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Transcriber's Office

Judiciary Committee
March 08, 2017

[LB501 LB520 LB556 LB637 LB666]

The Committee on Judiciary met at 1:30 p.m. on Wednesday, March 8, 2017, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB556, LB501, LB666, LB637, and LB520. Senators present: Laura Ebke, Chairperson; Patty Pansing Brooks, Vice Chairperson; Roy Baker; Ernie Chambers; Steve Halloran; Matt Hansen; Bob Krist; and Adam Morfeld. Senators absent: None.

SENATOR EBKE: Good afternoon, ladies and gentlemen. Welcome to the Judiciary Committee. My name is Laura Ebke. I'm from Crete, representing District 32. I am the Chair of the Committee, and I'd like to start off by having my colleagues introduce themselves, starting that way.

SENATOR BAKER: Senator Roy Baker, District 30, south edge of Lincoln, part of southern Lancaster County, all of Gage County.

SENATOR KRIST: Bob Krist, District 10, Omaha and northwest Douglas County and the city of Bennington.

SENATOR EBKE: Senator Morfeld and Senator Chambers, I believe, will be here. Senator Pansing Brooks will be here shortly, I hope, Senator Hansen. And...?

SENATOR HALLORAN: Steve Halloran, District 33, Adams County and western and southern Hall County.

SENATOR EBKE: Okay. And assisting the committee today are Laurie Vollertsen, our committee clerk; Brent Smoyer is our legal counsel; committee pages are Kaylee Hartman and Toni Caudillo. On the table at the front over there you will find some yellow testifier sheets. If you're planning on testifying today, please fill those out and hand it to the page when you come up to testify. Let's help just to keep an accurate record of the hearing. There's also a white sheet on the table if you don't wish to testify but would just like to have your position on the bill recorded. We'll begin testimony with the introducer's opening statement. Following the opening we'll hear from proponents of the bill, then opponents, followed by those speaking in a neutral capacity, and then we'll finish with a closing statement by the introducer if he or she wishes to give one. We ask that you begin your testimony by giving your first and last name and spell them for the record. If you're going to testify, I ask that we keep the on-deck chair up at the front, in the front, filled. If you have any handouts, please bring up at least 12 copies and give them to the page. If you don't have enough copies, the page can help you make more. We'll be using...well,

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let me first see. How many of you are planning on testifying on LB556 in any capacity? Okay, I see five. LB501? Okay, another six or seven. LB666? Okay. LB637? Okay. And then LB520? Okay. We've got enough people testifying today that in order to keep things moving we're going to have a three-minute clock. So please try to keep your remarks limited when you come up. We want to get everybody in to three-minute light system. What happens with that is that when you start testifying, your...the light will turn green. When you have one minute left you...it will turn yellow. And then when it turns red, we ask that you wrap up your final thought and stop. What typically happens is it turns red and people keep going and then I lean forward and then I start clearing my throat and then I start coughing and then I say please stop. So you get several chances but do, please, be considerate of those who come, who are going to be coming after you. As a matter of policy I'd like to remind everybody that, you know, we ask that you not talk on your cell phones while you're in the room, so please...and anything that makes noise, go ahead and silence them, put them on vibrate or whatever. If you need to take a phone call, go ahead and go out in the hallway. One other thing, you're going to notice that some of us are going to be coming and going. I, for instance, have a bill in another committee so I'll have to leave here in a few minutes, and others may have the same situation, so when I leave Senator Pansing Brooks will take the baton. And people will come and go. Please don't take it personally. It's all just the way things work. So with that, Senator Halloran, let's open on LB556. [LB556]

SENATOR HALLORAN: Good afternoon, Chairperson Laura Ebke and fellow members of the Judiciary Committee. For the record, my name is Senator Steve Halloran, S-t-e-v-e H-a-l-l-o-r-a-n, and I represent the 33rd Legislative District. I'm here today to introduce LB556 to the committee for your consideration. I intend to keep my remarks brief this afternoon, allowing for more time for individuals that will follow. I bring LB556 on behalf of the combined requests from the Omaha Fraternal Order of Police, Chiefs Association, Sheriffs' Association, and several county attorneys. LB556 alters Nebraska Criminal Code as it pertains to firearms. Section 5, dealing with the use of facsimile firearms in commission of a crime, is similar to bills brought before this committee by Senator Harr in 2014 and Senator Krist in 2015. As this bill has many sections dealing with a variety of issues, I will highlight each section and request that the members of the committee, if you will, it might be helpful if you'd follow along. I'll brief you on those--very brief, brief. Section 2, page 2, line 10, creates the definition of a facsimile. Section 3, page 3, line 14, provides for law enforcement officers to possess and carry firearms on school grounds while on or off duty. Section 4, page 4, line 14, increases the penalty of possession of a deadly weapon that is not a firearm during the commission of a felony. Continuing on, Section 5, page 7, line 8, creates the offense of the use of a facsimile or a nonfunctioning firearm to commit a felony. It assigns a Class IIA felony to this offense in harmony with changes in Section 4. Section 6, page 8, line 3, amends Section 28-1206 to increase the penalty for possession of a deadly weapon that is not a firearm by a prohibited person from a Class III to a Class IIA felony. Section 7, page 9, line 15, creates the offense of possession of a firearm by a prohibited juvenile offender. A juvenile is considered a prohibited person if previously adjudicated in juvenile court

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for a violent crime as it is listed in subsection (3) of Section 7 and not for all felonies. Just three more, Senators: Section 8, page 12, line 20, expands the drive-by shooting statute by removing territory boundary requirements. Section 9, page 12, line 31, adds the use of fake firearms to the crime of unlawful membership recruitment. And finally, Section 10, page 18, line 9, adds the use of facsimile or nonfunctioning firearms and possession of a firearm by a prohibited juvenile offender to the state RICO statute. Sorry for dragging you through all that. It is a rather lengthy bill with several issues in it and I'm looking forward to people following me to help answer your questions. But that being said, I will make every effort to answer questions you may have. [LB556]

SENATOR EBKE: Any questions for Senator...Senator Chambers. [LB556]

SENATOR CHAMBERS: Is this your priority bill? [LB556]

SENATOR HALLORAN: No. [LB556]

SENATOR CHAMBERS: Oh, okay. And I will wait till others come before I ask questions. I don't want you to think that I'm, you know...now if you want me to ask you 10 or 12 questions to... [LB556]

SENATOR HALLORAN: I'll pass. [LB556]

SENATOR CHAMBERS: Okay. (Laughter) [LB556]

SENATOR HALLORAN: But thanks for the... [LB556]

SENATOR CHAMBERS: Okay. [LB556]

SENATOR EBKE: Any other questions? Okay. First proponent. [LB556]

DON KLEINE: (Exhibit 8) Good afternoon. My name is Don Kleine, K-l-e-i-n-e. I'm here as the Douglas County Attorney and also as a member of the Nebraska County Attorneys Association as a proponent of LB556. I had the page hand out a handout. These are just some photographs of actual facsimile firearms that were used in cases in Douglas County. They're actually, the bottom photograph comes from our property room where we took that out of the photograph and also put a photograph there of the facsimile firearm as it appears when it's purchased. Most of these facsimile firearms have some sort of a plastic tip on them when they're purchased. Those are

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easily taken off and then obviously they look as they do in the bottom photo in each one of these. The manufacturer really does a good job in making these look as real as they can make them look. They even have the Taurus name on it or whatever manufacturer, but it's the same as a regular firearm. We have many cases where we've had these types of facsimile firearms used. We've had them also involve where officers have gone to a scene and seen somebody holding somebody with this facsimile firearm and officers have fired their gun thinking this person had a real gun and holding a person hostage. It's a problem. We have no law on the books that allows us to prosecute that person for the use of a facsimile firearm. This statute would make it a 0 to 20, a Class, I think, IIA, no mandatory minimum on this, but it would be consecutive to the underlying felony charge that the person is using the gun for, like the normal statute on use of a firearm. We think it's an effective means to show people that they shouldn't be using facsimile firearms to commit these kinds of crimes. Somebody else is going to address the other changes in the bill. I would like to mention, on page 12, there is a portion of the bill that talks about, that strikes the wording about "Any person, within the territorial boundaries of any city of the first class or county containing a city of the metropolitan (class) or primary class," as an exception. And I don't know if that...and it's been stricken because I don't know if that's constitutional in that manner that it has to apply in the whole state; otherwise, you can't exempt parts of the state and make it a crime on the drive-by shootings for that statute. So that's why that area is taken out, because of the issue with regard to not applying it the same over every county in the state. So that's what I want to speak of. This is an issue that we see often with people using facsimile firearms. I could talk about certain cases that that's happened in. One that comes to mind right away is a shooting at...an officer-involved shooting at the Wendy's on Dodge Street. The officer came in. The individual was holding the clerk with a gun pointed at her head. It was a facsimile firearm. The officer didn't know that, fired his weapon. There was a shootout and then a person that was a ride-along got killed that was from a national TV station. He was doing a story. So I see my time is up. I'd be happy to answer any questions. [LB556]

SENATOR EBKE: Senator Krist. [LB556]

SENATOR KRIST: Thanks for coming. I'm...I don't see any difference--and I've handled these, I've had the experience of actually owning one, not this good of facsimile but for another purpose--I don't really see any difference between the threat of using a facsimile and having a gun that might be unloaded. At some point, the perceived threat to the person that I am accosting or holding up, or whatever, seems to be the same. [LB556]

DON KLEINE: I would agree with you. [LB556]

SENATOR KRIST: The issue I have, I think more so, is the increase in the penalties. We're at a point where we're looking at...so I guess I'm agreeing that the facsimile can create as much of a

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threat, a perceived threat, as not. And if you don't have any way to actually charge a person who is still threatening someone, whether it be by knife or by facsimile or by real weapon, I don't care if it's loaded or not, I don't care if it can injure me or not, I'm perceiving that there's a threat there. But it seems to me that in this bill there is an increase in a lot of penalties. Those penalties potentially are going to give us longer terms and potentially more jail time or more occupying critical space that probably needs to be another way. Would you like to comment on that? I mean, it... [LB556]

DON KLEINE: Sure, I'd be happy to. [LB556]

SENATOR KRIST: Do the two of these have to go hand in hand? [LB556]

DON KLEINE: This proposed law didn't make the penalty for the facsimile the same as a normal firearm. That normal firearm now we have, if it's used in the commission of felonies, is I think a, what is it, a IC, 5 to 50? [LB556]

SENATOR KRIST: Five? [LB556]

DON KLEINE: And this is just a 0 to 20, so it's a...there is a disparity in the sentencing aspect of it, although, again, I don't think it should make any difference. I don't think the person has to test if it's a real gun or not... [LB556]

SENATOR KRIST: Right. [LB556]

DON KLEINE: ...when they're being held up or the gun is pointed at them, so but I think that's a reasonable penalty and gives the judge a parameter to sentence on. In this situation, for this particular charge of 0 to 20, the judge can sentence him anywhere in that parameter. So I understand where you're coming from on the length of sentences, but I think that gives the judge an...he could give him one to two or two to four or whatever he wants to do, he or she wants to do, in that regard. [LB556]

SENATOR KRIST: So we had a good discussion today on the floor about mandatory minimums and the execution of potentially a drug crime. As it stands, if it follows through, there would be no mandatory minimum for that, but the use of a facsimile is now a firearm. So now are we...and you said specifically that that would not, the facsimile would not apply with the mandatory minimum. Is that your interpretation? [LB556]

DON KLEINE: No. It's a...I think it's two ways listed in here... [LB556]

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SENATOR KRIST: Okay. [LB556]

DON KLEINE: ...under the statute and there's no mandatory minimum for that. [LB556]

SENATOR KRIST: Okay. All right. Thanks, Don. [LB556]

DON KLEINE: Sure. [LB556]

SENATOR EBKE: Senator Chambers. [LB556]

DON KLEINE: Yes, Senator. [LB556]

SENATOR CHAMBERS: We meet again. [LB556]

DON KLEINE: Good to see you. [LB556]

SENATOR CHAMBERS: Mr. Kleine, would you prefer that a person who is going to commit a gun crime use a loaded gun or a facsimile? [LB556]

DON KLEINE: Well, obviously, I'd rather have them use a facsimile because they are not going to be able to do any damage to the person with that. But it doesn't change the perception of what the person feels on the other side of that firearm, whether it's a facsimile... [LB556]

SENATOR CHAMBERS: But the crime...oh, excuse me. Go ahead. [LB556]

DON KLEINE: No, whether it's a facsimile or not, I guess that's what I'm saying, and the person's intent. I mean you could go to a place and I could put my hand in my pocket like this and point it at you and to me that's the same thing, although there's no... [LB556]

SENATOR CHAMBERS: Stop. (Laughter) That was where I was aiming to go. [LB556]

DON KLEINE: What's that? [LB556]

SENATOR CHAMBERS: With... [LB556]

SENATOR KRIST: You stole his thunder. [LB556]

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SENATOR CHAMBERS: Yeah, you stole one of my examples. [LB556]

DON KLEINE: Yeah, and it's true though. [LB556]

SENATOR CHAMBERS: I was working my way to it. But since you brought it up, I may as well ask you. We're talking about the perception... [LB556]

DON KLEINE: Right. [LB556]

SENATOR CHAMBERS: ...of the person who is accosted. [LB556]

DON KLEINE: Right. [LB556]

SENATOR CHAMBERS: If the person perceives my finger as a gun, should it be treated like a gun in that instance? [LB556]

DON KLEINE: Well, no, I don't think we can because it's...the way this is set up is it's got to be a facsimile firearm and I don't know that we could relate the finger in the pocket to the same as a facsimile, although I think that the person's intent is the same when they put their finger in their pocket like that and point it at somebody. They want the person to think they have a real firearm, just like the facsimile firearm pointed at somebody. The person who is using it wants that person to think this is the real deal. [LB556]

SENATOR CHAMBERS: Counselor, may I invite your attention to page 2? [LB556]

DON KLEINE: Sure. [LB556]

SENATOR CHAMBERS: And we're looking at definitions, line 11, "other object that bears a reasonable resemblance to or that reasonably can be perceived to be..." Now it says an object, not a gun. My finger in my pocket or under my coat could be perceived to be an actual firearm and that makes it a facsimile firearm. It's the perception of the one accosted that determines whether an object is a facsimile firearm. [LB556]

DON KLEINE: I agree. [LB556]

SENATOR CHAMBERS: I think that language is too broad. I think it's vague and I think the bill is very bad. But let me ask you a question. Are you aware that a bill with this provision was

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brought, a freestanding bill, that would make the facsimile firearm carry the same penalty as a real firearm? Are you aware that a bill like that had been brought before? [LB556]

DON KLEINE: This...I knew there was bills that were brought before. I think there were two different times there were bills brought. [LB556]

SENATOR CHAMBERS: And what happened? [LB556]

DON KLEINE: It didn't pass. [LB556]

SENATOR CHAMBERS: Do you think some of these other things are going to increase the likelihood that the bill will pass or maybe hinder it? [LB556]

DON KLEINE: I don't know what impact it will have but I know that this particular portion of the bill I think is important because I see this kind of thing happen. [LB556]

SENATOR CHAMBERS: And now at your age, I don't mean that you're old but you would know, you know what a snowball is. [LB556]

DON KLEINE: Yes, I do. [LB556]

SENATOR CHAMBERS: Have you ever gone to church? [LB556]

DON KLEINE: Yes. [LB556]

SENATOR CHAMBERS: Have you heard them discuss the place where wicked people go after they die? [LB556]

DON KLEINE: Yes. [LB556]

SENATOR CHAMBERS: What would happen to a snowball if it went there? [LB556]

DON KLEINE: It would melt. [LB556]

SENATOR CHAMBERS: You're talking about facsimile firearms. I say this bill is a facsimile snowball. [LB556]

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DON KLEINE: All right. It's going to hell, is that what you're saying? [LB556]

SENATOR CHAMBERS: (Laugh) No comment. I said (inaudible). And by the way, for those people who don't know, Mr. Kleine and I, we've met on many occasions. I'm not being disrespectful toward him, nor is he toward me. We always had this back-and-forth and I expect us to continue for at least 40 more years, sonny. [LB556]

DON KLEINE: At least, at least, hopefully. [LB556]

SENATOR CHAMBERS: But that's all I would have. Thank you. [LB556]

SENATOR EBKE: Okay. Senator Pansing Brooks. [LB556]

SENATOR PANSING BROOKS: Thank you. Thank you for coming, Mr. Kleine. I am interested in the parts about...were the parts about the juvenile offender in the previous bill, in the previous bills that have come forward? [LB556]

DON KLEINE: You know, I'm not sure if they were. I know Sergeant McGee is going to address that, from the Omaha Police Department. [LB556]

SENATOR PANSING BROOKS: Oh, he is, okay. [LB556]

DON KLEINE: We kind of separated that out and... [LB556]

SENATOR PANSING BROOKS: Okay. [LB556]

DON KLEINE: ...I was going to talk about the facsimile. [LB556]

SENATOR PANSING BROOKS: Then I'll wait and address him with that in my questions. [LB556]

DON KLEINE: All right. Thank you. [LB556]

SENATOR PANSING BROOKS: Thank you. [LB556]

SENATOR EBKE: Any other questions? [LB556]

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SENATOR CHAMBERS: Just one other. [LB556]

SENATOR EBKE: Oh. Senator Chambers. [LB556]

SENATOR CHAMBERS: Before I let you go, is anybody else going to testify on the facsimile items? If not, I have two or three serious questions to ask you. [LB556]

DON KLEINE: I don't know if they are. [LB556]

SENATOR CHAMBERS: Then I will ask you. [LB556]

DON KLEINE: Sure. [LB556]

SENATOR CHAMBERS: Should, if it's going to be treated like a real firearm for the purpose of punishing people, should every one of these carry a serial number so that it can be identified? And should there be a background check of anybody who attempts to buy one? Should the purchase be allowed legally only to one who can legally purchase a real firearm? And should it be registered? [LB556]

DON KLEINE: Well, I guess I would respectfully disagree. They're not being treated as a firearm because there is a difference in the manner of the penalty for this. But I don't think that people who are trying to buy a BB gun are going to have to register or have a background check. But I see the...you know, the...it still remains the...if you use a real firearm, it's a...I think a IC, 5 to 50. This, under this law, this crime, using a facsimile, is 0 to 20. So there's a pretty big difference on using a facsimile versus using a real firearm. [LB556]

SENATOR CHAMBERS: But the point of reference, the context in which we have this attempt to create a new offense, is its association with an actual firearm. So if it's a replica, a facsimile, a toy, a starter pistol, should it be treated in every way like an actual firearm, or only for the purpose of creating a punishment? [LB556]

DON KLEINE: I think, again, what we're talking about here is the intent of the person that uses it. And most of the time, when people use these, they're not using them for that purpose. There is the plastic tip on the end of it. If it's a BB gun, they're using it for other purposes, target practice, whatever. It's only when they really change the look of this facsimile firearm to make it even look more realistic. Originally the manufacturers do things to it so that people would recognize it as a facsimile at the very beginning. They either put an orange tip on the end of the gun or some piece of plastic on it that's very obvious to anybody that sees it. So I guess I wouldn't think that

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we would have to have people do those, go through those other steps to buy one of these.
[LB556]

SENATOR CHAMBERS: Well, why shouldn't we go after the manufacturer instead of, and in some cases, juveniles? If there is an implement that is going to be very hurtful to society at large based on how it can be used without altering its appearance, and removing that little yellow tip wouldn't be sufficient, why not go to the manufacturer, not allow them to create a gun for sale to... [LB556]

DON KLEINE: I would agree with that, Senator, that, you know, that, why are they making these... [LB556]

SENATOR CHAMBERS: Why don't you all bring a bill like that? [LB556]

DON KLEINE: Well, I'll look into that as far...but I think that the manufacturer shouldn't make things that appear to be real guns and sell them to people so that they can be used for that purpose. [LB556]

SENATOR CHAMBERS: Do you think we could as a state... [LB556]

DON KLEINE: And easily... [LB556]

SENATOR CHAMBERS: ...prohibit the sale of an object like this to anybody below the age of one who can purchase a real, an actual firearm? [LB556]

DON KLEINE: It's possible. I've never looked into that but I will. [LB556]

SENATOR CHAMBERS: Would you? [LB556]

DON KLEINE: Yes. [LB556]

SENATOR CHAMBERS: Do you think that that would be a good thing to do with it instead of taking this jump and creating the crime that we're doing, because it's not a crime to have one of these now? [LB556]

DON KLEINE: No, it's not. [LB556]

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SENATOR CHAMBERS: It's not even a crime to pull it on somebody. [LB556]

DON KLEINE: No, you're right. [LB556]

SENATOR CHAMBERS: But that's all that I will ask you, really, but I wanted those other questions to see if those who support this bill are willing to have these treated as actual firearms are treated. [LB556]

DON KLEINE: I understand. [LB556]

SENATOR CHAMBERS: Okay. [LB556]

DON KLEINE: Thank you. [LB556]

SENATOR CHAMBERS: Thank you. [LB556]

SENATOR PANSING BROOKS: Any further questions? Okay, thank you. [LB556]

DON KLEINE: No? Thank you. [LB556]

SENATOR PANSING BROOKS: Appreciate it. Next proponent. Welcome. [LB556]

