two later showed up at a hospital with injuries--the two criminals, not the two children. I won't read all the figures from the FBI Uniform Crime Reports that I've cited here, plus the Bureau of Justice Statistics, other than to say that there are great decreases in the fatalities and the gun crimes going on. And underlined: All of this occurring despite or perhaps because of the fact that there are more guns in America than ever before. Criminology professors Chris Koper and Jeff Roth for the National Institute of Justice studied the 1994 federal Assault Weapon Ban and its effect on crime. In 1997, they could find no effect either pro or con, and they said maybe if we studied this a little later we'll find some effect. In 2004, they did a follow-up study with another criminologist, Dan Woods, that concluded we cannot clearly credit the ban with any of the nation's recent drop in gun violence. Bad federal law cannot be allowed to affect Nebraskans and their lives if the Unicameral can stop it. Senator Janssen's LB451 is a way to do just that. Therefore, the NFOA fully supports the passage of LB451. [LB451]

SENATOR LATHROP: Senator Chambers. [LB451]

SENATOR CHAMBERS: I have one question. Do you believe that the U.S. Constitution, federal laws, and treaties entered into by the United States, constitute the supreme law of the land? [LB451]

BRYAN VAN DEUN: The way you asked that question, my answer is no. [LB451]

SENATOR CHAMBERS: Okay, that's all I have. [LB451]

BRYAN VAN DEUN: I believe in the constitution... [LB451]

SENATOR LATHROP: That's... [LB451]

SENATOR CHAMBERS: That's all that I have. [LB451]

BRYAN VAN DEUN: ...and the treaties,... [LB451]

SENATOR CHAMBERS: That's all that I have. [LB451]

BRYAN VAN DEUN: ...but some laws are bad laws. [LB451]

SENATOR LATHROP: Okay. I see no other questions. Thank you. [LB451]

ELAINE STEINBECK: (Exhibits 10-11) Good afternoon, Senator Ashford and other committee members. My name is Elaine Steinbeck. I live in Grand Island. I am a wife, a mother, and a grandmother, and I own a gun. Recently, there was a mass murder in

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Russia. Twenty people were killed with a knife. Last week, a military veteran, I believe in Texas, with a concealed carry permit, was driving home from work and saw a man kicking something on the side of the road. It was a badly beaten woman. He called 911 and held the man at gunpoint until help arrived. The authorities said the veteran had saved the woman's life. A growing number of states are moving forward with legislation to exempt them from the new federal gun controls and, in some cases, brand as criminals anyone who tries to enforce them. I think right now there are 70 such pieces of legislation right now working through the various state legislatures. A quote from James Madison: Oppressors can tyrannize only when they achieve a disarmed populace. When Hitler took over Austria, he got people to turn in their firearms because he convinced them it would stop crime. We all know how well that turned out for the Austrians and the rest of the world. The Hall County Board of Supervisors, where I live, voted unanimously to support LB451. You all have received a letter from that board. One board member is also a local police officer. He indicated that he thought all of his fellow officers also supported this bill. I quote Scott Arnold, the police officer board member. "I don't care what side you fall on of thinking people should own guns or shouldn't. You should be on the side of your Constitution." Arnold said, "You should be afraid of a government that is trying to talk people into giving up those rights." Now this is me speaking. Law enforcement can't be everywhere and response time can be 10-15 minutes in many cases. When power is assumed by leaders and no one questions or stops it from happening, then power is taken. The Second Amendment is part of the constitution. Twenty-three executive orders or even bills passed by the Congress cannot change the constitution. Someone said, do you believe in the constitution? Do you follow the constitution? I say, you cannot change the Second Amendment without an amendment to the constitution ratified by the states. I repeat: Twenty-three executive orders or even bills passed by Congress cannot change the constitution. This is not the way it's done. To change the Second Amendment would require an amendment to the constitution and ratified by the states. The individual citizen and the individual states are sovereign and have more power than the federal government as designed by the people that drew up the constitution. However, everything is just upside down at this time in this country. Please send LB451 out of committee and to the full Legislature for a vote. I respectfully request this committee to please remember you are all obligated to uphold the Constitution of the United States. [LB451]

SENATOR LATHROP: Thank you. [LB451]

ELAINE STEINBECK: Thank you. [LB451]

SENATOR LATHROP: Are there any questions? [LB451]

SHAWN HEBBERT: Good afternoon, members of the committee. My name is Shawn Hebbert, spelled S-h-a-w-n H-e-b-b-e-r-t. I'm the Grant County sheriff, a member of the Sandhills Area Sheriffs Association. I'm the Panhandle district representative of the

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Nebraska Sheriffs Association. I'm a veteran of the United States Air Force, a member of the American Legion Post 57, and I'm a really proud American. I'm here today in support of LB451. More than that, though, I'm here to reaffirm to you today my commitment to my oath of office, which is to support the Constitution of the United States and the Constitution of the state of Nebraska. I feel that any federal regulation, rule, executive order, or mandate that in any way controls guns or their ownership, their registration, or their components, is in direct violation of that very document that you and I swore to protect. We recognize that domestic massacres happen. We too are heartbroken for the murdered victims and their families. We also recognize that such incidences heighten the government's need to grapple with gun control in an effort to minimize or eliminate such massacres. It's much more complicated than that. Violence and hatred come from within, and eliminating certain guns or all guns will not necessarily minimize or eliminate the violence, the hatred, or the massacres. Instead, what we as Nebraskans are being faced with is a government being under the perception that they can control such potential horrible outcomes by limiting or eliminating our constitutional right to bear arms. They can call it gun control all they want; it's actually just about control. It's about rights and who gets to say what rights we keep and which rights we give up. LB451 sticks up for our rights as Nebraskans to keep and bear arms. As duly elected sheriffs of our respective counties, we will enforce the rights given to our citizens by the constitution; and I'm asking that you do the same by advancing LB451 to General File. I thank you for your consideration and at this time I will attempt to answer any questions you might have. [LB451]

SENATOR LATHROP: Senator Chambers. [LB451]

SENATOR CHAMBERS: Sheriff, have you read this bill? [LB451]

SHAWN HEBBERT: I have, sir. I have a copy here as well. [LB451]

SENATOR CHAMBERS: We're talking about a federal law, which means an enactment by the U.S. Congress. Would you agree? [LB451]

SHAWN HEBBERT: Yes, sir. [LB451]

SENATOR CHAMBERS: And this bill, if it became law, would say that certain laws enacted by Congress are unenforceable within the state of Nebraska. That's what it says; are unenforceable, cannot be enforced. Are you aware... [LB451]

SHAWN HEBBERT: I agree. [LB451]

SENATOR CHAMBERS: You're a sheriff. You're in law enforcement. Are you aware of the fact that the United States government has enforcement machinery; in other words, the means to enforce federal law wherever federal law is in place? Are you aware that

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they have that kind of enforcement machinery? [LB451]

SHAWN HEBBERT: I am aware of that, sir. [LB451]

SENATOR CHAMBERS: You're aware of the FBI having conducted stings where they broke up drug rings, gunrunning, and other such things, and they brought armed agents to do that? Are you aware of that having happened? [LB451]

SHAWN HEBBERT: Yes, sir. [LB451]

SENATOR CHAMBERS: Are you aware of raids by the Bureau of Alcohol, Tobacco, Firearms, and Explosives? Are you aware of them having conducted raids where their agents were armed? [LB451]

SHAWN HEBBERT: I have read some articles; yes, sir. I would agree that that happens. [LB451]

SENATOR CHAMBERS: Now if there were a federal law doing some of the things that this bill says would not...that law wouldn't be enforceable in Nebraska. Where are you from? What county are you from? [LB451]

SHAWN HEBBERT: Grant County, sir. [LB451]

SENATOR CHAMBERS: Where? [LB451]

SHAWN HEBBERT: Grant County. [LB451]

SENATOR CHAMBERS: Grant County? [LB451]

SHAWN HEBBERT: From the Panhandle. [LB451]

SENATOR CHAMBERS: And if some federal agents came out there because this kind of activity that was prohibited by federal law was going on, and they were going to enforce that federal law, and you as a sheriff knows that by god they're violating the law of Nebraska which you swore to uphold, how are you going to enforce this law? Are you going to arrest those agents? You're the sheriff. You're the law. Are you going to arrest them? [LB451]

SHAWN HEBBERT: It's a hypothetical, sir, that I will attempt to answer to an extent. [LB451]

SENATOR CHAMBERS: Either you are or you're not. [LB451]

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SHAWN HEBBERT: You brought up the Supremacy Clause earlier. [LB451]

SENATOR CHAMBERS: But let's not go into all that. I'm asking you the kind of questions which you as a sheriff can answer without even having to discuss the constitutional provisions. If a law is violated in your presence, what are you supposed to do according to your oath as a law enforcement officer, Sheriff? [LB451]

SHAWN HEBBERT: Arrest. And it would depend on what they took. [LB451]

SENATOR CHAMBERS: Now, in this case, those federal agents would be violating the law of Nebraska in your presence. [LB451]

SHAWN HEBBERT: Yes, sir. [LB451]

SENATOR CHAMBERS: Would you attempt to make an arrest? [LB451]

SHAWN HEBBERT: Again it would...I would attempt to make an arrest based on what would depend again on the hypothetical. [LB451]

SENATOR CHAMBERS: Well, they're coming there to enforce the federal law that says these kind of weapons...let's say it says these certain weapons are banned so we can make it concrete. And there's a store selling these weapons and these federal agents come to confiscate those weapons which would put them in violation of this law. So we have the agents in the store confiscating the weapons. We have other agents dressed in the stereotypical black uniforms with FBI written on the back, and they have assault weapons at the ready. Are you going to...which ones of them are you going to arrest: the ones in the store or the ones aiding and abetting this violation of Nebraska law? [LB451]

SHAWN HEBBERT: All of them would be in violation of the law should this law be enacted and they were confiscating weapons. [LB451]

SENATOR CHAMBERS: So which ones would you arrest? Would you call in more...? How many deputies do you have? [LB451]

SHAWN HEBBERT: I am a one-man agency, sir. [LB451]

SENATOR CHAMBERS: You don't even have any deputies? [LB451]

SHAWN HEBBERT: I have one part-time guy that comes in one weekend a month. [LB451]

SENATOR CHAMBERS: So you'd call him in on this because this would be an

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emergency; so you'd call him. [LB451]

SHAWN HEBBERT: I most likely would; yes, sir. [LB451]

SENATOR CHAMBERS: And you and he would be there. Are you allowed to carry a sidearm, Sheriff? [LB451]

SHAWN HEBBERT: I do carry a sidearm. [LB451]

SENATOR CHAMBERS: Okay. Or do you have any long gun at your disposal, a shotgun, a what are called assault weapons? Do you have any of those at your disposal? [LB451]

SHAWN HEBBERT: I have a shotgun and a rifle. [LB451]

SENATOR CHAMBERS: So then you would approach them with your sidearm and with your rifle, and tell them I am the sheriff of Grant County and every one of you men are in violation of Nebraska law and I hereby place you under arrest. Is that what you would do? [LB451]

SHAWN HEBBERT: Again that's a hypothetical, sir. [LB451]

SENATOR CHAMBERS: What would you do though? Well, let me ask...let me give you... [LB451]

SHAWN HEBBERT: They are in violation of the law, sir. They are subject to arrest. [LB451]

SENATOR CHAMBERS: Would you arrest them? [LB451]

SHAWN HEBBERT: I would attempt it if they were in violation of the law. [LB451]

SENATOR CHAMBERS: And how would you do it? We've got six agents. [LB451]

SHAWN HEBBERT: Again that depends on the hypothetical. [LB451]

SENATOR CHAMBERS: Would you go and put your hands on the closest one and say, come with me, you're under arrest? [LB451]

SHAWN HEBBERT: Most generally there's going to be one in charge. [LB451]

SENATOR CHAMBERS: So that's the one you would arrest. [LB451]

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SHAWN HEBBERT: The first one, yes. [LB451]

SENATOR CHAMBERS: And if you came up to that person, and I'm him, and you said to me you're under arrest, I'd say you're out of your mind. And I'd tell my agents, arrest this man for interfering with an officer who is enforcing the law; arrest him right now. And you'd be arrested. Whose arrest, do you think, would withstand challenge in the courts? [LB451]

SHAWN HEBBERT: I have... [LB451]

SENATOR CHAMBERS: Your attempt as a local sheriff to arrest a federal agent carrying out the law of the United States, or the arrest made by a federal agent against some local sheriff trying to interfere with a federal agent carrying out his duties? Can you see how impractical this is? It's not enforceable by you, is it, in this...? [LB451]

SHAWN HEBBERT: I would attempt to enforce it depending on the situation, sir. [LB451]

SENATOR CHAMBERS: And you support this bill in view of our discussion here. [LB451]

SHAWN HEBBERT: I do support this bill. [LB451]

SENATOR CHAMBERS: And you couldn't enforce it though, could you. [LB451]

SHAWN HEBBERT: I would make every attempt possible to enforce it. [LB451]

SENATOR CHAMBERS: But you couldn't do it, could you. [LB451]

SHAWN HEBBERT: Again, it would depend on the situation, sir. [LB451]

