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Judiciary Committee
February 28, 2014

[LB694 LB724 LB879 LB963 LB1030]

The Committee on Judiciary met at 1:30 p.m. on Friday, February 28, 2014, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB963, LB724, LB694, LB879, and LB1030. Senators present: Steve Lathrop, Vice Chairperson; Ernie Chambers; Mark Christensen; Colby Coash; Al Davis; Amanda McGill; and Les Seiler. Senators absent: Brad Ashford, Chairperson.

SENATOR LATHROP: (Recorder malfunction)...to the Judiciary Committee. I'll take a few minutes before we start. My name is Steve Lathrop. I'm the state senator from District 12. I have...this is my very, very--and Senator McGill's as well--our very, very last hearing ever. And so it's our last hearing in Judiciary Committee for the year but our last hearing forever. And I'm going to chair today because Senator Ashford is out of town. And for those of you who have never testified in front of our committee before, just a few things that you need to understand. We first require that you fill out a form, a testifier form. We do that not to, you know, try to get personal information or anything like that, but it's so that we keep a good record. Everything that's said on the floor or in one of these committee rooms is typed up ultimately and made part of the legislative history of any given bill, and having your name correctly spelled and you identified is important to us. So then when you come forward, basically, the process is the bill will be introduced by a particular senator. We'll take proponents or those people who are testifying in favor of the bill first. If you are a proponent or if you're an opponent or in the neutral capacity, which is someone who is not for or against but just sees some problems or has some ideas about improving the legislation, what we'll do is have you sit down, spell your name, your last name, and then you can testify. We run on a three-minute light system here, and what that means is on the desk you'll see the lights go off. When you start it'll be green, and it'll be green for two minutes. And then we have it go for yellow...go to yellow after two minutes for that last minute so that you know it's time to start wrapping it up or kind of concluding your remarks. And then when we get to red, if you would just stop, okay? And I know it's hard to do. You're kind of in the middle of a thought. But if you don't, we don't...we have an awful lot of bills to hear today, and the best way for us to get through them is to put people on the timer, I'm afraid. And I think that's pretty much it. We'll have the...everybody introduce themselves, and I've already introduced myself, so we'll have my colleague, Senator McGill, who is also on her last day here.

SENATOR MCGILL: I am indeed State Senator Amanda McGill. I'm from northeast Lincoln.

SENATOR CHAMBERS: And I'm Ernie Chambers from Omaha.

SENATOR SEILER: Les Seiler, District 33. It's all of Adams County and everything but Grand Island in Hall County.

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SENATOR LATHROP: And I should have said before we started that sometimes you'll see the chair is empty, like Senator Davis may come in from time to time or Christensen or Coash and be here and then gone, and that isn't because this isn't important to them. But sometimes they're introducing bills in other committees and that would explain their absence. I think Davis is in Revenue today, so that's kind of the way it works. And with that, we will begin our bills today and that...we're kicking off with LB963 and Senator Brasch. Welcome back to the Judiciary Committee. [LB963]

SENATOR BRASCH: Thank you, and thank you, Chairman Lathrop, and thank you, members of the Judiciary Committee. My name is Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I represent the 16th District in the Nebraska Legislature. I'll be very brief in my introduction for LB963 because it is a very simple change and similar to my other bankruptcy bills, LB962 and LB964. I introduce LB963 again at the request of attorneys who practice bankruptcy law in Nebraska. Bankruptcy exemptions in Nebraska, as I have mentioned in previous hearings, are outdated. They have not been updated for 17 years. Section 25-1552 of Nebraska's Statutes was last revised in 1997, and so we seek to modernize the exemption amount for the bankruptcy exemption commonly referred to as the "wild card" exemption. Quite simply, the wild card exemption is self-descriptive. Nebraska lawmakers, like those in most other states, recognize that the personal property exemptions of Section 25-1556 were inflexible. As was discussed during the hearing for LB962, the tools of the trade exemption in Section 25-1556 allows for debtors to exempt a vehicle only if it's used for work; therefore, the wild card exemption was a measure to create a small safety net for personal property that may not otherwise be exemptable. Again, because the exemptions are outdated and have not even kept up with the rate of inflation, I have proposed this simple legislation that increases the wild card exemption from \$2,500 to \$5,000. Debtors should be able to exempt at least as much personal property as they did in 1997. The longer we go without updating the exemption amounts, the less and less these debtors are allowed to keep. As with LB962 and LB964, there will be testimony in support of LB963 from bankruptcy attorneys who will be able to answer any specific questions you may have. I can try to answer your questions, but you're better asking them. And I do encourage you to pass LB963 to General File. Thank you. [LB963]

SENATOR LATHROP: Thank you, Senator Brasch. I do not see any questions. I think we get it. But we will start with proponents and...welcome back. [LB963]

GREGG NEUHAUS: Thank you. Senator Lathrop and members of the committee, my name is Gregg Neuhaus, G-r-e-g-g N-e-u-h-a-u-s. I'm an attorney in Grand Island, Nebraska, and just outside of your district. And I have almost 34 years of experience in practicing law. I've represented hundreds of people in bankruptcies and I represent over 100 each year. And I'm here to give support to LB963. There's a common misconception about people who file for bankruptcy, and that's that they're deadbeats,

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that they never try to pay their debts and so forth, and that's just not true. In the past, you know, when I first started practicing, most bankruptcies were about credit cards. They're now mostly, I would say, 75 percent of my bankruptcies are about medical bills, and these are families. You...most of my clients that...my average client is a married couple; they've got children; they've both worked, sometimes multiple jobs. One of them becomes injured or ill. For some reason they lose their job and then they lose their insurance and then they lose their ability to buy insurance. And so it's either we buy food or we buy insurance. They buy food. And let me assure you, the Affordable Care Act is going to make it worse. It already is. I see it every day. And the deductibles are higher; the premiums are higher; and it's more unaffordable than ever. And I'm sure you know the wild card exemption is not just for bankruptcy. It allows anyone who is being prosecuted for their debts or for...or...to go into the court and show the court, here are my assets and these are the things that are exempt. In fact, many times I can convince people that they can do that without bankruptcy. They can take this law, go into the court, say, here are my exempt assets. And then they don't have to file and they save the filing fees and the embarrassment and so forth. The wild card exemption varies widely between the states. Some states that are more liberal in their specific exemptions don't even have wild card exemptions. Mississippi has a \$50,000 wild card exemption so it varies widely. In 1901 Nebraska's wild card exemption was \$500. If we took a modest increase for inflation, it would be well over \$5,000. It hasn't changed since 1997, 17 years ago. It was \$2,500 then. At a 5 percent rate, it would be \$5,730 today. So I think it's time that we rectify this, pass this, allow a little bit more exemption for these folks. Thank you. [LB963]

SENATOR LATHROP: Very good. We appreciate your testimony and the fact that you've been down here like four times on these exemptions. [LB963]

GREGG NEUHAUS: Well, three, yes. [LB963]

SENATOR LATHROP: We should have probably put them all on one bill. [LB963]

GREGG NEUHAUS: (Laugh) It would have been handier. [LB963]

SENATOR LATHROP: Yeah. [LB963]

GREGG NEUHAUS: But it's okay. [LB963]

SENATOR LATHROP: Thanks for your testimony. Oh, Senator Chambers has a question for you. [LB963]

GREGG NEUHAUS: Yes. [LB963]

SENATOR CHAMBERS: Not a question, just a comment: When I went to law school

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many years ago, Abraham Lincoln was trying to get in, but he couldn't manage to get off work to come in, so you know how long ago it was, and he was reading for the law in a law office. I mentioned, because I guess I was naive at the time, that I saw courses on creditor's rights, and I called it "predator's rights." And the professor asked me, well, why did I think that was so? I said, you don't have anything on debtor's rights. He said, well, why do you think that's so? I said, because debtors don't have the money to pay a lawyer. And it might sound facetious, but I never saw a course on debtor's rights. So this kind of action must be looked after by somebody, so I'm glad you're here. [LB963]

GREGG NEUHAUS: Thank you. [LB963]

SENATOR LATHROP: Yeah, thanks, Gregg. [LB963]

GREGG NEUHAUS: Thanks. [LB963]

SENATOR LATHROP: Next proponent or person to testify in favor of the bill. Seeing none, is anyone here in opposition to the bill? Good afternoon. [LB963]

SARA BAUER: Good afternoon. Senator Lathrop, members of the Judiciary Committee, my name is Sara Bauer, B-a-u-e-r. I'm a Nebraska attorney for over 17 years and I'm currently with the Omaha office of Gurstel Chargo, a creditor's rights law firm. I represent creditors throughout the state of Nebraska and primarily in consumer civil collections litigation, and I'm here today to speak in opposition to LB963, the proposed increase to the wild card exemption. Currently, in Nebraska, consumers have specific exemptions for all of the following: their immediate personal effects of the consumer and their family is unlimited; their household furnishings, which is being considered for an increase to \$3,000 under LB964; a vehicle used for work and other tools of the trade; a homestead exemption; earned income credit; all federal benefits; state unemployment benefits; settlement proceeds; pension plans; and stocks. Garnishment in aid of execution is a legal remedy where a court enters a judgment, in favor of a creditor oftentimes, and the creditor may as a garnishor then request the court issue a summons. This bill has been proposed and is often looked at in the vacuum of bankruptcy. However, it has a very real and practical impact on civil litigation files. When a creditor...as a creditor's attorney who litigates hundreds of cases throughout the state of Nebraska each year in the state county courts, this is not a practical impact of this exempt statute. The effects of a garnishment are applicable at the time of issuance, so each time a consumer essentially would have an indefinite ability to stave off every bank garnishment. The Court of Appeals in 2007 listed that the wild card exemption can be used for bank accounts so, specifically, currently we have \$2,500 for cash that can be exempt from any garnishment and up to \$5,000 for a married couple. This potentially would increase that to \$5,000 of cash that could be used to pay legitimate judgments outstanding in the state of Nebraska. Such an increase could cripple the ability of creditors of all rights to seek assets to collect legitimately owed judgments in the state of

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Nebraska. It's for this reason that I'm here today to oppose LB963. [LB963]

SENATOR LATHROP: Very good. Any questions for Sara? [LB963]

SENATOR DAVIS: One. [LB963]

SENATOR LATHROP: Senator Davis. [LB963]

SENATOR DAVIS: Thank you. You say stocks are exempt? [LB963]

SARA BAUER: Yes. Stocks and pension plans can be exempt. Stock plans and pension plans are exempt under 25-1563.01, I believe. [LB963]

SENATOR LATHROP: Those are retirement stocks. [LB963]

SARA BAUER: Yes, retirement stocks, I apologize, yes,... [LB963]

SENATOR DAVIS: Retirement; retirement, okay. Thank you. [LB963]

SARA BAUER: ...not all stocks. [LB963]

SENATOR DAVIS: That's what I thought, it must be retirement. [LB963]

SARA BAUER: I apologize. [LB963]

SENATOR DAVIS: Thank you. [LB963]

SENATOR LATHROP: I do have a question. The last testifier said that most of the bankruptcies he sees are related to hospital bills. Is that your experience too? In other words, most of the...in terms of the dollars, the volume that you try to collect on, is most of it hospital bills? [LB963]

SARA BAUER: I represent...no. Most of my collections are still general credit. I do represent medical bills as well, so I do have a fairly even mix. [LB963]

SENATOR LATHROP: I suppose it depends on your clientele then. [LB963]

SARA BAUER: Yes. [LB963]

SENATOR LATHROP: Okay. [LB963]

SARA BAUER: I represent both types of creditors. [LB963]

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SENATOR LATHROP: You would agree though that the policy behind the exempt property is to give people the ability to have a fresh start and it's a policy consideration as to just how uncomfortable we allow them to get as the creditors collect their debt? [LB963]

SARA BAUER: I agree that when you're looking at it in the vacuum of bankruptcy and that aspect of it...however, when you're speaking in terms of what I do every day and people who are trying to turn it around or trying to work through their debts, while it is a policy consideration, \$10,000 is a lot of money for a married couple to exempt and simply just tell creditors they can't touch for a \$900 judgment or \$1,500 judgment. I'm not talking all large amounts of judgements at all times. [LB963]

SENATOR LATHROP: Okay, Sara, and remind me, did you come back...were you down here on the other exemptions? [LB963]

SARA BAUER: Yes, I was here last week on Section 25-1556. [LB963]

SENATOR LATHROP: So you're opposed to all of the... [LB963]

SARA BAUER: No, sir. [LB963]

SENATOR LATHROP: ...proposals by Senator Brasch? [LB963]

SARA BAUER: No. Actually, I haven't opposed any of them. When I was here for 25-1556, I actually was testifying as a neutral party to indicate that, because of the specific nature of those exemptions, I think they are very favorable in that aspect to tell people and give them guidance. Where you're talking the wild card exemption, because it's...it can be a wild card and because of the ARL v. Piper decision in 2007, I believe, that can be attached to cash. And we don't have a specific cash exemption in Nebraska, which a lot of states do. Iowa, for example, is \$1,000 at any one time. At any point on an execution in regular state court county collections, because the exemptions appeared each time you apply, in essence, you are severely hindering your creditor from being able to attach. [LB963]

SENATOR LATHROP: I get it. Okay. [LB963]

SARA BAUER: Thank you. [LB963]

SENATOR LATHROP: Thank you. I don't see any other questions. Anyone else here in opposition to LB963? Anyone here in a neutral capacity that wants to be heard? Senator Brasch, do you care to close? [LB963]

SENATOR BRASCH: Thank you, members of the committee. I will be very brief. Again,

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it is to help bring the rate up with inflation at least. These people are struggling. They're trying to get back on their feet. In 1901 it was \$500 and in 2014 today it's \$2,500. They're not able to have the purchasing power they did in...to pay their bills that they paid in 1997. So it's very important that we take a look and make this equitable and give them a chance to have a good start on moving forward. Thank you very much. [LB963]

SENATOR LATHROP: Thanks, Senator Brasch. We appreciate your bringing this bill to us. That will close our hearing. Senator Seiler, can we do LB724 and LB694 at the same time? [LB963]

SENATOR SEILER: Yes. [LB963]

SENATOR LATHROP: Okay. [LB963]

SENATOR SEILER: See you, Gregg. [LB963]

SENATOR LATHROP: Then can we have someone...thanks, Gregg. Can we have someone from Senator Lautenbaugh's office, if you're watching, come down to introduce LB724, and maybe with that... [LB694 LB724]

SENATOR SEILER: There he is. [LB694 LB724]

SENATOR LATHROP: Okay. Then we'll have Mr. Smoyer introduce LB724 and then we'll have Senator Seiler introduce LB694. Since I suspect that we'll have a lot of the same people testify on both bills, we'll just have you come forward if you are a proponent. When you sit down, tell us which bill you favor or which one you're here to testify on and then share your remarks with us, all subject to the three minutes. And with that we'll have Mr. Smoyer open on LB724. [LB694 LB724]

BRENT SMOYER: Good afternoon, Mr. Chair and members of the committee. My name is Brent Smoyer, B-r-e-n-t S-m-o-y-e-r, here on behalf of Senator Scott Lautenbaugh to introduce LB724. LB724 is pretty simple and straightforward. It basically harmonizes Nebraska law with the federal law HR218 that was passed in 2004 with overwhelming support from both parties and the President of the United States at the time. Essentially, LB724 and HR218 allow law enforcement officers to carry their weapons concealed while off duty anywhere they would normally carry them while on duty, would supersede any local carry restrictions and federal carry restrictions, including, of course, schools, hospitals, this building. I believe it's in the best interest of public safety that this bill was passed federally and of course that we would harmonize these provisions here in the state of Nebraska. This was brought to us by some officers in Papillion. And of course, I believe they're here to testify as well. They can provide the story and the impetus behind why we're harmonizing the provisions a little better than I could so. [LB694 LB724]

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SENATOR LATHROP: Very good. Thanks, Mr. Smoyer. [LB694 LB724]

BRENT SMOYER: Thank you. [LB694 LB724]

SENATOR LATHROP: Senator Seiler, would you like to introduce LB694? And we don't do that, for those of you who are here to testify, we don't do that very often. But when bills seem to be related in subject matter, it makes more sense I think to do two of them at a time. And with that, Senator Seiler. [LB694 LB724]

SENATOR SEILER: (Exhibit 1) Thank you, Mr. Chairman. Members of the committee, my name is Les Seiler, L-e-s S-e-i-l-e-r, senator from the 33rd District. And I bring LB694 on behalf of myself and a couple friends of mine that are in a Civil War reenactment group. And they find themselves in the position that when they passed the all-sweeping bill of 28-1204.04, that they are being invited by the school system to come and demonstrate the Civil War reenactments and they're bringing weapons onto the school grounds. And so what they're asking is that we have an exemption for historic reenactment. Then I've asked that AM1837 be included because hunters education programs and the V.A. honor guards are American...a lot of the honor guards are not school officials. They're ROTC programs out west and those honor guards are bringing weapons onto the school district by invitation of the school and are not covered under the exemption. So those are the exemptions that we're asking that be included. [LB694 LB724]

SENATOR SEILER: Senator Seiler, do those honor guards use functioning weapons? [LB694 LB724]

SENATOR SEILER: Yes, M1s. They don't carry live ammunition, but they are a functioning weapon. [LB694 LB724]

SENATOR SEILER: Okay. Very good. Any questions for Senator Seiler? Senator Coash. [LB694 LB724]

SENATOR COASH: Thank you, Senator Lathrop. Senator Seiler, a similar question. With the reenactment weapons, are...do they carry live rounds? [LB694 LB724]

SENATOR SEILER: They don't carry live rounds but they do use black powder in the four-inch cannons and send them...shoot them off. [LB694 LB724]

SENATOR COASH: Just for the noise? [LB694 LB724]

SENATOR SEILER: Just...yeah,... [LB694 LB724]

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SENATOR COASH: Okay. All right. [LB694 LB724]

SENATOR SEILER: ...just as a demonstration. [LB694 LB724]

SENATOR COASH: All right. Thank you. [LB694 LB724]

SENATOR LATHROP: Okay. I don't see any other questions. Oh, I'm sorry. [LB694 LB724]

SENATOR SEILER: Senator Chambers had a... [LB694 LB724]

SENATOR CHAMBERS: I can talk to you because you're a member of the committee and it's not that consequential so. [LB694 LB724]

SENATOR SEILER: Okay. [LB694 LB724]

SENATOR LATHROP: Okay. Very good. [LB694 LB724]