AARON HANSON: Thank you. Chairperson Ebke and honorable members of the Judiciary Committee, my name is Aaron Hanson, H-a-n-s-o-n. I'm an Omaha Police sergeant currently assigned to the gang unit and I come before you today speaking on behalf of the men and women of the Omaha Police Officers Association in support of LB556. As you know, in 2013, the Legislature reformed the juvenile justice system with an emphasis on rehabilitation and moving more young offenders into the juvenile court system. LB556 will complement that reform by striking a healthy balance between rehabilitation, public safety, and creating additional incentives for young offenders to avoid dangerous weapon possession, all the while maintaining a sealed juvenile record. Currently 26 states limit in some way the manner in which juveniles adjudicated of certain felonies in juvenile court can possess firearms. In Iowa, for example, an individual adjudicated of a felony in juvenile court is a prohibited person for life. LB556, on the other hand, is less stringent than that standard and will render certain individuals who commit a list of certain juvenile-adjudicated felonies as a prohibited person until age 25 or sooner if waived by a judge. LB556 will allow truly rehabilitated individuals the opportunity to regain their firearm possession rights before age 25 should they need it for work, lawful self-defense, or family

events such as hunting sports. The penalty for juvenile-prohibited violations has also been carefully designed with an emphasis on rehabilitation--a first offense is a Class IIIA felony and a second offense being a Class III. Notably, both of these felony classes would normally be referred back to juvenile court under current law. Nebraska needs these additional tools, especially when it comes to repeat juvenile offenders who commit serious gun...serious and gun-related crimes. I will offer a few examples. I know a young teen named John (phonetic) who was on juvenile probation in 2014 for an armed robbery. He was arrested twice with guns in 2015, one was stolen, the other concealed. He was arrested just last month with another stolen handgun. Other than the applicable local and state misdemeanor offenses which would be applied for any minor with a gun, he was not a prohibited person--four separate gun-related crimes. The day he turns 18, he'll be able to lawfully possess a firearm. Another young man I know named Jeff (phonetic) was placed on juvenile probation in 2014 for an armed robbery. I personally arrested him more than two times with two more guns and each time I was very frustrated by the fact that he, too, was not considered a prohibited person, despite the fact that his underlying juvenile felony was a very serious charge. In one case we learned that Jeff (phonetic) had used one of these guns to open fire on rival gang members, but unfortunately we could not prosecute him due to lack of witness cooperation. He had three separate gun arrests. Had Jeff (phonetic) not recently been convicted of a district court felony for the last gun being stolen, he, too, would be a lawful firearm possessor at age 18. Despite the challenges that many of these high-risk young juveniles face, I do believe they can be rehabilitated. But these high-risk young offenders need a hard time-out when it comes to gun possession. If such young people are truly to have a chance at rehabilitation, we need to give them incentive to stay away from guns completely and create disincentives to help them take...to stop them from taking the rap for the older gang members who often push the guns on them to take their charge. I ask you to support LB556 and I'm available to answer any questions you may have. [LB556]

SENATOR PANSING BROOKS: Senator Krist. [LB556]

SENATOR KRIST: Thanks for coming, Officer Hanson. And I guess turnabout from a few years ago with some of the juvenile issues that I've worked very hard for, I appreciate you understanding and the Omaha Police Department and their understanding of treating juveniles, treating kids like kids when they can be treated like kids but drawing the line in the sand when there should be more sanctions given. My question falls into the makeup of this bill because, as much as I want to support two or three parts of it, I have an issue with a couple of other issues. Do you think that the individual issues, your individual issue that you spoke about in terms of the juvenile, should be potentially not taken out of this bill or taken out of this bill to help it? Is it more important than facsimile? I guess that's what I'm asking. [LB556]

AARON HANSON: If you're asking my personal opinion... [LB556]

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SENATOR KRIST: Yes. [LB556]

AARON HANSON: ...obviously there's been a collaboration of various gun concepts that have gone into this bill. In my personal opinion, in my professional opinion as one person, I think the juvenile-prohibited portion of this bill, for me as a professional, is one of the most important concepts in this bill. We see, time and time again, these young people with repeat gun offenses and it's concerning because the adult gang members are using them as their opportunity to essentially carry their guns for them and take the charges and it's hurting these young kids. [LB556]

SENATOR KRIST: I would agree. I would agree and I would also say that in your experience and in my questioning of some of the young people who have been involved, they know; they know when to hand the gun to the 15-year-old or the 13-year-old to avoid the 18-, 19-, or 20-year-old going down in flames. You've got a tough job and I understand it and I do very much support this portion of the bill. Thank you for coming. [LB556]

SENATOR PANSING BROOKS: Yes, Senator Chambers. [LB556]

SENATOR CHAMBERS: You tell me the capacity in which you're here today again. [LB556]

AARON HANSON: I'm a 20-year employee of the Omaha Police Department. I'm here on behalf of the Omaha Police Officers Association. [LB556]

SENATOR CHAMBERS: Okay. [LB556]

AARON HANSON: My full-time job is I'm a police sergeant for the police department and I'm assigned to the north gang unit. [LB556]

SENATOR CHAMBERS: But you're speaking mainly in behalf of the organization. [LB556]

AARON HANSON: The Omaha Police Officers Association, yes, Senator. [LB556]

SENATOR CHAMBERS: Okay. I wanted that on the record so you will understand what I'm saying is not directed to you personally but you're here and you represent the officers. For over a decade, I've been railing about the ready availability of guns in the community where I live. I've seen people come up with laws. In fact, one of the mandatory minimums that Brad Ashford helped get onto the books while I was not here was supposed to address the shootings in my

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community. I live there. I know some of the people who do these things. I don't approve of it. It would seem that what I said and do say would have some significance but it doesn't. But despite that, I've railed. I've written to Homeland Security, the FBI, Firearms, Tobacco, Explosives, to the chief, to the head of the State Patrol, to the mayor, to the Governor, not just those who are in office now, about the ready availability of the guns. And I start with the premise that if these kids can find out where these guns come from, the police can find out. The police are not doing their job. I don't pay much attention to anything an officer of the law says about how to fight gun crimes when they cannot find the source of guns that the kids can. I was in a barbershop one day and I said, if I want a gun--and they were all minors--if I want a gun, who in here can get me a gun? One of them said, he said, Senator, I can get you a gun quicker than I can get you a candy bar, because there are not a lot of grocery stores in our community. I say, what would it take for you to get me the gun? He said, just give me the money and I'll get it quicker than I could get you a candy bar. So if that, if these kids can find these guns, then maybe the police ought to deputize these kids not to make arrests but to show them where the guns are. I think the police know. I think the police don't care. When Marty Conboy was a prosecutor, I asked him publicly, and he agreed, if this happened in the white community, this proliferation of guns, kids this young with guns looking like that, not the kind that you put together with duct tape and so forth, it wouldn't be tolerated in the white community. He said, Senator, I have to agree it wouldn't be. So when you all come in here talking about facsimile guns, for my part, I'd rather everyone in my community who has a gun have a facsimile gun. I have to deal with the reality. Just because I care about my community doesn't mean I won't get shot. I don't bother anybody. But you don't have to be bothering anybody. I don't carry weapons. You don't have to be carrying weapons. But everybody wants to talk about how they're going to address the problems in my community and they won't listen to me. Everybody in my community knows you all don't listen to me. I had a program that the white power structure--I know the mayor was involved, I know Ben Gray was involved, the city council member, Cox Cable--took it off the air. They didn't like the things that I said. But one of the things I constantly talked about was the ready availability of guns. I told people you all should stop making these makeshift memorials every time somebody is killed, stop having these prayer walks, these prayer meetings. But I don't really mean stop. You want to feel like you're doing something. You're helpless. This gives you that feeling even though you know it's futile. But you'll never find me at them. Join me in saying find the source of the guns. Every time you talk to a cop, every time the mayor comes out, every time you're on television, say, stop the guns, find the source of the guns. How can they find meth labs in white communities? How can they find those who provide liquor to white children? And I saw where the former Governor's wife joined a group of people and they worked in conjunction with a multidisciplinary, multidiscipline task force. They had the FBI, State Patrol, sheriff, and local police to find the adults who were providing liquor to underage white kids, never did that about the guns. So with all due respect to you and what you're trying to do, and you're probably trying to do the best you know how, but what you all talking about is not going to solve any problems in my community. So I'm going to listen to you, because I'm supposed to, but I have to let you

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know you're not registering with me and I'm not going to vote to create new crimes for juveniles when you all don't do your job to keep the guns, make them difficult for juveniles to get. [LB556]

AARON HANSON: Can I respond to that, Senator? [LB556]

SENATOR CHAMBERS: Yes, I want (inaudible) your response. [LB556]

AARON HANSON: Because this is something that's near and dear to my...it's something near and dear to my heart and I want to explain to you why, and then I want to explain to you what we do. And I'll, if it's okay with the police administration, I'll take my POA hat off and put my police sergeant hat on with the north gang unit. I feel fortunate in that I've been on the gang unit almost two years now and I feel fortunate that, being the sergeant of the north gang unit, that I did get the opportunity with 20 years on because it gave me a lot of perspective but, even more importantly, it gave me two high school-age sons. And so that gave me a whole different perspective that I probably didn't have for the rest of my...you know, for the entirety of my career. I do care where these guns come from in your community, Senator. And I want to assure you that (a) if you ever did want to have a cup of coffee with me--I'm regionally responsible for your district in large part--I'd be happy to hear anything you have to say because collaboration and teamwork and getting more information is a good thing. We believe in that on the gang unit. We work on that very diligently to build relationships. We do talk to these young people when we get them with a gun. We strive to create good relationships with their parents. I get calls all the time on my off-duty hours. I got two calls on the way here to Lincoln--it's my day off--from parents who wanted to talk to me about things that are going on in their kids' lives, things that I need to know about. And those type of relationships, to your point, are crucial. I can assure you, Senator, that in the almost two years that I've been in my experience with the gang unit, we have worked diligently, we have done wire taps to try to find the source of guns, and we have been successful in interrupting gun sales to minors. We have investigated both straw purchasers. We've investigated guns that were stolen during burglaries. And we work very hard to chase down every lead because my philosophy is simple. Every young person who is coming from a challenged background or even a semichallenged background that has a gun unlawfully or may find themselves in a gun with a situation where emotion may take over, I can't tolerate that outcome and I will do whatever I can to prevent that outcome and get that gun out of their hands. And I want to make sure I reiterate again, Senator, if you ever wanted to have a cup of coffee and talk about issues in your district, I'm willing to listen because I want to learn from you to help deal with this problem. [LB556]

SENATOR CHAMBERS: I appreciate what you're saying, but you're looking at an old man who is no longer young, who has gone through what I'm talking about now for decades. And there

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have been others who have made similar comments, but the guns still come in the community, the shootings still occur. Fortunately, a lot of people don't shoot straight. And I'm not trying to be funny, but you know that it's not like in the movies where you point a pistol and it--the bullet-- goes like you think it's going to go. So sometimes there are many or there are multiple shots fired and nobody is hurt. To me, that is a potential killing. [LB556]

AARON HANSON: I agree. [LB556]

SENATOR CHAMBERS: I count not just when somebody is killed but if somebody is injured or if a firearm is discharged. So when I am opposed to guns like I am, some people say, well, you have more shootings in your community than this or that. I say, that's why I'm opposed to that. I don't have a gun. I should have one because of the threats that I get. But because of what's happening with the young people in my community, they'll never see me with a gun, ever; no matter what threat is made against me, they'll never see me with a weapon, ever. So I put myself in the situation that my people live in. And I'm going to mention this to you. There is some guy who wants to say I don't live in my community, and you may believe this or you may not. They said, Ernie, tell us where he lives and we'll take care of it. They know where I live. And they can see that all a white person has to do is make an accusation. There are articles written. The Legislature is compelled to have a hearing. But they don't see that happening to white officials. There was a white senator who misused state property, which was a crime. The Attorney General would not file a charge. They see these things happening. So I don't know that the approach you all are taking, by creating new crimes, enhancing penalties, will do any of the things you think they're going to do. And between you and me, I'll accept a card from you and maybe I'll talk to you, but I don't think it'll go anywhere. And this will also let you know that since this is not Senator Halloran's bill, don't get your hopes up about it going anywhere. And even if it was his priority bill, I will do everything under the rules I can to stop this bill from being passed. And there might be constitutional questions about more than one subject matter in one bill. So for the people in the audience, I don't want them to be terribly troubled, have a great amount of heartburn. I want them to testify so it's clear of what kind of opposition there is to this approach and so forth. But I'm going to say at the same time, this bill, if I have anything to say about it, is going nowhere. And what I'm saying to you I won't say to everybody, but you're an officer and you came here representing a police agency, so nobody can say that I pick on citizens who come here to testify, not that you're not a citizen. But Mr. Kleine is the Douglas County Attorney. Nobody can say I'm bullying him. You are a sergeant and then you're representing the police union, or whatever they call themselves now. Nobody can say I'm bullying you. I'm...probably the only person smaller than me is Senator Halloran and I'm older than him. I'm a little--literally--I'm a little old man and I get accused of bullying cops, State Troopers, sheriffs, senators, the Governor, the Attorney General, and they have guns of their own, or they have people around them with guns. I don't carry a weapon and I'm the bully and those are things people in my community see. You all don't talk to the people in my community. You talk to some

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people. But if you want to see whether my community has respect for me or if they hate me as much as these white people do, take some polls and surveys of your own. I won't be there. Just ask them. And who do they count on when they can't count on anybody else, can't count on their parents because they might be afraid, can't count on their preacher because he might be a snitch, can't count on teachers because they call the police on them? Ask them who they'd go to if they had one person they could see. And I don't mean literally you have to do that, but I'm taking this opportunity because you do seem to be very sincere. So I will take your card, and this is on the record from both of us. At some point we will have a conversation. And I don't want anybody who is going to testify to think they're going to go through this unless they're a police officer or a sheriff or somebody in an official position. But that's all I would have. And I'm not saying you're insincere either, by the way. [LB556]

AARON HANSON: I understand. [LB556]

SENATOR CHAMBERS: Okay. Thank you, Madam Chair. [LB556]

SENATOR PANSING BROOKS: Thank you. Any other questions? I have a question. So could you walk me through? I...whether or not this goes forward, I just am interested in what's happening with the juveniles here. Could you walk me through what the intention is? I see under the age of 25 anyone who possesses a firearm that's been previously adjudicated an offender in juvenile court for an act that would constitute a violation of any offense listed in subsection (3), which then lists off a whole bunch of offenses. [LB556]

AARON HANSON: Sure. [LB556]

SENATOR PANSING BROOKS: What's the intent here? What are you trying to do? [LB556]

AARON HANSON: Well,... [LB556]

SENATOR PANSING BROOKS: You're trying to get...I heard that we're trying to get people that gang members would make somebody younger. [LB556]

AARON HANSON: And this isn't just about gang members. I mean this could be any offender that committed a serious crime as a juvenile. Here's...let me walk you through what happens today and what, under at least this concept, what would happen the next day. Today when a juvenile is charged with a felony, and if that juvenile felony, if that felony goes through juvenile court and they are adjudicated of that felony...and I'll just, for purposes of this discussion, we'll talk about those list of serious crimes in the bill. [LB556]

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SENATOR PANSING BROOKS: Okay. [LB556]

AARON HANSON: They go into juvenile probation. Sometimes they may be placed in placement or get their treatment. Once they are...once they have been adjudicated, essentially, when it comes to gun possession, other than state misdemeanors that deal with age or local ordinances that deal with age and possession, they're not a prohibited person. And so where it becomes especially problematic is their 18th birthday. I can give you an example. There was a young man that committed a sexual assault, first-degree sexual assault. He was lucky enough to go to juvenile court. When he was 19, he had a handgun in a local city park and started firing off the handgun. When he was arrested, we looked back at his record and we were going to charge him with prohibited person in possession of a firearm until we realized that it was a juvenile adjudication. So we were left with minor in possession of a handgun and discharging a handgun in public, because he was not a prohibited person. Under this concept, until age 25, if someone is adjudicated of those, that list of serious felonies, they would not be allowed to possess a firearm until they turn 25, unless they were to go back to the juvenile court judge and say, Your Honor, here's ten things, five things, two things, one thing that articulates that I have turned my life around and I would like to get my firearm possession rights back. Maybe he wants to go into the military; maybe he wants to be a police officer, in which case the judge can make that decision at that time, pre-25, to resume his firearm possession rights. This isn't just about gangs. This is about this could be the young man that committed the terroristic threats at Millard High School that was arrested and likely go to juvenile within the last few months. [LB556]

SENATOR PANSING BROOKS: So I guess what I'm trying to find out though is the next part, possession of a firearm by a prohibited juvenile offender is a Class IIIA, so, for a first offense,... [LB556]

AARON HANSON: First offense. [LB556]

SENATOR PANSING BROOKS: ...and III for a second, so,... [LB556]

AARON HANSON: Um-hum, yes. [LB556]

SENATOR PANSING BROOKS: ...or subsequent. And today what is the crime for that? [LB556]

AARON HANSON: There is no crime unless there is...unless their age makes them prohibited from possessing...well, if they are under 18, they can't possess a handgun, per state law. There might be an applicable Omaha city ordinance for someone 18 to 20 to possess a handgun. If they

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are under 16, they could not possess a long gun, but anyone 16 or over could possess a long gun, a shotgun, or a rifle, AR-15, whatever. And so what this would clarify is if you get adjudicated for one of these serious felonies, your firearm possession rights are terminated until at least age 25 or until at latest age 25 or unless a judge has shown that you have properly rehabilitated. We are routinely arresting juvenile offenders over and over that have been arrested for serious felonies. And we may have a probation violation. We may have a misdemeanor charge for a CCW or a minor in possession, but we don't have any type of prohibited person ability for those offenders. [LB556]

SENATOR PANSING BROOKS: Okay. Well, as you may or may not know, I'm pushing legislation on human trafficking. So if I look at this from that lens, I think that there are some similarities to members of a gang that would force somebody younger to do something. So why is helping...why is forcing them to be more substantially penalized, somebody who is forced to carry a weapon, whether it's a facsimile or not, a great idea to just start taking juveniles? And we know that the direct route from juvenile detention to prisons is direct and fast. [LB556]

AARON HANSON: Sure. Let me give you a glimpse of the lens of jail calls or interviews post...you know, during these investigations. There is...there's oftentimes a lot of discussion either at the scene or postarrest or in jail or via jail calls that end up being three-way phone calls with people involved where they will discuss the fact that there really is no juvenile prohibited status for repeat offenders that are in juvenile probation and that they will, they'll try to talk them into taking the firearm charge or saying that gun was mine because of that. And I think you're giving the juvenile and you're giving their parents more incentive to not go down that road, to not take the gun for the adult. [LB556]

SENATOR PANSING BROOKS: And you think the juveniles would understand that clearly? [LB556]

AARON HANSON: I can tell you that a lot of these kids are extremely sharp and they, in conversations I have heard firsthand, they can run that analysis in their mind and they, you know, they can...they have that discussion with the older offenders. [LB556]

SENATOR PANSING BROOKS: At what age do you think they can run that analysis? Twelve? [LB556]

AARON HANSON: I've heard 16-year-olds having that discussion. [LB556]

SENATOR PANSING BROOKS: Twelve-year-olds? [LB556]

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AARON HANSON: I think 12 is probably, to be honest, 12 is a little too young. And we're not really dealing with 12-year-olds that often. The age that we are typically dealing with in this type of issue is probably at earliest 15, usually 16 and 17 years old. [LB556]

SENATOR PANSING BROOKS: So from the language I...are you moving this...it's an attempt to move the kids to adult court then. Is that... [LB556]

AARON HANSON: No, ma'am, no, because if they're still in, if they're still under age 18 and if they commit a first offense or a second offense, both of those, the Class IIIA or the Class III, still automatically go back to juvenile court. The biggest issue is once they turn 18 and they're an adult. [LB556]

SENATOR PANSING BROOKS: But those classes of penalty aren't in juvenile court. [LB556]

AARON HANSON: They are, ma'am. A Class...automatically Class IV, Class IIIA, and Class III felonies all go to juvenile court automatically. They're referred there, step one. [LB556]

SENATOR PANSING BROOKS: Okay, but they aren't described as that class of penalty, is it? I don't believe it's described that way in the juvenile court (inaudible). [LB556]

AARON HANSON: I have to stay on top of this because we have to make booking decisions and we have to know where to charge people in the right courts, and I can tell you that I'm fairly, fairly certain, 99 percent certain, that Class III and below are automatically always referred to juvenile court as a step one. That doesn't prevent the prosecutor from trying to get into district. [LB556]

SENATOR PANSING BROOKS: I agree that they're referred there, but I don't...I'm not sure that they're classified that way, but maybe it's just a semantic discussion we're having, so. [LB556]

AARON HANSON: Maybe, and I apologize if I'm not understanding your question. [LB556]

SENATOR PANSING BROOKS: Thank you. Senator Krist. Oh, well, Senator Ebke is back, so. [LB556]

SENATOR EBKE: Senator Krist. [LB556]

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SENATOR KRIST: The bills that we've passed in the last few years have given the priority to go into the juvenile court system and they are initially described like that. There's only certain ones that are automatically bumped up and there's a (inaudible) list of those. But they're dealt with in that classification to begin with. How they deal with them and how the juvenile court deals with them is, I think to your point, it's not as that classification but they all start there in terms of the charges. [LB556]

SENATOR PANSING BROOKS: Okay. Yeah. [LB556]

SENATOR KRIST: And I will tell you that in two particular cases, when the police department was trying to get me to stop being Willy Wonka and give out free passes to juveniles, I got to talk to a group of kids and they told me in no uncertain terms--this was a 17- and an 18-year-old--we wanted to take Bobby (phonetic) along because he was only 13 and something went down he was going to get the gun and we were all going to walk. So that's the kind of interface that I had. They did a pretty good job of trying to convince me that I was still being Willy Wonka. Those are things that, you know, they happen. And you probably have more dramatic stories than I do but... [LB556]

AARON HANSON: I think it's all about the balance... [LB556]

SENATOR KRIST: Yeah. [LB556]

AARON HANSON: ...and the rehabilitation component. And I agree with a lot of what has happened in this committee. The rehabilitation component is crucial. It is good to give these kids a fresh start, give them a chance to go to college without having a felony on their rap sheet if they can, or for future job, you know, for a future employer to look at. But I think we need to make sure we're balancing that rehabilitation with making sure they...them having weapons is not easy. [LB556]

SENATOR EBKE: Any other questions? [LB556]

SENATOR KRIST: That wasn't, by the way, that wasn't my analogy with Willy Wonka. They came up with that, so. [LB556]

SENATOR PANSING BROOKS: I like it. [LB556]

SENATOR KRIST: (Laugh) Do you? Not enough chocolate bars. [LB556]

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SENATOR EBKE: Okay. Thank you for being here today. [LB556]

AARON HANSON: Thank you. [LB556]

SENATOR EBKE: Next proponent. [LB556]

MICHAEL McGEE: Good afternoon. Distinguished members of the Judiciary Committee, I am Michael McGee, M-i-c-h-a-e-l M-c-G-e-e, and I'm a captain with the Omaha Police Department. On behalf of the Omaha Police Department, I am here to testify in support of LB556. This bill provides needed changes to enhance the levels of safety within our communities on several aspects: (1) to provide for the use of facsimile or nonfunctioning firearms in the commission of a felony as a chargeable offense; (2) providing for the same treatment as prohibited persons related to juvenile firearms for juvenile and adults. This provision protects the rehabilitation of juveniles by reinstating the firearms rights for those reaching the age of 25, or earlier with a judge's order, allows for earlier intervention by the juvenile court of juveniles who violate firearms provisions, and allows duly sworn, duly authorized law enforcement personnel to possess firearms on school properties regardless of their duty status. The Omaha Police Department believes these changes will provide significant tools in our goal for safer communities for everyone. Additionally, LB556 provides opportunity for younger members of our society to break the cycle of violence they often find themselves trapped in. We do support LB556. [LB556]