SENATOR CHAMBERS: I think our exchange makes clear the point that I'm making. And I'm going to make a statement: People in your position do not do a service to the citizens of this state to suggest to them that a sheriff has the authority to prevent federal enforcement of a federal law in his county or in this state. You know that cannot be. I know it cannot be. And if you didn't know it before you came here, I'm going to try to discharge my duty as an elected official. You and nobody else in this state, including the entire Legislature, and throw in the Supreme Court of this state for good measure, has the authority to nullify a federal law. It was called nullification during the early days of this history; and it didn't work then, it won't work now. In later years, when racist governors tried to use what they called interposition where he would interpose himself between the federal agents and a school where children had been allowed by court order to enter, and he was going to interpose himself in the power of the state to

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prevent it, he was swept aside. The federal law is supreme. And if you didn't know that before today, then I think it's my duty to inform you of that fact. And I'm shocked. I am shocked that a sheriff would come here and say that the federal law can be trumped by a statute and that the federal law is not to be enforced and that sheriff would try to arrest any federal agents attempting to enforce the federal law. I am stunned. But that's all that I have. Thank you, Sheriff. [LB451]

SHAWN HEBBERT: Thank you for your time, sir. [LB451]

SENATOR ASHFORD: Thank you. I don't see any other questions. Next testifier, next proponent. [LB451]

DAVID SPLONSKOWSKI: Hi. I'm David Splonskowski, S-p-l-o-n-s-k-o-w-s-k-i, and I had a prepared statement. But regarding what's being said so far, I had to say something else. So in regard to Senator Chambers who appears to be the most prepared person here, I would like to say that we have a Tenth Amendment as well, and the Tenth Amendment gives the state sovereignty over anything not specifically written within the constitution. And I have the constitution in my car. I wish I had brought it in here so I could specifically read from that. But...oh, thank you. Citizens Rule Book. Yes. So the Tenth Amendment, if I have time here to get to it, states that, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." And much of what we discussed here about laws and the federal laws, they're not constitutional. Just because they got passed doesn't mean that they're constitutional. So we as a state do have the ability to contest those, and that's what LB451 does. I'm sorry it doesn't have any teeth to it, which is probably the biggest thing I have with it, even though I am a proponent of that bill, that it is not written in there what we can specifically do. And to pigeonhole a sheriff into saying he cannot uphold this, well, that's abhorrent to say that we cannot get the resources together if that is the law as a state, to make sure we can contest federal agents not abiding by what we have as sovereignty as a state. And I think the Founding Fathers would not have found the constitution to be valid, the states would not have ratified it, if they had thought that the ten amendments to the constitution would not have been passed, specifically the ones that were included in that original arrangement that they signed; and one of those specifically dealt with the power of the states to have authority over anything not specifically written in there. And that is the most of what I wanted to say today. Thank you. [LB451]

SENATOR ASHFORD: Yes, Senator McGill. [LB451]

SENATOR MCGILL: Just for the record, I believe the courts are the proper way to handle if you think an issue shouldn't be dealt with in federal law, and I think that's where the senators feel... [LB451]

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DAVID SPLONSKOWSKI: I'm certainly not advocating...I'm not advocating that we have vigilante justice here. That's not what I'm saying. [LB451]

SENATOR MCGILL: And just for the record--this has nothing to do with your comments--I looked up what happened in Wyoming. It passed the House but stalled in the Senate, this particular piece of legislation. I just wanted that for the record since there was a misunderstanding. [LB451]

DAVID SPLONSKOWSKI: Any other questions? [LB451]

SENATOR ASHFORD: Thank you, sir. Next proponent. [LB451]

RALPH BODIE: Ralph Bodie, Liberty, Nebraska. B-o-d-i-e, last name. LB451 represents in our state the communication to the federal government that we are responsible in our state for what the constitution allows us. And we've seen an overreach in the last four years that's unbelievable. And people that don't recognize this are not really understanding who we are. The Second Amendment indicates that our rights shall not be infringed to bear arms. Can it be any more clearer than that? So yes, there are provisions for federal overreach. And let this be a warning to the federal government through LB451. The Governor, the senators, the sheriff, the citizen, all have a distinct right to stand for what they believe is constitutional. We will not stand by needlessly awaiting the federal usurpation of dictatorial force. This is a republic and we need to recognize it in this body. Without that, and with the force of the federal government, we'll deal with that when they come. Thank you. [LB451]

SENATOR CHAMBERS: I have a question. [LB451]

SENATOR ASHFORD: Senator Chambers. [LB451]

SENATOR CHAMBERS: When it comes, how are you going to deal with it? [LB451]

RALPH BODIE: Well, the Governor has the right to refer the federal government in a letter advising him that they have no authority in issues that he deems necessary. [LB451]

SENATOR CHAMBERS: Oh, forgetting that, then you don't mean you think that these people with these guns, whatever kind, could stand up against force brought by the United States government? That's not what you're talking about, is it? [LB451]

RALPH BODIE: Sir, these men are citizens of this state. They recognize the authority here... [LB451]

SENATOR CHAMBERS: But here's what I want to understand. Here's... [LB451]

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RALPH BODIE: ...and they will tell the government... [LB451]

SENATOR CHAMBERS: Here's what I want to understand: You're not talking about armed resistance to the federal government, are you? Is that what you're talking about? [LB451]

RALPH BODIE: The right to own and bear arms. If they outlaw them federally without a constitutional amendment, we're going to be without things that we can use to defend our freedom. [LB451]

SENATOR CHAMBERS: Here's what I'm asking you: You were talking about federal overreaching and when it comes then you'll be ready. Are you... [LB451]

RALPH BODIE: Well, yes, in mind. [LB451]

SENATOR CHAMBERS: Oh, but you're not talking about you would take up arms against the federal government. [LB451]

RALPH BODIE: No. [LB451]

SENATOR CHAMBERS: Oh, then okay, I don't have any more questions. [LB451]

RALPH BODIE: Thank you. [LB451]

SENATOR ASHFORD: Thank you, sir. [LB451]

BONNIE CAMPBELL: (Exhibit 13) My name is Bonnie Campbell from Aurora, Nebraska. I'm a retired school teacher and I have a gun. I urge you to support this bill brought forth by Senator Janssen. This bill makes any federal law restrictions on purchases or registration requirements on owning firearms unenforceable in Nebraska. Nebraska is a state of hunters, those who want to practice marksmanship, such as with trap shooting, and those who want to protect themselves and their families from criminals wanting to do them harm. I am a very firm believer in Second Amendment rights and all parts of the U.S. Constitution. History has proved what happens to countries who give up their gun rights either slowly or from mandates. The result is frightening, as there is a huge loss of individual freedom that starts a downward spiral in many areas. And I also want to bring up something. When I was a child, I lived on our family farm and we had a rifle and we had a shotgun. And back in the late '50s when Charles Starkweather was on his rampage, my family also bought a handgun, because my father worked in the town of Hastings, and so my mother wanted to be protected if there was a need. Both of my parents were very good...well, they could hit something if they needed to, I'll put it that way. They didn't have to...my mother never had to use the

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handgun but it was there and it made it safer for us in the country. [LB451]

SENATOR CHAMBERS: Ms. Campbell, if I may, you were a teacher. What did you teach, what courses? [LB451]

BONNIE CAMPBELL: I taught history in self-contained classrooms for fourth grade through sixth grade. [LB451]

SENATOR CHAMBERS: When you were teaching history, did you teach that the state government has power over the federal government? Is that what you taught your students? [LB451]

BONNIE CAMPBELL: No. [LB451]

SENATOR CHAMBERS: Did you... [LB451]

BONNIE CAMPBELL: But there were not the overreaches of the government like it's doing now. [LB451]

SENATOR CHAMBERS: Well, I'm going to ask you this question then not in terms of what you taught. Do you believe that a law passed by the Nebraska Legislature can nullify a law passed by Congress? [LB451]

BONNIE CAMPBELL: If the law by Congress is unreasonable and the path that they're going makes it unreasonable. So I am definitely supporting this law. [LB451]

SENATOR CHAMBERS: Do you think that a law of a state has more legal standing and validity than a federal law? In other words, which law has priority: the federal law or the state law? [LB451]

BONNIE CAMPBELL: I used to think the federal law. But with past recent experiences in the last few years with our government, we have to be proactive instead of reactive, and we need to protect ourselves from injustices that are trying to be sent down from Washington. [LB451]

SENATOR CHAMBERS: I don't think I've asked the question clearly. But I won't try anymore; thank you. [LB451]

SENATOR ASHFORD: How many more proponents do we have? How many opponents? Okay, we're going to go about till 15 minutes of 4:00. So hopefully, we'll get everybody...should be able to get everybody in. [LB451]

AMANDA COLE: Thank you. My name is Amanda Cole, A-m-a-n-d-a C-o-l-e. I'm a

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United States Air Force veteran and also a current Nebraska law enforcement certified officer. I am an active member of the VFW Post 0083 and I'm currently involved in the activist group Occupy Marines and Anonymous, along with many others. I know I took an oath to uphold the constitution against any enemy both foreign and domestic. Not only once but twice I took this oath. With all the current federal laws that we are facing as American citizens right now, I am very concerned about the future of America. Our federal government is overstepping its boundaries and at a dangerous rate to us. This attack on our Second Amendment is not the first but it is blatantly obvious that it hits home on a personal basis to me. I just ask you guys that you just inform yourself as far as all of the information that's going on right now currently, you know, with the laws; and I don't know...it's affecting a lot of people. By closing, I just want to go ahead and just say a quote: The power of the constitution will always be in the people. It is entrusted for a certain defined purpose and for a certain limited period to representatives of their own choosing; and whenever it is executed contrary to their interest or not agreeable to their wishes, their servants can and undoubtedly will be recalled. And that was by George Washington. And that's it. [LB451]

SENATOR ASHFORD: Let me just ask you this. And thank you for your service, by the way. I understand what you're saying except that we do have a process in the federal level and the state level, and that process is we have elected representatives who vote on various measures and they enact laws. Now can you tell me what Congress has passed in the last five years that restricts your Second Amendment rights? [LB451]

AMANDA COLE: Five or ten? [LB451]

SENATOR ASHFORD: Well, go back 15. What laws has the Congress of the United States passed--we no longer have an assault weapon ban. [LB451]

AMANDA COLE: I think I'm looking more toward the executive branch. [LB451]

SENATOR ASHFORD: Well, I think ultimately it's the Congress that passed the laws. The executive branch... [LB451]

AMANDA COLE: I don't know the specifics. [LB451]

SENATOR ASHFORD: Well, I'm just trying to understand, because I'm trying to understand what you're saying to me. I get the drift of what you're saying. You've served your country admirably and that for which you should be given...you should be admired for that. What I'm trying to understand is the gist of what everybody is saying. We have elected representatives who supposedly we elect to represent our interests. I elect them, you elect them from Aurora or wherever you're from, you elect--and I from Omaha--hopefully to create some sort of balanced response. And in Omaha, for example, we have illegal guns flowing into our city. They don't come from Nebraska

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primarily. They come from all over the place, from other countries. So if we were to say--and from other states--if we were to say we don't want any help, we don't want any help or interference by the federal government, who's going to help us stop the inflow of those illegal guns? [LB451]

AMANDA COLE: Those guns are going to be there whether there's laws or not. [LB451]

SENATOR ASHFORD: Really? I mean, I don't think it's time to give up, so. But let me ask you this: I just really and would like to know--and Charlie, maybe when you get up to answer this--what laws has the Congress of the United States passed in the last ten years that infringes on your freedom to bear arms? That's what I'd like to know so that we know what federal laws we're not going to enforce if we should pass Charlie's bill. [LB451]

AMANDA COLE: Sir, I just became aware of the current events within the past year and a half, so I'm still kind of new to all this. [LB451]

SENATOR ASHFORD: Okay, and that's fair. That's fair. And I guess that's just the question. I want to know what the imminent danger we're all...we're...what's the...there's fear. Here's what I'm... [LB451]

AMANDA COLE: A tyrannical government. [LB451]

SENATOR ASHFORD: Well, I understand. I understand. I'm not arguing that point and I'm not arguing the fact that we don't want a tyrannical government. None of us do. But I don't...but I...before...we've been brought a bill. Charlie has brought us a bill that implies, at least to me, that there is an onslaught of federal laws that have been enacted or will be enacted that will infringe on, I believe you're primarily concerned about the Second Amendment. You don't have to answer it. I just would like to know the answer, because I don't see this waterfall of laws being passed. In fact, what I see, at least in my city, and you may not see it where you are, I see a rash of illegal firearms coming into our city and young people are getting ahold of them and they're shooting each other. So that's what I see. [LB451]

AMANDA COLE: It's because people are scared right now. [LB451]

SENATOR ASHFORD: Okay. All right. And that's a fair answer. I think you're right, I think there is fear. But what I'm trying to do...and I think that's a very...that's a human emotion and I get it. But I would like to bore down on...if we're going to pass laws or enact legislation here, we have to have some sense of what it is that we're enacting laws about. And I personally have not seen any law passed by the Congress in ten years that infringes on the Second Amendment. [LB451]

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AMANDA COLE: It's not a specific law. It's just these little motions that keep getting closer and closer... [LB451]

SENATOR ASHFORD: Well, the President may have a view on the ban... [LB451]

AMANDA COLE: ...to an end result. [LB451]

SENATOR ASHFORD: The President may have a view on banning assault weapons because assault weapons... [LB451]

AMANDA COLE: And the NDAA... [LB451]

SENATOR ASHFORD: Well, I mean, let me... [LB451]

AMANDA COLE: ...and the PATRIOT Act and the... [LB451]

SENATOR ASHFORD: Fine. But the President of the United States was elected...he's the President of the United States. He was elected by the people of this country. [LB451]

AMANDA COLE: I... [LB451]