SENATOR SEILER: Thank you. [LB694 LB724]

SENATOR LATHROP: If you are here to testify for either bill, you may come forward as a proponent. [LB694 LB724]

ANDREW RIKLI: (Exhibit 2) Senator Lathrop, members of the committee, my name is Andrew Rikli. My last name is spelled R-i-k-l-i. I am the superintendent of the Papillion-La Vista School District in Papillion, Nebraska. First off, we would like to thank Senator Lautenbaugh for introducing this very important bill. It addresses an issue that's important to all public school districts in the state of Nebraska, and that is school safety. The Papillion-La Vista School District, which is the fourth largest in the state of Nebraska, is not unique in that we prioritize school safety. We have long invested significant resources in training for our staff, access control, and funding school resource officers at our secondary level. However, a concerned parent recently contacted our school district seeking clarification about who may carry a weapon on school grounds and when. This issue took on particular importance in our community given our proximity to Offutt Air Force Base, as well as the fact that we have two school board members who are law enforcement professionals. And you're going to hear from at least one of those individuals today. And it is for this reason that we urge you to pass on LB724 to General File. In our opinion, LB724 serves two very important purposes. First, it clarifies who may carry on school grounds; and second of all, it clarifies when a weapon may be carried on school grounds. Our school district believes that LB724 truly does harmonize local and state statute with federal statute, so we don't see this necessarily as a new law so much as clearing up any inconsistencies which may be in effect regarding the interpretation of current statute. Many school districts would agree

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with us, when you look across not only the metropolitan area but all across the state and all across the country, it is very common to find school resource officers carrying a sidearm on school ground. Some may argue that having a law enforcement professional on school grounds makes our schools less safe. We believe it accomplishes just the opposite. As we look at the long history of school violence in this country, from Columbine to Sandy Hook, it doesn't seem unreasonable to think that if there were a law enforcement professional on school grounds with a sidearm, tragedy may have been averted. In closing, we would like to thank the committee for their willingness to examine this very important topic and we urge you to pass on LB724 to General File. Thank you. [LB694 LB724]

SENATOR LATHROP: Very good. Thank you for your testimony. We appreciate hearing from the school district. I do not see any questions for you. Next proponent. [LB694 LB724]

MIKE JONES: (Exhibit 3) Good afternoon. Thank you, Senator Lathrop. My name is Mike Jones, M-i-k-e J-o-n-e-s. I'd like to thank the Judiciary Committee for allowing me the opportunity to present information to you concerning LB724. I'm currently the chief deputy of the Sarpy County Sheriff's Office, a position I've held for nine years. Prior to that, I spent 27.5 years with the Nebraska State Patrol and retired in 2005 at the rank of captain. I'm also the vice president of the Papillion-La Vista School Board. It's important to emphasize to you that I don't believe LB724 and any conversation concerning it involves a debate about gun owners' rights. In my mind, LB724 is closing a loophole in an already-solid piece of legislation. This change in state law will not increase the number of guns in our community. The men and women of law enforcement who carry a weapon off duty are already doing it and will continue to do so. Law enforcement professionals who choose not to carry a weapon off duty will probably continue to do so as well. LB724 will clarify current state law 28-1204.04 which speaks to when a law enforcement officer may carry a firearm off duty. It would allow an off-duty police officer to enter the buildings and grounds of schools in our state without fear of being in violation of the law. 28-1204.04 has been interpreted in different ways and it's unclear to some if an off-duty police officer is violating a law if they carry a weapon into a school or onto school grounds. Currently, highly trained and qualified officers are allowed to carry a firearm off duty while at their local grocery store, in shopping malls, churches in all faiths and denominations, in movie theatres, and in places of their off-duty employment. What all these places have in common is the tragic factor they're places where armed gunmen have attacked innocent victims. The reality is that if an armed police officer was present at the time of shooting, some of the loss of life may have been avoided. Post-incident examination in cases where an armed gunman is randomly shooting victims seems to indicate the sooner they are confronted by law enforcement personnel, the sooner the carnage stops. Currently, off-duty...we currently allow off-duty officers to protect people in nearly all public places if they choose to do so, but the current state law seems to say we don't want them to protect our most precious gift, our children. I

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encourage you to support LB724 so the same safety can be extended inside our schools. Senator, I want to thank you for giving us the opportunity...I'm sorry. I want to thank Senator Lautenbaugh's office for introducing this bill and the members of this committee for your willingness to examine a critical issue. I'll be happy to try and answer any questions you may have. [LB694 LB724]

SENATOR LATHROP: Senator Chambers. [LB694 LB724]

SENATOR CHAMBERS: Just a comment: You named certain locations where these people can carry their guns. People are required by law to have their children in a public school, so that does make a difference between the schools and all these other places. And I see no connection whatsoever between being allowed to carry a gun anywhere else and being allowed to carry it on school grounds. I do a lot of reading about the activities of police officers. There are police officers who have gone haywire and killed people. And when I say plural, more than one person. Veterans returning have done a similar thing. This officer was retired but in a movie theater he got in an argument about somebody using a phone and wound up shooting the person several times. So the fact that somebody is a cop or a sheriff or whatever, that means nothing to me. I'm looking at what can happen, and there are situations where officers were in the public school as security officers and they discharged their guns accidentally. So the arguments that you gave I just want you to know that they were not persuasive to me. And by me not saying a lot I don't want to give the impression that I'm agreeing with all these bills. But some of the issues that I have I'll talk to Senator Seiler about because they're more or less technical. But when a principle that is broad in scope, like the ones you've stated, I have to make a comment so that it's clear that not everybody sees it the same way that you do. [LB694 LB724]

MIKE JONES: I appreciate that, Senator. And I realize not everybody does see this the same way I do. One thing I want to emphasize is it seems to be that maybe it's a case of...that something...it might not happen...first of all, to your first point, and that is that there are people in my profession that maybe have problems, as you indicated. I would acknowledge that, absolutely. It does happen. Unfortunately, it does happen. But the other thing is, the reality of this, in the year since Sandy Hook, in the first year since Sandy Hook occurred, there were 24 more school shootings after Sandy Hook involving 17 deaths. So the fact that police officers, they're already carrying their guns off duty, I don't understand why it's an issue of having those men and women that are trained to do so carry those because it's not a matter of if it's going to happen. It's going to happen again. I'm not saying it's going to happen in Nebraska today or tomorrow or this year, but it's going to happen again and it...there's a very likelihood that it will happen in Nebraska. And I think it would be beneficial. I would want someone there if they were able to do something to be able to do something before the police arrive because it is going to take them some time to get there. [LB694 LB724]

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SENATOR CHAMBERS: And they do shoot at the person? [LB694 LB724]

MIKE JONES: Pardon? [LB694 LB724]

SENATOR CHAMBERS: They would...they'd be shooting also if they thought somebody was going to do something? [LB694 LB724]

MIKE JONES: They... [LB694 LB724]

SENATOR CHAMBERS: These people you're talking about would be shooting? [LB694 LB724]

MIKE JONES: They would...every police officer in the metropolitan Omaha area has been trained in a process we call "peer training," and they've all been trained the same. All the agencies are cooperating in how they train and how they react to these situations. They've been trained the same way and, dependent upon what the situation is, how they would react. But the possibility of shooting occurring by the police officer, yes, that is definitely a possibility. [LB694 LB724]

SENATOR CHAMBERS: I'm sure you're aware of shootings that have occurred on military installations where armed soldiers are present, MPs, and the fact that guns were there did not stop the shootings, and not in all cases was the shooter killed. I'm just putting some things out there because too rosy a picture is painted. And when something happens in another city, the gun people don't ever want any regulation of guns, but they want to put more guns in the schools and other places because the ones who love the guns say, well, that didn't happen here, so we don't want guns regulated. And I may as well say this so those who are coming will have an idea of my view: If there is a malaria epidemic, it is not countered by introducing more mosquitoes that are infected with malaria. So I don't believe what people say about guns stop guns. Now when I was in the Army I never shot at anybody, nobody shot at me, and I knew the training that we got. And I'm aware of a situation in Texas where an officer who was a psychiatrist and nobody had reason to suspect him of being one who would do anything, but he killed several people. He was taken into custody. He is on death row. But the fact is, all those guns there did not stop anything. And I think the more guns that are present, the greater likelihood there is a problem. Omaha Police officers have discharged their weapons at moving cars when it was in violation of the rules and regulations of the police department. So I'm aware of these things. Others may not be. And since you are an officer, I'm saying it to you rather than a private citizen. And that's all that I would have. [LB694 LB724]

MIKE JONES: I appreciate that. Nowhere in my testimony would I even pretend to say that this is a deterrent to school violence because it is not, Senator. This will not deter school violence at all. So you're correct. This is not going to be a deterrent to having

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someone commit a school shooting, but nor will it be a proliferation of guns, as you said. As I said, police officers that already carry weapons off duty will continue to do so and police officers who choose not to carry them off duty won't carry them off duty. [LB694 LB724]

SENATOR CHAMBERS: But they don't carry them on school grounds right now. [LB694 LB724]

MIKE JONES: If they are, there is a question of whether or not they're committing a Class IV felony and that's why I'm here. [LB694 LB724]

SENATOR CHAMBERS: I'm sorry. I couldn't quite hear you. [LB694 LB724]

MIKE JONES: If they are carrying them on school grounds today, there is a little bit of a question as to whether or not they are committing a crime or not. [LB694 LB724]

SENATOR CHAMBERS: Right. [LB694 LB724]

MIKE JONES: There is a different interpretation of law, and that's why I'm here is to clarify the state statute. [LB694 LB724]

SENATOR CHAMBERS: Oh, I understand what you're saying and why, but I just wanted to let you know there is a counterpoint. [LB694 LB724]

MIKE JONES: Yeah. Yeah. And again I want to emphasize that I'm not...this is not about a gun debate. That's not what this is. The people that are already carrying these guns are highly trained. The statutes allow them to carry guns. This is merely clarifying exactly where it's okay for them to carry guns. And I respect your position, Senator. [LB694 LB724]

SENATOR LATHROP: Okay. Thank you very much for your testimony. Next proponent of LB724 or LB694. [LB694 LB724]

BRYAN WAUGH: (Exhibit 4) Good afternoon, Senator Lathrop and members of the Judiciary Committee. First of all, thanks for the opportunity to speak before you this afternoon. My name is Bryan Waugh, W-a-u-g-h, and I'm the sergeant at arms for the executive board of the Nebraska Fraternal Order of Police. We represent over 2,800 law enforcement officers across the state from over 40 different police agencies in Nebraska. I'm here today to speak in favor of and support LB724, introduced by Senator Lautenbaugh, a bill that will amend 28-1204.04 to change the provisions to unlawful possession of a firearm at a school and repeal the original section. I've submitted a copy of our letter supporting this legislation; however, I'd like to speak a little bit further as well. I'm employed by the La Vista Police Department currently holding the rank of

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sergeant. I've been with the department for over 16 years and I've worked with all areas of the department. In my current assignment I have police officers working in each of our schools each day, interacting with school staff, school students, and parents as well. And ultimately, their presence in those schools are adding an extra level of safety and security while they're in the school. LB724 will clarify the law with regards to actively employed and certified law enforcement officers carrying firearms while off duty inside a school or on school grounds. As a police officer I took an oath to protect and serve. This oath is not limited to when I'm on duty but both off duty as well. I'm always prepared and ready to take...to act in the event of an emergency. We never know what circumstances we're going to face in an off-duty situation. It might be to render aid to an injured person. It could be to assist at an accident scene; could be to aid a lost child in getting home; or the worst-case scenario, to engage an armed person who is threatening the lives of others. We don't know when or where this is going to happen; we just know we need to be prepared to handle it if it does...if and when it does. We, as law enforcement officers, take oaths to uphold the law, yet, if we carry a firearm on school property while off duty we're violating state statute. As a certified law enforcement officer, I'm authorized to carry a firearm at all times, yet this piece of legislation that we're introducing here today is going to allow us to do that in school as well. Something as simple as an officer picking up their child at school after they've completed a duty shift would be a violation of current state statute if that officer were armed, and that's something that can realistically happen every day in any community across the state. We're all too familiar with instance of violence at schools across our country, including Nebraska as recent as 2011 at Millard South High School in Omaha. While the presence of an armed law enforcement officer may not deter the misguided decisions of an individual to attack innocent students and teachers on a school campus, I would argue that the presence of an armed law enforcement officer increases the odds that lives can be saved, whether on duty or off duty. I thank you for your time and your service and appreciate the opportunity to speak in favor of LB724. And I'll stand for questions. [LB694 LB724]

SENATOR LATHROP: Thanks, Bryan. Senator Davis. [LB694 LB724]

SENATOR DAVIS: Just a couple questions on this. So if you're off duty, you're out of uniform, correct? [LB694 LB724]

BRYAN WAUGH: Yes. Generally, yes, sir. [LB694 LB724]

SENATOR DAVIS: Generally. Well, it's...not be a concealed weapon. This will be a weapon that's visible. Is that right? [LB694 LB724]

BRYAN WAUGH: It would be concealed. [LB694 LB724]

SENATOR DAVIS: It would be concealed. Is that specified in the legislation? [LB694 LB724]

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BRYAN WAUGH: It...I don't believe it's specified as far as whether it's concealed or openly carried in the legislation. [LB694 LB724]

SENATOR DAVIS: And I understand what you're trying to do and I think it makes sense. You know, I...you can think of all these possibilities. So, you know, the possibility I come up with is so if you get a strange person that walks by and sees the cop and maybe blows up and you end up...and something develops out of that, that might not have happened otherwise. I'm not sure that's going to happen. I'm just...you think of all these possibilities that can go with it. [LB694 LB724]

BRYAN WAUGH: Right. I suppose if we're speaking hypothetically, you know, if somebody were alarmed by the presence of a gun, I could say that, hypothetically speaking. [LB694 LB724]

SENATOR DAVIS: That's why I wanted to know if it was concealed or not. [LB694 LB724]

BRYAN WAUGH: Sure. Yes. [LB694 LB724]

SENATOR DAVIS: Thank you. [LB694 LB724]

SENATOR LATHROP: Senator Chambers. [LB694 LB724]

SENATOR CHAMBERS: What is a part-time officer? [LB694 LB724]

BRYAN WAUGH: Excuse me, a part-time officer? [LB694 LB724]

SENATOR CHAMBERS: What is a part-time officer? That's what's covered in this bill and can carry a gun under these circumstances. Does the...what kind of training does a part-time officer get? [LB694 LB724]

BRYAN WAUGH: To be honest with you, Senator Chambers, I wouldn't be able to speak to that question simply because in my...where I work we don't have part-time police officers. So I'm not exactly certain to the level of training a part-time officer would have. [LB694 LB724]

SENATOR CHAMBERS: Me either, that's why I asked you. [LB694 LB724]

BRYAN WAUGH: Yeah. I apologize. I don't have the answer. [LB694 LB724]

SENATOR CHAMBERS: But that's all right. See, that's why we have to read this legislation. And I would want to know what else this part-time person does for a living.

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And if this is a part-time officer, let's forget any individual problems I'm aware of by...on the part of officers. If you want to have a presumption at all, you can presume that every person who is a sworn officer has gone through all of the training that the statute requires, wherever that training would occur, some of it at that Law Enforcement Training Center, sometimes they allow something else plus that. But at any rate, when a person becomes a sworn officer, then that training you can presume was done. I don't know what this part-time officer...how...where that training would occur because I'm not familiar with the law recognizing such an individual. So maybe those who follow you might be able to enlighten, I guess, all of us. [LB694 LB724]

BRYAN WAUGH: Absolutely. To be considered a certified police officer in the state of Nebraska, each officer receives the same training through the Nebraska Law Enforcement Training Center or the Omaha Police training center or the Lincoln Police training center, whichever agency they belong with. So those officers that are full-time certified police officers have received the same type of training. As far as the question you asked about part-timers, they are a certified police officer, so they would have received the same level of training in order to obtain that certification as well. [LB694 LB724]

SENATOR CHAMBERS: Okay. Thank you. That's all I have. [LB694 LB724]

BRYAN WAUGH: Thank you. [LB694 LB724]

SENATOR LATHROP: Senator Davis again. [LB694 LB724]

SENATOR DAVIS: And what about sheriffs and deputies? [LB694 LB724]

BRYAN WAUGH: I believe the legislation doesn't specify police officer or State Trooper. It simply states "law enforcement officer." [LB694 LB724]

SENATOR DAVIS: ...which would be a sheriff or a deputy. [LB694 LB724]

BRYAN WAUGH: Yes. [LB694 LB724]

SENATOR DAVIS: But they have a different training regimen than you do? [LB694 LB724]

BRYAN WAUGH: No. They all...every police officer in the state of Nebraska, whether they go to the Nebraska Law Enforcement Training Center or there's a few agencies in Nebraska--like I had mentioned, Omaha Police Department, they have their own, and State Patrol--they all receive the same level of training in order to obtain that certification. So sheriffs, deputies go to Nebraska Law Enforcement Training Center. [LB694 LB724]

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SENATOR DAVIS: Okay. Thank you. [LB694 LB724]

BRYAN WAUGH: Thank you. [LB694 LB724]

SENATOR LATHROP: Very good. Thanks. Appreciate your testimony. [LB694 LB724]

BRYAN WAUGH: I appreciate it. Thank you. [LB694 LB724]

SENATOR LATHROP: Next proponent. [LB694 LB724]

JOHN WELLS: Senator Lathrop, members of the Judiciary Committee, Sergeant John Wells, W-e-l-l-s, Omaha, Nebraska, president of the Omaha Police Officers Association. I'll be brief. And, Senator Chambers, just to tell you, I can answer that question for you. But essentially, this bill, we stand as a proponent because it closes what we believe is a loophole in the law that may criminalize what police officers in Omaha do virtually every day that, whether in uniform or not, leaving to go pick up their kids at school, leaving a duty shift to go pick up their schools, they could be in violation of Nebraska state law. Talking to the Douglas County Attorney, he doesn't believe that it's a violation of law, but there was enough confusion and discussion that the various parties agreed that we probably need to clarify the issue. At that point, I mean, it's pretty straightforward, in my opinion, as far as why we're here, but I will certainly open up to questions. But just to start, I know you're going to ask me about part-time officers. We do have part-time police officers. They are retired Omaha Police officers who maintain their training and certification for the purposes of being school resource officers on a part-time basis that they don't do it 40 hours a week. They're not full-time, sworn employees in such that they're still active. They are retired from the Omaha Police Department, but they maintain all the training standards and firearm standards and work, I believe, somewhere around 28 to 32 hours per week in a particular school. [LB694 LB724]

