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Judiciary Committee  
March 19, 2015

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[LB14 LB30 LB136 LB289 LB603]

The Committee on Judiciary met at 1:30 p.m. on Thursday, March 19, 2015, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB14, LB136, LB30, LB603, and LB289. 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: Good afternoon, ladies and gentlemen. Welcome to the Judiciary Committee. I'm Les Seiler from Hastings and the Chairman of this committee. On my far right is Matt Williams from Gothenburg; Adam Morfeld will be sitting next to him, from Lincoln; Bob Krist from Omaha; Senator Chambers from Omaha. Our legal counsel today will be Diane Amdor. On my far left is Dr....

SENATOR EBKE: Yeah, I'm here.

SENATOR SEILER: Okay, (laugh) Dr. Laura Ebke from Crete. Sitting next to her will be Patty Pansing Brooks from Lincoln; Senator Colby Coash from Lincoln; and clerk Oliver VanDervoort. Our two pages are Drew and Jonathan. They're important to you because they're the ones that take your testifier's slip and your written materials that you're handing out and they will hand them out. So all you have to do is come up to the edge of the table. They'll meet you there, take it from you, and pass it out. When you sit down, pull yourself up to the microphone. It isn't so much for amplification, but for transmission and transcribing the...your testimony. We want to be able to hear your testimony and make it part of the record. Please shut off your cell phones at this time, or you could do what I did and left it in Hastings. (Laughter) Ready?

SENATOR KRIST: Yeah.

SENATOR SEILER: At this time, we will start out with LB14. We are on the...the testifiers will be on the light system--green, yellow, and when yellow comes on, you've got one minute left to finish. When the red comes on I want you to stop because, one, if the...the senators may ask...one of the senators may ask you to continue. But if you don't get to continue, we'll ask if there's any questions and we'll go from there. But please stop on the red so everybody gets a fair shot. Senator Krist, will you open with LB14, 1-4. [LB14]

SENATOR KRIST: (Exhibit 1) It's my pleasure. Good afternoon, Senator Seiler and fellow members of the Judiciary Committee. For the record, my name is Bob Krist, B-o-b K-r-i-s-t, and I represent the 10th Legislative District in Omaha, north-central portions of Douglas County, and

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the city of Bennington. I appear before you today, introduction and support of LB14. LB14 is an attempt to deal with crimes involving the use of facsimile firearms, nonfunctioning guns and toy guns, using facsimile firearms while engaging in serious criminal activity. Recent activity has demonstrated that when individuals choose to use a facsimile firearm or a nonfunctioning firearm while engaging in a criminal activity, the results are dangerous and, in certain cases, deadly. LB14 will codify in statute the offense of, and I quote, use of a facsimile firearm, or nonfunctioning firearm to commit a felony, end quote. Such activity shall be classified as a Class III felony. The bill also provides that such a violation shall be a separate and distinct offense from the felony being committed and that a sentence imposed shall be consecutive to any other sentences imposed. In addition, LB14 provides a definition of the facsimile firearm to mean, and again I quote, any replica, toy, starter pistol, or other object that bears a resemblance, a reasonable resemblance to or that reasonably can be perceived as an actual firearm. Current law does not allow for a fake or nonfunctioning firearm to be considered a deadly weapon in order to qualify as a deadly weapon, functioning firearm. For example, if you have a firearm that has...does not have a firing...it has a firing pin removed, so you have a real, actual firearm that will be...will not be fired because the firing pin is removed, it would never be charged as a deadly weapon because it is not a functioning firearm. The offender has the benefit of having the victim believe he or she is carrying a functional firearm without having to face the consequences of actually carrying such a weapon. I want to thank you for your attention. I passed out to you a picture of...recently in Omaha, on Dodge Street, you may have heard that a member of the COPS filming crew was killed in a serious crossfire situation and he had a toy gun. And I would say, first of all, it's difficult for me to look at those two pictures and tell you which one is real. But imagine that you're at the end of that firearm, what you will feel is real or not, and I for one am not going to ask somebody if the gun is real. I don't want them to prove it to me. I need to go in to Appropriations and defend the legislative process as our budget for the next few years. I think that's pretty important. I will be back. But in the case I am not back before we finish up, I'll waive closing, with your indulgence. [LB14]

SENATOR SEILER: Okay. Any questions of this witness? Thank you. [LB14]

SENATOR KRIST: Thank you. [LB14]

SENATOR SEILER: First proponent. [LB14]

DON KLEINE: (Exhibit 2) Good afternoon, Senators. My name is Don Kleine, K-l-e-i-n-e. I'm the Douglas County Attorney and I'm here on behalf of the Nebraska County Attorneys Association as a proponent of LB14. This...I handed out to you the same page I think that Senator Krist handed out, but also there's a second page. The incident he talks about is a Wendy's that was robbed in August 2014. That's the gun that's on the top, the facsimile firearm that the

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suspect is holding prior to him being shot and killed, and where the individual from the COPS TV show was also shot and killed. The...this problem and the use of facsimile firearms or toy guns or things that look like real guns is a serious problem, obviously. The intent of the individual who uses that facsimile firearm is the same as if he has a real gun. They're trying to put...they're threatening people. They're putting people in fear by using that facsimile firearm. The purpose and intent is there and we feel that they should be held responsible even though it's not a real gun. You know, currently our law says that to convict somebody of use of a firearm in the commission of a felony we have to be able to show that that's a firearm capable of firing a shot or a projectile. Obviously, a toy gun, a gun without a firing pin on, we can't prosecute that as a firearm charge. So this is one grade less than the firearm charge. The firearm charge is a Class II felony. If it was an actual firearm, this would be a Class III. It carries the consecutive sentence, which is the same as a firearm, that that sentence is also consecutive to the underlying felony that it's used for. We feel this is appropriate. It's a situation, as I said, the Wendy's is a prime example. You know, if you look at those two photographs in the beginning, the...you know, the manufacturers of these fake or facsimile or Airsoft pistols, I think it's irresponsible, really, that they make them look so much like a real gun, even with the markings. Everything on there makes it appear as if it's a real firearm. Most of them will put an orange tip or a piece of plastic on the end of the barrel so that it's recognizable, but that's easily torn off and removed. And that's what was done in this case, and so it looks just like a real gun. And that's the purpose and that's what individuals use it for, to scare people, obviously, to threaten them, to make people think it's a real gun, and to do whatever they want to do in that regard. So I think it's important to hold somebody responsible for that sort of activity and that's the purpose, I believe, of this legislation. I'd be happy to answer any questions. [LB14]

SENATOR SEILER: Senator Chambers. [LB14]

SENATOR CHAMBERS: Just one or two, Mr. Kleine. You would rather that the person used a functioning gun or a real gun rather than a play gun. In other words, you'd rather that the person be able to actually kill the person being stuck up. That's your preference? [LB14]

DON KLEINE: No, no, that's not the preference. I mean I don't want somebody to get hurt. The whole purpose is that...though I think that somebody should be held responsible if they...if their intent is to use a fake firearm to put somebody in the same fearful or threatened position that they would if they had a real one. So, no, I don't want to see anybody use a real gun either in that situation. [LB14]

SENATOR CHAMBERS: If this law...and I'm...when the police come up, I have other questions I'll ask. But you're the prosecutor. Do you think that that person who was at Wendy's, if this law

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were in effect, would know that this is a Class III and a real gun is a Class II and he would take that into consideration? [LB14]

DON KLEINE: Oh, no, I don't think they would. [LB14]

SENATOR CHAMBERS: So he would have had that play gun anyway. [LB14]

DON KLEINE: Well, no. I'm saying that he should be held responsible, though, for using that, and people should be aware that the Legislature, people don't approve of people using a facsimile firearm for that purpose. [LB14]

SENATOR CHAMBERS: Well, I don't approve of cops having a crossfire when there are civilians on the scene. And their bullets went into other establishments that were inhabited, and they knew that or should have known it. But I'll take that up with the police because they're not ever held accountable. They were using real bullets and they could have shot other cops and they couldn't have held this man responsible because they killed him. But those are questions I'll put to the police. [LB14]

DON KLEINE: Thank you. Any other questions? [LB14]

SENATOR SEILER: Any further questions? I have one. [LB14]

DON KLEINE: Yes. [LB14]

SENATOR SEILER: How does that plastic that you said was taken off of this gun, how does that fit on the barrel or...do you know? [LB14]

DON KLEINE: Somebody might have more expertise in that. I think it's just a piece of plastic that's molded to fit in that, the tip there, and you could...it's... [LB14]

SENATOR SEILER: It just pops off? [LB14]

DON KLEINE: ...easily pop it off or just tear it off. [LB14]

SENATOR SEILER: Okay. [LB14]

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DON KLEINE: It's not part of the underlying plastic. It's not, like, melded into it. [LB14]

SENATOR SEILER: Yeah. [LB14]

DON KLEINE: It just sits over the top. [LB14]

SENATOR SEILER: Okay. Thank you. [LB14]

DON KLEINE: Sure. [LB14]

SENATOR SEILER: Any further questions? Yes, Senator Morfeld. [LB14]

SENATOR MORFELD: And I missed a little bit of Senator Krist's opening, so I may have missed this. What is the current penalty with... [LB14]

DON KLEINE: For using a firearm? [LB14]

SENATOR MORFELD: Well, with the fake gun. [LB14]

DON KLEINE: There isn't a penalty for that. The...you know, you could be... [LB14]

SENATOR MORFELD: So threatening somebody with a fake gun, there's no penalty? [LB14]

DON KLEINE: Not for the use of the fake gun. [LB14]

SENATOR MORFELD: Okay. [LB14]

DON KLEINE: Certainly, the threat, say if you terrorize somebody, you could maybe be charged with terroristic threats, but if it was a real gun, you'd also be charged with using a firearm to commit that felony. [LB14]

SENATOR MORFELD: Okay. [LB14]

DON KLEINE: In this case, if, say, somebody was terrorizing somebody by...you could charge them with the terroristic threats and also using a facsimile firearm and it would be another count. [LB14]

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SENATOR MORFELD: Okay. [LB14]

DON KLEINE: Okay. [LB14]

SENATOR MORFELD: Thank you. [LB14]

DON KLEINE: Sure. [LB14]

SENATOR SEILER: Any further questions? Seeing none, thank you for your testimony. [LB14]

DON KLEINE: Thank you. [LB14]

SENATOR SEILER: Next proponent. [LB14]

ANTHONY CONNER: Good afternoon. My name is Anthony Conner, A-n-t-h-o-n-y C-o-n-n-e-r, and I am the vice president of the Omaha Police Officers Association, serving 750-plus members. I have personally been a police officer for 15 years in Omaha. I am here to offer support for LB14, the facsimile firearm bill. I want to take a few moments of your time to talk about the terror and the fear that I have seen in the faces of victims who have had guns, real and fake, pulled on them. I have seen victims visibly shaking. I've seen victims crying and also some who have had that thousand-yard stare because they have faced a gun that they believed could have resulted in their death. These victims are sometimes store clerks or just average citizens going about their daily business. I have also experienced in my career arresting robbery suspects shortly after a robbery had just occurred and at a time are seeing these suspects arrested with a fake gun that looks and functions just as my duty handgun functions. Whether it's a BB gun or a nonworking handgun, even though the gun is fake, the fear that the gun causes to the victim is 100 percent real. The fear is real. The response from the victim is real, and also the response from the police officers that respond to that call will be real. And let me be clear: The long-term trauma on these victims are the same. These offenders should not be allowed to enjoy reduced crimes...sorry, reduced charges because they choose a nonfunctioning handgun or a fake handgun to commit their crime when their crime creates the same amount of fear in that citizen. It shouldn't be about the choice of weapon but more about the fear that a citizen experiences during and after this type of crime. I believe we have an obligation to protect the residents from offenders that choose to take what do not belong to them and to take it with force and fear. And I'm available for any questions. [LB14]

SENATOR SEILER: Senator Chambers. [LB14]

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SENATOR CHAMBERS: Would you rather a real gun be used? [LB14]

ANTHONY CONNER: I'd rather no crime be committed, sir. [LB14]

SENATOR CHAMBERS: No, I'm asking a question a certain way and I'd appreciate it if you'd answer it that way because you came representing all of these police officers. Would you prefer that a real gun be used? That's a yes or no question. [LB14]

ANTHONY CONNER: I'd prefer the crime not be committed, sir. I mean that's...I think... [LB14]

SENATOR CHAMBERS: You're not going to answer the question? [LB14]

ANTHONY CONNER: I believe I am answering your question. [LB14]

SENATOR CHAMBERS: I'm going to ask it again and see if you understand the question. Do you know the difference between a real gun and a fake gun? And when I say a real gun, I mean a functioning, operational firearm which, if a projectile is fired through it and it hits a person in a vital spot, a death will occur. That's what I mean by a real gun. [LB14]

ANTHONY CONNER: Yes. [LB14]

SENATOR CHAMBERS: The fake gun cannot be fired. Now which would you prefer be used if one or the other is to be used? [LB14]

ANTHONY CONNER: I'd prefer neither, sir. I mean I don't... [LB14]

SENATOR CHAMBERS: I don't have anything else to ask you. I don't think I speak English that you understand. [LB14]

SENATOR SEILER: Any further questions? I have just one. Have you read this bill? [LB14]

ANTHONY CONNER: Yes, sir. [LB14]

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SENATOR SEILER: There's a term that bothers me a little bit. A facsimile firearm means any replica. Now a replica can also be a live...you know, like they make replicas of the M9, say, a knockoff. I'm a little confused about that term. Did you discuss that in any way? [LB14]

ANTHONY CONNER: No, sir, I didn't discuss that in any way with... [LB14]

SENATOR SEILER: Okay. [LB14]

ANTHONY CONNER: In my opinion, I believe a replica would be, say, for instance, it's a Beretta, nine millimeter, at the... [LB14]

SENATOR SEILER: Non...still a nonfunctioning? [LB14]

ANTHONY CONNER: Nonfunctioning, but it looks the same. Replica would be the same, looks the same. [LB14]

SENATOR SEILER: Okay, okay. I'm wondering if we should take a look at that terminology because you could have a Japanese or foreign knockoff of a Beretta or something like that, too, that would be a replica of it, but...and fully functioning. [LB14]

ANTHONY CONNER: But if it's functioning, I believe it still would fall under the... [LB14]

SENATOR SEILER: Would fall under the other statute. [LB14]

ANTHONY CONNER: ...the other, yes, sir. [LB14]

SENATOR SEILER: Okay, thank you very much. Any other questions? Thank you for your testimony. [LB14]

ANTHONY CONNER: Thank you, sir. [LB14]

SENATOR SEILER: Next proponent. [LB14]

MARTIN BILEK: (Exhibit 3) Good afternoon, Senator Seiler and members of the Judiciary Committee. My name is Marty Bilek, M-a-r-t-y B-i-l-e-k. I'm representing Mayor Stothert today and I'm also representing the League of Nebraska Municipalities on this issue. And I don't want



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to repeat what you've already heard. There's not a lot of dialogue necessary here with this particular bill. But, Senator Chambers, if you don't mind, I'd like to address your issue, your question. I would rather have the robber use a toy weapon every time. You're correct with that. But I'm going to qualify that by saying that, whether you use a real gun or a fake gun, you're going to elicit the same response by law enforcement regardless, and what that means is they're going to show up and they're going to be using deadly force and that poses a threat. And we've seen that most recently with the Wendy's incident and I think that escalates the situation. Even though you have a toy gun, you've escalated the situation in my mind to the point where it justifies this crime being a felony. And that also comes from about 38 years of law enforcement experience that I have myself. So I think I'll just end my testimony with that. Thank you. Is there any questions? Senator. [LB14]

SENATOR SEILER: Senator Chambers. [LB14]

SENATOR CHAMBERS: Mr. Bilek, would you be in favor of requiring, in order to purchase one of these guns, the same standards that are required for a person to purchase a real gun? [LB14]

MARTIN BILEK: No, I would not. No, it's a toy. [LB14]

SENATOR CHAMBERS: Okay. But you're not going to punish it as a toy, are you? [LB14]

MARTIN BILEK: No, and for the reason I just mentioned, Senator, that...because what you can do with this toy is...the results could be deadly and they have been deadly and they have been deadly recently in Omaha. That's why this is different. [LB14]

SENATOR CHAMBERS: But you're not concerned enough to keep this out of the hands of people who might misuse it. [LB14]

MARTIN BILEK: Again, it's a toy. And what you're doing now is you're blaming the toy or the gun or the weapon, in the case of a real weapon, for the crime. That's...this... [LB14]

SENATOR CHAMBERS: Actually, I'm not. [LB14]

MARTIN BILEK: This toy is not to blame for the crime. That's the person that's using it. [LB14]

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SENATOR CHAMBERS: Why do you think manufacturers...first of all, do you think manufacturers know what they're doing when they put out this so-called toy to look so much like a real gun that it could be mistaken for one? Do you think it's their intent that that be done? [LB14]

MARTIN BILEK: Absolutely, it always has been. [LB14]

SENATOR CHAMBERS: But you don't... [LB14]

MARTIN BILEK: In fact, young boys probably wouldn't buy it if it didn't look like a real gun. [LB14]

SENATOR CHAMBERS: But you don't think that that reality ought to be taken into consideration and keep this so-called toy out of the hands of people who might get it and make the inappropriate use of it? [LB14]

MARTIN BILEK: You know what, if you wanted to do that, and I suppose there's some jurisdictions that have, that would be fine with me. But if you're going to use the gun in this capacity, in this context, and elicit that kind of response from law enforcement, the penalty should be a felony. [LB14]

SENATOR CHAMBERS: Have you read about the incident at Wendy's where in a crossfire an innocent person was killed by the police? [LB14]

MARTIN BILEK: Absolutely. [LB14]

SENATOR CHAMBERS: Now do you think that since nobody was accountable, nobody did anything wrong by the police, that means their conduct was approved of, it was in accord with their training? If it were not in accord with their training, they would have been disciplined for violating their training. Do you think that would be an example, since they had some of it on video, that will be taken to the police academy and presented to the new officers to show them how to handle such a situation? [LB14]

MARTIN BILEK: You know, Senator, if I understand your question correctly,... [LB14]

SENATOR CHAMBERS: Then could you answer it? [LB14]

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MARTIN BILEK: I hope so. I hope it is used for training purpose, and I'll take that one step further. [LB14]

SENATOR CHAMBERS: And, no, tell them this is the way they should handle a situation like this. [LB14]

MARTIN BILEK: And I'll take it one step further. The police department is currently acquiring a piece of... [LB14]

SENATOR CHAMBERS: I'd like you to answer the question first. [LB14]

MARTIN BILEK: Go ahead. [LB14]

SENATOR CHAMBERS: When I said training, show them this film and say, if you are in a similar situation, then this is the way you should handle it. Do you think that was handled in a way that you would have advised somebody to handle it, the crossfire by the police? [LB14]