SENATOR ASHFORD: And all I'm saying is another president may have a different view on that issue and...but, no, the Congress has not banned assault weapons, as far as I know. In fact, they've rescinded the ban that was in effect, or at least did not reenact the ban that was in effect for ten years. So I'm not arguing with you, because I think you're expressing a fear and concern and I would never say it's not legitimate. I just would like to know what it is that we're fearful of. I know it's the government, but what about the government? I mean, we still have the Congress and we have the Supreme Court too, as well, so. [LB451]

AMANDA COLE: The steps that they're taking, I guess, toward a vision that I know I grew up with an impression of what our federal government is supposed to be, and it's not what it is today. [LB451]

SENATOR ASHFORD: But let me tell you, when you were growing up...and I'll betcha it was...you're pretty young. When you were growing up there probably was a ban on assault weapons. Now there isn't. So, I mean, to me it would seem like it would be more...there's more freedom to own, purchase, and possess an assault weapon because there is no ban now on assault weapons and there was during the Clinton administration and now there isn't. So I'm just trying to isolate...and maybe Charlie can answer that and that's fine. But I'm not trying to put you on the spot because I do...I get it. I know you're expressing a fear that people have. I just want to isolate it down to what

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we're afraid of, that's all. [LB451]

AMANDA COLE: What specifics. [LB451]

SENATOR ASHFORD: Okay, thank you very much. [LB451]

AMANDA COLE: Thank you. [LB451]

TONY ARNOLD: Honorable Senator, thank you very much for taking time again. Well, aside from my career, I am also a subject matter expert for the firearms industry I can speak to. And my hobby, I actually write for about 350 different firearms manufacturers and sporting goods manufacturers in the industry. [LB451]

SENATOR LATHROP: Why don't you give us your name. [LB451]

TONY ARNOLD: Sure. Tony Arnold, T-o-n-y A-r-n-o-l-d. And so I thought I would maybe do a little bit of background, definition, and education on some thoughts for this bill that should be considered, because I've heard some, I believe, inaccurate information conveyed during some of this hearing. So one of those things is really the enforcement of this legislation. I don't want to get into a constitutional debate or a legal debate. I will let our courts decide what that is should this law be enacted and in effect out in the field. And we do see some of our great law enforcement be faced with that challenge to force an arrest in the case of a conflict. I would let somebody else, the courts, take care of that. However, I would like to point out that the standard operating procedure, I believe the scenario that Senator Chambers outlined, is probably an inaccurate scenario. Really the standard operating procedures, and any of the sheriffs and law enforcement would probably validate this for me, the standard operating procedures for any of the federal law enforcement would be to first engage the local law enforcement at a local level. This is obviously to avoid any conflicts, to avoid situations where somebody reports that somebody is trying to break into their house and it turns out that it is federal law enforcement under cover. So there's always a standard operating procedure in place that they will always engage with the local law enforcement first. And if there is an issue, then at that point then they would go ahead and take it up. The other piece I'd like to talk about is kind of definitions: a background check. There's been a lot of people say that from a background check, you know, weapons are easily obtained. In the state of Nebraska, you actually have to have a state purchase permit to purchase, or at point of sale there is an instant background check that's provided. The same goes at gun shows, I point out. I don't know if many are aware but at gun shows you are still required to fill out the same paperwork and still provide your state purchase permit at those gun shows to purchase a firearm. Many people do not know that. Assault weapons: I'd kind of like to strike that language from our vocabulary. Assault weapons was defined in a 1934 National Firearms Act, NFA; and that defined a number of Type 3 Class 3 firearms, also known as machine guns,

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short barrel rifles, suppressors. There's a lot of different firearms, firearms accessories, defined in that category. That is a specific definition that is, has been passed into law. In addition, any of the other weapons that we're talking about--AR-15s, AR-10s, any of the other products--are specifically sporting rifles. They are not...they may look similar but it's kind of like saying sugar is honey because they're both sweet. [LB451]

SENATOR ASHFORD: All right, let's...just so we can move along. [LB451]

TONY ARNOLD: Sure. [LB451]

SENATOR ASHFORD: Does anyone have any questions of...? I don't see any. Thank you, sir. [LB451]

TONY ARNOLD: Thank you. [LB451]

SENATOR ASHFORD: I want to try to get everybody in here. Okay. [LB451]

JEROME KRAMER: Thank you, Senators, for your work. And congratulations on being halfway through your stint here. My name is Jerome Kramer, J-e-r-o-m-e K-r-a-m-e-r. I am the sheriff of Lincoln County; North Platte, Nebraska. I've been in law enforcement for 30-plus years, seven of those as a sheriff and jail administrator, several years as a crime scene investigator, some years of working in the jail and so on. Today I would like to show my support for LB451 and thank Senator Janssen for his efforts to keep the federal government out of the personal lives of Nebraskans and at the same time protect our constitution. It is very obvious that there are problems in this country that involve the use of guns. However, I believe, as most Americans believe, that guns are not the problem; it is the people that are the problem. In the past 20 years we have experienced a serious decline in the morals, ethics, and value of life. I believe this is due to the lack of discipline and prayer in our youth. Our youth need to have strict boundaries set at a young age. These boundaries need to be set by good parenting. We've got a lot of people in this country that have children, but we have a serious shortage of parents. These children, in many cases, are growing up confused and angry young adults with no respect for human life. Quite often they choose a life of crime. This life of crime, they find a family and attention that they never experienced growing up. That family is a family of criminals in common. There are millions of guns on the streets of America that are already in the hands of these criminals. We are not going to protect innocent people by taking guns from the innocent people. We are only making them easier targets, weaker prey. Let's look back at those 20 years and fix the problems we created. Let's put prayer back in our schools. Let's teach our children to respect one another, respect God, and respect their parents in this country. We need teachers...we need to teach our parents that discipline is a good thing, time-outs are ridiculous, and a swat on the butt is okay. Let's look back 20 years and try to recall mass shootings that took place prior to that time. Most likely, none of us can recall any because they were so

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few and far between. This is not because of better gun control laws that we had then. It happened because people behaved differently. They had respect for one another, God, parents, and country. As a country, we are falling short of taking care of the mentally ill. They walk the streets with no direction, no help, and no hope. The only time they get the help they need is when they are incarcerated. The sad part of this is that in order for them to be incarcerated, someone had to be a victim. That may have been anything from a theft to a gun-related assault or homicide. Again taking guns away from the law-abiding citizens is not the cure for this problem. The cure is to support the mental health facilities that have been abandoned. When the state abandoned the support of these facilities, a couple of things happened. [LB451]

SENATOR ASHFORD: Sheriff, let me...let's go to see if we have any questions. Senator Chambers. [LB451]

SENATOR CHAMBERS: Sheriff, have you read this bill? [LB451]

JEROME KRAMER: Yes, I have. [LB451]

SENATOR CHAMBERS: How are you as the sheriff going to prevent the federal government from enforcing federal law within this state? I want to know how you're going to do it. I don't want to hear about parents or any of that. You're the sheriff. You came here as a representative of law enforcement and I'm going to ask you to answer the question as I present it. You're supporting this bill. This bill says that certain federal laws are unenforceable in this state. If the Legislature was stupid enough to enact this into law and it became the law of this state, and the federal government was going to enforce a federal law that went contrary to this, how would you stop them from enforcing the law in your county? [LB451]

JEROME KRAMER: If they came to my county and wanted to enforce this I would peacefully cite them into my local court and let the courts decide. [LB451]

SENATOR CHAMBERS: So what do you mean, cite? Then you give them a ticket? [LB451]

JEROME KRAMER: I would give them a ticket. [LB451]

SENATOR CHAMBERS: And suppose they refused it? [LB451]

JEROME KRAMER: They wouldn't. [LB451]

SENATOR CHAMBERS: How do you know? You would just be somebody, and it would be like a gnat on the back of an elephant, and here's why I say it. This is the... [LB451]

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JEROME KRAMER: Oh, I'd think you'd soon find that was inaccurate. [LB451]

SENATOR CHAMBERS: Oh, so you would withstand, physically, federal agents enforcing federal law. [LB451]

JEROME KRAMER: I am forced...I would be forced to enforce the law of Nebraska. [LB451]

SENATOR CHAMBERS: And how would you do it? [LB451]

JEROME KRAMER: I would confront them peacefully and they would get citations. And I know they would take the citations because we would...they would confront me prior to ever going, enforcing that, to begin with,... [LB451]

SENATOR CHAMBERS: Do you know what I think? [LB451]

JEROME KRAMER: ...so we would never get to the confrontation stage. It would not happen. [LB451]

SENATOR CHAMBERS: First of all, you don't have this kind of stupid legislation that brings local law enforcement in conflict with the federal government. If they became aware that a legislature was stupid enough to make this the law and that the local law enforcement people are not going to enforce the federal law, they wouldn't waste their time. I'm aware of how they did things in the south during the integration struggles, and they would go in and do what the federal law said ought to be done. And in those instances, they were enforcing a federal court order; and they didn't go to a sheriff like "Bull" Connor and say, may we enforce the law? They came and they enforced it and he got out of the way. So you can... [LB451]

JEROME KRAMER: That was his mistake. [LB451]

SENATOR CHAMBERS: ...engage in these fantasies, but you and nobody else in this state will prevent the federal government from enforcing its laws within this state. And I think you do a disservice when you try to suggest to the citizens where you live--and I think the ones in high school would know better--that the state has a law that trumps federal law. There is no state law that trumps federal law. And the constitution that you all keep referring to states...I'm going to ask you a question then. You don't believe that the constitution and federal law and treaties are the supreme law of this country, do you? You don't believe that do you. [LB451]

JEROME KRAMER: I believe the federal laws are supreme so long as they are adopted and pursuant to the constitution. [LB451]

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SENATOR CHAMBERS: And when Congress passes the law, they have done what the constitution says they should do to pass the law, and you don't feel that that's the supreme law of the land. You make a decision, you feel, and forget what the constitution said is the supreme law of the land. Is that what I'm hearing you say? [LB451]

JEROME KRAMER: I will enforce the laws that you guys pass down to me, and that's...and if you pass this into law, you are saying that the federal laws are supreme so long as they were adopted and pursuant to the constitution. [LB451]

SENATOR CHAMBERS: You almost told the truth. We'd be saying, as stupid as it is, that a law we pass trumps the federal law. I assure you, this is not going to become the law in Nebraska. It's not. So you're not going to be confronted with that. [LB451]

JEROME KRAMER: Well, LB451 at least tells the federal government how we feel in Nebraska. And we need to make our feelings known and that's what I'm doing here today. [LB451]

SENATOR CHAMBERS: And that's perfect. But you're not going to get the Legislature to do it by acting foolish and stupid, and that it doesn't understand what the constitution is. People may not understand. But we are not here to reflect ignorance. [LB451]

JEROME KRAMER: And that's your choice from here forward. I'm simply stating my position. [LB451]

SENATOR CHAMBERS: So this will not become the law, I assure you. [LB451]

JEROME KRAMER: Okay. [LB451]

SENATOR ASHFORD: Thanks, Sheriff. Okay, one more testifier for the bill. Okay, come on up. But then we really...we want to make sure everybody...we've got two more bills, so we'll go with this proponent and then the lady with the vest. Okay, we'll go. [LB451]

JOHN COCHRAN: My name is John Cochran. I'm a 20-plus-year resident of the state of Nebraska. And I'd like to go on record, first of all, to say that I take exception to being referred to as a common citizen by any public official or any elected representative. I'm a taxpaying, law-abiding citizen and I support all these bills. My ancestors came to the New World on one of the 250 ships that left the British empire to settle this country. I'm a direct descendent of one of the original settlers and founders of the colony of New Jersey. My ancestors, unsurprisingly, fought in the Revolutionary War to resist the tyranny of King George, his excessive taxation and far overreaching power of the occupying military force of the British royal monarchy. My family's ancestors also fought on both sides of the Civil War, and also served in both World Wars. I find it sad and distasteful that we would have to introduce these bills such as the ones mentioned,

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since the Constitution and the Bill of Rights guarantees these freedoms as natural rights endowed by our creator. These rights and freedoms are not granted by those documents. They are protected. Nevertheless here we are. Twenty-five states have introduced the Firearms Freedom Act bills to protect their law-abiding citizens from an overreaching federal government. Eight states have passed such bills. Two more intend on further introduction of a Firearms Freedom Act. I find it sad and distasteful also that politicians or elected representatives of we the people, with the aid of an irresponsible media, has demonized at least half of the American population for exercising their Second Amendment freedoms, and has conducted a fear campaign based on vague generalities, ignorance, a misrepresentation of facts and crime statistics both at home and abroad, along with our overgeneralizations, misleading information, and selective news reporting, all in order to place a stranglehold on freedoms enjoyed by a free and liberated peace-loving, law-abiding society. History is replete with examples of government progressively disarming their society, especially in the last 100 years, all in the name of a greater security for its people. It has always ended badly. This realization is even denied by some elected officials in Washington in the face of direct eyewitness testimony to history. Red-blooded Americans have freedom encoded in their DNA. No matter what unconstitutional laws may be passed to usurp the natural laws this nation was married to at its birth, there will never again be a subjugation of a free society. And the justification that a free society will have their liberties compromised because of the crimes of an extreme few will never be legitimate. [LB451]

SENATOR ASHFORD: Thank you, Mr. Cochran. Do we have any questions of Mr. Cochran? I don't see any. The last proponent now, and then we'll go to the opponents. [LB451]