SENATOR EBKE: Thank you. Any questions? You lucked out. Thank you. Next proponent. [LB556]

WILLIAM MIZNER: Good afternoon, Madam Chairman and members of the committee. My name is William Mizner, M-i-z-n-e-r. I am currently the police chief in Norfolk and I appear to you today as the president of the Police Chiefs Association of Nebraska and am a proponent for LB556. Excuse me. I get them confused once in awhile. I think there's been a lot of discussion about several areas of the bill. The one thing that really hasn't been addressed yet is the portion that would authorize law enforcement officers who are active-duty law enforcement officers, would authorize them to carry a firearm onto school property or at school activities whether they're on duty or off duty. The way the current law is now, an off...an on-duty officer performing the duties of his office is authorized under statute to carry a firearm in those restricted locations. If the officer is off duty, though, the statute prohibits the officer from actually carrying a firearm. Now our concern is over the last few years the rate of active shooters and mass shootings has been increasing across the country. It's something that concerns law enforcement. Ever since Columbine, law enforcement has been revising and adjusting its response to these active-shooter incidents, and most law enforcement agencies, mine included, conduct annual training on active shooter response--how to respond to it, how to cut down the amount of time it takes for you to

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get there--because history shows us as soon as someone is there that can confront that individual who is shooting, generally, that will stop it. Many times we're confronted by people who are not armed and they end up either being injured or killed themselves, but sometimes it is successful. But our view is that when a law enforcement officer is on the scene, whether they're on duty or off duty, they have the same training, they have the same experience, they have the same knowledge, and they have the same decision-making capabilities regardless of whether they're on duty or off. If an individual is off duty, happens to be at the school when something happens, their natural instinct is going to be to respond and try to stop it, period. And without a firearm, without the ability to have that as a means to try to stop someone's lethal intent towards students and teachers, it makes it extremely difficult for them to try to be successful in doing that. Our officers want to be able to do what they signed up to do, and that's protect people, particularly against people who are trying to harm or kill them. And this will give them the opportunity. I have one personal experience I just want to share with you. [LB556]

SENATOR EBKE: Go right ahead. Thanks. [LB556]

WILLIAM MIZNER: Years ago I had an incident where I went to the grocery store. I went to pick up something before a Nebraska football game. I parked in the lot. As I got out, I saw something thrown through the window of the grocery store. A few seconds later, an individual came out and he was carrying a relatively lengthy knife and a grocery clerk was coming out after him. The man was threatening him with the knife. A car started to drive by. He tried to get it to stop because he wanted to get in the car. I had a cell phone. I called the PD, told them what was going on, to send some officers. As I was on the phone, the individual saw me and he started walking towards me and I started to back up and at that moment I realized I'm not carrying a weapon. And so as I kind of backed off, he then got to the first row of cars, began to look at cars, tried to open up doors. Two officers arrived from either end of the lot, got stopped, got him down on his knees, got him down, handcuffed him, and the incident was resolved without any further issue. From that day forward I began to carry off duty on a much more frequent basis because I knew what it felt like to be faced with a situation that I wanted to do something, I just didn't feel that I could do it because I just didn't have the equipment I needed. That's the way most officers feel. If they hear gunshots in a school, they're going to want to run to that because their instinct and training says let's stop this because somebody is being killed or injured. They need to have the tools to be able to do that. Thank you for listening to me. I'd be glad to try to answer any questions you might have. [LB556]

SENATOR EBKE: Thank you, Chief. Any questions? Thanks for being here today. [LB556]

WILLIAM MIZNER: Thank you. [LB556]

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SENATOR EBKE: Are there any other proponents? Are there any opponents to LB556?
[LB556]

AMANDA GAILEY: (Exhibit 5) Good afternoon. My name is Amanda Gailey, G-a-i-l-e-y, and I'm testifying on behalf of Nebraskans Against Gun Violence. We oppose this bill. The source of gun violence in America is an underregulated gun industry that produces actual guns that kill and maim people, and a system of laws that exempt that industry from incurring the costs of the damage it causes. Our laws do not hold manufacturers accountable, gun sellers accountable, or negligent owners accountable for the incalculable harm caused by guns in this country. Instead, we shift the burden onto victims, the medical system, and marginalized communities. LB556 contributes to this problem by criminalizing the use of toy guns while doing nothing to reduce violence caused by actual guns. It's a transparent attempt to continue to protect corporations and an intentionally oversaturated legal gun market from their role in the gun violence epidemic while simultaneously feeding the school-to-prison pipeline. It attempts to engineer a new class of criminal offenders that are likely to be disproportionately young, of color, and not armed by actual guns, while willfully ignoring the industry and consumers who feed actual gun crimes. It turns our eyes away from the NRA, away from Bushmaster and Smith and Wesson, and it points a finger at a kid in a park with a toy. Nebraska does not have any child access prevention laws that require adults to keep real guns inaccessible to minors for accidental or intentional shooting, but this bill would criminalize toy guns. Please consider the carefully crafted language of this bill. It includes zero requirements or accountability for people selling real guns. It does nothing to enforce responsibility among gun owners to store their guns so that they can't be used in crimes, even as Lincoln and Omaha are experiencing an epidemic of gun thefts from cars. It doesn't even require sellers of replica guns to help ensure their products are not mistaken for real guns. But here's what it does do. It creates a new criminal offense for people who misuse toys that don't actually kill anyone, and it creates additional penalties for young adults with fake guns who have juvenile offenses on their record including "unlawful membership recruitment into an organization or association," which the cited statutes explain can mean that in high school you coerced your friend into doing some graffiti. So if this bill is passed, a kid with a gang graffiti conviction who then does something stupid with a toy gun incapable of killing anyone will be set up for increased prison time, whereas a person selling AR-15s he knows could be used to slaughter a room full of first graders continues to actually enjoy special protections from prosecution or even civil claims under the law. So I'm running out of time but in conclusion I'd like to see this Legislature take up meaningful gun control legislation and not this kind of bill. Thanks. [LB556]

SENATOR EBKE: Thank you, Ms. Gailey. Any questions? Senator Chambers. [LB556]

SENATOR CHAMBERS: I just want to assure all of you all who oppose this bill you have a friend at court. I don't think there are many senators who would agree with everything in this bill.

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There might be parts of it that somebody might be able to agree with, but I think they put too much into the kettle. And as I said, I think there could be constitutional problems with putting more than one subject in a bill. And I agree with you that they're doing more about a toy gun than they'll do about real guns. And that's why I wanted to put on the record the questions I asked to the county attorney. Should we treat this toy like a real gun in every respect? But they don't want to do that. And they ought to be happy if everybody who pulled a stickup had a toy gun instead of a real gun. [LB556]

AMANDA GAILEY: That's right. [LB556]

SENATOR CHAMBERS: But anyway, I'm not asking questions today. I want this hearing to get over. So I don't want you all to think that I'm ignoring what is being said or have no interest, but I know what steps I'm going to take and I'm not going to repeat myself to everybody who comes up here. So you're the only one who is speaking against the bill who will hear me say anything. And the rest of the people, I don't want them to think I'm ignoring them. That's all that I have. [LB556]

AMANDA GAILEY: Great. Thanks. [LB556]

SENATOR CHAMBERS: Thank you, Madam Chair. [LB556]

SENATOR EBKE: Thank you. Any other questions? Thank you for being here today. [LB556]

AMANDA GAILEY: Thank you. [LB556]

SENATOR EBKE: Next opponent. [LB556]

SPIKE EICKHOLT: (Exhibit 6) Madam Chair Ebke and members of the committee, my name is Spike Eickholt, S-p-i-k-e, last name E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Criminal Defense Attorneys Association in opposition to this bill. The bill has got about five or six parts. We are opposed to the provisions of the bill that either increase the existing penalties or create new felony offenses with the existing penalties. As we have in other bills this session, we...it's our position, our organization's position, that there are enough crimes, enough felony crimes; there are enough options to prosecute crimes; and the creation of new crimes only creates a myriad and a patchwork in the criminal code. Now I think the last couple days on the floor a number of senators sort of identified and highlighted that. The part of the bill that's on pages 6 and 8 that increases the penalty for deadly weapon from a Class III to a Class IIA felony, I just wanted to highlight to the committee and remind the committee that you heard two bills

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earlier this year dealing with the definition of knife. That is one of the deadly weapons and this bill we're seeking to increase that penalty for people who are prohibited from possessing those. The portion of the bill in Section 5 that deals with the creation of the crime of facsimile or nonfunctioning firearm, Mr. Kleine testified earlier and he explained that somebody who uses a toy gun to commit a robbery or some other crime, that they cannot prosecute that person with use of a firearm. That may be true, and I say "may be," but there are other crimes that a person can be prosecuted with if they bring a toy gun into a Kwik Shop or to a bank. You don't even need to have a gun. You can simply tell the clerk that you have a gun and don't have a gun and you are committing the crime of robbery if you ask for property, you're committing the crime of terroristic threats. These are felonies that carry significant penalties. They can be prosecuted now. I had distributed a case, a Court of Appeals case from 2002, State v. Clark. And I mention that to the committee because in State v. Clark the defendant in that case argued that the state...he was convicted of a crime involving use of a firearm. He argued on appeal that the state needed to prove that his firearm was operable, that it could work as an actual firearm does. The Court of Appeals says it doesn't matter whether the firearm is operable. It's a firearm and it can be prosecuted for use of a firearm. I mention that because "nonfunctioning" is not defined in LB556. Presumably, nonfunctioning is similar to operable or nonoperable and perhaps this bill is not necessary or does more to muddy the waters as the courts have interpreted the existing statute. And finally, the existence or the...Section 7 of the bill, pages 9 and 12, that create that new offense of possession of a juvenile offender, we share some of the same concerns as Senator Pansing Brooks just mentioned. And I would also just specifically point out that page 11 deals with that petition for an exemption. That is a new concept in the code. We have a petition for set aside that exists with some offenses and Senator Hansen had a bill to deal with that. This creates something called a petition for an exemption which is not defined. And the committee will probably remember that when we heard those set-aside bills we talked about the distinction that sometimes these don't provide for complete restoration of gun rights, or perhaps it does depending on what you're reading and the federal laws are. This is a whole new sort of provision or remedy. Petition for exemption is not defined but presumably allows a juvenile court or adult court to restore someone's firearm rights. I would ask the committee to look at that and for those reasons we're opposed to the bill. [LB556]

SENATOR EBKE: Thank you, Mr. Eickholt. Any questions? Okay, thanks for being here. Next opponent. [LB556]

KAITLIN REECE: (Exhibit 7) Good afternoon, Chairwoman Ebke and members of the Judiciary Committee. My name is Kaitlin Reece, K-a-i-t-l-i-n R-e-e-c-e, and I'm a policy coordinator at Voices for Children in Nebraska. You're used to seeing, probably, Juliet Summers in front of you. I'm covering for her today. Our children and youth need to be held accountable for their actions in a way that puts them on a path towards a brighter future and a productive adulthood. When youth receive the services, supervision, and supports they need to turn their

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lives around, our system should allow them to move forward into a successful adulthood through adequate sealing and setting aside of juvenile records. Providing for the sealing of records protects youth and communities by allowing young people who have paid their debt to society and stayed out of trouble a better chance to get an education and earn an honest living. I'm here to testify in opposition to LB556, specifically the provisions pertaining to the creation of a new offense of a prohibited juvenile offender because, as drafted, the bill does not take into account the potential for a juvenile to rehabilitate and have his or her record sealed. Voices for Children is concerned that without amendment the bill would undercut our state's current sealed records statute and create separate classes of youth in the juvenile court: those who are eligible for full records sealing and those who, based solely on the underlying offense, are not eligible for full record sealing and its related benefits. The Nebraska Juvenile Code pertaining to the sealing of records is embodied in Nebraska Revised Statute 43-2,108 to 43,2,108.5. The legal effect of such sealing is that, "all records, including any information or other data concerning any proceedings relating to the offense, including the arrest, taking into custody, petition, complaint, indictment, information, trial, hearing, adjudication, correctional supervision, dismissal, or other disposition or sentence, be deemed never to have occurred." Furthermore, after a record is sealed, the person whose record was sealed can respond to any public inquiry as if the offense resulting in such record never occurred. However, the statute does permit law enforcement, including county attorneys, continued access to sealed records in the investigation, prosecution, and sentencing of crimes. This means that an officer coming upon a 21-year-old with a firearm could look up an old sealed record, see the underlying offense was for a charge listed in LB556, and make the felony prohibited juvenile offender arrest. A county attorney could then functionally unseal the juvenile record for the purposes of prosecution on the new prohibited juvenile offender felony charge. In this regard, any youth charged in juvenile court with one of the listed offenses could not rely on the statutory promise that a sealed record would mean the adjudication would be "deemed never to have occurred." I met with Senator...or Juliet, I should say, met with Senator Halloran yesterday regarding this concern, and he has taken the following proposed amendment into consideration, which we greatly appreciate. So the amendment would read, "Except as provided in subsections (4) and (5) of this section, any person under the age of twenty-five...who possesses a firearm and who has previously been adjudicated an offender in juvenile court for an act which would constitute a violation of any offense listed in subsection (3) of this section"-- here is the new language--"and who has not had record of such adjudication sealed pursuant to Neb. Rev. Stat. 43-2,108.05, commits the offense of possession of a firearm by a prohibited juvenile offender." So this would just help us clarify that a sealed record is a sealed record regardless of the underlying charge. It would still keep the discretion in the hands of a judge and whether that person deserves a clean slate or not. And so we encourage the committee to...we appreciate Senator Halloran considering the amendment and would encourage the committee not to move forward on this bill without that amendment included. [LB556]

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SENATOR EBKE: Okay. Thank you, Ms. Reece. Any questions? Thanks for being here. [LB556]

KAITLIN REECE: Thank you. [LB556]

SENATOR EBKE: Next opponent. [LB556]

ELLE HANSEN: Good afternoon, Senator Ebke, members of the committee. I would like to state my opposition to this bill. [LB556]

SENATOR EBKE: Spell your name, please. [LB556]

ELLE HANSEN: Thank you. It's E-l-l-e H-a-n-s-e-n. Forgive me. I am just one week postoperative today. I would like to state my opposition to this bill because I believe it is a bit of an omnibus bill when it comes to gun issues. I believe there are multiple issues covered within the bill and I believe that it is, therefore, likely not a constitutional bill based on that premise alone. My other concerns with this bill run very deep and I would encourage the committee to not advance this to the floor of the Legislature. [LB556]

SENATOR EBKE: Thank you, Ms. Hansen. [LB556]

ELLE HANSEN: Thank you. [LB556]

SENATOR EBKE: (Exhibits 1-4) Any questions? Thanks for being here today. Are there any other opponents? Do we have anyone speaking in a neutral capacity on LB556? That said, we have some letters, Senator Halloran, in...a letter of support from Ryan Dannar; a letter of opposition from Amy Miller of the ACLU of Nebraska and Paula Moon Bohaty; and a neutral letter from Dick Clark from the Nebraska Firearms Owners Association. [LB556]

SENATOR HALLORAN: Well, I want to thank everyone who testified, pro and opponent and neutral, on this bill. The testimonies were quite helpful, I believe, and informative. I would be the first to admit that at some level this was a potpourri of different issues. I think that they individually have merit and I guess I would have to ask when we go into Exec Session on this eventually to have everyone consider the merits of each part of those separately. The proposed friendly amendment is something I will have to take into consideration but on the surface it looks very acceptable. Some of the changes in the level of felony, I think that's also something we're going to look at seeing if we shouldn't just not change those levels of felony, in other words, not increase them. That being said, you know, if there's further questions, I'd sure be glad to answer

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those if I can. But I would encourage the committee to support this bill and to advance it to General File. And again on a side note, this being noted, I think there's...well, I'll just let it go at that, but I would like to work with Senator Krist on some of this, I think, because he has worked on part of this bill in the past. And if we have to isolate some of it down, I'll talk to those people that asked me to sponsor this bill and see if maybe we can work it down to one essential item and go from there. Any questions? [LB556]

SENATOR EBKE: Okay. Thank you, Senator Halloran. Senator Pansing Brooks. [LB556]

SENATOR PANSING BROOKS: And I'm sorry if you said it but I was trying to quickly read something. Did...so are you willing to work on the sealing of records issue that Voices for Children mentioned? [LB556]

SENATOR HALLORAN: Ms. Reece? [LB556]

SENATOR PANSING BROOKS: Yes. [LB556]

SENATOR HALLORAN: Yes. [LB556]

SENATOR PANSING BROOKS: Okay. Sorry if you mentioned that. I missed it. [LB556]

SENATOR HALLORAN: Yeah. No, I said I would, yeah, visit with the people that are asking me to sponsor it, but my impression of it is that it would be very acceptable for the amendment. [LB556]

SENATOR PANSING BROOKS: Okay. Thank you. I'm sorry I missed it. [LB556]

SENATOR HALLORAN: That's okay. [LB556]

SENATOR PANSING BROOKS: I was checking something else out while you were talking. [LB556]

SENATOR HALLORAN: I miss a lot of things. I'm very forgiving of people that miss things. [LB556]

SENATOR EBKE: Okay. Thank you. That closes the hearing on LB556. We will now move to LB501. And just for general information, when we complete the hearing on LB501 we'll

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probably take about a five-minute break to allow staff to get up and stretch and then we'll move on. [LB556]

SENATOR BREWER: We good? [LB501]

SENATOR EBKE: Go for it. [LB501]

SENATOR BREWER: Thank you, Madam Chairman. And good afternoon, fellow senators of the Judiciary Committee. I'm Senator Tom Brewer; for the record, that's T-o-m B-r-e-w-e-r, and I'm representing the 43rd Legislative District of western Nebraska. I am here to introduce LB501. It is not about the Second Amendment. It is not about a gun rights bill. This bill is the difference between words in the Nebraska law. Senator Chambers often admonishes fellow senators to take the time and actually read the law and understand the profound difference the choice of a single word can have. And, Senator Chambers, we'll go back and replay some floor time so that you understand I was listening. If you remember, on the floor you asked me, what were the final words that Jesus said on the cross? And I said, "It is done." And then you corrected me. You said, you...chicken is done; his final words were, "It is finished." So one word, "done" and "finish," is something that makes a big difference in how a particular issue is addressed. Now, right now, if I carry my properly permitted, concealed handgun onto private property and unknowing to me the owner doesn't allow carrying of a concealed weapon on his property, I can be charged with a misdemeanor under the current law for doing something that I had no idea I was not allowed to do. The bill changes two things in the law to address this. The first thing I want to change in the bill is about the difference between the word "and" and the word "or." The bill changes "or" to "and." I call your attention to page 3, line 15, of my bill. By changing the "or" to an "and," this compels the private property owner to conspicuously post a sign that announces the owner's prohibition against concealed carry guns on his property. As it is written now, posting a sign is made optional by the use of the word "or." If a private property owner is open to the public and doesn't want people carrying concealed weapons on their property, the law should make it incumbent on them to post a sign informing the public of this. Changing "or" to "and" does this. The second thing that I want to change is on page 3, line 18 and 19. My bill adds the language "and the permitholder has defied the request." When you look, when you think about these changes I propose, I urge you to review the statutes that pertain to simple trespassing. Nebraska Statute 28-521 says to be guilty of trespassing the owner must actually tell the person trespassing to get off their land and have them refuse or post signage in a manner that is reasonably likely to come to the attention of the intruders. As it stands now, the law against carrying concealed handguns where the owner of private property open to the public has forbidden, this doesn't even meet the standard for Nebraska trespassing law. As it is, all a person has to do to break the law is show up somewhere carrying a lawfully permitted concealed handgun and be unaware that it is not allowed to do...that he's not allowed to do so on the premises if you carry a concealed handgun to a private property where it is prohibited. And at

very least, the owner should be required to post a sign and, in the event the person fails to see it, tell them to leave and have them refuse. It is these two issues that I would like to address with this law and to give you a little more clarity on the signage issue. And this is an example of the signage. And in the description for the posting of signs, it should be posted at every entrance within four feet of the door at the height of four to six feet above ground level. So anyway, that, in a quick synopsis, is my bill and I will take any questions you have now. [LB501]

SENATOR EBKE: Any questions for Senator Brewer? Senator Chambers. [LB501]

SENATOR CHAMBERS: Senator Brewer, I don't know if you've been around long enough or heard people talk about my attitude, but I think people who carry concealed guns can be considered, ipso facto, dangerous. And if that sign is there, the owner of this property does not owe that person a confrontation which could turn into a very violent exchange. So I think the law is all right the way that it is, and no owner should have to approach a pistol-carrying person who knows...by the way, these people look for these signs when they go to these places. They don't just walk in there like somebody like I, who does not carry a gun. But I've seen little stickers on a window. Now if I were dealing with you, and I know you, then it might be different if I'd say, hey, man, I don't want to make a scene but I don't want you to carry a gun in here. But I don't know you. I see you've got a gun and I've got a sign and I shouldn't have to confront you. And I'm saying this from the standpoint of a person who doesn't carry a gun. I've seen people come in here for every kind of special consideration, because they carry a pistol, that it puts them in a category where they get favored treatment over everybody. You're new so I think that's why they put this on you. But they knew what my reaction would be and that's why the ones who usually would bring it wants no part of it. But I'm hoping, by giving all of this conversation, that you'll know why I really don't want to see a person who owns an establishment, people come there and they bring their children, and then here comes a pistol-packing guy who all he knows is the Second Amendment. He doesn't know the Fourteenth Amendment, the Fifteenth Amendment, or even the First Amendment. He just says Second Amendment and to him that means I can carry a gun and nobody can do anything with it. So I wouldn't approach a person who's got a gun. [LB501]

SENATOR BREWER: Well, I guess my hope was that by having the sign where it's obvious, it would make sure that those individuals who were carrying never entered the establishment with that weapon because there's no doubt in their mind that they have no business in there with it, because if they don't know, you know, then you're concerned that they're going to be there and find out that they shouldn't be there. And it should be the store owner's right and privilege to not have someone in there who is carrying concealed and there has to be a way to make sure that they know they shouldn't be there. That's why the signage I guess caught my attention as something that... [LB501]

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SENATOR CHAMBERS: And that, that you have, is that an example of what gun owners want on the windows? [LB501]

SENATOR BREWER: Well, there are a couple different versions, but that would be something along those lines that they would need to put in the vicinity of the door when they enter so that the concealed carry person knew that they shouldn't be there. [LB501]

SENATOR CHAMBERS: Now I'm not a hoity-toity person, but let's say that I was trying to have, even in an ordinary working-class neighborhood, a nice place for people to go. I wouldn't want the décor spoiled with some kind of sign like that on it. I don't want to deface my property to make it convenient for these pistol packers who shouldn't even carry guns in restaurants anyway. They owe something to the public. And if they think it's a place where a gun is necessary, they shouldn't go there because they're looking for a fight when they go. They should assume that any establishment where children can be present, or if it's a family place, don't bring your gun or don't go there. [LB501]

