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Transcriber's Office

Judiciary Committee
January 22, 2015

[LB60 LB137 LB184 LB190]

The Committee on Judiciary met at 1:30 p.m. on Thursday, January 22, 2015, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB60, LB137, LB190, and LB184. Senators present: Les Seiler, Chairperson; Colby Coash, Vice Chairperson; Ernie Chambers; Laura Ebke; Bob Krist; Adam Morfeld; Patty Pansing Brooks; and Matt Williams. Senators absent: None.

SENATOR SEILER: My name is Les Seiler and I'm Chairman of the Judiciary Committee and I welcome you all and your participation. Committee members that are present are, on my right, Matt Williams from Gothenburg. Our...we'll wait till he gets a chance to get to his chair.

SENATOR KRIST: Sorry.

SENATOR SEILER: Senator Bob Krist from Omaha.

SENATOR KRIST: Hi.

SENATOR SEILER: Our legal counsel is Diane Amdor today. Once in a while, she'll switch with Josh Henningsen, depending on the subject matter. And on my far left is Dr. Laura Ebke from Crete; Senator Patty Pansing Brooks from Lincoln; and Senator Colby Coash from Lincoln. Our committee clerk is Oliver VanDervoort and our two pages are Drew and Rachel. Well, that's the cast of characters. The subject matters, if you've got the billings, is LB60, LB137, LB190, and LB184 and we'll take them in that order. Testifiers, make sure you filled out your testifying sheet. You will find those around the corner outside and we will want you to print those and fill those out before you come up to testify. And then just hand them to one of our pages and they'll get it to the clerk. If you're going to have handouts, we'd like 15 copies so that the legislators can all have copies and the record will be clear. Now there may be some of you in the audience that say, I want to hear the testimony and I've got one side or the other I'm in favor of, but I really don't want to testify. You can become part of the record by signing the sheet out there that says you're for or against and you will have your name in the record that you appeared on the LB, whichever one you're in favor of or opposed to or in neutral. Those basically are our rules. Speak clearly into the microphone. That doesn't enhance your speaking, but what it does is it makes sure you get on the record and the transcribers can clearly hear your voice. Silence all your cell phones. I will do that also. Okay. Those of you who have appeared before the committee system in Nebraska, I have at my prerogative the right for the senators to use their computers. I was on the Education Committee, which did not allow that, for years, and you that have testified in front of it know that. And we had these books that were about this high and we'd be flopping them over and they thought that was less distracting than a computer. So I've said, no, we're going to use the computers. So that's what they're for, so they can do a quick reference

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to the bills that are being testified to. I believe that covers the subject matter. We will start with LB60. Senator Kintner, your bill is up before us. [LB60]

SENATOR KINTNER: (Exhibit 1) Dan, do we have handouts, Dan? We don't? That's okay. All right. I'm going to keep my LA close because he may have...I may have to consult him depending on where the questions go. But thank you, Mr. Chairman and members of the Judiciary Committee. I'm Senator Bill Kintner, B-i-l-l K-i-n-t-n-e-r. I represent Legislative District 2, and I'm here to introduce LB60. LB60 seeks to provide clear guidelines for the transportation and storage of firearms in vehicles in publicly accessible parking lots throughout the state of Nebraska. Currently, many firearm owners are being subject to inconsistent rules and actions by employers regarding transportation and storage of firearms by employees and customers in private vehicles in parking lots open to the public. LB60 seeks to bring a balance between the property rights of employers and the property rights of employees and the public to legally transport, store firearms in their private vehicles for self-defense, hunting, and any other legal purpose. LB60 would put us in line with 16 other states that have some form of parking lot law for firearms along with bringing the state policy for the transportation and storage of firearms more in line with the Nebraska Concealed Handgun Permit Act in Section 69-2441(3) and (4). A form of this bill has been introduced twice before and continues to be an issue for firearm owners throughout the state. Several Nebraskans have contacted firearm organizations regarding situations they have found themselves in at work, some of these regarding concealed handgun permitholders and some are regarding transportation of other firearms. I believe a clear line can be drawn for both employer, employee, and the public regarding whether an employer should have the right to reach inside an employee's or customer's private vehicle and ban a legally possessed and transported item, which is a right that's specifically guaranteed by the U.S. Constitution and the Nebraska Constitution. And we're talking about a location that is open to the public. If an employer can prohibit a legally owned and transported, stored firearm in a privately owned vehicle in a location open to the public, then what other legal items and rights can employers regulate in your vehicle? I would argue that just because you drive your vehicle into a parking lot area...parking area owned by a business but also open to the public, you do not automatically turn over control of everything in your private vehicle to the vehicle or the employer in control of that lot. I also believe that a private parking lot is different than a lot open to the public. I think that in this bill we've clearly drawn that line and made that distinction. LB60 will not allow an employer to create a policy that prohibits the otherwise legal transportation and storage of a firearm in a private motor vehicle of an employer (sic) or customer while the vehicle is in the employer's publicly accessed lot. In addition, it allows for civil remedies for employers (sic) who were denied the opportunity to transport or store firearms in their private vehicle because they are subject to such policies from the employer. It also protects employees from termination because of the employer's policy that prohibits firearms in private motor vehicles violating subsection (2) of this bill. On the other hand, it also protects employers from liability from the employee's actions with a firearm in the

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vehicle. Finally, LB60 provides a list of exemptions starting on page 3 in subsection (6). This subsection cites current laws where privileges of this bill would not be extended if such laws were violated. I'd like to just briefly highlight some of the main sections of the bill. You go to page 2, the definition is lines 1 through 4. The prohibition is lines 5 through 17. Starting on line 18, it's employee's rights to civil action. Starting on line 30, it's employee's remedy for termination. Starting on line 12 of page 3, a business exemption from liability. Starting on line 21 on page 3 is the exemption to prohibition. And then the very...page 4 starting on line 10 is the intent language of the bill. I just mention the exemption to prohibition. I'll give you...these are all over law, so I'm going to give them to you real quick. State law 28-1206, possession of a deadly weapon by a prohibited person: That stands; still can't do it. Federal law, firearms possession prohibition: If you can't have a gun by federal prohibition, you still can't have a gun in your car. Federal consequences of state law convictions: So if you've been convicted and you can't legally have a firearm by federal law, you still can't. State law 28-1202, carrying a concealed weapon penalty: If you're not legally licensed to carry a concealed weapon, this doesn't change that one bit. State law 28-1203, transportation and possession of a machine gun, short rifles, or short shotguns: Still stands. Unlawful possession of a handgun: Still stands; doesn't change that one bit. State law 28-1204.04, unlawful possession of a firearm at a school: Still stands; that doesn't change one bit. And possession of a defaced firearm: Still stands; can't have a defaced firearm. Stolen firearm: Can't have a stolen firearm. Shotgun on the highway: Still can't have a loaded shotgun in your car; that doesn't change one bit. And I think that's all the prohibitions that this law does not touch. With that, I'd be happy to answer any questions. [LB60]

SENATOR SEILER: Senator Chambers. [LB60]

SENATOR CHAMBERS: I was going to yield to my colleagues if they had any questions. Senator Kintner, on page 2 you define motor vehicles for the purpose of this bill. Included in that definition are motorcycles and motor scooters. Obviously, they do not have a cabin, they do not have a glove box, they do not have a trunk. But you say that the gun can be kept in a container securely affixed to such vehicle. So it doesn't have to say that the container is one that somebody cannot easily open. So if I have a motorcycle, I could put...I could attach a metal box to it and put a pistol in it and park on any...in all the places that this bill would allow. Isn't that true? [LB60]

SENATOR KINTNER: Yes, motorcycles come...you can buy attachments to carry stuff,... [LB60]

SENATOR CHAMBERS: But I'm saying... [LB60]

SENATOR KINTNER: ...like hard saddlebags. [LB60]

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SENATOR CHAMBERS: But here's what I'm saying. I can put something on a motorcycle myself,... [LB60]

SENATOR KINTNER: Yeah. [LB60]

SENATOR CHAMBERS: ...the container, because there's no description of it. [LB60]

SENATOR KINTNER: That's correct. [LB60]

SENATOR CHAMBERS: So I can have a stripped-down motorcycle and just put a box on it and put a gun in it and park on this person's property. Isn't that true? [LB60]

SENATOR KINTNER: That's correct. [LB60]

SENATOR CHAMBERS: Okay. [LB60]

SENATOR KINTNER: And, Senator Chambers, we have laws against... [LB60]

SENATOR CHAMBERS: But that's okay, I don't want to... [LB60]

SENATOR KINTNER: No, I'm going to tell you this. We have laws against negligent handling of a firearm. [LB60]

SENATOR CHAMBERS: I don't want... [LB60]

SENATOR KINTNER: If you leave a firearm out, someone gets ahold of it, you're going to be held liable. [LB60]

SENATOR CHAMBERS: Senator Kintner, I'm not arguing with you. I just want to get what you mean in the law and establish, if we can, what the law allows. Now this also allows a motor scooter. A person with a motor scooter is entitled to leave a gun in a container on the motor scooter. Isn't that right? You defined a motor scooter as a motor vehicle. [LB60]

SENATOR KINTNER: Yeah, and they have lockboxes on them. [LB60]

SENATOR CHAMBERS: Say it again. [LB60]

SENATOR KINTNER: You put it in the lockbox and you lock the box and you leave. [LB60]

SENATOR CHAMBERS: No, this question can be answered "yes" or "no." If a container is attached to a motor scooter, then the motor scooter rider can have a gun in that box

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and park that motor scooter with that gun in the box on the parking lot. Isn't that true?
[LB60]

SENATOR KINTNER: Yes, subject to the other laws of our state. [LB60]

SENATOR CHAMBERS: Okay. Well, no, because here's what you say on page 3 about this section that we're talking about here, line 21. "This section applies notwithstanding the contrary application of any other law, except...". And then it mentions some of the people who are not allowed to have a gun. We're not talking about that. We're talking about a person who does not fall within that purview. But since you did mention some of those, how does the property owner know that a person is not in that category? How does a property owner know this person is not a prohibited person? [LB60]

SENATOR KINTNER: I don't think he does. [LB60]

SENATOR CHAMBERS: And wouldn't know any of those things about any of these people who would bring a gun on the premises, isn't that correct? [LB60]

SENATOR KINTNER: I would think so, yeah. [LB60]

SENATOR CHAMBERS: So the owner of the property is being regulated and having his or her right to deal with his or her property as he or she pleases, that is being restricted by this law. Isn't that true? [LB60]

SENATOR KINTNER: What we're restricting is the ability... [LB60]

SENATOR CHAMBERS: No, here...Senator Kintner, do... [LB60]

SENATOR KINTNER: ...of the property owner to infringe on the property rights of the vehicle owner. [LB60]

SENATOR CHAMBERS: Senator Kintner, would you try to listen to what I'm asking you? I'm not talking about the gun owner. I'm talking about the owner of the property. Is that clear what I'm talking about now, that I'm talking about the business owner or the property owner? [LB60]

SENATOR KINTNER: Senator Chambers, you don't have to like my answer. I'm going to give you the answer and you can take it or not. [LB60]

SENATOR CHAMBERS: Are you aware... [LB60]

SENATOR KINTNER: Here's the answer: We are balancing the rights of the property owner... [LB60]

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SENATOR CHAMBERS: Senator Kintner,... [LB60]

SENATOR KINTNER: ...with the rights of the car owner. [LB60]

SENATOR CHAMBERS: ...are you aware of what I'm asking? Did you come here to answer questions on your bill? [LB60]

SENATOR KINTNER: You know... [LB60]

SENATOR CHAMBERS: Is that what you're here for? [LB60]

SENATOR KINTNER: Senator Chambers, I didn't come here to play games with you. [LB60]

SENATOR CHAMBERS: Senator Kintner,... [LB60]

SENATOR KINTNER: It's clear that you do not like firearms. [LB60]

SENATOR CHAMBERS: Well, one thing... [LB60]

SENATOR KINTNER: You don't like firearms laws. I've watched you for three years do this. [LB60]

SENATOR CHAMBERS: One thing that's good... [LB60]

SENATOR KINTNER: And you go down this and you have no intention of supporting it. [LB60]

SENATOR CHAMBERS: The committee members...the committee members... [LB60]

SENATOR KINTNER: So why are we sitting here and talking about this stuff? [LB60]

SENATOR CHAMBERS: The committee members understand. [LB60]

SENATOR SEILER: Wait just a second, gentlemen. Just a second, Senators. We need one to speak and then the other. Our transcript needs to cover that. [LB60]

SENATOR KINTNER: Okay. Sorry, Mr. Chairman. [LB60]

SENATOR CHAMBERS: But there's something deeper than that. He brought the bill. He is here to answer questions. [LB60]

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SENATOR SEILER: No, I'm not...I just wanted you to speak one at a time. [LB60]

SENATOR CHAMBERS: And I'm...he's not...we're not in an argument. I'm asking you, do you understand my question, because I want to be sure we're on the same page. My question relates to the property owner. Is that clear? [LB60]

SENATOR KINTNER: You have my answer. I just answered it. That's my answer. [LB60]

SENATOR CHAMBERS: So you do understand what I'm asking you about? [LB60]

SENATOR KINTNER: Yes, I just gave you the answer. [LB60]

SENATOR CHAMBERS: Okay. Now this bill places restrictions on what the property owner can do. Isn't that true? That's a "yes" or "no" question. [LB60]

SENATOR KINTNER: Yes, it does. [LB60]

SENATOR CHAMBERS: Okay. And that restriction would be put in place by the Legislature if this bill is passed. Right? [LB60]

SENATOR KINTNER: Yes. [LB60]

SENATOR CHAMBERS: So that is a governmental regulation restricting what a property owner can do with his or her property. Isn't that true? [LB60]

SENATOR KINTNER: That's correct. [LB60]

SENATOR CHAMBERS: And you feel that somebody who wants to come on that person's property has a greater right to do what he or she wants to do than the property owner has to regulate how his or her property will be used? [LB60]

SENATOR KINTNER: They both have rights and we're balancing the two rights of the real estate property owner... [LB60]

SENATOR CHAMBERS: I'm not...no, I'm just... [LB60]

SENATOR KINTNER: ...versus the car owner. We're balancing those two. That's what this seeks to do. [LB60]

SENATOR CHAMBERS: Senator Kintner, with this committee, I don't think you're going to convince them that you're right by trying to avoid answering the questions that I'm asking you. They're very direct; they're not complicated. I'm basing them on what is in

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your legislation. If there's a problem with the legislation, it's not mine. [LB60]

SENATOR KINTNER: Senator, fortunately you don't speak for the committee. I feel good about that. [LB60]

SENATOR CHAMBERS: So let me ask you the questions that I have. Are you aware...first of all, in order that I will understand what your legislation means, because I characterized it, what do you mean by a "container" that's securely affixed to such vehicle? And the vehicle I'd like you to discuss is a motor scooter. What...could you describe the container that you're thinking of that would be on this motor scooter? [LB60]

SENATOR KINTNER: Some motorcycles have a... [LB60]

SENATOR CHAMBERS: No, I said a motor scooter. [LB60]

SENATOR KINTNER: Oh. Motor scooters have a box on it where you can lock and you put small items in there. [LB60]

SENATOR CHAMBERS: And that would be...that would comply with your law? [LB60]

SENATOR KINTNER: Yes, yes. [LB60]

SENATOR CHAMBERS: Okay. Have you ever seen such a container? [LB60]

SENATOR KINTNER: I believe I have. [LB60]

SENATOR CHAMBERS: Okay. [LB60]

SENATOR KINTNER: I've never owned a scooter, but I think I've seen... [LB60]

SENATOR CHAMBERS: Somebody could take a knife blade and spring it and open the container. Are you... [LB60]

SENATOR KINTNER: They might, yeah. They could. [LB60]

SENATOR CHAMBERS: Okay. So it doesn't have to be a secure container. It just has to be securely attached to the vehicle. Is that correct? [LB60]

SENATOR KINTNER: And the firearm must be out of sight. You cannot have it in sight. It must be out of sight. [LB60]

SENATOR CHAMBERS: Well, if it's in the container, unless it's Superman, it's out of

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sight. [LB60]

SENATOR KINTNER: That's correct. [LB60]

SENATOR CHAMBERS: Okay. Now we go down here in line 3 (sic) on page 2, subsection (3): A person who is injured or incurs damage, or the survivors of a person killed, as a result of a violation of subsection (2) of this section may bring a civil action against any business entity owner, manager, or legal possessor of real estate...of real property or private employer who committed or caused such violation. What does that mean? I'm on page 2, in line 18, and I'm reading from...I'm reading that first sentence, so if you want to read it over and then tell me what it means. [LB60]