MARTIN BILEK: If you're asking me if it's okay for the...for law enforcement officers to shoot the sound man accidentally, the answer is, no, I wish that... [LB14]

SENATOR CHAMBERS: No, not shoot the sound... [LB14]

MARTIN BILEK: I wish it wouldn't have happened. Is that what you're saying? [LB14]

SENATOR CHAMBERS: I'm talk...I said the crossfire, but since people who represent law enforcement and former law enforcement people don't understand English the way I speak it, I won't ask any more questions. But I think everybody in this room, other than the law enforcement people, will understand. And when they come here and they're going to obfuscate, pretend they don't know what the question is that's being asked, or refuse to answer it, they're actually wasting the committee's time. I want that in the record and I'll say it if nobody else does. But you're not scoring points when you refuse to answer, as that guy who was here last did. He hurt his case. [LB14]

MARTIN BILEK: You're accusing me of refusing to answer? [LB14]

SENATOR CHAMBERS: Well, I'm saying... [LB14]

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MARTIN BILEK: Ask me the question again. Maybe I didn't understand it. [LB14]

SENATOR CHAMBERS: I said you take the training, you take this film, and you show the police creating a crossfire situation. There are civilians on the premises and the result is not only that an innocent person on the premises is killed, but the bullets go into other inhabited and known-to-be-inhabited establishments and people in those establishments were aware that the bullets came. Would you take that film, if you were in charge of training new recruits, and say, this is the way you should handle a situation of this kind... [LB14]

MARTIN BILEK: Yes, I would. [LB14]

SENATOR CHAMBERS: .....and that's why we're showing it to you? [LB14]

MARTIN BILEK: Yes, I would. [LB14]

SENATOR CHAMBERS: Okay, that's all I have. [LB14]

SENATOR SEILER: Any further questions? I have one. Are you representing the city of Omaha, did I hear you say? [LB14]

MARTIN BILEK: I'm representing Mayor Stothert. [LB14]

SENATOR SEILER: Mayor, okay, that's... [LB14]

MARTIN BILEK: And I'm also representing... [LB14]

SENATOR SEILER: No, that's good enough. I have a letter here from Mayor Stothert, but I wanted to make sure you'd...this was handed out by you? [LB14]

MARTIN BILEK: It was. [LB14]

SENATOR SEILER: Okay, that's all I wanted to know. Thank you. [LB14]

MARTIN BILEK: Thank you. [LB14]

SENATOR SEILER: Next proponent. [LB14]

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KERRY NEUMANN: (Exhibits 4 and 5) Good afternoon. My name is Kerry Neumann. I'm a captain of the criminal investigations bureau for the city of Omaha Police Department, and also under my command is Omaha Police Department robbery unit. In the handouts I provided you, there is a chart that shows the number of robberies that occurred in the city of Omaha over the past five years. It also shows a replica gun that was used in the Wendy's robbery and it also shows an M4 carbine that was used in another situation I'll talk about. I've also been asked to give you a city council resolution that was adopted by the city of Omaha City Council supporting LB14. Today I'm here today to speak on behalf of Chief Todd Schmaderer and the Omaha Police Department and speak in support of LB14. The three primary reasons for the support, the first is public safety. When a suspect commits a robbery with any type of firearm, whether it's functional, nonfunctional, real, or fake, they are terrorizing our citizens, victims, and witnesses. This also strikes tremendous fear into our community. Secondly, we believe that suspects need to be held accountable for their actions. Suspects who use a fake gun during the commission of a felony should be held equally accountable as if the gun were real. And, third, this is a law enforcement safety issue. All too often throughout this nation, armed suspects are being shot and killed by police only to find after the incident that the suspect's gun was a toy gun, an Airsoft gun, or a near replica of a real gun. I was going to share two incidents with you, but the first one has already been talked about. That is the Wendy's case that happened on August 26. The other case I would like to talk to you about occurred on March 12, 2014, in Omaha, Nebraska. Omaha and Lincoln Police Department detectives had two armed robbery suspects under surveillance and when the suspects were approaching an AT&T phone store in Omaha, they were apprehended just outside of the store by the Omaha Police Department SWAT team. One of the suspects was carried a concealed facsimile of an M4 assault rifle. I gave you the picture of the gun that he had. The top one here is the replica gun. The bottom one is the actual M4 assault rifle. [LB14]

SENATOR SEILER: Now we don't have that same picture. [LB14]

KERRY NEUMANN: You don't have that same picture, you're right. [LB14]

SENATOR SEILER: No, we just got one size. [LB14]

KERRY NEUMANN: Right, and that one there is the facsimile gun that you have. As the SWAT team approached them and arrested them, this suspect, one of the suspects, had this assault rifle concealed on his person and, thankfully, in this case the suspect did not pull out this rifle. These two suspects were convicted on several counts of robbery; however, they were never charged with use of a weapon to commit a felony due to the lack of a bill like LB14. Again, we already touched on the Wendy's case on August 26. My capacity as captain of the criminal investigations bureau is I'm the commander of the officer-involved shoot team and I'm very...I have very

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intimate knowledge and information about the case that happened at Wendy's. And in closing, facsimile firearms when used in real-life robberies can and will end in a life-threatening situation for victims, innocent bystanders, law enforcement officers, and the suspects. Nebraska needs this law and it will save lives. Thank you for giving me the opportunity for you to speak today and I'll answer any questions you may have. [LB14]

SENATOR SEILER: Any questions? Senator Chambers. [LB14]

SENATOR CHAMBERS: Do you...would you prefer that the people who use these guns use real guns instead? [LB14]

KERRY NEUMANN: No, sir. [LB14]

SENATOR CHAMBERS: If a person places himself in harm's way, he is responsible. Everybody knows that. But it would be better in my view if everybody who tried to do a stickup did it with a gun that would not shoot. There are officers who shoot when they shouldn't and they'll acknowledge that the gun went off, which does away with that mantra that guns don't kill people, people do. Then why, when an officer discharges a weapon and something bad happens, they don't say he discharged his weapon? They say the weapon went off or the weapon discharged as though it had a mind of its own. But I'm going to ask you what I asked the other gentleman. Is that Wendy's incident used by the Omaha Police Department when they train recruits to show that using a crossfire is the appropriate way to handle that situation at Wendy's? [LB14]

KERRY NEUMANN: First of all, sir, that would be at the discretion of the chief of police. [LB14]

SENATOR CHAMBERS: You said what? [LB14]

KERRY NEUMANN: That would be at the discretion of the chief of police and I can... [LB14]

SENATOR CHAMBERS: So you don't teach... [LB14]

KERRY NEUMANN: And I can tell you that we do share that information with the Omaha Police training unit. But again, whether that video will be used with new recruits, that's at the discretion of the chief of police and I'll leave that for him to answer. [LB14]

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SENATOR CHAMBERS: But you know what it's...it would be used for: to show them what not to do. And maybe Chief Schmaderer knew that I would recount the conversation he and I had about it because I posed the same question to him and said, would you show this to the recruits and tell them that's the way you should handle this situation, when you know there are civilians, you engage in a crossfire? He said, absolutely not. Now you can ask him, did we have that conversation, and I'm saying it here. And maybe that's why he sent you instead of coming himself, because he has appeared before this committee before on issues. But the question I want to ask you, should... [LB14]

KERRY NEUMANN: I'd like to comment on that for a minute. [LB14]

SENATOR CHAMBERS: Well, that's really not a question, that part. Here's the question that I'm going to ask. You know why I say that, because I've asked other questions and people chose not to answer it, so I will pose the question that I would like to have you answer. If you have a set of circumstances where reports are given to the public about a shooting...let's take that one that happened in south Omaha. One report that the media used that they were given by the police was that at the time the man was shot, he was on the hood of a car and had his hands on the top of a fence. When the police released something to the media, they had a picture of the man facing the camera and the caption was, this is the position he was in--because it was a police cruiser camera angle--this is the position he was in just before being shot, yet he was shot twice in the back. So they gave two different accounts. What the police like to say is, your story over here does not match the evidence. So he couldn't be shot in the back if he was facing the camera, as the police allege in what they released to the media. Now I'm going to ask you, do you know whether he was shot in the front part of his body or in the back? [LB14]

KERRY NEUMANN: I do and the statement you just provided was...is inaccurate. [LB14]

SENATOR CHAMBERS: He was shot in the back? [LB14]

KERRY NEUMANN: No, the statement that you just said was...is inaccurate. [LB14]

SENATOR CHAMBERS: That he was... [LB14]

KERRY NEUMANN: That we said he was shot facing the officers--that's inaccurate. We did not say that. [LB14]

SENATOR CHAMBERS: Did you see the picture in the paper? [LB14]

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KERRY NEUMANN: I did, sir. [LB14]

SENATOR CHAMBERS: And did you see the caption which said, this is the position he was in just before he was shot? [LB14]

KERRY NEUMANN: I don't recall that part and I can't control what the media prints in...under their captions. [LB14]

SENATOR CHAMBERS: Oh, so then that would not have been what the police said. [LB14]

KERRY NEUMANN: Again, I cannot... [LB14]

SENATOR CHAMBERS: That could be a caption supplied then by the ones who put the picture in the paper. Well, if he was shot in the back, how was he menacing the officer? How was the officer in fear for his life if he indeed had his hands on a fence with his back to the officer and the officer shot him in the back and hit him in the back at least twice? How was he menacing that officer who shot him in the back? [LB14]

KERRY NEUMANN: Mr. Chambers, that has been vetted through the grand jury process and I don't think it's appropriate to discuss that at this hearing. It really has nothing to do with replica firearms. [LB14]

SENATOR CHAMBERS: Well, the grand jury proceedings are over. And do you see why I wouldn't ask you that other question earlier? That's all that I have. [LB14]

SENATOR SEILER: Any further questions? Officer, I have just a couple. I noticed your statistics here that, since 2012, there were 459 robbery incidents with a gun and it's dropped down to 355 in 2014. Do you have an account of how many of these were fake guns also out of these statistics? [LB14]

KERRY NEUMANN: That's a very good question. [LB14]

SENATOR SEILER: And then the question, follow-up, and so you know what's coming, is,... [LB14]

KERRY NEUMANN: Okay, okay. [LB14]



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SENATOR SEILER: ...do you have a number on the fakes? Is that number in here or is this real? [LB14]

KERRY NEUMANN: Okay, here's how this statistics works and that's a very good question. This is the number of reports of robberies where the suspect was armed with a firearm. And we do not know how many of those were facsimile guns, fake guns, or toy guns, and the reason for that is because we clear about 65 percent of these cases. And also, even in the ones that we do clear, we don't recover the firearm on all instances. So the only time we can determine if it's a facsimile or a fake gun is if we recover that firearm from the suspect. So it's a very difficult statistic to gather. But I will tell you that there are a pretty good share of robberies with firearms that occur that are being used by...with fake guns. [LB14]

SENATOR SEILER: Okay, then flip to your chart there on the M4. [LB14]

KERRY NEUMANN: Yeah. [LB14]

SENATOR SEILER: Is that facsimile, is that plastic or is it metal or...do...have you seen that actual gun? [LB14]

KERRY NEUMANN: Right. This particular gun I have not seen. [LB14]

SENATOR SEILER: Okay. [LB14]

KERRY NEUMANN: I don't go down and actually inspect it into evidence. But from a standpoint, from me to you, sitting here, we can't tell the difference whether it's plastic or a metallic gun or, you know, metal. [LB14]

SENATOR SEILER: No, I just wondered what kind of manufacturer was making it. Was it making it in plastic or in hard gun... [LB14]

KERRY NEUMANN: These are made in a hard metal, guns. They're on the Internet for sale for \$250, not much, about half price of a real one. [LB14]

SENATOR SEILER: Okay, that's what I wanted. [LB14]

KERRY NEUMANN: So they do make these in very real, very identical... [LB14]

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SENATOR SEILER: So they can come in plastic or metal. [LB14]

KERRY NEUMANN: Right, absolutely. [LB14]

SENATOR SEILER: Okay. [LB14]

KERRY NEUMANN: And same thing with the...I got...another photo I have is the handguns. The...this... [LB14]

SENATOR SEILER: Yeah, we've got that. [LB14]

KERRY NEUMANN: Yeah, you guys got this one. [LB14]

SENATOR SEILER: We've got that gun, yep. [LB14]

KERRY NEUMANN: Same thing here, these are the same weight, the same material. Everything is the same except for the ability to fire a bullet as compared to an Airsoft. [LB14]

SENATOR SEILER: Okay, thank you very much, Officer. [LB14]

SENATOR CHAMBERS: I do have one more question. [LB14]

SENATOR SEILER: Yes, go ahead, Senator Chambers. [LB14]

SENATOR CHAMBERS: Did Chief Schmaderer explain to you or tell you why he'd rather you come here instead of coming himself? He didn't, he just told you, go down there and face the music? [LB14]

KERRY NEUMANN: No, not necessarily. [LB14]

SENATOR CHAMBERS: So if you don't mind telling me, unless it's confidential, how did he instruct you to come here, and did he tell why? [LB14]

KERRY NEUMANN: Well, I'm not going to...I don't think that that's appropriate for this venue. [LB14]

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SENATOR CHAMBERS: It's not appropriate to answer the question? [LB14]

KERRY NEUMANN: No, it's not appropriate for this venue, my discussion between me and the chief. [LB14]

SENATOR CHAMBERS: So it was confidential. [LB14]

KERRY NEUMANN: It's between me and the chief. [LB14]

SENATOR CHAMBERS: But he did tell you to come here. [LB14]

KERRY NEUMANN: I was assigned to come here and not from Chief Schmaderer, from my deputy chief. [LB14]

SENATOR CHAMBERS: And the deputy chief didn't tell you because he thought he shouldn't tell you of the conversation he had with Chief Schmaderer, correct, because that was...that's a confidential conversation? [LB14]

KERRY NEUMANN: I can't answer that. I don't know the answer to that. [LB14]

SENATOR CHAMBERS: Thank you. [LB14]

KERRY NEUMANN: Okay. [LB14]

SENATOR SEILER: Any further questions? Thank you, Officer. Next proponent. Next proponent, in favor of this bill. Seeing nobody scrambling from their chair, opponents. Any opponents, against this bill? Anybody in the neutral? [LB14]

ROD MOELLER: Good afternoon. My name is Rod Moeller, R-o-d M-o-e-l-l-e-r. I'm speaking on behalf of the Nebraska Firearms Owners Association. We're not taking a position on this bill but I did want to publicly thank everyone who was involved in working on the language for this particular bill. Senator Harr introduced a bill with similar intent last session. We had a number of concerns with the language, and so we spoke in opposition to that. I know a lot of people were involved. I don't know who all was involved, but I know many people were involved in crafting the language. I feel that they did a very good job of finding language that addressed our concerns and still met the spirit or the intention of this bill, so I just wanted to publicly thank everyone who was involved in addressing our concerns from last session. [LB14]

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SENATOR SEILER: Any further questions? Seeing none, thank you for your testimony. [LB14]

ROD MOELLER: Thank you. [LB14]

SENATOR SEILER: Thank you. Any further neutral? Okay. You're going to waive closing? I'll close the record on this. (See also Exhibits 6, 7, 8, and 9.) The next bill is LB136. Senator Johnson. [LB14]

SENATOR JOHNSON: Thank you, Chairman Seiler and members of the committee. My name is Jerry Johnson, J-e-r-r-y J-o-h-n-s-o-n. I come to introduce LB136. The wording in this bill most of you have seen before. I will not go into a lot of detail. This year it has a different number, I'll put it that way. So the bill is to prohibit the sale, possession, and use of flying lanterns as defined in this state and in this bill. Again, I'm not going to spend a lot of time. I will, for the record, go through part of the bill that talks about identifying a flying lantern. "Flying lantern-type devices would be prohibited from sale, possession, and use in this state. For purposes of this section, flying lantern-type devices means devices that require a flame which produces heated air trapped in a balloon-type covering allowing the device to float in the air. Flying lantern-type devices shall not include hot-air balloons used for transporting persons." That's the bill, simple, simply stated. Part of that, the violation for this would be a Class V misdemeanor. For the record, a Class V misdemeanor, the maximum...there's no imprisonment but there's a \$100 fine and there is no minimum. I have testimony following me with some personal examples and those people involved in enforcement, so I will close my opening. I'd be available to any questions. [LB136]

SENATOR SEILER: Okay. Any questions? I have a statement to make on this. I have been bombed by one of these. And I was sitting on the front porch and watching this thing come...flier come right toward me, missed the top of my roof by about a foot and went over and hit in the backyard of my neighbor. So that's just for disclosure that I have been involved in one of these. [LB136]

SENATOR JOHNSON: Thank you. [LB136]

SENATOR COASH: Senator Seiler. [LB136]

SENATOR SEILER: Yes. [LB136]

SENATOR COASH: Senator Johnson, is the local municipality able to ban these? In other words... [LB136]

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SENATOR JOHNSON: Yes. [LB136]

SENATOR COASH: ...even the mayor of Wahoo could, through city ordinance, ban the sale of these products within their boundaries? [LB136]

SENATOR JOHNSON: Yes. A city or village would be able to do this. They have the authority to set up times that they can be shot, times that you can sell them. So this, I believe, would be included in that. We have...starting to see some municipalities within Nebraska ban these, which works from that standpoint, but it does not protect the rural area where they might be able to be shot off and come into a municipality. So that's the reason we are looking at the statewide ban versus going just simply to municipalities. [LB136]

SENATOR COASH: Okay. Thank you, Senator Johnson. [LB136]

SENATOR SEILER: Any further questions? Seeing none, thank you. [LB136]

SENATOR JOHNSON: Thank you. [LB136]

SENATOR SEILER: You're going to stay for closing? [LB136]

SENATOR JOHNSON: Yeah. [LB136]

SENATOR SEILER: First proponent. [LB136]

JAMES STRAND: (Exhibit 1) Afternoon, Mr. Chairman, fellow Senators. My name is James Strand, J-a-m-e-s S-t-r-a-n-d. I live at 2149 Stone Creek Loop in Lincoln, Nebraska. That's in south Lincoln. I'm also here representing the Schelkopf family of Geneva, who share a townhome common roof with us at 2143 Stone Creek Loop. Last 4th of July evening or early on the morning of the 5th, one of these hot-air...one of these lanterns landed on the neighbor's side somewhere in that time frame. By the time the fire department showed up at 2:00 in the morning, the lantern had tumbled off the roof, so it was not a question of what caused the fire, burned through the shingles. The neighbor's attic was fully engulfed in flames, and they sustained about \$250,000 worth of damage. Fortunately, my side of the unit, the firemen broke in the front door to make sure we were safe, and there was a lot of smoke damage but nothing of structural nature. Coincidentally, on that same July 4th my stepson was in his backyard when a lantern landed in a tree. He had the garden hose out, putting out the lantern that had landed, and the neighbors sent another one up while he's putting the one that went in the tree out. I mean it's just...people don't understand how seriously these devices can impact. When I've talked to people in the last year