SENATOR BREWER: Point well taken. [LB501]

SENATOR CHAMBERS: Is this your priority bill? [LB501]

SENATOR BREWER: No, no, no. [LB501]

SENATOR CHAMBERS: He laughed. He knows better than that. I don't have anything else though. Okay. I was trying to work up to that gently. I should have asked you that first, then I wouldn't have gone through all the rest of it. [LB501]

SENATOR BREWER: No, no, no. [LB501]

SENATOR CHAMBERS: That's all that I would have though. [LB501]

SENATOR BREWER: Thank you, sir. [LB501]

SENATOR EBKE: Any other questions? Senator Pansing Brooks. [LB501]

SENATOR PANSING BROOKS: Thanks for coming. I'm just...what I'm confused about, if it's concealed carry, how can somebody know that it's there and so they go up to ask them? [LB501]

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SENATOR BREWER: Well, that's a good point. You probably wouldn't know if...unless it's something they did, whether they were to bend over or take off a garment or something that would reveal it, so, but that is a good point. If it's concealed carry, you likely wouldn't know. But the burden is on them to make sure they follow the guidance with concealed carry that they don't take it into establishments that are restricted. [LB501]

SENATOR EBKE: Senator Halloran. [LB501]

SENATOR PANSING BROOKS: Okay. And so with...so this would change it so that the burden is on the owner... [LB501]

SENATOR BREWER: Well, the signage... [LB501]

SENATOR PANSING BROOKS: ...to then go forward and find out, because what if it's a big place? That's what I'm trying to figure out. [LB501]

SENATOR BREWER: Well, I think the idea of placing a sign at the entrance or within four feet of the door at a height of four to six feet would at least have a uniformity so that if you were carrying concealed you'd know kind of where to look so that you didn't break the law. It would give you that reference point. But, yeah, if there was multiple doors, you would have to put one near each door. [LB501]

SENATOR PANSING BROOKS: Okay, thank you. [LB501]

SENATOR EBKE: Senator Halloran. [LB501]

SENATOR HALLORAN: Thank you, Madam Chair. Thank you, Senator Brewer. This isn't...this is not any trick questions here. But first I want to thank you for making the sign level four to six feet. I appreciate that. [LB501]

SENATOR BREWER: Four feet, I'm sure you'd appreciate that. [LB501]

SENATOR HALLORAN: I appreciate that. But the other thing is, this is to help concealed carry permitholders who have gone through, albeit in my own estimation, probably not as much training as we should go through to have concealed carry but, nevertheless, it's for concealed carry permitholders to know where they can and can't go in respect to private-owned businesses that may not wish to have the concealed carry gun there. Is that the intent of the bill? [LB501]

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SENATOR BREWER: That is correct. [LB501]

SENATOR HALLORAN: Okay. Here's the...not a trick question, but if someone has a gun on them and they're not a legal permit carrier, if they have a gun and they have it tucked in their belt, in their pant, however they carry it and they're concealing it, is this going to stop them from doing that? [LB501]

SENATOR BREWER: No. I mean they are already breaking the law simply by doing that, so. [LB501]

SENATOR HALLORAN: Right. So someone could beat them over the head with a concealed gun permit though? [LB501]

SENATOR BREWER: No. I think they're probably in that category of probably not doing the things they should be doing legally anyway, so. [LB501]

SENATOR HALLORAN: Exactly. Thank you. [LB501]

SENATOR EBKE: Any other questions? Thank you for being here, Senator Brewer. [LB501]

SENATOR BREWER: Thank you. [LB501]

SENATOR EBKE: Yep. First proponent. [LB501]

PATRICIA HARROLD: Good afternoon, members of the Judiciary. My name is Patricia Harrold, P-a-t-r-i-c-i-a H-a-r-r-o-l-d, and I'm testifying on behalf of the Nebraska Firearms Owners Association in support of LB501. A stop sign: Each stop sign is identical, same color, same shape, same font, posted at the same height in the same location on every corner. Everyone recognizes the requirement to stop at a stop sign. I'm sure some of you may have not stopped at a stop sign. Maybe you didn't see it. Maybe you tried to use that excuse with a police officer. But unless that stop sign was somehow blocked by large trees or bushes, that didn't pass muster. How about a posted speed limit sign? Typical figuration throughout our state and across the nation ensures everyone is aware of the maximum speed for safety purposes, again, sometimes missed, but readily enforceable because of their standardization, ease of reading, and visibility. But imagine if speed signs could be placed anywhere along the road, be any size, any color, any font. Would that make any sense? How would you feel about getting a speeding ticket for missing a sign six inches tall, shaped like a garage sign, stuck in the dirt and only a foot off the ground, positioned along the highway? When it comes to signage prohibiting the carrying of firearms,

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the lack of standard configuration, size, and location, and reliance on an often ignored or misunderstood requirement that it's conspicuously posted places law-abiding carry holders in the same situation as if our posted speed signs and stop signs were as I described in the beginning of my testimony. There are property owners who etch in glass at the bottom of their entry doors that firearms are not permitted in front of less than an inch in height. There are buildings where one entrance door is conspicuously posted but the door on the other side where you pick up your takeout order is not posted. So you enter one door and you're breaking the law; you enter the other and you are not. There are malls that do not post on their doors but, rather, state firearms are not permitted on their rules of conduct poster well within the center of the mall. The lack of standardization is a disservice to those who carry, as well as to those citizens who would prefer to not enter a business or building where concealed carry is not prohibited. The majority of states with concealed carry/open carry do not make this infraction a firearms offense. It is only a trespassing offense if the individual refuses to comply with the owner or owner's representative's request to leave. This legislation does nothing to inhibit or restrict a property owner from choosing to prohibit or permit firearms on their property. It does not create an undue burden for the property owner, providing the permitholder the opportunity to comply. For instance, if you walk into a gas station that's "no shoes, no service," they would tell you to leave. If it's not posted, I may be carrying at that time, I'm no more of a threat than any other citizen. I strongly encourage this bill be voted out of committee and welcome any questions. [LB501]

SENATOR EBKE: Senator Krist. [LB501]

SENATOR KRIST: Is there an amendment to this bill? [LB501]

BRENT SMOYER: No. [LB501]

SENATOR KRIST: Where in the bill does it say that, or does it say, that a sign has to look like every other sign, it has to be common sign, it has to be posted? I don't see it. Is that in here? [LB501]

SENATOR PANSING BROOKS: That's what I'm trying to find too. [LB501]

PATRICIA HARROLD: That is a great question. So the reason for my emphasis on standardization is standardization has been requested in the past through other bills and, due to the desire for organizations, maybe restaurant associations, to not have an ugly sign at the front of their door, even though they are forced by regulation and state law to have ugly exit signs in their restaurant, they...that bill/bills haven't passed, so we haven't been successful in having a standardized way to inform totally law-abiding citizens how to comply with the law in a simple way. So this is an alternative that we support. So if your sign is etched at the bottom left-hand

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corner of a glass panel on a door that faces the sunshine and, thus, you cannot read it and you walk in and as you're sitting down your firearm is revealed, you at least have the opportunity to be told to leave and comply and move on with your way and know that that place is now posted and you weren't aware of it at the time. [LB501]

SENATOR KRIST: Did you testify last year with Senator Schnoor's bill? [LB501]

PATRICIA HARROLD: No, I did not. [LB501]

SENATOR KRIST: Okay. So history repeats itself over and over and it's deja vu over and over again. [LB501]

SENATOR PANSING BROOKS: Groundhog Day. [LB501]

SENATOR KRIST: What? [LB501]

SENATOR PANSING BROOKS: Groundhog Day. [LB501]

SENATOR KRIST: (Inaudible)...when we've gone over this before, it's, who is going to standardize it, who is going to provide it, who is going to pay for it, and who is going to tell a private citizen or a mom-and-pop operation that they have to put that sign in that place to do it? I'm not arguing about the stop sign, the road sign, or whatever, because we pay for it,... [LB501]

PATRICIA HARROLD: Sure. [LB501]

SENATOR KRIST: ...the municipality, the city, the state, the whatever. But there has been in the past a real constitutional question about whether you can force someone who owns a business, who just spent money, as you keep using the analogy of etching it in the glass, which is not an inexpensive proposition,... [LB501]

PATRICIA HARROLD: Nope. [LB501]

SENATOR KRIST: ...to force them to put up signage. I mean we talk about this in abortion clinics. We talk about it in...it is a freedom of speech issue and basically I think there is a constitutional issue. [LB501]

PATRICIA HARROLD: Sure. [LB501]

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SENATOR KRIST: So with that one I think you're going to lose. With the fact that you want clear signage that says here you're not welcome if you don't wear a shirt, shoes, service, whatever, that's the choice of the individual business. [LB501]

PATRICIA HARROLD: Um-hum. [LB501]

SENATOR KRIST: It's the choice potentially of a conviction or a belief in what people do... [LB501]

PATRICIA HARROLD: Sure. [LB501]

SENATOR KRIST: ...and what they don't do. And we can't regulate that as well. You're familiar with the term "buyer beware." In this particular case, as a concealed carry permitter...permitted holder, it's my responsibility to make sure to know that I am either welcome or unwelcome and comply with my permit restrictions when I go in. So I think what I tell people when they come in to testify on these bills that have come over and over and over again: Pull the transcript from the last couple times that we talked about this issue and frame your argument or your testimony in a way that gives us something different. I mean, and I'm going to use you again as an example--I'm sorry--but Senator Halloran, God bless him, has never heard this brought forward maybe, you know, four or five times. So he may just look at it from a whole different angle. You get where I'm going. [LB501]

PATRICIA HARROLD: Sure, absolutely. [LB501]

SENATOR KRIST: I don't need to belabor the point. [LB501]

PATRICIA HARROLD: Absolutely. [LB501]

SENATOR KRIST: So thank you very much. [LB501]

PATRICIA HARROLD: Thank you. And if I may comment on just two things, the cost of the sign, you can make a sign that you can print off the Internet, a small piece of paper this big. If it was in the same location of every entrance where every firearm owner who carries concealed would know to look to the bottom left corner if that's where it needs to be so it's no longer an ugly sign, I think... [LB501]

SENATOR KRIST: But there again... [LB501]

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PATRICIA HARROLD: ...I think many people would be satisfied with at least a consistent location and a consistent graphic so that I would look at the same place every time. [LB501]

SENATOR KRIST: You want the state to tell us where all our signs are going to go? [LB501]

PATRICIA HARROLD: We have signs, like posted exit signs and other... [LB501]

SENATOR KRIST: But do you want the state to tell you where all your signs are going to go? [LB501]

PATRICIA HARROLD: In this... [LB501]

SENATOR KRIST: Because I don't think we want to be in the business of telling people where all their signs need to be. I mean I... [LB501]

PATRICIA HARROLD: Well, there are signs that obviously don't create a crime for someone who is otherwise attempting to be as law abiding as they can. It's simply a matter of fairness to citizens. [LB501]

SENATOR KRIST: Okay, thank you. [LB501]

SENATOR EBKE: Senator Chambers. [LB501]

SENATOR CHAMBERS: I always hear the slogan "law-abiding citizen," but they're the ones who think that because they carry guns they're entitled to special privileges, they can dictate to somebody how they must use their property to convenience somebody who is toting a gun. And I don't think personally they should be allowed to do it. So not everybody sees gun toters as a special category of law-abiding citizens. People who carry guns are law abiding until they become non-law abiding. The people who did those mass shootings got their guns legally. Some of them were carrying pistols that they were legally carrying so they were law abiding until they broke the law and the first time they broke a law it was with the gun. So in the same way that the NRA and those people in Congress and every place who will say, as long as I'm in Congress there's going to be no regulation on guns, well, I say as long as I'm in the Legislature no property owner is going to have to submerge his or her property rights to people who carry guns and say you're going to conduct your property the way I say you should because I want to carry a gun and I can make you give me special consideration. If anything, the gun toters, since they always emphasize being law abiding, should try to accommodate whatever the rules are of a property owner. And if a property owner wants to put a quarter-size picture on the glass with a little image

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of a gun and a line through it, that's good enough. The only reason there are any requirements of any kind of signage, because there are people in the Legislature, unlike me, who would not let anything like that be put into the law. Any way you let them know I don't want you in here with a gun, that's good enough. And if you're a law-abiding gun toter, you're not going to pull your gun and say, well, I'll come in anyway, stop me. [LB501]

PATRICIA HARROLD: Of course not. [LB501]

SENATOR CHAMBERS: So, as Senator Krist recommended, when they send people to this committee, because there are others who have come here several times until they finally caught on, they ought to do them the courtesy of showing them the transcript so they will know. But I'm not asking you questions, so you don't have to respond. I'm just making a statement because there are people who watch these hearings. And if there are any property owners, I want them to know that--I won't speak for anybody else--one person who is not going to allow into the law a requirement that these property owners accommodate gun toters. If you think you're not wanted there, don't go. See, they can't keep me out of a place legally because I'm black now. They can't do that now. But you let me have a suspicion that I'm not wanted someplace, I don't go. And if I went there and they did the wrong thing, I could sue them. I don't want a lawsuit. I don't want to go someplace and have a dispute with somebody. There are too many places I can go to find what I want. And if my money is not good there, I'll just go someplace else. So if you think you're not wanted somewhere, go somewhere else. That would be my advice. But that's all that I have, Madam Chair. [LB501]

SENATOR EBKE: Senator Halloran. [LB501]

SENATOR HALLORAN: Sorry, Madam Chair, I don't want to drag this out, but the law is very clear about where you can and can't go if you have a permit. I mean it's...I have a permit to carry. Okay? And I am law abiding and I'm very proud of it. And because I carry doesn't mean that I'm putting anyone at risk because I'm not. But that...again, the point, I know where I can carry and where I can't legally. It's spelled out right here. If there is no sign on a restaurant, as long as they don't sell alcohol and liquor, I'm okay legally. Now if they put a sign there voluntarily and request that I don't carry in there, I won't carry in there. But that's because I'm respecting their request not to do that. Now someone comes along, to my point earlier, someone that has a gun and is carrying it without the legal permit to carry it, he's breaking the law already, he won't care if there's a sign there or not, doesn't care, he's breaking the law already. I mean the whole thing I think is kind of moot. It's just know the law and abide by the law if you're going to carry a gun. [LB501]

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SENATOR CHAMBERS: Because you're new, I won't engage you here but we'll have a conversation about that somewhere else. [LB501]

SENATOR HALLORAN: That's fine. [LB501]

SENATOR EBKE: Senator Krist. [LB501]

SENATOR KRIST: I go back to just simply saying, and I agree with you, you know where you can and where you cannot because you went through the training and you understand as a permitholder. Where we cross a line, sometimes constitutionally, is where we tell someone else to make sure that you don't do what you do by requiring them to post a sign, requiring them... [LB501]

SENATOR HALLORAN: Oh, I... [LB501]

SENATOR KRIST: You get where I'm going, so. [LB501]

SENATOR HALLORAN: I'm agreeing with you... [LB501]

SENATOR KRIST: Right, right. [LB501]

SENATOR HALLORAN: ...on this. We...you know, people should know the law, whether or not they're a permit carrier or not. If someone has a liquor establishment, you know, they know it's against the law and they can enhance the knowledge or that information about the law, put their volunteer sign up. I'm with you. You shouldn't... [LB501]

SENATOR KRIST: Just as a matter of record, I want to make sure people understand I am neither pro nor con when it comes to carrying or having a permit, as long as you know what you're supposed to do. What I am having an issue with and where I think people need to understand is the constitutional. [LB501]

SENATOR HALLORAN: And I...if I say anything to misunderstand, I agree with you. [LB501]

SENATOR KRIST: Okay. [LB501]

SENATOR HALLORAN: I don't think it's necessary to have a, you know, a law that says you have to have a sign. [LB501]

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SENATOR KRIST: Thank you very much. Thank you, Madam Chair. [LB501]

SENATOR EBKE: Okay. Thank you for being here. [LB501]

PATRICIA HARROLD: Thank you. [LB501]

SENATOR EBKE: Oh. Senator Pansing Brooks, did you have a question? [LB501]

SENATOR PANSING BROOKS: No, it's just...I just was going to say I hope we keep the testimony pertinent to the bill before us because this isn't about...I mean they don't have this information in there, so, anyway, thank you. [LB501]

SENATOR EBKE: Thank you. Next proponent. Any other proponents? Do we have any opponent testimony? [LB501]

COURTNEY LAWTON: My name is Courtney Lawton, C-o-u-r-t-n-e-y L-a-w-t-o-n, and I am here to testify on behalf of Nebraskans Against Gun Violence in opposition to LB501. While LB501 appears to solve a problem, it actually creates more problems. The problem is, presumably, that people who desire to carry concealed deadly weapons everywhere with them do not know where they are permitted to carry their gun and cannot be bothered to read signs. First off, Nebraska Revised Statute 64-2441 (sic--69-2441) prohibits people from carrying concealed handguns into many places. This is a statutory prohibition. Adding a sign would not make it less statutory. The real problem is this. Senator Brewer believes that unless there is a sign and an authorized representative or management personnel tells someone carrying a gun under their shirt or in their purse that they cannot carry a gun into their business, that armed person can carry the gun into the business and no one can do a darn thing about it. The proposed changes to the statute leave some very important unanswered questions. For example, in Shadow Lake shopping center, the property management company prohibits weapons on the property. There is a sign. So what happens when someone who is carrying a concealed handgun carries it into Pier 1 Imports and a clerk notices the gun and asks the person to leave but the person refuses because the clerk is not an authorized person who can speak on behalf of the property management company? Who is an authorized person? Who is management? I once worked as a manager at Whole Foods and the store has a "no concealed weapons" sign on the door. I was 20 years old. I did not have the first clue about how to approach an armed person who would carry a weapon into my workplace in defiance of the sign. This proposed change to the statute would put me in the position of confronting someone who feels that they can defy a company's request. Finally, will all businesses have to employ somebody at the sign, at the door to greet customers? "Hi! Welcome to Sadie's Cupcakes. No guns. Hi! Welcome to Sadie's Cupcakes. No guns. Hi! Welcome to Sadie's Cupcakes. No guns," and then points to the sign. What Senator Brewer, who

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took \$1,500 in cold, hard cash from the firearm lobby, wants to do is to lessen the burden on people who feel they must have a gun with them at all times. People carrying concealed handguns ought to know the law and the statutes because they are carrying deadly weapons in public. It should be difficult to permeate our society with guns, not easy. The burden should be on concealed handgun permitholders to know where they are prohibited from carrying their weapons. Already in Internet forums they strategize on ways to get around statutory prohibitions on carrying their guns into the Henry Doorly Zoo, emergency rooms and hospitals, and businesses that prohibit them. LB501 puts the burden on businesses and property management companies to prohibit guns by sign and by verbal confrontation before the statute is violated, and that is bad for Nebraskans. I urge the committee to vote against advancing LB501. Thank you. [LB501]

SENATOR EBKE: Thank you, Ms. Lawton. Questions? Senator Krist. [LB501]

SENATOR KRIST: You...are you here representing yourself or an organization? [LB501]

COURTNEY LAWTON: No, I'm representing Nebraskans Against Gun Violence. [LB501]

SENATOR KRIST: Do you have a copy of the bill in front of you? [LB501]

COURTNEY LAWTON: No, not in front of me. [LB501]

SENATOR KRIST: Can we get her a copy of the bill, pages, please? Senator Hansen will probably let you use his. And this has no amendments, correct? We confirm that? So I want to go down because you've made some pretty serious accusations about what this changes. [LB501]

COURTNEY LAWTON: Um-hum. [LB501]

SENATOR KRIST: And I'm sure you've read this and you understand what it says. [LB501]

COURTNEY LAWTON: Uh-huh. [LB501]

SENATOR KRIST: On page 3, the first change that I see, which is underlined, capitalizes "Posted" and doesn't really change the meaning of that sentence. Would you agree? [LB501]

COURTNEY LAWTON: It capitalizes "Posted," yes. It doesn't really change that. However... [LB501]

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SENATOR KRIST: And the addition to the end of it, changing the "and" from "or," how does that change the meaning? [LB501]

COURTNEY LAWTON: Okay, so in my professional English opinion, if you were to change the word "or" to the word "and," that would mean that both conditions must be met. So you must have the sign and a verbal warning. If you only have a verbal warning but no sign, it does not compute. [LB501]

SENATOR KRIST: Okay. [LB501]

COURTNEY LAWTON: If you have the sign and not a verbal warning... [LB501]

SENATOR KRIST: I think your testimony would have been much more effective if you would have just gone to the bill and told us that rather than the way you came about. But let me go further. [LB501]

COURTNEY LAWTON: Okay. [LB501]

SENATOR KRIST: I'll give you that, okay, in your professional English opinion. [LB501]

COURTNEY LAWTON: Right. [LB501]

SENATOR KRIST: (B) capitalizes "Has," and at the end of that paragraph it underlines "and the permitholder has defied the request," which actually at that point, and I don't know if you'll agree with this, makes that permit carrier guilty of a violation and he basically at that point would lose his permit under the law. Would you agree with that? [LB501]

COURTNEY LAWTON: I would agree with that not knowing what the penalties are for violating it. I'll take your word for it. [LB501]

SENATOR KRIST: He would be...he would basically have to give up his permit because he has denied the request knowingly, he's been told, and he would have to give up his permit (inaudible). [LB501]

COURTNEY LAWTON: Okay. [LB501]

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SENATOR KRIST: So I would say that that meaning to me means that Senator Brewer--we won't discuss his background--has at that point said you're in violation of a permitholder's requirement. And I would go on throughout the rest of this saying that on page 4 I would ask legal counsel to give us a description in the Exec of whether or not the reference to subsections (1), (3), (4), and (5) of Section 69-2441 or 69-2442 is guilty of a Class III misdemeanor, if that is a substantial change. I don't know that you're capable of commenting on that. I'm not a lawyer, so I'm not. The next line, 17, says a permitholder who violates section (2) of this section is guilty of a Class III misdemeanor. That's a change. And I think that's a stronger infraction than what was currently in the law, in my...and legal counsel is shaking his head. So once again, in terms of the kind of testimonies that I've heard over and over and over again, your testimony was a character assassination on Senator Brewer and it was intended to be that way. I understand that you want to bring up these points. But I don't see what you saw in this document in order to make those accusations.