SENATOR KINTNER: I'll be honest with you. I'm not in love with that paragraph, to be honest with you. But that says you have legal recourse if you prohibit someone from having a firearm and something happens to them. It gives you legal recourse. [LB60]

SENATOR CHAMBERS: Who has the legal recourse? [LB60]

SENATOR KINTNER: If you own the vehicle and you're not permitted to have a firearm and a guy comes onto the property and shoots you, your family has legal recourse. [LB60]

SENATOR CHAMBERS: Against the business owner? [LB60]

SENATOR KINTNER: Yes, who made that law, yes. [LB60]

SENATOR CHAMBERS: So if I'm being pursued by somebody who wants to shoot me and I manage to make it to the parking lot of Baker's Supermarket--because it doesn't say you're a customer, you're just a person--and I jump out of my car and the person comes after me and shoots me, and let's say Baker's doesn't allow guns on the property in such a way that it would violate what you're talking about here. This person who is being pursued has no gun in his car, but the store owner is in violation because the store owner would not allow that person on the lot if he had a gun. So I want to make it clear that I'm talking about a store owner, if your law is in place, who has a rule that will not allow somebody to bring a gun onto the property in a car. So this person is chased onto the property and has no gun, not because of anything the store owner did or said, just doesn't carry a gun. Another person pursuing him shoots him on the property. Well, the store owner is liable under the language of your bill because the store owner has a policy against allowing guns. So even somebody who has no gun, doesn't want to carry a gun, gets shot there, then the store owner is liable. Was that your intention? [LB60]

SENATOR KINTNER: No, that was not my intention. [LB60]

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SENATOR CHAMBERS: Okay. So what will we do about that language? And I'm not asking you right now, but I just want to point out some of the things that I'm asking you. [LB60]

SENATOR KINTNER: Thank you. [LB60]

SENATOR CHAMBERS: If that gives you some assistance, I don't mind you answering. [LB60]

SENATOR KINTNER: Please...I'm sorry. [LB60]

SENATOR CHAMBERS: Oh, I thought you had something that would help you answer that question. I wanted to give you time, but if that's not... [LB60]

SENATOR KINTNER: No, I have the amendment to strike that out of it. We already saw that. I've got the amendment to strike that section out. [LB60]

SENATOR CHAMBERS: Senator Kintner, you're not familiar with your bill, are you? Be honest with me... [LB60]

SENATOR KINTNER: Well, I mean, yeah. I just... [LB60]

SENATOR CHAMBERS: ...because if you already knew that was going to be stricken and you have an amendment, couldn't you have saved the committee and me time by saying, our amendment will strike it? You didn't know that you had such an amendment, did you? [LB60]

SENATOR KINTNER: Senator Chambers, you don't save anybody time. [LB60]

SENATOR CHAMBERS: Say it again. [LB60]

SENATOR KINTNER: You don't save anybody. Why are you asking me about time? [LB60]

SENATOR CHAMBERS: It's your bill. [LB60]

SENATOR KINTNER: Well, you don't care about anyone's time. [LB60]

SENATOR CHAMBERS: If you have an amendment, then you don't think, as a professional common courtesy to the committee when there is going to be an extended discussion of a part of the bill, you don't see a professional courtesy involved in saying, I have an amendment to strike that? [LB60]

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SENATOR KINTNER: Well, I think the Bill Drafters just got it down to us,... [LB60]

SENATOR CHAMBERS: But you knew that... [LB60]

SENATOR KINTNER: ...so I think half an hour ago I didn't have it in my possession. [LB60]

SENATOR CHAMBERS: Well, you...he gave it to you and he was in here when you were in here. I just want to know...okay, then I'm going to go on as though there are not to be any amendments. You're not aware of any other amendments, are you? [LB60]

SENATOR KINTNER: No. [LB60]

SENATOR CHAMBERS: Okay. But this that I went through just now, would that strike all of subsection (3) on page 2? [LB60]

SENATOR KINTNER: Eighteen through 22, yes, it would strike 18 through 22, up to the word "violation." [LB60]

SENATOR CHAMBERS: Would it include the word "violation" as being stricken? [LB60]

SENATOR KINTNER: Yes. [LB60]

SENATOR CHAMBERS: Well, I thought I saw somebody's head shaking. I'll tell you what. I'm going to see if others have questions because I don't want to deal in futility. So if nobody else has questions, maybe you have done your job. [LB60]

SENATOR KINTNER: Yeah, I think so. [LB60]

SENATOR SEILER: Anybody have any questions on the left? On the right? The middle does. Senator Kintner, tell us in your own words what your intent, with the amendment, is for this to accomplish. [LB60]

SENATOR KINTNER: In my own words? [LB60]

SENATOR SEILER: Yes. [LB60]

SENATOR KINTNER: Yes. Thank you, Mr. Chairman. The intent was to provide a balance on property rights between the owner of the vehicle and the owner of the property. So because of the constitution, both constitutions, state and national, I think that our firearms rights are so important that they put in writing in very clear and explicit language, especially in the state constitution, that that is a fundamental right that we have. And we thought that needs to be protected so you can at least have a firearm in

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your car and not have any problems with an employer or a company you're doing business with. That was it. [LB60]

SENATOR SEILER: Okay. So you're trying to protect me from going to the Walmart store to buy my license and I've got all my hunting gear in the back. [LB60]

SENATOR KINTNER: Exactly. [LB60]

SENATOR SEILER: Okay. Any further questions? Seeing none, will you present your next...or your witness? [LB60]

SENATOR KINTNER: And I will stick around and make some closing comments. [LB60]

SENATOR SEILER: Yes. Proponent testimony? [LB60]

ROD MOELLER: Mr. Chairman, senators of the Judiciary Committee, my name is Rod Moeller, R-o-d M-o-e-l-l-e-r. I'm speaking on behalf of the NFOA, Nebraska Firearms Owners Association. We are in support of the spirit of this bill. Our members have had a lot of conversation about this topic over the past few years and a lot of our members are affected by the issue this bill is attempting to address. We do acknowledge that there may be some work necessary to this bill to get the right balance, to strike that right balance in protecting everybody's interests. What we have today is an issue where I as a concealed handgun permitholder have some protections under the law. I can go to any shopping center, I can go to my local school, and I can secure my handgun in my vehicle and go inside the premises and I can do my business. And that's perfectly legal and within my rights. However, I may be parking right next to somebody else who is an employee of that school or that business. And they've done the exact same thing, gone through the same process to get a concealed handgun permit, and they've locked their firearm in their vehicle. However, they don't have quite the level of protection that I do. They can be fired. They can have a company policy. We have state, county, university, all kinds of public entities that have these policies that say, if we find out that you have a firearm in your vehicle we can fire you. I can park right next to that same person and they can't do anything to me. That's what the problem is that we're trying to address here. We're not trying to take away or diminish the rights of the property owners for private entities, but we're trying to find that right balance. At what point do we stop worrying about the private property rights of the employee and give over to the private property rights of the employer? I've had a lot of teachers, school faculty, and many other types that are affected by this who are members of our organization. This does reach and affect thousands, I could say, potentially tens of thousands of Nebraskans today. Anyway, it's important that we find a way to strike a proper balance. And we are certainly open to amendments that work in the spirit of trying to strike that right balance. I'm open to any questions. Senator. [LB60]

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SENATOR SEILER: Senator Chambers. [LB60]

SENATOR CHAMBERS: I want to be sure I understood what you said. You said, balancing the property rights of the employee with the property rights or against the property rights of the employer. Is that correct? [LB60]

ROD MOELLER: That is correct. [LB60]

SENATOR CHAMBERS: What property right of an employee is involved here? [LB60]

ROD MOELLER: It would be your vehicle and whatever you have inside of your vehicle that you have parked on that parking lot. [LB60]

SENATOR CHAMBERS: Even if you have the right to carry a gun concealed, that's not a property right. That's a personal right. [LB60]

ROD MOELLER: Is the firearm itself not personal property? Is... [LB60]

SENATOR CHAMBERS: But the right to have it and carry it is personal to you. You cannot transfer it to anybody else. It's granted to you when you meet the requirements of the state. So it is not a property right. Property can be passed and transferred from person to person. But do you think that the relationship between an employer and an employee is the same as the relationship between a store owner and a customer? Is there a difference in the relationship between somebody who has hired a person and the store owner dealing with a customer? Is there a difference between those two types of relationships? [LB60]

ROD MOELLER: Certainly there's going to be a difference in those types of relationships. [LB60]

SENATOR CHAMBERS: Do employers have the right to place restrictions or set up requirements or qualifications for persons who are seeking employ with that company or that establishment? [LB60]

ROD MOELLER: Well, there's certainly going to be. It's a contractual relationship, so hours that you would have to be there, what your job duties are, of course. [LB60]

SENATOR CHAMBERS: Could they insist that... [LB60]

ROD MOELLER: I mean, there's plenty of things that are going to be in an agreement with an employer/employee relationship that you're not going to have in a customer... [LB60]

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SENATOR CHAMBERS: Can they insist that a person who wants to work for them...first of all, in Nebraska it's called a right-to-work state. You have a job at will, so to speak. You may be hired or fired for no reason, but not for an invalid reason. So a smart employer just says, we don't need you anymore, and that's it. Does an employer have the right to insist on a dress code for employees? [LB60]

ROD MOELLER: You know, I would imagine they would, Senator. But I will tell you I'm not well versed in employment law, so. [LB60]

SENATOR CHAMBERS: Well, just...does it seem that an employer would have the right to say, if you want to work in this store, you have to wear a suit coat and a necktie? [LB60]

ROD MOELLER: I am aware that many employers do have dress codes. [LB60]

SENATOR CHAMBERS: Okay. Does an employer have the right to refuse to employ anybody he or she chooses who is not willing to comply with the rules laid down by that employer? [LB60]

ROD MOELLER: Normally, I would say, yes. [LB60]

SENATOR CHAMBERS: So if the employer does not want guns on the premises, would the employer have the right to say, I will not hire you if you're going to bring a gun on the premises? [LB60]

ROD MOELLER: Apparently many employers feel that way. [LB60]

SENATOR CHAMBERS: Well, if they have a right to refuse employment, do they have the right to terminate employment if you're going to go against what the employer wants? [LB60]

ROD MOELLER: That's what a lot of employers are going to say. Unfortunately, we have a lot of other laws out there that are imposing similar restrictions, saying that you cannot fire an employee for this reason or for that reason. [LB60]

SENATOR CHAMBERS: Do you believe that the right to own property is a right guaranteed by the U.S. Constitution? [LB60]

ROD MOELLER: I do. [LB60]

SENATOR CHAMBERS: Is it guaranteed by the Nebraska Constitution? [LB60]

ROD MOELLER: I believe so. I'm not familiar with that part of the constitution. [LB60]

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SENATOR CHAMBERS: You're right. That's right, that's right. And I'm not asking you for technical legal analysis, but just based on what people generally know. If the state is going to take your property for its own purposes, can it just take that property or does it have to compensate you for it before taking it? [LB60]

ROD MOELLER: I believe there has to be some compensation. [LB60]

SENATOR CHAMBERS: Okay. But if the state is not taking the property, do you have the right to do with your property what you please as long as you're not interfering with the enjoyment by somebody else of their property? [LB60]

ROD MOELLER: I'm not sure that's necessarily the case anymore. We have so many regulations on what people are allowed to do with their property. [LB60]

SENATOR CHAMBERS: Well, whether we like particular regulations or not, as a general rule, as long as you're not harming somebody else, you can use your property as you please. If you want to burn, open burning, that has a possibility of harming somebody else. If you want to deal with noxious fumes, that could harm somebody else in the enjoyment of their property. That's not really what I'm going into. I'm trying to see, where you're talking about weighing the rights of a customer, I mean of an employee against the rights of the employer. The employer can terminate a person for any reason he or she wants. Are you aware of that? [LB60]

ROD MOELLER: Except for those exceptions that the Legislature has granted. [LB60]

SENATOR CHAMBERS: Right, where they're specifically protected. But you cannot terminate or refuse to hire somebody based on race, color, religion, and those things that are specifically carved out in the law. But we're not talking about any of those here. How do you know that this employee would be terminated for bringing the gun on the property pursuant to this law? [LB60]

ROD MOELLER: Because they're in the employment policies. [LB60]

SENATOR CHAMBERS: Well, suppose the store owner becomes aware that you have this gun and just says, we don't need you here anymore. How can you prove what was in the store owner's mind? [LB60]

ROD MOELLER: That's for the lawyers to figure out. [LB60]

SENATOR CHAMBERS: If it can be shown that other people have been terminated because the store said, we don't need you here anymore or we're having a general layoff, then you feel that the one who is a gun carrier has more rights to do what he or

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she wants to do than a non-gun carrier who is an employee. [LB60]

ROD MOELLER: No, I believe they have an equal right. I believe that you own the vehicle and that you own what's in the vehicle and not the employer who allows you to park on their parking lot. And I believe that there's an equality there between the owner of the vehicle and the owner of the land. We're talking about property for both parties. [LB60]

SENATOR CHAMBERS: Do you think that somebody who comes onto a parking lot which is open to the public can do anything he or she pleases on that parking lot or is the owner allowed to restrict? [LB60]

ROD MOELLER: I believe that an inanimate object that they own that is secured in a safe manner is causing no harm to anyone and... [LB60]

SENATOR CHAMBERS: That's not the question. Do you think that a property owner with a parking lot open to the public can restrict what is done on that parking lot and say, if you're not going to comply with that, you can't park on this lot? Suppose they say, I don't want you to play loud music. [LB60]

ROD MOELLER: They could deny anything. They could say, if somebody wants to rape you, you have to comply while you're on my property. [LB60]

SENATOR CHAMBERS: We're not getting anywhere. And I don't think you're understanding me, so I'll ask you one or two other questions. [LB60]

ROD MOELLER: I am understanding the question. I just believe that we need to acknowledge that there's more than just the property owner in... [LB60]

SENATOR CHAMBERS: But I...if you don't mind, I don't want to drag it out. And I'm not arguing with you. I'm asking questions to try to get your understanding and for the benefit of the committee. And I think I've probably asked you everything except one question. And there might be a couple of parts so you can get your whole answer. Had you envisioned this applying to motorcycles and motor scooters? [LB60]

ROD MOELLER: I'm not sure about motor scooters but I...the motorcycles I'm most familiar with are, you know, the larger Harley-Davidsons that have the hard, fixed bags that are lockable. [LB60]

SENATOR CHAMBERS: But that's not the only kind that's...it just says motorcycles. So a motorcycle can be a motorcycle without saddlebags. Is that true? [LB60]

ROD MOELLER: It can be. [LB60]

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SENATOR CHAMBERS: And somebody is not violating the law to attach a container to that motorcycle. Correct? [LB60]

ROD MOELLER: Somebody can do their own customization work and attach something that was not a factory original, certainly. [LB60]

SENATOR CHAMBERS: Right. And if they put a gun in there, then this law allows them to do that and the gun is not secure. [LB60]

ROD MOELLER: Depending on the container that was secured to the motorcycle, it may or may not, depending on... [LB60]

SENATOR CHAMBERS: But it doesn't have to...it doesn't...it could be a cardboard box. I look at what the law says. And this law says that a motor scooter is included. And it does not describe or define a container. A container is that which will hold something else. It could be a paper sack and you could tie it and it's securely affixed and it's not secure and it could be opaque, meaning you can't see what's inside it, and that would qualify under this law. But anyway, that's all I'll ask you. Thank you. [LB60]

SENATOR SEILER: Anyone else? Seeing none, thank you for your testimony. Next proponent witness. Seeing none, opponents. [LB60]

JOHN LINDSAY: Senator Seiler and members of the committee, for the record, my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of the Nebraska Association of Trial Attorneys. Our association has no position on the...under the primary goal of the bill, but we do call your attention to subsection (5) of Section 1 on page 3, lines 12 through 20. You heard a discussion yesterday in this committee about immunity from liability. This section does that again. I thought that...and there's a lot of reasons. Mr. Moodie gave some reasons yesterday on absolving people of responsibility for their actions prior to them taking the actions. There's a lot of reasons that immunities from liability should be very, very seriously considered and not used in the vast majority of times. But in this case, we heard Senator Kintner talking about the balancing of constitutional rights and that's certainly something this Legislature has to do. There's constitutional rights, though, that have to be taken into consideration with respect to that provision. I would suggest, yeah, I mean, we often hear about the Sixth Amendment right to a jury trial. And that deals with criminal cases. What you don't often hear about is the Seventh Amendment right to a jury trial in civil cases, one of the most direct amendments in the constitution. It just says it will be held inviolate. This section takes away that right to a jury trial because it takes away your right to ever file a suit. But more close to home is the Nebraska Constitution that has two provisions that should be considered. The first one, Article I, Section 6, which also has a right to a trial by jury that shall be held inviolate. But second, there's the provision, Article I, Section 13, that