SENATOR CHAMBERS: But under this they would be allowed to go on any school grounds, not just where they're working, and in plain clothes and carry pistols. [LB694 LB724]

JOHN WELLS: And I understand that and because there's probably some...maybe answered best by a manager of the police department as to whether or not they're considered full-duty status officers with that part time because basically, from my end, there's just an agreement that we will recognize and allow part-time officers to do the work of certain police officers in lieu of full-time active officers. And it's literally limited, that small scope of a certain number of school resource officers. [LB694 LB724]

SENATOR CHAMBERS: But there's no place that I'm aware of in the statute that recognizes such a thing as a part-time police officer. [LB694 LB724]

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JOHN WELLS: And I would agree with you and that's why I said it...probably somebody at the management perspective, a chief or a deputy chief, and I know there's a deputy chief here today, would be able to further clarify that for you, Senator. [LB694 LB724]

SENATOR CHAMBERS: And since I had, had my questioning with the first gentleman, I'm not going to repeat all of that, so that's why that's the only question that I will put to you. And I didn't even put it to you. He's faster than Jimmy John. At least somebody calls Jimmy John before they come. Thank you. [LB694 LB724]

SENATOR LATHROP: John, I don't know if full or part time in this bill adds anything to it. The point is, is that anyone that would be covered by this would be certified. [LB694 LB724]

JOHN WELLS: Correct. [LB694 LB724]

SENATOR LATHROP: Right, which means they've been taught... [LB694 LB724]

JOHN WELLS: Right. [LB694 LB724]

SENATOR LATHROP: ...through some training process when to use it. They understand the rules about when it's appropriate and when it's not appropriate. [LB694 LB724]

JOHN WELLS: And essentially, once a police officer retires, say, from the Omaha Police Department, for a certain amount of time they are still a certified law enforcement officer up until the time it becomes necessary to complete that state-mandated qualification shoot and any recurring training. The second a peace officer doesn't...a police officer doesn't do that, they are no longer certified in the state of Nebraska. [LB694 LB724]

SENATOR LATHROP: And that would be true whether they're federal, state, or local law enforcement officers. [LB694 LB724]

JOHN WELLS: That's correct. [LB694 LB724]

SENATOR LATHROP: Okay. Thank you. I see no other...oh, I'm sorry, Senator Davis. [LB694 LB724]

SENATOR DAVIS: So how are we going to know that? How are we going to...somebody comes in with...somebody who was at one time a police officer but is no longer, how are we going...how is the school going to know if this person is permitted or not permitted? [LB694 LB724]

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JOHN WELLS: Well, I mean, they'd be subjected to the local...you know, the various federal and state laws, whether it be HR218 which does have some restrictions on where a retiree can carry, and it's much like the concealed carry laws of the state, the various states, that if there's a place where they're prohibited, that HR218 also prohibits that. So it just...it's based on the law. What we certainly don't want is active-duty police officers potentially losing a career and possibly facing criminal charges for simply carrying a tool of their trade. [LB694 LB724]

SENATOR DAVIS: Okay. Thank you. [LB694 LB724]

SENATOR LATHROP: I think that's it. [LB694 LB724]

JOHN WELLS: Thank you. [LB694 LB724]

SENATOR LATHROP: Thanks, John. [LB694 LB724]

STEVEN LAMKEN: (Exhibit 5) Members of the Judiciary Committee, my name is Steven Lamken, L-a-m-k-e-n. I'm a police chief in Grand Island and I'm here representing the Police Chiefs Association of Nebraska. The Police Chiefs Association of Nebraska requests that you support LB724, which would allow law enforcement officers to carry concealed firearms on school property and at school events when off duty. The media keeps us painfully aware of the dangers of schools and school events being the target of persons bent on deadly violence against others. These tragic events result in the senseless loss of life, devastates communities, and rent the very fabric of our society. We know that such violence can be carried out in a short period of time before law enforcement officers can respond. We also know that immediate intervention with force is the best way to stop the carnage. LB724 is crafted to allow certified and employed off-duty law enforcement officers to carry concealed firearms on school property and at school events. The bill is designed to permit only law enforcement officers who have successfully completed a law enforcement certification training course, received certification, and are actively employed as law enforcement officers by a government unit. This ensures that these officers are well-trained, meet state firearm standards for law enforcement officers, are governed by the policies of a law enforcement agency, and are insured under a unit of government. It is our wish and hope that no such tragedy happens in Nebraska. However, if such event should occur, it is also our wish and hope that an off-duty law enforcement officer, if present at the event, would have the ability to respond as committed and trained to stop the carnage. Thank you for your consideration of our request of LB724. [LB694 LB724]

SENATOR LATHROP: Very good. Thank you for your testimony. Have a good week. John. [LB694 LB724]

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JOHN BONAIUTO: Senator Lathrop, members of the committee, John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, representing Nebraska Association of School Boards, the Nebraska Council of School Administrators. And both groups' legislative committees looked at this bill. The certification was very important. And they did not look at this as a possible deterrent. They looked at it as...are...do we have a problem with law enforcement officers that are going onto school grounds when they're off duty, picking up children? Federal law enforcement officers, that...it just seemed to be a gray area that we thought that this might clear up. And on the other bill we were in a neutral capacity. We thought that there was educational benefit to the historic reenactments. And it, the firearms issue, should not prevent those types of experiences from happening for children. So with that I'll conclude my testimony. [LB694 LB724]

SENATOR LATHROP: Very good. Thanks, John. [LB694 LB724]

SENATOR DAVIS: I have a question. [LB694 LB724]

SENATOR LATHROP: Senator Davis. [LB694 LB724]

SENATOR DAVIS: When I saw you in here, I thought, well, this will be a good question for John Bonaiuto. So if we had a shooting at a school and someone was injured as a result of that innocent third party, whose insurance is going to pick that up? [LB694 LB724]

JOHN BONAIUTO: The school would...their insurance would more than likely be involved. [LB694 LB724]

SENATOR DAVIS: If they were shot by one of these off-duty policemen? [LB694 LB724]

JOHN BONAIUTO: That's surely a possibility that...and I can say that we did check with one of the insurance carriers and they did not see this would raise rates but it...it's...that doesn't usually happen until you have a tragedy or an accident that the rates are increased. But that's a... [LB694 LB724]

SENATOR DAVIS: But you have the school policy, the... [LB694 LB724]

JOHN BONAIUTO: Yes. [LB694 LB724]

SENATOR DAVIS: What's it called? The... [LB694 LB724]

SENATOR LATHROP: Liability. [LB694 LB724]

JOHN BONAIUTO: The ALICAP insurance? [LB694 LB724]

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SENATOR DAVIS: ALICAP, ALICAP, yep. [LB694 LB724]

JOHN BONAIUTO: We insure a lot of school districts. [LB694 LB724]

SENATOR DAVIS: Just wondered what your thought... [LB694 LB724]

JOHN BONAIUTO: But it is, it's a liability issue. You always worry about more guns so. [LB694 LB724]

SENATOR DAVIS: Thank you. [LB694 LB724]

SENATOR LATHROP: Okay, John, thank you. [LB694 LB724]

JOHN BONAIUTO: Thank you. [LB694 LB724]

SENATOR LATHROP: Next proponent, if anyone else is here to testify in favor of either bill. [LB694 LB724]

GREG GONZALEZ: Good afternoon, members of Judiciary Committee. My name is Greg Gonzalez, G-o-n-z-a-l-e-z, assistant police chief with Omaha. And I'm here on...as a proponent for LB724. I won't belabor a lot of the points that were made today. On behalf of the police chief of the city of Omaha, we do support the bill. It may sound cliché but it's true. You're a police officer 24/7. That's philosophically how we feel. And so this language we believe is some cleanup language when we talk about off duty and on duty, and I think that's the distinction. The last comment that was made, if there's a felonious assault and I'm an off-duty officer and then I engage in preserving the life of somebody else, then you're automatically on duty, to answer your question. We've had similar situations like that. We believe the language cleanup will really codify into law the distinction between on and of duty. So that's why I'm here today. I could probably answer some of those questions for Senator Chambers in regards to part-time officers. I will say that I wasn't part of the language when the LB, the draft, was written. But I believe the intent was probably...like John Wells had mentioned, we do employ about 15 part-time officers, and what they're called is associate school resource officers. They typically work in the middle schools in Omaha. They go through the exact same requirements that the state mandates for a full-time officer. There is absolutely no difference. They qualify one time a year in the state qualification shoot and they have to pass, simply put...be more in addressing any additional questions because I think there's probably a couple questions out there. [LB694 LB724]

SENATOR LATHROP: We'll see. Thanks, Greg. Any questions? [LB694 LB724]

GREG GONZALES: All right. Thank you for your time. [LB694 LB724]

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SENATOR LATHROP: I don't see any. Thanks for coming down. [LB694 LB724]

GREG GONZALES: Okay. You bet. [LB694 LB724]

SENATOR LATHROP: Next proponent. [LB694 LB724]

RODNEY MOELLER: Good afternoon, Senator Lathrop. Members of the Judiciary Committee, my name is Rodney Moeller, R-o-d-n-e-y M-o-e-l-l-e-r. I represent the Nebraska Firearms Owners Association. We are in support of both of these bills, specifically talking about LB724 right now. Our members believe this is commonsense change in the law. We trust our police officers with their sidearm. It doesn't matter whether they're in uniform and it doesn't matter whether they're on duty. It does not matter...when we trust someone, that trust is rooted in who they are, the responsibility we bestow upon them, and that they continue to live up to that responsibility. That trust does not change with clothing or a time clock or who happens to be signing their paycheck at the moment. As long as they've not given us a reason to no longer trust them, we continue to trust them, period. We believe that this is a good bill, and we ask that you advance this. And I'm open for questions. [LB694 LB724]

SENATOR LATHROP: Senator Chambers. [LB694 LB724]

SENATOR CHAMBERS: If we're going to just trust them, why are there rules and regulations that govern them? Why is it not just left up to their good judgment and our trust of them? Are you aware that police officers are highly regulated? [LB694 LB724]

RODNEY MOELLER: I am. [LB694 LB724]

SENATOR CHAMBERS: So it's not based on trust, is it? [LB694 LB724]

RODNEY MOELLER: Well, yes and no. Of course we have regulations on a number of things for a variety of reasons, for checks and balances. But the fact that we... [LB694 LB724]

SENATOR CHAMBERS: But you didn't talk about that. You talked about trust so that's why I want you to have the opportunity to elaborate on why we ought to just trust these people. [LB694 LB724]

RODNEY MOELLER: I'm saying if we trust an individual and they've not given us any reason to not trust them that we don't suddenly stop trusting them because the clock hit 5:00 or because they changed their clothing. [LB694 LB724]

SENATOR CHAMBERS: I don't have anything else. [LB694 LB724]

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SENATOR LATHROP: I see no other questions. Thanks, Rod. Next proponent of either LB724 or LB694. Seeing no one else as a proponent, anyone here in opposition to either bill? Anyone here in a neutral capacity for either bill? Good afternoon. [LB694 LB724]

TOBY ASPLIN: Good afternoon. Toby Asplin, last name is A-s-p-l-i-n. Senator Lathrop and members of the committee, I'm just here to clarify the amendment to LB694 that would allow hunter safety instruction in schools. I'm a certified hunter safety instructor and I wanted to point out that they do not allow live ammunition in hunter safety classes. So there's no live ammunition with the reenactors, no live ammunition with the hunter safety instructors, and no live ammunition with the honor guards. Happy to answer any questions. [LB694 LB724]

SENATOR LATHROP: Can I ask you a question? Do you...when they do the hunter safety, basically, that's when you take younger kids or younger folks and have them go through a hunter safety class,... [LB694 LB724]

TOBY ASPLIN: Anyone under the age of 13. [LB694 LB724]

SENATOR LATHROP: ...how to cross a barbed wire fence, when to shoot, when not to, that sort of thing. [LB694 LB724]

TOBY ASPLIN: Correct. [LB694 LB724]

SENATOR LATHROP: Do they teach those or do they use school grounds or school facilities to teach those classes? [LB694 LB724]

TOBY ASPLIN: Some school facilities are used. [LB694 LB724]

SENATOR LATHROP: Okay. [LB694 LB724]

TOBY ASPLIN: That's very difficult in the Omaha metro. [LB694 LB724]

SENATOR LATHROP: That's just a matter of convenience, where are we going to hold the class. [LB694 LB724]

TOBY ASPLIN: Right. [LB694 LB724]

SENATOR LATHROP: And do they bring a shotgun or some type of a firearm to those classes? [LB694 LB724]

TOBY ASPLIN: It's generally recommended as a part of the curriculum, but it is left up

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to the individual instructor. [LB694 LB724]

SENATOR LATHROP: And do the students bring the guns to the class or is it just the instructor? [LB694 LB724]

TOBY ASPLIN: The instructor. [LB694 LB724]

SENATOR LATHROP: Okay. So what we'd be allowing is not necessarily a bunch of students to bring guns, but if a teacher is going to teach the class,... [LB694 LB724]

TOBY ASPLIN: Right. [LB694 LB724]

SENATOR LATHROP: ...and happens to use the school grounds or a school classroom to do it, they would be permitted to bring a shotgun or whatever. [LB694 LB724]

TOBY ASPLIN: That is correct. That is correct. [LB694 LB724]

SENATOR LATHROP: Okay. [LB694 LB724]

TOBY ASPLIN: The Game and Parks has a few sets of inert firearms that can be checked out by instructors. But budgets being what they are and those being in relatively high demand at especially pre-hunting times, many of the instructors, like myself, bring inert firearms or operating firearms, but no live ammunition is allowed in the classrooms. [LB694 LB724]

SENATOR LATHROP: Okay. That's all the questions I have. [LB694 LB724]

SENATOR SEILER: Thank you. [LB694 LB724]

SENATOR LATHROP: Thank you. Anyone else here to testify on either bill in a neutral capacity? Seeing none, we have...Senator Lautenbaugh's office has apparently waived closing. And, Senator Seiler, do you wish to close on your LB694? [LB694 LB724]

SENATOR SEILER: I waive. [LB694 LB724]

SENATOR LATHROP: Senator Seiler waives close on LB694 and that will close our hearing on LB724 and LB694. Have I got that right? Yes, I do. (See also Exhibit 12.) And we'll turn next to LB879 and Senator Christensen. [LB694 LB724]

SENATOR CHRISTENSEN: Thank you, Chairman Lathrop and members of the Natural Resources...(laughter) Judiciary Committee. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District. LB879 amends the Concealed Handgun Permit Act to create a new, advanced-level permit to carry a

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concealed handgun in a school. The current concealed handgun permit would be designated a Level I permit, while the new permit to carry in a school would be designated a Level II permit. The bill gives authority to local governing bodies of a school the freedom to adopt a policy which would allow school employees chosen by the governed body at the school to obtain a new Level II permit to carry a concealed handgun in their school. LB879 requires 24 hours of additional training which includes best practice responses and actions during an active-shooter incident, along with a demonstration of competency during a simulated active-shooter scenario. The minimum standards for new training courses and instructors would be developed by the Nebraska State Patrol. LB879 seeks to provide more options to school-governing bodies while giving them the control in determining who carries in their school. I believe this is a reasonable way to provide options throughout our diverse state as they seek to secure the safety of Nebraska schools' children in their local communities in the best way they see fit. As many of you know, there are parts of our culture where the moral fabric that holds our society together is coming apart. In 2011 we witnessed a troubled student in Millard South take a life, seriously wound another, and take his own life. It was a sad day for Omaha and Nebraska. Fortunately, by God's grace, more staff or students were not hurt. So I introduced LB516 in 2001 to have a discussion about how best to protect students and facilities in Nebraska schools since it was on so many people's minds. As a society, how should we respond to such senseless violence? The way I see it, we usually respond in one of three ways. We either resign ourselves to the idea that this is just the way things are now and do nothing or we crack down by taking freedoms away, which usually affects law-abiding citizens the most, or we give people more freedom to defend themselves. Most of you know that the latter is how I lean. So I've decided to introduce another bill, LB879, which gives the power to the local school boards to decide who will carry in their school, along with more training specific to an active-shooter scenario. I do not want to force guns in schools where folks do not want them. At the same time, I've had discussions with others that wouldn't mind having an option for trained individuals to carry in schools. So I thought that local control, giving the elected body the choice, would allow for the most flexibility to respond to what staff, parents, and communities wished. I have talked to people on both sides of this issue and understand many of their concerns. However, I believe a lot of the concerns could be handled at the local level. If the governing body felt more training was needed in situational tactics or more guidelines were needed to define where and how staff would handle handguns on school property, which could go beyond the requirements in this Concealed Handgun Permit Act, I think that could be looked at to allow governing bodies more flexibility. Utah allows any of their concealed carry holders to carry in public schools. They have allowed this for over a decade and I have not found any school gun incident related to that policy. New Hampshire and Iowa laws is silent regarding the issue. I believe Texas law allows concealed carry on school campuses with written authorization of school board. One school district near Wichita Falls, Texas, has allowed concealed carry by staff since 2008. The Missouri Senate has passed Senate Bill 613, which includes provisions for concealed carry in their schools. I have also spoke with a

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fellow legislator friend from Colorado that sent me language from Colorado statute section 18-12-214, subsection (3), subdivision (b), that says: A permittee who is employed or retained by contract by a school district as a school security officer may carry a concealed handgun onto the real property, or into any improvement erected thereon, of a public elementary, middle, junior high, or high school while the permittee is on duty. I bring these examples up just to bring a little context to the idea of concealed carry in schools. We are not the first to consider this option. Again, I want to emphasize that this bill would provide this option to all educational institutions, from universities to elementary schools, from public to private schools, and it is only an option for the freedom to choose. I would really like to stress this next point: Nebraska schools are vastly different in size, layout, access to law enforcement, ability to afford law enforcement, and the potential threats to students and faculty now and in the future. I think good state policy would allow governing bodies to address safety issues when they are needed and with the greatest flexibility. I really do think it is sad that we have to think about measures like this in our schools. But these are the days we live in. How many schools in Nebraska would use this option? I don't know. I would guess that today a few schools would choose such a policy. However, if a situation arose where a school felt it was needed and it could potentially save lives, I think as a state we should allow that freedom and not tie their hands. Thank you for considering LB879. I would urge its advancement. Just quickly I'd also like to give an example of...in my district, Southern Valley is a school located 8 miles south of Oxford, which has no police enforcement, 12 miles to the east of Beaver City, which is where the sheriffs department is, and Beaver City is probably as close as you're going to get a community to the middle of the county. But if an individual was...that's on duty, which during the days they typically have two on duty, and if none of them was in Beaver City it could almost double the response time. And so I think it's critical when using examples like that one. There's another one in Palisade in my district where it's a small community with no police enforcement. It's 17 miles from Trenton and where of the nearest sheriffs department is, it's 30 miles from Imperial where another county sheriff department and State Patrol is based out of. So when you think about the response times, it could be very concerning when an intruder could come into the school and start shooting and basically no one has the ability to do anything but basically pray and hope that the situation handles itself before law enforcement could get there. And that's why I brought the bill, just as a, I believe, an alternative for schools that don't feel like they can afford to hire police enforcement. You look at schools in my district, there's some of them that may not have more than 120 kids in 13 classes, K-12. So, you know, we are vastly different out there and that's why I think trying to have a single policy for the whole state is not the direction to go. I thank you for your consideration. [LB879]