COURTNEY LAWTON: I saw the "and" in there and I put myself in the position of a 20-year-old cashier at Whole Foods who, having seen that somebody has a gun, that I would have to ask that person to leave. So those two things would have to happen, like they'd have to see the "no firearms" sign and in defiance of the sign come in and then be told to leave. So it wouldn't be an "or." It's an "and." [LB501]

SENATOR KRIST: Okay, so I'll tell you how I interpret it. If I was aware as a 20-year-old or a 60-year-old that a person had violated a sign that's been posted, I wouldn't take the action. I would immediately call law enforcement or I would call the person who owns the property and say, that person is in violation, I'm not going to get involved with this--the same point that Senator Chambers made before about requiring somebody to do that. What Senator Brewer's point in here is saying is that before he's actually asked to leave and he admittedly denies that he...or refuses to leave, he's not infraction of his permit. Do you understand that concept? [LB501]

COURTNEY LAWTON: Yes, I do. [LB501]

SENATOR KRIST: Okay, thank you. No more questions. Thank you. [LB501]

SENATOR EBKE: Other questions? Thank you for being here today. [LB501]

COURTNEY LAWTON: Thank you. [LB501]

SENATOR EBKE: Next opponent. [LB501]

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JoANN EMERSON: (Exhibit 7) Hello. My name is JoAnn Emerson, J-o-A-n-n E-m-e-r-s-o-n, and I am here to oppose LB501. I also read...I have the CliffsNotes of the bill, if you will, and the word "and" is in there and that's the word I'm going to take umbrage with as well. I'm speaking to you today as a retired executive director of an arts organization and as a property owner. This proposed legislation puts unjustified burden on private businesses and property owners. As free citizens we expect the right to feel safe in our surroundings and especially on our property. I do not feel safe knowing that there are guns concealed everywhere and no credible evidence predicts that we are safer because someone has a gun fixation and must have one at all times. The burden should lie with the gun owner and not the property owner. For instance, if I'm going to go to a music or sporting event, I call the stadium or the venue to find out if I can take a meal or a bottle of water. If such laws are necessary because of the rabid insistence of the NRA that guns belong everywhere, it should be enough to clearly post a sign prohibiting guns on your property, organization, or business. Are we to become wizards to intuitively know if a person is concealing a weapon, or should we hire extra staff to place at the entrances to our property and intentionally tell each person who enters that guns are not allowed? I don't understand what is driving this legislation. If a property owner sees the gun, it must mean then that the gun owner either drew his weapon or let its presence known to in some other fashion. Congress and the President just made it legal for severely mentally impaired persons, those who have a guardian in charge of their SSI checks, they made it legal for said individuals to own a firearm. No special note of their condition will be made to the National Instant Criminal Background Check System, one of the vehicles that we decide whether or not a person can have a concealed weapon. I believe that it's your turn, your time to make sure that the residents of Nebraska are safe and feel safe at a time when our federal government is weakening gun laws. That's all I have. [LB501]

SENATOR EBKE: Any questions? Thank you for being here today. Go ahead. [LB501]

DANIELLE SAVINGTON: Good afternoon, Senators, Chairwoman Ebke. My name is Danielle Savington; that's D-a-n-i-e-l-l-e S-a-v-i-n-g-t-o-n, and I'd like to testify today in opposition of LB501 on behalf of Nebraskans for Peace. Briefly, so I don't touch on things that aren't directly related to this bill, as you requested, I would note that I was here last year for the testimony on this bill and I would indicate that, with respect to the sign that Senator Brewer provided, that sign was developed by the Nebraska State Patrol. They indicated it would be available for download on their Web site. But that sign addresses only concealed carry firearms. And so if my business wants to have no guns at all, as is necessary if we're outside of the city of Omaha where open carry is unregulated, I would need a completely separate sign. I would have to post the State Patrol sign, as designed, and then I would have to post something else that was of my own creation. So I think that's an important thing to keep in mind that that sign only addresses concealed carry when open carry is allowed virtually everywhere else in the state. Moreover, I think it's important that we discuss the "and," as has been discussed previously, but especially in

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relation to businesses that don't always have access quickly to law enforcement. One thing that the "guns everywhere" crowd is fond of bringing out in their testimony and in their discussions of why it's necessary for them to carry guns to begin with, is because the police can't be everywhere all the time and maybe they live in a community where the police are overburdened with things they must respond to or maybe they live in a small community where there aren't that many police officers to respond to incidents to begin with. But their argument is that it takes a long time for police to respond so they need to be armed to protect themselves in the meantime. What this bill now requests that we do, would demand that we do, is to put women like me, who are business owners, in a position of accosting strange people. And I'll use the senator as an example because you mentioned you do concealed carry. I don't know you and I'm sure you're a perfectly wonderful person, but if you come into my business and I see that you're carrying a gun and I'm uncomfortable with it, first I have to gather the courage to tell you to leave. And then when you refuse to leave, I have to find the courage and the time in dealing with you to call the police and now wait for their response time that the "guns everywhere" crowd has already told me isn't going to happen. And I think it's really outlandish to expect that the police are going to be able and have the time and the manpower to attend every complaint of a business owner or their employees to someone who has asked a gun owner to leave their facility at that time. I think again that's me as a business owner. You know, I think about my 16-year-old daughter getting a job and sometimes being left alone in charge of the coffee shop, because it's a tiny Scooter's. Does she have the intestinal fortitude to confront a gun carrier, demand that he leave, and then not quail (sic) in fear if he refuses while she waits for the police to respond? I think it's far safer to say, if you are a responsible gun owner as you claim they are and they claim they are, a sign should be enough, a posted sign in lipstick, in pen, in etched glass, in anything. A posted sign should tell you, you can't come here. So thank you, Senators. [LB501]

SENATOR EBKE: Any questions? Thanks for being here. [LB501]

DANIELLE SAVINGTON: Thank you. [LB501]

SENATOR HALLORAN: I am a nice guy. [LB501]

DANIELLE SAVINGTON: I believe it. [LB501]

SENATOR HALLORAN: (Inaudible.) [LB501]

MO NEAL: (Exhibit 8) Hi. My name is Mo Neal. I'm back once again. It's M-o N-e-a-l. Thank you for letting me do this. And to Senator Brooks's comment, my statement is a general one; because there's so many damn NRA bills here today, I wrote just one blanket statement and it's not specifically to LB501 but I'll try and talk about that and skirt over my statement to be quick. I

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hate these hearings. I came last year for LB289, I believe it was, and I'm back again and I guess I'll keep coming back as long as the NRA wants to bring these stupid bills forward. I call them stupid because basically I see all of them as a license to kill legally, attempt to arm every citizen in the United States over and over again. LB501 puts the burden completely on the business owner and the homeowner. Someone comes up to my door, as Dick Clark did last year, and my first words to him when he was campaigning for the Legislature were, are you packing? And he said, only my wallet, at which point I asked him to leave anyway, which was kind of pleasurable. So I'm not going to say a whole lot about this but I think we ought to start making stronger gun laws, rather than bringing icing-on-the-cake gun laws for the NRA forward. And in closing--I am really skipping over my statement--on Sunday, March 19, I'd like to invite all of you in the room and on the committee to go to the Sheldon Museum's auditorium at 1:30. They are screening Newtown. It's free to the public, and that may make some bearing come forward on your state of mind about various gun laws. It is a free movie that they...and there is an open discussion afterwards led by Nebraskans Against Gun Violence, and that's on the statement. [LB501]

SENATOR EBKE: Any questions? Senator Krist. [LB501]

SENATOR KRIST: You come back every time one of these comes up. I enjoy when you come here. [LB501]

MO NEAL: Well, God bless you. I don't remember talking to you last time, but okay. [LB501]

SENATOR KRIST: You have the right to be here as long as you're expressing your opinion. Thank you. [LB501]

MO NEAL: Oh, if I'd said what I really wanted to say, it wouldn't have been so good. [LB501]

SENATOR KRIST: Well, maybe next time (laughter). [LB501]

MO NEAL: (Inaudible.) [LB501]

SENATOR EBKE: Next proponent...or opponent. [LB501]

KATIE SCHRODER: Good afternoon. My name is Katie, K-a-t-i-e, Schroder, S-c-h-r-o-d-e-r. I don't represent anybody but myself and I've never spoken before, so. [LB501]

SENATOR EBKE: Well, welcome. [LB501]

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KATIE SCHRODER: Thank you. I'm opposed to LB501. And I guess as a place of business that is open to the public, one must be prepared to accommodate for patrons and provide for their safety, as well as their own as they...a business owner has a right to make the choice for themselves how to protect their business and their patrons. It's not the choice of any good guy with a gun to make for them. A search of concealed carry forums and blogs on Google is a tossup between "be respectful and leave with your gun if you are asked" or "the rights of the business owner and the patrons do not trump your rights to carry your gun wherever you want to and fight back." And another common response from carriers that saw the signs, they would intentionally come in, armed anyway, just to start trouble and look for a fight. Personalities' views, even interpretations of this law by those who do concealed carry, it is varied from one extreme to the next. The only protection provided to the business owner in this scenario is that if they, the gun owners, do not leave when the business owner asks them to leave, it is considered breaking the law and police intervention is necessary. Another post on a forum by a concealed carry owner detailed this story of a man who took his three- and five-year-old daughters to a Chuck E. Cheese. He was 40 minutes away from home and, although Chuck E. Cheese did not have it posted that guns were not allowed, he was asked by the manager to put his gun in his vehicle. He refused and a police presence came to ask him to leave. Police officers had to waste the time and energy to come tell someone to put their gun away simply because they wanted to have a tantrum over whose rights trumped whose. This is a waste of resources by the police department. Countless other stories follow that had similar ends. They were asked, they refused, the police came, end of story. Why add burdens to departments that are already stretched thin? The American Bar Journal ran a story that detailed the business owner perspective of concealed carry by their patrons. The article reads that a general consensus is that open and concealed carry by business owners in an...put business owners in an awkward position. For one business owner, putting up a sign was not something she could do. She was afraid that a sign would frighten customers into thinking there was a gun inside, or others would feel alienated, like as a trespassing thing. Instead, she chose to tell customers verbally or hand out fliers that her store was a gun-free area and that they needed to take their guns either out to their vehicle or leave. For her business, this required extra training for herself and her employees on how to respectfully have these conversations, as well as prepare for the worst--something that was difficult and expensive for her to do. For other business owners, their patrons were made uncomfortable by the guns, a fear that was heightened when carriers became loud, argumentative, and combative when asked to leave or when they saw a sign. And that's all I have. [LB501]

SENATOR EBKE: Thank you for your testimony. Any questions? I have a question. What kind of business do you own? [LB501]

KATIE SCHRODER: I'm not a business owner. [LB501]

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SENATOR EBKE: Oh, you're not a business owner? [LB501]

KATIE SCHRODER: No, no. [LB501]

SENATOR EBKE: Okay. Have you ever been into like a restaurant restroom? [LB501]

KATIE SCHRODER: I have been, yes. [LB501]

SENATOR EBKE: Okay. Have you ever noticed the signs on the mirrors that say all employees must wash their hands before returning to work? [LB501]

KATIE SCHRODER: Yes. [LB501]

SENATOR EBKE: It always worries me when they put those signs up that people actually aren't washing their hands, so. Okay, thank you. (Laughter) Thanks for...thank you. I'm sorry. [LB501]

KATIE SCHRODER: (Inaudible.) [LB501]

SENATOR EBKE: Welcome back today. [LB501]

ELLE HANSEN: Deja vu--haven't seen you all in forever. Good afternoon. [LB501]

SENATOR EBKE: Oh, it was only about, what, 15, 20 minutes? [LB501]

ELLE HANSEN: Senator Ebke, members of the committee, Elle Hansen, E-l-l-e H-a-n-s-e-n. I heard a little story about a stop sign a little bit ago and that presents me with a little bit of a problem because I know for a fact that two of your esteemed colleagues who are now no longer a part of the legislative body were on a regular basis concealed carrying into this building. One of them is our now-disgraced Senator Bill Kintner. I did make State Patrol aware of this matter; however, he was also carrying in my legislative district with the individual who was not elected and with no respect or regard to what the homeowners or the voters within that district thought of. If the stop sign at the door of the state house isn't enough to stop someone from coming in, members of your own body, what makes you think that a stop sign at a business place is going to stop anyone from coming in and thinking that they are entitled to do what they want to do just because they're concealed carrying a weapon? Additionally, this bill relieves gun owners from taking a step of responsibility and that responsibility is theirs. If I want to know whether or not I can come to Senator Krist's ice cream shop with my concealed weapon, then I need to pick up

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the phone and say, hey, Senator Krist, can I come to your establishment while I'm concealed carrying a weapon? It's not that difficult. This is just another example of how the people that think they need guns everywhere think that the rules don't apply to them and that they don't have to take personal responsibility. My other concern in that...in regard to this bill, which I believe is a major concern, is on page 4 and it's on line 3, "A permitholder shall not carry a concealed handgun while he or she is consuming alcohol or while the permitholder has remaining in his or her blood, urine, or breath any previously consumed alcohol or any controlled substance...permitholder does not violate this subsection if the controlled substance in his or her blood, urine, or breath was lawfully obtained and was taken in therapeutically prescribed amounts." Have any of the committee members ever been prescribed alcohol in a therapeutic amount? If...for example, I just took pain medication for several days after my surgery and I don't think that I would have the reaction time or the appropriate sound judgment to be carrying a firearm at all, be it concealed or not, after taking small amounts of controlled substance pain medication. I don't think that this is responsible. Additionally, it reduces gender to being binary. And I personally, most of you know--if not, this may be new--I don't identify as gender-binary. I don't identify as "him" or "her." And so I think that is exclusive and needs to be modified, but I would really rather just prefer that this bill is not advanced to the floor of the Legislature. [LB501]

SENATOR EBKE: Senator Krist. [LB501]

SENATOR KRIST: Only if you like spumoni can you come with your... [LB501]

ELLE HANSEN: Spumoni as in the sparkling wine? [LB501]

SENATOR KRIST: As in ice cream flavor spumoni but (inaudible)... [LB501]

SENATOR EBKE: It's a kind of ice cream. [LB501]

ELLE HANSEN: Not Spumante, gotcha. [LB501]

SENATOR KRIST: ...because you asked me the question. [LB501]

ELLE HANSEN: Okay. [LB501]

SENATOR KRIST: Okay. You do realize that, and I understand your "he" or "she" issue, that that section that you read us has not been changed at all, hasn't been altered at all? So what you're saying is that we should look at that in terms of altering it? [LB501]

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ELLE HANSEN: If you're going to advance the bill, I certainly would. [LB501]

SENATOR KRIST: Okay, that's...I just wanted to know. [LB501]

ELLE HANSEN: I would prefer that the bill does not advance, in case that we're unclear in some way. [LB501]

SENATOR KRIST: And your comment and all about the reversing the burden, does that come from page 3, the and/or? [LB501]

ELLE HANSEN: Yes. [LB501]

SENATOR KRIST: Okay. All right. Thank you very much. [LB501]

SENATOR EBKE: Any other questions? Thank you for being here. [LB501]

ELLE HANSEN: See you soon. [LB501]

SENATOR EBKE: Okay. Next opponent. Is there anyone testifying in the neutral capacity? [LB501]

ROD MOELLER: Good afternoon, Senator Ebke and members of the Judiciary. My name is Rod Moeller, R-o-d M-o-e-l-l-e-r. I'm testifying in neutral as an individual and as a concealed carry instructor. I guess I just wanted to clarify a few things, because I'm not sure through some of the questioning and discussions that we're all on the same page on this bill. This does not, or least was not intended to, change anything at all related to posted signage. It's really about the penalties. Somebody earlier before me said a sign should be enough and I agree with that. We all, as concealed carry permitholders, do agree with that. Certainly the "antis" want to paint all of us as entitled or thinking that the rules don't apply to us and that is not true. The problem is--and we've been down here several times before trying to expand or clarify the signage portion of the Concealed Handgun Permit Act--the problem is not a willingness to obey a noticed sign. The problem is all of the businesses that have chosen to post and have either neglected to maintain the signage and they've been faded by the sun or have had vandalism occur, signage have disappeared, or they were just not properly posted. I have on many occasions found myself in a place that was posted, but I didn't know until I left because the entrance that I went into was one of many that was not posted and I went out a different exit that happened to have one. There is a new restaurant that opened up in Fremont and I looked and there's no signage until you see it on the inside portion of the door. You cannot see it until you leave. I've been in hotels that the main

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entrance is not posted but if you go out the sliding doors that go into the attached garage they are. This is about the penalties. The problem is the penalty if you get caught in a posted premises, and maybe you don't even know it, this is a firearms violation. It is far more severe than simple trespassing. We're trying to make this so that it's up to the prosecution to prove that it was willful that we violated the posted signage and that it was not an accident. Some of you know me. Some of you that do know me, know that I am a very stubborn individual. I'm not a man of means, but I'm not poor. And if I were to get cited for something that I honestly did not know it was posted, I don't care how much it would cost me, I would fight it. But a lot of people could not afford the money for an attorney to fight something like this. The only...in closing, we're only trying to get this to the point to where such a severe penalty, and we're not even trying to change what the penalty is, we're trying to get it so that it's fairly applied. I'm open to any questions. [LB501]

SENATOR EBKE: Thank you, Mr. Moeller. Is it true that you got married? [LB501]

ROD MOELLER: It is true. [LB501]

SENATOR EBKE: Congratulations. He was in Vegas or something a week or so ago. Senator Krist. [LB501]

SENATOR KRIST: Facebook? What's the deal here? So you wouldn't be opposed at all to restoring the word "or," even if it's "and/or," to not put the burden... [LB501]

ROD MOELLER: No. The reason why we want that is because currently it could be applied that it was posted. But if it wasn't truly conspicuous and the person went through one of the entrances that did not see it, they're still in violation. We want to change it so that it's got to be proven that it was willful violation. [LB501]

SENATOR KRIST: But then you're...you've heard the discussion and, first of all, I don't think it's neutral testimony. But having said that, what you said here--and I would agree with the construct of the comments that have been made, not the way they were made in some cases but the construct--what you've said here is that not only do I have to post it at my ice cream shop that serves only spumoni-flavored ice cream, but I also have to confront you with it in order for it to be confirmed. So I would agree with that, so I would almost offer that if you want to bring your point into it, and, you know, I can be as stubborn as you can, but if you want to bring your point into it, then it's an and/or kind of thing. And then it's up to the judge to decide whether or not there was a willful act and should be penalized to the maximum extent of the law. You don't agree with that? [LB501]

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ROD MOELLER: I agree with that. But because the penalties are so severe and I see so many people who don't have the financial means to really defend against a charge--I mean, you know that attorney's fees are not cheap--it's too easy for somebody to be convicted on this where a business believes they have posted. There's been a lot of noise about why shouldn't have to spend money on posting a business. The reality is there are businesses that have posted and the question is, are they properly posted to where they can see it? If something has a sign at ankle height... [LB501]

SENATOR KRIST: Well, if I'm a business owner and I don't want to be told how to post or where to post, then I'm going to tell you whatever I post is going to be normal for me and that's the way it is. And that goes back to... [LB501]

ROD MOELLER: And I respect that. [LB501]

SENATOR KRIST: ...a constitutional issue of saying, can I tell you to post something in your business? So... [LB501]

ROD MOELLER: Well, and I do wonder. I mean, Senator Ebke mentioned about the employees must wash hands. I've seen several of these pursuant to the Nebraska Clean Air Act. Why do they have these stickers up then? [LB501]

SENATOR KRIST: Yeah, well, we don't want to open up that act. [LB501]

ROD MOELLER: So I don't want to change how they decide to post, as long as it is actually visible and it's within every entrance. But if... [LB501]

SENATOR KRIST: All right, and that also is not the subject of this bill and you said that to begin with, so that's fine. That's... [LB501]

SENATOR EBKE: Senator Pansing Brooks. [LB501]

SENATOR PANSING BROOKS: Thank you. Well, you heard the previous testimony. Thank you for coming. I just...I don't understand how it makes sense to shift the burden to the 20-year-old employee. Why is it...why should we impose that burden on an employer to try to train all their employees to understand that they have to confront a customer rather than keeping the burden with the concealed carry owner to call in and say, do I get to bring my weapon or not? [LB501]

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ROD MOELLER: Well, I think that it's unreasonable to say that everywhere you're going to go, that you're going to know that and to call every one of them. It's very simple to look at a business door. [LB501]

SENATOR PANSING BROOKS: I have a phone. I could call every business I go into. I could call ahead of time and just say, can I wear shorts in your establishment? [LB501]

ROD MOELLER: And you're welcome to do that. I don't think that that's a reasonable...I don't think it's reasonable to say you have to call ahead of time. You're going to have differing answers. I mean I have been privy to conversations where somebody has called: Hey, are guns prohibited? No, because it was a 20-year-old clerk that didn't know that that was the policy and come to find out that, well, actually it's posted. There's signs right on the door. So, you know, trusting that you actually get an accurate answer, the thing is, though, you're trusting that employee, no matter what the age, to confront people who are in violation of whatever the rules may be. It's no different than approaching somebody who says, sir, you cannot smoke in here, take that outside. It's not any different. The fears of saying, oh, my God, somebody is going to shoot me because I'm approaching them because they're carrying a gun, people don't want to lose their permit. The thought that somebody is going to be violent on confrontation I think is ridiculous, at least for a permitholder. If you have somebody who doesn't care for the law and they're carrying illegally and they have intent to cause harm, well, sure, but they already have the intent to cause harm, I suppose. This is about the severity, the fact that we're the only state in, you know, a thousand miles that this type of violation is considered anything other than a trespassing charge. We could have attempted to just strike this from the Concealed Handgun Permit Act completely and make it a trespassing charge and let standing trespassing charges apply. But rather than try to do that, we accept it. Let's leave it as a firearms violation but let's-- which is severe--but let's make it a little more difficult for somebody to accidentally be convicted of that. [LB501]

SENATOR PANSING BROOKS: So what about what Senator Krist has suggested, putting in "and/or"? [LB501]

ROD MOELLER: Well, "and/or"? [LB501]

SENATOR PANSING BROOKS: Well, if it's posted and somebody comes in with a gun, to have to go up and tell them to leave, that's...I don't understand that necessity for a double confirmation that you're not welcome. [LB501]

ROD MOELLER: I accept what you're saying. I completely understand that part and I can agree in spirit. I don't think that it should have to be both. [LB501]

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SENATOR PANSING BROOKS: But if it's posted... [LB501]

ROD MOELLER: The intention of having the "and" is as a cover for that first part being so poorly posted that they didn't see it. It's a matter of they need to be notified one way or the other. If you simply have a sign that was missed...Whole Foods has three entrances, at least years ago it did. I don't go there. But I have had many people that have gone there that said there's one entrance that's posted and the other two are not. There's a lot of risk that if somebody were to see because you're stretching to get something off the top shelf that your jacket comes up and exposes that you have a gun and you had no idea that you were in violation because of the signage. If the signage was consistent and clear, I would be completely fine with the language as it is. That's the only reason we're here is because it's not clear and we have many examples of poorly posted premises. That's the only reason. [LB501]