CHERYL EVENSON: Good afternoon. I've never testified. Glad to meet you, Senator Davis. I'm from Valentine and Omaha both. I'm going to approach it in a totally different manner. I'm a student of history, but I'm also a mother. I have had employees threaten me, my life, in the past when I have had to fire them. Before there was a concealed weapon permit, my life was threatened, and I carried. I was taught to shoot by a young woman who was a marksman and went on to work at NRA. We no longer are in contact. But I guess that my parents come from pioneer stock and we make laws to cover a few and inhibit many. Common sense is not taught anymore, but we really need to bring it into this forum today. As a married woman or a single woman, my muscle mass is much less than you gentlemen. I need something to protect myself and my family. I also was recruited by the medical center to come and be a department director in their mental health facility. Folks, we can never ever legislate mental illness. We can never ever take care of that component. We have laws on the books on illegal immigration, on DUIs, on teenagers driving, but so far we've not been able to take care of those problems. I guess that the Bill of Rights gives me the right to have a firearm. I'm not going to go out there and commit a crime, but I do know that there are folks in America and in Nebraska who are going to do it. I guess I would rather be proactive rather than reactive, because

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I know that Senator Ashford makes sure that his hose doesn't run and flood his basement, or other precautionary things, okay, because you know things can happen. [LB451]

SENATOR ASHFORD: That's actually happened. [LB451]

CHERYL EVENSON: Okay. (Laughter) Well, call me the next time and I'll come help you clean up your basement, okay? So I guess that what it is, is being proactive is so much better than being reactive. So because we cannot take care of DUIs and unruly teenagers, then I don't want beltway fever to take away my rights. Thank you very much. I know it's late. I'll let you all go home. [LB451]

SENATOR ASHFORD: Yeah. I think we have...can you put your name in the record, Cheryl, please? [LB451]

CHERYL EVENSON: Oh, I'm so sorry. Cheryl, C-h-e-r-y-l, Evenson is E-v-e-n-s-o-n. [LB451]

SENATOR ASHFORD: Thanks, Cheryl. Let's go to the opponents now. Are there any opponents? Yes, sir. [LB451]

JOE PIEPER: My name is Joe Pieper. That's spelled P-i-e-p-e-r. And I must say that I really had no intention of testifying today until I saw there was no opposition to the bill, so I kind of felt it my duty to at least say something. I am not necessarily in favor of stricter gun control, you know, but I think there are reasonable steps that have been taken in this country to reduce the capability for gun violence through unrestricted gun sales. And I think that, in general, gun control legislation should be taken on a case-by-case basis and each piece of legislation should be judged on its own merits and its own pros and cons. What this particular bill, LB451, does is that it completely eliminates the ability to have a discussion on a case-by-case basis as far as federal gun control legislation. And that's somewhat reckless and irresponsible, if you ask me. I think that it is improper for the state to go so far as to say that any and all gun control legislation that might be passed by the federal government should be declared null and void. Not only that, as Senator Chambers has already clearly spelled out, that would mostly be unconstitutional as well as entirely unenforceable, you know. And I think even most responsible gun owners don't necessarily oppose reasonable efforts to restrict the sales and use of guns. For us as a state to pass a piece of legislation that would make a blanket statement that is unenforceable, saying that any and all federal legislation would be unenforced within our boundaries, it's impractical, it's unenforceable, it's irresponsible, and it's reckless. And I think that the state has the right to challenge in federal court specific pieces of gun control legislation that the state feels are in violation of the constitution. I think that even the state could do, as Montana has done, in regards to the National Defense Authorization Act, and pass a piece of legislation that

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specifically guides Nebraska state law enforcement agencies to not step into the enforcement of said federal pieces of legislation. But we cannot restrict the federal government's agents' ability to enforce federal law. We cannot nullify federal legislation within our state because it violates the Supremacy Clause of the constitution, and to pass such a piece of legislation, as I said, would, in my opinion, be reckless and irresponsible. Thank you. [LB451]

SENATOR ASHFORD: Thank you very much. Thanks for your comments. Any neutral testifiers? Charlie? Do you have a neutral? I'm sorry. [LB451]

NICHOLAS SAUMA: I'm in opposition. [LB451]

SENATOR ASHFORD: Oh, I'm sorry. [LB451]

NICHOLAS SAUMA: No problem. [LB451]

SENATOR ASHFORD: Okay, I didn't see your hand before. Come on up. [LB451]

NICHOLAS SAUMA: My name is Nick Sauma, S-a-u-m-a. I'm a student at UNO and I study political science with an interest in law. And two things that the senators on this committee said, I think, really hit home on the issue. What Senator Chambers said about enforcing federal law within the state I think is something very important to consider, and what Senator McGill, who unfortunately isn't here now, said about working within the judicial branch or the branch of the Attorney General in the executive are the more appropriate ways to approach gun control. I just wanted to point out that the Second Amendment was not originally interpreted as an individual right to bear arms; however, it was later expanded. And even many of the conservative justices on the court have acknowledged that that's not without restrictions, that the federal government can restrict and that those discussions are to occur in the political branches of government, whether that be Congress or whether that be within the states. And so it's not the right of anyone to say or to reject what the constitution says on those words. But rather, it's supposed to be fostered in an open, civil, political discussion within our branches of government. I too, like the former speaker, don't necessarily approve of restrictions on guns laws. However, I do have a respect for our system of government and I believe that the actions within those are what gets things done and gives legitimacy to it. I also wanted to address that somebody mentioned the Tenth Amendment and the marijuana issue in Colorado. However, those issues are not specifically enumerated in the constitution as being state or federal powers, whereas the Second Amendment is in the Bill of Rights and is therefore a federal power and up to Congress and the courts to decide. I'd like to thank everyone for this chance. This was my first time testifying and had a great discussion. [LB451]

SENATOR ASHFORD: You did a good job. Thank you very much for coming. Charlie?

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Oh, I'm sorry. I did it again. [LB451]

SHERRIE NICKERSON: I'm neutral. [LB451]

SENATOR ASHFORD: You're neutral. Come on up. I apologize. [LB451]

SHERRIE NICKERSON: Sorry. [LB451]

SENATOR ASHFORD: I thought I saw all the hands and then I didn't see all the hands. [LB451]

SENATOR JANSSEN: She (inaudible). [LB451]

SHERRIE NICKERSON: My name is Sherrie Nickerson. I'm just a mom and a housewife from Oakland, Nebraska. I was going to give a different testimony but this question came up just about jurisdiction; and I'd just like to give an answer that I found from some reading I've been doing and it supports what I believe. The matter of federal versus state jurisdiction has been before the Supreme Court many times and the rulings have reinforced the idea of separate and distinct jurisdictions. One of the earliest court cases was United States v. Bevans, 16 U.S. 336 (818), a murder case being brought by the federal government. The crime took place on board the USS Independence while at the port in Boston Harbor, Massachusetts. The federal government stated they were trying the case under the admiralty jurisdiction. However, the state argued it had jurisdiction to all areas within the state that had not been ceded to the federal government. The court wrote the following. "What then is the extent of jurisdiction which a state possesses? We answer, without hesitation, the jurisdiction of a state is co-extensive with its territory; co-extensive with its legislative power. The article which describes the judicial power of the United States is not intended for the cession of territory or of general jurisdiction. Congress has power to exercise exclusive jurisdiction over the district, and over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings. It is observable, that the power of exclusive legislation (which is jurisdiction) is united with cession of territory, which is to be the free act of the states. It is difficult to compare the two sections together, without feeling a conviction, not to be strengthened by any commentary on them, that, in describing the judicial power, the framers of our constitution had not in view any cession of territory, or, which is essentially the same, of general jurisdiction." The Supreme Court has given us the extent of federal jurisdiction. It is over this district--meaning Washington, D.C.--lands purchased by consent of the legislature of a state, which is defined only for "forts, magazines, arsenals, dock yards, and other needful buildings." That's it. The federal government can only have jurisdiction where the state has ceded that territory to the federal government. If it has not, then the federal government has no jurisdiction. And one other thing. It says... [LB451]

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SENATOR ASHFORD: Sherrie, I think we get the gist... [LB451]

SHERRIE NICKERSON: Okay. [LB451]

SENATOR ASHFORD: ...of where you're going and... [LB451]

SHERRIE NICKERSON: Thank you. [LB451]

SENATOR ASHFORD: Thank you for... [LB451]

SHERRIE NICKERSON: Thank you very much for listening. [LB451]

SENATOR ASHFORD: Okay. Thank you. All right, Charlie. [LB451]

SENATOR JANSSEN: Thank you, Chairman Ashford and committee members. I know you get the gist and you said 4:00, so my closing remarks are only to thank the people that showed up here today and thank the committee for hearing this bill. [LB451]

SENATOR ASHFORD: Thank you, Charlie. [LB451]

SENATOR JANSSEN: Thank you. [LB451]

SENATOR ASHFORD: (See also Exhibit 14) Okay, that concludes the hearing on LB451. Senator Bloomfield, LB602. Let me...go ahead, Dave, sit down a second. Let's...there are some people leaving. Let's see who is leaving and see what's going on here. Here's what we're going to do, Dave, if we could. We're going to...is that all right, Mark, if we take LB602 and LB352 together, do you have a problem with that? [LB451]

SENATOR CHRISTENSEN: Well, there's a lot of difference in these two bills. [LB602]

SENATOR ASHFORD: Well, I'm just wondering about the testifiers. Who is planning to testify on LB602? Okay. Now how about LB352? [LB602]

SENATOR LATHROP: Well, that's not bad. We can get through it. I'll be here, Brad. [LB602]

SENATOR ASHFORD: I just...if it was going to be exactly the same people, I was going to...no, that's fine; we'll do it separately. I just didn't want to have the same testimony for both bills. Okay, David, go ahead. Welcome. And LB602. [LB602]

SENATOR BLOOMFIELD: Good afternoon, Chairman Ashford and members of the Judiciary Committee. For the record, my name is Senator Dave Bloomfield, D-a-v-e

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B-l-o-o-m-f-i-e-l-d, and I represent the 17th Legislative District and I'm here today to present LB602 to the committee for your consideration. LB602 would adopt the Nebraska Firearms Freedom Act. Simply stated, if passed, this would reaffirm the rights of Nebraskans under the Constitution of the United States of America by specifying that personal firearms, firearm accessories, or ammunition manufactured, sold, and kept within the borders of our state would not be subject to federal law or federal regulation. Montana passed the first Firearms Freedom Act, with Tennessee, Utah, Wyoming, Alaska, and South Dakota following suit. Twenty-five states, including Nebraska, have introduced legislation to adopt the Firearms Freedom Act. I must note that we have no true firearm manufacturers in Nebraska; only a few very fine gunsmiths, no actual industrial manufacturers of firearm parts. But we do, however, have Hornady in Grand Island, which manufactures ammunition. Since announcing this bill, my office has been contacted by an individual very interested in starting a new business in this state to support the long-term firearm ownership of Nebraska residents. I believe he'll be testifying here today. This bill is intended not only to support Nebraskans in their rights to keep and bear arms, but could also serve as a tool of economic development and growth. We have begun a debate that will and must continue until we the people either give up the rights that the constitution guarantees us or until an overreach in federal government withdraws from attempts to overregulate and interfere with our daily lives. With that, I will conclude my opening testimony. There are individuals here who will follow me to answer any questions you may have, and thank you for considering LB602. [LB602]

SENATOR ASHFORD: Senator Chambers. [LB602]

SENATOR CHAMBERS: Senator Bloomfield, we had a long hearing and some of the people who are here testified on the other bills, and I'll be blunt: This is preposterous legislation. Where did this bill come from? [LB602]

SENATOR BLOOMFIELD: It was brought to me by a colleague that already had a gun bill and I was honored to pick it up. [LB602]

SENATOR CHAMBERS: And ALEC was the one who...is ALEC or the NRA the one who is sponsoring this? [LB602]

SENATOR BLOOMFIELD: Neither one. [LB602]

SENATOR CHAMBERS: I want to call your attention to something that I think is so preposterous it's outside the realm of intellectual debate. It's on page 6, and it says starting in line 10, "Any public servant of the State of Nebraska, as defined in section 28-109." And I'm going to read that definition from Section 28-109(18). It's strictly a definitional section. [LB602]

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SENATOR BLOOMFIELD: Senator Chambers, may I interrupt you for just a moment?
[LB602]

SENATOR CHAMBERS: Yes. [LB602]

SENATOR BLOOMFIELD: We have an amendment which has not come down from Bill Drafters yet which I think will alleviate some of your heartburn here, probably not all of it, because we start on line 17 and remove what would be our interfering with the federal government attempting to enforce federal laws. I think that might calm your heartburn a little bit. [LB602]

SENATOR CHAMBERS: Well, in Section 6, which is lines 10-16, it says, "Any public servant of the State of Nebraska, as defined in section 28-109, who enforces or attempts to enforce any act, order, law, statute, rule, or regulation of the United States Government relating to a personal firearm, firearm accessory, or ammunition that is manufactured commercially or privately in Nebraska and that remains exclusively within the borders of Nebraska shall be guilty of a Class I misdemeanor." [LB602]

SENATOR BLOOMFIELD: Right. [LB602]

SENATOR CHAMBERS: So...and these are the public servants who would be guilty of this misdemeanor. "Public servant shall mean any officer or employee of government, whether elected or appointed, and any person participating as an advisor, consultant, process server, or otherwise in performing a governmental function, but the term does not include witnesses." So that would include every elected official in this state, from the Governor on down and, if that person felt it was his or her duty to see that a federal law was enforced in this state, would be guilty of a crime. And is that what your intent is? That's what it says, whether it's your intent or not. [LB602]