SENATOR LATHROP: Senator Chambers. [LB879]

SENATOR CHAMBERS: Senator Christensen, I'm just going to ask you a few questions about the bill itself. [LB879]

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SENATOR CHRISTENSEN: Okay. [LB879]

SENATOR CHAMBERS: Would you turn to page 8? And in some instances, this language will be repeated in other parts of the bill so I'm not going to go to every place in the bill where the same language would be. But if you look at lines 13 through 15, it's talking about the governing body being allowed to permit these individuals, whoever they are, to carry guns, but the only requirement is that there be proof of employment at the school. This could be applied to a janitor then, couldn't it? [LB879]

SENATOR CHRISTENSEN: Yes. [LB879]

SENATOR CHAMBERS: Or a groundskeeper? [LB879]

SENATOR CHRISTENSEN: Yes. [LB879]

SENATOR CHAMBERS: Okay. And then if we turn to page...well, let's say pages 10 and 11 because I'm not going to read through all of that. But these are the pages that specify the kind of knowledge a person would have to have, and the training, in order to get the permission to carry a concealed weapon, whether it's in connection with your bill or not. [LB879]

SENATOR CHRISTENSEN: Correct. [LB879]

SENATOR CHAMBERS: Okay. Then there's nothing in here that I see, I'm not talking about your new language on the bottom of the page, that says how many hours of training would be involved right now in getting a permit, so maybe you know that. [LB879]

SENATOR CHRISTENSEN: Eight hours currently. [LB879]

SENATOR CHAMBERS: Okay, eight hours. Then when we come down to your new language, beginning in line 20, we add 24 hours. [LB879]

SENATOR CHRISTENSEN: Correct. [LB879]

SENATOR CHAMBERS: Okay. Then would you turn to the next page, page 12, beginning in line 1--knowledge of strategies and best practice responses used during an active shooter situation. Are you aware that there are police forces, whether state, county, or city, which have special units that respond to things like this? [LB879]

SENATOR CHRISTENSEN: Yes. [LB879]

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SENATOR CHAMBERS: And you think that giving a civilian 8 hours plus 24 hours at the most, 32 hours' training, is going to teach them how to deal with a situation during an active-shooter situation? [LB879]

SENATOR CHRISTENSEN: Senator, I don't know if you've ever took the...I took the basic course before, even though I don't carry a permit. But it was interesting how most of the training was done on how you never use the gun, how you diffuse the situation, how you're not trying to use the gun. That was real impressive to me. And so I have faith in these practices that would be presented because, having gone through the basic eight hours and see how it is structured to try to diffuse the situation rather than use force, I think you'd be impressed with it. [LB879]

SENATOR CHAMBERS: Well, now when...there are three branches of the service--well, maybe more. There's...because Marines, I think, are part of the Navy, but they say, Army, Navy, Air Force. The one deemed at the bottom is the Army. The lowest level you can be in the Army, your MOS, is 111 and that's a rifleman. That was my MOS. We got far more than 32 hours in training in how to use these weapons. And when you talk this about strategies and best practice responses during and active-shooter situation, I don't believe there's any army in the world who would say 24 hours' training and you know how to do all of those things plus effective evacuation plans, knowledge of barricading, and evasion techniques. The only thing you could do there is say like they said in the case of a possible atomic bombing attack: Duck and cover; duck under the desk and, if there's space, run. Is that what that evacuation training would consist of? And it sounds humorous, but I'm...and I'm not expecting you to answer all these. But with this kind of requirement, 24 hours is not going to make a teacher effective in any of this. If you don't have familiarity with a weapon, then you're not going to be calm. One of the first things you learn about a .45 is that it's not accurate. And the reason they use the .45, they used to use a .38 and it might be a .38 special, but when they were in one of those countries, like Thailand or someplace or the Philippines, and there were troops who would rush them. And they would shoot them with the .38 and the bullet would go right through and come out the other end and it had no impact force. And that's why they use the .45, because of the impact, and it would temporarily delay a person. Now a lot of times people get the impression that you can do like you see on television where you can shoot somebody in the hand or shoot them in the leg. And sometimes when you aim at the body mass, if you're too far away, you're not going to hit him. There's not enough groove...lands and grooves to spin the bullet enough to make it go straight. So they're close, almost hand-to-hand-type weapons if you want to kill somebody. Your intent has to be, in my view, when you arm a teacher, is to have that teacher prepared to kill somebody. Isn't that correct? That's what guns are for? [LB879]

SENATOR CHRISTENSEN: Well, it could happen that way, yes. [LB879]

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SENATOR CHAMBERS: And you are intending that these teachers in 24 hours of training develop the mentality it takes in a pressure situation to kill a person? [LB879]

SENATOR CHRISTENSEN: But you've got to remember it's their choice to take the training too. It's not for everybody. [LB879]

SENATOR CHAMBERS: Here's what I'm asking you though, and maybe I need to rephrase it: Do you think an ordinary person not trained in the military, not trained as a cop...and even in those situations sometimes there is a hesitation. You can take a person who is trained in school...I mean, trained to be in a school, to teach children, in 24 hours can be given whatever it takes to kill somebody. You think that can be done? [LB879]

SENATOR CHRISTENSEN: Well, I think it's a little bit like if somebody comes up to attack you with a fist fight or to take you down, you have a natural reactions that take over and you are able to do things that you don't think you could in other times. [LB879]

SENATOR CHAMBERS: You mean like run faster than ordinary? But here...and I'm not going to belabor that because the point I think was made. But in some of these cases where the shootings occurred, I think some teachers were killed. But these teachers voluntarily put themselves in harm's way and were killed. There was one incident and there was a black woman who was an administrator. And she talked this guy out of doing anything and talked the people into letting him come out. Would you rather these people have guns and try to shoot somebody? Remember, if I shoot or the bad person shoots, my bullet will go through a wall, just like his bullet. It'll go through a door. It would hit anybody who might be within the range of that gun and the bullet. You've thought about all these things? [LB879]

SENATOR CHRISTENSEN: I have. And when I think about it, and as I mentioned the training that I was given in the basic eight hours, is about... [LB879]

SENATOR CHAMBERS: You feel now you're an expert in handling this gun that you were trained to use? [LB879]

SENATOR CHRISTENSEN: I'm not going to say I'm an expert, no. [LB879]

SENATOR CHAMBERS: Okay. And I won't go on because I don't want to take a long time. Now the way the bill is drafted, if you look at, oh, turn to page 15. At the bottom of the page it says, starting in line 24, Section 69-2435 is amended to read as follows. Then when we turn the page and we see Section 24...I mean 69-2435, where in there is there any amendment? [LB879]

SENATOR CHRISTENSEN: I don't see one. [LB879]

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SENATOR CHAMBERS: I don't either, and that could have just been Drafting. But I thought maybe there was a change that was not made. [LB879]

SENATOR CHRISTENSEN: No, there...if you read that, it says that in 2012 it was amended to read...if you step back on the bottom of page 15, Section 9, it goes through. It's old language, the "Cumulative Supplement, 2012, is amended to read," so that's language... [LB879]

SENATOR CHAMBERS: That tells you to look at the supplement rather than the bound volume. [LB879]

SENATOR CHRISTENSEN: Um-hum. [LB879]

SENATOR CHAMBERS: And then they give you the section itself as it's found in the supplement. [LB879]

SENATOR CHRISTENSEN: Correct. [LB879]

SENATOR CHAMBERS: And I don't see anything lined through, and I just thought I'd call that to your attention, not for the purpose of disputing, but... [LB879]

SENATOR CHRISTENSEN: I just took that as old language. [LB879]

SENATOR CHAMBERS: Okay, there's something in here, even though it's original language, that I wanted to ask you. Let's start in line 1: A permitholder shall continue to meet the requirements of Section 24...whatever that is, 69-2433--just so it's in the record--during the time he or she holds the permit, except as provided in subsection (4) of another section. If during such time...how is a determination made that the person is remaining able to meet all of these requirements, because I don't see where during the five-year period that the permit covers you're required to go back and take an examination of any kind. So since you took that training, are you required to retest or whatever you do? [LB879]

SENATOR CHRISTENSEN: Not in that five years. [LB879]

SENATOR CHAMBERS: So then there's no way to determine whether the person is continuing to meet those requirements during the five-year period. [LB879]

SENATOR CHRISTENSEN: That would be correct. [LB879]

SENATOR CHAMBERS: And if a person does not continue to meet one or more of the requirements, the permitholder shall return his or her permit to the Nebraska State

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Patrol for revocation. [LB879]

SENATOR CHRISTENSEN: Yes. [LB879]

SENATOR CHAMBERS: So there can't be any revocation because the State Patrol and nobody else has a way of knowing if you're continuing to meet the requirements, and I think that's a fair reading of the statute as it is now. [LB879]

SENATOR CHRISTENSEN: It is. [LB879]

SENATOR CHAMBERS: Okay. And that's not new language. [LB879]

SENATOR CHRISTENSEN: Right. [LB879]

SENATOR CHAMBERS: That's here already. So the reason I'm saying this: People talk about how tightly regulated allowing these people to carry these concealed weapons, how tight the law...the law is not tight at all. It's slipshod; it's careless; it's slapdash. And that's not on you. But I think it's a hoax for the public to have the impression that these people have to show during that five-year period that they meet all of these standards when you never have to go back and you're never tested to see if you meet them during that five-year period. So they ought to just repeal that entire language, then at least we have truth in advertising. Now when we go down to your new language, we maintain the requirement of the five years for which you can be...you get the permit for the five-year period. It sets the fee and so forth. That I'm not interested in while I'm talking to you. But there is something that I'm going to ask you about. I have this marked up so much but I'm not going to ask you about all of them because you're on the committee. But some...one I want in the record. Will you turn to page 23, starting in line 23. If...oh, you're talking about the Level II permit: And if such a person is being allowed to carry the concealed weapon, the school will give written notice of the authorization to students, parents, and guardians. Do you agree that's what the language says, that this notification... [LB879]

SENATOR CHRISTENSEN: Yes. [LB879]

SENATOR CHAMBERS: ...that a person is allowed to carry a concealed weapon in the school, if that happens, then notice will be given to the students, parents, and guardians. Then if you turn to the next page, in line 6, they want to be able to maintain the anonymity of each employee authorized to carry a concealed handgun. That means you keep secret who that person is. [LB879]

SENATOR CHRISTENSEN: Um-hum. Correct. [LB879]

SENATOR CHAMBERS: What good is it giving notice when you don't tell the people

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who the one is that's authorized to carry a gun? So with it being like this, the parents, students, and guardians get notice that somebody is authorized to carry a gun, so here comes a shooter. And this, to everybody else, is the person authorized to carry the gun. Why don't you want people in the school to know who is authorized to carry the gun? [LB879]

SENATOR CHRISTENSEN: My intent there was to not make a target out of the teacher or the employee that was going to have that permit because I believe that having that quiet was the best. [LB879]

SENATOR CHAMBERS: And I understand what you're saying. But don't you set everybody up to not even be suspicious if they see somebody with a gun because they have been told, we've authorized the carrying of a gun in this school? [LB879]

SENATOR CHRISTENSEN: I understand your concern. I hadn't thought about it that direction, I'll be honest, Senator. But I think you're quickly going to realize whether that person is an employee of that school. [LB879]

SENATOR CHAMBERS: Okay. We can talk about this more. [LB879]

SENATOR CHRISTENSEN: Okay. [LB879]

SENATOR CHAMBERS: But that I wanted on the record. [LB879]

SENATOR CHRISTENSEN: Sure. [LB879]

SENATOR CHAMBERS: Okay. That's all that I would have. Thank you. [LB879]

SENATOR CHRISTENSEN: Very good. [LB879]

SENATOR LATHROP: Mark, I'm just going to make this comment: The...we have had and dealt with a large number of concealed carry bills and generally my sense of the statutory scheme is that we allow people to carry a handgun that is concealed on their body, on their person, or perhaps in their purse, and the idea is that we give...it's regulated and the thought is that people carry these weapons for self-protection. And in my judgment this bill does something very different, which is to turn an employee of an organization into some type of a quasi law enforcement person because the goal in the bill isn't so that the teacher can protect themselves. The expectation is that now they're protecting the school. It could be the janitor, so we're going to have the janitor or the guy that mows the lawn or the fellow that tends to the boiler carry a handgun because, if there's trouble, he's the guy we're going to look to. And that strikes me as turning the concealed carry permit process into a quasi law enforcement. And we just...I think it contrasts nicely to Senator Lautenbaugh's bill. We do have certified law enforcement

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officers. And I've taken a lot of depositions of guys who have been through the academy out in Grand Island. They go through so much more training about when they can use it, all the circumstances, and they've been trained to shoot straight. And when we set up this class, my only concern is that we are creating something of a quasi law enforcement person in a school through the concealed carry process. And that doesn't...I mean, you can respond to that if you like. But I think you can appreciate that your bill is trying to create this school ground protector, if you will, and it's not really about the teacher being safe. It's about somebody responding to the fellow that comes. And your point, law enforcement is 13 minutes away or 20 minutes away from a particular school, and that suggests to me that you want this person to be some version of law enforcement until the real cops arrive. [LB879]

SENATOR CHRISTENSEN: Well, I understand your point and your concern. But at the same time, when you're attempting to protect yourself, you protect others. It's no different than in some of the convenience stores that have made the news before when someone come in with a gun and someone else took and shot them. They protected everyone, not just themselves. [LB879]

SENATOR LATHROP: But you've taken the training. And these guys that have come through here over the years, and I've listened to them, they say, what we're supposed to do is get ourselves out of the situation and the gun is there in case we can't. And if you took that literally, the job of the teacher would be slam the door shut on your classroom, pull your gun out, and wait and make sure, not run up and down the hall looking for the guy. And that takes you from a...this is here for your own protection to now you're sort of quasi law enforcement on the school property. [LB879]

SENATOR CHRISTENSEN: Say, I would see that the school would...and I wouldn't want my teacher to leave my kids. That's why I opened it up to school employees, because the teacher needs to stay and make sure the kids stay down. That's probably the safest thing that they can do. And then if they're there and prepared, then if they do come in to shoot, then you can, if it's safe, take a shot; and if not, you don't. It's no worse if you do nothing having the ability to than if you never had the opportunity to. [LB879]

SENATOR LATHROP: Okay. Well, those are my thoughts, anyway, at least as we begin the discussion. [LB879]

SENATOR CHAMBERS: And I'm not going to prolong it. But there was a time when the bobbies in Lincoln, by the way...in London, they got their name because Sir Robert Peel was the guy who trained the cops. And so one of the...you know you call a guy whose name is Robert "Bob" or "Bobby," and that's where it...why they're called bobbies. But they didn't carry guns, and it was almost like an agreement, the gangsters didn't carry guns either. When the bobbies were armed, that's when they started getting shot. So if

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you arm teachers, then the first thing the person has to do is get rid of anybody who may have a gun. So now first thing you do is kill all the teachers. I don't think you're solving a problem, and I'll say again what I said when I was talking to the officer. If we have a problem with malaria, the answer is not to introduce more malaria-carrying mosquitoes. But that's all that I would have. And I will have other things I would discuss with you in greater detail because you're a member of the committee so I don't have to take the time now. [LB879]

SENATOR CHRISTENSEN: Okay. [LB879]

SENATOR LATHROP: Thanks, Mark. The first proponent of LB879. [LB879]

BRYAN VAN DEUN: (Exhibit 6) Chairman Lathrop and committee members, I am Bryan Van Deun, B-r-y-a-n V-a-n D-e-u-n. I'm representing the Nebraska Firearm Owners Association, and we are in support of LB879. In my education career I taught and was an administrator at several colleges and universities and was the chief administrator of a parochial school. Those experiences, including disarming a student of what turned out to be a starter's pistol that was brandished menacingly, plus awareness of the shootings mentioned, many that have been mentioned, and those at Virginia Tech University, Penn State University, and many other institutions, have made me very much aware that signs, such as a "no gun zone," tell those with illegal guns and illegal intent that they can do their wicked work without fear of intervention. In other words, they surmise that law-abiding citizens will not be able to stop them. Police officers may arrive to do body counts and reports but will not be able to halt their actions in a timely manner. While president of Catholic Memorial High School in Waukesha, Wisconsin, I faced two particularly trying types of conditions for our families. One was September 11, 2001, when the information about the scope of the terrorist attacks was not known. The other was when we had reports of stalkers in our neighborhood until they could be contacted and cleared by local law enforcement. It is the duty of a school leader to ensure the well-being of the children entrusted to the institution and their families. The commonsense guidance to state law in this bill to ensure that trust would be to have one or more staff members--administrator, teacher, or a certified volunteer--present with the capability of forcefully stopping a shooter. This would be with the full local control or concurrence of the local governing board. With an abundance of individuals in communities who could be certified or help with the certification, such as former military, off-duty law enforcement, or just good citizens who are teaching with concealed carry training, this would create a comfort level for parents and teachers and administrators that should a perpetrator take harmful action, someone could attempt to stop them at the earliest possible moment. Knowing that the school is no longer a gun-free zone except that we don't want those with the illegal intent to damage would also produce a cautionary measure to those with illegal intent. Having armed and trained individuals available at such institutions, while not a panacea for violence, is the best way to limit the damage of that violence. Please support LB879. [LB879]

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SENATOR LATHROP: Thanks, Bryan. Any questions? I see none today. Thank you for your testimony. [LB879]