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since I've been in experience with it, I've run into people who think they're either illegal or that they're only sold on the 4th of July. Get on [Walmart.com](http://Walmart.com) or [Target.com](http://Target.com) and you can order 50 of these for about 80 cents apiece for weddings, birthday parties, anniversaries. So it really, I think, requires statewide addressing because they are so...they've become so prevalent. Thank you for the opportunity to share my experiences and I'd take your questions. [LB136]

SENATOR SEILER: Any questions? [LB136]

SENATOR PANSING BROOKS: I have one. [LB136]

SENATOR SEILER: Senator Pansing Brooks. [LB136]

SENATOR PANSING BROOKS: Thank you for coming, Mr. Strand. And I guess I didn't...I've known you for quite a while and I did not realize that had happened, so. [LB136]

JAMES STRAND: Yeah. [LB136]

SENATOR PANSING BROOKS: And I appreciate that you brought the pictures. That's very helpful. It is amazing. Some of us have not lived through these bills. It's our first year. And so I guess just as a reminder, for the record, truly there is a fire just lit and hanging there and going up, similar to a balloon. And it is pretty surprising that these are legal because it's a floating fire that just can land in any place, in any tree. I'm not quite sure what you asked about municipalities, Senator Coash, but I'm hoping that this is a statewide ban, as Senator Johnson is proposing, because it is truly dangerous. Thank you for your testimony today. [LB136]

JAMES STRAND: Thank you. You're welcome. [LB136]

SENATOR SEILER: Any further questions? Thank you very much. [LB136]

JAMES STRAND: Uh-huh. [LB136]

SENATOR SEILER: Next proponent. [LB136]

BERNIE KANGER: Good afternoon, Senators. My name is Bernie Kanger, K-a-n-g-e-r. I'm the fire chief for the city of Omaha Fire Department. Fire prevention is the trademark of all fire departments, and I'm here today to show support for LB136. This bill would be a proactive step that addresses preventable fire situations resulting from the use of flying lanterns and the

potential danger to life and property. Currently, there are seven countries that have banned flying lanterns, and in the United States, at least 25 states have banned the use of these devices. The National Association of State Fire Marshals adopted a resolution in 2013 urging all states to ban the sale and use of sky lanterns. Additionally, the National Fire Protection Association has taken steps through their code development process to prohibit flying lanterns. Flying lanterns or sky lanterns are open-flamed, uncontrolled flying devices that can and do come in contact with combustible vegetation and building materials. Numerous documented fires in the United States have started as a result of the unpredictability of sky lanterns. The recreational users who launch flying lanterns are largely unaware of the many inherent dangers these devices present. A flying lantern is susceptible and completely at the whim of atmospheric forces. Once the fuel source is ignited and the lantern is released, these flaming torches will travel over a mile in distance. This adds to the uncontrollable dimension to the use of such devices and, therefore, creates an unnecessary danger to the citizens, businesses, infrastructure, and wildlife in our community. These flaming devices present an unknown hazard to property owners since they can land on rooftops, in your fields or wooded areas without your knowledge. The relatively dry and windy conditions experienced in the Midwest throughout the year only increase the risk of fires ignited by sky lanterns. These devices also cause for concern in the areas of aviation and can impact commercial and general aircraft, as well as medical and law enforcement helicopters that we depend on for public safety. I appreciate the opportunity to address this committee and would be happy to answer any questions. [LB136]

SENATOR SEILER: Senator Chambers. [LB136]

SENATOR CHAMBERS: Do you think if somebody had had an experience or a near experience with one of these devices there might be a feeling of dread or discomfort or even fear if one was seen approaching? [LB136]

BERNIE KANGER: Yes, sir, I believe so. [LB136]

SENATOR CHAMBERS: Now let's say we had a facsimile (laughter) where it is not actual flame but you have a throwaway flashlight that would flicker and give the same impact. Do you think that a person who had an experience with a real one with a candle would feel the same dread and uncertainty? [LB136]

BERNIE KANGER: Senator, I wouldn't...I can't answer that question. I don't know that. (Laughter) [LB136]

SENATOR CHAMBERS: Okay, smart aleck. That's all that I have. [LB136]

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SENATOR SEILER: I thought he was starting out after me. (Laugh) [LB136]

BERNIE KANGER: Yes. [LB136]

SENATOR SEILER: Thank you very much. Any further questions? Thank you for your testimony. [LB136]

BERNIE KANGER: Thank you. [LB136]

SENATOR SEILER: Next proponent. [LB136]

BILL BOWES: Good afternoon, Mr. Chair, members of the council, committee. My name is Bill Bowes, B-i-l-l B-o-w-e-s. I'm the fire chief in Papillion. I am also the president of the Nebraska Municipal Fire Chiefs' Association, which is a group of fire chiefs representing communities that have career or combination fire departments. And I'm also the president of the Missouri Valley Division of the International Association of Fire Chiefs. The Missouri Valley Division consists of an eight-state region: Nebraska, Iowa, Kansas, Missouri, Colorado, Wyoming, and the two Dakotas. I'm here to represent all those groups to let you know we are in support of this bill. As Senator Coash pointed out, this can be looked at as a local issue but in reality is a local issue as well as a state issue and a national issue. Chief Kanger pointed out that there are 25 states currently that ban these, and we sure hope Nebraska becomes the 26th state in that. Sure, those sky lanterns are pretty when they go up. Sooner or later they're going to come down, and we know from experience now that they do cause damage when they do that. So just on behalf of the Nebraska Municipal Fire Chiefs and the International Association of Fire Chiefs, we support this bill. Thank you. [LB136]

SENATOR SEILER: Any questions? Senator Krist. [LB136]

SENATOR KRIST: So if there was a facsimile...no, I'm not going to go there. (Laughter) I think that Chief Kanger said that they were about a mile. I think I've had a little experience and they can travel great distances, depending upon how light or how strong the winds are. So that... [LB136]

BILL BOWES: Right, and we found that in the years that these have been around, they seem to be getting larger, the devices themselves are larger, which is going to cause them to carry further. So a lot depends on the wind conditions at the time as well. [LB136]

SENATOR KRIST: Sure. Okay. Thank you very much. [LB136]



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SENATOR SEILER: Any further questions? Thank you very much for your testimony. [LB136]

BILL BOWES: Thank you. [LB136]

SENATOR SEILER: Further proponents. [LB136]

GEORGE LIPPERT: (Exhibit 2) My name is George Lippert, L-i-p-p-e-r-t. I reside at 1112 Limerick Road, Papillion. I'm representing myself, as a concerned citizen. I support LB136. My interest relates to my personal encounter with a sky lantern and the hazards they represent. Last July 4, a sky lantern came very close to our house. I believe this experience, along with my research and background, will provide the committee with some insight as to the potential hazard with the use of such devices and the need for a statewide ban. That night I was taken aback by the amount of fireworks being fired off in our neighborhood. I went out to observe the drift of debris from aerial rockets. The neighbor's teenagers were attempting to light a sky lantern in the street that we share. This is the first time that I had seen such a device. They were having a problem getting it aloft, and then after several attempts they got it burning brightly and filled the air bag. It barely climbed over my birch trees and then dipped to the right of my 20-foot spruce tree and then right toward our house. It climbed slowly, closely following the lines of our two-story house. I watched it as it continued drifting approximately 50 feet off the ground for some 1,200 to 1,400 feet and then out of sight. For several days I wondered why would anyone light a fire and simply watch it drift away. This lantern could have easily caught in the tree, under the eaves, or in the wood shake roofing. In any event, a fire could have occurred. I investigated sky lanterns extensively on the Internet. I was surprised to learn of their wide availability. They may be ordered on-line from several vendors and there are even instructions for making them at home. They're likely to be available in cities allowing fireworks sales. I've talked to several people about this issue. Statewide prohibition is warranted, as these can drift in or out of local jurisdictions. If we're serious about fire prevention, doing nothing would be irresponsible. Last summer and fall I corresponded with State Fire Marshal Jim Heine regarding the need to prohibit sky lanterns in Nebraska. My objective was to prompt some action on his part. I was amazed at his responses. My first letter on July 11, I cited my recent experience. I cited sky lanterns as fireworks and could be prohibited under current statutes. He responded, says they were not fireworks and, thus, he was unable to prohibit them under the statutes of fireworks. I replied, considering them as uncontrolled incendiary devices. I cited several authorizing statutes that, in my opinion, would allow him to pursue the matter. [LB136]

SENATOR SEILER: Excuse me, sir. [LB136]

GEORGE LIPPERT: His response... [LB136]

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SENATOR SEILER: Excuse me just a second. [LB136]

GEORGE LIPPERT: Yes. [LB136]

SENATOR SEILER: Your red light is on. [LB136]

SENATOR EBKE: Go ahead. Thanks. [LB136]

SENATOR SEILER: Laura. [LB136]

SENATOR EBKE: Go ahead and finish. [LB136]

GEORGE LIPPERT: Can I? [LB136]

SENATOR EBKE: Yeah. [LB136]

SENATOR SEILER: Okay. [LB136]

GEORGE LIPPERT: Okay. [LB136]

SENATOR SEILER: You may proceed. [LB136]

GEORGE LIPPERT: Can I finish? [LB136]

SENATOR SEILER: Yes. [LB136]

GEORGE LIPPERT: Okay. His response was disappointing. I assumed he would be proactive. I was very surprised at his reluctance regarding this hazard, and he advised his only response was through specific action by the Legislature. This is why I am here today. In summary, sky lanterns and similar incendiary devices are fire bombs and should be prohibited. I have experience writing technical standards and directives. I suggested a comprehensive text for this bill. It's included in Appendix A of this testimony. Appendix B provides additional research findings. Appendix C provides my partial vita. This bill is a third attempt to prohibit sky lanterns in Nebraska. Failure of the first two bills may be rooted in the so-called government overreach. Senators, this is not government overreach. This is simply public safety. Again, why would anyone light a fire and simply watch it drift away? Mine was a near miss. However, there was a

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substantial fire in Lincoln last year. Do we need more examples? To do nothing would be irresponsible. Consider the common good. Please be responsible. Thank you. [LB136]

SENATOR SEILER: Any questions of this witness? Seeing none, thank you for your testimony. [LB136]

GEORGE LIPPERT: Thank you. [LB136]

SENATOR SEILER: Next proponent. [LB136]

LYNN REX: Senator Seiler, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We're in strong support of LB136 and appreciate the senator for introducing this important measure. I do think it's important, as Senator Johnson indicated, to note that even though municipalities have the authority to prohibit this it does not deal with the issues of those entities and those types of lanterns that are set off in another area and they drift into a municipality. In fact, if you're not aware of it, they can drift for miles and miles and miles. Two things that come to mind: One is that there's no way to hold the individual who sells it responsible at the current time because, of course, by the time usually you get to these lanterns, they are totally burned up. So there's no way to identify who sold it. There's no way to identify, usually, who set it off and who will be responsible at the back end. But on the back end there are significant issues, public safety being one, certainly the costs, and the possibility of loss of life as people are putting these out. I personally had an experience several years ago. I live on the back side of Holmes Lake Dam, which you may be aware of that area. There are 14 one-acre lots back there. I have a wood pile at the very end. After a 4th of July celebration I came home and it was roughly around...a little bit after midnight and my neighbor called me and said, oh my gosh, are you aware that your wood pile is on...smoke is just pouring out of there? Bring your fire extinguisher. Well, of course, mine now...it's a lot bigger now but then it was just a little dinky one for my kitchen. So I went out there and we started getting hoses and put it out, and there was a lantern on top. And again, it's a dry wood pile. Now in anticipation of the 4th of July I always make sure the sprinklers are going anyway, but it didn't matter. It basically could have set that off and then other areas around it. In addition another sort of personal related experience, even though it's hearsay, is that I have a lovely niece who is dating a very nice guy in northeast Nebraska who happens to be a volunteer firefighter. And he was unable to attend a family function because, again, he was putting out a fire, his second fire that had caught--this is up in Winside, Nebraska--that had caught a barn on fire. And I said, really? How many have you had? He said, well, this is my second barn and, he said, but it's...he said these things are just incredible, he said, and once they start a fire in a barn, everything goes. And the volunteer fire trucks are showing up and people are trying to deal with this. So you have the potential loss of life as well. This is a public safety issue. It is time to stop this. And again, it

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does need a statewide ban because localities alone are not going to be able to handle this issue. With that, I'd be happy to respond to any questions that you might have. [LB136]

SENATOR SEILER: Any questions? Seeing none, thank you for your testimony. [LB136]

LYNN REX: Thank you. The only thing I would suggest as maybe one other thing to consider is to strengthen the penalty provision. This only has a Class V misdemeanor. That's \$100. If you're selling these things, that's probably not much of anything in terms of a fine. So at some point you might want to consider strengthening the penalty provision. Thank you very much. [LB136]

SENATOR SEILER: Okay. Thank you. Further proponent. [LB136]

STEVEN DEWALD: (Exhibit 3) Chairman Seiler and members of the committee, my name is Steve Dewald, S-t-e-v-e D-e-w-a-l-d, and I'm the manager of the Archer Daniels Midland Company corn processing facility in Columbus, Nebraska. I'd like to thank you for offering me the opportunity to provide a brief testimony to register my strong support for LB136. By way of background, ADM has owned and operated the corn facility in Columbus since 2002. Today our wet and dry mills there employ 575 people and source up to 200 million bushels of corn per year from a 100-mile radius to produce a wide range of products, including up to 400 million gallons per year of fuel ethanol. Now the safety of those 575 employees and contractors, and of the surrounding community, is of paramount importance to ADM. We have a wide range of protocols and programs designated to help ensure that our colleagues go home safely every night to their families. That is why this legislation is important to us. Twice last year flying lanterns drifted over our facility and landed, still burning, on our property. Both times they came near potentially flammable materials, which means both times they presented a risk to our colleagues. The first incident was in July. After dark an employee noticed a burning lantern floating towards our coal dome. It had traveled over several rail cars, including ethanol cars. It landed and was extinguished without incident. But if it had traveled a little further north, it could have reached our wet mill ethanol storage area and other areas that contain flammable gases. In January it happened again. Around 1:00 a.m. our workers noticed a lantern that had just landed and was lying, still smoldering, near our ethanol load-out facility. We were loading cars with ethanol at that time. They removed it safely, but once again this burning object had been floating near highly flammable materials. The truth is that it is inherently unsafe to set open flames aloft, where they can drift wherever Mother Nature takes them, beyond the sight or control of those who lit and launched them. Our facility does not present the only potential risk. Roofs of houses or barns, fields of crops or grasslands, do we want uncontrolled open flames floating over and landing on any of them? My first priority is the well-being of the hundreds of Nebraskans who work at our plant every day. We do everything in our power to keep them safe. But flying lanterns present a danger that isn't in our power. We can't control them; no one can. They are

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unnecessarily dangerous and we support legislation to ban them in the state of Nebraska. Thank you. And I'd take any questions. [LB136]

SENATOR SEILER: Any questions? Thank you. And thank you for concern of your employees. Further proponent. [LB136]

PAT PTACEK: (Exhibit 4) Mr. Chairman, members of the Judiciary Committee, for the record, my name is Pat Ptacek, that's P-a-t P-t-a-c-e-k, representing the Association of Nebraska Ethanol Producers in support of LB136 today. And appreciate Senator Johnson bringing this issue up, noting that it has been brought to the Legislature a couple of times before. Nearly two dozen states and hundreds of governmental subdivisions and municipalities across the country have already banned the use or sale of flying lanterns. The National...or state...the National Association of State Fire Marshals calls them uncontrolled fire hazards and, since 2013, has called for states to ban the sale or use of flying lanterns. According to the Boy Scouts, they consider flying sky lanterns as unattended flame and recommends that their use be discontinued. And according to the Fire Protection Association, these lanterns are made of oiled rice paper with a bamboo frame--materials that can easily catch on fire. A candle or wax fuel cell is used with the device and its lit flame heats the inside of the lantern, causing it to rise into the air. Once lit and airborne, it can travel many miles in the distance. And wind can affect the sky lantern, blowing the sides in and forcing the hot air out and sending the flaming lantern back to the ground, too often with destructive and especially...destructive results, especially during dry periods. Our association is appearing today in favor of the bill, not only because of the example that was just given by the ADM plant in Columbus but because of the obvious threat that this unattended flame has in the state of Nebraska. I think we have enough kindling with Conservation Reserve Program acres, dry wheat stubble all occurring about the 4th of July that we don't need to promote anything that already risks public safety and loss of life. With that, you've heard our testimony. I would take any questions or concerns. [LB136]

SENATOR SEILER: Any questions? Seeing none, thank you for your testimony. [LB136]

PAT PTACEK: Thank you, Senator. [LB136]

SENATOR SEILER: There's a gentleman...yeah, he's tried about three different times to get up here. [LB136]

RICHARD GRAUERHOLZ: Thank you very much. I'm Richard Grauerholz, R-i-c-h-a-r-d. I'm here to speak to you real quick because I support the passage of LB136. I also, like many of the other ones, had a personal experience with one of these devices. My camper was parked in my driveway at home last summer within 3 foot of my garage. Alongside of that was my pickup

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truck. One of these devices, with the top burning, the balloon part on fire, came from the sky, fell, and landed in between all three of those. Now from past experience and past knowledge from being a volunteer firefighter for over 40 years and spending 30 years as a fire instructor for the state of Nebraska Fire Marshal's division, I was very confident that this would have ignited my pickup, my garage, and/or my camper. Yes, I was nervous and it creates a problem. These are a danger and a very big potential of lighting a lot of fires. That's why I came here today to testify in favor of LB136. One of the other things that we don't think of, a very minor thing: these go up, they come back down; who picks up the trash? It's all everywhere. Somebody has got to take care of it. After that situation with the incident at my home, I did go in at that time and talk to the gentleman, to Jim Heine, State Fire Marshal, who was my boss at that time prior to me retiring, and we discussed it and the fact that they were not controlled as fireworks. So banning these would also be a help. Senator Coash, I'm not speaking on behalf of the city of Ashland, but as mayor of the city of Ashland, I've looked at these and these things drift a long way. If I have a local ordinance and these originate outside of my control zone, I don't have control of it. Thank you very much for all your time. [LB136]

SENATOR SEILER: Any questions? Thank you very much for your testimony. [LB136]

RICHARD GRAUERHOLZ: Thank you. [LB136]

SENATOR SEILER: Next proponent. [LB136]