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says courts should be open, and every person should have a remedy when they are damaged in their property or their persons. This would not leave any remedy because it takes it away. So beyond the policy reasons, I would suggest there are constitutional reasons not to include this type of provision. We would ask that, should you decide to move the bill forward, we would ask that you delete subsection (5) of Section 1. I'd be happy to answer any questions. [LB60]

SENATOR SEILER: Any questions? I have one. If you would look on page 3, line 17,... [LB60]

JOHN LINDSAY: Yes. [LB60]

SENATOR SEILER: ...the way this whole bill scopes, as I see it, it's an employer/employee situation. Yet...and that's what my example to Senator Kintner was, that I was an employee, pulled in, went in to get a license, and my gun was in my car. [LB60]

JOHN LINDSAY: Right. [LB60]

SENATOR SEILER: But here on that line, end of 17, on the far right, "or invitee." [LB60]

JOHN LINDSAY: Right. [LB60]

SENATOR SEILER: Now as a lawyer, an "invitee" is a customer. [LB60]

JOHN LINDSAY: Right. [LB60]

SENATOR SEILER: That clouds this whole bill, in my opinion. They have now expanded it from an employee to an invitee. [LB60]

JOHN LINDSAY: Right. It's...I agree with your analysis that it's...that section references not just those who are on the premises for employment purposes but are on the premises for shopping purposes, to which business owners generally have a higher...do have a standard of care with respect to the premises. [LB60]

SENATOR SEILER: Thank you. Any other questions? Yes. [LB60]

SENATOR MORFELD: Mr. Lindsay, maybe I missed it because I was reading this amendment that was being passed out while you were talking. So are you saying that this would be potentially in violation of the constitutional right to a jury trial or simply it would run afoul of the spirit of having a jury trial? [LB60]

JOHN LINDSAY: I don't know that...I am not aware of a clause like this that's been

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challenged under that theory. [LB60]

SENATOR MORFELD: Okay. [LB60]

JOHN LINDSAY: But the theory is that if you take away the right to an action, you consequently take away the right to have a jury decide that action. You can't...it's an indirect way of violating that constitutional right. [LB60]

SENATOR MORFELD: Okay. I see what you're saying. Thank you. [LB60]

SENATOR SEILER: Any further questions or follow-up? None? Thank you for your testimony. Any further opponents? Yes, ma'am. [LB60]

AMANDA GAILEY: (Exhibit 2) Hi. My name is Amanda Gailey, A-m-a-n-d-a G-a-i-l-e-y. I'm a professor at the University of Nebraska, a mother of two, and today I speak to you as a representative of Nebraskans Against Gun Violence. We frequently hear the gun lobby talking point, "criminals will always get guns," but these weapons have to come from somewhere. Besides straw purchases and private sales, criminals frequently obtain guns through theft. According to the Bureau of Alcohol, Tobacco, Firearms, and Explosives, 662 firearms were reported stolen in Nebraska in 2012. That's 662 firearms that we know in one year went from the possession of a law-abiding gun owner into the hands of a criminal. We lack robust research on many aspects of gun crimes, but it seems pretty clear that vehicle break-ins are a prime opportunity for firearm theft. Counties nationwide that do publicize this data offer an alarming picture. For example, Anderson County, South Carolina, population 183,000, had 125 guns stolen from vehicle break-ins last year. And just last month, a gun stolen from a car in Florida was used to murder a police officer. Guns in cars represent a risk to all of us. But this is not the problem that Senator Kintner is attempting to solve. He is more concerned about the convenience of the gun carrier who needs to stop at the store and couldn't simply secure his gun at home because he may need to engage in a gunfight on his daily commute. It's a bill motivated by ideology and not public safety. This bill places the convenience of the gun dependent over the rights and discretion of business owners. Omaha resident David DeMarco said in an e-mail to me: As a business owner, it is my responsibility to mitigate causes of liability in and around my property. If it snows, I shovel and put down salt, I install railings on the stairs, and put no-slip tape on the steps. I have done everything in my power to make my business a safe and fun place for people to be. But this bill wants to create a whole new point of liability for me saying that if I prevent a gun from being on my property for safety purposes, someone can sue me if they didn't have one at their disposal when they wanted it. This bill fails to respect evidence about public safety and the rights of business owners. The only interests it serves are the gun lobby and the shoot-them-up fantasies of a minority segment of our population. Thank you. Yes, Senator Chambers. [LB60]

SENATOR SEILER: Any questions? Senator Chambers is recognized. [LB60]

SENATOR CHAMBERS: From watching television news or listening to the radio or reading the newspapers, are you aware of instances where disgruntled employees bring guns to the place and not only maybe shoot the boss, but shoot another employee, and hurt customers in the process? [LB60]

AMANDA GAILEY: Sure. I'm trying to think of a specific example off the top of my head and I'm not. But I know that there's a blog that catalogs, for example, just shootings that occur at Walmart--where concealed carry is allowed, by the way--and several of the shootings that happened last year occurred with employees shooting in the store. [LB60]

SENATOR CHAMBERS: And whereas people often say that these guns are in the hands of criminals, the mass shooters have gotten their guns legally. [LB60]

AMANDA GAILEY: That's right. [LB60]

SENATOR CHAMBERS: They did not become...they did not cease to be law-abiding gun owners until they used those guns to kill a lot of people. [LB60]

AMANDA GAILEY: That's correct, yes. [LB60]

SENATOR CHAMBERS: And without that instrumentality readily available, they couldn't have done what they did. So I don't want people to get the impression that everybody on this committee is a fool and is out of touch with what is the reality. You're a professor at the university. And we received a letter which I presume is to be put in later, part of the record. It's from the chief of police at the university of UNL. It was talking about the problems created on campus if people are allowed to park there and have guns in their vehicles. And making an approach to people, they don't know whether a gun is there or not. If somebody has a gun, they don't know whether it's lawfully there. So guns are not to be on campus. Do you think that somebody who wants to tote a gun should have rights, the "right"--and I'll put that in quotation marks because I don't believe it's a right--but they have the prerogative of overruling every right that a property owner would have to make his or her property safe? [LB60]

AMANDA GAILEY: I absolutely don't think that the right supersedes the rights of other people. And as a professor, I regularly encounter students who are experiencing mental health breakdowns for the first times in their lives as 20-somethings when that is neurologically most likely to happen for the first time and they're away from their comfort zone of their home community. And the idea that they could easily obtain a gun by going out to a parking lot or a parked car on the street, you know, is very concerning because it seems to amplify the risk of the other students at the university. [LB60]

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SENATOR CHAMBERS: Now at Von Maur there were multiple shootings. And if they had any interest in the parking lot...now that mall is probably owned by somebody other than that one store. But if, because of those shootings, a policy was implemented to not allow guns in cars in their parking lot, despite the fact that there had been multiple shootings already, they could not prohibit employees from coming on that property with their guns. And if they did it, then they would be the ones subject to punishment under the law. [LB60]

AMANDA GAILEY: I guess I would add to that that recently the FBI released a really comprehensive study of mass shootings over the past many years. And what they discovered was that cases of armed civilians who were not trained security guards, former military, people with law-enforcement training successfully intervening in a mass shooting are next to zero. In those cases, which are rare anyway, that a civilian has intervened in a mass shooting, they tend to be people with much heightened training requirements than the people whose so-called rights are being protected by the bill that's proposed today. And it's also not clear what the gun being in a car has to do with those types of scenarios, to me, anyway. It seems like it just makes it more readily at someone's disposal for negligent shootings and, you know, rage-induced interactions with other people. [LB60]

SENATOR CHAMBERS: And this question is not from the standpoint of getting you to parse the constitution or anything, but just your impression or opinion. The U.S. Supreme Court has said that people are given the right--and people always say the Second Amendment right and everybody is supposed to know what that means--to carry these guns, to carry them concealed if the state allows it. Do you think that means that when you're given the right to tote a gun, it trumps the right of everybody else so that they have to kowtow to you and let you have your way even on their property? Do you think that's what the Supreme Court had in mind when it gave individuals a personal right, an individual right to carry a gun? [LB60]

AMANDA GAILEY: I don't. I think Heller was silent on that point. I think that it was certainly not the intention of the forward-thinking founders of our country. And, unfortunately, though, I think it's been ideologically grasped onto by an increasingly virulent segment of our population. And I'm here today to speak out against that. [LB60]

SENATOR CHAMBERS: And that's all that I'd have. Thank you, Mr. Chairman. [LB60]

AMANDA GAILEY: Thank you. [LB60]

SENATOR CHAMBERS: Thank you. [LB60]

SENATOR SEILER: Any further questions? Thank you for your testimony. [LB60]

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AMANDA GAILEY: Thanks. [LB60]

SENATOR SEILER: (Exhibit 3) Any further opposition? Seeing none, any in the neutral? At this time, the letter that Senator Chambers referred to from the University of Nebraska at Lincoln's police department, by the chief, will be received as part of the testimony today. If any of you in the audience have handouts for this bill, please give them to our clerk and they will also be made part of the record. Senator Kintner, you can close. [LB60]

SENATOR KINTNER: Well, thank you, Mr. Chairman and committee. It's interesting to sit here and listen from the cheap seats. I'm not sure, I think I just heard the woman from Nebraskans Against Gun Violence say that if we have guns stored in parking lots, we'll have more guns stolen. Well, if they're not stored in parking lots, they'll be stored somewhere else. They can be stolen anywhere. And the other thing I think it's important to remember is the concealed carry laws already do what this law is attempting to do. So you already have X number of guns, firearms being stored because of our concealed carry laws. And this will just extend it to everyone else. Possessing...Senator Chambers said something about how do we know if the person legally has a gun or illegally has a gun. Well, possessing a firearm or someone doing something legally or illegally is a problem throughout our criminal code with everything we do. It's not just this. So to think the thing...that this is the only time it ever happens, it happens all the time. You don't know if a person is legal or illegal right off the bat just by looking. And what Mr. Lindsay said about the theory about, you know, about having a remedy in a civil suit, you know, anyone can file a lawsuit and challenge the legality of this law or that section. And we'll find out if it's inconsistent with previous cases. We don't think it is, but anyone has got the right to go ahead and challenge it. I also got that letter from the university and we got it very late. We just got it a couple of hours ago. But we did do some research and this is what we found: After reviewing the current statute, 28-1204.04, which created an unlawful possession of a firearm at a school in Section 69-2441, subsection (3), which allows concealed handgun permit holders to securely store their handgun in a vehicle in a parking lot connected to a prohibited place, I think that their interpretation of the current law is inaccurate. We...the university firearm policy, as described through a letter that they sent us, seems to be potentially in violation of current law. So I don't even think that they're correct in what they're doing right now. So I would even challenge what they're doing. We probably need an Opinion right now from the Attorney General on their current law. I was not aware that that's what it is, but it looks like they're violating our current law. The way current law is now, a student cannot be in possession of a firearm on campus. But an adult who's not a student, a 19-year-old adult who's not a student can legally have a firearm secured in their car by state law. So if they're objecting to or trying to prohibit that, then they're already in violation of our state law. So I would challenge the very premise of what they are saying. I would...I think we probably need to get our Attorney General to give us an Opinion on what the

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university is doing. With that, I would appreciate your support for this and I'd answer any further questions that you might have, even if it's not today. [LB60]

SENATOR SEILER: Senator Chambers. [LB60]

SENATOR CHAMBERS: Senator Kintner, the Chairman asked you in general what your intent was. Is it your intent to limit this bill to an employer/employee situation? [LB60]

SENATOR KINTNER: This was...let me answer that a little...this wasn't intended as a remedy for employers, but we went ahead and we included everyone in a public lot. So we expanded it, but to that. But it was originally because people were having problems as employees. [LB60]

SENATOR CHAMBERS: So this does not...you don't intend it to apply just to employees. You want it to apply to anybody who comes to that parking lot. [LB60]

SENATOR KINTNER: Anyone, yes. Anyone who can legally possess a firearm can have it in their car, secured, out of sight. [LB60]

SENATOR CHAMBERS: Criminals and saints alike. [LB60]

SENATOR KINTNER: No. They can't legally have a firearm so they can't do it. [LB60]

SENATOR CHAMBERS: Yes, they...what would stop them? [LB60]

SENATOR KINTNER: The same thing that stops them now. [LB60]

SENATOR CHAMBERS: If I'm a criminal and I drive onto a parking lot and I've got a gun in the car, how do you know I'm a criminal? [LB60]

SENATOR KINTNER: We don't know now. [LB60]

SENATOR CHAMBERS: Right. So you can't stop me, can you? [LB60]

SENATOR KINTNER: We don't know now, so there's no change. [LB60]

SENATOR CHAMBERS: So then we don't even need... [LB60]

SENATOR KINTNER: A criminal is going to do what a criminal is going to do. [LB60]

SENATOR CHAMBERS: But here's what I'm trying to get to, Senator Kintner. You had listed categories of persons who would not be protected under this bill. Is that correct? [LB60]

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SENATOR KINTNER: That's correct. [LB60]

SENATOR CHAMBERS: So if a store owner or any property owner had reason to believe that a person was not allowed to have a weapon and made that judgment in good faith but made a mistake, that property owner would still be liable. Isn't that true? [LB60]

SENATOR KINTNER: No, I think they'd probably call the police, the police would look at it and go, no, he can legally have it, and everybody would go their own way. [LB60]

SENATOR CHAMBERS: But here's the question that I'm trying to ask you: We want to see what the bill allows. If a property owner thinks that a person should not be allowed to possess a gun and says, you cannot come on my property because I saw your gun and now you've put it away in your car, but wherever it is in your car, however you shield it, you cannot park on my property because you are one of those people not allowed to have a gun, now if the property owner genuinely believed that but made a mistake, the fact that it was genuinely believed would not shield that property owner from all of these penalties, would it? Let me ask you a question a different way. You state, if a person is an employee, what the penalty would be against the property owner. If the individual...since you've made this bill apply to everybody, what would somebody else be able to recover from the property owner? [LB60]

SENATOR KINTNER: I would direct you to page 2, line 22. [LB60]

SENATOR CHAMBERS: And if you'll read it for me. [LB60]

SENATOR KINTNER: An employee who is denied the opportunity to transport or store a firearm or in the section may bring...you know what? The nonemployee has no recourse according to this. [LB60]

SENATOR CHAMBERS: So then it doesn't apply to anybody other than employees. Is that your understanding? [LB60]

SENATOR KINTNER: The only people that have legal recourse are the employees. It applies to everyone. The only ones that have legal recourse to do something, the standing to do something, is the employee. It applies to everybody. [LB60]

SENATOR CHAMBERS: This is my last question. [LB60]

SENATOR KINTNER: Okay. [LB60]

SENATOR CHAMBERS: What you are saying after all the discussion we've had is that

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the employer is limited in terms of the conditions of employment he or she can impose on an employee. That's what you're saying, aren't you? This really limits the conditions that an employer can place on those who are to be employed. That's what this bill says, isn't it? [LB60]

SENATOR KINTNER: Yes. [LB60]

SENATOR CHAMBERS: Okay. That's all I have. Thank you. [LB60]

SENATOR KINTNER: Okay. [LB60]

SENATOR SEILER: Any further questions? If not, that shall end the testimony and the hearing on LB60. We will now open on LB137. Senator Johnson, introduce your bill. [LB60 LB137]

SENATOR JOHNSON: Thank you, Chairman Seiler and members of the Judiciary Committee. My name is Jerry Johnson, J-e-r-r-y J-o-h-n-s-o-n. LB137 is a public safety measure aimed at protecting all persons in the state of Nebraska from the unlawful, intentional, and reckless discharge of a firearm in the general direction of any person, dwelling, building, structure, occupied motor vehicle, occupied aircraft, inhabited motor home, or inhabited camper unit. This protection is already afforded to persons within the boundaries of any city of the first class and county containing a city of the metropolitan class or primary class. This bill eliminates the population requirement and provides equal protection for all persons in the state of Nebraska. This is a public safety issue. This policy should be enforced across the state regardless of where you live. It's clearly an obvious danger to discharge a firearm within the confines of a city or town, but also the act of shooting at what might appear to be an abandoned dwelling or building is also of significant risk. The green sheet of the bill is two pages. If you read on page 2, notice the items...the lines that are stricken. That's the change in the current legislation. I'm not the expert in legal, but I have two county attorneys that have experienced situations and I will defer to them for a bulk of the questions. But if you have any questions of me, I would be open to questions. [LB137]

SENATOR SEILER: Questions? [LB137]