BRYAN VAN DEUN: Sure. [LB879]

SENATOR LATHROP: Next proponent. [LB879]

RODNEY MOELLER: (Exhibit 7) Good afternoon. Mr. Chairman, members of the Judiciary, again, my name is Rodney Moeller, R-o-d-n-e-y M-o-e-l-l-e-r. I am representing the Nebraska Firearms Owners Association. As a country, we've mourned the loss of too many children in school shootings. Now is the time to take steps to prevent these tragedies from happening and immediately stop them if they do happen. We examined recent public shootings both in schools and other so-called gun-free zones. The rampages generally are stopped in one of two ways: either when a trained good guy with a gun shoots the armed bad guy; or the armed bad guy gives up and commits suicide once he runs into a trained good guy with a gun. The sooner we can have well-trained good guys with guns respond to stop the armed bad guys, the more children we will save. It's that simple. Since there are so many facets to this and we could discuss it and debate it until the cows come home, I'm having a hard time determining what all I want to discuss today. So I thought I would respond to some of the common arguments that I've heard in the past against this. First of all, I wanted to mention the training. Senator Chambers had mentioned about 24 hours of training above and beyond the 8 hours for a concealed handgun permit that's currently offered. I think that that argument, although it is concerning to think, well, how can you become an expert in anything in 24 hours, I think his argument is based on the premise that somebody is starting from scratch and knows nothing of firearms. We have a lot of Nebraska's citizens who are very qualified individuals. I, too, was in the military, Senator Chambers, and I remember the military arms training I received in basic training--insignificant, minimal, compared to what I've received as a civilian. There are countless amazing opportunities that you would be amazed at how much you can learn in a 40-hour, four-day class. We are blessed here in Nebraska to have some amazing training facilities in...across the state. We have a lot of teachers who are very qualified that are currently concealed handgun permitholders who practice regularly and, I guarantee you because I've seen it, will outshoot most police officers in the state of Nebraska because they're competitive shooters and they shoot tens of thousands of rounds every year. And I do hope that some testimony that I brought from another individual and dropped off at Senator Ashford's officer earlier does get submitted and hope you have an opportunity to read that. Happens to be one of the best...one of the top firearms instructors in the state of Nebraska, is a high school teacher, is a firearms instructor, and I think he brings a very important perspective to this. At this point I'm going to make myself available for any questions. [LB879]

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SENATOR LATHROP: Very good. Any questions for Rod Moeller? Seeing none, thank you for your testimony. We appreciate it. Next proponent of LB879. [LB879]

TYRONE FRIES: (Exhibit 8) Ladies and gentlemen, I'm Tyrone Fries, T-y-r-o-n-e F-r-i-e-s, and I live with my wife Donna at Beaver Lake, south of Plattsmouth, Nebraska. I grew up on a farm west of McCook and hunted with guns. I served my country in the military and spent all of 1967 in Vietnam. I am now 3 years retired from 32 years of the Union Pacific Railroad. Donna, my wife, still substitutes in lower grades in five different school districts. We have three children and four grandchildren. Discussing LB879 to provide for a permit to carry a concealed handgun in school, the Gun-Free School Zones Act of 1990 has now been on the books for 24 years. May I ask, how much good has it done? We have never read...I have never read or heard of any good this has done. But what I have heard and read, the gun-free zones is where most if not all of the mass killings have been done in this country. The bad guys do not obey gun-free zones. Seems like the bad guys know this. There has been many times where a gun was presented and stopped the bad guy, but this does not make the headlines like mass shooting does. I believe that the only way to stop a bad guy is with a gun...is a guy...the only way to stop a bad guy with a gun is a good guy with a gun. I urge you to pass LB879 to help protect our children in our schools. And a few other things: I am honor guard with the VFW, and our rifles are plugs, they can't be shot, and I go to funerals and things. And the reason everybody does not need to know where...who has the guns, because if everybody knows who has the gun, what teacher has the guns, that's the first person they're going to be taking out. Any other questions? [LB879]

SENATOR LATHROP: I do not see any questions from any of the members, so we appreciate your testimony today. Thanks for coming down. [LB879]

TYRONE FRIES: Yeah, this is the first time doing this. I'm a little nervous. [LB879]

SENATOR LATHROP: I was going to say, I don't think we've seen you before. [LB879]

TYRONE FRIES: Yeah. Thanks. [LB879]

SENATOR LATHROP: Thanks for coming down. Anyone else here to testify in support of LB879? [LB879]

WILL CASTNER: Hi. My name is Will Castner, W-i-l-l C-a-s-t-n-e-r, and I am here to testify in support of LB879 for a couple of reasons. Number one, the common argument against LB879 is that students in the school would be able to tell which teachers and administrators have guns. Well, I'm from Sidney, Nebraska, which is Cabela's country, and of the seven executive officers at Cabela's, six of which have concealed carrier's permits, when those six carry their guns with them, you can always...you can often never tell. I would actually say you could always never tell that they have their gun on

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them because they conceal it very well, which I believe the teachers and administrators and other school faculty would do if this bill would pass. Also, when Adam...excuse me if I'm pronouncing names wrong here, but when Adam Lanza shot Sandy Hook in December of 2012, he shot through the doors of the elementary school, and he was confronted by Principal Dawn Hochsprung, school psychologist Mary Sherlach, and teacher Natalie Hammond. He shot two of those and severely injured the third. If at least one of those three school faculty teachers or staff had a gun on them, could the outcome of Sandy Hook been any different? And the...since Sandy Hook, before Sandy Hook, in 2012, there were seven school shootings with Sandy Hook being the last one that year. In 2013 there were 24 school shootings. And in 2014 already there has been 31 school shootings, which suggests that Sandy Hook in late 2012 set off a chain, you could call, of school shootings until now. If Sandy Hook wouldn't have happened due to this bill being passed in the state of Connecticut earlier, then maybe this mass chain of school shootings could...would not have happened. And if we pass this bill now, for all we know, it could easily lead to less school shootings happening in Nebraska. Any questions? Okay, thank you very much. [LB879]

SENATOR LATHROP: Thanks, Will. Anyone else here to testify in favor of LB879? [LB879]

SENATOR SEILER: Thank you for appearing. [LB879]

SENATOR LATHROP: Anyone here in opposition to LB879? [LB879]

JOHN BONAIUTO: Senator Lathrop, members of the committee, John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, representing Nebraska Association of School Boards, Nebraska Council of School Administrators. Senator Christensen and I have had many conversations about this bill and it is his attempt really to have a conversation about something that is as different in his part of the country, his legislative area, that it is experienced in the eastern part of the state. When the two statewide associations had their legislative committees discuss this, it did not take the larger community board members and administrators very long to dismiss this concept. And even those with a different point of view were not comfortable with teachers and administrators carrying guns so. But there is a different point of view on the remote sites when you have buildings that it would take a long period of time for law enforcement to reach. And so we talked about lockdown procedures, talked a lot about how much could be done. But ultimately it came down to, is there a way to deal with this issue if there were trained individuals not carrying guns? And they even got to a point when they were talking about this issue of having a lockbox in...where people wouldn't carry guns but as a last resort there were at least weapons available. Because of the gun-free zone issue, no one came to any conclusion they were comfortable with. But they wanted to make sure that when I testified in opposition that I did convey that there are different points of view from board members and administrators in larger communities in the eastern part of the

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state to those board members and administrators in the western communities that it could take 30 minutes for a law enforcement officer to get to a site. With that I'll conclude my testimony. [LB879]

SENATOR LATHROP: Senator Seiler. [LB879]

SENATOR SEILER: John, is it fair to say that this recent...these recent school shootings, and the last ten years being recent, the building sites are not prepared in our school districts in Nebraska to...for automatic lockdown, automatic lockdown on the outside doors, things like that, that these buildings were built before the concepts of school shootings have come into play? [LB879]

JOHN BONAIUTO: Senator, that is very true and very accurate, that many of our school buildings that even though they try to lock the doors and have limited access, because the office is so far removed from the entrance to the building, they have to have someone sit there just to watch the door. The facilities were never designed to be secure, and so it is a problem. And with the school shootings that have taken place, people are much more concerned because this was something that not only wasn't...it just was never expected to happen in schools. [LB879]

SENATOR SEILER: Thank you. [LB879]

SENATOR LATHROP: I see no other questions. Thanks, John. Anyone else here in opposition to LB879? Good afternoon and welcome to the committee. [LB879]

JAY SEARS: (Exhibit 9) Good afternoon, Senator Lathrop and members of the Judiciary Committee. My name is Jay Sears, J-a-y S-e-a-r-s, and I represent the Nebraska State Education Association and its 28,000 members. NSEA is opposed to LB879. NSEA believes that arming school employees in order to curb school violence is the wrong approach. Instead, we need to have tougher security measures and more trained law enforcement resource officers in schools. Teachers are educators. They are there to nurture critical thinking, to broaden perspective, and to encourage our children to grow intellectually. We do not place teachers in a position of personal response...we should not place teachers in a position of personal responsibility and, by extension, personal liability for armed deterrence of school shootings. LB879 raises a number of important questions. Is the school district going to compensate a teacher for materials, training, and other things involved in carrying a weapon? Will the district provide or secure the training for teachers on the use of force as cities do for police officers who go through weeks of weapon and combat training? Are we going to subject teachers to physicals and psych evaluations, as we do law enforcement officers, in order to make sure they are mentally capable of possession of a handgun in school? What happens if a teacher's stress level changes due to whatever unforeseen circumstances? Certainly the handgun should not be in a holster sitting on the teacher's desk, although, as a

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social studies teacher and a study hall teacher, I always wanted a .45 on my desk, might have gotten some attention. What happens if a child gets ahold of the teacher's gun? How can a handgun be accessible in an emergency situation when the weapon might be secured or locked away? Indeed, is it possible to have a completely secure, locked location in a school setting? If the firearm is in a secure location, would the response time to retrieve the firearm be any faster? Or should firearms be worn by teachers, as the concealed handgun law looks at? We worry that someone might overpower a teacher with a weapon and then we have weapons right there in the classroom that never came in. One last piece: In a study done by Geoffrey Jackman for Pediatrics magazine, 29 groups of 2 to 3 groups of 8- to 12-year-old boys were told to wait for about 15 minutes in a room, and the observers could see them through a one-way mirror. There were two water pistols and one unloaded .38 caliber pistol were hidden in the room. Of those 64 children in the study, 48 found the real gun. Of those 48, 30 children handled the gun and 16 attempted to fire it. One quarter of the children tried to fire the gun, even though most of them had received the warnings prior to entering the room. There's too many questions to follow this piece of legislation. LB879 certainly is not the answer. We should leave carrying deadly weapons in schools up to trained law enforcement professionals. Teachers are trained to teach and that's what they're supposed to do and nothing else. Thank you for the opportunity to testify. [LB879]

SENATOR LATHROP: Thanks, Jay. Any questions for this witness? I see none. Oh, Senator Seiler. [LB879]

JAY SEARS: Senator. [LB879]

SENATOR SEILER: Jay, what bothers me is that to say that this may not happen is kind of whistling in the dark. What can we do before we can work with the building sites and get them more secure? [LB879]

JAY SEARS: That's a good question, Senator. I think after the last rounds of shootings in schools...and we've seen legislation introduced in the last couple of years to help school districts finance the securing of their premises. I know when I started this job 30 years ago I could walk into any school building. That doesn't happen anymore. And I don't carry a weapon and I don't care to. So we need to do some things to secure our buildings. We also are training educators about how to react when there is shooters coming in or there are shooters in the neighborhood or whatever and we're finally developing the tactics and strategies around not just hiding in the classroom also. We're looking at fleeing. Teachers' instincts are to protect students, as you've heard and you've read. Teachers stand in the way of shooters to protect their students. Teachers aren't people who are going to stand in the way and fire at them. [LB879]

SENATOR SEILER: Okay, thank you. [LB879]

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SENATOR LATHROP: I see no other questions. [LB879]

JAY SEARS: Thank you. [LB879]

SENATOR LATHROP: Thanks, Jay. We appreciate your testimony. Anyone else here in opposition, you may come forward and share your thoughts. [LB879]

DAVE HAAR: Good afternoon, Senator Lathrop and members of the committee. I was a classroom... [LB879]

SENATOR LATHROP: Let's start with your name if you don't mind. [LB879]

DAVE HAAR: I'm sorry. I'm Dave Haar, H-a-a-r, from Omaha. I was a classroom teacher for 38 years. I taught one year in the Cleveland Public Schools, three years at Concordia Lutheran High School in Fort Wayne, Indiana, and 30 years at Burke High School in Omaha and three years at Millard West. Senator Kolowski was my principal there. [LB879]

SENATOR SEILER: Sorry about that. (Laughter) [LB879]

DAVE HAAR: He actually was an excellent principal. During the time that...the three years that I taught at Concordia Lutheran High School, from 1965 to '68, I had a very well-mannered, quiet, bright student whose goal was to enter the ministry. One day I was walking down the hall and I walked by his locker and I couldn't believe what my eyes were telling me. His locker was stuffed with guns. And so I walked by and said, hi, Mark (phonetic), how are you? I walked down to the end of the hallway and I ran as fast as I could to the office. Well, he was there to make a presentation for his English class. At that time, I don't think anybody in the building perceived that to be a threat. When it came to Burke, we initially did not have any security. And by the way, Burke has more doors than any building that I've ever been in, and it's a very difficult building to secure. We eventually got unarmed security guards. The last year I was there we had a police officer in the building. At Millard West, all three years that I was there, the Douglas County Sheriff was present or a deputy was present. I think when you're talking about arming people, especially teachers, you're talking about a perception. And I'm not going to try to give this any quantitative analysis, but a person with a gun I think is going to be viewed much, much differently from, let's say, an unarmed security guard to a teacher. And I think that's absolutely important. I think if teachers were given weapons, students would know very, very quickly who those teachers were. And I have to tell you, if we could look at the number of fights in schools, as compared to school shootings, the numbers would be exponential. These young kids don't have the frontal lobe development that they will have later in life, and their tempers flare sometimes over nothing. And I've seen teachers jump in and try to break up those fights; in fact,

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sometimes the...I saw a couple of fights where teachers went down on the floor. If those teachers had been armed, how easy would it have been for a student to have reached under this teacher's shirt and pull a gun out and use it if he or she thought that was necessary? [LB879]

SENATOR LATHROP: Thanks, Mr. Haar. We've got the red light and so we're going to have to see if people have questions for you. [LB879]

DAVE HAAR: I'm sorry. Thank you. [LB879]

SENATOR LATHROP: But we appreciate your testimony and taking the time to come down here today and share the experiences that you've had. [LB879]

DAVE HAAR: Thank you. [LB879]

SENATOR LATHROP: Thank you. Anyone else here to testify in opposition to LB879? Seeing none, anyone here in a neutral capacity? [LB879]

TOBY ASPLIN: Senator Lathrop, committee members, Toby Asplin again, T-o-b-y A-s-p-l-i-n. And I would just like to address a number of items that have come up that I think may be either factually inaccurate or perhaps a misunderstanding, the first of which is Senator Chambers' mention of a 24-hour maximum training. Actually, as I look at Senator Christensen's bill, it is a 24-hour minimum. And I believe what Senator Christensen said as he opened up the discussion of this bill was that the local authority, being the school district, would have the ability to require additional training, so perhaps to allay some of the fears that you have, Senator Chambers, about a maximum number of hours of training. The second thing is it was mentioned that we're essentially training people to kill. And I know Senator Christensen mentioned it several times about the eight hours of training that he has taken for concealed carry. And the emphasis in concealed carry training, and one would hope in this training as well, is not to kill but to stop a threat. We're not looking to train killers. We're looking to train people to protect our children and stop the threats that we unfortunately have to face as parents in today's society. A third thing is that we might have targeting of teachers. This has been mentioned several times. I think the bill addresses this through its privacy clause, which I believe was brought up as a potential negative, and so it's addressed. We're keeping this private. Somehow word may slip out. We have in excess of 14 years of history in the state of Utah with no limitation on concealed carry for licensed adults that tells us exactly the opposite. There has not been a single incident with a concealed carry holder being taken advantage of or attacked in a school system and overpowered. So I think those may be concerns but I don't think they're well-founded concerns. We have considerable history, not just in the state of Utah but in a number of other states, that suggests quite the opposite. And finally, as a parent who spends countless hours volunteering at my own son's school, I think there's one thing that we have to

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remember, is that people in authority, whether they be teachers, whether they be parents who are assisting or volunteering, those people in times of trouble are going to be looked to and they will have to react one way or another. They may cover the children with their bodies. They may choose to fight. And this would simply level the playing field if there was an attacker with a firearm. Any questions? [LB879]

SENATOR LATHROP: Senator Chambers. [LB879]

SENATOR CHAMBERS: Since you referenced me by name, show me anywhere in the proposed legislation where anything more than 24 hours is required by this law. [LB879]

TOBY ASPLIN: Twenty-four hours per the minimum per the bill's language. [LB879]

SENATOR CHAMBERS: That is the maximum required by this law. [LB879]

TOBY ASPLIN: It's the minimum. [LB879]

SENATOR CHAMBERS: If you take 24 hours, what more is required by the law? [LB879]

TOBY ASPLIN: At that point, nothing more is required by law. [LB879]

SENATOR CHAMBERS: Say it again. [LB879]

TOBY ASPLIN: At that point, nothing more is required by law. [LB879]

SENATOR CHAMBERS: Right. That's what I said. I know what I say and I pick my language. I read the bill. [LB879]

TOBY ASPLIN: Um-hum. [LB879]

SENATOR CHAMBERS: It said 24 hours and that's the maximum required by the law. I'm talking about the law. Now you know a lot about guns because you're from Utah and you said everybody can have a gun without regulation. [LB879]

TOBY ASPLIN: I'm from Nebraska but... [LB879]

SENATOR CHAMBERS: Why give somebody...is a gun a lethal weapon? [LB879]

TOBY ASPLIN: It can be. [LB879]

SENATOR CHAMBERS: If you're going to use it to stop somebody, how do you use that gun? How is it anticipated that you will use that gun to stop somebody? [LB879]

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TOBY ASPLIN: If no other options exist at that point, if someone is firing on me, my intention is to stop that threat in whatever way possible. If that means utilizing the gun,... [LB879]

SENATOR CHAMBERS: And if it's a lethal weapon, what does "lethal" mean? [LB879]

TOBY ASPLIN: It means that it has the ability to kill. [LB879]