SENATOR PANSING BROOKS: Thank you. [LB501]

SENATOR EBKE: Senator Chambers. [LB501]

SENATOR CHAMBERS: You can go around first. I thought nobody else had their hand up. I'll go last. [LB501]

SENATOR EBKE: Well, it doesn't matter. Did you have a question, Senator Hansen? Then I'll move over here. [LB501]

SENATOR HANSEN: Thank you, Chair Ebke. I just have, I guess, I have a question. I've kind of been mulling this over the whole time. Why is the affirmative duty on a business to deny concealed carry permitholders as opposed to having businesses that want to allow concealed carry, why wouldn't the duty be on them to post a notice? I understand that's the way it is in existing statute. [LB501]

ROD MOELLER: You would have to go back and look at debates from 2006 when the original Concealed Handgun Permit Act was passed. [LB501]

SENATOR HANSEN: Would you support a change that would shift the burden to businesses that wanted to allow concealed carry? [LB501]

ROD MOELLER: I would not because, outside of Lincoln, I would say, fewer than 10 percent of businesses prohibit. It's rare that you come across places that are prohibited outside of Lincoln. I think you're putting...you're...to exercise a right, to say that every business is going to have to go

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out of their way to say we allow this, I mean, we don't...our laws aren't even set up to say we allow things. We...our laws are only designed to talk about what's restricted, what's prohibited. [LB501]

SENATOR HANSEN: And we could prohibit it from all places except where exceptions are posted. I mean this is inherently a bit of a prohibitive statute. But I guess you're...so you're saying there would be a property owner's right in not having to post a sign to allow guns? [LB501]

ROD MOELLER: I don't support making that change. I mean universally that's not how it's done anywhere else in the country. [LB501]

SENATOR HANSEN: I appreciate that it might not be done anywhere else. I guess I'm trying to pull the point of we're arguing about the duty of some businesses to deny concealed carry permits and why...I understand maybe they're in the minority and that we had talked about that being a minority rights issue. But that's the thing that's hanging me up. I understand that might make us an outlier, but if we're all worried about businesses not doing things appropriately, why wouldn't we want to put the burden on the businesses that are allowing it in? And I understand you're opposed to that. [LB501]

ROD MOELLER: I guess if the small percentage of places that are posting and saying this is not allowed can't do it consistently and doing it well 100 percent of the time, you know, we're only going to exponentially compound that problem the other direction. [LB501]

SENATOR HANSEN: But then that would put the duty on the permitholder to affirmatively look for a sign as opposed to looking for a negative, and if there's any question, then you would have...it would change the thought process around, wouldn't it? [LB501]

ROD MOELLER: I don't see it any different than the no smoking. You know, I mean, people don't look...when we started prohibiting smoking from everywhere, we didn't say, well, look for a sign that says smoking is allowed. I think people knew to look for things that says you can't smoke here. [LB501]

SENATOR HANSEN: Okay. Thank you. [LB501]

SENATOR EBKE: Senator Chambers. [LB501]

SENATOR CHAMBERS: I'm one of those who do know you. [LB501]

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ROD MOELLER: Yes, sir. [LB501]

SENATOR CHAMBERS: And you're not an unpleasant person, but you have an unpleasant practice. Here's what I would ask you, though, in all seriousness, and you don't have to answer it. Why do all these people...I haven't come across black people who are as scared as you all are. Why do you have to carry guns everywhere you go, even to the restaurant? What are you afraid of, because you... [LB501]

ROD MOELLER: I'm not afraid of anything but I accept the reality that violent crime exists and they happen in a number of places. To me, my life is valuable and I'm willing to defend it if somebody wants to attack me. I don't say that it's likely. I do try to avoid doing stupid shit with stupid people in stupid places, but that doesn't guarantee that nothing bad will happen. [LB501]

SENATOR CHAMBERS: I know there are people who'd like to attack me and I'm much smaller than you and I don't even wear anything that can hide a weapon. But I'm not afraid to go anywhere. I even went to Norfolk after a written threat was made against me and the State Patrol investigated it, so that's where I went with no weapons, no flak jackets, just me, because that's the way I am. I'm...nobody can put me in fear so that I'm not going to live the way I want to live. But here's the question based... [LB501]

ROD MOELLER: We have that in common, Senator. [LB501]

SENATOR CHAMBERS: ...based on what you all have said, that if somebody is not a permitholder, a bad actor, in other words, in violation of the law already, he's not going to obey the sign anyway. [LB501]

ROD MOELLER: Correct. [LB501]

SENATOR CHAMBERS: So if I see somebody come in and I got the sign there, how do I know this is a legitimate permitholder who didn't see the sign or one of these law violators who doesn't care about the sign? You all are contradictory without realizing it because you think you're in a special category and you don't have to think outside the box. I don't know if somebody carrying a gun has a permit to carry it or not. So you're...you want to put this person on his or her property in a position to run into the very kind of person you're so scared of you carry a gun. You don't know. If you see me with a gun, you don't know if I'm a bad person and am going to attack you or not. So you want to have your gun and hope that you get yours out and shoot me before I shoot you, if I'm a bad fellow. Well, now we've got a business owner who only wants to either sell a product or a service and you all want to put that person into conflict with the ones you all

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are scared of and you all carry guns. It doesn't make sense. It's illogical. And I'm probably the only one in public life who will say that in disregard of the NRA, senators who carry pistols because they're scared too. That's what's happening in this society. People are afraid because people like you say let everybody have a gun because you're scared. I didn't know that Senator Halloran...I know he's in the Chamber. He's here now. I wouldn't say it behind his back. I didn't know he was running around scared. He said he carries a gun. Now I'm glad to know it, because scared people are dangerous people. Now I'm going to give you a question so you can respond however you want to. How would you respond to what I've said? [LB501]

ROD MOELLER: You know, I agree with parts of it and disagree with others. [LB501]

SENATOR CHAMBERS: That's not an answer. [LB501]

ROD MOELLER: I certainly disagree with the fact that we carry because we're scared. We carry because we care about the value of our lives and our family and, you know, we want to be able to defend ourselves. To say that we're... [LB501]

SENATOR CHAMBERS: You don't think I value mine? Oh, go ahead. I...go ahead. [LB501]

ROD MOELLER: To say that we're scared of others, I don't think that that's really the case. It's more a matter of watching...there's a lot into personal safety that goes into it, can't really go into everything today, but it's not about being scared. It's about taking responsibility. It's no different than wearing a seat belt, having a fire extinguisher, or any other type of tool that you hope you will never have to use. [LB501]

SENATOR CHAMBERS: Now I don't think I'm tough. Most people are bigger than I am and probably everybody is younger than I am. I've been in places and some white guy wants to come up close to me and I say, look, man, I'm a public official, if you want to say something to me you can say it, but don't get too close and don't put your hands on me. Now, he's got baggy clothes. He could have a gun. I'm unarmed and I'm small. But that's the way I live. And so far not one of them has put his hands on me. [LB501]

ROD MOELLER: And I support your right to make that decision. [LB501]

SENATOR CHAMBERS: And you should envy me. There was a bill where people were coming in here talking about fathers' rights all the time, and that's not the issue I'm getting to. There was one great-big guy with them and he was so hostile that somebody, I don't remember if it was the Chair or a committee member, who indicated that the way he was addressing the committee

members--he never talked to me bad--was not the way it ought to be. You could tell he was used to his size. So he came to my office and a lady works for me and I'm not going to let anybody mess over her. It's my job to make sure she's secure. Well, you know a funny thing? He was kind of huffing and puffing till I came. Then he became a perfect gentleman and he still is big over me as Goliath was over David. When people know you're not a coward, either they're going to do something when they first come to you or they're going to leave you alone. If they think you're a coward, they'll to chew you up and spit you out. So the NRA has cast white men in the eyes of many people as being cowards. They're always talking about I need this gun because somebody might attack me; there are crimes being committed and I don't want to be the victim of a crime. Nobody wants to be a victim of a crime. I'd like to live 80 more years, but I wouldn't want to live another second if I had to live it in fear. And the reason I'm asking you these questions, you don't seem like a fearful person to me, so I felt we could have this exchange. Now if your family is with you and you think something bad might happen to them, I've had family members with me and I didn't carry a gun but that puts...that's an area that I'm not talking about now. I'm talking about you when it's just you. When you go to the grocery store, you think you might be a victim of a crime in your neighborhood. If you go to a restaurant that can be called upscale, you're afraid somebody might have slipped in that restaurant and they're going to attack you. When you go to the drive-through at McDonald's, you think somebody might jump out and shoot you. That's what I gather from what you say. You carry a gun because you think you might be a victim of a crime wherever you go. So you're burdened down with a gun even if you're going someplace just to relax and unwind, but at the same time you think somebody might kill you so you've got to go armed. Is that what I'm supposed to gather from what you're telling me, when you're not carrying it because your family is there and you're worried about them? [LB501]

ROD MOELLER: You know, I got to say that those are things that are never in the forefront of my mind. I mean I've trained enough to know that if I need something it's available, whatever that tool may be. And a lot of that may be negotiations. It may be how to talk down and deescalate a situation. I don't think about those things unless I actually need them or I'm training. So I wouldn't say that the awesome responsibility that comes with having a gun on me weighs on me at all because I know that it's secure and isn't going to go anywhere unless I need to call upon that tool. [LB501]

SENATOR CHAMBERS: I always...my mind runs in rhymes. I only know how to make a throw unless somebody throws me first. All I know is how to use somebody's whatever they've got against them. If they've got a gun, no matter what I know, they've got...they're going to win. But I don't walk around in that kind of fear, so I'm trying to get an understanding. Maybe I'll have a conversation with Senator Halloran and find out what he's scared of and he'll tell me why he carries a gun, because we're both senators. But he certainly doesn't have to worry about me doing anything to him. In fact, I'll tell him, all right, Louie, drop the gun; whenever you're anyplace

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where I am, I'll protect you and nobody will have to be shot, because I don't have a gun and I'll make sure nobody shoots you. [LB501]

ROD MOELLER: I can't speak for anybody else and I've only met Senator Halloran a handful of times, but I would imagine he would be more than happy to sit down, have that particular conversation with you. [LB501]

SENATOR CHAMBERS: And I won't let him have his gun while he does it because he, you know, he...his...this finger is itchy and the only way to know how to scratch it is to put it around a trigger. But anyway, that's all I have. And here's a serious question that I will ask you. Do you feel that because people in Nebraska and other places have the right to carry guns concealed, that everybody else ought to accommodate them and change the way they behave because people have the right to carry concealed guns and they're carrying them so they have to be accommodated in every way? [LB501]

ROD MOELLER: I don't view that any differently than any other aspect of a person's life. What they choose to have as a hobby, an interest, a lifestyle, whatever, I mean, we all should just get along. I don't think that I'm imposing my will on anybody else to expect them to not be scared of me if I've not done anything. [LB501]

SENATOR CHAMBERS: No, I mean this signage and having to confront the gun toter in your own establishment. All...that's asking them to accommodate what you want to do and be allowed to do. [LB501]

ROD MOELLER: Well, I would say it's the other way around. I think that it's a matter of them asserting what their concerns and beliefs happen to be. If they say this is what we allow and don't allow in my establishment, I'm letting you know what the rules are and I expect you to follow those rules. And I'm more than happy to comply with those rules and I believe that all concealed handgun permitholders are willing to comply with those wishes, as well. We just want to make sure that they are known. [LB501]

SENATOR CHAMBERS: I'm going to make a suggestion: Presume that you're not welcome anywhere when you're carrying a gun, then you'll ask the question rather than putting the onus on others; presume that you're not welcome anyplace where you're carrying a gun. Then you don't have this attitude that they owe me something and maybe we'll all get along better. That's all I have though. [LB501]

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SENATOR EBKE: Are there any other questions? Thank you for being here today. Is there any other neutral testimony? [LB501]

SENATOR CHAMBERS: Oh, he was neutral? (Laughter) [LB501]

MELODY VACCARO: Hello, Judiciary. My name is Melody Vaccaro, M-e-l-o-d-y V-a-c-c-a-r-o. I am representing myself today and I have some neutral comments that I wanted to present. This morning I was listening to the Legislature and Senator Wishart was talking about why do we have a certain number for a mandatory sentence, where is the data that backs this number up. And what I wanted to provide for this discussion is some information. So I have data from the Gun Violence Archive for the last three years in our state. And so we know that there were, in 2014, 199 total people shot, 51 were killed, 148 survived--the Gun Violence Archive typically does not have access to suicide information, so there are additional shootings that aren't in these numbers--2015, 236 total people shot, 59 were killed, 177 survived; 2016, 220 people were shot, 57 of them were killed, 163 of them survived. A big difference between asking somebody not to be smoking and asking somebody not to carry a handgun, I don't know that we have any statistics of one adult injuring someone else with a cigarette, so if that's an argument we should back that up with some data. Also, if we're going to have statements on the record and take them seriously when making policy decisions, such as "all concealed carriers do this, that or the other," that information is not public record as far as I know. So if the Legislature has the ability to get overlays of what concealed carry permitholders do and do not do, that I would hope are utilized in policy decisions, but I just really wanted to reiterate it's very important to stay research focused and have data to back up claims, especially if they are wild claims. Thank you. [LB501]

SENATOR EBKE: Thank you, Ms. Vaccaro. Any questions? Senator Halloran. [LB501]

SENATOR HALLORAN: Thank you, Madam Chair. Those...could you run through those statistics real quick again? [LB501]

MELODY VACCARO: Yeah, absolutely. So of just people shot, we had 199 in 2014, 236 in 2015, and 220 in 2016, so we're right around an average of around 210 people, 210 people shot every year in our state. [LB501]

SENATOR HALLORAN: Okay, I'm just curious, were any of those concealed carry permitholders? [LB501]

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MELODY VACCARO: Well, I wouldn't know because that is not public record, so I couldn't go back and compare databases. [LB501]

SENATOR HALLORAN: Okay. Okay. [LB501]

SENATOR EBKE: Okay. Any other questions? Looks like we opened a couple of new categories in terms of neutral proponents and neutral opponents, so thank you. [LB501]

MELODY VACCARO: Thank you. [LB501]

SENATOR EBKE: (Exhibits 1-6) Okay. Any other neutral testimony? Thank you. We have a few letters for the record as Senator Brewer makes his way up here: LB501, support, from Derek Johnson and Randy May; in opposition from the League of Women Voters of Nebraska and Rodney Cupp and Angela Thomas; and neutral testimony from the ACLU of Nebraska. Senator Brewer. [LB501]

SENATOR BREWER: Thank you. Well, I don't even know where to begin. I guess, if we just take a deep breath and focus on the very simple task at hand of relooking at the issue here of concealed carry and understand that part of the intent is so that we don't burden our judicial system with law-abiding people who simply have done something unintentionally by going into an establishment that does restrict concealed carry but, because of the lack of signage or positioning of signage, they weren't aware of it. That's the intent here. It's not to, you know, to twist things, as we've heard, in all these different ways. So it's to help the business owner so that they have the ability to have a policy and have it enforced. And, you know, if they do need to inform someone who has a concealed carry permit that they shouldn't be there, it's not like they're wrestling a shoplifter to the floor. The individual will present their concealed carry and say, I'm sorry, I didn't realize that, and exit the establishment. It's turned into something I think that's much more than it really needs to be in the sense that we went down every possible rabbit hole on this. So again, it's just simply trying to clarify so that whether it be the yellow signs that we see in bars that warns pregnant women against drinking or the signs we see for an exit or for a fire extinguisher, those are there for the public's safety and so they're displayed in a way that people can see them and follow the rules. So I guess, with that, I'll take questions and do my best to... [LB501]

SENATOR EBKE: Senator Chambers. [LB501]

SENATOR CHAMBERS: Senator Brewer,... [LB501]

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SENATOR BREWER: Yes, sir. [LB501]

SENATOR CHAMBERS: ...you always keep your eyes down so you missed this. [LB501]

SENATOR BREWER: Sorry. [LB501]

SENATOR CHAMBERS: When I glanced up, you reached in your coat, my hands almost instinctively went up and I was glad to see you brought that card out of your pocket. [LB501]

SENATOR BREWER: Sorry. [LB501]

SENATOR CHAMBERS: But you know, with the conversation we've been having, I was a just a little jumpy. I don't have any question though. [LB501]

SENATOR BREWER: Thank you, sir. [LB501]

SENATOR EBKE: Any other questions? Senator Brewer, we go down rabbit holes a lot here. [LB501]

SENATOR BREWER: Yeah. Okay. [LB501]

SENATOR EBKE: Thank you for bringing this bill. [LB501]

SENATOR BREWER: Thank you. [LB501]

SENATOR EBKE: This closes the hearing on LB501. We're going to take a five-minute break so that staff can get up and move around, and then we will proceed as rapidly as possible. [LB501]

BREAK

SENATOR EBKE: Okay, as we, as people make their way back in here, we're going to go ahead and get started. So we are going to open on LB666. [LB666]

SENATOR HALLORAN: Oh, my gosh. [LB666]

SENATOR LOWE: Say that with a straight face. [LB666]

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SENATOR EBKE: (Laugh) Senator Lowe. [LB666]

SENATOR LOWE: Thank you, Senator Ebke. And thank you to the Judiciary Committee. My name is John Lowe; that's J-o-h-n L-o-w-e, senator from District 37. And it's a pleasure to be back here in front of this committee today. I'm here today to bring LB666. Yes, I did ask the Clerk's Office about changing the number (laughter). This bill will help clarify when and how legal gun owners are allowed to transport their firearms when doing so in a carrying case. This bill will...the reason for bringing this is in response to Nebraska Supreme Court Decision Nebraska v. Senn. In previous decisions, the court had determined that a person would be in violation of concealed carry laws if the weapon was within immediate physical reach and immediate reach would include a firearm stored in a locked glove box. In this decision the court determined that an individual driving a vehicle can be charged with legally being in possession of a concealed weapon if the individual could not become in possession of the weapon if the vehicle was moving or not. This caused concern for many gun owners for the simple reason that many transport their firearms in a carrying case in their vehicles. They do not possess a concealed carry permit. Other options of transporting a firearm in plain sight in a vehicle or trunk of the vehicle may not always be wise or possible. Just a few examples when an individual would need to transport a firearm in their car would be when they go, they buy one, go hunting, or go to the gun range. Now many fear they could be in violation of Nebraska concealed carry laws for simply transporting their firearms. That is why I'm bringing this bill. LB666 will place into statute the ability to transport a firearm if the firearm is unloaded and in a case. The bill does clarify that the individual transporting the weapon must not prohibit by the state and federal law to be in possession of the firearm. A case would be defined to be a hard-sided or soft-sided box, container, or receptacle intended or designed for the purpose of storing or transporting a firearm, or the firearm manufacturer's packaging. Quite frankly, all this bill does is to clarify the practice every gun owner in Nebraska already undertakes and what his common sense dictates an individual must often do in order to transport a firearm. I encourage all of you to support LB666. Are there any questions I may be able to answer for you? [LB666]

SENATOR EBKE: Senator Baker. [LB666]

SENATOR BAKER: Thank you, Senator Ebke. Senator Lowe, it's probably here in this. What if you had your gun in the trunk of your car? Does that still need to be in the case? [LB666]

SENATOR LOWE: No, it would not need to be in a case. [LB666]

SENATOR BAKER: Okay. And that says that here somewhere, the law says that somewhere? [LB666]

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SENATOR LOWE: This bill just basically, if you're carrying the...because a lot of firearms are worth a lot of money, people put them in a case. [LB666]

SENATOR BAKER: Right. [LB666]

SENATOR LOWE: And if you were in a pickup or something, you don't want it in the back, back of the pickup. [LB666]

SENATOR BAKER: Yeah. [LB666]

SENATOR LOWE: It's in the seat beside you but it's in a carrying case. Well, it's not in plain sight if an officer stops you, so we just want to make sure that it's...and if it's in a case, it's not easily accessible either. [LB666]

SENATOR BAKER: I get that. Thank you. [LB666]

SENATOR EBKE: Other questions? Senator Krist. [LB666]

SENATOR KRIST: Yeah, very quickly, two things I would note. The first is this doesn't help you in any way if you're in Bennington and you drive through the city of Omaha to get to The Bullet Hole because, as the law is currently written, even if it's in your trunk in a hard case, if it's not registered, then they will seize and then you'll have to go through the process of getting it back. But this bill would conveniently align itself to make sure that, if properly stored in the trunk of your car in a hard case for transport through a municipality or a city ordinance that would require registration, that it could pass through and pass out of as long as it's not there. So I would suggest that you talk to legal counsel and look at that, because it is a problem for my constituents in Bennington. It's been their number one complaint. They don't want to go out in the country and shoot at the bale of hay. They want to go to The Bullet Hole. And if they pass into Omaha with that gun and it's not registered, then they could have it seized. So I think this is a perfect platform if you intend to take it forward. The second part of it is, I guess, I don't even put my golf clubs in the trunk when it's cold. So I get it. You know, and there are weapons that are very expensive--trapshooting, whatever it might be, plus pistols for shooting. I would not in a non-climate-controlled container, which none of us really have, I wouldn't do that. So I think it's a good discussion. I think you need to get rid of the number and then we can talk about the bill. Thank you. [LB666]

SENATOR EBKE: Any other questions? Senator Chambers. [LB666]

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SENATOR CHAMBERS: The number is what kind of softens my attitude, (laughter) because, you know, the number of the beast was 300 (sic), three score, and 6, and that is a wonderful number if you're on the right side of it. But here's what I was going to ask you. Is this your priority bill? [LB666]

SENATOR LOWE: No, this is not my priority. [LB666]

SENATOR CHAMBERS: And you and I have talked before, so any questions that I might have I will just talk to you, you know, when I see you. [LB666]

SENATOR LOWE: Okay. Can I suggest we hold the bill upside down so it's LB999? Will that help? [LB666]

SENATOR CHAMBERS: Uh-oh, he just cooked his goose! [LB666]

SENATOR KRIST: (Laughter) It's done! [LB666]

SENATOR EBKE: Okay. Thank you. First proponent. [LB666]