SENATOR CHAMBERS: I'd like to ask a question. Senator Johnson, in a gun-happy state--that's my characterization--how in the world could you dare have the nerve to bring a bill that makes so much sense? I wasn't in the Legislature when they drafted this original language. And I couldn't believe it because the protection, as you're pointing out now, deals with a certain act that in and of itself can be dangerous, not only if there are a lot of people who live here but if there are only one or two people. So I don't know why that original language got in other than the fact that I wasn't here to stop it. [LB137]

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SENATOR JOHNSON: Well, thank you. [LB137]

SENATOR CHAMBERS: But I don't see any problem with the bill and I appreciate the fact that you brought it. [LB137]

SENATOR JOHNSON: Well, it was brought to my attention by a county attorney within my district, and cited the example of what came up. And I was surprised, too, that this is out there. Thank you. [LB137]

SENATOR CHAMBERS: That's all that I have. [LB137]

SENATOR SEILER: Senator, I have a couple questions. One is, why is this bill limited to in a motor vehicle or have just exited a motor vehicle? It seems like a guy walking down a street carrying a gun can cause as much problem walking as he could if he just jumped out of a motor vehicle. [LB137]

SENATOR JOHNSON: I would assume myself that, if that was expanded, it would be a friendly amendment to this legislation and... [LB137]

SENATOR SEILER: I just wondered if there was some history there. [LB137]

SENATOR JOHNSON: I'm not aware of that history. [LB137]

SENATOR SEILER: Okay. [LB137]

SENATOR JOHNSON: The people behind me might be able to help you. [LB137]

SENATOR SEILER: The second question--and I'm preparing the people behind you--this is a Class IC felony, which is a maximum of 50 years and a minimum of 5 years in the state penitentiary. It seems a little strong if they're shooting at a squirrel. [LB137]

SENATOR JOHNSON: Well, it... [LB137]

SENATOR SEILER: I agree the case... [LB137]

SENATOR JOHNSON: Yeah. [LB137]

SENATOR SEILER: ...that Senator Chambers has where a little girl eating breakfast gets shot, that's serious and would be brought under probably this statute or another statute. But if...and you'd have to get him in the car or just out of a car to do that. I think it seems to me like it's a little inconsistent there, but... [LB137]

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SENATOR JOHNSON: I think it starts out being inconsistent and not being fair to everybody in the state. [LB137]

SENATOR SEILER: I agree with you there. I agree with you there. [LB137]

SENATOR JOHNSON: And there also might be issues with...maybe to bring these closer. I know right now... [LB137]

SENATOR SEILER: Okay. [LB137]

SENATOR JOHNSON: ...it appears that it's a misdemeanor and very little punishment. This is not going to solve crime, but I think it tightens it up. [LB137]

SENATOR SEILER: Thank you. Any other questions? [LB137]

SENATOR CHAMBERS: Just one (inaudible.) [LB137]

SENATOR SEILER: Go ahead, Senator. [LB137]

SENATOR CHAMBERS: In the same way that when crack cocaine came to the attention of people there was a flurry of activity to put harsh punishments, that crack cocaine was deemed to be 100 times worse than powder cocaine and they put in place punishments to reflect that, this came at a time when senators from Omaha are trying to say they're fighting gangs. So they put something like this which really didn't need to be written in this way. They could have a general law that would be along the lines of what Senator Seiler pointed out where, if you discharge a firearm and somebody could be injured--I don't mean it would be as loosely worded as that--but we don't even have to mention a car or where a person might be at the time it's discharged because that limits the application of the law. But anyway, that's all that I have. [LB137]

SENATOR JOHNSON: Okay. [LB137]

SENATOR SEILER: Anything further? Thank you. You're going to stick around for closing? [LB137]

SENATOR JOHNSON: Yes. [LB137]

SENATOR SEILER: Thank you. Proponents. [LB137]

JULIE REITER: Good afternoon, Chambers, Seiler, and members of the Judiciary Committee. My name is Julie Reiter, J-u-l-i-e R-e-i-t-e-r, and I am the county attorney for Butler County. I'm here today before you to testify on behalf of the Nebraska County Attorneys Association in support of LB137. I would also like to thank Senator Johnson

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for introducing this bill. As Senator Johnson pointed out, Nebraska Statute 28-1212.04 already makes it illegal for a person within the territorial boundaries of any city of the first class or county containing a city of the metropolitan class or primary class to unlawfully, knowingly, and intentionally or recklessly discharge a firearm in any motor vehicle or in the proximity of any motor vehicle that such person just exited, at or in the general direction of any person, dwelling, building, structure, occupied motor vehicle, occupied aircraft, inhabited motor home, or inhabited camper unit. Violation of that statute is a Class IC felony and it's punishable by a maximum of 50 years' imprisonment with a mandatory minimum of 5 years. This statute does not protect persons in cities that are not of the first class or in counties that do not have a metropolitan class or primary class city. That does include my county of Butler. From my experience as the county attorney of Butler County, this has limited my ability to effectively prosecute dangerous behavior that has occurred within David City and within Butler County. Specifically, on July 20, 2014, an 18-year-old individual in Butler County exited his vehicle at the end of an alley in David City with a firearm and shot out another vehicle's window. The defendant's first shot missed the vehicle. His second shot took out the vehicle's windshield. That vehicle was unoccupied at the time; however, it was parked in front of an occupied residence. Also, on August 3, 2014, a 22-year-old individual, in an entirely unrelated incident, went to a residence in David City and fired a firearm at a vehicle that was parked in front of an occupied residence. Witnesses from a neighboring house reported that they observed a white, four-door car pull up between their home and the victim's home, honk twice, then the driver exited the vehicle, removed something long and dark from the trunk, get back into his vehicle, pull forward a short distance...may I continue? Okay. And they heard a loud bang consistent with a gunshot. The victim's vehicle had been shot through the driver's door which also shattered the driver's window. And the angle of the shot was directly in line with the victim's home which was also occupied at the time. The defendants in both of these cases admitted to shooting at the...wanting to shoot at the vehicles. In both of these cases, the evidence would have supported prosecuting under Section 28-1212.04 had the actions occurred in Omaha or Lincoln or in a first-class city. But I was limited with what I could charge. And both of the defendants were convicted of a Class I misdemeanor, criminal mischief. The actions of these defendants are more serious than a Class I misdemeanor. But there's nothing else that really could be afforded that they could be prosecuted. In closing, the Nebraska County Attorneys Association supports the adoption of LB137. And I ask that...I would respectfully ask that the committee vote this bill out for debate. [LB137]

SENATOR SEILER: Any further questions? [LB137]

SENATOR CHAMBERS: Just one. [LB137]

SENATOR SEILER: Senator Chambers. [LB137]

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SENATOR CHAMBERS: This language, "while in any motor vehicle or in the proximity of any motor vehicle that such person has just exited," that doesn't really add anything to...I mean, if that were taken out, it wouldn't hurt anything in terms of this bill. In fact, it would give it broader application if that language were taken out, because this is a limiting phraseology because if the person still, whether in Omaha or not, were not in a motor vehicle or had just exited, then this still wouldn't apply to that person, as the Chairman pointed out. [LB137]

JULIE REITER: I agree. [LB137]

SENATOR CHAMBERS: Okay. [LB137]

JULIE REITER: I agree. [LB137]

SENATOR SEILER: What about asking you concerning the sentencing? If I've got my BB gun out and shooting rabbits that are eating my garden and it hits a neighbor's house, is that 5 years to 50 in the state penitentiary? [LB137]

JULIE REITER: I would hope that the...I mean, county attorneys are always...always have discretion. [LB137]

SENATOR SEILER: That's true. [LB137]

JULIE REITER: The issue becomes, is it wise for anyone to take a firearm and shoot at the direction of a residence? And I would say that, no, it's not. Regardless of what you're doing, it's not. There is discretion to be exercised in certain situations where, was there injury? Did it hit a house? But the seriousness of the offense is still present, you know. And the seriousness...in these particular cases, it wasn't a BB gun. It was a .22 rifle. [LB137]

SENATOR SEILER: As a defense counsel, I always considered the county attorney that filed under a felony like that. He wanted to plea bargain right away. But this statute doesn't give you too much leeway. If you file just under that statute, you're facing a felony right from the get-go. [LB137]

JULIE REITER: That is correct. [LB137]

SENATOR SEILER: And I was just wondering if you had any thoughts on saying...adding a clause for damage to personal property or to persons, separating those out? [LB137]

JULIE REITER: I believe that the risk...you know, as far as separating it out, the act is still so terribly dangerous. You take a firearm--and maybe carve out a BB gun, you

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could carve out... [LB137]

SENATOR SEILER: I don't want to get into the carving out of the guns. I was just talking about the sentencing. [LB137]

JULIE REITER: Right, but...to reduce the...to lower the penalty from a IC to something? [LB137]

SENATOR SEILER: Whatever. And I haven't thought on what's a...you know, Senator Chambers has a perfect example of this case where the little girl is eating breakfast and gets shot. [LB137]

JULIE REITER: Yes. [LB137]

SENATOR SEILER: I mean, that I don't have any problem with 5 to 50 on that type of a thing, in a gun battle that occurred. I have a little problem with my neighbor shooting at a rabbit eating his garden and hits the window of my house, giving him 5 to 50. And you can say the county attorneys will use their discretion, but that doesn't give me any solace on that. [LB137]

JULIE REITER: And I respect your opinion. I feel, personally, guns and reckless behavior do not mix. [LB137]

SENATOR SEILER: I agree. [LB137]

JULIE REITER: And statutes that regulate reckless behavior with guns should impose strong penalties. [LB137]

SENATOR SEILER: Okay. The only...my only point of asking you about that is, you're consulting with Senator Johnson and you might want to consider that paragraph. [LB137]

JULIE REITER: Absolutely, and I will. [LB137]

SENATOR SEILER: Thank you. [LB137]

JULIE REITER: Thank you. [LB137]

SENATOR SEILER: Next witness on proponent. [LB137]

JAMES MASTELLER: Good afternoon, Mr. Chairman, Senators. My name is Jim Masteller, J-i-m M-a-s-t-e-l-l-e-r. I am a Deputy Douglas County Attorney assigned to the criminal division. I'm here today to speak in support of LB137 on behalf of or as a

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member of the board of the directors for the Nebraska County Attorneys Association. The...LB137 does something very important which is get rid of a specific clause in 28-1212.04. That's the clause that limits the applicability of the statute to certain geographical areas. By my reckoning, that would limit the applicability to two counties and an additional 29 cities of the first class. There's two sides to the coin of why that language is problematic. The first side of the coin, as described before, is that it deprives citizens in these other areas the protection of the statute. There's a flip side to the coin. Being in Douglas County, we do regularly rely on this statute because unfortunately we do have more than our fair share of drive-by shootings. In fact, I'm the prosecutor on that case dealing with that little girl who was eating breakfast when she was shot and killed on a morning. The...perhaps just to address a couple of the questions that were already posed, when you look at...there's another statute where...I think the first question was, don't we have or isn't shooting at occupied vehicles and dwellings just as problematic if you're not in a vehicle? That scenario is already covered. We already have another statute that's in 28-1212.02 that already prohibits and criminalizes intentionally discharging a firearm at an inhabited dwelling house or occupied building or occupied vehicle. This statute...getting rid of...well, adding this statute, to begin with, closed the gap of the drive-by shootings. We don't have a problem in Omaha with people shooting squirrels from their cars. We've got a problem in Omaha where people are doing drive-by shootings. And in this case they would stop a vehicle, get out of their vehicle, and discharge an assault rifle in a residential area. It is constitutionally problematic when you look at the special legislation clause of the Nebraska Constitution. Just this past year, I believe two different statutory subsections were found to be unconstitutional because, most notably, the cigar bar exemption to the Clean Indoor Air Act because they said it carved out an exception or granted a privilege to certain people. We've already litigated in Douglas County a motion to quash where they said this statute is unconstitutional for the very language that LB137 seeks to get rid of. I know it was also litigated in Lancaster County. The Supreme Court has yet to weigh in on it, but the problem is, with the language as it stands now, the statute is under a bit of a constitutional cloud. And should the Supreme Court ever come back and say that it, in fact, is unconstitutional as violative of the special legislation clause, then it puts at risk all the convictions we've obtained of very dangerous people doing very dangerous things under that act. I see I'm out of time. I would be happy to answer any questions anyone may have. [LB137]

SENATOR SEILER: Senator Williams. [LB137]

SENATOR WILLIAMS: Mr. Masteller, under the statute that you cited that didn't have the vehicle aspect to it, what's the penalty under that statute? [LB137]

JAMES MASTELLER: (Statute) 28-1212.02 is a ID felony punishable by not less than a mandatory minimum of 3 years and not more than a maximum 50 years. [LB137]

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SENATOR WILLIAMS: Thank you. [LB137]

SENATOR SEILER: Senator Chambers. [LB137]

SENATOR CHAMBERS: Thank you, Mr. Chairman. There was a situation where a lawyer was representing his client and a person who was testifying against the client was saying that this lawyer's client bit a person's ear off. So the lawyer questioning this person asked one question too many. He said, did you see my client bite the person's ear off? And the person said, no. Then how do you know he bit this person's ear off? Because I saw him spit it out. Once he got that first answer, he should have. If those cases...if the convictions were obtained under this language, even if the Legislature gets rid of it, then I think the challenge could still be made because it didn't...it wouldn't cease to be invalid simply because the Legislature changed subsequently what had happened. So that might still be a problem if somebody thinks to raise it. But there's no need in letting it stay there if you know that. But the real reason I think we're trying to get rid of it is because it does not provide the coverage statewide that it does in Douglas County. And here's something that I've been talking about. There were people down here...and I was term limited out so I wasn't here and a lot of bad things got into the books. They didn't know what to do about gangs, but they all wanted to say we did something. So not only did they put this bone-headed statute in place, but they took some money that I had helped ensure would go to south Omaha and north Omaha to promote tourism because the Legislature was not going to appropriate any money to fight gangs, specifically, that they could dip into that money and use it to fight gangs in the way the police saw fit or words to that effect. None of that would have happened had I been here. And the criminal law has grown by spurts, starts, and stops. The code had been rewritten some years ago, many years ago for somebody as young as you are--they were just as many, but when you reach my age it doesn't seem like the same length--where we created categories of offenses and assigned the penalty. Then if you named the offense and it was found to fall within that sentencing structure, that was the sentence. We didn't start putting in mandatory minimums; we didn't start saying that if this is a first responder, then it's a different type of assault and a mandatory minimum; and now there's a hodgepodge. So what I'm trying to do is get rid of all mandatory minimums. That is what...and you might have had something to do with bringing attention to the fact that people were getting out maybe who shouldn't be out. Were you one of the ones... [LB137]

JAMES MASTELLER: It was someone in my office. [LB137]

SENATOR CHAMBERS: ...that blew the whistle? Because it was somebody with a name that I wouldn't even have tried to pronounce publicly. When you gave your name I said, that might be the name. But here's the point I'm trying to get to. We're not trying to be soft on crime, anything like that. You could still have the range 10 to 50, but without it being a mandatory 10 years, you've got a basis for establishing parole eligibility that

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everybody can understand. But when you put the mandatory minimum, then it starts becoming confusing as to when you start allowing good time and all the things that happen. But if they had taken the time, they could have figured it out. So although I'm saying the kind of things that I am about the necessity of making the law apply statewide, I'm against all mandatory minimums. The judge would still have the discretion to apply that sentence. But here's what I personally believe. If you have one type of act, I don't think it can be so different in quality when it's placed that, on the one hand, 10 years, and on the other it's so bad it's 50 years. You don't have the same act based on my philosophical looking at it. But right now all I want to try to do is get rid of the mandatory minimums, let the judges have discretion, and then we see if that is abused. You cannot even say that there's not abuse when you have a mandatory minimum because people do things differently. And the reason I'm saying this, I don't want it to seem like I say one thing here and then my conduct is different somewhere else. I'm not agreeing to the mandatory minimum. But what I'm agreeing to is consistency in the application of the law so, whether you do the offense in Schuyler or Scottsbluff or Omaha, Nebraska, the same law is going to be applied. And people may misapply it, but at least we didn't write that distinction into the law itself. But that's all that I really have. [LB137]

SENATOR SEILER: Thank you. Any other questions? Seeing none, I'd like to...for the nonlawyers in the audience, Senator Chambers' example of spitting the ear out, the lawyer in that case was Abraham Lincoln. (Laughter) [LB137]

SENATOR CHAMBERS: Oh, and that made me think of something. I just want to memorialize, since we mentioned the young girl who was shot, her name was Payton, P-a-y-t-o-n, Benson. And then people won't get the idea that it's just...because not everybody in this room would know who she was or her name. So that's why I wanted it to be in the record, so that anybody who reads it, a family member or a friend, would be aware that we weren't just pulling an example out of a hat. This is a person whose identity we knew, whom we were concerned about. And we are about everybody, but the example, really, we knew who we were talking about, in other words. Okay. That's all that I have. [LB137]