RHONDA CERNY: Hello. I'm Rhonda Cerny, R-h-o-n-d-a C-e-r-n-y. I want to thank you for taking the time to listen to all of the scenarios today in regards to these flying lanterns. I'm a member of the Linwood Volunteer Fire Department. I'm also a member of the East Central Nebraska Fire Prevention Co-op, and the chairman of the fire prevention committee for the Nebraska State Volunteer Firefighters Association. My plea to all of you is to please try to put a ban on these lanterns. We all support LB136 and the idea that we practice fire prevention 365 days of the year. And these aren't just happening on the 4th of July. We're seeing some of these things happen throughout the year at different celebrations, different events going on. And the statewide ban would help us as another proactive measure for fire prevention in the state of Nebraska. Any questions? [LB136]

SENATOR SEILER: Any further questions? Seeing none, thank you for your testimony... [LB136]

RHONDA CERNY: Thank you. [LB136]

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SENATOR SEILER: ...and your appearance. Next proponent. [LB136]

JAY TEMPLAR: Good afternoon, Senators. Thank you for taking the time to listen to our speeches on the proponent as far as banning these lanterns. My name is Jay Templar, J-a-y T-e-m-p-l-a-r, fire chief out in Gering, Nebraska. Unfortunately, we've had a couple incidents with the lanterns. Last year it happened to affect the mayor's house. The lantern landed in his tree next to his house, and was pretty excited. We have been doing regular patrols on the 4th of July so thank goodness it was on the 4th of July this happened. But it is a little bit alarming when you see these things flying across the horizon out in our area, where we have a wide-open space and 4th of July becomes very dry. All we're doing is carrying around a large lantern with fire just dripping from that. The wind is the biggest key factor. If we have wind, it's going down and it certainly becomes an issue for all of us. We think there are many more fires that have been caused. By the time we get to where they're at in the rural area, it's burned up enough grass, you're not sure what the start was, so. But please, by all means, take a chance to think about this. I think it's something we could probably do without. So thank you. Any questions? [LB136]

SENATOR SEILER: Any questions? Thank you for coming that distance to testify. [LB136]

JAY TEMPLAR: Thank you. [LB136]

SENATOR SEILER: Next proponent. Any further proponents? Any opponents, against this bill? Seeing none,... [LB136]

MARVIN KOHLER: Yeah. [LB136]

SENATOR SEILER: Are you an opponent? [LB136]

MARVIN KOHLER: There's plenty here. We're just shy. [LB136]

SENATOR SEILER: Oh, okay. [LB136]

MARVIN KOHLER: Good afternoon, Senator Seiler and members of the Judiciary Committee. My name is Marvin Kohler, M-a-r-v-i-n K-o-h-l-e-r. I live at 1739 Ingalls Street, I-n-g-a-l-l-s Street, Grand Island. I'm in the fireworks business, have been for 54 years. The issue I'd like to point out first of all regarding the sky lanterns is that they are, as has been noted, these are not a firework item. These are items that do not have explosives in them. In my experience so far what I've seen is that we sell some in the retail locations, but we...I know they're also sold during the year. But the point is that people use them for different things, and they use them for religious

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ceremonies. We have testimony of that in prior sessions before this committee. They also use them for fund-raisers. We've seen that happen in Grand Island. We had an issue a few years ago where some folks had a cancer support group that used them as a good fund-raiser for them. We've also...I had a personal experience last year. A young man that works for me lost his daughter, five-year-old daughter, and when they had a memorial for Katie (phonetic) and I gave them, all her friends and so forth, a lantern and they went out and shot them off by the grave site on her birthday. So there are...this type of issue can happen. Also, besides activities like this, you have to remember that they are sold in other states and will probably continue to be sold in other states, as well as, of course, over the Internet. So there's other people here to give you ideas in terms of why we oppose this bill. You know, it's been here before. I think it needs to be killed again. I appreciate your time and I'll answer any questions. [LB136]

SENATOR SEILER: Any questions? Senator Williams. [LB136]

SENATOR WILLIAMS: Thank you, Senator Seiler. Thank you for coming today. Just one quick question. [LB136]

MARVIN KOHLER: Yes, sir. [LB136]

SENATOR WILLIAMS: You brought up the fact that these devices might be used for various types of things other than 4th of July celebrations. [LB136]

MARVIN KOHLER: Correct. [LB136]

SENATOR WILLIAMS: Does the safe use of this device change because of why it's being used? [LB136]

MARVIN KOHLER: I think the safety is like anything else. If you use it properly, it's a safe device. It's an enjoyable device. We, in our locations, we put labels, distinctive labels on the item to indicate that it is not to be used when the wind is blowing. You need very little wind to shoot them off, not just because of the safety issue but also because of the enjoyment issue. You get to see them go up, high up in the air, and when they go up in the air they go out. They don't come down hot. So if you use them properly, they're a safe device. [LB136]

SENATOR WILLIAMS: So if it's used for a memorial service as opposed to firing it off on the 4th of July, it would be safer? [LB136]

MARVIN KOHLER: If it's used properly, sure. I, you know,... [LB136]



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SENATOR WILLIAMS: Thank you. [LB136]

MARVIN KOHLER: ...I guess I don't understand your point. But I think if you use it properly, it's safe no matter if you use it on the 4th or when you use it, so. [LB136]

SENATOR WILLIAMS: My point is I don't think it matters what the use is; it has the same safety hazard, either pro or con, irregardless of whether it's an event for a memorial service or the 4th of July. Thank you. [LB136]

MARVIN KOHLER: Thank you. [LB136]

SENATOR SEILER: Senator Chambers. [LB136]

SENATOR CHAMBERS: Sometimes the law, if a case is before a court, they may say this is a case that requires a weighing of the equities. Each side has arguments that are positive, so you look at which approach will be most damaging to society and a decision is made. Did you hear the testimony that was given before you came of the fires and the other hazards that are created? [LB136]

MARVIN KOHLER: Yes, Senator. [LB136]

SENATOR CHAMBERS: Do you think that the enjoyment or entertainment or whatever reason these other people have for using these devices would outweigh the actual harm and the potential harm that was discussed here today? [LB136]

MARVIN KOHLER: Yes, sir, I do. And there will be testimony to indicate how many of these items were sold as opposed to, you know, we realize there might have been some issues with it. But there's a significant amount of them sold as well. [LB136]

SENATOR CHAMBERS: If one of these devices landed in a dry field and the field caught fire and several fire departments were trying to put it out...I saw such a thing when I was going from Lincoln the other day near as I passed through Sarpy County. It covers a lot of territory. Fortunately, no structure was in the field where the burning was occurring, but the trees had ignited. They hadn't made it to the highway because, as you know, there's sometimes in some places there's like a gully between that main land and the road itself and the shoulder. But they are extremely hazardous. So those who are going to come after you, I want them to show me how allowing people to have fun with these devices is more beneficial to society than the harm that is done. Let me state it a different way, that this fun overbalances or nullifies the harm that

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can be done. Did you hear the gentleman from ADM mention the plant and the other environs that... [LB136]

MARVIN KOHLER: Yes. Yes, I did. [LB136]

SENATOR CHAMBERS: If one of those devices ignited an entity, a container that contained a material that could either be very flammable and spread or actually explode, you think that should be disregarded so people can have fun with these devices? [LB136]

MARVIN KOHLER: Senator, I don't. I think there's inherent danger in everything we do in life, and... [LB136]

SENATOR CHAMBERS: But that's not what I'm asking. You were talking about a specific thing which in... [LB136]

MARVIN KOHLER: I'm not encouraging...I'm not encouraging anybody to cause harm to anybody else. That's not the point I'm here. [LB136]

SENATOR CHAMBERS: Well, a lot of times I don't think anybody who lights one of these things does so with an evil intent to cause harm. But you have no...let me change my direction. If you have one of these devices and it's being used for the purpose you said, will the person who sends it aloft have control over it? [LB136]

MARVIN KOHLER: He will not. [LB136]

SENATOR CHAMBERS: So if wind catches it, it doesn't make any difference what the purpose was in sending it up at the outset, does it? Doesn't make any difference. [LB136]

MARVIN KOHLER: Well, it doesn't make any difference. He has to use good judgment. When I drive down the road, I don't drive down the road at 80 miles an hour. I try to use good judgment in that... [LB136]

SENATOR CHAMBERS: We're talking about a fire unattended, uncontrolled, which has been shown to cause problems. And I'm using you as a sounding board so those that you said will come after you will be able to explain why the pleasure or whatever they get out of doing this would overbalance the harm that has been shown to be caused by these devices. So that's really

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not a question that you'd have to answer, and I appreciate what you did answer though. Thank you. [LB136]

MARVIN KOHLER: Certainly. [LB136]

SENATOR SEILER: Any further questions? Seeing none, thank you for your testimony. [LB136]

MARVIN KOHLER: Thank you. [LB136]

SENATOR SEILER: Further opposition. [LB136]

CURTIS SCHNASE: Good afternoon, Senators. Thank you for allowing me to testify today. My name is Curtis Schnase, C-u-r-t-i-s S-c-h-n-a-s-e. Myself, I have been involved in the fireworks business for 38 years and I am in opposition of this bill. I've been here twice before and have provided testimony about the activities that the Boy Scouts do use these. I have also provided testimony about the area of our state on, you know, two years ago, I'll back up a little bit, Senator...former Senator Karpisek introduced the bill and at that time provided statement that all the farmers' fields were going to burn up, all the wheat stubble is going to burn up. Well, that year we had one of our most severe droughts. Fortunately, we didn't see any news, no media, nothing on a fire caused by a sky lantern in the fields. The following year Senator Karpisek again reintroduced the bill. This time the churches, the steeples, the houses, the electrical lines, everything else, was going to cause fires in the urban areas. Well, again, it seems like last year we may have had an incident with that. Well, going back over that, just in the last seven years that I've carried these, I've sold over 10,000 units, and I'm one little retail outlet. I can only assume that there's probably hundreds and hundreds of thousands of these things being sold and yet one fire has been logged on the books that I'm aware of. There's been testimony that others have put out fires on it. I agree, there is possibility of fire with these, with anything. There's also a possibility of cigarettes being thrown out of windows and ditches burning on fire. I looked at the newspaper or Channel 10 and 11 this week: one in North Platte, one in Seward. Did anybody potentially cause those? No. Is there an inherent risk at smoking? Obviously. We see apartment buildings catching on fire with grills on their decks. We see candles left unattended. There's inherent risks in anything with fire. We saw testimony with a lot of opposition to this, but you notice one thing. There was never any fact of, you know, statistics supporting that there is numerous, numerous fires. In fact, "numerous" was used, "potential" was used. But the fact is there's been one that we're aware of. There's been some hearsay on others. Not saying that that's not true or false. But again, we can say a lot of things but, you know, the proof is where the facts lie, and the facts lie that there has not been very many fires caused. And therefore, the inherent risk is minimal with using this item. Plus again, as I will reiterate again, these are not a firework.

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They are not, you know, regulated to be sold at any one time. They can be sold all year long. Again, thank you for allowing me to speak today. And if you have any questions, I'd be happy to answer them. [LB136]

SENATOR SEILER: Senator Pansing Brooks. [LB136]

SENATOR PANSING BROOKS: Thank you, Chairman Seiler. Thank you for your testimony today. I am...my husband and I were married on July 3, and so the 4th of July is one of our very favorite holidays. We purposely did that so we could celebrate and enjoy the fireworks and have lots of fun with all of that. And so I'm happy about your business and what you're doing. I guess I'm interested, what percentage of your sales are these lanterns? [LB136]

CURTIS SCHNASE: Minimal. [LB136]

SENATOR PANSING BROOKS: Minimal. [LB136]

CURTIS SCHNASE: I would say .5 percent comparatively to all my fireworks sales, if even. [LB136]

SENATOR PANSING BROOKS: That's good. Okay. [LB136]

CURTIS SCHNASE: And for one side comment on it, probably two, maybe three years ago was probably the best sales, and that was following the movies like I believe Tangled and a couple of those shows where they had launched mass, you know, lanterns at one time during those shows. And that really, no pun intended, sparked interest in them... [LB136]

SENATOR PANSING BROOKS: Yeah. [LB136]

CURTIS SCHNASE: ...and, you know, therefore. But the past few years, my sales have declined on it. [LB136]

SENATOR PANSING BROOKS: Okay. I guess do you have warnings about how to use it or what to do? [LB136]

CURTIS SCHNASE: Unfortunately, no. We do, you know, personally I act as a salesperson in my store as do I have many on my staff, and we do talk to people and my customers about the use of these. And you know, that goes without saying, you know, obviously, you shouldn't use

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them in windy conditions. Obviously, you shouldn't use them under power lines, obviously. But again, it's amazing what a beer and certain activities will do, and judgment goes by the wayside. [LB136]

SENATOR PANSING BROOKS: I've been at some functions in another state where people will light these and it's actually up in Minnesota so it's near lakes. People think, oh, well, it's no problem because there's lakes, and with the lakes there's no damage or concern. But of course, there are also a lot of trees and cabins and different places that are made of wood. And it is disconcerting because I think TV and the movies have romanticized the lanterns and I think it becomes really difficult to let people truly know of some of the dangers of not...I guess, if it's safe to just have it go up and down, but, boy, directing that. I've seen them sort of blow off to the side and do all sorts of different things, so. [LB136]

CURTIS SCHNASE: Again, yeah, and I agree with you and, you know, not an argument by any means. But you know, one of the parts of that was is like the reasonable use of them. You know, here we're talking...you know, I asked in the past that this be a local issue and I stand by that because you're now taking something that could be used, you know, outside urban settings and be used safely where you do have open areas, no trees, no power lines, no nothing. And the physics of them show they go up, they burn out, they come down. [LB136]

SENATOR PANSING BROOKS: Thank you very much. [LB136]

SENATOR SEILER: Any further questions? Senator Chambers. [LB136]

SENATOR CHAMBERS: I want to try to review what was told to us by people who have the job of suppressing, preventing fires, and rescuing people who may be menaced, saving their property if they can. They describe these lanterns as uncontrolled fire. Is that correct? [LB136]

CURTIS SCHNASE: Yes. [LB136]

SENATOR CHAMBERS: Uncontrolled fire is something that can cause damage that is not intended by the one who may ignite the fire. [LB136]

CURTIS SCHNASE: Correct. [LB136]

SENATOR CHAMBERS: Do you believe that the people who told us about the actual experiences that they recounted were being truthful or anecdotal? [LB136]

CURTIS SCHNASE: I believe they were truthful. [LB136]

SENATOR CHAMBERS: So there can be great hazard created by these items. [LB136]

CURTIS SCHNASE: Potentially. [LB136]

SENATOR CHAMBERS: And if a policymaker has a responsibility to be concerned about the welfare and safety of the public, a question that might occur is this one, before getting into the weightier matters. What is the age limit below which one of these devices will not be sold to a person? [LB136]

CURTIS SCHNASE: There is no age restriction and I do have like prior testimony that this is taught to, as an activity in the Bear Scouts, which is an activity of, I believe, four- to six-year-olds, if I'm correct. I may be wrong on that but it is in that age area. [LB136]

SENATOR CHAMBERS: Have you heard the expression children should not be allowed to play with matches? [LB136]

CURTIS SCHNASE: Yes, I think I was told that once in my lifetime. [LB136]

SENATOR CHAMBERS: And these are more dangerous than matches, in my opinion, and children can have access to them. Children can put them into operation. And when I consider that, I don't really have to have statistics. I can see the inherent danger of these devices. I understand that you have a financial interest in a bill like this not being passed and I sympathize with you, but that's not enough to cause me to say these items should be considered safe, that they are beneficial, and that they do not pose an inherent danger to society. And when that becomes my conclusion then there's one form of action that I'm compelled to take. I would not want any of these loose in the area where I live, so I wouldn't want them loose in the area where anybody lives. There are no restrictions. These can be unleashed on the grounds of a hospital, the grounds of a school, any place where anybody can be at any time of day or night. And with the discussions about using good judgment, that's not enough when we're talking about guns which are lethal, just say let anybody have it and hope they use good judgment. When the gentleman gave the example of not driving down the highway at 80 miles an hour, it was a good example but it wasn't apropos because you're in control of that car. There are some stretches of highway where that is not, in and of itself, dangerous. But with this device, you who know far more about it than I know can no more determine what's going to happen than I. So I have a little rhyme that I'm going to quote: I shot an arrow into the air, it fell to earth I know not where. And as a policymaker, I cannot agree to allow these devices to be sent into the air. And I do think that

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there should be a more severe penalty because a small fine can be considered the cost of doing business. So people will go ahead and do it and say, well, it's going to cost me \$100; well, I'll make more than that selling them. So if they get me for possessing it, then it's not a big thing. I wanted to go into these things so you would know whether you agree or not with the reasons I have for the conclusion that I've reached. [LB136]

CURTIS SCHNASE: May I provide... [LB136]

SENATOR CHAMBERS: Sure. Sure. [LB136]

CURTIS SCHNASE: ...a brief thing? When you talk about the policing or the enforcement of this bill, if this bill would become law, hypothetically, I see there a very, very high level of being able to even proactively police this. The package in which a lantern comes in is probably...this is probably thicker than what that lantern comes in. So if I was laying that right here on that table and that was illegal to possess, it would be a hard probability that somebody would even see the article sitting here. When these are usually used it's nighttime. Therefore, you're going to see an individual unfold this, light it, let it go. Again, now that that item has ascended, you know, maybe a quarter mile, mile into the air, how would an officer be able to say you're the individual that let that go without firsthand witness? Therefore, as they stated, and it is true, these can travel miles, sometimes two, three, four miles away. Are they going to recover that, use state resources to test DNA or fingerprinting on it to try to track down who, this individual that lit it? I'm not saying that that's an argument for. I'm just providing how much resources now this is going to take or will it even be preventable, such as the fireworks were, you know, with them coming across state line and why we changed that law. [LB136]

SENATOR CHAMBERS: I enjoy intellectual stimulation that comes from jousting with somebody like you who thinks. [LB136]

CURTIS SCHNASE: (Laugh) Well, thank you. [LB136]

SENATOR CHAMBERS: However, that doesn't necessarily mean you will prevail. (Laughter) If I'm going to make it illegal to spray water and we see that water was sprayed and we can't determine who sprayed it, what I can do is go to the source and find the one who had control of whether it would be sprayed or not and make that person responsible for the spraying. So if you're the one who is the purveyor or seller, you are in possession. The trains cannot run without the engineer and the porters. So you are the engineer, you are the porter, you are the possessor, you are the source. And if we find you, and you were a mosquito-bearing malaria, we handled the epidemic. I understand your economic interest, and I'm not condemning you. Right now it's not against the law. But it becomes something that is going to carry an additional price for doing

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business. And if somebody can be shown to have released one of these and it caused harm, that person is going to be handled. So in some situations the difficulty of enforcement is not a justification or an argument against prohibiting that particular kind of conduct. You're a very personable, engaging individual and my advice to you would be to take that personality, that charisma, and find a different line of work. (Laugh) I'm just... (Laughter) [LB136]