SENATOR CHAMBERS: And that's what... [LB879]

TOBY ASPLIN: But the gun has no ability on its own. [LB879]

SENATOR CHAMBERS: That's what the purpose of giving somebody a lethal weapon is for. It's for the purpose of killing. [LB879]

TOBY ASPLIN: It's to meet force with force and neutralize the threat. [LB879]

SENATOR CHAMBERS: I don't have anything else. [LB879]

SENATOR LATHROP: Senator Seiler. [LB879]

SENATOR SEILER: There's a couple concepts that really bother me about this. One is, is we're seeing suicide by cop, and that's running through some of the underpinnings of this preparation. [LB879]

TOBY ASPLIN: Absolutely. [LB879]

SENATOR SEILER: The other is...would be suicide by one of the teachers. And it appears...I'm wondering if we just push the problem from the person that's dead to the person that shot that student because shooting someone leaves tremendous effects. [LB879]

TOBY ASPLIN: Absolutely. [LB879]

SENATOR SEILER: Anybody that's been in the military knows that. And it...I'm wondering how we really are curing the problem. I...we may stop a slaughter or something like that. But I think the devastating effects I don't think we've addressed that yet. [LB879]

TOBY ASPLIN: Yeah. I see this not as a preventative measure but as a reactive measure. [LB879]

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SENATOR SEILER: I agree. Thank you. [LB879]

SENATOR LATHROP: Senator Coash. [LB879]

SENATOR COASH: Thank you, Senator Lathrop. Mr. Asplin, do you support LB879? [LB879]

TOBY ASPLIN: I'm neutral on it. You know, I do not...as a firearm owner myself, I do not support legislation that limits my Second Amendment rights. But on the flip side, there are many considerations, not the least of which is the emotional impact of someone who may be put in a situation where they have to shoot someone. [LB879]

SENATOR COASH: Okay. You're representing the Nebraska Firearms...NFOA. [LB879]

TOBY ASPLIN: I am a member of their board of directors, but I'm testifying neutral to this bill. [LB879]

SENATOR COASH: Okay, because we had Mr. Moeller come up earlier in support. [LB879]

TOBY ASPLIN: Um-hum. [LB879]

SENATOR COASH: You came up in a neutral testimony from...representing the same organization under a neutral capacity. [LB879]

TOBY ASPLIN: Correct. [LB879]

SENATOR COASH: Didn't sound neutral. I mean, it sounds like you'd like this bill. And it...I've got a problem with that, I'm just going to tell you,... [LB879]

TOBY ASPLIN: Um-hum. [LB879]

SENATOR COASH: ...because the NFOA needs to decide if they support it or not. We heard that they did. Now we hear that they're neutral. [LB879]

TOBY ASPLIN: This is my personal testimony, not the NFOA's. [LB879]

SENATOR COASH: Okay, well, your testifier sheet indicates that you're representing the NFOA with your testimony. [LB879]

TOBY ASPLIN: Yes. [LB879]

SENATOR COASH: Okay. And it didn't sound neutral. It sounded like you wanted to

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respond so you came up neutral, and I just want the record to reflect that's what we see. And this...and if there were a committee statement, NFOA, if we were to take this at the word by which it was submitted to us, would be supporting and neutral. So I think that's problematic. That's a procedural thing. Thank you. [LB879]

TOBY ASPLIN: Understood. [LB879]

SENATOR LATHROP: I think that's it. [LB879]

TOBY ASPLIN: All right. [LB879]

SENATOR LATHROP: Thank you very much for your testimony. [LB879]

TOBY ASPLIN: Thank you. [LB879]

SENATOR LATHROP: Anyone else here in a neutral capacity? Seeing none, Senator Christensen to close. He waives closing. That will close our hearing on LB879 and bring us to the last bill of the year, the last bill that I'll listen to in committee, LB1030, Senator Kintner. (See also Exhibit 12.) [LB879]

SENATOR DAVIS: Want us to buy you a drink when you're done? [LB1030]

SENATOR LATHROP: We need to. We may need one. (Laughter) [LB1030]

SENATOR KINTNER: (Exhibit 10) I almost brought my own chair over, it's more comfortable, but I think we'll make it. Well, good afternoon, committee. I'm Senator Bill Kintner, B-i-l-l K-i-n-t-n-e-r, and I represent Legislative District 2. This is a bill, LB1030, that is important to my constituents and I believe for all Nebraska. The intent of LB1030 is twofold. First, LB1030 will protect law-abiding Nebraskans from having to potentially deal with an entangled web of gun restrictions that could be passed by localities in our state. This is done by prohibiting local governments from enacting ordinances, resolutions, or performing any official act restricting the use of firearms to a greater extent than state law. Additionally, LB1030 would ensure that Nebraska citizens who lawfully possess or control a firearm continue to enjoy the right to own firearms and their accessories free from unconstitutional federal restrictions. The National Association for Gun Rights and their state affiliate, the Nebraska Gun Rights, have endorsed LB1030. Similar legislation has been introduced in at least 29 states, including South Dakota and Missouri. It's been signed into law in Kansas and Alaska. The goal of this legislation is to protect the Second Amendment rights of law-abiding Nebraskans from overreach of federal and local governments that want to enact local laws that are more restrictive than what we enact in the Legislature. The Nebraska Constitution states that, "All persons are by nature free and independent, have certain inherent and inalienable rights." Among these are, "the right to keep and bear arms for security or defense of

self, family, home, and others, and for unlawful common defense, hunting, recreational use, and all other lawful purposes, and such rights shall not be denied or infringed." Some claim that LB1030 conflicts with the supremacy clause of the U.S. Constitution. I believe that criticism is mistaken. The supremacy clause of the U.S. Constitution states that, "This Constitution, and the laws of the United States which shall be made in pursuance thereof...shall be the supreme law of the land." The Constitution enumerates powers document granting a few specific powers to the federal government and withholding all others. And to quote the Tenth Amendment, "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." In other words, the federal government is solely...the federal government is only supreme in powers specifically enumerated in the Constitution, and the states are supreme in all other matters. For far too long, for all the wrong reasons, state governments have done nothing to stop the encroachment of the federal government on their sovereign power. Our federal system of government only works because of the elaborate system of checks and balances inherent in our nation's founding documents. Just as the branches of the federal government are meant to check and balance the powers of each other, as well as the power of the states, so too are the state governments meant to check the powers of the federal government, and this is done when they interject between unconstitutional federal laws and the people of their state whose rights they are sworn to protect. Revolutionary War hero and Founding Father Jonathan Trumbull believed that it is the duty of the state government to defend the rights of the people from the unconstitutional laws of the federal government. The state legislatures of Kentucky and Virginia both resolved that the federal Alien and Sedition Act of 1798, which was intended to quell political opposition and silence dissent was unconstitutional, and therefore null and void. Seven northern states enacted personal liberty laws which were intended to undermine the enforcement of the federal Fugitive Slave Act of 1850 by forbidding state officials from complying with federal agents seeking to arrest fugitive slaves to return them to their masters in the South; and in some instances, made it a crime for anyone who participated in what was nothing more than a kidnapping of fugitive slaves. These states respectfully disagreed with the U.S. Supreme Court and ruled that African-Americans were not persons and took a stand to defend them from an overreaching federal government. As members of the Nebraska Legislature, we swore an oath to uphold the Nebraska Constitution as well as the Constitution of the United States. In doing so, we swore to protect the rights of the people of this state from those who would do them harm, whether it would be domestic or foreign. It was clear to our Founding Fathers that the federal government would not police itself but it would require the sovereign states to check the power of the federal government just as the federal government is to act as a check against the power of the states. Nowhere does the Constitution give the federal government power to regulate the right of the people to keep and bear arms. And just to be sure we got that message, the Founding Fathers added the Second Amendment guaranteeing that right to not be infringed. I believe it's our sacred duty to defend the Second Amendment rights of every Nebraskan, ensuring they are not violated at the whim of an

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overreaching federal government. It's also our duty to ensure that no Nebraskan is entrapped by a web of local antigun ordinances. I urge the support of LB1030. I'm happy to answer any questions that members of the committee may have. [LB1030]

SENATOR LATHROP: Let's start with Senator Coash and then Senator Chambers. [LB1030]

SENATOR COASH: Thank you, Senator Lathrop. Senator Kintner, I just want to play this out should this become law, and just to see if you see it the same way I do. Say you've got a city councilmember, or if the city council is a group, enacts a law that is more restrictive than a state law. And that's what you're trying to prevent here, right? [LB1030]

SENATOR KINTNER: Correct. [LB1030]

SENATOR COASH: Your bill makes them a...would make the city councilmembers felons? [LB1030]

SENATOR KINTNER: Yes. [LB1030]

SENATOR COASH: And they could go to jail? [LB1030]

SENATOR KINTNER: They... [LB1030]

SENATOR COASH: A Class IV felony has a potential five-year sentence. Would that be your intent? I mean, if...I'll let you talk about your own bill. [LB1030]

SENATOR KINTNER: Well, yeah, it... [LB1030]

SENATOR COASH: I mean, that's a pretty hefty penalty for a city councilmember. [LB1030]

SENATOR KINTNER: It would be a Class IV felony and they'd be barred from holding office. Yes. [LB1030]

SENATOR COASH: Okay. But if they're convicted, the judge can say, up to five years in prison. [LB1030]

SENATOR KINTNER: Up to. Yeah. [LB1030]

SENATOR COASH: Okay. And that would be your intent? That would be... [LB1030]

SENATOR KINTNER: Yes. [LB1030]

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SENATOR COASH: Okay. All right. [LB1030]

SENATOR KINTNER: Yes. Don't mess with our rights is the message that we're being...sending here. [LB1030]

SENATOR COASH: I think you'd send that message. I don't know...okay. (Laugh) [LB1030]

SENATOR KINTNER: Well, you've got to start somewhere and I thought that would send a strong message. [LB1030]

SENATOR COASH: Okay. [LB1030]

SENATOR KINTNER: If we're going to do it, then send a strong one. [LB1030]

SENATOR LATHROP: Senator Chambers, you're recognized. [LB1030]

SENATOR CHAMBERS: Senator Kintner, who asked you to offer this bill? [LB1030]

SENATOR KINTNER: The National Association for Gun Rights and their state affiliate Nebraska Gun Rights. [LB1030]

SENATOR CHAMBERS: Now, did you read this bill? [LB1030]

SENATOR KINTNER: Yes, I read it, and we rewrote it and we worked on it and we worked on it and we worked on it. [LB1030]

SENATOR CHAMBERS: But you're familiar with what it says. [LB1030]

SENATOR KINTNER: I think I'm reasonably familiar with it, yes. [LB1030]

SENATOR CHAMBERS: Okay. Do you have a copy of it before you...or...? [LB1030]

SENATOR KINTNER: It's right here in front of me. [LB1030]

SENATOR CHAMBERS: Yes. Okay. Now I'm going to go through it and see what your thinking is on some of these matters. [LB1030]

SENATOR KINTNER: Okay. [LB1030]

SENATOR CHAMBERS: And I will go to what Senator Coash touched on, which would be page 2 of the bill, and it starts in line 12. [LB1030]

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SENATOR KINTNER: Okay. [LB1030]

SENATOR CHAMBERS: "Any agent, employee, or person acting under the authority of any governmental entity that violates this subsection." Now when it says "any agent," are they talking about the city council or the county board that would enact an ordinance which is what the city council does, or a resolution, which is a county board does? Does this refer to the members of the county board and the city council? [LB1030]

SENATOR KINTNER: Anybody. Them and anyone acting on their behalf. [LB1030]

SENATOR CHAMBERS: Now how is somebody going to...if not a member of the city council, how is that person going to have any ability to enact anything that goes beyond what the state law does? Only the city council and the county board would be able to do that. Do you agree with that? [LB1030]

SENATOR KINTNER: I think so. [LB1030]

SENATOR CHAMBERS: Right. So this talk of "agent, employee, or person acting under the authority of any governmental entity," that's surplusage. It means nothing. Under the law of Nebraska... [LB1030]

SENATOR KINTNER: Just making sure we've got it all covered. [LB1030]

SENATOR CHAMBERS: Did you take civics when you went to high school, where you study government? [LB1030]

SENATOR KINTNER: Some. Not very much. [LB1030]

SENATOR CHAMBERS: And I know you're not a lawyer so I'm not going to ask technical...I'm not going to use technical language like that. [LB1030]

SENATOR KINTNER: Okay. [LB1030]

SENATOR CHAMBERS: You agree, I think, that when you took an oath, you took an oath to uphold the Constitution of the United States and the state of Nebraska. [LB1030]

SENATOR KINTNER: Yes. [LB1030]

SENATOR CHAMBERS: Are you aware that under the Constitution of the state of Nebraska no members of a governing body can be called to answer any place for anything he or she says or does in discharging his or her duties? Did you know that this... [LB1030]

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SENATOR KINTNER: No, I am not. [LB1030]

SENATOR CHAMBERS: ...this would violate the Constitution of Nebraska to try to convict a member of the city council or county board for any enactment or anything he or she said. That violates the Nebraska Constitution. The people who asked you to bring this don't know the Constitution. They don't know the law. So they had you bring something that would violate the Constitution that you swore to uphold. I'm not even getting to the federal Constitution yet. Now let's look at that. If you say, as you do in this language, that any person who would violate this talk about enacting something that is more strict than the state law, you have to be talking about an enactment by the city council or an enactment by the county board. Do you agree with that? [LB1030]

SENATOR KINTNER: Yes. An ordinance, a resolution, all that. Yes. [LB1030]

SENATOR CHAMBERS: Okay. Now in order for it to be a felony, who is going to press a charge...who is going to charge a member of the city council or the county board with a felony for having enacted a resolution or an ordinance? Who's going to bring that charge? Only the county attorney in Douglas County can charge somebody with a felony. Do you think the Douglas County Attorney would charge the members of the Omaha City Council with a felony for any ordinance that they enact? [LB1030]

SENATOR KINTNER: Well, it depends if he wants to...if he is going to do his job or not. If he's going to uphold the laws of the state, he'll do his job. [LB1030]

SENATOR CHAMBERS: Do you think he...? Here's what I'm asking you: Do you think the county attorney would charge the members of the city council with a felony for enacting an ordinance of any kind? [LB1030]

SENATOR KINTNER: You know, I've never met him and I don't know him,... [LB1030]

SENATOR CHAMBERS: Well, the people who brought this... [LB1030]

SENATOR KINTNER: ...but I would guess he would do his job. [LB1030]

SENATOR CHAMBERS: The people who fashioned this language, you just took what they gave. They're stupid. This bill ought to be called the loosey-goosey looney-tune utterly asinine piece of legislation. No county attorney is going to charge a member of the city council with a felony. I know that, as somebody trained in the law, if you don't. Now let's go a little further. Any firearm, accessory, ammunition, and so forth. [LB1030]

SENATOR KINTNER: You're in line 17 now, right? [LB1030]

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SENATOR CHAMBERS: Yes. [LB1030]

SENATOR KINTNER: Okay. [LB1030]

SENATOR CHAMBERS: So you're familiar with that. None of that would be subject to any federal enactment or federal enforcement action. That's what it says, doesn't it? [LB1030]

SENATOR KINTNER: That's correct. [LB1030]

SENATOR CHAMBERS: That means that if the federal government enacted a law, nobody in Nebraska would have to obey it. That's what this is saying, right? [LB1030]

SENATOR KINTNER: Well, it says that we would not enforce that law. [LB1030]

SENATOR CHAMBERS: You're saying that nobody would have to obey it. Isn't that what you're saying? [LB1030]

SENATOR KINTNER: Well, nobody in our state would enforce that law. [LB1030]

SENATOR CHAMBERS: Nobody would have to obey that law, isn't that what you're saying? [LB1030]

SENATOR KINTNER: Because that law would not have any...it wouldn't have any standing in our state. [LB1030]

SENATOR CHAMBERS: So that means it's not our law in Nebraska, correct? [LB1030]

SENATOR KINTNER: So that we... [LB1030]

SENATOR CHAMBERS: So you're saying a person doesn't have to obey a federal law, with this language, aren't you? [LB1030]

SENATOR KINTNER: Well, I think the way it's termed is they wouldn't be...we wouldn't prosecute it or do anything to uphold the federal law in our state. [LB1030]

SENATOR CHAMBERS: So that means you don't have to obey it. Isn't that true? If you have to obey it, then this language means nothing at all. [LB1030]

SENATOR KINTNER: Well, I wouldn't obey it. [LB1030]

SENATOR CHAMBERS: Say it again? [LB1030]

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SENATOR KINTNER: I wouldn't obey it. [LB1030]

SENATOR CHAMBERS: And if the federal government was going to bring a charge against you for a violation of a federal law, the U.S. Attorney charges you with violation of a federal law. [LB1030]

SENATOR KINTNER: Right. [LB1030]

SENATOR CHAMBERS: Then they would bring a charge against you in federal court. [LB1030]

SENATOR KINTNER: Right. [LB1030]

SENATOR CHAMBERS: And if you were convicted, you'd be sentenced to jail. [LB1030]

SENATOR KINTNER: And they wouldn't get any help from the state. We... [LB1030]

SENATOR CHAMBERS: They don't need any help. If the fed... [LB1030]

SENATOR KINTNER: ...wouldn't assist them. They would have to do it on their own and... [LB1030]

SENATOR CHAMBERS: And they can do that. Well, let me go back. Are you aware that the U.S. Attorney can charge a person with a crime for violating a federal law? Are you aware of that? [LB1030]

SENATOR KINTNER: Sure. [LB1030]

SENATOR CHAMBERS: And do you...are you aware that they don't ask the Omaha Police to arrest you if you're charged with a federal offense? The state and the local law enforcement has nothing to do with that. So you would agree that the federal government could arrest you, charge you, try you, convict you, and send you to jail for violating a federal law. You know that, don't you? [LB1030]

SENATOR KINTNER: And they would do it on their own, but it would be like Colorado... [LB1030]

SENATOR CHAMBERS: I'm not talking about that. [LB1030]

SENATOR KINTNER: ...like with marijuana. [LB1030]

SENATOR CHAMBERS: You know that what... [LB1030]

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SENATOR KINTNER: It's just like they're prosecuting these people in Colorado. [LB1030]

SENATOR CHAMBERS: You know what I'm saying is true, don't you? [LB1030]

SENATOR KINTNER: Sure, they can do anything they want,... [LB1030]