SENATOR SEILER: Thank you... [LB137]

JIM MASTELLER: Thank you very much. [LB137]

SENATOR SEILER: ...for your appearance and information. Any further proponents? Seeing none, any opponents? Seeing no movement toward the front, anybody in the neutral? Senator Johnson, you may close. [LB137]

SENATOR JOHNSON: Thank you, and thank you for hearing the bill. Sometimes you bring something that looks simple, and it does get complicated. I feel this needs to move

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forward. I think that's the consensus here for parts of it, but I also recognize the fact that maybe there are some other things that could be amended or changed in order to improve the whole situation. I would ask that possibly my office and the county attorney association and your office work to perfect it and then attempt to move it forward. That's my closing. Any comments? [LB137]

SENATOR SEILER: Any questions of Senator Johnson? [LB137]

SENATOR CHAMBERS: Can I make a comment? [LB137]

SENATOR SEILER: Absolutely. [LB137]

SENATOR CHAMBERS: I don't believe that another bill dealing with guns would have this unanimity. (Laughter) [LB137]

SENATOR SEILER: Thank you. [LB137]

SENATOR JOHNSON: Thank you. [LB137]

SENATOR SEILER: There is no letters of support or in opposition to add to the record. Thank you. [LB137]

SENATOR JOHNSON: Thank you. [LB137]

SENATOR SEILER: Senator Bloomfield, LB190, you may open. [LB190]

SENATOR BLOOMFIELD: Good afternoon, Chairman Seiler and members of the Judiciary Committee. For the record, my name is Senator Dave Bloomfield, D-a-v-e B-l-o-o-m-f-i-e-l-d. I represent the 17th Legislative District. I'm here today to introduce LB190 to the committee for your consideration. It's a fairly straightforward bill that I brought before this committee last year. LB190 makes two additions to the Concealed Handgun Permit Act. Currently, 69-2433 states that, "If an applicant is a member of the United States Armed Forces, such applicant shall be considered a resident of this state for purposes of this section after he or she has been stationed at a military installation in this state pursuant to permanent duty station orders even though he or she maintains a residence in another state and claims that residence for voting or tax purposes." LB857 (sic) simply seeks to add this same benefit to the spouse of that service member by adding the language, "The spouse of such applicant shall also be considered a resident of this state for purposes of this section." These spouses have no say in where they are moved to, and it only seems right that we allow them the same rights that we would allow the service member. The act currently requires you be a citizen of the United States, which is where my second addition comes into play. LB190 would change the language to say the applicant be a citizen of the United States or an alien lawfully in the

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United States. My office has been in communication with legal counsel for the committee, and I understand that her recommendation would be to strike the citizenship requirement entirely or use lawful, permanent residence. I'm good with either one. Thank you for your time, and I'd be willing to try to answer any questions. [LB190]

SENATOR SEILER: Any questions? Senator Chambers. [LB190]

SENATOR CHAMBERS: I'm not going to sing anything here. There are ordinary people here and they shouldn't be subjected to that. [LB190]

SENATOR BLOOMFIELD: I agree. [LB190]

SENATOR CHAMBERS: But he makes me think of Johnny Cash. Senator Bloomfield, you know that I'm against the proliferation of guns. I know that I cannot change your mind. You will not change mine. So I'm not going to have a lot to say on this bill. But I did count. You have 25--count it yourself--25 people on this bill. You only need eight more to shut me up on the floor. [LB190]

SENATOR BLOOMFIELD: I had 35 on it last year, Senator, and it never came out of committee. (Laugh) But I wish, besides looking at it as a gun proliferation bill, you would look at it as an equal rights bill. [LB190]

SENATOR CHAMBERS: I understand what you mean. But you know me. [LB190]

SENATOR BLOOMFIELD: I do. Thank you, sir. [LB190]

SENATOR CHAMBERS: Okay. [LB190]

SENATOR SEILER: Any further questions? Thank you. Do you have any proponents here? [LB190]

SENATOR BLOOMFIELD: I think there is one back here, yeah. [LB190]

SENATOR SEILER: Okay. Proponents, come forward, please. [LB190]

SENATOR CHAMBERS: He doesn't qualify. You made that plural. He's one. [LB190]

SENATOR SEILER: (Laugh) He may be the only one. [LB190]

SENATOR CHAMBERS: That's just us. [LB190]

ROD MOELLER: I could speak a couple of times... [LB190]

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SENATOR CHAMBERS: That's just us. [LB190]

ROD MOELLER: ...and make it plural. (Laughter) Chairman Seiler, members of the Judiciary, thank you again. My name is Rod Moeller, R-o-d M-o-e-l-l-e-r. I'm here to testify in favor of this bill. I'm representing the Nebraska Firearms Owners Association. There are two pieces, like the senator said, to this. The first piece is the latter part, what's at the end of the bill about putting "lawful resident alien" or whichever language. You know, it looks like there were some suggestions on how to change that. We're okay with the proposed changes as well. That is actually currently law today. This is trying to bring case law and the black-letter law in line. There was a lawsuit, and so we have case law establishing what's in here already. The second piece here though is the matter of treating military families with some dignity and some respect. We need to be able to treat military spouses in the same way that we treat the military member. In 2006, when the Concealed Handgun Permit Act was passed, there were many odd and excessive restrictions placed within that bill. One of those that seemed a little bit odd was 180 days in order to establish residency in the state of Nebraska for the purposes of getting a concealed handgun permit. Oddly, we're quite happy to tell new residents that they need to register their vehicle and change their driver's license within 30 days because we want their tax money but, yet, we want to try to postpone their ability to defend themselves as long as possible. Now we did remove that 180-day residency requirement for the active-duty military member, and I'm not sure why their family was not included in that change a couple years back when that change was made. This is really just an opportunity to tie up some loose ends and clean that up so that we can treat the military spouses in the same manner as the military member. That's all I have. [LB190]

SENATOR SEILER: Any questions? Senator Chambers. [LB190]

SENATOR CHAMBERS: Just one thing. When people deal with...by the way, anybody who doubt, I will show people my honorable discharge. I was in the Army. He and I exchanged some war stories. But, see, nobody ever shot at me and I didn't shoot at anybody. I didn't go overseas, didn't want to go overseas, didn't want to go in the Army. But to avoid maybe getting drafted, I wanted to get it out of the way so I could go on to school. That word "hero" is applied too broadly. Not everybody who goes to the military is a hero. They wouldn't have federal prisons for military people if everybody was a hero. They wouldn't have AWOL. They wouldn't have desertion. So when you say, treat the spouse the same way you do the person who is a military...a member of the military, that doesn't wash with me. There are situations where spouses have killed each other in the military. Sometimes, it's the person in the military; sometimes, it's the nonmilitary spouse. So they are not the same. There is no equivalency. But I understand that your organization wants to have as many guns in as many hands as possible. My mind is not going to be changed on it. Yours isn't either. So I'm not going to ask you any questions about the bill. But I don't want my lack of questioning to indicate that I support it. In fact,

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I'm more opposed to this than some of the others because it's based on a premise that is totally, totally flawed. The fact that "A" should be granted this right and marries "B," "B" automatically should have it, too, I don't see it that way. And all these people who want to have these restrictions on the voting by black people and Latinos want to quickly give guns to people without them even having to meet residency requirements. So I see a lot of problems as a black man in a white Legislature because it's not the same standard applied across the board. And that's what's meant by "white privilege." White people don't even have to think about the things that I think about. If they're raising a question about something, it's a question raised on a different basis from when I raise it. But on this one, I don't care if the...both spouses are black, both spouses are white, both spouses Latino, mixed, a white person, a black person, interracial marriage. That has nothing to do with it. I don't like the proliferation of guns. And I think there are people who signed this who were afraid not to. They've got to say, this is for the military now, don't...they don't have to pay taxes. They don't have to do this. They are all there voluntarily. They get paid. They have medical care which people in this state don't have. So just because somebody is in the military doesn't make them anything, in my opinion, except somebody who saw a way to get whatever they wanted to get by joining the military instead of getting a job out here. So you gave me another reason to be against the bill that I'll use on the floor. They need eight votes to hush me up on the floor of the Legislature, eight more if all of these stick. [LB190]

SENATOR SEILER: Any further questions? Seeing none, thank you for your testimony. Now we'll find out if I should have used plural or not. Any further proponents? You're right. I should have said single. (Laughter) [LB190]

SENATOR CHAMBERS: I've been around a long time. [LB190]

SENATOR SEILER: Any other...any opponents? Seeing nobody coming forward, any persons in the neutral? Senator Bloomfield, you may close. [LB190]

SENATOR CHAMBERS: Oh, I thought he was going to say, (singing) I stepped into a burning ring of fire. (Laughter) [LB190]

SENATOR SEILER: Senator Bloomfield waives. There are no letters of support or against. Thank you. We'll close on LB190. Senator Ebke, you can open...your turn to open on LB184. [LB184]

SENATOR EBKE: (Exhibit 1) Chairman Seiler, fellow members of the Judiciary Committee, for the record, my name is Laura Ebke, first name L-a-u-r-a, last name E-b-k-e. I represent the 32nd Legislative District. LB184 proposes to change a limited portion of the current Concealed Handgun Permit Act. During my campaign, I had a number of constituents from around the district make suggestions about ways in which the concealed handgun laws could be modified. This is a very modest attempt to

address one particular issue that was brought to my attention, and I believe that there will be others who will testify after me who will go into more detail. To put it simply, as the current law exists, there are limited circumstances when a concealed permitholder is able to carry on a property lawfully on one day but not on the next. Specifically, the current law allows places of worship to designate security teams. If a concealed permitholder is part of the security team, he or she is allowed to carry concealed at the place of worship. However, because of the way that current statute is written, if a private school or private preschool were to conduct classes in or adjacent to the church as part of the church's mission, the very same members of the security team would not be allowed to legally carry, even if they were designated as part of the security team for the school. As one person described it to me, I can carry at Sunday school but not Monday school. I would note at this point that LB184 did have a drafting error which we didn't catch, unfortunately, until after introduction on the floor and after this hearing was scheduled. AM20, which I think has now been handed out twice, is submitted to correct that error. Specifically, on page 2 of the bill, lines 11-13, there are a number of "strike-throughs" which should not be stricken through. There are a few important notes to emphasize again on this bill. First, it is optional and only applies to private institutions. With the corrected text via AM20, it does not change the default no-carry standard in churches or private schools. It only provides these institutions with the option to create designated security teams made up of concealed carry permitholders. No other permitholders are authorized to carry in those locations. Third, the security team members will have, of course, gone through all of the necessary concealed carry training permit process. But, of course, the entities authorized to create security teams can certainly require more training if they see fit. Four, as private institutions, both churches and private schools are accountable to their congregations or to the parents and students they serve. As such, notice of the creation of the security team must be given to those groups per the current statute for churches and the proposed updated version for private schools, as well. And, five, I also feel compelled to note that this change costs nothing to the taxpayer. Private institutions provide their own resources should they feel that they want to allow concealed carry on their premises by security team members. I've had some questions regarding how many institutions this might apply to. Because this is merely opening up an option, it's almost impossible to define how many schools might decide to take advantage of that option. Likewise, because it is an internal decision of the school or church, there may be no broader public disclosure of that information. Somewhat surprisingly, after the introduction of this bill, I've had a couple of people mention, within my district and outside of the district, in passing that their church has a designated security team already. And these were in areas of my district especially where I wouldn't have necessarily thought that likely. I've seen examples of security team plans that some churches have put into place, and I hope that one of the people to follow will be able to elaborate a bit more directly on that out of firsthand experience. Again, LB184 doesn't change any default no-carry locations. It merely allows limited security team options in schools that are often already in close proximity or even using the same space as places of worship that have already...that

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already have security team options available. I believe this is a reasonable solution for private institutions that would like to have the option to provide the people they serve with some form of protection without having to hire, for instance, off-duty police officers, which is obviously far less discreet. I'd be happy to try and answer any questions you might have, keeping in mind that there are a number of people who will come behind me who can speak better to some of the experiential issues. [LB184]

SENATOR SEILER: Any questions? Senator Chambers. [LB184]

SENATOR CHAMBERS: Senator, welcome. [LB184]

SENATOR EBKE: Thank you, Senator. [LB184]

SENATOR CHAMBERS: Not only are you in the lion's den, you're now one of the lions. [LB184]

LAURA EBKE: I know. [LB184]

SENATOR CHAMBERS: And if you know how I feel about lions, you would know that that's a very favorable comment that I'm making about you. [LB184]

SENATOR EBKE: And this has nothing to do with lions, I promise. [LB184]

SENATOR CHAMBERS: I know. But you had mentioned something about these private schools and parochial schools paying their own way and so forth. But you know they got a very clever lawyer to find a way to have state aid go to some of these schools through what they call a textbook exchange or whatever, so they're not paying their way. They try to find every way to circumvent that. They want to, say, give money to these students who want to go to those schools, so that's a statement which is not completely true, not completely accurate. In the same way that I don't want to see proliferation of guns, I want to see a sharp line of demarcation--in fact, a wall--between the church and the state. And when these churches set up a parallel education system--and Catholics are the only ones who have done it, really--from preschool to postdoctoral, and hospitals, and then they want to pretend that all they are is a religion and they want all kind of protections because they're a religion, get rid of all of that. I've been through it so much. But this is a situation where, whether children's parents feel a certain way, the children are as much at risk, and maybe even more so, in these private schools and these parochial schools because when I didn't want any children to be beaten in school, the only thing I could do with the law was to ban corporal punishment in the public schools. They can still beat kids in Catholic and other private schools. And I don't know why they want to do it but, nevertheless, they do. Why do these people feel they need these guns? And I'll put it in context. Is somebody from your district going to come up here and tell us that, if they'd have had these guns that they're talking about, something

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happened that would have not have happened if these people were, whoever they are, running around here armed? [LB184]

SENATOR EBKE: No, but just as public schools use resource officers and such as a preventative means, I think that at the private schools, some private schools, certainly not all of them, want that option of having some means of protection should something bad happen. It's not as if something bad has happened and this will...you know, this would have prevented it. But I think they want to have that option. [LB184]

SENATOR CHAMBERS: Do you know what a crossfire is? [LB184]

SENATOR EBKE: Yes, I believe so: two weapons, yeah, going back and forth, yeah. [LB184]

SENATOR CHAMBERS: Like at Wendy's in Omaha... [LB184]

SENATOR EBKE: Sure. [LB184]

SENATOR CHAMBERS: ...when some cops were on the east side of the building, some on the west side, and both of them shot and they killed a man and the bullets went through other establishments. That's police, who are supposed to be trained. Now you've got these people running around in this school and the walls are not bulletproof. The bullets don't have names on them. And these people, untrained...and this little bit of two or three or four or five or six or however many hours, that's not adequate training to equip somebody to use a pistol. Now when I was in the Army, I learned how to use a .45, not because I wanted to. I was in the infantry and I had to. I don't want a gun. I don't want to shoot anybody. But they had us dealing with that weapon more than the number of hours they talk about here. And we were not going to be using it in a place where civilians were. So they tell you that if you take these few hours you're going to know how to shoot that. Most people don't know that the barrel of a pistol is too short. It doesn't have the rifling that a long barrel has to make the round spin and go straight. If I want to hit him, I aim at you. And to...they look at cowboy pictures and detective stories where they shoot guns out of people's hands. But the point I'm getting to is this, and I'm kind of letting the people who are going to follow you be able to address the issues that I'm raising without me having to do it through questioning and answering because I don't want them to feel that I'm hostile toward them. Show me what kind of training they're talking about and what these people are going to do and what are the circumstances when they're going to be shooting these guns, what's going to happen with the children, what would prevent a crossfire, what would prevent somebody from dropping a gun or, as happened in one place, the teacher forgot and left a gun in a desk drawer and a kid got it. So those are some of the things I want these people who persuaded you to bring this bill...and I notice that all of them are new people who signed onto the bill. That, in and of itself, is not necessarily saying anything. But these are not well thought-out bills;

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they are not good policy. And to show how far I go in my belief that children need protection from foolish, simpleminded adults who want to play with guns, I think there are times when the state needs to take the place of parents to protect children, such as vaccinations. I think it should be mandatory that children be vaccinated against these infectious diseases where there's an outbreak, especially measles, where it could be prevented. And I know people disagree with me. They think they own children like they own a piece of property. But as those who follow you can see, I'm hoping they'll address the issues that I'm raising because you and I can talk, you know, anytime. And so I don't have to ask you a lot of questions anyway. But that's all that I would have. [LB184]