SENATOR BLOOMFIELD: That is my intent. [LB602]

SENATOR CHAMBERS: Okay. And then you said that from line 17 to 23 you would eliminate that. [LB602]

SENATOR BLOOMFIELD: That will be eliminated by amendment. [LB602]

SENATOR CHAMBERS: Then I'll take up what goes after that. And I think the Attorney General, if you asked him this, he'd say, Ernie, I didn't know you were out of your mind; what have you been smoking or drinking? But I'm going to read the kind of preposterous, crazy stuff that people ask this Legislature to put into law. "The Attorney General may defend a citizen of Nebraska who is prosecuted by the United States Government for violation of a federal law relating to the manufacture, sale, transfer, or possession of a firearm, a firearm accessory, or ammunition manufactured and retained

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exclusively within the borders of Nebraska." So the possession, any of these things...I suppose even a felon in possession... [LB602]

SENATOR BLOOMFIELD: I think... [LB602]

SENATOR CHAMBERS: ...who would be prosecuted by the federal government for being an unauthorized person in possession of a firearm could not be...you'd be expecting the Attorney General to defend such a person if he's prosecuted by the federal government, wouldn't you? [LB602]

SENATOR BLOOMFIELD: I think the key word there, Senator, is "may" and not "will." [LB602]

SENATOR CHAMBERS: Why would you even try to...did you talk to the Attorney General about this? [LB602]

SENATOR BLOOMFIELD: I did not. No. [LB602]

SENATOR CHAMBERS: Do you think the Attorney General would defend somebody who is being prosecuted by the federal... [LB602]

SENATOR BLOOMFIELD: I think in some cases he very well may. Yes, sir. [LB602]

SENATOR CHAMBERS: Do you know what? I'm not going to waste your time or my time by talking to any of the other citizens here, but I'm going to tell you as a senator, I think you do a disservice by suggesting to people that this kind of legislation comports with the U.S. Constitution, and even suggesting that the Attorney General might defend one of them if they are prosecuted for violating a federal law. I think that's wrong and inappropriate. You think it's right and perfect or you wouldn't have brought the bill. But I will tell you during this hearing, even though I said it during the others, each hearing is going to be transcribed separately and I want the transcription of this hearing under this bill to note that I will do everything I can to stop this from getting out of committee; and if it got to the floor, which I don't believe it will, stop it from being passed. The legislators are not...there are not enough of them foolish enough to talk about putting something like this in law, and I don't believe that the members who signed this bill are thoroughly acquainted with what is in it and the consequences of it. So I will ask you this question: Do you think...which law do you think is paramount: the law of a state or the law of the federal government? [LB602]

SENATOR BLOOMFIELD: I believe you are going back to the Supremacy Clause and I happened to have it here in front of me. The Supremacy Clause actually says, "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof," which I see to be subordination of the federal government to the constitution.

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So not all federal laws are laws of the land; only those that are constitutional. [LB602]

SENATOR CHAMBERS: Senator, you are a member of the Legislature. You're presumed to know that any law enacted by the Legislature or the federal government is presumed to be unconstitutional until a court says otherwise. You seem to be telling citizens that if you don't believe this is a constitutional law, you don't have to obey it. Is that what you're saying? [LB602]

SENATOR BLOOMFIELD: No. What I am saying is that not all laws passed are necessarily constitutional. [LB602]

SENATOR CHAMBERS: When does it become unconstitutional? [LB602]

SENATOR BLOOMFIELD: Senator...and you know this better than most of us... [LB602]

SENATOR CHAMBERS: Then listen to me. [LB602]

SENATOR BLOOMFIELD: ...bad precedent must always fall to wise judicial review. If you had been in the Georgia Senate in 1858 and introduced a bill to outlaw slavery, it would have been argued that the U.S. Supreme Court had already decided the issue in Dred Scott v. Stanford, in 1857. [LB602]

SENATOR CHAMBERS: Do you know what outlawed slavery? The Civil War and the passage of the Thirteenth Amendment. [LB602]

SENATOR BLOOMFIELD: But the courts... [LB602]

SENATOR CHAMBERS: Senator... [LB602]

SENATOR BLOOMFIELD: ...had said... [LB602]

SENATOR CHAMBERS: Senator... [LB602]

SENATOR BLOOMFIELD: ...the courts had said... [LB602]

SENATOR CHAMBERS: Senator... [LB602]

SENATOR BLOOMFIELD: ...that it was legal. [LB602]

SENATOR CHAMBERS: Senator, and it was deemed legal. [LB602]

SENATOR BLOOMFIELD And... [LB602]

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SENATOR CHAMBERS: Now let's talk about what you've got here. No law enacted by Congress is deemed unconstitutional until the Supreme Court declares it to be such. [LB602]

SENATOR BLOOMFIELD: That's correct. [LB602]

SENATOR CHAMBERS: Now if a law was enacted by Congress, then how is the Nebraska Legislature going to say it doesn't have to be obeyed? They can say we don't think it's constitutional. That doesn't make it so. [LB602]

SENATOR BLOOMFIELD: It also doesn't say that Nebraska has to help the federal government enforce that law. We cannot stop the federal government from coming in. We should not interfere with them. But we don't have to help them if we don't think it's right. If this bill were to pass, we don't have to help the federal government if they come in to enforce it. [LB602]

SENATOR CHAMBERS: This is pitiful and I say it to you because you're a senator,... [LB602]

SENATOR BLOOMFIELD: Well, that's a matter of opinion, Senator. [LB602]

SENATOR CHAMBERS: You're a senator, right? And let the people, who came here misguided and misled into thinking that this has a chance to become law, state their piece so that it will be a matter of record. But they need to not be deceived and maybe they've been misled by people who are trying to make hay with certain groups like ALEC and the NRA by offering this. But they'll not be misled by me into thinking that I will accept it or allow the Legislature to be put in a position of looking like a bunch of buffoons. We know what the law is and we know when a law is constitutional and that it's not unconstitutional until a court of proper jurisdiction and authority declares it to be such. [LB602]

SENATOR BLOOMFIELD: And I believe, Senator, if enough states pass similar legislation, that the courts will look at that when reaching that decision as to whether or not it will be constitutional. [LB602]

SENATOR CHAMBERS: I don't have anything else. [LB602]

SENATOR BLOOMFIELD: Thank you. [LB602]

SENATOR ASHFORD: Yes, Senator Seiler. [LB602]

SENATOR SEILER: Senator, have you run this by anybody, any attorney that practices interstate commerce? [LB602]

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SENATOR BLOOMFIELD: I have not. [LB602]

SENATOR SEILER: Do you know if anybody else has? [LB602]

SENATOR BLOOMFIELD: No, I do not know that. [LB602]

SENATOR SEILER: I have some real problems with the attempt to put this under interstate rather intrastate, because Initiative 300, you know, it was farming incorporation, couldn't withstand that, I don't see how your gun barrel with the steel made outside the state could survive, because we don't make any steel inside the state. [LB602]

SENATOR BLOOMFIELD: The steel made outside the state would not be a gun barrel until it was manufactured into a gun barrel, is my understanding. [LB602]

SENATOR SEILER: Those interstate commerce cases follow it down, clear down to a garbage hauler. [LB602]

SENATOR BLOOMFIELD: I understand they're down to apples grown within a state. [LB602]

SENATOR SEILER: So that's why I wondered if anybody checked it. Thank you. [LB602]

SENATOR BLOOMFIELD: No, I did not. Thank you. [LB602]

SENATOR ASHFORD: Thanks, Dave. Let's go to the proponents. [LB602]

BRYAN VAN DEUN: Mr. Chairman, committee members, Bryan J. Van Deun, V-a-n D-e-u-n. I'm an unpaid and registered volunteer lobbyist representing the Nebraska Firearms Owners Association. I have cited the Montana law that the senator cited and I've also mentioned the Senate Judiciary Committee passing both Senator Charles Schumer's Fix Gun Checks Act and Senator Feinstein's Assault Weapons Ban. I know that yesterday, Speaker...I mean, Majority Leader of the Senate Reid, said that the Assault Weapons Ban bill is not part of his package, but the concept has not gone away; that it is still an issue. And what we're getting down to here, or the reason that NFOA supports this, is that we want to see the state cause a court case to reestablish the widely accepted principle and constitutional law that the power to regulate interstate commerce, given to Congress is not unlimited and particularly so when the commerce in question does not leave the given state. This then is state commerce. So to address the people's fear that we've talked about before we know that the rights of states in the past have been misused, particularly in the first hundred years of our history, but now we're

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seeing the unenumerated license of the federal government has begun to run roughshod over these same states' rights. So the NFOA strongly supports the Nebraska Firearms Freedom Act and so that opponents of freedom can be addressed and we can get the courts to decide who, in fact, can do what in Nebraska. [LB602]

SENATOR ASHFORD: Thanks. [LB602]

BRYAN VAN DEUN: Thank you. [LB602]

SENATOR ASHFORD: Any other testifiers for the bill? [LB602]

CALEB LARSEN: It's Caleb Larsen, and it's L-a-r-s-e-n. Mr. Chairman, members of the committee, this bill may not, in fact, pass and go through, but what's really important is that we take this issue seriously and the issue of states' rights and our rights as Americans to keep and bear arms, which is not given to us by the constitution; it's protected by the constitution. I just want to address some of the arguments in favor of banning certain types of weapons and what an assault weapon is and different things. One may say that our Founding Fathers didn't intend for private citizens to own military-style firearms, but those are the very firearms that private citizens owned during their time. Why is it that the First Amendment's freedom of speech extends to modern forms of communication, such as cell phones and e-mail, none of which were available to the writers of the federal Constitution, and yet the same logic and standard are not applied to the Second Amendment. One may say our right to keep and bear arms was protected simply so we could hunt and defend our homes against intruders, but this simply is not true. Consider the following quote by Daniel Webster. "Before a standing army can rule the people must be disarmed; as they are in almost every kingdom in Europe. The supreme power in America cannot enforce unjust laws by the sword; because the whole body of the people are armed and constitute a force superior to any band of regular troops that can be on any pretence raised in the United States. A military force at the command of Congress can execute no laws but such as the people perceive to be just and constitutional; for they will possess the power and jealousy will instantly inspire the inclination to resist the execution of a law which appears to them unjust and oppressive." So we talked about states' rights and whether it's the federal government or the state government that has power. Ultimately the power comes from the consent of the governed and the consent of the people. Back in their time, the people actually had enough power to stand up for themselves. And so when we start to strip away rights and say you can only have a magazine that has a maximum of ten rounds, different things like this, then we don't have that capability anymore to stand up for ourselves against a government that could at some time in the future become oppressive. Finally, we address that guns can be used for evil, and certainly they can. But so can baseball bats, cars, Molotov cocktails, fists, knives, and just about any other type of object. In fact, people are killed by drunk drivers all the time in our countries, but my right to keep and drive my vehicle has in no way been restricted. The fact of the

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matter is that gun restrictions hurt law-abiding citizens more than they hurt criminals. Criminals do not care about the law. Meth is illegal but somehow it seems to be plentiful in the U.S. Underage drinking is illegal in a majority of cases yet it takes place all the time. Of course, there's much more that could be said, but I hope that this gets us going on a debate where we can actually look at our power as a state to actually to stand up for the rights of our people, of Nebraskans. So I do urge you to consider LB602 and to help secure our rights as Americans and as Nebraskans. [LB602]

SENATOR ASHFORD: Caleb, the only question...let me, if I could. You know, I understand again your quoting historical precedent. I understand some of that. But it seems to me that it is the federal government that is protecting your rights. You have...why do you think there are 300 million firearms in this country and no other country in the world has that sort of...? [LB602]

CALEB LARSEN: Right. We do have incredible freedoms here as a country and I want to keep it that way. [LB602]

SENATOR ASHFORD: Well, but tell me...I mean, it is, I would suggest, the Second Amendment of the U.S. Constitution that has resulted in the fact that we have 300 million firearms in this country, one for every person that lives here. [LB602]

CALEB LARSEN: Correct. [LB602]

SENATOR ASHFORD: So that's a lot. And we also have more gun, you know, gunshot victims than any other country in the world. So it goes... [LB602]

CALEB LARSEN: Right. [LB602]

SENATOR ASHFORD: So even despite the fact that...and in my city, in Omaha, just of the young people that are killed and injured and admitted to the hospital every year, 65-or-so percent of those kids are victims of gunshot wounds. Some are killed and some are not. That's a price we pay...in my view, a very, very, unfortunate price we pay for the fact that we have 300 million firearms in this country that can be transferred back and forth between individuals fairly at ease, that can be sold at gun shows, can be sold...all I'm trying to suggest to you is I'm trying to find out what the real fear is, because it--that's what I'm trying to grapple with--because it seems to me that what underlies the freedom is a federal government that protects that. And the fact that a president today or Senator Feinstein from California can propose a ban on assault weapons, that's the process. And it's unlikely...I mean, it's possible but it's unlikely that the U.S. Congress is going to pass a ban on assault weapons. So...and even if they did, the number of assault weapons that were banned under the prior law, there were a very small number of them, did not reduce the number of firearms that exist in the country. It keeps getting larger. So I guess...you're a very intelligent young man, but I might

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suggest, in all due respect, is go after some other freedoms that are actually, you know, actually in jeopardy, because this one isn't. You know, that's just what I'm trying to grapple with. [LB602]