CURTIS SCHNASE: May I have one final comment and I will... [LB136]

SENATOR CHAMBERS: Yes. [LB136]

CURTIS SCHNASE: ...I will not talk anything more. [LB136]

SENATOR COASH: No. No. No. [LB136]

CURTIS SCHNASE: No? [LB136]

SENATOR COASH: No, I have a question. I have a question. [LB136]

CURTIS SCHNASE: Okay. Yes. [LB136]

SENATOR COASH: What should we...let me ask this. Should...if somebody buys one of these things and it floats around and it causes a fire, should that person be held accountable or responsible for that fire? [LB136]

CURTIS SCHNASE: I would like to say yes. [LB136]

SENATOR COASH: They should? [LB136]

CURTIS SCHNASE: However,... [LB136]

SENATOR COASH: Okay. [LB136]

CURTIS SCHNASE: ...the proof is what I struggle with that... [LB136]

SENATOR COASH: Let me give you a different one then. Let's say my neighbor lights one off, it comes back into my backyard, starts a fire on my porch, and he comes running over and he



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says, that was me, I'm sorry. So there isn't an issue of proof here. Should he be responsible for the damage that that caused? [LB136]

CURTIS SCHNASE: Well, if it happened to me, I would say yes. [LB136]

SENATOR COASH: Okay. Should the seller of the product be responsible? [LB136]

CURTIS SCHNASE: Now we're struggling. It always seems that blame is very easy to shift. You know, you can push blame to anybody. I feel that I'm a very upstanding person and do accept my faults and errors. Now I can't say that about a lot of my fellow humans. So therefore, pushing it to a manufacturer, to a seller I think is a very difficult task. And that was my follow-up comment to Senator Chambers, was I know that you have attempted to sue our higher power in prior instances and I wondered how suing the Internet would go or suing a country that allows sales of these that could be sold and transported to the United States. [LB136]

SENATOR COASH: Okay. Well, you know, I'm one of the senators who heard this for three years. And Senator Seiler brought a bill a couple of years ago that was banning something that caused fires and I voted against that because I thought, well, the people who do that have some control over how that works, which isn't the case with this product. But I just don't know what to say to these people who bring me pictures and say, this is the fire that started because of this product, and nobody can be held accountable. I don't know what to say to them. [LB136]

CURTIS SCHNASE: I would sympathize with you on that, at that point too. And that's my argument of, you know, the unattended candles, the cigarettes being thrown out the windows. You know, that isn't obviously this topic, you know, of argument, but it's in lieu. It's the same process. I toss a cigarette from my window; a field burns up. Somebody's house is in the way. It (inaudible) down and burned it. [LB136]

SENATOR COASH: If you toss the cigarette out and your house burns up and the police can prove you did it, you will get a ticket for doing that. [LB136]

CURTIS SCHNASE: Exactly. [LB136]

SENATOR COASH: So I don't...so I'm, I guess, you know you...and I won't expect an answer to this, but what I'm thinking is if it's...maybe we just allow the sale but put in the law that the person who sells it becomes responsible for any damages that happens. And if it's as minimal as you say it is, maybe you won't worry about it and it won't happen. But you know I really struggle

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with this bill but I don't know what to say to the victims of these fires for the third time.  
[LB136]

CURTIS SCHNASE: I'm sorry for every, you know, victim that has any circumstance happen to them. But you know, like I said, the proof is in the pudding. The statistics for these causing fires is minimal compared to the amount of sales. Now is that an, I hate to even use this term, "acceptable risk"? I don't know. No... [LB136]

SENATOR COASH: I'll just say this and then we do need to move on to other bills. This isn't minimal. [LB136]

CURTIS SCHNASE: No. Agreed. [LB136]

SENATOR COASH: This guy lost his roof, you know? So I'll leave it at that. Thanks for coming down. [LB136]

CURTIS SCHNASE: Okay. Thank you. Any further questions? [LB136]

SENATOR SEILER: Any further testimony? I have one. [LB136]

CURTIS SCHNASE: Okay. [LB136]

SENATOR SEILER: How much do these cost? [LB136]

CURTIS SCHNASE: On sale, \$1.99; normal price, \$2.49. [LB136]

SENATOR SEILER: I have no further questions. Thank you very much. [LB136]

CURTIS SCHNASE: Thank you for your time today. [LB136]

SENATOR SEILER: Further opposition. [LB136]

DAN BUNJER: Good afternoon, Chairman and committee members. Thank you for the opportunity to speak today. My name is Dan Bunjer, last name is spelled B-u-n-j-e-r. My address is 1190 Rood Drive, Wahoo, Nebraska. Rich Ludvik, the owner of Ka-Boomers, Incorporated, would like me to read the following statement: Ka-Boomers has approximately 224 retail

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locations in five states: Nebraska, Kansas, South Dakota, Missouri, and Michigan. Ka-Boomers has been in the fireworks industry for 34 years. We are members of the National Fireworks Association, Pyrotechnicians International, Kansas Fireworks Association, Nebraska Fireworks Retailers Association, and the forming of the Michigan Fireworks Association. All of these organizations have two main goals--public safety with fireworks, and educating the public on properly using fireworks. All fireworks currently have printed warnings on each and every item and instructions on proper lighting procedures. We have been selling sky lanterns in Nebraska for the past three years. To prepare for this hearing we contacted several retailers and distributors who have sky lanterns in Nebraska. Those include Fireworks Over America, Hale Fireworks, Schneitter Fireworks, Fly By Night Fireworks, Clouse Fireworks, Kracklin' Kirks Fireworks, Crazy Cracker, Troy's Hot Rocket Fireworks, and Ka-Boomers, and Jake's. After receiving sales information from the tent suppliers to the trade, we conclude that over a three-year period approximately 400,000 sky lanterns have been sold in Nebraska. This does not include all the other retailers and distributors in Nebraska. This does not also include, like, Menards, Mangelsen's, church stores, party supply stores, and gift shops. Some cities plan events now with sky lanterns. Many churches and families mark weddings, births, deaths by releasing sky lanterns. Over a three-year period the sale of sky lanterns have brought into Nebraska approximately \$600,000 to \$700,000 in tax revenue on just this one item for only the tent suppliers I've listed. If we had sales figures from all the retailers, fireworks, and gift stores, the tax revenue would be staggering. We have researched and have not found that any conclusive fires have been a product of death from this item. When you consider the amount of fires that have been started by a discarded cigarette, fireplaces starting chimney fires, cooking grill fires, extension cords, careless people smoking while filling cars with gasoline, people burning trash, there is no comparison that stands out as a larger fire threat. Please continue to allow people the freedom to celebrate with sky lanterns as they are such a small fire threat compared to other daily events. We feel that over the last three years the amount of revenue that has been brought into the state does not equate to the ban just because of possible threat. I am sure it would hurt Nebraska if it were to lose \$700,000 in tax revenue without high justification. Thank you again for allowing me to speak. If you have any questions, I'd like to answer those. Yes. [LB136]

SENATOR CHAMBERS: The difference between what we're talking about and all those other devices is that the proper use of them will prevent certain things from happening. Just like if you get a heater, they explain to you where to use it, where not to use it, how not to use it, and so forth. And they cannot control how a person will do it. But this is inherently dangerous because there's no way to control it once it leaves your possession. It is a flame. It is an uncontrolled fire. It has the ability to cause fires in other places. When you use it the way it is intended to be used it is hazardous, and that's what I find different from all these other things you mention, like a grill, even a cigarette discarded. There is a way that all of these things can be used, but with this item you're talking about, where it's not used in an enclosed area from which it cannot escape, it's just out there and you just cross your fingers and hope that it doesn't cause a fire, and if it

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does, it can't be traced back to you. So I don't think those other examples really fit this situation. [LB136]

SENATOR SEILER: Any further questions? Did you read a letter from the owner of Ka-Boom (sic)? [LB136]

DAN BUNJER: Rich Ludvik, correct. [LB136]

SENATOR SEILER: Okay. Thank you. [LB136]

DAN BUNJER: Yeah. Thank you. [LB136]

SENATOR SEILER: Any...nothing further? Thank you for your testimony. [LB136]

DAN BUNJER: Thank you. [LB136]

SENATOR SEILER: Any further opposition? [LB136]

TROY WUEHLER: Good afternoon. My name is Troy Wuehler. I'm from Cozad and I've been selling sky lanterns for the past seven years. My opposition to this bill deals mainly with the enforcement aspect of it, as Curt kind of talked about. We're dealing with an item that makes no noise. People are not going to hear it when it's being lit and people are not going to hear it when it's launched. When a complaint comes in about a sky lantern, it's not going to be a report of a sky lantern at a certain address. It's going to be, we have a report of a lit sky lantern over Lincoln. You know, how do you track that back to the person that lit it? And you know then another item that's been hit on already is, you know, these items aren't classified as fireworks. And although we, as fireworks retailers, sell many of these, the fact is that any person or any store in the state with a sales tax number can sell them. So you know it might be fairly easy to make fireworks retailers stop selling them during our ten-day selling season, but after our selling season is over, who's going to make sure that the convenience stores, the hobby shops, the grocery stores, the lumber stores, that they're not selling them? You know, do we send out a letter to every store in the state or do we send someone around to every town, inspect every store? You know, I just think that there isn't an effective way to enforce this without a sizable cost involved. As of today I hadn't heard of any specific fires being started by them. From what I heard today I would kind of like to know, you know, if these came down hot or...to me it sounded like they were...the fires that were being started were being started because they didn't get launched correctly. It says right on the item, do not use if it's windy. You know, I haven't ever...I've heard of a lot of people picking lanterns up and saying, I found one in a cornfield, I found one in a hay

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field. But you know I've never heard someone pick one up and say, I found this in a burned up cornfield, I found this in a burned up hay field. I, you know, think that they are a relatively safe item when they're used correctly. If they're launched correctly, they go up, they extinguish, and they come down, and they're performing exactly as they were designed to perform. [LB136]

SENATOR SEILER: Any further questions? Senator Krist. [LB136]

SENATOR KRIST: Thanks for coming. [LB136]

TROY WUEHLER: Uh-huh. [LB136]

SENATOR KRIST: And thanks for participating in the process. I just have to say if the note on the item itself says don't use when it's windy, I guess you can't use them in Nebraska because I don't think I've ever been here when it hasn't been windy. (Laughter) [LB136]

TROY WUEHLER: Well, (laugh) I believe it says under five, you know, five miles per hour. And I always tell people if the flag is hanging limp then you can light them. [LB136]

SENATOR KRIST: Sure. Thanks. [LB136]

TROY WUEHLER: Yeah. [LB136]

SENATOR SEILER: Senator Chambers. [LB136]

SENATOR CHAMBERS: Just with reference to the enforcement, the bill says, "Flying lantern-type devices are prohibited from sale, possession, and use." If you cut it off at the place where it's being sold, the vast majority will be out of commission because people are not going to construct these. They are built a certain way to be aerodynamically operational. And as they pointed out, the heat that is generated and the resulting uplift is what carries it into the air. People are not going to take paper sacks and maybe set them on top of a paper plate and position a candle and then light the candle, because when the candle burns the sack will catch fire. So it's not likely that people are going to create these. The only ones opposed to this bill are those who make money from these devices, so all of you recognize that the enforcement would be at the point of sale most likely. And you all happen to be the one at the point of sale. So once again, I can understand your opposition, but your arguments are not sufficient to overcome my support for a bill such as this. And those who have testified are in a position to give the kind of factual information that justifies seeing these as inherently dangerous and hazardous. You can use poison in a way that is not going to be fatal. But when we know what the nature of a device is,

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and despite all of the disclaimers on the label that its use is going to create a danger whenever it's used, then the arguments that are given are not really persuasive. So if you're going to go underground and sell them then we'll have to get you the same way we get people who go underground to sell drugs. And a lot of times the user, even in enforcing drug laws, is not the real culprit. It's the one who sells and the one who supplies those who sell. So what happens in another state cannot be controlled by Nebraska, but once it crosses the borders of this state then there's an obligation on the part of those who make policy for this state to address that when it comes within this state. I think your arguments are reasonable but they're not persuasive. And if you want to respond you can, but I don't have any other questions that I will put to you. [LB136]

TROY WUEHLER: The only response I would have is I have no intent of selling them, like you said, underground or, you know, if... [LB136]

SENATOR CHAMBERS: Well, I didn't mean you personally. I meant... [LB136]

TROY WUEHLER: Yeah. (Laughter) [LB136]

SENATOR CHAMBERS: Okay. Okay. [LB136]

SENATOR SEILER: Any further questions? Thank you for coming this distance to testify. [LB136]

TROY WUEHLER: Yeah, you're welcome. [LB136]

SENATOR SEILER: Any further opposition? [LB136]

TOM TOWNE: Thank you for allowing me to speak here today. My name is Tom Towne, T-o-w-n-e, and I'm from Grand Island, Nebraska, and I do sell and in fireworks retail business. I did some research and got on the National Fireworks Protection Association and I found a document in there stating in 2011 that there was 90,000 cigarette fires caused. So if you average that out per state, that equates out to roughly 1,730 cigarette fires started. And also on the Nebraska Fire Marshal's Web site, there were 177 cooking fires. Three years ago we had a gathering at the Central Community College in Grand Island to help support people that had lost loved ones or had people that were terminally sick or ill. I provided well over 100 sky lanterns for these people to write special notes or whatever on their sky lanterns. We did have the Grand Island Rural Fire Department there to assist in any problems that we would have. And we set those off in January, which is...of course everybody knows January is a dry season. All 100 sky lanterns went off

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without any incidences. We had no fires whatsoever. I'll answer any questions if anybody would have any. [LB136]

SENATOR SEILER: Okay. Any questions? Thank you for coming down to testify. [LB136]

TOM TOWNE: Thank you. [LB136]

SENATOR SEILER: Further opposition. [LB136]

THOMAS CLOUSE: My name is Thomas D. Clouse, T-h-o-m-a-s, middle initial D., last name C-l-o-u-s-e. We have been in the fireworks business, our family, since 1945. We're probably the oldest fireworks family in the state. Believe it or not, I have another job too. I'm also in the insurance business. In the insurance business, I've been with the State Fire Marshal's people to a lot of fires, never to a sky lantern fire: cigarette fires, cigarette lighter fires, matches, railroad trains. Railroad trains where I am in Saline County probably start more fires than anything. That's not safe. I looked at that and I looked at how many sky lantern fires I've been called to or known about. Before today, none. We do as good a job providing our customers with products as anyone. A third of the sky lanterns that we sell, people will come to me and they'll say, how do we do this? And I explain it to them and then they will look and they will say something like, I think green, don't you think that's what she would like? Those sky lanterns aren't a toy. They aren't being played with. They're going to the cemetery. They're going to their loved one's grave site. That's where they're being lit. Maybe it's not part of a religion for those people, it probably is other places, but it's very spiritual. And if you haven't ever been around them, if you haven't ever lit one, come see me. I'll give you one. And maybe as a memorial to one of your loves ones it would be very fitting. We don't have a lot left to have faith in. Maybe this is something that's special. And I think, if you think about those people, I think that should be a part of your decision. Do you have questions? [LB136]

SENATOR SEILER: Any questions? Thank you very much for coming. Further opposition. [LB136]

KIRK MYERS: Hello, Chairman and committee members. My name is Kirk Myers, K-i-r-k M-y-e-r-s. I live over in Crete, Nebraska. I also sell fireworks. When sky lanterns first came out, I was very leery of them. And we had lit one and the effect seemed to be that it, instead of going straight up, it lingered and kind of went up and down. And me and my brother both love pyrotechnics, guns, science, you know, and sky lanterns interest us. And so as we looked at the issue with it, we thought that if we added some heat to it, we should be able to get it to go up straighter. And so we tried another one with a propane torch and we used the propane torch to add some B.T.U.s, some heat, to that sky lantern. A sky lantern is just basically a hot-air balloon.

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We heated that up until it was ready to take off all on its own just from the hot air in the balloon. The fire wasn't lit, the fuel cell wasn't lit. Just putting that hot air in there was enough to get it to want to take off on its own. And when we got to that point, we lit the fuel cell and it worked great. It went up pretty well, went straight up. And we've lit hundreds of sky lanterns since then. I totally agree that you need to have very minimal wind in lighting them. And you know, when we sell them, we attempt to let the consumer know that, you know, by lighting them in this way with a propane torch...some people don't have a propane torch. I mean a hair drier will work if you got a gal at home. Just turn it on high and that hot air will heat that. You're just putting some B.T.U.s, some energy, in there. And the use of them has been very good that way. I, like Troy, was very surprised at the number of testimonies of fires that they've had out there. Like anything in life, I think we need to look at, you know, balance the pros and cons. When I was a boy growing up there was a TV show called Boy in a Bubble and this boy lived in a bubble his whole life. And I just feel like government regulations, if you were to make everything that's harmful illegal--cigarettes, alcohol...I mean here we're talking about fires. Cars kill over 30,000 people every year. In the interest of public safety, should we make cars illegal to save those 30,000 lives every year? I say that a little bit sarcastically just to say that if you lived your whole life in that bubble, at the end of your life I think you'll wish that you would have got out and taken some risks and enjoyed life. I just encourage you to oppose this bill for this reason. Thank you.  
[LB136]

SENATOR SEILER: Any further questions? Seeing none, thank you for coming and testifying. Further opposition. Further opposition. Neutral, anybody in the neutral? I do have a letter from Jim Heine, State Fire Marshal, in the neutral. That will be made part of the record, along with the rest of the handouts that we've received on this. (Exhibits 4, 5, 6, and 9. ) The record is now closed. Senator Johnson, you may close. [LB136]

SENATOR JOHNSON: Thank you. First of all, I want to acknowledge I would call a reverse conflict of interest. The owners of Ka-Boomers are relatives of mine, a sister to the owner is my next-door neighbor. We're not calling these fireworks. We're calling them fire...flying lanterns. We found out today are also used at other events and other occasions. We found out that it's minimal revenue, maybe .5 percent or 1 percent in some cases. So I say, is the revenue worth the risk? Outside of city limits, a lot of the ethanol plants are outside of the city limits so that's why we need a statewide ban. Hard to enforce. I think the point of sale is a good place to start. I think neighbor watch might help if it's sold someplace that's not patrolled and somebody lights one. I would say, if we know this at this point and going into our 48th day that this bill is not consent calendar, it's not priority at this point, it would be a friendly amendment, in my mind, to look at the penalties involved with this. I would also say that if this moves out of committee, we did not put an E clause, or an emergency clause, on this because we consider the fact that these dealers that have testified today have inventory. So we will be dealing with those through this year. If this moves from committee and would probably be heard early in next year's session, we would



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put the E clause on it, emergency clause, so that means it would become law if and when the Governor would sign it. That would be a warning to the dealers as far as having inventory for next year. I would just conclude and say, in several areas, is the enjoyment worth the risk? Thank you for your time. Open to any questions. [LB136]