DICK CLARK: (Exhibit 3) Good afternoon, Chairman Ebke, members of the Judiciary Committee. My name is Dick Clark, D-i-c-k C-l-a-r-k, and I'm appearing today on behalf of the Nebraska Firearms Owners Association in support of LB666. In December the Nebraska Supreme Court added to the long list of court Opinions interpreting Nebraska's criminal statute prohibiting the carrying of concealed weapons. The citation is in the written version of my testimony. In Nebraska v. Senn the court held that it was possible for a reasonable jury to find a defendant guilty of unlawfully carrying a concealed weapon "on or about his person," even though the firearm in question was in its case and out of reach of the defendant at the time that he was stopped. The Senn decision was in most ways actually not a radical departure from previous precedents. We can look at Goodwin in 1969, Saccamano in 1984, but the Senn decision emphasizes that this criminal statute is very broad indeed. The current law as the court reads it does not merely criminalize carrying a gun as most people would interpret that phrase, but also includes mundane everyday behavior. Walking out of a gun store with a newly purchased handgun in its factory packaging would, under Senn's broad construction of the statute, be actionable as a criminal violation of the law; so would driving home with the gun still in its packaging if your vehicle is a minivan or hatchback or other vehicle without a storage compartment inaccessible from the passenger compartment. Walking into a gun range with a cased, unloaded pistol is a technical violation of the law since no part of the firearm would be visible and since a bag carried in one's hand would surely be on or about one's person. It is

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arguably only the discretion of police and prosecutors that prevents people from being charged with crimes in these scenarios today. This bill would create a clear exception in Nebraska Revised Statute 28-1202 to distinguish normal, everyday behavior from the sort of conduct that the statute was originally intended to prohibit. It would provide that an unloaded firearm in a case, either the factory packaging or another case designed for firearms, is not a concealed weapon for purposes of the criminal statute. It sets a clear, unambiguous legal standard for people to follow. This is not a radical bill. It is narrowly drafted to draw a brighter line between what is legal and what is illegal. Frankly the current law is dangerous and incentivizes gun owners to transport firearms loose in their vehicles, in the open where they are not considered concealed. Whether you like guns or hate them, this bill is better, safer policy than the current law. And for those of us who care about equal protection under the law, it should be important that the law be uniformly enforceable, that it be narrowly tailored to achieve its public safety purpose without punishing innocent conduct or granting arbitrary power to the executive branch. Thank you again for this opportunity to speak today. I would be happy to answer any of your questions. [LB666]

SENATOR EBKE: Thank you, Mr. Clark. Senator Chambers. [LB666]

SENATOR CHAMBERS: Mr. Clark, the only reason I won't ask you any question is because I already said, even before today, I'd talk to Senator Lowe about any ideas or questions that I had, so don't feel ignored. [LB666]

DICK CLARK: Noted, Senator. Thank you. [LB666]

SENATOR EBKE: Any other questions? Senator Hansen. [LB666]

SENATOR HANSEN: Thank you, Chair Ebke. So, Mr. Clark, you're supporting this bill, if I can read between the lines of your testimony, because you feel it's under current law, especially following the Supreme Court case, that it's easy for an otherwise law-following citizen to accidentally create a firearms felony? [LB666]

DICK CLARK: I think that it's happening every day. I think it's unreasonable, the construction of the law, as it's been construed by the court. It's so broad that it goes beyond what most people would recognize is actually, you know, prohibited. And I think many people just casually walking into a gun store, walking into a shooting range, are, as a matter of fact, in violation of the law and it's only because it's not being pursued by the enforcement arm of the government that there's not a criminal proceeding that results. [LB666]

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SENATOR HANSEN: Sure. So that there's...I just...I appreciate that testimony. Thank you. [LB666]

DICK CLARK: Thank you. [LB666]

SENATOR EBKE: Senator Chambers. [LB666]

SENATOR CHAMBERS: In view of that exchange, I do have one question to ask you. Maybe it's more in the way of a statement. The court often gets blamed, and you're not blaming the court, for something. But who is the first one that causes a person to have to go to court? No judge is out there on the street stopping anybody. Who stops the person? [LB666]

DICK CLARK: Well, that would be police officers, Senator. [LB666]

SENATOR CHAMBERS: A what? [LB666]

DICK CLARK: The police, Senator. [LB666]

SENATOR CHAMBERS: The police,... [LB666]

DICK CLARK: Yes, sir. [LB666]

SENATOR CHAMBERS: ...is that what you said? [LB666]

DICK CLARK: Yes, sir. [LB666]

SENATOR CHAMBERS: Okay. And who is it that would write a citation for somebody carrying this gun in a very normal, innocent way? Who would that be? Who would do that? [LB666]

DICK CLARK: Well, I think it would be the same answer, sir. [LB666]

SENATOR CHAMBERS: I didn't get you. [LB666]

DICK CLARK: It would be the same answer as before: the police. [LB666]

SENATOR CHAMBERS: And what was that answer you gave? [LB666]

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DICK CLARK: The local police. [LB666]

SENATOR CHAMBERS: The local police. [LB666]

DICK CLARK: Yes, sir. [LB666]

SENATOR CHAMBERS: And if you did not show up for court when you're supposed to and the prosecutor wanted a warrant issued, the court would be the one to issue the warrant. Who would come and get you? [LB666]

DICK CLARK: You're making this easy for me, Senator: the police. [LB666]

SENATOR CHAMBERS: Who? [LB666]

DICK CLARK: The police. [LB666]

SENATOR CHAMBERS: Well, every time somebody comes in here with anything for the police, they talk about how wonderful they are, you shouldn't be able to look at them hard without it being a felony, and all of such things as that. Well, the only reason this bill is here really is because of the way the police conduct themselves. Is that true? [LB666]

DICK CLARK: I think that you could say that. I think that's fair. [LB666]

SENATOR CHAMBERS: I'm going to say it like the reporter said. The record doesn't record a nod or a shake of the head. [LB666]

DICK CLARK: Yeah, I believe that's fair. It's a concern about what someone who is charged with enforcing the law might do given the breadth of the current law. [LB666]

SENATOR CHAMBERS: Had any of these organizations thought about talking to the chief of police to see what he thought in terms of officers recognizing situations like this, or would he be likely to say it's not for our officers to do that, they have to use their discretion when they approach a situation, and, whereas maybe I would say this or that should be the way, I won't tell them how to exercise their discretion? But you would agree that this all starts with the police. [LB666]

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DICK CLARK: I believe that the police are the point of the spear, so to speak, Senator. And when the policy-making part of government, you and your colleagues, set a rule that is drawn too broadly, can be construed too broadly, I think that it puts many people, including the police, in an untenable situation. I think that we're also in danger of folks going beyond discretion to the point of sort of arbitrary enforcement of the laws and that's very dangerous indeed. [LB666]

SENATOR CHAMBERS: I had another reason for not wanting to ask you questions beside the fact that I said I was going to talk to that senator. But that's all I have. Thank you. [LB666]

DICK CLARK: Thank you, Senator. [LB666]

SENATOR EBKE: Any other questions? I have one question for you. Are you familiar with--I think it's a Senator Schumacher bill--that deals with the definition of a knife? And it's related to a Supreme Court case, too, I believe, and the question of whether or not you can go buy a butcher knife, have it in your Bed Bath and Beyond bag yet and whether or not that can be defined as a concealed weapon. [LB666]

DICK CLARK: I'm not familiar with Senator Schumacher's bill, Senator; however, I do think that many attorneys who work in the criminal defense field would agree that beyond just firearms, the concealed weapons statute is overly broad and reaches many things, like the kitchen knives on the way home from the store and whatnot, that it ought not. We were not able to get the Nebraska Criminal Defense Attorneys Association to testify on this bill today; however, I do know that they're monitoring it and would be happy to work with your committee on that issue. [LB666]

SENATOR EBKE: Thank you. Any other questions? Thank you for being here today. [LB666]

DICK CLARK: Thank you again. [LB666]

SENATOR EBKE: Allergies or a cold? [LB666]

DICK CLARK: Day seven of a cold, Senator. [LB666]

SENATOR EBKE: (Exhibits 1 and 2) Okay. Next proponent. Okay. Do we have any opponents? Do we have anybody testifying in the neutral? Okay. Do we have any letters? We have a few letters on LB666: opposition from the League of Women Voters of Nebraska and a neutral letter from the ACLU of Nebraska. Senator Lowe. [LB666]

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SENATOR LOWE: Thank you, Chairwoman Ebke and fellow senators. LB...is a bill to help address the concerns of gun owners everywhere. This bill has nothing to do with the sale, transfer, or discharging of a gun. It simply clarifies the language for the transporting of a firearm. If LB...the bill... [LB666]

SENATOR EBKE: Just say it. [LB666]

SENATOR LOWE: ...LB666 is not passed the options for gun owners are to keep the weapon in plain sight in their vehicle, which usually means on a seat or the dashboard, or stored in the trunk of the vehicle. These options are not always possible and not always wise. With this bill, the option to put an unloaded gun in a case would once again be doing something Nebraska gun owners would have confidence in doing. If you're a police officer and you walk up on a car that the person is transporting, I was always taught to place your handgun on the dash so the officer knows you have a gun in plain sight and then he's not afraid because he can see the gun instead of having it on the seat next to you where he might lose sight of it. If I was an officer, I would much rather have that gun in a case and know that case is there because it is safer and it truly is out of reach. I would urge all of you to consider supporting my bill and would be happy to answer any further questions. [LB666]

SENATOR EBKE: Questions for Senator Lowe? [LB666]

SENATOR KRIST: Beelzebub. [LB666]

SENATOR EBKE: Okay (laugh). [LB666]

SENATOR LOWE: Thank you. [LB666]

SENATOR EBKE: (Inaudible) thank you. That concludes the hearing on LB666. We will begin the hearing as soon as Senator Bostelman gets here on LB637. We did...I don't think he thought that we were going to move this fast, so. Senator Bostelman, welcome. [LB666]

SENATOR BOSTELMAN: (Exhibits 8 and 9) Thank you. Good afternoon, Chairwoman Ebke and the Judiciary Committee members. My name is Bruce Bostelman; that's B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23 and I'm introducing LB637. LB637 prohibits "disclosure of any applicant or permitholder information regarding firearm registration, possession, sale, or use..." "Any information obtained by the Nebraska State Patrol or any other federal, state, county, or local department or agency regarding firearm registration, possession, sale, or use, whether obtained for purposes of application or issued as a permit or license, is

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confidential and shall not be considered a public record within the meaning of sections 84-712 to 84-712.09. The information shall be available upon request to all federal, state, county, and local law enforcement agencies." The concept of withholding certain records from being publicly disclosed is not a new one in Nebraska. State Statute 84-712.05 provides a list of records which may be withheld from the public by the lawful custodian of the records. This list includes information such as medical records, personal information, and records regarding a student of any educational institution, records which reveal the identity of any public library patron using the library's materials or services, records kept by public bodies which maintain collections of archaeological, historical, or of significance, and others. Not all information regarding firearm permits and application is considered available as a public record. Applications and permitholders under the Concealed Handgun Act is already protected and not considered a public record under State Statute 69-244. The Legislature has seen fit to include these various exceptions to public records over time to address concerns of privacy and changes with technology in society and should continue to do so. LB637 is just another such evolution in our statute necessary to address growing concerns. Currently, if I wanted to purchase a handgun here in Nebraska, I'm required to obtain a certificate from my local police department or sheriff's office, and that form was passed out to you already with the Nebraska one; in addition, may also be required to fill out the Form 4473 of the department of Alcohol, Tobacco and Firearms, and that form was also handed out to you. For each application, I would need to provide information including my name, current address, how long I have lived at that address, my previous address and how long I resided there, (inaudible) number if applicable, date of birth, place of birth, height, weight, and race. There is also a place to include my Social Security number. Providing a Social Security number is listed on the form as optional; however, the form also states that this information will be helpful in preventing misidentification, and many individuals do include their Social Security number on this form. I would also need to provide a driver's license or state or military ID card. Overall this application provides an abundant amount of information which can be used for fraud and identity theft purposes which, when made available to the public, such significant data on any person all in one location provides a quick and easy way for people to gather and misuse this information. Again, this information would still be required when involved in purchasing, leasing, renting, receiving, or transferring a firearm, and law enforcement officials would continue to have access to that information. LB637 simply protects the sensitive information from being disclosed to the public at large. LB637 addresses privacy concerns that go beyond fraud and financial concerns to those of personal safety. There are instances where an individual who may be fleeing from abuse or other negative situation and does not wish to be found or have their address and information publicly available may be hindered without this legislation. If that individual, for whatever reason, wishes to or needs to purchase, lease, rent, or receive a...or transfer a firearm, they, again, are required to fill out all of that personal information, including a current and previous address. That information is currently considered a public record and could easily be used to locate such an individual when that information would not otherwise be readily accessible or available. There are additional safety

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concerns associated with considering this information to be a public record beyond such cases where an individual would wish or need to keep such information private for fear of being found. Since such information is considered a public record, it opens up any individual who owns or has submitted an application regarding a firearm to public dissemination of their identities and information. This can then be used in a criminal or troublesome manner against these individuals. Once such information is public, there is no way to contain it and it can be then used to harass or threaten these individuals. Additionally, making the identities and addresses of these individuals known also provides an opportunity for theft or unauthorized use of such firearms. The personal information of these individuals are not just accessible or used to gather information on a single individual or for a personal basis but can be requested broadly and widely disseminated. Nebraska is not the only state that has considered this type of legislation. Several other states limit or prohibit public access to firearm registration and permitholder information as well. LB637 addresses and provides a proper balance between concerns of safety and privacy and, therefore, I ask you for your support of LB637 and its advancement to General File. Thank you. [LB637]

SENATOR EBKE: Thank you, Senator Bostelman. Do we have any questions? Senator Chambers. [LB637]

SENATOR CHAMBERS: Senator Bostelman, is this your priority bill? [LB637]

SENATOR BOSTELMAN: Thank you. I was looking at doing LB638 but this one could be. I think this one is probably more applicable so we'd consider it. [LB637]

SENATOR CHAMBERS: But you haven't decided yet. [LB637]

SENATOR BOSTELMAN: I have not filed. I have till noon tomorrow. [LB637]

SENATOR CHAMBERS: Okay. That's all that I have. [LB637]

SENATOR BOSTELMAN: Thank you. [LB637]

SENATOR EBKE: Other questions? Okay, thanks. First proponent. [LB637]

PATRICIA HARROLD: Good afternoon again. I'm still Patricia Harrold, P-a-t-r-i-c-i-a H-a-r-r-o-l-d, and I'm testifying on behalf of the Nebraska Firearms Owners Association. Privacy: In this day and age, many of us have given up hope on our right to choose what personal information is made public. From clandestine collection from our smart phones and televisions, recently

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reported on the news, to hackers gaining access to our medical histories and college academic testing scores, a lot of our information is already out there. However, the importance and significance of privacy has not lessened. From the Privacy Act of 1947, the Firearm Owners' Protection Act of 1986, to HIPAA, protection of personal information from disclosure has been recognized as a responsibility of the government, private business, and other organizations. Organizations which have failed to protect the personal data have been held responsible for the criminal use of personal information and millions of dollars have been spent to protect from or mitigate the effect of criminal use of personal information. In January of this year it was reported the Department of Justice for the State of California released the personal information of 3,500 firearms instructors to include dates of birth and driver license numbers. California Attorney General Kamala Harris warned the instructors to place a fraud alert on their credit to stop any identity theft that could inadvertently occur. A citizen's choice to purchase or own a firearm is not information which, if divulged, would serve the public any good. Whether the citizen is a firearm enthusiast, an avid hunter, a domestic violence victim who chooses to arm themselves to protect themselves and their children, each of these citizens deserves protection from any form of disclosure to the public. By sharing just the name of the firearm owner, the state has now placed an undue burden on the citizen. There are individuals who would relish in getting access to this information. Why would we make it easier for criminals to know which home to break into? Why would we make it easier for criminals to steal firearms to use in future crimes? Why would we make it easier for them to violate our citizens? In much the same way any citizen would feel threatened if the fact they owned and stored high-end valuables such as jewelry or antiques in their home became public record, so does the firearm owner. I welcome any questions. [LB637]

SENATOR EBKE: Any questions for Ms. Harrold? Thank you for being here today. [LB637]

PATRICIA HARROLD: Thank you. [LB637]

SENATOR EBKE: Next proponent. [LB637]

ROD MOELLER: Good afternoon, Senator Ebke, members of the Judiciary. Again, my name is Rod Moeller, R-o-d M-o-e-l-l-e-r. I'm speaking on behalf of LB637 on behalf of the Nebraska Firearm...Nebraska Sportsmen's Foundation. The NSF does support this bill; it's a very important bill for us. Sportsmen have been targets of aggressive harassment in the past via social media, e-mails, texts, in the field while hunting, you name it. Firearms records are just another source of data that have been exploited by some aggressive "antis." We've seen situations in New York and many other states where a newspaper has decided they're going to publish a list of gun owner data in the newspaper or groups posting stuff on their Web sites, on a blog or whatnot. All citizens are placed at greater risk when this type of thing happens. When firearms records are

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released, both owners and nonowners are at risk. You can imagine that firearms owners can become a target because if somebody knows you're on vacation, your house may be a target for theft, which is how illegal guns get on the streets by criminals, and it also places nonowners at greater risk of a hot break-in which, you know, nobody wants to have their home broken into but having somebody break in while you're there is that much worse. And if somebody knows or has reason to believe that while you don't believe in guns, therefore, you won't have one, that you're an easy target, I can break in whether you're home or not. There is no public benefit that exists when these records are exposed and exploited. We've had several other bills in the past that have tried to address some of the harassment issues related to electronic harassment and whatnot and this is just another piece to help protect people from exploitation of that information. I am willing to answer any questions. [LB637]

SENATOR EBKE: Any questions for Mr. Moeller? Guess not. Thank you. Are there any other proponents? Okay. Any opponents? [LB637]

DANIELLE SAVINGTON: Good afternoon again, Senators, Chair Ebke. My name is Danielle Savington; that's D-a-n-i-e-l-l-e S-a-v-i-n-g-t-o-n. And I'm testifying today on behalf of Nebraskans Against Gun Violence in opposition to this bill because, Senators, if I came to you today and I said, guys, we need to put a law against traveling by jet pack on the books, you would say, why? And I would need to have some reason to convince you that traveling by jet pack is dangerous and we need to have a law against it. How do we get that data? We get that data by tracking information and compiling it and creating statistics and data that's...at the core of every law is the data as to who the law will benefit, who it will protect, who it will ensure the safety of. One way that we get the data is by tracking the occurrences that are in our data projectiles. We can't do that when it comes to gun violence in a lot of ways. And that's one thing that we've heard a lot of testimony today about the "antis" want to exploit this and there's no public use for it when, in fact, there is. The CDC is barred from tracking information using federal funds, so these government agencies that you're saying that this bill would allow to have this data, this information, they don't have the ability and the funding to provide this data and track it to see, in fact, are there crimes that are being committed by concealed carry permitholders. There's no ability to track that information. The tracking of gun violence crimes comes from nonprofit organizations, universities, grants, and studies that track what information is publicly made available. However, if we obscure this data and we keep it protected, they don't have the information to go on. So in fact, when people say gun...lawful gun owners who have concealed carry permits don't commit crimes, that's not an authentic statement. We can't prove it. We can't disprove it. If, in fact, they are law abiding and not committing crimes, then the ability to track that would benefit their cause just as much as it would benefit someone who complained about concealed carrying. Further, there has been discussion about domestic violence victims needing to be able to keep their information private. Well, we have redaction policies in place for domestic violence victims throughout the court system. It wouldn't be that difficult to create a

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redaction process in this as well. But on that same line, if we're going to protect gun violence victims from having their information had, doesn't the gun violence victim have the right to know whether their abuser has access to a firearm? There are a lot of victims of domestic violence whose abusers still maintain their gun rights. And lastly I would just say that when we contemplate how we track this information and how we keep track of it, unless we're going to fund a governmental agency to keep tabs on the information that only they have access to, really, in truth, we need to allow this information to be accessible to the public. That's how we know that Medicaid expansion has its proponents in the state is earlier today a woman testified about losing her husband due to his lack of healthcare. It's also how we...I'll stop. Thank you. [LB637]

SENATOR EBKE: Thank you. Any questions for Ms. Savington? Senator Halloran. [LB637]

SENATOR HALLORAN: Thank you, Madam Chair. So there's no...and there may not be. I don't know. But there's no methodology for you to query with the State Patrol or with any other law division within the state to query whether anyone has lost their permit to carry because they have killed somebody? [LB637]

DANIELLE SAVINGTON: That documentation is actually not compiled. There is no clearinghouse of information on a state level or a national level that keeps track of the circumstances by which that happens. The ways that several organizations have attempted to gather that information is by paying attention to news sources because frequently a news source will document, you know, the accused held a concealed carry permit or it was an unlawfully possessed firearm. But that's not an authentic and comprehensive way to document how many people have these, how many people have had nonviolent infractions--say, for example, they violated a signage ordinance and, thus, lost their concealed carry permit status--versus how many concealed carry permits were lost due to violent actions on behalf of the holder, how many were defensive gun uses. That information isn't compiled anywhere through state law enforcement channels at this point, so we wouldn't have (inaudible). [LB637]

SENATOR HALLORAN: Well, I think even if I wasn't a senator I could probably find out whether or not statistically any concealed carry permitholders in Nebraska have lost their permit, period. [LB637]

DANIELLE SAVINGTON: Could you do it without relying on John Lott's discredited studies? [LB637]

SENATOR HALLORAN: Without relying on which? [LB637]

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DANIELLE SAVINGTON: John Lott's discredited studies. Because I would posit that information isn't accessible to anyone because that information isn't compiled, so we don't know how many...we don't know how many concealed carry permitholders are in Nebraska that have lost theirs due to minor infractions or violent infractions because there's no stockpile of that unless you had someone with the manpower to look through every JUSTICE case on the net, look for what were they charged with, what were they convicted of, and what were the sentences of that conviction. [LB637]

SENATOR HALLORAN: So you've made inquiries and haven't been able to find out that information. [LB637]

DANIELLE SAVINGTON: We have. We've done what we can as a nonprofit organization to find out. [LB637]

SENATOR HALLORAN: I would just...I would just...okay, that's fine. [LB637]

SENATOR EBKE: Other questions? I would just note that a year or two ago my office talked to the State Patrol and we did get not specific in terms of the offenses, but we did get a number in terms of what percent of the concealed carry permitholders were not renewed or had it removed in the last five years because the renewals are, what, every five years, as I recall, so. [LB637]

DANIELLE SAVINGTON: And I think that's a good start for looking at that information. But I really think when we're talking about, you know, do we need signage changes, do we need carry in...you know, like Senator Lowe's bill just was, how are they carried in cars? It would be a good idea to know how many people are actually affected by problems with signage or problems with how guns are carried in vehicles, if we had some of these data points to back up whether or not these laws are even necessary, if they benefit people, or if they're superfluous. [LB637]