CALEB LARSEN: Well, Senator Ashford, a couple things. First of all, England, where handgun possession is illegal, their violent crime rate is at least four times higher than ours. [LB602]

SENATOR ASHFORD: I'm not suggesting...what I'm trying to say is that...to you, is that the freedoms you're talking about are constitutionally protected and that...and the process of passing laws in this area...the permit to purchase law, which at least most gun owners that I talk to seemed to support because it guarantees that people that purchase firearms have a legal right to do so and that guns are not sold over the counter, you know, to people who shouldn't have them. That law took three years to get passed; so this is not something that just happens willy-nilly. So I'm suggesting to everybody here that I'm not sure that those freedoms are really in jeopardy at this point. [LB602]

CALEB LARSEN: Sure. And you mentioned the assault weapon ban, and there already is one in place. I can't own a machine gun, a fully automatic machine gun, unless I go through an extremely lengthy process with the ATF and pay money and do different things so that I can get that permit. [LB602]

SENATOR ASHFORD: And that's been upheld. Yeah. But that was in the 1930s. [LB602]

CALEB LARSEN: All I'm saying is these things happen incrementally and so... [LB602]

SENATOR ASHFORD: Well, that was the '30s. That was 80 years ago. That's a pretty broad increment, I mean. [LB602]

CALEB LARSEN: Right. And we had the recent Assault Weapons Ban that reduced magazine capacity and different things. [LB602]

SENATOR ASHFORD But that isn't... [LB602]

CALEB LARSEN Correct, (inaudible) don't have that now. But we see these things starting to come back. And all I'm saying is that as a state we need to make sure that we take steps to make sure that those things don't happen in the future, because I'm sure you would be able to admit that those things are a possibility. They're not out of the realm of possibility. [LB602]

SENATOR ASHFORD: Anything is possible, but I think it's very remote. But anyway, I

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appreciate your...Senator Chambers. [LB602]

SENATOR CHAMBERS: First of all, if something like this were put in place it would be struck down as unconstitutional. And the court would probably chastise the legislators as they have done for certain other pieces of legislation this Legislature has passed, and even marvel at the incredible lack of understanding of legislators who would do it. So to put it on the books doesn't mean anything except that the Legislature is foolish. But in order to see if I understood something correctly that you were saying, were you suggesting that an armed citizenry will be able to withstand, with armed response, incursions by the U.S. government against their rights? Is that what you were suggesting? [LB602]

CALEB LARSEN: Could that successfully happen today? I don't think so because of certain bans. But could that have happened at the time of the passage of the Second Amendment? Yes. [LB602]

SENATOR CHAMBERS: Well, I'm talking about now. I thought you were talking about if you had an armed... [LB602]

CALEB LARSEN: I'm saying it should be the case now. [LB602]

SENATOR CHAMBERS: If you had an armed citizenry it would be larger than any army that could be raised by the government. [LB602]

CALEB LARSEN: Correct. [LB602]

SENATOR CHAMBERS: Are you talking about the situation now? [LB602]

CALEB LARSEN: Right. I'm saying that it should be that way. [LB602]

SENATOR CHAMBERS: Okay, then let's take now. If a Sherman tank came through the town where you are, what kind of weapons would all the people in your town have that could withstand one Sherman tank--just one? [LB602]

CALEB LARSEN: Right now? [LB602]

SENATOR CHAMBERS: Yes. [LB602]

CALEB LARSEN: Probably none. [LB602]

SENATOR CHAMBERS: Right. So these guns that you want to have out here are not going to repel any attack by the U.S. government and certainly no foreign government. So those arguments are preposterous and they should not be presented to people who

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are naive, who are fearful and think that their rights are going to be attacked, who think that there are silent black helicopters manned by men in black suits who are watching them and are going to come down and take their property from them, take their children from them, and take away all their rights without due process of law. There are people like that in Nebraska because they've been here to testify. And it's because people, intelligent like you, whose intelligence they will respect, think that even though they don't know, you must know what you're talking about; then senators who know better but are too fearful to say, no, to constituents, will bring this kind of stuff to us. And I'm not going to take it sitting down and pretending that it's all right. We have exchanges here. You are presenting your view which you're entitled to do, and I'll tell you why I'm glad, because it's going to be transcribed and I'll be able to show people this is what intelligent people in Nebraska, otherwise intelligent people, are saying. This is the fear that they're spreading. This is what they're saying is the appropriate answer, that the state of Nebraska has a law that trumps the federal law. And people would say nobody could be that foolish. But I'll say, oh but they are, and not only the people but senators who encourage them in that nonsense. And I think the senators are wrong and I want to say it here just like people say that my views are wrong. They can say what they want to but here's the difference: I know what the law is and I don't care what they say about the Tenth Amendment, the Ninth Amendment, or any other one. The Supremacy Clause makes federal law supreme. Any law passed by Congress is constitutional, enforceable, and will be enforced until a court of competent jurisdiction enjoins it from being enforced and then strikes it down. Until that time, people can say all they want to: I don't think that's constitutional; I don't think that's what's allowed under the Tenth Amendment. They're just beating their gums and it means nothing. And that's not even something that you have to respond to because the only question that I asked, you did answer. They don't have the weapons that can stop one Sherman tank. So all this talk about arming the citizenry is not going to have anything to do with repelling an attack from the United States which is never going to occur anyway. [LB602]

CALEB LARSEN: I hope not. I hope not. But Senator Chambers... [LB602]

SENATOR CHAMBERS: Well, I assure you it won't. [LB602]

CALEB LARSEN: Senator Chambers, I'm not suggesting that the American people go to war with the federal government. That's not what I'm suggesting and that's not what Daniel Webster was suggesting back then. It was the fact that they actually had enough weaponry to give the federal government pause when they're thinking about, hey, maybe we should go down this road. Then they say, nah, maybe that's not such a good idea because maybe we'll be able to actually kill all these people and stop them with our Sherman tanks, but we're going to... [LB602]

SENATOR CHAMBERS: We're talking about now. [LB602]

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CALEB LARSEN: I know this. But we're going to incur strong resistance. So it's that resistance that we're looking for. [LB602]

SENATOR CHAMBERS: Who's going to resist the federal government? These people who come here with these guns and they're terrified anyway and that's why they got them? And they hear a tank rumbling down the street and all of sudden they're going to become courageous and go out there and face a tank when they're running from shadows right now, terrified, got guns throughout their houses? And you know what's happening which you all may be unaware of? There is an increase in domestic violence and more of the domestic violence is being committed with weapons. [LB602]

CALEB LARSEN: Legal ones? [LB602]

SENATOR CHAMBERS: There are more children killing their parents with weapons in the home. There are spouses and lovers attacking each other with guns that are in the home. So all you do is provide more weaponry to carry out these activities. But there are other bills that have to be presented. You answered my question. I don't have any more of you. Thank you. [LB602]

CALEB LARSEN: And violence is an issue of the heart. It's not a matter of the tool used. [LB602]

SENATOR ASHFORD: Thanks, Caleb. [LB602]

CALEB LARSEN: Yes. Thank you. [LB602]

SENATOR ASHFORD: Next proponent. Do we have any opponents? Neutral? [LB602]

DAVID SPLONSKOWSKI: I guess I'll say something. [LB602]

SENATOR ASHFORD: Okay. [LB602]

_____: Go ahead. [LB602]

SENATOR LATHROP: You sound reluctant. [LB602]

SENATOR ASHFORD: Are you an opponent or...? [LB602]

DAVID SPLONSKOWSKI: I am a proponent. [LB602]

SENATOR ASHFORD: Okay. [LB602]

DAVID SPLONSKOWSKI: David Splonskowski, S-p-l-o-n-s-k-o-w-s-k-i. And when we

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want to talk about enemies, we want to talk about fear, I think there's a lot of demagoguing of those of us here who come trying to make valid arguments about what we're stating today. And the enemy today isn't the military, as I think perhaps you're trying to infer, the enemy today is the private military of the government: the TSA who strips my clothes off at the airport, who makes highway checkpoints in our states. And I know that this sounds extreme, but when we want to talk about the previous gentleman and where he was talking about, I think perhaps we can infer that the slippery slope is that those type of agencies who don't see protecting our liberties overseas, but enforcing regulation on us with arms here in our country, those are the individuals, I believe, who we have to fear in the coming years. And what I am saying is extreme, I understand that. I'm not stating we have an issue right now here in Nebraska, but when I go to the airport when I travel, when I see my rights impeded, those are the people doing it. It's individuals like the TSA. [LB602]

SENATOR ASHFORD: We were attacked by a foreign power and we are also...for the second time in our, at least modern, history. And it's a nuisance to go through the airport and have TSA there. But they're trying to protect us and they're trying to do the best they can, so. [LB602]

DAVID SPLONSKOWSKI: Right. Right. But I understand when we give up freedom for security, we deserve neither. I think there's a reason we have that quote is because... [LB602]

SENATOR ASHFORD: Well, we were attacked by a foreign country and I think it's important that we protect our borders and ourselves. So anyway, thank you very much. [LB602]

DAVID SPLONSKOWSKI: We can argue whether or not that's effective. [LB602]

SENATOR ASHFORD: (See also Exhibit 17) Anybody else want to talk on the bill? I think we're done. David, we've already gone through...you've testified twice now, David. Why don't you...he waives closing. [LB602]

DAVID SPLONSKOWSKI: But that was on a different...(inaudible). [LB602]

SENATOR ASHFORD: You can testify on the next bill if you want, but we're going to go to LB352. [LB602]

SENATOR CHRISTENSEN: (Exhibit 16) Thank you, Mr. Chairman and members of the Judiciary Committee. I'm Senator Mark Christensen, M-a-r-k C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District here to introduce LB352. Currently, Section 69-2441 provides owners and controllers of property which are not expressly prohibited, placed in subdivision (1)(a), the authority to prohibit conceal carry permitholders from

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carrying a concealed handgun on these premises. This is either accomplished by asking the permitholder to remove from the premises their concealed handgun, or by posting a conspicuous notice that carrying a concealed handgun is not allowed on these premises. The problem is that conspicuous notice is not defined in the Concealed Handgun Permit Act. Because of the lack of definition, there is no uniformity in the posting of such signs. This has led to signs being of all sorts of shapes, sizes, and located in arguably less than conspicuous places. In my view, this is a problem for all parties involved, including law enforcement, which would have to use their own judgment to decide what makes a sign conspicuous. LB352 seeks to resolve this problem by defining what a posted conspicuous notice is. This would clarify the term and require the Nebraska State Patrol to design a sign meeting all the specifications in LB352. Any controllers of the property seeking to exercise their current right to prohibit a permitholder from carrying on their premises would be required to use such sign designated by the Nebraska State Patrol, and follow requirements in this bill to where the sign should be placed, to be considered a posted place under the law. As I've said, the bill would amend Concealed Handgun Permit Act to provide for uniform signage, placement of signs when a property owner chooses a permitholder from carrying a concealed handgun on his or her property as authorized in the Concealed Handgun Permit Act. This is to reduce confusion. This would limit the potential of permitholders unintentionally entering a posted place or a property owner believing his or her property is protected as a posted place but may not meet the current subjective standard of posting conspicuous notice. What is currently subjective in the current law, with this bill, becomes objective. LB352 would codify much of what the Nebraska State Patrol already recommends in their rules and regulations. Specifically, the bill would require the sign to meet the following specifications. The sign shall be at least 5 inches tall and 3.5 inches wide; have a white background; a 2-inch red circle with a slash covering an image of a black handgun, use contrasting black and red font, and include the following text: Notice, carrying a concealed handgun by a permitholder is prohibited in or on this place or premises by the controllers of this property pursuant to the Nebraska Revised Statute Section 69-2441; be posted at each entrance to the place or premises between 48 inches and 66 inches above the floor or ground; be posted either on the door of each entrance to the place or premises or within 12 inches on either side of the doorway of each entrance if the place or premise is a building; be posted within 24 inches on either side of a designated motor vehicle, bicycle, or pedestrian entrance to a place or premise if the place or premise is not a building; and is not to be obstructed or altered in any way; and if the sign becomes illegible for any reason, be immediately replaced by a legible sign. In addition, one of the changes from the previous bill I introduced was to address a concern from a person in Omaha who observed that many large retail stores or malls have large entrances that may be up to 30-plus feet wide with multiple doors. My amendment would require a sign to be posted on every door within 12 inches on both sides of every doorway with double doors along with the width of the entrance if the entrance has multiple doorways. To address this situation I would be willing to work with the committee if they feel there's a better way to address this issue.