SENATOR SEILER: Any further questions? Senator, I just have one procedure. [LB184]

SENATOR EBKE: Okay. [LB184]

SENATOR SEILER: Has AM20 been filed? [LB184]

SENATOR EBKE: Has it? You have it, right? [LB184]

SENATOR SEILER: No, I've got it. [LB184]

SENATOR EBKE: Okay. [LB184]

SENATOR SEILER: But has it been filed with the Clerk? [LB184]

SENATOR EBKE: No, I don't believe so. [LB184]

SENATOR SEILER: Okay. Thank you. [LB184]

SENATOR EBKE: Yeah. Okay. [LB184]

SENATOR SEILER: It wasn't coming up on my computer. That's why I wondered. [LB184]

SENATOR EBKE: Okay. Okay. Sorry about that. Yeah. [LB184]

SENATOR SEILER: I have nothing further. [LB184]

SENATOR EBKE: I just received it this morning (inaudible)... [LB184]

SENATOR SEILER: You may...you're going to stay and... [LB184]

SENATOR EBKE: I'll be here. [LB184]

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SENATOR SEILER: Okay, thank you. [LB184]

SENATOR CHAMBERS: She's on the committee. (Laughter) [LB184]

SENATOR SEILER: I know. [LB184]

SENATOR CHAMBERS: Oh, okay. [LB184]

SENATOR SEILER: I thought maybe she'd leave. (Laughter) Will the opponent--I'm going to use "opponents"--please come forward for one... [LB184]

SENATOR COASH: You mean proponents? [LB184]

SENATOR SEILER: What did I say? [LB184]

DIANE AMDOR: You said opponents. [LB184]

SENATOR SEILER: Oh, proponents. I'm sorry. [LB184]

ROD MOELLER: Good afternoon again. My name is Rod Moeller, R-o-d M-o-e-l-l-e-r, representing the NFOA, Nebraska Firearms Owners Association. We are definitely very much in favor of this bill, as I'm sure nobody's really surprised. We live in a scary world. There's a lot of dangers in the world that we have to deal with. As individuals, we get to choose how we want to deal with a lot of the dangers in the world. Whether that be responding to fire, tornadoes, earthquakes, violent encounters that could happen where we spend our lives, it's up to us how we want to respond. And we can bury our head in the sand and pretend those risks don't exist, we can cower in fear when faced with danger, or we can seek knowledge and training and find a way to confront those risks and dangers head-on in a responsible manner. Collectively, we also get to decide how we want to respond to the risks that we live in, in our world, as a society, within our own community, within our own families. Whether it be the state or the church or our town, we have policies and procedures that we put in place to address a variety of risks that we face. By establishing these rules and policies, we as our own small groups get to determine what is best for us in facing these risks. We mandate many things that are related to fire. We have training that is required. We have policies out there. We require that schools have fire drills and that they have alarms and that they have some sort of a system to address the fire as it comes. Same as tornadoes for those of us that live in Tornado Alley or earthquakes for those that live in that part of the country, we have those procedures and we insist that our students go through drills to ensure that they're trained in how to properly respond to those types of risks. So what do we do about crime? Well, oddly, that's the one area where we don't want to protect our children properly. We fear a weapon. We fear the things that could happen, and we've seen the dangers of being completely unarmed in our schools. We have at least come to our

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senses in the state of Nebraska to allow each church to develop their own security procedures. There are some pretty impressive, in-depth security procedures established by some of the churches out there. I will share that one of my good friends is on the security team for his church in the Omaha area, and as a policy for their security team they require everyone to go to Front Sight Firearms Training Institute and go through, at least once, the four-day defensive handgun class which consists of about 40 hours of training across four days. That is in addition to the eight hours of training mandated by the state of Nebraska. So we'll have people behind me that will talk about a lot more detail as to some of these procedures, but there is training out there. And I think the churches should be allowed to come up with their own policies, and those private schools should be able to utilize those same procedures. [LB184]

SENATOR SEILER: Any further questions? Senator Chambers. [LB184]

SENATOR CHAMBERS: Are churches the same thing as houses of worship? Are they? Do people worship in these...in churches? [LB184]

ROD MOELLER: I would say that most people would use those terms interchangeably. [LB184]

SENATOR CHAMBERS: Do you go to church? [LB184]

ROD MOELLER: I do. [LB184]

SENATOR CHAMBERS: Okay, so you know what a church is. [LB184]

ROD MOELLER: I do. [LB184]

SENATOR CHAMBERS: Okay. Do they worship God in these churches? [LB184]

ROD MOELLER: They do in my church. [LB184]

SENATOR CHAMBERS: Is God all powerful? [LB184]

ROD MOELLER: He is. [LB184]

SENATOR CHAMBERS: Does God protect his followers? [LB184]

ROD MOELLER: He does. [LB184]

SENATOR CHAMBERS: But not good enough so that they need guns to reinforce what God's going to do, or hope God would do, right? [LB184]

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ROD MOELLER: Well, God has given us the gift of free will. [LB184]

SENATOR CHAMBERS: I'm not talking about that. You don't believe that God offers adequate protection. Isn't that true? Yes. [LB184]

ROD MOELLER: God has us living our own lives. [LB184]

SENATOR CHAMBERS: But why in the world is it so hard for you to answer directly? First, do you believe in God? [LB184]

ROD MOELLER: I do. [LB184]

SENATOR CHAMBERS: I don't care whether you do or not. Do you believe that God is all powerful? [LB184]

ROD MOELLER: I do. [LB184]

SENATOR CHAMBERS: But you don't believe God will protect you when you're in church, do you? [LB184]

ROD MOELLER: I believe that that's a loaded question. I believe he will protect us in many times, but he's not there to shield us against every single instance that could occur. [LB184]

SENATOR CHAMBERS: Do you watch television news on a regular basis? [LB184]

ROD MOELLER: I do. [LB184]

SENATOR CHAMBERS: Did you see where a few days ago a five-year-old child got a gun and shot his nine-month-old sibling in the head with it? [LB184]

ROD MOELLER: I did, in Missouri. [LB184]

SENATOR CHAMBERS: That was a family that wanted to protect itself. And the sheriff said that they live in a rural community, everybody's got guns, they target practice, they hunt with it, and they also on occasion kill their children or their children kill their children. So guns are not an unmitigated good, are they? [LB184]

ROD MOELLER: There's no absolutes. [LB184]

SENATOR CHAMBERS: And they can fall into the hands of the wrong person who is not a criminal. Isn't that true? [LB184]

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ROD MOELLER: When used irresponsibly, absolutely. [LB184]

SENATOR CHAMBERS: And accidents happen with guns. [LB184]

ROD MOELLER: Negligence happens with guns. Accidents don't happen, Senator. Negligence happens. [LB184]

SENATOR CHAMBERS: Well, they...I've heard that guns don't kill people, people kill people. [LB184]

ROD MOELLER: That's actually true. A gun cannot go off on its own. [LB184]

SENATOR CHAMBERS: Oh, I don't believe you. [LB184]

ROD MOELLER: It does require an action. [LB184]

SENATOR CHAMBERS: I don't believe you. I believe the police, because police have been in situations and they say, I pulled out my gun and the gun went off--not, I shot the person--the gun went off, the gun did it, the gun killed it. And if you think I'm not telling the truth, I will get you some articles because I collect things like that to show how people contradict themselves and say whatever they need to say for the particular situation. Now when you say training of eight hours, that means you can start at 8:00 in the morning, take an hour for lunch, and at 5:00 you're...you've completed your training. Is that eight hours? [LB184]

ROD MOELLER: That sounds like eight hours of classroom time, yes. [LB184]

SENATOR CHAMBERS: Okay, and that's enough training and...now you use guns, don't you? [LB184]

ROD MOELLER: I do. [LB184]

SENATOR CHAMBERS: Do you think that's enough training to equip somebody to be in a school handling this gun, and a security person? [LB184]

ROD MOELLER: I do not. [LB184]

SENATOR CHAMBERS: And there's nothing in this bill that requires anything more than that, is there? [LB184]

ROD MOELLER: The Concealed Handgun Permit Act mandates an eight-hour course. That course is not intended to be a beginner's course. The expectation is that the person going in...not expectation by the law but by those of us who teach the class, the

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expectation is this is not for a beginner. [LB184]

SENATOR CHAMBERS: That's irrelevant. I'm asking you what the law requires. You've gone to the Kintner school. When I ask the questions, you want to act like something is wrong with me for asking the question. I'm asking the question based on the law. Does the law require more than what I described, as far as training? [LB184]

ROD MOELLER: The law mandates eight hours. [LB184]

SENATOR CHAMBERS: Were you ever in the military? [LB184]

ROD MOELLER: I was. [LB184]

SENATOR CHAMBERS: Okay. Did you ever use...train with pistols? Well, what branch were you in? [LB184]

ROD MOELLER: I was in the Army. [LB184]

SENATOR CHAMBERS: Okay, so were you in the infantry? [LB184]

ROD MOELLER: I was not. [LB184]

SENATOR CHAMBERS: Oh, well, see, I was in the...that's the...the Army is the lowest branch of the military. Infantry is the lowest part of the Army. And rifleman is the lowest person in the infantry. And I was a rifleman, but I had to learn how to use pistols and machine guns. And I never felt I was adequately trained on machine guns and those things. We had to go through the training. But you know from your own experience that if you take a green person and give that person...and they could have used a gun before. Eight hours is not adequate training to equip somebody to be given a gun and told, now you are capable of protecting other people. Or maybe I'm being presumptuous. Do you think that's enough training? [LB184]

ROD MOELLER: I don't believe that that's enough training on their own, and I encourage all of my students to seek additional training. [LB184]

SENATOR CHAMBERS: Then why don't you all come in here sometimes and get the law changed to put the amount of training that really would be practical? [LB184]

ROD MOELLER: Is that a rhetorical or would you like me to answer that? [LB184]

SENATOR CHAMBERS: I'd like you to answer it. [LB184]

ROD MOELLER: Okay, because I believe that most of the responsible persons are able

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to determine on their own where their biggest weaknesses are and choose to pursue the training that is best suited for them and are better suited to determine what training they need than to have somebody, possibly with no experience, mandating in law what that training should contain. [LB184]

SENATOR CHAMBERS: Now if...I didn't have any way of knowing that I wouldn't get on a boat and go some places and have to shoot somebody or duck and try to keep from shooting anybody or being shot. Doesn't it seem like that would be enough incentive for me to master all these different weapons that they give to us? Do you know what malingering is? [LB184]

ROD MOELLER: In a way, but I would also say that those who choose, because it's purely voluntary, those who choose to pursue firearms training for defensive use are going to be going about a very different angle than what the military is asking their soldiers to do. Therefore, the training is very different in how they aim. [LB184]

SENATOR CHAMBERS: But it seems to me that, if your life could hang in the balance, that would be enough incentive to make you do what you ought to do. One of the things I hated most was going on the firing line with those weapons and nobody was shooting back. I'm trying to say all that to get around to the point that I do not believe eight hours' training equips anybody to be considered competent to be put in a position to protect people. And some people think that if you point a gun, a firearm, then you're likely to hit what your eye is looking at. Let me ask you a question. Do you think there's enough rifling in a pistol barrel to make the projectile go straight, let's say for 25 yards, that you point at something 25 yards from you and you're likely to hit it just by pointing at it? [LB184]

ROD MOELLER: I'm perfectly capable of getting a ten-round group at 25 yards inside of a nine-inch circle. [LB184]

SENATOR CHAMBERS: Well, you do it all the time. I'm talking about an ordinary person. [LB184]

ROD MOELLER: You were asking about whether the rifling was capable on a short-barreled firearm. [LB184]

SENATOR CHAMBERS: Well, let me make it clear. I'm talking about ordinary people, not marksmen or markswomen, but people who are going to get these guns and be required under the law to get only eight hours' training. If somebody is coming through that door and I'm...I got eight hours' training, you think I can pull out the pistol and shoot and I'm likely to hit the person? Or might I hit somebody over there or somebody over there? Are you aware that you have to be careful that you hold your hand steady and you could think you're holding it steady and you're not and the gun will move? [LB184]

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ROD MOELLER: I'm aware that most firearms...defensive situations occur inside of ten yards. So, you know, the closer to the threat, the closer the distance, you know, the less that the accuracy can matter, to a point. Obviously, there needs to be some training. You're talking about the letter of the law, and I appreciate that. That's what we need to talk about. The law requires that for a church--and, therefore, in this case, the private school using those same terms and requirements--develop a security policy. And part of that security policy, from every church that I've spoken to that has established one of these policies, establishes extensive training requirements beyond what the Concealed Handgun Permit Act requires. [LB184]

SENATOR CHAMBERS: How many churches have you talked to, roughly? [LB184]

ROD MOELLER: I've had representatives from at least two churches come through my classes individually. I've had at least a dozen individuals over the past year or so that I've had conversations with. [LB184]

SENATOR CHAMBERS: Then I'd have...I'd suggest you look in the Yellow Pages under "churches." But here's what I'm trying to get at. There have been cops in close proximity to people and would shoot and miss them. There were cases where they would show it on the camera where it's at a filling station and the cop's car is not parked that far away. And the cop shoots several times and doesn't hit the person, and this cop is trained. So you can say ten feet or those things all you want to, but does the bullet travel only ten feet? [LB184]

ROD MOELLER: No, it does not. [LB184]

SENATOR CHAMBERS: Okay, so if I miss somebody, that bullet is going to go until it's stopped or until it runs out of energy and just falls. [LB184]

ROD MOELLER: And we can always come up with an instance where somebody failed at their objective. [LB184]

SENATOR CHAMBERS: Like the Omaha Police in a crossfire killed a man and their bullets went through establishments. You...and I talked to the chief about that. And I said, I hear all of you guys defending these cops and saying they didn't do anything wrong, then are you telling me that at the academy this is going to be used as an example in a training guide of how you should behave? Would you recommend they use that example and use the same tactics that were used by those cops? Is that what they should be taught to do, crossfire in a civilian establishment where civilians are present and there are structures inhabited on both sides of this building and the bullet...the walls are not bulletproof? But anyway, that's all I'll ask you. I'm just frustrated because you're an authority and an expert. I'm listening to you talk and I don't trust you

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as much now as I did...I used to. You probably said too much. The question about how did you know he'd bite the ear...bit the ear off? Okay, I saw you spit it out, so now...okay, that's all I have though. Thank you. [LB184]

SENATOR SEILER: Any further questions? Thank you for your testimony. Next proponent. [LB184]

DICK CLARK: (Exhibit 2) Chairman Seiler, members of the Judiciary Committee, my name is Dick Clark, D-i-c-k C-l-a-r-k. I'm a member of the Nebraska Firearm Owners Association board of directors and one of the NFOA's registered lobbyists. I'm also an attorney who's worked on a number of matters relating to firearms law. And finally, I'm a security team coordinator for Temple Baptist Church here in Lincoln. Thank you for this opportunity to testify in support of LB184. Under current law, private schools, like other schools, are on the long laundry list in Nebraska Revised Statute 69-2441(1)(a) of places where concealed handgun permitholders are prohibited from carrying a concealed firearm. The list also includes: many different types of government meetings, like the one we're in now; buildings that contain a courtroom, like the one we're in now; financial institutions; places of worship; and a few other locations. However, not all of these prohibited places are equal under the law. In (1)(b), financial institutions are given the authority to use armed security personnel to guard their premises so long as the guards have valid concealed handgun permits. In (1)(c), places of worship are given the option of creating armed security teams composed of permitholders, but only after providing written notice to the congregation of the decision to employ such a team. There is no such exception for private schools, even though many private schools are affiliated with and even share leadership with places of worship. These schools often serve many of the same children who attend services at the church affiliated with the school, but the security team that provides for them on Sunday is not a legal option for Monday. I'm grateful for the fact that violent crime is actually significantly down in this country since 15 or 20 years ago. But the sad fact is that mass shootings, or what experts describe as active-shooter events, are still something that we see all too often in the news. While these events are very rare, the toll of an active shooter's rampage extends far beyond the immediate victims and their family. Naturally, government collects data on these crimes, and an FBI report from 2012 tells us that a majority--60 percent--of active shootings end only when defenders show up to stop them. Fourteen percent surrender when they are confronted by a defender--either police, private security, or an armed member of the public--but unfortunately, 46 percent of incidents end only when the attacker is shot or otherwise forcefully resisted by police or armed security. Most of the remaining incidents--40 percent--end when the attacker commits suicide, often after first being confronted by a defender. Only the tiniest fraction of these criminals--less than 1 percent--choose to flee. For whatever reason, whether it's deep-seated malice or mental illness, these killers usually choose to keep killing until someone stops them. After the Sandy Hook tragedy, we heard recommendation from Wayne LaPierre at the NRA, a number of policy changes including police in every