SENATOR SEILER: Any questions? Seeing none, thank you. [LB136]

SENATOR JOHNSON: Thank you. [LB136]

SENATOR SEILER: Senator McCoy, you may open on LB30. [LB30]

SENATOR McCOY: (Exhibits 1 and 2) Thank you, Chairman Seiler. And good afternoon, members of the committee. For the record, my name is Beau McCoy, B-e-a-u M-c-C-o-y, and I represent the 39th District in the Legislature and I'm here this afternoon to introduce to you LB30, which would require firearm...I should say which requires firearm possession, sale, use, registration, permit, or application for a firearm permit be maintained as confidential and not considered a public record. Information relating to applicants and permitholders under the Concealed Handgun Act is already protected and not a public record under state statute 69-2444. Currently, how the situation exists, if I were to decide to apply to purchase, lease, and rent or receive transfer of a handgun here in Nebraska, I would have to fill out a state of Nebraska application with my local police department or sheriff's office. And I believe the page was just handing out a sample application to you so you get a sense of what that will look like, although I would imagine most of you have seen that at some point in time before. Obviously, as you can see from that sample application, I need to give my name, current address, how long I've lived at the current address, my previous address along with how long I've resided there, my alien registration number if that applies, my date of birth, place of birth, height, weight, and race. The Social Security number aspect of that is optional, but from everything that we've encountered as we've researched for this legislation, believe it or not, most people go ahead and list their Social Security numbers on this application. This application is a mountain of valuable information for someone, unfortunately, who would be in the identity theft business. Once my permit would be approved, if I was filling this out and I find a handgun I would like to purchase, the dealer then is required to have me fill out Form 4473 of the department (sic) of Alcohol, Tobacco, and Firearms, ATF. The form is a background check and the seller enters my Nebraska handgun permit information with that. One would not have to fill out the Form 4473 if the firearm is from a spouse, a parent, child, or sibling, and of course that does happen, as many of us know when firearms get passed down from one generation to the next. If I live within the city of Omaha, I must register my handgun with the Omaha Police Department. And if I live within Lincoln, the sale of the handgun must be reported to the Lincoln Police Department. Along with identity theft, handgun permitholders sometimes have cause to be concerned for their personal safety. We

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had personal experience with this in my office here at the Capitol when four years ago we assisted a constituent who was a registered nurse. Her address is posted on the Department of Health and Human Services' Web site, as is required, along with her license number as a registered nurse. This particular lady had just gone through a divorce from an abusive husband and moved to the Omaha area for safety and distance. She changed her phone number due to the situation and harassment and whatnot. But we as a state, unfortunately, required her address to be made public, which was a situation, I got to be honest, I didn't realize occurred like that. If this same woman had chosen to apply to purchase a firearm for protection, her ex-husband could have had access to her current address if her application was treated as public record. Law enforcement who own a personal handgun must also be concerned if a citizen who may wish to harm them and/or their family will have access to their home address. I think the committee received...well, should have received letters of support for LB30, this legislation, from the State Troopers Association and the Sheriffs' Association sharing these same concerns, if you look through their letters. In addition to this, our office has heard from at least two individuals who believe they should have the right to know if their neighbor owns a gun because they're not particularly a fan of firearms and think folks shouldn't be allowed to own or possess a handgun. I guess my feeling would be on this is that their right to know I don't believe outweighs our rights to privacy as Nebraskans. I believe we're all familiar with a news site in New York and following up after the very unfortunate Sandy Hook School massacre, the news site in New York that published an interactive map of the names and addresses of handgun permitholders shortly after that shooting. Now I will say this, and I think there may be a letter that you also have received in opposition to this legislation from some in the media here in Nebraska, that's not what this legislation is designed to address. I have a lot of trust in the media and in journalists here in Nebraska and in media outlets, and I don't think they would ever misuse personal information. What I'm concerned about and what this legislation is really designed to at least open the conversation about, because I think it's a much broader issue, is what do we do with a person or a group that has an agenda against firearm owners and how do we handle that. In this day and age with technology, how do we handle what a definition of a journalist is? And at what point do we say journalistic ethics that would, and I believe, prevent our media outlets here in the state, our newspapers from wanting to protect personal safety, what if there's someone along the way who requests this information who doesn't have those same ethics and who has a very...or I should say doesn't have well-intentioned designs on releasing that information? How do we handle that? In that case, they wouldn't even need to create an interactive map. It would only take a post with the names and addresses of all permitholders on social media, simply asking everyone who thinks guns should be outlawed to contact these gun owners and let them know how you feel. We can all see, I think, that it wouldn't take very long for this type of thing to escalate. In further research for this bill, we've learned that actually the Lancaster County Sheriff's Office has received a public information request in the past for this type of information. The person wanted all the firearm purchase permits for the last ten years. The sheriff's office worked with the Lancaster County Attorney's Office after denying that request, and then the person then voluntarily

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rescinded that request at some point along the way. The Douglas County Sheriff's Office keeps denied handgun permit applications for an unspecified period of time. We haven't been able to determine actually how long they keep them, but they do keep them if they've been denied. But here's the interesting thing: Approved applications they only keep for six months. And so there seems to be this gray area here with conflicting thoughts of this information is a public record or isn't it, and I think no matter where you come down on the issue of handguns and firearms in general, if you believe firearm possession, registration, permit, or application for a firearm permit is a public record, then we have an issue with these records already not being kept. If you believe, as I do, that this personal information should be kept confidential and shouldn't be a public record for matters of safety, then we need to clarify this protection statute. You've also received a short amendment. One of the things that we discovered in the process of working on this legislation is that we have a situation here in Lancaster County with the Sheriff's Department and Lincoln Police that they share a database, and they had special concern over the phrase "for specific investigatory purposes." It's on page 2, line 7 of the green copy of the bill. And this amendment I brought before you would strike that so that that doesn't interfere with the process by which they communicate back and forth. The information relating to applicants and permitholders under the Concealed Handgun Act, as many of you know, is already protected as confidential and not a public record. LB30 would clarify the same standard of protection applies to all firearm owners, and I strongly believe this is especially important in light of possible safety concerns and identity theft. And again, you know, this is a bill and an issue that the more we really have researched this issue the more we realized, you know, we're in kind of a whole new world with technology today and what is a public record, what isn't when it comes to personal information, how do we handle that going forward. I've had a lot of interesting conversations with those who represent media outlets here in Nebraska, along with, of course, the Chairman of our Government, Military Affairs Committee, which I am part of that committee. And while this bill didn't come before that committee, sometimes those matters of public record do. And I think we've determined there is a much broader issue here probably that we really need to look at here in the Legislature and one that I don't know, when I first came to the Legislature seven years ago, I don't know that we really thought through and were already thinking of some of these things that we would encounter. So I don't know that this legislation in particular, while I believe very strongly in it, is the final answer to this issue. I think it's perhaps the tip of the iceberg over what is a much broader issue that we probably need to examine here in the Legislature. It's one that probably will outlive my time in the Legislature, and those of you who are newer in the body are probably going to have to face these issues in the future. But I believe this is one...but one piece of a much broader issue. And with that, I will close and take any questions, Mr. Chairman.  
[LB30]

SENATOR SEILER: Okay. Senator Krist. [LB30]

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SENATOR KRIST: Just for the record, Senator McCoy, what you're doing by removing "for specific investigative purposes" is to allow those, upon request, federal, state, county, and local law enforcement to share a database... [LB30]

SENATOR McCOY: Correct. [LB30]

SENATOR KRIST: ...so they don't have to reach in for a specific purpose. They can just look at the database. [LB30]

SENATOR McCOY: Exactly. This doesn't have to be a one-time thing. It allows them to communicate, talk back and forth, which many of them do. [LB30]

SENATOR KRIST: Sure. [LB30]

SENATOR McCOY: It just so happens that the most...that what brought that to our attention was the Lancaster County-Lincoln situation. [LB30]

SENATOR KRIST: Thank you. [LB30]

SENATOR SEILER: Any further questions? Thank you. You going to stick around for closing? [LB30]

SENATOR McCOY: I am. [LB30]

SENATOR SEILER: Okay. Good. First proponent. [LB30]

ROD MOELLER: Good afternoon. My name is Rod Moeller, R-o-d M-o-e-l-l-e-r, speaking today on behalf of the Nebraska Firearms Owners Association. Would like to thank Senator McCoy for bringing this bill. We do have some good protections in place currently for a lot of things, but this does expand that. Certainly are concerned about purchase certificates and other types of gun owner information getting out there. You know, we've seen nationally the issues with irresponsible media putting the public at risk by publishing information. The senator says he's not too concerned about the media here. I don't hold that level of trust with everyone. All it takes is one irresponsible person to try to publish information. But the senator made some great points about the accessibility through the electronic databases. I guess our concern is a little bit bigger than just those of us who own firearms. I believe this is a greater public safety issue for everyone. Say you don't own a firearm. Say you don't like firearms. Through the process of

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elimination, if a database were to get out in the wrong hands, it could be very easy to, through the process of elimination, identify that, well, you're defenseless in your home. You would think that anyone would be concerned about the privacy of that type of information getting out, and that's really where our concern is. The only suggestion we would have, though, is we would request that the committee work with Senator McCoy on trying to add some penalties to this. That's the only concern that we came up with, was this doesn't really have a lot of teeth to it. There's no penalties associated with violating this. If there's no penalties associated with something then, you know, how useful might that law be if this were to pass into law? I'm available for any questions. [LB30]

SENATOR SEILER: Any questions? Thank you for your testimony. [LB30]

ROD MOELLER: Thank you. [LB30]

SENATOR SEILER: Further proponents. [LB30]

ANNA KOPPERUD: Hello. Good afternoon. My name is Anna Kopperud, A-n-n-a K-o-p-p-e-r-u-d, and I'm the Nebraska state liaison for the National Rifle Association. Thank you for the opportunity to speak today. In Nebraska, a list of CHP applicants, permitholders, and related information is currently always available to federal, state, and local law enforcement agencies. Such information is otherwise confidential and is not public record as others have said. LB30, introduced by Senator McCoy, would expand this confidentiality to include handgun registration, applications, and holders of a handgun purchase permit from a county sheriff. This legislation is essential for the protection of gun owners in Nebraska. In 2013 there were several national instances, also observed before, of media outlets publishing the names and addresses of CHP holders, which jeopardized the safety and violated the privacy of citizens. Such publications placed lawful CHP holders at risk to criminals who may target their home to steal firearms, and LB30 would ensure that this never happens in Nebraska. One exercising Second Amendment rights should not be put at risk of being a victim of gun theft by public exposure of their private information, and enactment of this gun owner privacy protection legislation would prevent such abuse. The NRA requests your support for this legislation. And I thank you very much for your time. Thank you. [LB30]

SENATOR SEILER: Any questions? Thank you for your testimony. [LB30]

ANNA KOPPERUD: Great. Thank you. [LB30]

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SENATOR SEILER: Further proponent. Further testimony in favor of this bill. Seeing none, opponents. [LB30]

AMANDA GAILEY: (Exhibit 3) Hi. My name is Amanda Gailey, G-a-i-l-e-y, and I'm speaking as a representative of Nebraskans Against Gun Violence. LB30 is an attempt to hobble the public's ability to track the effects of concealed carry: How often do concealed carriers commit homicide? How often do they negligently shoot others? Is the training required for a concealed carry license adequate? We ought to be able to answer these questions but the gun lobby does not want us to. LB30 fits a pattern we often see from the gun lobby. With one hand they spread myths; with the other hand they suppress fact finding. They tell us guns in public places make us safer while they kill federal funding for research into gun violence. The NRA says there are 2.5 million defensive gun uses per year--the actual number is under 2,000--while their politicians undermine efforts to collect data. For example, Alabama and Florida have recently refused to report their state's gun deaths. The gun lobby continues to spread the myth that guns everywhere are good for public health and now we are asked to blindfold ourselves to the consequences of guns in public places. LB30 says that ignorance makes for good public policy. It's already difficult to track how frequently concealed carriers harm others. The gun lobby is quick to trumpet their dubious success stories and eager to stifle the failures. We know the 11-year-old negligently shot in Connecticut last week was shot by a CCL holder, as was a Colorado man negligently killed on Monday. We know that a three-year-old killed a couple weeks ago in Houston got ahold of a CCL holder's gun and that the three Muslim students murdered in North Carolina were killed by a man with a CCL. We know these cases in spite of, and not because of, gun-beholding legislators' best efforts to keep this information under wraps and we do not know it systematically as we should. The gun lobby's efforts to stifle this information would be analogous to big tobacco stifling collection of data about the smoking history of lung cancer victims. The gun lobby wants guns everywhere. They want more people to carry them. They want to propagate the myth that this is good for us. And now they want us not to be able to ask questions about the consequences. Thank you. And I'm also happy to take questions. [LB30]

SENATOR SEILER: Any questions? Seeing none, thank you for your testimony. [LB30]

AMANDA GAILEY: Great. Thank you. [LB30]

SENATOR SEILER: Next opponent. Anybody testifying against this bill? Anybody testifying in the neutral? (See Exhibits 4, 5, and 9.) We will move to have the record closed and the documents submitted made part of the transcript. You may close. Senator McCoy waives closing. Senator Dave Bloomfield, you're up on LB603. [LB30]

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SENATOR BLOOMFIELD: Good afternoon. Thank you, Chairman Seiler and committee. For the record, my name is Senator Dave Bloomfield, D-a-v-e B-l-o-o-m-f-i-e-l-d, and I represent the 17th Legislative District. I'm here today to introduce LB603 to the committee for your consideration. I'm going to try to keep this brief for you. The National Firearms Act, a 1934 law, places a tax and registration requirement on a list of items, including everything from machine guns to silencers or firearms mufflers. The ATF application for items on this list require a \$200 transfer tax and, in many cases, months of waiting for approval. Additionally, it requires a signature of the chief law enforcement officer. Keep in mind that this became a requirement back in the day before the federal crime information database. Most chief law enforcement officers will sign, but there are some that will not. Those that will not are not doing so because the individual does not meet the requirements. They're not signing simply because they do not want to. There are ways in which an individual can get around this, but it's expensive and, in all honesty, it is and should be unnecessary, which is why I'm here today. LB603 would allow residents of the state to seek the certification of the chief law enforcement officer in the county in which they reside or in a county adjacent to the county of their residence. LB603 also states that the chief law enforcement officer shall accept and process federal firearms forms as long as the individual meets the qualifications. It also keeps the fee for processing such forms at \$5 regardless of how many forms are submitted at one time. If need be--that would be the committee's decision--I'd be willing to increase this to \$10. Thank you for your time. I'll be happy to entertain any questions, but, as you're well aware, there are individuals behind me that are better able to answer them than I would be. Thank you. [LB603]

SENATOR SEILER: Senator Bloomfield, I have a drafting question. Did you receive this bill from some other group? [LB603]

SENATOR BLOOMFIELD: We got the idea from the Nebraska Firearms Owners Association, yes. [LB603]

SENATOR SEILER: Okay, because they use the chief law enforcement officer as...I don't think it's what they intended to do with all the rest of the records. Chief law enforcement officer in Nebraska is the Attorney General and the local county attorney concurrently,... [LB603]

SENATOR BLOOMFIELD: Okay. [LB603]

SENATOR SEILER: ...and I don't think you intend to have this... [LB603]

SENATOR BLOOMFIELD: No. [LB603]

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SENATOR SEILER: ...going through the county attorney's office. [LB603]

SENATOR BLOOMFIELD: That would not be our intent. We're looking at the sheriff's office. [LB603]

SENATOR SEILER: Okay. Well, you've got drafting problems then. [LB603]

SENATOR BLOOMFIELD: We will be glad to work on that. [LB603]

SENATOR SEILER: Okay. Any other questions? Thank you. [LB603]

SENATOR BLOOMFIELD: Thank you. [LB603]

DICK CLARK: Proponents? Just one second. Give you that. (Exhibit 1) 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 Firearms Owners Association board of directors and one of the Info's registered lobbyists. Thank you for this opportunity to speak today in support of LB603. Under current federal law, certain firearms and accessories are generally subjected to an excise tax and a registration requirement before they can be made or transferred. The relevant federal law, the National Firearms Act of 1934, or NFA, was passed in the wake of Prohibition's failure when lawmakers were looking for something to do with the newly obsolete Bureau of Prohibition. The resulting law was largely inspired by lurid dime novel accounts of organized crime during the Prohibition era, not so much by real evidence. But the items regulated by the NFA include silencers, short-barreled rifles, short-barreled shotguns, machine guns, destructive devices, and a catchall category called "any other weapon." Although some machine guns are legally transferable to civilians under the NFA, since of May of 1986 the national registry has been closed to new civilian transferable machine guns, meaning that the cheapest functional machine gun on the market today cost approximately \$5,000 to \$6,000, with most ranging upwards of \$15,000. About three-quarters of the NFA-regulated items are not machine guns but, in fact, are firearms mufflers or silencers, often referred to as suppressors. These devices are mechanically similar to automotive mufflers and, indeed, they share the same inventor--Hiram Percy Maxim. They are designed to reduce the report of a firearm to levels that are safer for bystanders and for the user. With the appropriate federal paperwork approved, silencers are legal in 40 states, including the state of Nebraska. They're commonly used to make shooting sports safer, more enjoyable, and, frankly, less of a nuisance. Another testifier following me will present more detailed information on the hearing safety benefits of silencers. When individuals complete the tax and registration forms required by federal law and federal regulation to make or transfer one of these items under the NFA, they are required to submit fingerprint cards, passport-style photos, and two original Form 4s with signatures from a chief local law enforcement official, or



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CLEO, which is a term of art defined in the National Firearms Act. When the National Firearms Act of 1934 was signed into law, computerized background checks did not exist. At that time the CLEO sign-off was the only means by which individuals applying for a transfer of an NFA item could be vetted for serious criminal offenses. Since 1934, as you know, technology has progressed and state and local law enforcement now heavily rely on federal criminal information databases. However, the antiquated CLEO sign-off requirement has remained. Under the legal status quo, Nebraska law enforcement essentially have been delegated the arbitrary authority to sign or not sign these federal forms. Although the vast majority of CLEOs in Nebraska will readily sign, they have no legal duty to do so. And some CLEOs refuse to sign NFA paperwork, basing their refusal on perceived liability or on purely political reasons. This bill addresses these issues, ensuring that law-abiding citizens in the state receive their CLEO signature within a reasonable amount of time if they're entitled to do so. Senator Bloomfield's bill would provide that a resident of the state can submit... [LB603]

SENATOR SEILER: Excuse me. Your red light is on. [LB603]

DICK CLARK: Thank you. [LB603]

SENATOR EBKE: Go ahead. [LB603]

SENATOR SEILER: Senator Ebke. [LB603]