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In the fiscal note, the university said it would cost them \$28,000 to comply with this bill. This is a wrong interpretation and gives me another chance to correct this misunderstanding. Under current law, in Section 69-2441(1)(a), it expressly lists prohibited places of which the university and its sporting events are one prohibited places are not required to post a sign. This may, if they choose to, but they do not have to. Whether you agree with the current Concealed Handgun Permit Act or not, I believe that not defining posted conspicuous notice or having a uniform sign is not good policy and creates confusion. Laws should be clear and not vague. Thank you for your consideration of LB352. [LB352]

SENATOR ASHFORD: Senator Chambers. [LB352]

SENATOR CHAMBERS: Senator Christensen, where would a person procure these signs? [LB352]

SENATOR CHRISTENSEN: The State Patrol. [LB352]

SENATOR CHAMBERS: Would the State Patrol give them away free? [LB352]

SENATOR CHRISTENSEN: I believe that's the way it's set up. Yes. [LB352]

SENATOR CHAMBERS: They would give these signs to anybody who wants them. [LB352]

SENATOR CHRISTENSEN: Yes. [LB352]

SENATOR CHAMBERS: And what is the fiscal note that the State Patrol prepared? [LB352]

SENATOR CHRISTENSEN: Because maybe they only...I'm trying to read it here again quick. I guess it doesn't say they'll give them away, so maybe they're just to design it then. [LB352]

SENATOR CHAMBERS: So where would a person obtain these signs? Suppose there is no manufacturer who will produce these signs; then where would a person obtain a sign? [LB352]

SENATOR CHRISTENSEN: Well, I think it would be very easy...I know when we did this two years ago, they had asked for an 8.5 x 11, and I brought that in and it could be easily duplicated because you could... [LB352]

SENATOR CHAMBERS: A person could make his or her own sign. [LB352]

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SENATOR CHRISTENSEN: Yes. [LB352]

SENATOR CHAMBERS: Now why is the government, which conservatives are always criticizing for overreaching and overregulation, going to mandate on private property owners the size, the lettering, the kind of sign they have to post on their property to exercise a right they have? Now let me break that down and ask questions. These signs will be posted on private property, correct? [LB352]

SENATOR CHRISTENSEN: Yes. [LB352]

SENATOR CHAMBERS: Before I ask you anything else, if a sign other than this type is used, would the facility or the building or the property be considered not to be properly posted? [LB352]

SENATOR CHRISTENSEN: I would assume if it doesn't meet this, yes. [LB352]

SENATOR CHAMBERS: If it doesn't meet that. Even if you have a sign 18 inches by 14 inches that says no weapons allowed on this property, that would not be a proper posting under your law? [LB352]

SENATOR CHRISTENSEN: Well, I'm assuming it would because it says that you shall use the black and red font and include the following text. [LB352]

SENATOR CHAMBERS: So this is a demand by government controlling the speech of a private person or property owners, isn't it? It is mandating a form of speech that satisfies and suits the government, isn't that true? We're the government, aren't we? [LB352]

SENATOR CHRISTENSEN: We are. [LB352]

SENATOR CHAMBERS: And we'd be mandating that they speak a certain way to express an idea, aren't we? [LB352]

SENATOR CHRISTENSEN: Yes. [LB352]

SENATOR CHAMBERS: And you think that that's appropriate and it can be done under the First Amendment? [LB352]

SENATOR CHRISTENSEN: Well, I guess I do believe that you're... [LB352]

SENATOR CHAMBERS: You don't want regulation of guns, though; but you want to regulate speech, don't you, on private persons, isn't that true? Isn't that what you're trying to do? [LB352]

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SENATOR CHRISTENSEN: Well, I guess I'm not looking at it that way, but I guess I see your point where you're coming from. [LB352]

SENATOR CHAMBERS: For whose benefit is this? [LB352]

SENATOR CHRISTENSEN: Well, for the people that carry guns, so they don't carry in when you don't want them. [LB352]

SENATOR CHAMBERS: Well, don't you think the property owner has the most rights in this situation, to mark his or her property in the way he or she sees fit? [LB352]

SENATOR CHRISTENSEN: But we also have the rights to make sure that we're not putting innocent people accidentally breaking the law, too, don't we? [LB352]

SENATOR CHAMBERS: They're not going to accidentally break the law if there's a sign as big as this piece of paper saying no guns allowed. And under your bill that would not be a posting. That wouldn't notify somebody that they're not to bring a gun. If it's at eye level and to come into the establishment you see it, that would not be a proper posting based on this law, would it? [LB352]

SENATOR CHRISTENSEN: Correct. [LB352]

SENATOR CHAMBERS: You think that's reasonable? This is America, isn't it? [LB352]

SENATOR CHRISTENSEN: It is. [LB352]

SENATOR CHAMBERS: Oh, okay. I was beginning to wonder if maybe those people need to pull their guns out if they own this property, to keep...who would enforce this law? [LB352]

SENATOR CHRISTENSEN: Well, the thing wouldn't ever become an issue unless somebody entered into somebody's property they didn't want it, and then that's when they would call the authorities. That would be when the police would be involved there is if a private land...or building owner, business owner, called and said, hey, somebody is carrying on my property. [LB352]

SENATOR CHAMBERS: Now a court could strike this down as an unconstitutional intrusion by the government and regulation of a private landowner's right, couldn't it? [LB352]

SENATOR CHRISTENSEN: Sure. The courts can strike anything down, yes. [LB352]

SENATOR CHAMBERS: Or if we are prudent and wise legislators, we won't even put

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something like this into law in the first place, would we? [LB352]

SENATOR CHRISTENSEN: So I guess I don't see it the way you do, Senator, but. [LB352]

SENATOR CHAMBERS: Obviously. But that's all I have to ask you. Thank you. I wanted those points in the record. [LB352]

SENATOR CHRISTENSEN: Okay. [LB352]

SENATOR ASHFORD: Thanks, Mark. Proponents for this bill. [LB352]

BRYAN VAN DEUN: (Exhibit 18) Mr. Chairman, committee members, Bryan Van Deun, B-r-y-a-n V-a-n D-e-u-n, and serving as the unpaid but registered volunteer lobbyist for Nebraska Firearms Owners Association in support of LB352 of Senator Christensen. Members of the NFOA are very concerned that there is little uniformity to the signage used on businesses and other institutions or organizations throughout the state regarding the clear and easily recognizable notice relative to firearm concealed carry policy on that property. Just as road signage has evolved to easily recognizable shapes, colors, and sizes so that motorists can operate motor vehicles within the law, so we applaud Senator Christensen for attempting to bring such ease of recognition to firearm policy in public and other places. As proposed in LB352, the standards for signage will allow the State Patrol to create easily read and easily seen signs in locations that the person carrying a firearm will expect to find such notice that will create uniformity throughout the state. Therefore, we fully support the passage of LB352. [LB352]

SENATOR ASHFORD: Questions? Senator Chambers. [LB352]

SENATOR CHAMBERS: Traffic signage, unless I'm mistaken, marks public roads, highways, and so forth, traveled by the public at large. A property owner has the right, in my view, to mark his or her property in any way he or she chooses. And under the law, a property owner has the right to keep anybody off that property who's carrying a firearm; and the state is not in a position, in my view, to dictate how that property owner must mark his or her property. So I think this is preposterous. You don't...you believe in the Second Amendment, don't you? [LB352]

BRYAN VAN DEUN: Yes, sir. [LB352]

SENATOR CHAMBERS: Do you believe in the First Amendment? [LB352]

BRYAN VAN DEUN: Yes, sir. [LB352]

SENATOR CHAMBERS: Do you believe the state should dictate the content of speech

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to private citizens? We're not talking about signs that regulate traffic. We're talking about somebody's private property. You don't believe they should be able to mark their property in the way they want to, to notify somebody that I don't want you bringing whatever you're bringing on my property. They have to have a sign that's so large, so tall, so wide, the coloring, the size of the lettering, the background. That is state regulation, isn't it? [LB352]

BRYAN VAN DEUN: Um-hum. [LB352]

SENATOR CHAMBERS: And it's a dictate by the state. And if you don't vindicate your right in the way the state says that you should, you lose your right to keep these people off your property, don't you? Isn't that the consequence of not posting the kind of sign that the state will be dictating? [LB352]

BRYAN VAN DEUN: That appears to be what you're saying, Senator. Yes. [LB352]

SENATOR CHAMBERS: Okay, thank you. That's all that I have. [LB352]

SENATOR ASHFORD: Thanks, (inaudible). Next proponent. [LB352]

ROGER FREESE: Hello. My name is Roger Freese. I represent no one but myself. I didn't intend to testify today at all. I'm just here as an observer. However, this bill does hit close to home with me. I am a concealed carry permitholder, however I'm not carrying right now. I've been in situations where I've approached businesses and have seen signs in private businesses, signs of all kinds. Some are written in pencil up in the very far right corner of their entrance of their building. Some have them Scotch-taped down lower, half falling off. I believe it's important that there be some form of regulated signage in this situation, just as there is with handicapped parking. When I go to park I look for that sign to make sure that I'm not violating an ordinance by parking where I'm not supposed to. There's a lot of things that I'm required to do that necessitates signage requirements. If I were to enter a place of business and not know that that business was posted for no guns, I'm in violation of the law. I can be cited, arrested, and I lose my license to carry. That's the obligation I carry and the responsibility to ensure that I don't enter a facility or a building that I'm not supposed to be in. I take that very seriously. So here again, with not knowing exactly, it would be very helpful to me if I knew that that signage was always going to be placed in a proximity so that I would be sure that I could look there and it would be there. Now I might feel uncomfortable and say, well, I'm going to look all over because, I don't know, maybe the owner of that business placed it on this side of the door and I'm still looking for it. But it would be very helpful to me if it was in a form and fashion that I recognized just like I do the handicapped parking. That's all I have. [LB352]

SENATOR ASHFORD: Senator Chambers. [LB352]

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ROGER FREESE: Yes, sir. [LB352]

SENATOR CHAMBERS: You saw these signs though. You didn't like where they were posted and you didn't like the fact that they were not adequately Scotch-taped; but you saw the signs and you know what they meant, didn't you? [LB352]

ROGER FREESE: Of those that I saw, I can say yes to. I quite honestly don't know if there's been some establishments that I've entered that they've had a sign that I haven't seen. [LB352]

SENATOR CHAMBERS: Well, because you carry a gun doesn't mean that your right trumps the rights of the property owner to keep you and your gun out of his or her establishment, and it's up to you to make sure that you can carry the gun in that establishment. And my advice to you as a man older than you, sonny, is if in doubt... [LB352]

ROGER FREESE: I don't think you're older than I am. [LB352]

SENATOR CHAMBERS: Oh, I expect so--considerably. [LB352]

ROGER FREESE: I'm 66 years old. How old are you? [LB352]

SENATOR LATHROP: Wow, what a compliment. [LB352]

SENATOR ASHFORD: Wow, you aren't. You aren't. [LB352]

ROGER FREESE: I am and I will show you my ID. [LB352]

SENATOR ASHFORD: No, but you aren't older than Senator Chambers. [LB352]

ROGER FREESE: Okay, I may not be older than you but I'm not that much younger. [LB352]

SENATOR CHAMBERS: I'm at least a decade older than you, sonny. That's why I said sonny. [LB352]

ROGER FREESE: Well...okay. Well, I'll treat you with respect and refer to you as sir and not sonny. [LB352]

SENATOR CHAMBERS: No, no. There are very few people old enough to be upset with me for saying sonny, because I'm that much older than most people on the earth. [LB352]

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ROGER FREESE: Okay. Okay. [LB352]

SENATOR CHAMBERS: But at any rate, you have a right to carry the gun under the law. [LB352]

ROGER FREESE: Correct. [LB352]

SENATOR CHAMBERS: But the property owner has rights that transcend yours when it comes to his or her property. [LB352]

ROGER FREESE: Yes. [LB352]

SENATOR CHAMBERS: You have a right to drive down the street, but the right to drive a car is not a right. In reality it's a privilege and it can be revoked. [LB352]

ROGER FREESE: But I have to have my license plate displayed in a certain location. [LB352]

SENATOR CHAMBERS: Exactly. [LB352]

ROGER FREESE: I have been cited once because I didn't have my license plate on the front... [LB352]

SENATOR CHAMBERS: Exactly, because you're... [LB352]

ROGER FREESE: ...as well as the rear. [LB352]

SENATOR CHAMBERS: ...because you're trying to take advantage of a privilege that the state extends. The property owner does not have to extend that privilege to you if you're carrying a gun. And if that person puts a sign anywhere and you don't find it, that's on you; and they should cite you and they should take your gun, because they make you arrogant and you feel that the fact that you have a right to carry a gun means you have a right to violate other people's rights. [LB352]

ROGER FREESE: No, sir. No, sir. I don't want to violate anybody's rights. I don't want to violate anybody... [LB352]

SENATOR CHAMBERS: Then look for the sign. [LB352]

ROGER FREESE: I do. [LB352]

SENATOR CHAMBERS: And if you...then if you're in doubt, don't... [LB352]

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ROGER FREESE: And I do. But I want to make sure that it's helpful to me that I'm not,... [LB352]

SENATOR CHAMBERS: If you're in doubt... [LB352]

ROGER FREESE: ...and the only way I can be reasonably assured is if it's placed in a reasonably... [LB352]

SENATOR CHAMBERS: No, no. [LB352]

ROGER FREESE: ...logical place that... [LB352]

SENATOR CHAMBERS: No, no. That's not going to be done. Wherever the owner feels it ought to be placed is the logical place for that owner to place it. [LB352]

ROGER FREESE: What if he chooses to place it by his cash register and I don't go by the cash register? [LB352]

SENATOR CHAMBERS: Then...and you go in there with a gun, then you're in violation. But an owner... [LB352]

ROGER FREESE: But I don't know that... [LB352]

SENATOR CHAMBERS: But an owner is going to place the sign where you can see it. [LB352]

ROGER FREESE: That's unreasonable. No, that's unreasonable. [LB352]

SENATOR CHAMBERS: The owner is...well, I'll tell you what. This bill is not going to pass. First of all, the Legislature is not going to dictate the size of a sign, the color of the sign, the letters in the sign. [LB352]

ROGER FREESE: That's not for you to say. That's not for you to say. It's for this whole committee to say. Don't say that it's not going to happen when you're just hearing testimony. [LB352]

SENATOR CHAMBERS: But I'm letting you know. [LB352]