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school. Well, armed uniformed police officers in schools can certainly be a security asset, but their presence can distract from the education process. They also have to be paid for their services either by taxpayers or by a private client who employs them to moonlight as a private security officer. Officer or no officer, it may also be the case that some schools feel that no armed security is needed or wanted. The right answer is not one size fits all. Administrators know their schools better than I do, even better than you do, Senators. LB184 would give them an additional option and it would be their choice to decide whether to implement a new security policy. I see my time is up, so I thank you for your time. And I'd be happy to answer any questions. [LB184]

SENATOR SEILER: Seeing none... [LB184]

SENATOR CHAMBERS: I have a question. [LB184]

SENATOR SEILER: Oh, wait a minute. Okay. [LB184]

SENATOR CHAMBERS: Are you aware of shootings that have occurred in churches? And I'm going to tell you, I am and I've seen some described on television where irate women--and it happened in more than one case--came up and shot the preacher. Now with your training, if a woman is running down the aisle toward the pulpit, your person would not take a chance and would shoot that woman, correct? [LB184]

DICK CLARK: No, sir, that's not true. [LB184]

SENATOR CHAMBERS: Tell me how you do it then. What are you trained to do? [LB184]

DICK CLARK: Well, I would say that there's no panacea, Senator, and there are certainly scenarios where, whether there's an armed defender there or not, there may not be a great solution that could prevent that tragedy. What I do know though is that, in the data that I have from the law enforcement officials at the federal level, these incidents tend not to stop. And we're talking about a spree killing, maybe not something where there was a previous relationship that spurred that action, but they usually don't stop until a defender is present. And again, if I could just speak personally on the theological level, I'm not so worried about defending myself. I'm also a father. I'm worried about defending folks who don't have that option to turn the other cheek. To me, that's a very different question, and that's the question that this addresses because, again, if we've got an exception to protect the money at the bank, Senator, I think we should have an exception to protect our children at schools. [LB184]

SENATOR CHAMBERS: Those two things are not the same. Banks are where things...where a very valuable commodity is found, and people would come to the bank to take that. And if they went to a school and they're not crazy, they're not going there to

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take somebody's child. But I'm asking what...didn't you say you've trained these people who... [LB184]

DICK CLARK: I'm the coordinator at my church, which means that I'm one of the people that the church leadership appointed to the team. And then I've helped appoint the other folks and we... [LB184]

SENATOR CHAMBERS: So you're on the team that is... [LB184]

DICK CLARK: Yes, sir. [LB184]

SENATOR CHAMBERS: You'd be a protector, in other words. [LB184]

DICK CLARK: Yes, sir. And I should tell you that churches are very different, just like schools are very different. My church is about 100 on Sunday mornings, so it's very different from, say, Berean Church where they have several thousand, and certainly different protocols would be in order. [LB184]

SENATOR CHAMBERS: But let's deal with yours, because that's what you know about. [LB184]

DICK CLARK: Please, yes, sir. [LB184]

SENATOR CHAMBERS: And I don't want to take you afield. Do you carry a gun when you're at church? [LB184]

DICK CLARK: I do, sir. [LB184]

SENATOR CHAMBERS: So you're armed, but not with the spirit. [LB184]

DICK CLARK: I'd like to think that the more important armament that I carry is the spirit and the other is simply something that, through the gift of reason, I have reason to, you know, believe that I should carry along, as well, out of prudence, sir. [LB184]

SENATOR CHAMBERS: But you believe in that Russian proverb: trust but verify. [LB184]

DICK CLARK: Well... [LB184]

SENATOR CHAMBERS: But in this case, trust the Lord but count on yourself. [LB184]

DICK CLARK: I believe in the direct advice of Jesus Christ in the book of Luke that says that he who has no sword should sell his cloak and buy one. [LB184]

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SENATOR CHAMBERS: But he said, he that smiteth ye on the one cheek, offer him the other one also. [LB184]

DICK CLARK: Indeed, which is why I distinguish between protecting the innocent versus self-defense. [LB184]

SENATOR CHAMBERS: Now when...show me anyplace where Jesus said that somebody should use violence because when they came to take Jesus and he knew they were going to kill him and Peter took a sword from one of the soldiers and cut his ear off and Jesus didn't praise him and say, thank God you're here, he said, Peter, he that liveth by the sword perishes by the word, and picked the man's ear up and spit on it and stuck it on his head, and he was as good as new and heard better out of that ear than he did the first one. [LB184]

DICK CLARK: I love that example of forgiveness, but you forgot part of it. And the other part of what he admonished Peter about was that, couldn't I have called the host of heavens down to do this? The issue was there... [LB184]

SENATOR CHAMBERS: Well, you... [LB184]

DICK CLARK: ...there is that he had the ability to defend himself. [LB184]

SENATOR CHAMBERS: No, no. That's what the devil said. That's the devil told him. [LB184]

DICK CLARK: No, sir, that's what...that was...I'll send you the quote. [LB184]

SENATOR CHAMBERS: But to get away from that, your intent... [LB184]

DICK CLARK: Yes, sir. [LB184]

SENATOR CHAMBERS: ...when you are in that church with a gun, first of all, you don't pull a gun if you don't intend to use it. [LB184]

DICK CLARK: I believe that's right. [LB184]

SENATOR CHAMBERS: And you don't point it if you don't intend to shoot it. [LB184]

DICK CLARK: Especially not anything that ought not be destroyed, yes, sir. [LB184]

SENATOR CHAMBERS: So while you're in church, you are there with the intent to kill if necessary. [LB184]

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DICK CLARK: No, sir, actually, the wonderful thing about defensive gun-use statistics is that the vast, vast majority of defense gun uses do not result in anyone being shot. [LB184]

SENATOR CHAMBERS: You said majority. [LB184]

DICK CLARK: Yes, sir. [LB184]

SENATOR CHAMBERS: You didn't say all, every, or each, so there are some cases where that does not happen. [LB184]

DICK CLARK: That's right. Out of the approximate 2.6 million defensive gun uses in the country, the United States,... [LB184]

SENATOR CHAMBERS: We're talking about... [LB184]

DICK CLARK: ...most of them end in no shots being fired. [LB184]

SENATOR CHAMBERS: I'm talking about you, not statistics. [LB184]

DICK CLARK: Yes, sir. [LB184]

SENATOR CHAMBERS: I'm going to do you like they do football players. [LB184]

DICK CLARK: Okay. [LB184]

SENATOR CHAMBERS: We're not talking statistics. The coach is not there. What happened in three games over here means nothing. [LB184]

DICK CLARK: Yes, sir. [LB184]

SENATOR CHAMBERS: What we do on the field today counts. [LB184]

DICK CLARK: In that case, I'd love to share with you a personal anecdote. [LB184]

SENATOR CHAMBERS: Your intent... [LB184]

DICK CLARK: ...that would maybe reveal my personal character, if I may. [LB184]

SENATOR CHAMBERS: No. I'm asking you... [LB184]

DICK CLARK: Yes, sir. [LB184]

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SENATOR CHAMBERS: ...and I hope you won't be evasive. [LB184]

DICK CLARK: Oh, no. [LB184]

SENATOR CHAMBERS: Your intent is to kill in that church if you deem it necessary, isn't it? [LB184]

DICK CLARK: If I deem it necessary, yes, sir. [LB184]

SENATOR CHAMBERS: Okay. That's all I needed to know. [LB184]

DICK CLARK: Thank you. I always learn something when I chat with you, Senator Chambers. [LB184]

SENATOR CHAMBERS: No, you knew it already. I'm like Aristotle: By asking you questions, I bring out to you the fact that you know more than you thought you knew. [LB184]

DICK CLARK: I believe they call that the dialectic, don't they? [LB184]

SENATOR CHAMBERS: Don't add materialism or they'll be calling you a Communist. [LB184]

SENATOR SEILER: Any further questions? Yes, Senator Morfeld. [LB184]

SENATOR MORFELD: Sir, in your church, was there...when you made this decision, was there any opposition by any members, or any concerns? [LB184]

DICK CLARK: No. So believe it or not, despite the fact that I'm a hobbyist and think about guns a lot because I enjoy going to range, I didn't actually raise this issue with our church leadership. However, the pastor knew that I practice law in this area and came to me to ask because, apparently, actually, before I started attending there, there was an incident that did not rise to the level that would necessitate, you know, deadly force in response, but it just sort of raised the issue in his mind of what if there was somebody that I personally couldn't stop. And so I met with the board of trustees. I shared with them my research about the law, about active shooters, also about attacks on faith-based organizations, which I didn't bring for my testimony today. Then we had a church business meeting where we discussed a motion to approve this sort of security measure. The church did vote, to my knowledge, unanimously, although I'm afraid I don't have the count with me. And then we gave out notice in the minutes of the meeting. And then, additionally, we give letters to each person who is appointed so there is some evidence that the law was followed and that person is, in fact, you know,

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an appointed member of the team, so. [LB184]

SENATOR MORFELD: And you're an expert in this...you're a gun expert or...? [LB184]

DICK CLARK: Well, I wouldn't say that, sir. I do enjoy shooting. I grew up target shooting. I taught... [LB184]

SENATOR MORFELD: I'm sorry, in the law, I guess. [LB184]

DICK CLARK: Well, I am an attorney, yes, sir, and I practice in this area, although I think any attorney who claims to be an end-all-be-all expert on any area of the law might be in for a surprise, and I certainly would claim that. [LB184]

SENATOR MORFELD: So have you worked with other congregations or parishes that have tried to institute this or... [LB184]

DICK CLARK: A couple, although, frankly, I wouldn't say I'm the expert in teaching a church how to set up their security team. There is a fellow in Lincoln over at Berean named Cody Blocker who is a career security professional, and you might want to talk to him about those procedures. Certainly, he has a much more complex task securing a big building like that compared to our little church. [LB184]

SENATOR MORFELD: And in the churches that you have worked with in setting up these policies, have you heard of other resistance from people in the church? [LB184]

DICK CLARK: Well, I can tell you I'm in a fraternal organization that involves men of many different religious backgrounds, and I'm...in fact, there are some preachers from some other Christian denominations who are in my lodge, and I know that some of them do find it objectionable. And I absolutely would find it objectionable if churches were required to allow an armed security team. I do think it's something that the administrators in that institution are best suited to answer. [LB184]

SENATOR MORFELD: Okay. Thank you. [LB184]

SENATOR SEILER: Any further questions? Yes. [LB184]

SENATOR PANSING BROOKS: I guess I'm interested in the notice part, Mr. Clark. [LB184]

DICK CLARK: Yes, ma'am. [LB184]

SENATOR PANSING BROOKS: I understand that written notice has been...to the congregation has been crossed out and, instead, effective written notice of the

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authorization is given to the congregation. So is that placed on the building so that when people that come in that aren't necessarily part of the congregation would have an understanding that armed forces are within? [LB184]

DICK CLARK: Well, we have copies of church minutes that are available, and that was the written notice that we thought was adequate, especially given the fact that sort of everybody knows everybody and we could be pretty sure that I'd talked to so and so. And, you know, it's a little different task from maybe telling a congregation of 6,000 where you have many people who are visiting on any given Sunday. But, no, I don't think that the law requires any posted, conspicuous notice that there is an armed security team. It's simply a written notice to the congregation. I know that some people offer that in the form of a brochure that might be sort of with a bunch of other brochures and tracts in the lobby of the church where it might mention that there's such a security team. Different churches comply through different means. [LB184]

SENATOR PANSING BROOKS: Okay, so this wouldn't...with something like you mentioned, the Berean Church that has thousands of people, you sort of go and, if you're a guest, you just don't know for sure that that's going on, that people are... [LB184]

DICK CLARK: Right. Yeah. And again, you also might not know about any number of other activities that you didn't read about in the literature that was available up-front. And I'm sure that churches till, you know, till the end of time will be trying to figure out how to communicate the information they want to convey to people that need to hear it, so. [LB184]

SENATOR PANSING BROOKS: I just think the...I think with the eight...I think the concern of the eight hours of training and then all of a sudden coming in as a guest of that church, you...it would be good to be able to know what you are subjecting yourself to in a way. I mean I think that eight hours of training does not sound like a lot of training, to me, so to take that risk as a citizen walking into a place and...you know, I think it's enough of a concern when police are around children and all sorts of families and have guns, so then if there's also that issue and you don't realize that that's going on. But maybe if this passes, then all the churches will have it, so it won't be an issue and we'll all be on notice. [LB184]

DICK CLARK: Well, again, I think that there are many churches that would prefer not to have weapons in the church, and I absolutely respect that. And I would hope that no institution loses the ability to regulate, you know, what it can do on its own property because of action by the Legislature based on whether they're a religious organization or other. Frankly, the fact that churches are set aside as a prohibited place rubs me the wrong way because you could have a meeting of the rationalist club or the atheist club and they don't have a restriction on their meeting place. But a place of worship does,

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and so that seems, to me, to be a religious test for your civil rights. But that's not the bill that I'm here to talk about today. [LB184]

SENATOR PANSING BROOKS: Thank you, Mr. Clark. [LB184]

SENATOR SEILER: Yes, Senator...oh, excuse me. Go ahead. [LB184]

SENATOR PANSING BROOKS: No, I just said thank you. [LB184]

SENATOR SEILER: Okay. [LB184]

SENATOR EBKE: Let me ask a question just as a point of clarification based on what Senator Pansing Brooks just mentioned. [LB184]

DICK CLARK: Oh, please. [LB184]

SENATOR EBKE: She was concerned about churches. Where do churches stand at this very moment? [LB184]

DICK CLARK: Well, that is the status quo for churches, the concealed handgun permit as a prerequisite, appointment by the church leadership, and then written notice to the congregation. [LB184]

SENATOR EBKE: So we don't...and we don't know how many churches might or might not have security teams. Is that correct? [LB184]

DICK CLARK: I don't. I don't. [LB184]

SENATOR EBKE: Okay. Thank you. [LB184]

SENATOR SEILER: Senator Chambers. [LB184]

SENATOR CHAMBERS: If you have one of these churches where they got pistol-packing preachers and Christian...by the way, Ralph Waldo Emerson said, every stoic is a stoic; but in Christendom, where are the Christians? So they teach one thing but they do something different. Do you train the congregation what to do if gunfire breaks out? [LB184]

DICK CLARK: Our plan, without going into too great detail, putting something on the public record that could be used to harm folks, is that there are certain people who would be responsible to help with the children and the elderly getting out of an exit, and everyone else's responsibility is to move to contact with that attacker. [LB184]

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SENATOR CHAMBERS: No. I mean, do you tell them hit the floor? If gunfire breaks out, you...oh, so then you'd tell them, get in orderly lines and walk out? [LB184]

DICK CLARK: No, sir. No, sir. [LB184]

SENATOR CHAMBERS: So what do you tell them to do? [LB184]

DICK CLARK: We...well, we have a division of labor on our security team, sir, but I don't think that I could necessarily persuade everybody in the congregation, when there's bullets flying, to follow my plan versus their plan. The plan that I can, you know, try to train people on is the one relating to my team, so. [LB184]

SENATOR CHAMBERS: But you don't tell people that when gunfire breaks out, then make a low profile, get on the floor. You don't tell them that. [LB184]

DICK CLARK: I think that's great advice, generally speaking, I mean assuming that there's not somebody just walking down the line killing one by one. I think if it's about one fellow versus another fellow that have hostile feelings toward each other, getting out of harm's way is probably the best advice there. And maybe that's hitting the ground; maybe it's going out of an exit. I think it really depends on where you are in a room and what access you have to an exit and...or are you cornered, you know. [LB184]

SENATOR CHAMBERS: The churches where they have gun toters such as yourself would not want a sign in the vestibule warning people that, we have armed guards here, or armed whatever you call yourself. Churches wouldn't want to give the...they wouldn't...in other words, they don't want full disclosure. They don't want you to know what you're walking into when you come into a building, do they? [LB184]

DICK CLARK: Oh, I think there is full disclosure, Senator. I think the real concern for us is that this is certainly not a central part of the church's mission, which is to communicate the, you know, the values of our faith to others who are willing to listen. We don't want it to be a distraction, and we do actually have in our congregation a member who is a sworn police officer. And our church, rather than rely on him, has chosen to go with folks where there isn't going to be the outward indicia of force, if you will, where there isn't the distraction that could distract people from what we really hope that they can concentrate on, which is the message in the sermon or the lesson in the Sunday school class. [LB184]

SENATOR CHAMBERS: So not everybody in that church might feel that they're more protected, that this comports with the atmosphere that's supposed to exist in a church. This is not a sanctuary; this is an armed place. [LB184]