SENATOR EBKE: Yeah. You want to go ahead? [LB603]

DICK CLARK: Thank you very much, Senator. This provides that citizens in the state would receive a CLEO signature, if they're entitled to, within a reasonable amount of time. And the senator's bill would provide that a resident of this state can submit federal forms to their chief local law enforcement official, again, as defined under the federal law, and expect to be treated equally to other similarly situated state residents. A growing number of states have passed "shall sign" or "shall certify" legislation to ensure equal treatment under the law. And last year alone these states included Kansas, Utah, Kentucky, Arizona, Ohio, and Oklahoma. Nebraska lawmakers should promote public safety and better ensure that Nebraska residents are treated equally under the law by passing this bill. Thank you for the opportunity to testify and I'm happy to answer any questions. [LB603]

SENATOR SEILER: I have a question. Are you an attorney? [LB603]

DICK CLARK: I am, sir. [LB603]

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SENATOR SEILER: Did you bring this law from a southern state, copying it? [LB603]

DICK CLARK: Actually, it's based on the Ohio statute that was passed late last year. [LB603]

SENATOR SEILER: I would suggest maybe Ohio also copied a southern, because in the South the sheriff is the chief law enforcement officer,... [LB603]

DICK CLARK: Sure. [LB603]

SENATOR SEILER: ...everywhere their king, and... [LB603]

DICK CLARK: Right. Well, and the way that... [LB603]

SENATOR SEILER: ...in Nebraska it's the Attorney General and the county attorney concurrently. [LB603]

DICK CLARK: Sure. And again, I understand there's a legal term of art in the state law context and the CLEO acronym is a legal term of art that is defined in the National Firearms Act and related regulations. And so typically, from the ATF's point of view as far as processing a form or not goes, that would be the chief of police or the sheriff. And they do accept some other personages as well. For example, the head of Nebraska State Patrol I believe would be able to sign and ATF would approve that. Again, we're talking about a federal form, not a state one, so. [LB603]

SENATOR SEILER: Right, but I think a state law is going to control who is going to process your paperwork. [LB603]

DICK CLARK: Sure. And I would mention... [LB603]

SENATOR SEILER: And when you show up at the county attorney's office, I can tell you what they're going to tell you. [LB603]

DICK CLARK: Yeah. Well, I know some people that have tried that, Senator, and... [LB603]

SENATOR SEILER: Okay. [LB603]

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DICK CLARK: Yeah. [LB603]

SENATOR SEILER: Yes. [LB603]

SENATOR EBKE: Just to kind of follow up on that, if somebody goes in today and applies for a purchase permit, where do they go according to state statutes? Do you know? [LB603]

DICK CLARK: They go to the sheriff, and that...and again, that's part of the reason for having this be a duty of the sheriff's, is because we wanted to adopt essentially the same process that's used for the handgun purchase certificates and apply that process to this as well. [LB603]

SENATOR SEILER: I don't have any problem as long as you change the term. [LB603]

DICK CLARK: Sure. Sure. Well, and again, maybe it's incorporating by reference a federal statutory definition or... [LB603]

SENATOR SEILER: That's not going to cut it. [LB603]

DICK CLARK: Yeah. [LB603]

SENATOR SEILER: Senator Krist. [LB603]

SENATOR KRIST: Just briefly, we see it all the time where, for the purpose of this section CLEO means and is interpreted or by law the statute puts it out there. So I think it's a simple matter to fix but it is confusing to... [LB603]

DICK CLARK: Yeah. [LB603]

SENATOR KRIST: ...most of us who understand Attorney General and county attorney. [LB603]

DICK CLARK: Sure. And I operate, in terms of my law practice, I'm dealing with a lot of federal regulatory compliance and so very often I'm concerned with what the federal definitions are, but I certainly have no aesthetic attachment to one term or another, as long as the meaning makes it through, Senator. [LB603]

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SENATOR KRIST: Thanks. [LB603]

SENATOR SEILER: Okay. Any other questions? Thank you very much for your appearance. [LB603]

DICK CLARK: Thank you. [LB603]

SENATOR SEILER: Next proponent. [LB603]

EMILY WAKEFIELD: Hello. My name is Dr. Emily Wakefield. I am an occupational audiologist and I specialize in the prevention of noise-induced hearing loss. Many people who have hearing loss is a result of exposure to hazardous noise will remorsefully wish that they had proactively protected their hearing. Currently, there is much research being done to investigate the impact of hearing loss. We now know that hearing loss can be detrimental socially and emotionally for a person, causing fatigue, social isolation, depression, and even an increased risk of dementia. While hearing aids can provide benefit, they do not completely restore hearing back to normal. Less than 30 percent of individuals with hearing loss have used a hearing aid. Cost may be a large hindering factor to this statistic. The average cost of a hearing aid is approximately \$1,500 to \$2,000. Most people require two hearing aids and the life expectancy of a hearing aid is about five years. You can see how this cost accumulates. We know that firearms produce a tremendous amount of high-intensity sound. Noise-induced hearing loss can be caused by a one-time exposure to an intense impulse sound, such as a firearm or blast explosion. According to OSHA's occupational noise exposure standards, a worker should not be exposed to an impulse noise that exceeds 140 decibels. However, we know that many firearms exceed that safety standard. A common firearm, a nine-millimeter Glock used by most police, is approximately 162 decibels. Because of the high-intensity level, dual hearing protection--wearing both earplugs and earmuffs--is strongly recommended. Unfortunately though, many firearm...many who use firearms do not use any type of hearing protection. Among hunters, an abysmal 10 percent report that they always wear hearing protection while hunting. If many are not using earplugs or earmuffs as a method for protecting their hearing, another source of hearing protection should be investigated--a type of hearing protection that won't interfere with hearing the animal walking in the brush, muffle the surrounding environmental sounds for safety, and provide protection for bystanders. The use of a silencer or suppressor can provide some degree of hearing protection. A suppressed nine millimeter decreases the sound intensity level to about 126 decibels. To give you a frame of reference for the decibel level, 126 decibels is similar to a loud thunder clap or a balloon pop. Due to the physics of sound, it is not possible to completely eliminate 160 decibels of sound pressure to complete silence, despite what Hollywood would have us believe. The prevalence of hearing loss is quite high in America. The National Institute on Deafness and other communication disorders estimates that approximately

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15 percent of Americans have hearing loss as a result of exposure to noise. The Department of Veterans Affairs spent an estimated \$1.39 billion in calculated compensation for major auditory disabilities in 2010. Allowing citizens... [LB603]

SENATOR SEILER: Your red light is on. [LB603]

EMILY WAKEFIELD: Okay. [LB603]

SENATOR SEILER: Just a second. [LB603]

SENATOR EBKE: Emily, you want to go ahead? [LB603]

SENATOR SEILER: Senator Ebke. Go ahead. [LB603]

EMILY WAKEFIELD: Allowing citizens equal access to suppressors has the potential to diminish the number of individuals with noise-induced hearing loss and decrease hearing healthcare costs. Thank you. [LB603]

SENATOR SEILER: You're welcome. Any further questions? Seeing none, thank you for your testimony. And my audiologist would agree with you. [LB603]

SENATOR WILLIAMS: What? [LB603]

SENATOR SEILER: Huh? (Laughter) Next proponent, testifying in favor of this bill. Seeing nobody leaving their chairs, testimony in opposition to this bill. Testifying against this bill? Seeing none, in the neutral, anybody testifying in the neutral? I will close this hearing. Dave, you may come up and close. [LB603]

SENATOR BLOOMFIELD: I'm going to waive, Senator. [LB603]

SENATOR SEILER: Waive closing. [LB603]

SENATOR BLOOMFIELD: But I hope you will work with me in (inaudible). [LB603]

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SENATOR SEILER: Not a problem. LB603 should have the documents submitted to us made part of the record. (See Exhibit 9.) And we are now ready for LB289. Senator Ebke, you're right there. [LB603]

SENATOR EBKE: I'm here. [LB289]

SENATOR SEILER: Go. [LB289]

SENATOR EBKE: (Exhibit 1) Thank you, Senator Seiler and fellow members of the Judiciary Committee. For the record, my name is Laura Ebke. That's L-a-u-r-a E-b-k-e. I represent Nebraska's 32nd Legislative District made up of Saline, Jefferson, Thayer, Fillmore Counties, and the southwest portion of Lancaster County. Today I'm opening on LB289. This is a bill dealing with certain firearms laws in the state. This is not a bill that attempts to increase the number of firearms. This is not one that really is intended to get to the heart of whether or not firearms are a good or a bad thing. But what we're trying to do is be sure that our firearms laws are somewhat consistent. There are a number of local ordinances dealing with firearms issues around the state and they vary greatly from place to place. By making these prohibitive laws more uniform across the state, we protect the rights of individual Nebraskans and we also help keep law-abiding citizens from unknowingly becoming non-law-abiding citizens. These local ordinances, which I think...did you just hand those out? Okay. These local ordinances govern the ownership, possession, transportation, carrying, registration, transfer, and storage of firearms and firearms ammunition. In addition, certain cities and villages continue to have on the books enactments governing the concealed carry of handguns, although those enactments have been subsumed by the enactment of the state Concealed Handgun Permit Act of 2006, so there's also an issue here of some municipalities being out of compliance with current state law. In the handout you've been provided you can view some of the examples of the various local ordinances across the state. The citizens of the state of Nebraska need and deserve consistent firearms regulation across the state consistently enforced in all jurisdictions. A family leaving their central Nebraska community in the fall, for instance, to travel to an event in Lincoln or Omaha should not have to wonder whether a hunting firearm that is transported in their vehicle is in violation of the law in their community of destination or those that they travel through; and when you have a patchwork of laws, you always run the risk of running afoul of some of these laws. An individual relocating to a new community should not have to wonder whether the ownership of a handgun requires registration with law enforcement in the new community. Many of us have had a number of family and friends, I've had some, who have moved from a rural area of Nebraska where there were virtually...you know, there was nothing except the state law on the books. They move to Omaha, they're there for a couple of months, and then realize, oh, my goodness, I've been out of compliance for the law two months. LB289 would place consistent statewide uniformity with local firearm enactments while allowing local communities to continue to enact and enforce prohibitions on firearms discharge. I think it's important to note

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what our state constitution says about firearms. If you go to Article I-1, in our statement of rights we have a number of things: All persons are by nature free and independent, have certain inherent and inalienable rights; among these are life, liberty, the pursuit of happiness and--here's the key part--and the right to keep and bear arms for security or defense of self, family, home, and others, and for lawful common defense, hunting, recreational use, and all other lawful purposes, and such rights shall not be denied or infringed by the state or any subdivision thereof. So it's important to keep in mind our state constitution. I think it's right that local firearms ordinances cannot be stricter than our state laws. This is really about setting legislation and regulation at the appropriate level. This is a constitutional right and, as such, the localities ought to be bound to that. If we want to redefine the constitution, then let's have that discussion; but as long as we have something in the constitution, I'm not sure that we ought to allow cities to decide what their means of regulation will be if it's more strict than what the state has legislated. This is really about setting these at the appropriate level. This is I think a reasonable bill. It's a commonsense modification that protects citizens' rights. It removes the possibility of individuals being wrongly convicted of a crime which in other parts of the state would be perfectly legal. LB289 places consistent statewide uniformity with local firearm enactments while allowing local communities to continue to enact and enforce prohibitions on firearms discharge. I hope you'll move LB289. It is, of course, not a prioritized bill, so the timing is not critical here. I would thank you for your time and I would be happy to try to address any of your questions. There will be a number of testifiers behind me, I suspect. [LB289]

SENATOR SEILER: Okay. Senator Morfeld. [LB289]

SENATOR MORFELD: Thank you, Senator. Senator Ebke, I just know from transporting my own firearm from one state to another because...for when I back-country camp. How does this...and I know that there's a federal law that provides for interstate transport of firearms. Do you know how this law would interact... [LB289]

SENATOR EBKE: With the federal law? [LB289]

SENATOR MORFELD: ...with the federal law, at all? And if there's somebody behind you that can answer that... [LB289]

SENATOR EBKE: I don't. I suspect that Mr. Clark, who knows much more about the federal law, will be able to tell you more. [LB289]

SENATOR MORFELD: Okay. [LB289]

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SENATOR EBKE: Let me just... [LB289]

SENATOR MORFELD: No problem. [LB289]

SENATOR EBKE: Let me just say though that you raise a very important point that somebody could unintentionally, you know, be carrying a weapon in their car. Unloaded, safely transported, it's perfectly legal for them to do that anyplace else. They could be pulled over in Lincoln or Omaha, especially Omaha, and technically be out of compliance. If you look, there are a number of communities in the state that have some sort of a regulation. I think Sidney, was it, that has a remarkably strict one? So I think it's important that we, you know, try to universalize this. You know, these are people that are for the most part...well, for the whole part, trying to be legal and law abiding. [LB289]

SENATOR MORFELD: Thank you. [LB289]

SENATOR SEILER: Any further questions? Thank you. You're going to stick around for closing? [LB289]

SENATOR EBKE: I suppose so, yeah. [LB289]

SENATOR SEILER: Okay. Next testimony in support. [LB289]

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 NFOA board of directors and one of the Info's registered lobbyists. Thank you for this opportunity to speak in support of LB289. Senator Ebke's bill would preempt most local ordinances pertaining to carrying, registration, transfer, and storage of firearms, ammunition, and related accessories. The bill would preserve local authority to regulate the discharge of firearms, to provide for appropriate zoning designations, and to enact and enforce policies relating to the use of firearms by those local law enforcement agencies. Finally, LB289 provides a legal cause of action to facilitate the judicial challenge of the preempted ordinances. The United States and Nebraska Constitutions, as you've already heard, both set out a legal right to keep and bear arms and after centuries have almost no notable cases on the topic. The Supreme Court spoke in the Heller and McDonald cases, affirming the individual right to keep and bear arms and affirming that it's one that's incorporated against the states under the Fourteenth Amendment. Here in Nebraska, exercise of this right is subject not only to federal and state laws but also a patchwork of local ordinances, especially in the easterly part of the state, although, as you've heard, not exclusively in this end of the state. When the concealed handgun permit statute was enacted, local gun ordinances were preempted by the state



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but only for permitholders. In Lincoln and Omaha, there are ordinances on the books today that variously require registration of certain firearms or reporting of some firearms transactions. Lincoln's weapons ordinance adds to the federal and state definition of a prohibited person, meaning that a person may legally own a firearm in another part of the state but could be subject to prosecution and have the firearm confiscated if he moved to Lincoln. Again, these additional rules are partially preempted by state law already. This has created confusion as a plain reading of local ordinances no longer tells a Nebraska resident what his legal responsibilities are. One example of such confusion is with the sales reporting requirement and Lincoln's city weapons ordinance. In 9.36.030, the city has provided that sale of firearms other than sporting rifles or shotguns must be reported to the department of public safety, however, it's the view of the city that this ordinance is preempted for individuals possessing a concealed handgun permit. This limitation on the enforceable scope of the ordinance is not set out in its wording. The only official recognition of the limitation to nonpermitholders was made in an August 2010 letter from then Chief of Police Tom Casady. I've provided a copy to each of you with my written testimony of that letter. Notice of this city policy is not provided to gun dealers who have opened since that date and the city ordinance in its current form makes no reference to any limitation on the requirement whatsoever. When law-abiding Nebraska residents choose to exercise their constitutional right to keep and bear arms, like other constitutional rights, it is subject to legal restrictions on time, place, and manner, but fairness requires that there be reasonable notice to the regulated public of how to follow the law and that similar people be treated similarly by the state and by its local subdivisions. Nebraska's Constitution applies to everyone in this state and this constitutional right should be uniform throughout Nebraska. Thank you for the opportunity to testify. I'd be happy to answer questions. [LB289]

SENATOR SEILER: Any questions? Seeing none, thank you for...oops. Senator Morfeld. [LB289]

SENATOR MORFELD: Thank you. Did you hear my earlier question,... [LB289]

DICK CLARK: I did. [LB289]

SENATOR MORFELD: ...just how the federal interstate... [LB289]

DICK CLARK: Yeah, so what you're referring to is the Firearm Owners Protection Act which was passed in May of 1986. Actually, it's the same law that I referenced in my previous testimony. It included the Hughes amendment that closed the registry to machine guns. But the specific provision you're talking about is the safe passage provision that provides that if your point of origin is a place where it's legal to possess a particular firearm and your destination is a legal destination, as long as you travel with the firearms unloaded, cased, and not accessible to

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the passenger compartment, then that is an affirmative defense that you can raise against local prosecution under state or local law. Now, again, that's not a great situation to be in where you're having to raise an affirmative defense because that means you've already had a bad day. Right? But there is that protection there from the federal government and unfortunately we don't have anything similar for folks who are enjoying the other end of our own state. [LB289]

SENATOR MORFELD: Thank you. [LB289]

SENATOR SEILER: Any other questions? Thank you for your testimony. [LB289]

DICK CLARK: Thank you. [LB289]

SENATOR SEILER: Next proponent. [LB289]

MARTIN BILEK: (Exhibit 3) Good afternoon, Senator Seiler and members of the Judiciary Committee. My name is Marty Bilek, M-a-r-t-y B-i-l-e-k. Today I'm representing Mayor Stothert, mayor of Omaha. The city of Omaha's gun registration ordinance has been in effect for at least 30 years. Then, in 1991, the State Legislature passed the firearm certification act which required Nebraska residents to obtain certification before they would be able to legally acquire a handgun anywhere the state of Nebraska. Fifteen years later, in 2006, the Legislature passed the carry concealed act which also allows residents to carry firearms concealed but only after extensive training. The sequence of compliance is as follows. A prospective first-time gun owner would first need to become firearm certified, which includes a background check. If they lived in Omaha, they would be required to register their handgun which, again, requires a background check. And if they would like to carry their firearm concealed, they would obtain a carry concealed permit, which begins yet another criminal history review. Over the last 30 years, laws in the state of Nebraska and the municipalities within have made gun ownership unnecessarily cumbersome to the point where constraints have been placed on the Second Amendment that many consider unconstitutional. In 2013, about 60 people were charged with a gun registration violation in Omaha and over half of those were dropped by the prosecutor. Usually, if someone has committed a gun violation, other more serious crimes are in play, for example, use of a weapon to commit a felony or possession of a firearm by a felon. Gun registration can be beneficial in tracing guns used in crimes. However, the Federal Bureau of Alcohol, Tobacco, and Firearms also performs this service. Finally, the mayor's office is currently considering an alternative to our gun registration requirement: a voluntary on-line registration process that might be expanded to include residents outside the city limits of Omaha. Mayor Stothert would encourage Judiciary Committee to vote LB289 out of committee and ultimately pass this legislation. [LB289]

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SENATOR SEILER: Marty, I have a question. [LB289]

MARTIN BILEK: Yes, Senator. [LB289]