ROGER FREESE: You're not hearing these people out. [LB352]

SENATOR CHAMBERS: But I'm letting you know. [LB352]

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ROGER FREESE: Don't make up your mind before you've heard all of the testimony. [LB352]

SENATOR CHAMBERS: Well, my mind was made up as soon as I saw the bill introduced. [LB352]

ROGER FREESE: Well, that's fine. That's fine. [LB352]

SENATOR ASHFORD: All right; well, let's do this. Let's go to...do we have any other questions? Good comments, everybody. Great. [LB352]

ROGER FREESE: Okay. Thank you. [LB352]

SENATOR ASHFORD: Okay, thanks. But before we go on, how many other testifiers do we have here now? We've got a couple. I want to ask Phoebe and Kyle to stand up, because we're on...stand up, Phoebe and Kyle. Phoebe Gydesen and Kyle McCarville. I never got their names before but just so the whole state of Nebraska can meet them. They've been our...have been with us for the entire three months, doing a great job helping with the citizens when they come in here to testify, and we're very honored to have them. They've done a great job. So I just want to make sure the whole state gets a chance to meet you, all right? And you can wave. Wave. (Applause) Okay, thanks guys. All right, next testifier. [LB352]

MARTIN HAHN: Good afternoon, again. I'm Martin Hahn, last name is spelled H-a-h-n. I'm from Plattsmouth. I support this bill. I don't necessarily advocate that it be as specific, but I agree that it should set some minimums. The previous gentleman that testified, if you don't know where to look, somebody could have a little typed writing down on the bottom corner of a window somewhere that isn't legible for most people unless they're crawling on their hands and knees, and it could possibly be considered to be signed. And since the Nebraska law requires that...or allows that a signed property is a legal notice, then the state is, I think, obliged to define what that legal notice might be. Now I actually agree with Mr. Chambers--Senator Chambers--that a big sign that says no guns allowed on this property somewhere where it's visible would be obviously a legal sign. I would propose that set a minimum standard, a minimum size of some writing, and some boundaries as to where it would be within a doorway, much like it does, but without it quite being red, circle, handgun image, and...but have some specific wording that would be allowed to define what then could be enforced against me should I get a concealed carry permit and then carry a gun onto a property. It's incumbent that I be...if a property owner doesn't want you to carry a gun, it seems both beneficial and incumbent upon him that he do it in such a way that it's obvious to the gun owner. Certainly, if he's really, really serious about not wanting guns there, he ought to do it in a way that's... [LB352]

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SENATOR ASHFORD: Senator Chambers. [LB352]

MARTIN HAHN: ...yeah. Yeah, that makes it obvious. Which is I think is what you were proposing actually. [LB352]

SENATOR CHAMBERS: We use the term "right" in connection with somebody carrying a gun, and I'm using it in terms of somebody owning property and having the right to use and handle his or her property as he or she sees fit. And that person's right cannot be trumped by somebody who wants to carry a gun. This is a person conducting a business of some kind that's open to the public, and the public may not want to be around anybody who's got a gun, and the person doesn't have to have a gun to come into that establishment; so leave the gun if you're in doubt. If you don't know for sure, don't go in. And I would not support anything that would tell the property owner how he or she must mark his or her property for the convenience of somebody else. It has nothing to do with food, safety, or meeting the codes as far as habitability, not hiring child labor, not paying less than the minimum wage, none of those things that the state can regulate for the public good, the public welfare. But when it comes to saying that this person wants it made convenient so he can come in your place with your gun when you don't want him in there, I say however you place the sign, wherever you place it, then that person has to find the sign. And if I don't want them coming into my place and I doubt that the gentleman who was up here, and I don't think he was indicating that that's what people do, but they could, if I don't want somebody in my place I'm not going to hide the sign. It's going to be where they can see it. But the state is not to dictate where and how. This is not a public street or highway. When you are saying that on private property if there is a space for handicapped parking, not only must you put the symbol on the ground but you must have it on an upright post or something that's rising above the ground so they can see it here as well as on the ground. And if this one is not here, then it's not properly marked as handicapped parking. So the proprietor would be aware of that if he or she wants to dedicate that stall or however many stalls for handicapped parking. But it's a different matter when it has to do with coming on somebody's premises. Let's say it's a restaurant. Well, it's not the only restaurant in town. If you want to go to a restaurant where you can take your gun, then find a restaurant where they don't mind gunslingers being inside. Otherwise, I wouldn't even want to be where they didn't want me to be, packing my pistol...I meant my pistol is with me. If you don't like my pistol, you don't like me. And if you don't want my pistol there, you don't want me there; I'll spend my money somewhere else. And then we're both happy because I don't want you in there with your pistol and you don't want to be in there with your pistol if I don't want you there. So I'm failing to see why the state should even get involved in something like this, and I should think that the public would be happy to know what my views are because they say politicians won't be honest, they won't be forthright, they won't tell you where they stand, they hide their meaning. Then when I make my meaning clear, you shouldn't do that; you should let us be deceived; say the nice things we want to hear and then shoot us down so we can condemn you

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for being a hypocrite. That's not my way. But I think you are more willing to be reasonable in acknowledging that any method used as far as a sign to let somebody know that they're not to bring their gun, then that is adequate. If it were written in hieroglyphics, I wouldn't say that's adequate. So even with your reasonableness compared to my colleague, Senator Christensen, I still don't see us dictating to private property owners how they have to mark their property. [LB352]

MARTIN HAHN: Sir, your comment about hieroglyphics is really just an opinion. A court could determine otherwise. I mean, it could be a size so small that it can't be read without a magnifying glass and not be in violation of the signage law, yet it would make me in violation just because I didn't have a magnifying glass. [LB352]

SENATOR CHAMBERS: But not to argue with you...and we're not really arguing, we're having an exchange. If I don't want somebody on my property, I'm not going to put a sign so small that they need a magnifying glass... [LB352]

MARTIN HAHN: I would hope that that would be the case. [LB352]

SENATOR CHAMBERS: ...because I don't want to entrap somebody. I want them to know that if they're carrying a gun, I don't want them in here. So I wouldn't make it so small that they couldn't see it. [LB352]

MARTIN HAHN: And given a legitimate... [LB352]

SENATOR ASHFORD: That's fine. I think we...I think the point is... [LB352]

MARTIN HAHN: Yeah...desire, I agree with you. [LB352]

SENATOR ASHFORD: Both points are well made, so thank you. Thanks a lot, Mr. Hahn. Yes. Yes, sir. [LB352]

CHRIS ROBERTSON: I just have this copy. You're welcome to it when I finish. My name is Chris Robertson, R-o-b-e-r-t-s-o-n, and I'm here in support of LB352. I don't disagree with anything that's been said about property owners' rights and signage. I consider myself a law-abiding citizen and the last thing I want to do with any firearms rights is break a firearms law. Currently, my problem with the signage as written in the state of Nebraska is the sign holds the force of law. In other words, just because a property owner has that sign, if I inadvertently enter his property I'm automatically found guilty of a Class III misdemeanor. Other states have defined signage. For instance, Missouri that has if you violate that law and you do not leave their premises, you're guilty of trespassing. My only problem with the signage being of a nonconformity-type sign is that if a sign is posted by a property owner--and I respect them; I'm a law-abiding citizen. Like I said, I don't want to enter someone's property if I'm carrying a gun, if I

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were to have a permit, whatever. But if that sign holds the force of law, it should have some stipulations as to requirements, at least for height level. It may not necessarily be the exact wording, but it should be defined a little more clearly rather than a restaurant in Omaha, for instance, where the owner's daughter drew a sign in crayon. And if I didn't see that sign or really know what the intent of that sign was, I'm automatically in violation of a misdemeanor. I respect people's property. I just think to aid gun owners, the state of Nebraska has already defined concealed carry permit and where places are specifically disallowed to carry, and those are a litany of places with governmental offices and such. And I do respect private property owners. If they do not want a gun in there, I just think to help out that concealed carry owner, a bit of conformity in the sign would help him to obey the law greatly. And I believe that most concealed carry owners really are interested in obeying the law. [LB352]

SENATOR CHAMBERS: I look at the law and its operation differently or from a different angle than you do. The law is not toward the property owner. The law relates to you and the limitations on your right to carry that gun. The law is saying that a condition to your being considered a lawful carrier of that gun is that you don't carry it anyplace where the owner of the property doesn't want you to be. [LB352]

CHRIS ROBERTSON: Correct. [LB352]

SENATOR CHAMBERS: And no burden is on the owner to do anything for your convenience. You're the one who wants special consideration. And there's so many politicians intimidated by the NRA that they let gun owners think they're somehow a special privileged group and anything they say goes. Anything they want, they get. And that's why we're getting this kind of crazy legislation that was brought to us today. And not only the NRA and ALEC but an outfit called the Cato Institute. They line up these silly legislators and because somebody can say it happened in another state, they think that's going to persuade me to go along with it. I use my judgment. It just showed me that they got a lot of fools and legislatures around the country. But 49 of them could do it and I would do what I could to stop Nebraska from being one of the lemmings that follow the leader over the cliff into foolishness. Gun owners are not special people to me. They are dangerous people. Their attitudes make them dangerous. The way some of them cried out or had their demonstration here because they didn't like what they heard, and they're the law-abiding people. Now if you had an establishment and you were in here today and you heard these people who want to carry guns come in your establishment, you've got to tell them that--and they've got guns---I don't want you in here, you've got to face down somebody with a gun who is going to disregard the sign and come in anyway. That shouldn't happen. [LB352]

CHRIS ROBERTSON: I don't disagree with that. [LB352]

SENATOR CHAMBERS: Oh, okay. [LB352]

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CHRIS ROBERTSON: I find it unfortunate that this bill followed some that are very controversial with federal law and things like that. I think this is a law that truly...I'm not considering gun owners as special people. I don't believe that's true. I think a gun owner, as well as a non-gun owner that are citizens of the state of Nebraska, have the same rights as the property owner. And I'm sure that most gun owners in the state of Nebraska, I may be speaking out of line--I speak for myself--are truly interested in following the law and respecting the property rights of others. I'm not asking for any kind of special dispensation of a sign that has to be just for me. I think it holds the force of law and I think it would be easier for people to obey the law if there was some conformity in the sign. It's not saying that I have any rights other than the property owner. [LB352]

SENATOR CHAMBERS: Understood. [LB352]

SENATOR LATHROP: Senator Christensen. [LB352]

SENATOR CHRISTENSEN: Thank you, Chairman. [LB352]

CHRIS ROBERTSON: Thank you. [LB352]

SENATOR LATHROP: Oh, wait a minute. Whoa, whoa, whoa. [LB352]

CHRIS ROBERTSON: Oh, sorry. I'm sorry. [LB352]

SENATOR LATHROP: Hang on a second, we're not done with you. [LB352]

CHRIS ROBERTSON: I'm sorry. [LB352]

SENATOR CHRISTENSEN: I appreciate what you said; and I just, in your exchange, I just want to say that law says it has to be conspicuously posted. The burden is on the landowners now or the business owner, so. But it must be conspicuous. That just isn't defined. Thank you. [LB352]

SENATOR LATHROP: Thanks for your testimony. [LB352]

CHRIS ROBERTSON: Thank you. [LB352]

SENATOR LATHROP: Any other proponents to LB352? Come on up. How many other people intend to testify on this bill, just so we have an idea? Okay. Very good. Welcome to the Judiciary Committee. [LB352]

ROSS BERCK: Thank you. My name is Ross Berck, Ross, R-o-s-s, Berck, B-e-r-c-k. I'm

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a farmer in Polk County. I guess...I am a concealed carry holder and I don't want to be going into places that are trying to keep people with guns out. The law, as I understand it, does say that the private property owner does have to post something conspicuously, so I don't think it would be a huge burden more to say here's how we want to have it so that we can help people who are trying to be law-abiding comply with the law. I'd also like to say...well, I mean, no hunting signs have to be a certain size or whatever if they're going to have the force of law behind them. And I think we need to define a difference between private property that is not open to public just coming in and out, and private property that is open to the public. We have laws on the books to protect people's civil rights so that they can't say a Chinese man or whatever can't come in; or somebody handicapped, we have to have special things to get them in. I consider carrying a gun one of my civil rights. And so if you're going to regulate it and keep me from...and restrict me from going into a restaurant or something, then at least make it...and I'm happy to comply with the law because I'm law-abiding. But make it so that I don't have to worry about getting in somewhere and having been found I was carrying concealed in a place that was not wanting that to be allowed. I don't want to have to go in there and then maybe lose my right, which it is a right, to carry a gun--the right to keep and bear arms. And if you don't want to do this then make it so that that can't be a misdemeanor that could result in me losing my right to carry a gun, which is my constitutional right. Make it so that it can't be...you know, if you want to do a fine or something like that, fine; but don't take my rights away because I didn't see something that should be pretty obviously seen. [LB352]

SENATOR LATHROP: Okay. I don't see any questions, but thanks for coming all the way from Polk County. [LB352]

ROSS BERCK: Yes. You bet. Thank you. [LB352]

SENATOR LATHROP: (See also Exhibits 19-25) Good to hear from you. Anyone else here in support of LB352? Anyone here to testify in opposition to LB352? Seeing none, anyone here in a neutral capacity? Seeing none, Senator Christensen to close. He waives closing. That will close our hearing on LB352 and it will close our hearings for the day. I would like to thank those folks who came from wherever you came from to let us know how you feel about the bills today, and see you tomorrow. Thank you. [LB352]