DICK CLARK: Well,... [LB184]

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SENATOR CHAMBERS: And somebody or several of them are here prepared to killed in the name of the Lord. [LB184]

DICK CLARK: Well, certainly, if a firearm comes out in our sanctuary, that is something...now we are in the realm of a nightmare. We don't want that to happen, and the only reason that we are prepared for that is because, unfortunately, in some locations around this country, it has happened. [LB184]

SENATOR CHAMBERS: And you could very easily... [LB184]

DICK CLARK: And so we want to be prepared prudently for that. [LB184]

SENATOR CHAMBERS: You could very easily hit somebody when you've got a church congregation. If somebody stands up in the middle of the congregation and starts shooting,... [LB184]

DICK CLARK: Yes, sir. [LB184]

SENATOR CHAMBERS: ...and you shoot back, you probably would hit more people than that one would. [LB184]

DICK CLARK: Well, one of the cardinal rules of gun safety and one that I always taught my students at Scout camp was: Be sure of your target and what lies beyond it. And I think that's a responsibility anytime we're operating anything that can harm others, whether it's a car that we're driving down the highway or a firearm that we're using. I do take that responsibility very seriously, Senator. I agree with you that it's an important one. [LB184]

SENATOR CHAMBERS: You know what I think? Have you...what does the term "ecumenical" mean in the religious sense? [LB184]

DICK CLARK: Well, I'm not sure that I could match the dictionary definition. [LB184]

SENATOR CHAMBERS: Not a dictionary definition, just in general. [LB184]

DICK CLARK: But it tends to mean that...seeking union over disunion, I think, would be the theme there. [LB184]

SENATOR CHAMBERS: Right. So it means different people come together... [LB184]

DICK CLARK: Yes, sir. [LB184]

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SENATOR CHAMBERS: ...for fellowship. Well, why don't, instead of our using the term "ecuminism" to describe the churches that all believe in guns, we start a religion? And I mentioned this on the floor of the Legislature. They're called "Epistolpalians." Then everybody has notice of what they're dealing with. See, some of us out here, we heathens, think that when somebody wears something that indicates Christ, that it's a certain type of person. But there are more armed Christians than people who don't profess to be that. And what lets me know there's nothing to any of it, Germans... [LB184]

DICK CLARK: I wonder about that empirical claim, Senator,... [LB184]

SENATOR CHAMBERS: The Germans... [LB184]

DICK CLARK: ...that there are more armed Christians than armed non-Christians. Is that a fact? [LB184]

SENATOR CHAMBERS: Yeah, neither of us can prove our point, just like if I say, the total number of stars, odd or even. [LB184]

DICK CLARK: Right. [LB184]

SENATOR CHAMBERS: Either one of...we're both right, both wrong. That's quantum physics. But the Germans and all these other people were fighting. And on one of the Christmas Eves, the fighting is supposed to have stopped and they... [LB184]

DICK CLARK: Wonderful story from World War I. [LB184]

SENATOR CHAMBERS: But it's not true. [LB184]

DICK CLARK: Yeah. [LB184]

SENATOR CHAMBERS: They can't document it. [LB184]

DICK CLARK: Well,... [LB184]

SENATOR CHAMBERS: But let's say that it's true because it does give a warm feeling around Christmastime. They're all Christians, so here's the rhyme that was made: God bless Germany, God save the king--because they're fighting--God this, God that, God the other thing; Good God, said God, without a doubt, it's clear for me, my work's cut out. Now I could be the one who originated that, but I'm not going to claim it. But here's the thing. [LB184]

DICK CLARK: Well, you own it now, Senator. [LB184]

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SENATOR CHAMBERS: Here's the thing. As you say, the statute has separated out churches and named them. [LB184]

DICK CLARK: Yes, sir. [LB184]

SENATOR CHAMBERS: Maybe that's because the people who go to churches generally don't want guns brought into their churches. But at any rate, when these people stop fighting, both sides are Christians and both believe in the Father, Son, and the Holy Ghost. Both believe that Jesus died for their sins. Both believe that their mission in the world is to go out and preach the gospel to every living creature and to let your light shine on a hill because a city set upon a hill cannot be hid, and other...all these fine things. Then as soon as they get through singing their Christmas carols, they go back to killing each other. That's Christianity in action. [LB184]

DICK CLARK: No, sir. [LB184]

SENATOR CHAMBERS: So I'm just trying to get a clear picture of why churches need to have guns. And I'm not saying that as a question because I'm through questioning you. I've asked you enough questions. [LB184]

DICK CLARK: Okay, well,... [LB184]

SENATOR CHAMBERS: You've answered them all very directly. But I just don't...I see a stark inconsistency. [LB184]

DICK CLARK: I would like to respond to the impugning of my character in the last remark that you made, if I may. [LB184]

SENATOR CHAMBERS: You said I did what? [LB184]

DICK CLARK: I said I would like the chance to respond to the impugning of my character in that last remark you made, if I may. [LB184]

SENATOR CHAMBERS: I'm impugning your character? [LB184]

DICK CLARK: Yes, sir. [LB184]

SENATOR CHAMBERS: Oh, tell me how I did that. [LB184]

DICK CLARK: Well, because I think the presumption is...that you're making here is that, because someone carries, for this rare possibility that something terrible like this could happen, that they want it to happen. And... [LB184]

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SENATOR CHAMBERS: Why do you...how would that apply to you? If I can make a description and you apply it to yourself, is that me or you? [LB184]

DICK CLARK: Well, and what I...to finish my comment, what I'd like to say, sir, is that I have, unfortunately, had to use a firearm to defend my family. Now it was one of those wonderful circumstances where I didn't have to fire it. I had a gentleman breaking into my house in the front door of my house, about 12 feet from where my wife was breast-feeding our infant son. I secured a firearm from my nightstand after her screams woke me up, and I went downstairs and that man left my house with food and with no bullet holes, okay? I want to help. But the first thing that I have as a responsibility as a father is to protect my children. And that's what this bill is about. It's protecting children, Senator. [LB184]

SENATOR CHAMBERS: How did I impugn your character? I (inaudible)... [LB184]

DICK CLARK: Because you suggested that there was some desire to hurt anyone and there's not, sir. [LB184]

SENATOR CHAMBERS: Did I say you had... [LB184]

DICK CLARK: There's a desire to protect. [LB184]

SENATOR CHAMBERS: Did I say you have a desire to hurt anybody? [LB184]

DICK CLARK: I think that was the implication of your comments, yes, sir. [LB184]

SENATOR CHAMBERS: I said...don't talk about implications. You said I impugned your character. If I was going to impugn your character, I know how to do that. [LB184]

DICK CLARK: Well, I...you know, I... [LB184]

SENATOR CHAMBERS: And if that was my intent, I would have done it. I asked you questions. If you're the armed person, then you are prepared to kill somebody in that church if necessary. I asked you the question. You could have said no. You said yes. If that's an impugning of your character, you impugned yourself. [LB184]

DICK CLARK: Well, you compared me to, you know, soldiers on a battlefield that I wouldn't have necessarily gone to, Senator. [LB184]

SENATOR CHAMBERS: I didn't compare you. [LB184]

SENATOR SEILER: I'm not a judge, so I'm not going to get between two lawyers.

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[LB184]

SENATOR CHAMBERS: You don't even have to. He knows. [LB184]

SENATOR SEILER: But thank you for your testimony. [LB184]

DICK CLARK: Thank you, Chairman Seiler. [LB184]

SENATOR SEILER: Further proponents. [LB184]

SENATOR CHAMBERS: He's going to get his gun. (Laugh) [LB184]

SENATOR SEILER: Opponents, please, come forward. Yes, ma'am. We'll get to you, Tip. [LB184]

COURTNEY LAWTON: (Exhibit 3) My name is Courtney Lawton, C-o-u-r-t-n-e-y L-a-w-t-o-n. I am a social studies and English teacher with 15 years of experience in public schools and a graduate student at the University of Nebraska-Lincoln. I am opposed to LB184, particularly changes that would allow holders of concealed carry licenses to become armed security guards in private and parochial schools and private colleges and universities. There is currently no licensing or training requirement for armed security guards in the state of Nebraska. LB184 does nothing to address the root causes of school shootings: a lack of access to mental healthcare, the stigmatization of mental illness, the cutting of resources for school resource officers and rural and community policing, and a pervasive culture of violence that fetishizes gun proliferation in our communities. Further, it does nothing to require necessary licensing and training for armed security guards that we would be expected to entrust our students' safety to. LB184 would authorize people holding a concealed carry license as armed security guards. For the CCL, an applicant must pass a written test and a range test with a 70 percent. Course instruction covers self-defense, not defense of others, and provides very little way in the...in training of de-escalation of volatile situations when others' lives are at stake. Seventy percent is a D-plus in most private schools where such people would be employed as armed security guards. LB184 puts children and teachers in private schools in danger. A person who has no convictions for domestic violence or drug offenses or has never been adjudicated to mentally incompetent qualifies for a CCL. Arrests are not convictions. People who have voluntarily spent time in a mental health institution or have been admitted for emergency protective custody are not barred from having a CCL. James Holmes and Adam Lanza would have been eligible under this law to be armed security guards at St. Mary's. A good guy with a gun is a...often becomes a bad guy with a gun. I can only imagine the carnage that would ensue when an unlicensed security guard, qualified only with a CCL and armed with a .357, unleashes round after round of hollow-point bullets in a full schoolhouse during a stressful incident for which he has received little, if any, training. LB184 does nothing to

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make us safer. Instead, it puts teachers and students in the hands of poorly trained, unlicensed armed guards at the cost of our children's lives. Thank you. [LB184]

SENATOR SEILER: Questions? Senator. [LB184]

SENATOR CHAMBERS: Just one comment, and kind of a question. We don't care whether a child is in a facility called a private school, parochial, or public school. It's the child's safety that we're talking about. Correct? [LB184]

COURTNEY LAWTON: That's correct. [LB184]

SENATOR CHAMBERS: Okay. Thank you. [LB184]

SENATOR SEILER: Any further questions? Thank you for your testimony. [LB184]

COURTNEY LAWTON: Thank you. [LB184]

SENATOR SEILER: Next proponent. [LB184]

THOMAS O'NEILL: Senator Seiler, members of the Judiciary Committee, I'm Tip O'Neill. That's T-i-p O-'-N-e-i-l-l. I'm the president of the Association of Independent Colleges and Universities of Nebraska. I represent 14 privately controlled, nonprofit colleges and universities which are regionally accredited and located here in the state. We had particular concerns with the changes that were proposed in Section 69-2441 that would have changed the uniformity with respect to treating private colleges different than our public-sector counterparts with respect to the ability to carry a concealed weapon on our campuses. It's my understanding that Senator Ebke has with her amendment changed that and taken that back to treating us the same way that we are treated with respect to the current law. And so our concern is much less now than it would be without that amendment. As we read the bill, the other language in the bill is permissive and not mandatory as it relates to our ability to use security personnel. I can tell you right now that, even though we hire security personnel at our colleges and universities, at this point, none of our campuses has security personnel that is armed. I had thought when I talked to Senator Ebke earlier that we had some campuses that had armed security personnel, but that is not the case. We have no armed security personnel at any of our campuses in Nebraska in the private college and university sector. So whether we would use this permissive language in our sector is probably unlikely at this point. The fact that it is permissive and not mandatory though does not cause us much concern. So again, we are opposed to the bill, particularly as it is originally drafted. We have much less concern with the amendment from Senator Ebke. Be happy to answer any of your questions. [LB184]

SENATOR SEILER: Senator Williams. [LB184]

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SENATOR WILLIAMS: One quick question. I just wanted to be sure about that last statement you made. You're still opposed to the bill, as amended? [LB184]

THOMAS O'NEILL: We are...no. I have to appear in the record as being opposed to the bill as it is originally drafted because that's... [LB184]

SENATOR WILLIAMS: Because the amendment is not filed. [LB184]

THOMAS O'NEILL: Yes. As it is amended, we are not concerned with the bill. [LB184]

SENATOR WILLIAMS: Okay. [LB184]

SENATOR SEILER: Seeing nothing further for you,... [LB184]

THOMAS O'NEILL: Thank you. [LB184]

SENATOR SEILER: ...thank you for your testimony. Next. [LB184]

GREG SCHLEPPENBACH: Good afternoon, Chairman Seiler, members of the Judiciary Committee. My name is Greg Schleppebach, G-r-e-g S-c-h-l-e-p-p-e-n-b-a-c-h. I'm the executive director of the Nebraska Catholic Conference. The conference represents the mutual interests and concerns of the Catholic bishops of Nebraska. As introduced, the Nebraska Catholic Conference is also opposed to LB184. I could essentially say ditto to most everything that Tip just testified to, again, because of the...that provision in the current or introduced version of it which would eliminate churches from the blanket opt-out for where guns cannot be brought in. So, Senator Ebke, when we brought that to her attention, she graciously agreed to offer AM20. In terms of our schools, I think it's...I can fairly say that our superintendent certainly would not...would strongly oppose the bill, obviously, as introduced, but I'm not aware of any of them at this point that would want to have armed guards in our schools. I can't say that for certain, but that seems to be the general impression. But we are...if that amendment is adopted, then our major concerns of the bill would also drop and we would be then neutral on the bill. [LB184]

SENATOR SEILER: Any further questions? Thank you very much for your appearance. Any further opponents? [LB184]

AMANDA GAILEY: (Exhibit 4) Hi. My name, again, is Amanda Gailey, A-m-a-n-d-a G-a-i-l-e-y. I am a UNL professor and I speak to you today as the representative of Nebraskans Against Gun Violence. According to the Nebraska Highway Patrol, a concealed carry permit in Nebraska requires a class that is usually 8-16 hours long. By contrast, to become a licensed barber in the state of Nebraska, you need to have had

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2,100 hours of training. That is about 262 times the amount of field experience required to shave faces as is required to carry a loaded gun around in public. And now our representatives, compelled by the myth that guns make us safer, want to invite people with such minimal required training to carry loaded guns around children in school. To receive a concealed carry permit, you must pass a firing test in a controlled environment and, by your third try, miss the paper target only 30 percent of the time. A 30-percent miss rate looks very different in a school than it does with a stationary target in a firing range. But LB184 does nothing to require heightened standards for people carrying guns in schools. I recently saw a photo that a Nebraskan gun enthusiast posted on social media. It shows that his...the handgun he carries around, and actually carries around the rest of us, is loaded with ammunition that was specifically designed to penetrate urban barriers such as doors and walls. This is entirely legal. But LB184 includes no limitations on ammunition that increases the odds of bystander death. Instead, it would allow people to carry guns loaded with this ammunition near children in schools. The most horrific shootings in recent years have involved high-capacity magazines, allowing a gunman to shoot many rounds in little time. Several of these shooters were stopped only when they had to pause to reload. But we are not hearing about a proposal to limit magazine sizes today. We are hearing a proposal to put guns in schools. When children and adolescents do bring guns to schools to kill themselves or others, the guns usually come from their homes. But we are not hearing a proposal for safe storage laws today. We are hearing a proposal for guns in schools. Gun legislation ought to protect the public, but LB184 does not. It is a great bill for the gun lobby and a bad bill for our state. Thank you. [LB184]

SENATOR SEILER: Any questions? Seeing none, thank you for your... [LB184]

SENATOR EBKE: Senator. [LB184]

SENATOR SEILER: Oh, excuse me. (Inaudible)... [LB184]

SENATOR EBKE: I just have one. [LB184]

AMANDA GAILEY: Sure. [LB184]

SENATOR EBKE: In the case where there have been mass shootings where the shooter was finally stopped when they reloaded, how were they stopped? [LB184]

AMANDA GAILEY: They were typically stopped by someone tackling them. So, for example, in the Tucson shooting that happened just about four years ago, the shooter shot several people at a political event where "Gabby" Giffords was speaking, and it was when he had to pause to reload that unarmed bystanders tackled him. And in fact, there is very little documented evidence of armed civilians with this minimal level of training intervening to stop a mass shooting. So typically, in the rare events when

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someone with a gun intervenes to stop a mass shooting, it's someone with extensive training, like Military Police training. It's not somebody with a few hours in a classroom and a few hours with a paper target at a firing range. [LB184]

SENATOR EBKE: Thank you. [LB184]

SENATOR SEILER: Thank you. [LB184]

AMANDA GAILEY: Thank you. [LB184]

SENATOR SEILER: Any further opponents? Anybody in the neutral? Senator, you may close. [LB184]

SENATOR EBKE: I'll waive it. [LB184]

SENATOR SEILER: Senator waives closing. I show no documents presented, either for or against, except for the testimony. But people that didn't testify have not submitted anything, so this matter is closed. [LB184]