SENATOR CHAMBERS: Okay. Now let's go a bit further. [LB1030]

SENATOR KINTNER: ...but not going to help them do it. [LB1030]

SENATOR CHAMBERS: They're not going to ask you to help them. They'll send their agents to arrest you. Now let's go down here in line... [LB1030]

SENATOR KINTNER: They don't have enough jails to arrest 25,000 people in our state. [LB1030]

SENATOR CHAMBERS: Let's go down...well, there aren't 25,000 fools in Nebraska. There are not 25,000 stupid people in Nebraska who think they can violate a federal law with impunity. Now you might have a little clique of crazy people--and there might be, because there's some of those out in the northwest part of the country--that when they violate a federal law the federal agents take care of them. And the state law enforcement has acted against them too. But let's go on. "No person shall knowingly enforce or attempt to enforce any federal enactment or to further or assist any federal enforcement action." It says "no person." That applies to federal agents, too, doesn't it? [LB1030]

SENATOR KINTNER: No person in our state can do that. Yes. [LB1030]

SENATOR CHAMBERS: No, that's not what it says. It says "no person." Federal agents are persons, aren't they? [LB1030]

SENATOR KINTNER: Yeah. [LB1030]

SENATOR CHAMBERS: So this would cover them. [LB1030]

SENATOR KINTNER: Correct. [LB1030]

SENATOR CHAMBERS: "No person shall knowingly enforce or attempt to enforce." So when the federal agent comes to take you away, then you say that they're guilty of a misdemeanor for the first time they try to do it, and if they try to do it again they're guilty of a Class IV felony. So who's going to arrest these federal agents when they come to

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enforce this law? [LB1030]

SENATOR KINTNER: I would say any law enforcement person. [LB1030]

SENATOR CHAMBERS: Huh? [LB1030]

SENATOR KINTNER: Any... [LB1030]

SENATOR CHAMBERS: Who? [LB1030]

SENATOR KINTNER: Any law enforcement person could do that. [LB1030]

SENATOR CHAMBERS: What law enforcement? [LB1030]

SENATOR KINTNER: Anyone. [LB1030]

SENATOR CHAMBERS: Who? [LB1030]

SENATOR KINTNER: Anyone. Any law enforcement person in our state. This is state law. So if they were upholding the state law, anyone who is sworn to uphold the state law would uphold the state law. [LB1030]

SENATOR CHAMBERS: But they're sworn to uphold the U.S. Constitution, and they're not stupid like those who gave you this piece of trash. [LB1030]

SENATOR KINTNER: Well, no, they're not sworn to uphold... [LB1030]

SENATOR CHAMBERS: This... [LB1030]

SENATOR KINTNER: ...acts that are... [LB1030]

SENATOR CHAMBERS: ...piece... [LB1030]

SENATOR KINTNER: ...constitutionally... [LB1030]

SENATOR CHAMBERS: ...of trash. [LB1030]

SENATOR KINTNER: ...illegal. [LB1030]

SENATOR CHAMBERS: Let's continue. You brought it. You let them suck...you've been misled. You've been had. You've been took. You've been bamboozled. But let's take it with what they gave you, these geniuses. Now, who would arrest the federal agent? Would it be the State Patrol? [LB1030]

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SENATOR KINTNER: They could. [LB1030]

SENATOR CHAMBERS: Do you think that they would act under this? [LB1030]

SENATOR KINTNER: They could. Well, they would be charged to, because they're going uphold our states laws. And a local sheriff could do it; and a city policeman could do it. [LB1030]

SENATOR CHAMBERS: Do you think this piece of trash would be upheld? Do you think the head of the State Patrol would tell us...well, before I get ahead of myself, here are some of those who are coming to enforce this federal law: U.S. Marshals. Who's going to arrest the U.S. Marshals? [LB1030]

SENATOR KINTNER: Well, I think the marshals would probably go to Alaska and Kansas first, since they've got more...they've already done it. They're ahead of us. [LB1030]

SENATOR CHAMBERS: I'm talking about what you... [LB1030]

SENATOR KINTNER: They'd start there. [LB1030]

SENATOR CHAMBERS: Do you live in Nebraska or do you live in Kansas? [LB1030]

SENATOR KINTNER: I'm not going to answer that. You know the answer to that, come on. [LB1030]

SENATOR CHAMBERS: Then why do you bring up Kansas? This is your bill. Your aide is even laughing at you. [LB1030]

SENATOR KINTNER: Because they would be arresting an awful lot of people. There's not enough federal agents to do it. [LB1030]

SENATOR CHAMBERS: Your aide is even laughing at you. So you've got this federal law that's not going to be enforced, and so the federal...the U.S. Marshals come to enforce that law. Who's going to arrest the federal marshals for enforcing a federal law? [LB1030]

SENATOR KINTNER: Whatever jurisdiction steps in to say you can't do it in our state. [LB1030]

SENATOR CHAMBERS: Which one would do it? [LB1030]

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SENATOR KINTNER: I don't know. It could be the county, the city, or the state.
[LB1030]

SENATOR CHAMBERS: Do you think a sheriff would do it? [LB1030]

SENATOR KINTNER: Yes. [LB1030]

SENATOR CHAMBERS: Are you aware that federal agents have arrested local law enforcement officers, state troopers, and deputies in various states? Are you aware that that has happened? [LB1030]

SENATOR KINTNER: No. [LB1030]

SENATOR CHAMBERS: Okay. So your lack of knowledge doesn't mean it hasn't happened. Well, do you think the National Guard could be called to arrest these federal agents... [LB1030]

SENATOR KINTNER: No. [LB1030]

SENATOR CHAMBERS: ...and stop them from...? Why couldn't they be called?
[LB1030]

SENATOR KINTNER: Because they don't enforce regular state laws. They're...that's not what they do. They're military. [LB1030]

SENATOR CHAMBERS: And are you aware that the National Guard can be federalized and become...and come directly under the control of the federal government? Are you aware of that? [LB1030]

SENATOR KINTNER: Yes, I am. [LB1030]

SENATOR CHAMBERS: So if the National Guard were federalized by the federal government as the National Guard had been done in southern states, and when local law enforcement people tried to go against what a federal court ordered, they were arrested by National Guardsmen. So the National Guard is federalized. The State Patrol is not going to stand against them. The county sheriff is not going to stand against them. The local police are not going to stand against them. So they can't handle the National Guard. I'm asking you these questions which you can answer yes or no, because it's your bill, and these geniuses who wrote it I'm sure told you the answers. Will U.S. Marshals be arrested by state law enforcement personnel if they're trying to enforce this law? And you said if they did it, they're guilty of a crime. [LB1030]

SENATOR KINTNER: Senator Chambers, here's what would happen. Yes, they could.

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They would. [LB1030]

SENATOR CHAMBERS: Okay, you answered yes. [LB1030]

SENATOR KINTNER: Okay. [LB1030]

SENATOR CHAMBERS: Let's go on. How about representatives from Homeland Security? Would they be arrested? [LB1030]

SENATOR KINTNER: If they violated our laws; sure. [LB1030]

SENATOR CHAMBERS: Okay. [LB1030]

SENATOR KINTNER: You know, by the way, if they speed in our state we're going to arrest them too. [LB1030]

SENATOR CHAMBERS: Okay. Now the FBI agents, would they be arrested? [LB1030]

SENATOR KINTNER: I guess if they violated our laws, yeah. [LB1030]

SENATOR CHAMBERS: And they carry guns. [LB1030]

SENATOR KINTNER: You know, if there's...if an FBI agent beats his wife, we're going to arrest him and we're going to throw him in jail. [LB1030]

SENATOR CHAMBERS: No, we're not talking about that. Stick with your law. This is what you're bringing. You're not talking about child abuse, wife abuse, or domestic violence. You're talking about arresting people who try to... [LB1030]

SENATOR KINTNER: That is germane to what we're talking about. [LB1030]

SENATOR CHAMBERS: Wait a minute. Your law says anybody who tries to enforce a federal law is guilty of a crime, and that violator is to be arrested. And we're just going through the list of those that under your law will be arrested, to show how ridiculous a position these people who brought this trash put you in. Now we're down to the FBI. Are you aware that FBI agents are armed? [LB1030]

SENATOR KINTNER: Yes. [LB1030]

SENATOR CHAMBERS: Are you aware that they can have automatic weapons? [LB1030]

SENATOR KINTNER: Yes. [LB1030]

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SENATOR CHAMBERS: And these FBI agents would be arrested by state or local law enforcement people in Nebraska. [LB1030]

SENATOR KINTNER: Just like if they violate our traffic laws. [LB1030]

SENATOR CHAMBERS: That's your contention. [LB1030]

SENATOR KINTNER: Yes. Just like if they violate our traffic laws. [LB1030]

SENATOR CHAMBERS: Have you heard of the Bureau of Alcohol, Tobacco, Firearms, and Explosives? [LB1030]

SENATOR KINTNER: Did you just add the explosives to it? [LB1030]

SENATOR CHAMBERS: The federal...it's a federal agency. [LB1030]

SENATOR KINTNER: Yes. [LB1030]

SENATOR CHAMBERS: Alcohol, tobacco, firearms, and explosives. [LB1030]

SENATOR KINTNER: Tobacco, firearms. And explosives? Really? [LB1030]

SENATOR CHAMBERS: That's their name. [LB1030]

SENATOR KINTNER: Okay. [LB1030]

SENATOR CHAMBERS: Would they be arrested also? [LB1030]

SENATOR KINTNER: Yeah. Just like if they broke any other law. [LB1030]

SENATOR CHAMBERS: Okay. Now if the Secret Service were called in--and they are armed--would they be arrested also? [LB1030]

SENATOR KINTNER: Yeah, just like if they broke any other law. Yes. [LB1030]

SENATOR CHAMBERS: Now since you have all of these...you put all...I don't know where you would jail all these people. But you've jailed the U.S. Marshals, Homeland Security, the FBI, ATF, the Secret Service, which would put this state in rebellion and they'd bring in the U.S. military. Will the soldiers be arrested? [LB1030]

SENATOR KINTNER: The soldiers cannot take action against Americans on American soil. [LB1030]

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SENATOR CHAMBERS: Are you aware of the fact that the paratroopers were sent into the South to enforce the law when it came to school segregation? And anybody who would have tried to cross their lines would have been arrested? [LB1030]

SENATOR KINTNER: I believe that was National Guard. [LB1030]

SENATOR CHAMBERS: But they also sent in the 101st Airborne Division. [LB1030]

SENATOR KINTNER: I was not aware of that. [LB1030]

SENATOR CHAMBERS: They sent in U.S. troops. So that can be done by the Commander in Chief. They can put down rebellions, foreign and domestic. So now that you have arrested the Marshals, Homeland Security, FBI, ATF, Secret Service, and while they're trying to carry out their duties to enforce the federal law, that is rebellion. And when the troops come marching in, are they going to be arrested too? Because they're here to enforce the federal law that you said anybody who tries to do that is guilty of a crime. Will the troops be arrested? [LB1030]

SENATOR KINTNER: Let me give you a better scenario. [LB1030]

SENATOR CHAMBERS: No, no. This is my scenario. [LB1030]

SENATOR KINTNER: No, no. No, okay, well, it's so ridiculous and so crazy. Why are we having this conversation? [LB1030]

SENATOR CHAMBERS: Because you brought a crazy, ridiculous bill, and I'm dealing with your bill. Your bill is the one that said anybody who tries to enforce the law is guilty of a crime. Is that what your bill says? Is that what your bill says? [LB1030]

SENATOR KINTNER: Yes. [LB1030]

SENATOR CHAMBERS: You are a senator. You know how senators behave... [LB1030]

SENATOR KINTNER: You cannot violate... [LB1030]

SENATOR CHAMBERS: ...when they come to these committees. [LB1030]

SENATOR KINTNER: You cannot violate the laws of our state, no matter who you are. [LB1030]

SENATOR CHAMBERS: So then what I'm saying... [LB1030]

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SENATOR KINTNER: You know, the FBI can't come here and violate our laws.
[LB1030]

SENATOR CHAMBERS: What I'm saying under your... He can go on. People are watching us. They're watching you and they've heard you say that all these different federal representatives can be arrested under this... [LB1030]

SENATOR KINTNER: They cannot break the laws of our state. That's right. [LB1030]

SENATOR CHAMBERS: Now when... [LB1030]

SENATOR KINTNER: You're going to obey our speed limits,... [LB1030]

SENATOR CHAMBERS: When the troops come in... [LB1030]

SENATOR KINTNER: ...you can't steal, you can't do anything in our state that's against the law. It doesn't matter who you are, no one is above the law in our state. [LB1030]

SENATOR CHAMBERS: Do you...? I asked you, had you read your bill; and you said yes. I've read language from your bill. You have agreed that what I have said is the language in this bill. What becomes of the troops who now have to come here because all these others were arrested? [LB1030]

SENATOR KINTNER: Well, if you want me to give a scenario? [LB1030]

SENATOR CHAMBERS: No, I want you to answer my question, Senator. And if you're not... [LB1030]

SENATOR KINTNER: They're not coming here. [LB1030]

SENATOR CHAMBERS: If you're not going to answer the questions when you bring a bill to the committee, then you're saying something about yourself. You brought the bill... [LB1030]

SENATOR KINTNER: They're not coming here. [LB1030]

SENATOR CHAMBERS: ...and I'm going to ask the questions. [LB1030]

SENATOR KINTNER: Why would they come here instead of Kansas or Alaska?
[LB1030]

SENATOR CHAMBERS: We're talking about... Has Kansas...? Kansas has not tried to

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arrest anybody. Alaska has not tried to arrest any federal agents. [LB1030]

SENATOR KINTNER: That's because there's another scenario that goes on that you haven't even talked about yet. [LB1030]

SENATOR CHAMBERS: Senator, do you want this bill to be enacted into law? Is that why you brought it? [LB1030]

SENATOR KINTNER: Yes. [LB1030]

SENATOR CHAMBERS: And the things that I mentioned would happen if the federal agents attempted to enforce a federal law that related to regulating guns, accessories, or ammunition. [LB1030]

SENATOR KINTNER: Why aren't they doing that in Colorado and Washington right now? [LB1030]

SENATOR CHAMBERS: We're dealing with your bill. You offer laws for Nebraska. Now if you're not going to answer the questions, tell me now. You're not going to answer them? Actually you've answered enough of them. But I will tell you this: You don't have enough jails to put these people in and you're not going to put one of them in jail. Not one. You let some stupid, idiotic Barney Fife, part-time deputy, come to an FBI agent and says, you're under arrest. He wouldn't be that crazy. To an ATF agent, you're under arrest; to a U.S. Marshal, you're under arrest. But let's assume they are under arrest, and let's assume that they do have a charge brought against them; will they be tried in a state court or a federal court? [LB1030]

SENATOR KINTNER: Oh, you mean, for our state laws? It would be a state court. [LB1030]

SENATOR CHAMBERS: They'd be charged in a state court. And that would mean that some county attorney filed a charge. Now suppose it gets so far as a charge being filed, and a U.S. Attorney representative tells the judge, you have no jurisdiction over these people; these arrests are not valid; dismiss these charges. What do you think the judge would do? [LB1030]

SENATOR KINTNER: It wouldn't get that far. [LB1030]

SENATOR CHAMBERS: Why wouldn't it get that far? [LB1030]

SENATOR KINTNER: Because if we enacted this law and the federal government had a problem with it, they would go to court, and a judge would make the decision up-front if this was... [LB1030]

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SENATOR CHAMBERS: No, they wouldn't. They would arrest anybody's donkey who disobeyed the federal law. But that's all I have. And I'm glad that what we do is filmed, recorded, and everybody saw the performance you just gave. [LB1030]

SENATOR KINTNER: And I can say I'm glad people saw your performance. That's good. [LB1030]

SENATOR CHAMBERS: I'm happy and I'm proud of it. [LB1030]

SENATOR LATHROP: Senator Kintner, I have a question for you, or maybe a comment. [LB1030]

SENATOR KINTNER: Yes. Okay. [LB1030]

SENATOR LATHROP: As I read the bill, what you're advancing is the principle of nullification, that somehow the states can say... [LB1030]

SENATOR KINTNER: Yeah. [LB1030]

SENATOR LATHROP: ...we're not going to follow federal law. And I think that fight was fought back in Jackson's administration. As... [LB1030]

SENATOR KINTNER: You're talking about the Nullification Crisis? [LB1030]

SENATOR LATHROP: Yes. [LB1030]

SENATOR KINTNER: Yeah. [LB1030]

SENATOR LATHROP: And here's maybe the easiest way to illustrate the problem with your bill is, if I have a right to carry a handgun, I have a concealed carry permit, and I walk up to the TSA agent down at Eppley, and I want to walk through. And the TSA agent enforcing federal law says you're not taking that gun on that airplane. You, under this bill, could literally have the TSA agent arrested for attempting to enforce a federal law about bringing guns onto an airplane leaving Eppley and going to anywhere in the United States. And the difficulty is, it might sound good and it certainly appeals to a segment of our population, but when the people get done getting angry, who have been whipped up, get done being angry with the federal government and realize that these kind of bills are actually dangerous, and I think probably further disrespect for the federal government. And I really do have a problem with it because you've got to agree that you want somebody to stop the guy getting on a plane with a gun, right? And your bill would say the person who is responsible for stopping people from getting on the plane should be arrested and, the second time they do it, would be charged with a

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felony. And that's the problem with the bill if you distill it down to the...an example. And so I guess you can respond. I mean, if you don't want the guy at TSA arrested then the bill is something that needs to go away. [LB1030]

SENATOR KINTNER: Senator Lathrop, that's an excellent point and I can't disagree with what you've said. What I want to happen is I want the federal government to challenge this. I want to go before a judge and I want a judge to rule that the federal government has overstepped their bounds. That is where this will lead us. [LB1030]

SENATOR LATHROP: But, Bill, we can do that. When we pass bills here, and I've watched them work their way through, we've done it here where we pass a law and we exceed our authority, somebody files a declaratory judgment action in the court and they challenge the constitutionality of it. There's a process and a legal proceeding to do that. It doesn't happen by setting up a confrontation between local law enforcement and federal law enforcement. I think you'd agree, we don't want to have a challenge at the gate of the airport in order to challenge whether a law dealing with guns passed by the Congress is constitutional or not. There's a process in litigation to do that, and it doesn't happen by having two law enforcement agencies confront one another with the local guys trying to arrest the federal guys. And it could be a TSA agent, it could be the FBI trying to enforce some gun smuggling thing. [LB1030]