SENATOR SEILER: In Senator...Mayor Stothert's letter, she refers to "gun." Is that handgun or is that all guns, like shotguns, rifles for hunting? [LB289]

MARTIN BILEK: Basically, we'll be talking about handguns here... [LB289]

SENATOR SEILER: Handguns? [LB289]

MARTIN BILEK: ...because usually, including the state laws, it makes a distinction. [LB289]

SENATOR SEILER: She didn't make that clear so I... [LB289]

MARTIN BILEK: Okay. [LB289]

SENATOR SEILER: That's why I asked. [LB289]

MARTIN BILEK: Okay. [LB289]

SENATOR SEILER: She just used the term "guns." Okay. Any other questions? Seeing none, thank you for your appearance. Further proponent. [LB289]

DAVID BLACK: Thank you, Senator. My name is David Black. I'm the mayor of city of Papillion, D-a-v-i-d B-l-a-c-k. I'm also a member of the Nebraska Firearms Owners Association. And I think the conversation on the interstate transfer is where this really becomes a practical issue and you realize how large this state is and we had some conversation of rural versus urban. But just two examples I want to talk about. My children went to...I obviously live in Papillion and my children went to college in Chadron. Papillion to Chadron is further than Papillion to St. Louis and this is a large state. So if I choose, which I did many times over seven years, to go to Chadron up the route Highway 275, I clip the city of Omaha for about two minutes on that travel. I don't know how many jurisdictions I cross that way. If I took the time to research every jurisdiction I went through, I could figure out if I was legal or not. And even if I did that research and I'm in Chadron and then there's a blizzard, which I've hit twice so I decide to drop south through Sidney and hit the interstate and then come through the city of Lincoln for a few minutes, I didn't research all those jurisdictions on the way back because I didn't anticipate the

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blizzard and I had a hint of what Lincoln might have been in. In that travel, the idea of I started legal, I was legal most of the time, there might have been a few minutes I was illegal but I don't have a clue because I haven't gone back to research that, I think that the issue of the intrastate travel is a very big issue. But even bringing it local, to the metro area, I'm in Papillion, most Papillion residents I don't think could tell you exact jurisdiction lines between Papillion and La Vista because they're not straight lines. And if I travel up the interstate from La Vista to some of the other areas going to Cabela's, I might have clipped Omaha for just a few minutes, but I don't know. It's the practicality of the issue that the federal have addressed with interstate transfer and is which...why I generally agree in this case that it is a constitution issue in this and the city should not be able to be stricter than the state. I'm definitely a local rights issue guy and I'll be here many times testifying that we should have local rights, but in this case it's a state issue. [LB289]

SENATOR SEILER: Senator. [LB289]

SENATOR KRIST: So you're the greatest, the best proponent to ask the opponent question. Talk to me about local control. I mean this is from my perspective the state telling a local what to do, and in your case, as the mayor, you obviously agree with this piece of legislation. How do I respond to the mayor who doesn't agree with this piece of legislation? [LB289]

DAVID BLACK: Tell them to call me. (Laugh) [LB289]

SENATOR KRIST: Okay. (Laughter) There we go. [LB289]

DAVID BLACK: No. That's a great question. And you know, Nebraska is an interesting state. There's...people believe local control exists in Nebraska. Nebraska is only one of two states in the entire nation that local control doesn't even exist because of Dillon's law. Forty-eight states in the United States, a city can do anything it wants to do unless the state tells them they can't. Nebraska, I can't do anything unless the state has given me permission. [LB289]

SENATOR KRIST: Right. [LB289]

DAVID BLACK: So local control doesn't exist in Nebraska. [LB289]

SENATOR KRIST: I wish I could just record that and play it over and over. [LB289]

DAVID BLACK: Now, with that being said, I fight all the time to give me permission to let me do what I want to do so we have the perception of local control. This is very unique though that

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we're talking a constitutional issue and I think that's one of the things that makes it a little bit different. There are...almost every other issue we talk about, I don't know if you can point to that it's a constitutional issue, and this is a constitutional issue and I think that's critically different. [LB289]

SENATOR KRIST: Thanks, Mayor. [LB289]

DAVID BLACK: You're welcome. [LB289]

SENATOR SEILER: Any further questions? [LB289]

DAVID BLACK: Thank you. [LB289]

SENATOR SEILER: Thank you, Mayor. Next proponent. [LB289]

ANNA KOPPERUD: Thank you very much. My name is Anna Kopperud, A-n-n-a K-o-p-p-e-r-u-d, and I'm the Nebraska state liaison for the National Rifle Association. The NRA supports LB289 introduced by Senator Ebke. In general, as we all know, this bill would ensure that firearm and ammunition laws are consistent throughout the state. The confusing patchwork of local firearm laws in Nebraska as it is now makes it...makes compliance very difficult and nearly impossible for responsible gun owners. This creates a situation where gun owners have difficulty even knowing about certain laws from one town to the next, much less understanding them, as they travel throughout their own state. Firearm prevention help...creates a uniform system of rights and responsibilities for citizens. And interestingly, Nebraska is one of the very few states in the nation without statewide general firearm preemption. I pulled some data on that. There are 45 states that have preemption in the United States and four additional states provide that through judicial ruling, and those four: Connecticut, Massachusetts, New Jersey, and New York. And within that context, that brings us to 49. The only state with no preemption is Hawaii. And the most recent state to climb on board was Illinois and they adopted preemption when they were now allowed to concealed carry in their state. Nebraska is interesting. It's...we have a "carve out." It protects handguns only. So there's Hawaii with nothing, Nebraska only with handguns, and there might be one other state that has a small caveat. But I did think that was very relevant to this discussion. The bill as written is straightforward and solid. It still allows municipalities to regulate the discharge of firearms through ordinances, as well as zoning considerations. And we've heard in other states people ask about that and it's well written here and it's definitely solid. As for the enforcement provisions and damages against the municipalities that fail to follow the law, quite frankly, what's the point of the law if it cannot be enforced against those continuing to blatantly ignore it? Pennsylvania is a good and recent example of what happens when you don't have strong preemption. Over 50 municipalities in Pennsylvania had different

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laws regarding firearms and of course that makes it impossible for gun owners to know the law while driving from one small town to the next. Pennsylvania had firearm preemption in place, but without the enforcement and standing clauses there were larger cities like Pittsburgh, Philadelphia, and Harrisburg that blatantly ignored it, causing a lot of confusion and trouble for its citizens. And that's been addressed in this last legislative section. They added a bit of teeth to that and things changed very quickly in Pennsylvania. Lastly, I always like to say, please, think about beloved Uncle Bob. You know, if he had otherwise known that he was breaking the law, he would have changed his behavior in order to not do that and he would have been law abiding. It's our request that you please help ensure that firearm and ammunition laws are consistent throughout the state and we request your support for this legislation. Thank you. [LB289]

SENATOR SEILER: Any questions? Seeing none, thank you for your testimony. [LB289]

ANNA KOPPERUD: Thank you very much. [LB289]

SENATOR WILLIAMS: Better than Uncle Buck. [LB289]

SENATOR SEILER: Further in support, proponents. Opponents. [LB289]

JAN HOBBS: I am an opponent. [LB289]

SENATOR SEILER: You're opponent or proponent? [LB289]

JAN HOBBS: Yeah. Go ahead. I'll wait until after you go. [LB289]

AMANDA GAILEY: (Exhibit 4) Sorry. Well, I'm glad to see there's that interest. My name is Amanda Gailey, G-a-i-l-e-y, and I'm here on behalf of Nebraskans Against Gun Violence. Preemption laws are how powerful industries that are harmful to public health cripple communities' efforts to protect their citizens. In the 1980s, big tobacco pushed preemption to make it nearly impossible for many communities to enact their own smoking ordinances. Pesticide companies have lobbied state governments to preempt local efforts to reduce harmful chemicals. Today, the fossil fuel industry is working to preempt local laws that favor renewable power, and for many years now the gun lobby has eroded community efforts to reduce gun violence by preempting the ability of towns and cities to regulate guns. Preemption kneecaps grass-roots efforts to minimize such obvious community hazards as carcinogens, pollution, and firearms. If the interests of the people were guiding LB289, we would be here today talking about strengthening gun regulations, not dismantling them. But we are not here to protect the interests of the public. We are here to assist the gun industry and to ease the lives of gun

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extremists. This preemption bill is a familiar gun industry tactic meant to ensure a fertile market for firearms. It puts the convenience of the gun dependent above every other concern of governance. In Pennsylvania, the NRA is using preemption laws to sue municipal governments for daring to try to curb gun violence. In Florida, preemption laws allow gun extremists to terrorize neighborhoods by setting up shooting ranges in populated areas. And in Nebraska, preemption laws would do away with ordinances that keep guns out of domestic violence shelters in Lincoln and that require someone open carrying a loaded gun in Omaha to have undergone all of eight hours of training. A preemption law in Nebraska would allow people convicted of stalking, impersonating a police officer, or unlawful possession of explosives to possess guns in Lincoln. It would void the Lincoln law against leaving a gun indefinitely unattended in a car. Preemption asks us to care less about the public good than we do about simplifying things for the people who endanger us with guns in public. It is a credit to our state that we have not enacted firearm preemption laws. We can see that they have had regrettable consequences in other states that have been hoodwinked by the gun lobby and they are difficult to remove once in place. This bill gives our Legislature an opportunity to tell an arm-twisting, deadly industry that Nebraska puts its people first. Thank you. [LB289]

SENATOR SEILER: Any further questions? Thank you very much. [LB289]

AMANDA GAILEY: Thank you. [LB289]

SENATOR SEILER: Next opponent. We'll get you next, ma'am. [LB289]

JAN HOBBS: Okay, thank you. [LB289]

SENATOR SEILER: You may go. [LB289]

COURTNEY LAWTON: (Exhibit 5) My name is Courtney Lawton, C-o-u-r-t-n-e-y L-a-w-t-o-n. Senators and honorable Chair, LB289 and preemption might seem like a good idea, and I who am opposed to LB289 would like to propose a way to make it truly a great idea. Let's scrap Senator Ebke's gun lobby-crafted bill and create a state firearm law at least as restrictive as the aggregated gun ordinances for all of the municipalities in Nebraska. The ideal preemption law should prohibit statewide the open carry of firearms without a concealed carry license, as in Nebraska. It should continue to prohibit the discharge of firearms in a city except for police, as in North Platte, Kearney, and Crete. It should prohibit guns in parks, cemeteries, and municipal buildings, as in Chadron and Alliance, and prohibit people from shooting animals within city limits, as in McCook. The ideal preemption law should do what current state law and municipal ordinances actually fail to do today, which is prohibit the carry of weapons into airports. The ideal preemption laws should be at least as restrictive as possible because any preemption law

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would remove city and county agility to address local violence and gun proliferation. Different cities have different needs. Should we strip local governing bodies' power of regulation, should we give that power to the state of Nebraska, then the Unicameral should strive to meet as many needs as possible by writing the most restrictive law possible based on existing local ordinances. But that is not what Senator Ebke's preemption law does. This is a law crafted by the gun lobby to line the pockets of the NRA and gun dealers. Thanks to preemption laws, Phoenix, Arizona, is actually powerless to prevent armed people from entering Sky Harbor Airport. Thanks to preemption, the NRA is suing Pennsylvania's municipalities with mandatory gun theft reporting laws. Senator Ebke's LB289 contains language in Section 5 that encourages these exact, same lawsuits. Should David City or Scottsbluff attempt to prohibit guns in parks or libraries, any group of people, including the NRA or any out-of-state organization, can effectively sue and bankrupt those city councils, small and large, for purported violations of the preemption laws. LB289 effectively deprives local voters of their voices and municipalities of their authority when they seek to regulate the proliferation of deadly weapons in their communities. Is this how the Unicameral envisions using the precious tax dollars of Nebraska farmers and families, budget-busting small cities, towns defending themselves against out-of-state mercenary lawyers of the NRA? Our small towns and cities cannot afford this bill, Senators. I implore you to consider the unintended consequences of this bill: legislative confusion, court cost, frivolous lawsuits, and proliferation of weapons in our peaceable communities. I'm open to any questions. [LB289]

SENATOR SEILER: Anybody have any questions? Seeing none, thank you for your testimony. [LB289]

COURTNEY LAWTON: Thank you so much. [LB289]

SENATOR SEILER: I believe this lady has been up about three times over here. [LB289]

JAN HOBBS: Thank you. Members of the Judiciary Committee, thank you for allowing me to testify today about this important issue. My name is Jan Hobbs. For the record, that's J-a-n H-o-b-b-s. I am the mother of two children, I served honorably in the United States Air Force, and I am a volunteer with the Nebraska chapter of Moms Demand Action for Gun Sense in America. Moms Demand Action is a grass-roots movement of American moms and dads fighting for public safety measures that respect the Second Amendment while protecting Americans from gun violence. Moms Demand Action is part of Everytown for Gun Safety, the largest gun violence prevention organization in the country with more than 2.5 million members. I am here today representing thousands of Nebraska moms who oppose LB289, the preemption bill. This bill would block our towns and cities from passing firearm-related public safety laws, robbing local governments of the ability to adopt common-sense gun laws that fit local conditions. State gun laws should not be one size fits all. Cities with different public safety needs should have the



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power to write laws that we need to keep us safe. LB289 would prevent those most familiar with local criminal activity, our police chiefs and our mayors, from taking common-sense measures to keep their communities safe. It would allow out-of-state gun lobby organizations to sue our cities and towns and collect outrageous fees from the taxpayers. Local law enforcement and government officials know best how to keep their communities safe and they are the ones who should determine local public safety policies, not state legislators and certainly not the gun lobby. On behalf of the Nebraska chapter of Moms Demand Action, I urge you to vote no on LB289 and I'd like to thank you again for your time. [LB289]

SENATOR SEILER: Any questions? Thank you for your testimony. [LB289]

JAN HOBBS: Thank you. [LB289]

SENATOR SEILER: Next opponent. [LB289]

DANIELLE SAVINGTON: Senators and honorable Chair, my name is Danielle Savington, D-a-n-i-e-l-l-e S-a-v-i-n-g-t-o-n. At my house, spring is a code for soccer season, so in preparation last weekend I went to the store and I got my daughter, who is a goalkeeper, some new gloves. I got my son some new soccer cleats because his toes were bursting out of the toes of his. I took him home and my son was so excited about his super-awesome new shoes until he looked at his sister's gloves, then he starts to grumble: Why didn't I get any gloves? That's not fair. I wanted to laugh but I couldn't because he was serious because he's a kid and he doesn't understand fair doesn't always mean identical. The Nebraska Commission on Law Enforcement and Criminal Justice released Crime in Nebraska 2013. In the report we can see that in Nebraska communities with 500,000 (sic--400,000) residents or greater there were over 3,080 auto thefts in the year 2013. In Nebraska communities with fewer than 5,000 residents, there was a cumulative 39 cars stolen. In Lincoln, where leaving a gun unattended indefinitely in a car is against the code, there were over 300 cars stolen. So if we figure only a few of those cars maybe could have guns left in them unattended once preemption takes effect and the ability for Lincoln to have this Lincoln-specific law in place, we would have an uptick in stolen, unauthorized firearms inside of Lincoln, firearms now in the hands of criminals bold enough to steal a gun, who knows how much bolder now that they have a stolen firearm. In Deshler, Nebraska, there were zero cars stolen in 2013. It just doesn't make sense for Deshler, Nebraska, to have a rule saying that you can't leave your firearm unattended in your car. Deshler, Nebraska, it's a farming community, it's a ranching community. It makes sense for farmers and ranchers to leave their guns in their vehicles, in Lincoln not so much. So what do we do? Do we preempt Lincoln's municipal codes and allow residents to leave their guns in their cars even though we know that there's a greater likelihood that the car will be stolen and those firearms subsequently lost to the rightful owner? Or do we force Nebraska's rural communities, its safer communities, to adapt to the way things are done in

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the much larger cities? Senators, we're adults. We understand that goalkeepers need new gloves and boys need new cleats. We understand that Deshler and Lincoln are two different places. We can understand that fair doesn't always mean getting the exact, same thing. Fair means we each get what we need in order to be successful. The diversity of Nebraska's urban, suburban, and rural communities relies on our ability to recognize preemption legislation for its childlike demand that everybody gets exactly the same thing. I urge you to vote no on LB289 because being fair in Nebraska means recognizing that our cities and municipalities know what is best for their citizens and they know what makes sense in their own areas of the state. Thank you. I'm happy to answer any questions. [LB289]

SENATOR SEILER: Any questions? Seeing none, thank you for your testimony. [LB289]

DANIELLE SAVINGTON: Thank you. [LB289]

SENATOR SEILER: Next opponent. [LB289]

MELODY VACCARO: (Exhibit 6) Good afternoon. My name is Melody Vaccaro, M-e-l-o-d-y V-a-c-c-a-r-o, and I oppose LB289. LB289 asks us to take the lowest standard of firearms laws and apply them to every municipality in Nebraska. I've submitted a report to the committee with a list of people who have been shot this year, 2015, in Nebraska, along with the city or village where the shooting where the shooting happened. At least 37 people have been shot so far and 22 of them were in the city of Omaha. LB289 would force Omaha, the Nebraska city with the most gun violence, to refer to state law and allow untrained people to openly carry firearms throughout their city, and it would nullify other ordinances they've enacted to curb gun violence. In a city that already leads Nebraska in gun violence, that's a really bad idea. Thank you. [LB289]

SENATOR SEILER: (Exhibit 7) Any questions? Thank you very much for your testimony. Any further opponents, people speaking against the bill? Anybody else? Anybody in the neutral? Anybody in the neutral? Seeing none, I'll close the record. The documents submitted will be made part of the record. And, Senator Ebke, you may close. [LB289]

SENATOR EBKE: Thank you, Chairman Seiler, I will make this quick. First of all, I would just note that I know Deshler quite well, it's in my district, and I would never say that it's a ranching community. They do, do a lot of farming there though. I dare say that those who would say that we should ignore our state constitution, which is essentially what many are saying here, would have never argued that the states should be allowed to ignore the First Amendment or that the states should be allowed to ignore the Fourteenth Amendment and yet they would have us explicitly allow communities to ignore the citizen-passed Article I of the Nebraska Constitution.

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Again, this does not affect discharge ordinances that communities already have, but it does allow those who are possessing weapons legally and lawfully to go ahead and continue doing so without fear of running afoul of transport and possession issues. I understand the concerns about gun violence, but I also understand that we have a constitution; and if we want to amend that constitution, I would encourage those who believe that that's an appropriate thing to do to start down that path. Thank you. [LB289]

SENATOR SEILER: Any questions? Seeing none, thank you for your testimony. Thank you, ladies and gentlemen, for providing yourself here. This is part of our Unicameral system. Thank you very much. (See also Exhibit 9.) [LB289]