SENATOR KINTNER: Senator Lathrop, you make great points. I want there to be statements made in states all across the country: The federal government has overstepped its reach and here is our statement and here's what we're doing about it. [LB1030]

SENATOR LATHROP: And you and I have these discussions on the floor all the time, and I'm going to say that I think this is an example of falling back on what I would call rhetoric. And I will just say that if that's your feeling, grab a lawyer and get down to the federal courthouse, because you have a remedy. And everything else is just rhetoric. It's rhetoric and it's campaign stuff. If you've got a problem with what the federal government is doing, they are limited by the Constitution; and if they enact laws that are unconstitutional they can be stopped in a federal courthouse by judges that have been appointed by President Bush, if you think it's the current administration. But these kind of attempts to make a statement in legislation I think are ill advised, in my opinion, so. [LB1030]

SENATOR KINTNER: Thank you. Appreciate it. [LB1030]

SENATOR LATHROP: Senator Seiler. [LB1030]

SENATOR SEILER: I just want to take it to a problem that's bothering me with this bill, is that, you know, the federal government has had machine gun laws and automatic

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weapon laws on the books for a long time. And it appears to me that this would nullify that in Nebraska. And yesterday, when I picked up the paper and saw that AK-47 bullet hole that went through two walls and into a dresser, in Omaha, I have a little problem with that; that this bill would actually nullify that and allow those shooters up there, whether they be teenagers or full adults, the right to do that under this bill. And that really bothers me that somebody can take an automatic weapon that I was trained on--it's the weapon of choice, there's no question about it--take an AK-47, turn it loose on a house when people are living in it, and say yeah, you're okay, you can possess a bill like that. That really bothers me, Bill. [LB1030]

SENATOR KINTNER: Well, let's just say that somehow the 1934 Firearms Act that outlawed machine guns, unless you've got a \$200 stamp that you purchased, which is still in effect today, say somehow that was overturned. And we're the legislating body. You're trying to say that we wouldn't step up and say, not in our state, or...? [LB1030]

SENATOR SEILER: Have we? [LB1030]

SENATOR KINTNER: Well, we... [LB1030]

SENATOR SEILER: We haven't. [LB1030]

SENATOR KINTNER: Yeah, because they're... [LB1030]

SENATOR SEILER: And they've been shooting up there for three or four years with high powered rifles that are automatic. [LB1030]

SENATOR KINTNER: That's against the law. [LB1030]

SENATOR SEILER: It is against the federal law. [LB1030]

SENATOR KINTNER: So you're trying to say maybe that bad guys don't follow gun laws, maybe? Is that what point you're making? [LB1030]

SENATOR SEILER: I'm telling you that. [LB1030]

SENATOR KINTNER: Okay. [LB1030]

SENATOR SEILER: But under your law that would legalize that. They wouldn't be the bad guys. They wouldn't be violating the law. [LB1030]

SENATOR KINTNER: Well, my guess is they're probably already felons, so they're... [LB1030]

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SENATOR SEILER: Well, now you're guessing. Anybody can speculate. I'm just telling you that your law has unintended consequences that really bother me in a current situation. [LB1030]

SENATOR KINTNER: Well, we're the Legislature. We can fix that, and I don't think this Legislature would tolerate that, so. [LB1030]

SENATOR SEILER: I'm not sure they'll tolerate this bill either, but. [LB1030]

SENATOR LATHROP: We're going to find out if there's proponents next. [LB1030]

SENATOR KINTNER: All right. [LB1030]

SENATOR LATHROP: Thanks, Bill. [LB1030]

SENATOR KINTNER: Okay. [LB1030]

SENATOR LATHROP: Oh, I'm sorry. Senator Davis. [LB1030]

SENATOR KINTNER: Okay. Sure. [LB1030]

SENATOR DAVIS: To kind of follow up on what Senator Seiler says, you say, well, then we as the state of Nebraska Legislature could fix that. And the way I would see that that happening, I think we'd have a lot of the same people coming in and saying, don't touch my gun rights; even if you're the state of Nebraska, that's just not right. I mean, they would fall back on federal rules to try to make sure that the perceived gun rights weren't stolen from them. [LB1030]

SENATOR KINTNER: Well, I know one thing they would say. They would make the point that he just made that gun laws don't stop criminals from getting guns. [LB1030]

SENATOR DAVIS: Well, I agree with you. You know, I'm not for gun control. But I do think there are a lot of unintended consequences with a bill like this, that you haven't thought of, or they haven't thought of, that really ought to be considered. And I'll just say another thing about it. If you have a particular area in a state that has very severe crime, and the state laws aren't dealing with that crime, and the state decides to permit the city to try to do something about making things more restrictive to sort of tamping down the crime, is that really such a terrible thing that those people ought to be charged with a Class IV misdemeanor? [LB1030]

SENATOR KINTNER: Yeah, that would be a horrible law because statistically we know more guns equal less crime. So we want law-abiding people in those bad areas to be armed. That's how to stop it. [LB1030]

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SENATOR DAVIS: How do we know that more guns equal less crime? [LB1030]

SENATOR KINTNER: Because...well, there was a book written by John Lott and he's statistically proved that more guns equal less crime. In the areas that have more guns, there's less crime. [LB1030]

SENATOR DAVIS: There are an awful lot of guns in north Omaha and I think there's an awful lot of crime there. I'd really have to study that pretty carefully. It's hard for me to believe that that would be true. [LB1030]

SENATOR KINTNER: You know what? That's a challenge. I will get you that information. [LB1030]

SENATOR DAVIS: Okay. That would be good. [LB1030]

SENATOR KINTNER: Okay. We'll do it. [LB1030]

SENATOR DAVIS: Thank you. [LB1030]

SENATOR LATHROP: Very good. Thanks, Bill. [LB1030]

SENATOR CHAMBERS: Mr. Chairman. [LB1030]

SENATOR LATHROP: Oh, I'm sorry. [LB1030]

SENATOR CHAMBERS: A brief statement for the record. When the populace who are uninformed and are misinformed by these gun groups, see something like this brought by a legislator, they get the impression that the state can pass a law that overrides federal law; and that's not true and you know it. They don't know it. They weren't taught well in school. Their teachers don't know it. But we as lawmakers know better, and we should not even take seriously anything like this when we know better. The federal law is supreme. And I have gone to court and had a city ordinance overturned in court. Not tell people, disregard it; I took it to court. A grand jury in Douglas County issued a report that I felt went beyond what the law allowed. I lost in district court. I appealed it to the state Supreme Court, and the state Supreme Court said, throw the entire report out of the court records; don't just seal it, expunge it; take it out. When there are things that a state does with which a person disagrees, a lawsuit can be filed, and that state law, if it goes beyond what the Constitution allows, will be overturned. And the Nebraska Supreme Court has ruled in any number of cases that the Legislature exceeded its authority and their laws were overturned. The U.S. Constitution has overturned innumerable state laws and even congressional enactments. In a constitutional democracy, the way that problems are resolved is in accord with the law, and the law

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says that if you disagree with a federal law--and I'm not going to say state law because this is dealing with federal law--take it to the federal court. But except for one of those sheriffs who came here from western Nebraska, but I don't know if he's here today, no sheriff would say that he's going to try to arrest federal agents. And we in the Legislature should do nothing to give the public the impression that local, state, or county law enforcement officials have the authority to arrest federal agents who are carrying out their duty to enforce federal law. And that's why I see this as being so pernicious and it's why I'm being so forceful. I'm mocking it, I'm ridiculing it, because I don't want the public to think that anybody other than you believe that what you're offering to us is true and correct. The reason I asked if you had taken civics in high school, one of the points that they emphasize is the supremacy of the U.S. Constitution and the federal law. Any law enacted by the Legislature is presumed to be constitutional until a court overturns it. It can be as unconstitutional as all get-out; but until a court says so, then it is binding and anybody who violates it can suffer the consequences. But when those consequences are brought to bear, the person can challenge it on constitutional grounds and win. The same with a federal enactment. An act by Congress is presumed to be constitutional, and it's up to whoever questions it to bring enough evidence to convince the court that the act of Congress exceeded the authority given them by the Constitution. And that's the way things are done in this country. And for a senator to suggest that local law officials armed should challenge federal authority in that fashion, and I think it's utterly wrong to do this and I don't care how many other states have done it. It just shows they've got ignoramuses in those states. You wouldn't get the Nebraska Legislature to pass something like this, even if it got to the floor, which it won't. That's why I am so exercised with it. [LB1030]

SENATOR KINTNER: Let me say this. There are thousands in the 1850s, thousands of former slaves and fugitive slaves that are darn glad that states of Wisconsin, Massachusetts, Vermont, Ohio, and Michigan, and I think there may be one or two others, ignored the Fugitive Slave Act. They ignored it, they passed laws to stop its implementation,... [LB1030]

SENATOR CHAMBERS: That has nothing... [LB1030]

SENATOR KINTNER: ...and once they even... [LB1030]

SENATOR CHAMBERS: That has nothing to do... [LB1030]

SENATOR KINTNER: ...nullified it. [LB1030]

SENATOR CHAMBERS: That has nothing to do with anything. [LB1030]

SENATOR KINTNER: Yes, it did. It was a terrible law and they said we're not going to enforce it. [LB1030]

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SENATOR CHAMBERS: Senator... [LB1030]

SENATOR KINTNER: It's exactly what I'm saying here. [LB1030]

SENATOR CHAMBERS: Senator Kintner, it's still your belief that the state should violate federal law if it disagrees with it. Is that still your belief? [LB1030]

SENATOR KINTNER: The states should challenge federal laws that they believe are unconstitutional. [LB1030]

SENATOR CHAMBERS: And how should they challenge it? In court, shouldn't they? [LB1030]

SENATOR KINTNER: By passing...well, it will go to a court eventually. But I chose to do it by passing laws to say that's not what we're going to do in this state. [LB1030]

SENATOR CHAMBERS: And I just asked you that to show that everything we say to you is pointless. But other people who hear what we're saying, do understand, and you are the one who's totally out of step. And if you said on a high school examination paper what you're saying here, you would flunk. But that's all that I have now. [LB1030]

SENATOR KINTNER: That's all I have, too, so it works out pretty good. [LB1030]

SENATOR DAVIS: Senator, I've got one. [LB1030]

SENATOR LATHROP: Wait, we've got Senator Davis. [LB1030]

SENATOR KINTNER: Okay. All right. [LB1030]

SENATOR DAVIS: Just because this is an interesting...this is the last day of Judiciary and this is an interesting discussion. [LB1030]

SENATOR KINTNER: Okay. [LB1030]

SENATOR DAVIS: But you know that Colorado recently legalized marijuana, which is against the rules in this country. Do you think every state ought to have its own drug rules in terms of should we have legalized methadone...meth in this state if we want to? [LB1030]

SENATOR KINTNER: Yes. I think that stuff should be regulated at the state level. Yes. [LB1030]

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SENATOR DAVIS: You don't think that the federal government has any business regulating medicines, prescription medicines, or drugs of any kind? [LB1030]

SENATOR KINTNER: It probably has some role. But, you know, as much as you can push down to the state level is better. [LB1030]

SENATOR DAVIS: But can you see that the two sort of work together? [LB1030]

SENATOR KINTNER: Yeah, yeah. You know, but the whole thing is here, we...when the states get out of control, the federal government balances them out. When the feds get out of control, the states balance them out. There should be a tension all the time, and there's been times when the states have been terrible and the federal government has stepped in and said, no you don't. And I think there's times when the federal government is out of control and the state has got to step in and say, oh no you don't. They're...you know, they need to work together on these things. There ought to be a little bit of tension there. [LB1030]

SENATOR DAVIS: Well, and I think there is. You know, I just think that that...you know, essentially we're looking at somewhat the same argument. The state of Colorado said we're going to legalize marijuana. It's up to the federal government to make a decision about what they're going to do. But what happens in Colorado is affecting what happens here in Nebraska in terms of marijuana, you know. So whatever we do is not just an isolated case. That's it. Thank you. [LB1030]

SENATOR KINTNER: Great point. [LB1030]

SENATOR LATHROP: Thanks, Bill. [LB1030]

SENATOR KINTNER: Okay. [LB1030]

SENATOR LATHROP: We'll take proponents, those who are here to testify in support of LB1030. And can I see by a show of hands how many people are here to testify in support? Okay. Then we will listen to the support. [LB1030]

BRENDEN BOUDREAU: Senator Lathrop, members of the committee, thank you for the opportunity to provide proponent testimony on LB1030. My name is Brenden Boudreau, B-r-e-n-d-e-n B-o-u-d-r-e-a-u. I'm a deputy field director for the National Association for Gun Rights. I'm here to testify in support of LB1030 on behalf of our more than 25,000 members and supporters in Nebraska, as well as the members and supporters of our state affiliate Nebraska Gun Rights. My organization and our members supported legislation similar to LB1030 in other states and are glad to do so again today. NAGR's members strongly support legislation like LB1030, which limits the power of government officials at any level to infringe on our Second Amendment rights. LB1030 is a solid step

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towards protecting the rights of law-abiding residents from overreach by the federal government as well as put an end to the web of local antigun ordinances that entangle gun owners here in Nebraska. Antigun forces in Washington are working hand-in-hand with the Obama administration to force state and local policymakers to circumvent the constitutional right of Nebraskans. These schemes include reclassifying as many people as possible as prohibited persons without due process in an effort to flag them in the National Instant Criminal Background Check System, and strip them of their gun rights. One of the most atrocious examples of this overreach comes from the Department of Veterans Affairs who, without congressional authorization, has funneled the names of over 140,000 veterans to NICS for having someone appointed to help manage their financial affairs. The state of Florida took it one step further by adding names of individuals who voluntarily seek mental health treatment to the list of prohibited persons. Those who seek to disarm as many Americans as possible have the advantage of using multiple arms of government to accomplish their goals. It presents a serious backdoor threat to gun owners in Nebraska and across the country. The National Institute of Health released a study suggesting that nearly half of all Americans will have a mental health issue some time in their lifetime. Additionally, caffeine withdrawal has now been added to the list of mental health disorders by the American Psychological Association. Utilizing various reporting mechanisms, frivolous accusations, or temporary hardships could lead to law-abiding citizens losing their constitutionally protected rights to keep and bear arms, up to and including confiscation. This is unacceptable and it's not due process. Many states addressed their gun confiscation policies in the wake of Hurricane Katrina where officials ordered massive gun seizures. Nebraska has not. And that's why LB1030 is so urgently needed. Simply put, the state of Nebraska must not stand idly by and allow the tools of self defense be stripped from its citizens at the whim of a government bureaucrat. Restricting the power of the government to seize weapons from law-abiding citizens is a step in the right direction toward respecting the rights protected by our founding documents. I urge the committee to vote to advance LB1030 without delay. Thank you for your time. [LB1030]

SENATOR LATHROP: Thank you. Any questions? Senator Chambers. [LB1030]

SENATOR CHAMBERS: When you said Second Amendment, the Second Amendment to what? [LB1030]

BRENDEN BOUDREAU: The Second Amendment to the U.S. Constitution. [LB1030]

SENATOR CHAMBERS: Well, why should the state be bound by the Second Amendment to the U.S. Constitution? [LB1030]

BRENDEN BOUDREAU: Senator Chambers, I already know the line of questioning you're going down and I'm not going to participate in it. [LB1030]

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SENATOR CHAMBERS: If you're not going to answer the question, then that means that you're not going to testify any further, correct? [LB1030]

BRENDEN BOUDREAU: That is correct, sir. [LB1030]

SENATOR CHAMBERS: Okay. Thank you. You're through. [LB1030]

SENATOR LATHROP: You're excused. [LB1030]

BRENDEN BOUDREAU: Thank you. [LB1030]

SENATOR LATHROP: Is there anyone else here that is here to testify in support of this bill? Anyone here in opposition? You may come forward. Good afternoon. [LB1030]

AMANDA GAILEY: (Exhibit 11) Hi. My name is Amanda Gailey; that's G-a-i-l-e-y, and I am the Nebraska Chapter leader for Moms Demand Action for Gun Sense in America. I'm also a professor at the University of Nebraska and the mother of a nine-year-old girl and a two-year-old boy. I've lived in Nebraska for 13 years and I'm here today to speak out against LB1030. Our country suffers from an epidemic of gun violence that is unprecedented in the developed world. Our gun homicide rate is 20 times that of other developed nations. Every day 33 Americans are murdered with guns, and of those nearly 8 are children. And those numbers don't account for the many additional victims who survived being shot but whose lives will forever be altered by it, or the many, many more who in moments of desperation or impulsivity ended their own lives with guns. Even in Nebraska, in the last year, we have witnessed gun tragedy that no one should have to endure. Little Payton Benson, sitting in her home eating breakfast with her mother, was shot dead when gunfire, blocks away, entered her house. Last summer, Nikko Jenkins, an inmate who was known to authorities as suffering from profound mental problems, went on a spree and shot four innocent people after being released from prison. Our neighbors to the east have seen what loosening gun regulations can do. Missouri dropped their requirement for background checks and saw a dramatic increase in gun homicides as a result. That translates to dozens of dead citizens. As a parent and as an educator, I want to create safer communities for our children and families. We are long overdue for commonsense gun solutions to the epidemic of gun violence. So what does Mr. Kintner's LB1030 suggest as a solution? Getting rid of some of the modest regulations we have over firearms in Nebraska. LB1030 suggests nullifying any federal laws addressing gun violence, no matter what they are. It also criminalizes law enforcement, though I would hope that this insurrectionist rhetoric does not resonate with most Nebraskans. And while LB1030 seems to suggest that local state control is better than federal, it preempts any attempts by cities or counties to rein in gun violence. In fact, the only guiding principle behind LB1030 seems to be that the rule of law is something Nebraskans should resist, whether at the federal or local levels, if the rule of law impacts the profitable proliferation of firearms--and that would be

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profitable to the gun lobby, because it certainly won't be to the state or its people. Thank you. [LB1030]

SENATOR LATHROP: Thank you, Ms. Gailey. Any questions for this witness? I see none. Thank you for coming down and your patience today. [LB1030]

AMANDA GAILEY: Sure. Thanks. [LB1030]

SENATOR LATHROP: Anyone else here to testify in opposition? Anyone here in a neutral capacity? Seeing none, Senator Kintner, do you care to close? Senator Kintner waives closing. That will close our hearing on LB1030, our hearing for the day, and our hearings for the year. (See also Exhibit 12.) [LB1030]