SENATOR EBKE: So you would be okay with data that had no names attached and addresses and things like that, if you just have the data without any names? [LB637]

DANIELLE SAVINGTON: I think that there could be a strong argument for that. If we had a clearinghouse for that data and we were keeping track of it, I think that would be a reasonable start because, you know, at the end of the day there is a privacy interest in not having your personal spending habits--and I would argue that purchase of firearms is a personal spending habit--splashed all over the Internet for anyone to see. I think that it would be...as long as that information was kept, you know, to localities, if we could track, you know, what are the sorts of firearms that are being...yeah, since we're talking about concealed, we know we're not talking

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about shotguns, but, you know, what are the age ranges that people are obtaining these concealed carry permits and purchasing handgun permits. If we knew their age ranges, if we knew...and we could track those things to break it down and kind of see where do we need to address gun violence issues and where are people behaving in a lawful and safe manner. [LB637]

SENATOR EBKE: And what if you found out that concealed carry permit holders have like a 0.1 percent revocation rate? Huh? I mean, what if you found out...would this discussion be happening? [LB637]

DANIELLE SAVINGTON: You know, I don't know whether it would or not for me personally. And I'll take off my NAGV hat and I'll just testify as to me personally. [LB637]

SENATOR EBKE: Sure, sure (inaudible). [LB637]

DANIELLE SAVINGTON: For me personally, I would not have that same conversation with you but I would look to other areas where we hold a 0.1 percent responsible for the whole, you know, and I would say, you know, we're talking about publicizing refugee information and we're okay with that, you know, or we consider being okay with that but we want to protect someone who wants to own a handgun in a community. And we look at statistically what's the likelihood of a refugee committing an act of violence versus a concealed carry permit holder committing an act of violence and if they're both 0.001 percent, maybe we don't have these conversations about any of them. So I think we're being more careful of the gun owner than we are other demographics in society and we're doing that without any data to back it up. [LB637]

SENATOR EBKE: Okay. Thank you. Any other questions? Okay. Thanks for being here. Next opponent. [LB637]

COURTNEY LAWTON: My name is Courtney Lawton, C-o-u-r-t-n-e-y L-a-w-t-o-n, and I am testifying on behalf of Nebraskans Against Gun Violence in opposition to LB637. It may appear that LB637 is superfluous as a bill. Nebraska Revised Statute 69-2444 already states, "Information relating to an applicant or to a permit holder received or maintained pursuant to the Concealed Handgun Permit Act by the Nebraska State Patrol or any (other) law enforcement agency is confidential and shall not be considered a public record within the meaning of sections 84-712 to 84-712.09." What LB637 intends to do is much more pernicious and could be detrimental to data-driven policies and laws concerning gun violence in Nebraska. LB637 widens the scope of secrecy and suppression of data concerning firearms. It states, "Any information...regarding firearm registration, possession, sale, or use...is confidential and shall not be considered a public record..." What does the gun industry have to hide? Shouldn't lawmakers have readily available statistics to make sound laws? Wouldn't carefully collected and archived

data make it easy to spot bad actors in gun retailing? Doesn't the public have the right to know the rates of violence perpetuated on a community by handgun permitholders? Shouldn't epidemiologists who study morbidity and mortality be allowed to examine data about gun violence? Wouldn't it be helpful to know the rates of domestic violence ending in handgun-related deaths by those who legally own weapons? No. No, it would not if you're the gun industry. The gun industry wants to suppress data that may reflect their industry in an accurate light. LB637 is crafted in such a way as to appear to be harmlessly redundant but what it really does is suppress the collection of data that will allow the state of Nebraska to regulate the firearms industry, that part of the Second Amendment that reads "well regulated," because it is designed to starve policymakers of data related to who commits crimes with which sorts of weapons and whether those weapons are held by concealed handgun permitholders and so forth, by making that data inaccessible to analysts and researchers. It would appear that protecting an industry that takes the lives of over 45,000 Americans last year alone and earned over \$49.3 billion is more important than protecting the private lives and data of Yazidi, Kurdish, Congolese, and Karen refugees. The Nebraskans Against Gun Violence oppose the advancement of LB637 to the floor of the Unicameral. Thank you, and I'm happy to entertain any questions. [LB637]

SENATOR EBKE: Any questions for Ms. Lawton? Senator Halloran. [LB637]

SENATOR HALLORAN: Madam Chair. Can you provide us with, and these don't have to be very specific, relatively specific statistics on illegal guns owned by people and how many people that have illegal guns have used them to murder someone? [LB637]

COURTNEY LAWTON: No, I don't have that data. [LB637]

SENATOR HALLORAN: Why not? [LB637]

COURTNEY LAWTON: Because I didn't prepare that data for my testimony. [LB637]

SENATOR HALLORAN: Do you think that would be important to have? [LB637]

COURTNEY LAWTON: I think that it would be important to have that data for lawmakers creating laws, yes. I think that data-driven policies are the best policies. [LB637]

SENATOR HALLORAN: Okay. How would that data be acquired, would you say? [LB637]

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COURTNEY LAWTON: Generally speaking, that data is acquired right now by volunteers who write computer code that scrape the Internet for mentions of gun violence right now. [LB637]

SENATOR HALLORAN: I'm talking about the statistics of the number of guns that are illegally owned right now in this country. [LB637]

COURTNEY LAWTON: I don't know how one would gather that data unless one were looking, for example, for prosecution. You'd have to establish. I mean, I don't know. U.S... [LB637]

SENATOR HALLORAN: Nobody knows. I'm asking this question because it's impossible to gather that information. [LB637]

COURTNEY LAWTON: It is not impossible. [LB637]

SENATOR HALLORAN: Yeah, it is. [LB637]

COURTNEY LAWTON: I'm just not sure how to do it. Nothing is impossible for data engineers. [LB637]

SENATOR HALLORAN: Okay. Well, okay, if you can get people that illegally own guns to clarify or to admit that they own guns illegally so you can gather that data, I think that's...that will be the first hurdle that you'll (inaudible). [LB637]

COURTNEY LAWTON: I bet we could do statistical modeling. I bet that would be possible. [LB637]

SENATOR HALLORAN: Well, you can do that on concealed carry gun holders as well. Statistical modeling may be sufficient possibly. Thank you. [LB637]

COURTNEY LAWTON: Well, the problem is if we can't collect data, if we can't collect raw data. And I agree with Senator Ebke when she had been talking to Ms. Savington about, you know, "anonymizing" this data. I think that it's possible to "anonymize" data. In fact, I've worked on studies where data has been "anonymized." And that data is really important. But the problem is that we've faced some pretty severe restrictions with the collecting and scraping of data, particularly by prohibitions against funding the CDC for this. And it just seems to me that the Unicameral should be concerned about creating laws and policies that are data driven instead of trying to suppress data and then making laws based on conjecture. [LB637]

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SENATOR HALLORAN: I can't differ with that but I don't think anyone is suppressing data but it's...I think my concern is that you're looking at the tip of the iceberg that's above the sea level as far as something that's of concern to the safety of Nebraskans. Below the sea level a huge chunk of that iceberg are those guns that are out there illegally. Permitholders are people...I hate to use the word "law abiding," but, frankly, they're law abiding. They go through some degree of rigorous training to get their permit and they're not going to do things to lose that permit. It's important to them. I think if there were any murders done by a concealed carry permit, the World-Herald would, believe me, the World-Herald would have it splashed on the front page. [LB637]

COURTNEY LAWTON: Well, as you know, a concealed handgun permitholder murdered three Muslim students in Chapel Hill, North Carolina, and so...and that was in 2015. And so one of the things that this bill does is that it contains language that says any information regarding firearm registration, possession, sale, or use, so that, I mean, possession, sale, use, that means that private sales, which, by the way, do not require handgun purchase permits, those sales, you know, researchers wouldn't be allowed to collect data on those sales in order to say, oh, hey, we have this many people who do, say, firearm trusts, like what happens to those guns. Like, we need to be able to track this stuff to make reasonable laws and I think that LB637 is designed to suppress the collection of data. [LB637]

SENATOR HALLORAN: Well, I think until you come with some statistical data on illegal guns, then I think maybe your object here will be more important to me personally, at least. But I appreciate your testimony. Thank you. [LB637]

COURTNEY LAWTON: Okay, thank you. [LB637]

SENATOR EBKE: Any other questions? Thank you for being here. [LB637]

COURTNEY LAWTON: Thank you. [LB637]

SENATOR EBKE: Next opponent. [LB637]

SARA FURR: Hello. My name is Sara Dodder Furr; that's S-a-r-a D-o-d-d-e-r F-u-r-r. Since the passage of LB454 in 2006, which took effect in January 2007, individuals in Nebraska have been able to apply for and be issued concealed carry permits. There is a statute in place now which we've already heard about, Nebraska Revised Statute 69-2444, which protects the confidentiality of applicants and the permitholder's pertinent information. I believe that LB637 greatly expands the information which would be kept confidential. If this bill is passed, it would broaden the

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confidentiality provision to include information regarding firearm registration, possession, sale, and use. Such an expansion denies the ability of any agency or researcher to obtain and analyze data related to firearms in the state of Nebraska. I work in DHHS Public Health and I see gun violence as a public health problem. And I work with data all day long and so I look at it from that point of view. Just a few days ago, on March 2, Omaha KETV Channel 7 aired a story about a man named Jared Clawson who was shot in the parking lot of Nebraska Furniture Mart where he had worked for 20 years. Jared survived but he has been hospitalized since the January 11 shooting, recovering from life-threatening injuries. Gun violence is responsible not just for deaths but for also the harm to life and that harm can last a lifetime. We can see that just by going to Madonna Rehabilitation Hospital. I'm sure you would meet several people. We must preserve the loss of life but also for the harm to life. We must preserve the ability of epidemiologists and other researchers to obtain data to help us understand the nature of gun violence, including the prevalence of gun violence, factors influencing it, and strategies to combat it. Right now it seems like all we have is the numerator for a lot of the statistics that we want to know but we don't know what the denominator is. I don't even know how many people have concealed carry permits in Nebraska. So if I knew how many concealed carry permit holders had shot and killed someone, I still wouldn't know the percentage because I don't know the denominator. So I am opposed to LB637. I'm happy to answer any questions. [LB637]

SENATOR EBKE: Any questions? Got a little information. This is as of last August of 2015. As of July 31, 2015, State Patrol showed 40,378 active carry permits. Revocations in 2014 were 90 potential revocations; 65 of the 90 involved initiated revocation proceedings. (Phone recording sounds.) Good. (Laughter) [LB637]

SARA FURR: I should have asked Siri. [LB637]

SENATOR EBKE: Okay. And then...we should have asked Siri. And then 87 potential revocations, 42 of those involved initiated revocation proceedings. That means initiated by law enforcement. In 2014, there were 119 applications denied and through the middle of July...or the end of July 2015 there had been 82 applicants denied. So there's a little data for you. [LB637]

SARA FURR: How many concealed carry permit holders are there? [LB637]

SENATOR EBKE: Forty thousand, three hundred and seventy-eight as of July, so, of 2015. [LB637]

SARA FURR: That's incredible in a state this size. That shocks me. [LB637]

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SENATOR EBKE: Okay. [LB637]

SARA FURR: Anything? [LB637]

SENATOR EBKE: Any questions? Thank you. [LB637]

KORBY GILBERTSON: Good afternoon, Chairwoman Ebke, members of the committee. For the record, my name is Korby Gilbertson; it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of Media of Nebraska, Incorporated, in opposition to LB637. Some of my...some of the discussion I was going to have with the committee has already been had, but I wanted to kind of highlight issues or...made up and first I should back up and explain. Some of you might not know what Media of Nebraska is. Media of Nebraska is an organization made up of both print and broadcast news media in the state. However, our organization's interests are limited to those of open meetings, public records, and the First Amendment, so that's why this bill is of particular interest. First of all, Media has general issues or concerns any time you want to add any more exemptions to public records act. Obviously there's already 20-plus of them in effect. We think that there needs to be a pretty strong argument why you want to take out any additional information from the public's ability to look at it. Secondly, and more specifically to this piece of legislation, is that this bill is fairly broadly worded and that concerns us in that it includes any information regarding the possession, sale, or use, regardless of how it's...those two ways that if it's obtained, is a private record. Our concern with this is if you have any court record, if you had a court filing by a prosecutor that alleged a crime and included someone and included this type of information, that information would then be private. We think that that is not in the public's best interest and for these reasons we oppose the bill. Be happy to answer any questions. [LB637]

SENATOR EBKE: Thank you, Ms. Gilbertson. Any questions? I see none. Thank you. [LB637]

KORBY GILBERTSON: Thank you. [LB637]

SENATOR EBKE: Senator Morfeld has joined us. Welcome. [LB637]

SENATOR MORFELD: Medicaid expansion is going to fly out of the Health and Human Services. [LB637]

SENATOR EBKE: Okay. [LB637]

SENATOR MORFELD: That's all I have to report on. [LB637]

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SENATOR EBKE: Okay. [LB637]

SENATOR PANSING BROOKS: Good! Money to the state! [LB637]

ELLE HANSEN: Good afternoon, Senator Ebke, members of the committee. Elle Hansen, E-l-l-e H-a-n-s-e-n. Big concerns with this bill, first being the introducer is part of a group that I hear hemming and hawing from the floor of the Legislature about transparency about half constantly these days. This bill represents anything but transparency. Very frankly, I think that when they use the term "transparency," they're talking about transparency when it suits them and only when it suits them. Concerns that have previously been raised throughout the testimony given during this committee hearing is address confidentiality for victims of domestic violence. There's a remedy for that that's already in place. It's our address confidentiality program through the Attorney General's Office which is funded through the state. I heard allegations of harassment and threats and crime. Well, my point is those are crimes and I believe that the individuals who testified to that effect were not being truthful because if I had been the victim of harassment and it came to a committee of the Legislature and was wanting a bill passed based on harassing contact that I had received, I would certainly be bringing references to hand out to the committee to attest to the fact that I had, in fact, reported the crime, and hopefully that the people involved in those acts of harassment had at least been investigated and/or cited. Concerns that I also heard would be like that the information about concealed carry permits would be available on the Internet. So far as I know at this point in time, they are not. And so far as I know, there have been several instances in the past three years that I have had to make public records requests, and I had to make them in writing to the state office or entity. They were not readily available on the Internet. And so if anyone were to subsequently harass a person that they had obtained information in regard to a concealed carry permit, there would be record in writing of that person seeking that information about...and then like the content of that request would be available. So I think those are just a few of the concerns that I think I have, that have been overlooked. And so I wanted to share them with you. I would ask that the committee not advance this bill. Thank you. [LB637]

SENATOR EBKE: Thank you, Ms. Hansen. Any questions? Guess not. Thank you. [LB637]

ELLE HANSEN: Thank you. [LB637]

SENATOR EBKE: (Exhibits 1-7) Other opponent testimony? Do we have anybody testifying in the neutral capacity, really neutral this time? Okay. With that, Senator Bostelman, I'm going to read in the letters and you can come on up. We have letters in support from John Slaga; Derek Johnson; Keith Brown of the Nebraska Council of Sportsmen's Clubs; and Christopher Kopacki from the National Rifle Association of America; in opposition we have Rodney Cupp and Kate

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McDougall of the National Association of Social Workers; and in the neutral capacity, the ACLU of Nebraska. Senator Bostelman. [LB637]

SENATOR BOSTELMAN: Thank you, Chairwoman Ebke and Judiciary Committee, and thank you for everyone who came and testified today. I appreciate the conversation and your testimony. LB637 addresses a privacy concern. This concern is not unusual to states. I've got a list of several states that already do provide no public access: Alaska, Arizona, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New Mexico, North Dakota, Oklahoma, Pennsylvania, South Carolina, South Dakota, Utah, Washington, Wisconsin, and, recently, New York State enacted similar legislation, for the reasons that we talked about during my opening. There are already many exceptions to public records including applications of permitholders under the Concealed Handgun Act and LB637 simply offers all other permit...firearm permitholders that same privacy. This bill would provide clarity and consistency regarding these records and public access. And it seems to me that during our conversation here, during testimony here, we can find the data. The data is accessible. It's the privacy that this bill addresses that we're looking at. It's having the name, the address, the location specific on those. We still can come up and find the data that we're talking about without having to divulge the privacy concern. If it's in the courts it's obviously public record, once it hits the courts if there has been a crime committed and you request that information. LB637 still requires that permitholders fill out such applications and law enforcement officials would still retain access to such information. This bill simply prevents this information from being considered a public record and being made available to the public at large. Again, I ask for your support of LB637, its advancement to General File. Thank you. [LB637]

SENATOR EBKE: Thank you, Senator Bostelman. Any questions? Okay. Thank you. [LB637]

SENATOR HANSEN: Thank you. [LB520]

SENATOR EBKE: This closes the hearing on LB637. We will begin with LB520. Senator Hansen. [LB520]

SENATOR HANSEN: Thank you. [LB637]

SENATOR EBKE: Saved the best for last. (Laugh) [LB637]

SENATOR HANSEN: Hopefully. All right. Ready? [LB520]

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SENATOR EBKE: Go right ahead. [LB520]

SENATOR HANSEN: Good afternoon, Chairwoman Ebke and fellow members of the Judiciary Committee. My name is Senator Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB520. This bill would implement a system to notify law enforcement officials when purchasers prohibited from owning a handgun by state or federal law attempt to get a handgun purchase permit or a concealed carry permit. Under current law, persons attempting to attain a handgun in Nebraska must undergo a background check from the National Instant Criminal Background Check System in two instances. The first is when they apply for a certificate to purchase, lease, rent, or receive transfer of a handgun from the sheriff's office; or (2) when applying for a concealed carry...concealed handgun permit from the Nebraska State Patrol, which then can also serve as their certificate to purchase, lease, rent, or receive transfer of a handgun. LB520 would require a sheriff's office or the Nebraska State Patrol, upon receiving a notification of denial from NICS, to share that denial with the Nebraska Crime Commission. The commission would then, in turn, share notifications with the Attorney General, the United States Attorney for the District of Nebraska, county attorneys, and to law enforcement agencies that have relevant jurisdiction to the denied application. The commission has told me that they believe that they can do that with an addition to the existing framework of NCJIS, the Nebraska Criminal Justice Information System. The bill would also require annual reports on the number and final disposition of denials to be filed at the commission, and for an annual report to be created by them. This bill follows a similar concept that I proposed last year before this committee in LB1090 with a significant change being that the new system would be housed within the Nebraska Crime Commission. Just to clarify a couple things, this bill does not change who is a prohibited possessor in Nebraska, nor does it add or change any penalties. It also does not require any additional investigation from any law enforcement agency, just adds the reporting requirements of the issues that were referred to them. I have been working on this concept for over a year now and have had many productive conversations with stakeholders, including the Crime Commission, the State Patrol, the Lincoln Police Department, and others, resulting in this newest version of this bill. I will note, to Senator Chambers' likely question, that this is not going to be my priority this year and there is an existence of a significant fiscal note which will make it unlikely for the bill to advance in a forum this year. But as always, I will continue to work with stakeholders and the committee to make sure that we have an effective system for alerting the law enforcement community. With that, I'll take questions on the bill. [LB520]

SENATOR EBKE: Questions for Senator Hansen? I see none. Thanks. [LB520]

SENATOR HANSEN: Thank you. [LB520]

SENATOR EBKE: First proponent. [LB520]

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JAN HOBBS: (Exhibits 5 and 6) Hello, Chairman Ebke, members of the committee. For the record...Chairwoman, I'm sorry. [LB520]

SENATOR EBKE: It's okay. [LB520]

JAN HOBBS: For the record, my name is Jan Hobbs; that's J-a-n H-o-b-b-s, and I am here today to testify in support of LB520. I'm here to testify both as a member of the Nebraska chapter of Moms Demand Action for Gun Sense in America and also as a survivor of gun violence myself, so. And I want to thank you all so much for the opportunity to speak today about LB520, which is a bill to alert law enforcement when a criminal breaks the law and tries to purchase a gun. As we know, it's a federal offense for a prospective gun purchaser to lie about their prohibited status on the background check form that he, she, or they fills to purchase a gun at a licensed gun dealer. But in 2009, only 6.6 percent of the 71,000 denials that year were referred to ATF field offices for investigation and only 140 of those cases were recommended for prosecution. States and localities can fill this gap by investigating failed background checks. In Pennsylvania and Virginia, where in-state authorities conduct background checks instead of the FBI, those two states have programs in place to pursue people who break these laws and the results are very impressive. In 2014 alone, Virginia law enforcement arrested more than 500 criminals, fugitives, and others who tried to buy guns illegally. In 2013, failed background checks in Pennsylvania gave rise to 620 investigations and these, in turn, resulted in 346 arrests and more than 200 convictions. Prohibited people who attempt to buy guns are extremely dangerous. The most common reason for a failed background check is that the would-be gun buyer is a felon or a domestic abuser. As a mom and a concerned citizen, I want to make sure that my family and friends are being protected from gun violence through the background check system that we have in place in our state. LB520 would allow the Nebraska State Patrol to alert law enforcement and prosecuting attorneys on the federal, state, and local levels when a prohibited person fails a background check, helping ensure that authorities have the tools to go after dangerous people before they can arm themselves. So I urge you to vote in favor of LB520 which would maybe keep us safer from criminals and people who should not have access to guns in the first place. And I want to point out that one of the sheets that was passed out includes the sources for the statistics that I cited in here. So just...I'd happily answer any questions. [LB520]

SENATOR EBKE: Thank you, Ms. Hobbs. Any questions? [LB520]

JAN HOBBS: Thank you again so very much for your time. [LB520]

SENATOR EBKE: Next proponent. Do we have...no? [LB520]

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MO NEAL: This is short. I'm not going to sit down because my knee hurts, so if you'll bear with me. Mo Neal (inaudible)... [LB520]

SENATOR EBKE: Just talk into the mike and make sure you spell your name. [LB520]

MO NEAL: Oh, I'm sorry. Mo Neal, M-o N-e-a-l, I'm here as a private citizen and also as a Nebraskan Against Gun Violence. This today was the only bill that made any sense to me because it would set us on a path towards accumulating data that we could use for research to answer some of Senator Halloran's many questions about data. If we don't have the data, we don't have anything, so I fully commend Senator Hansen for bringing this bill forward. It's a start to help prevent more of the kinds of crimes that we've been dealing with. Thank you. [LB520]

SENATOR EBKE: Thank you. Any questions? Guess not. Thank you. Next proponent. [LB520]

ELLE HANSEN: Good afternoon. Senator Ebke...Chairwoman Ebke, members of the committee, Elle Hansen, E-l-l-e H-a-n-s-e-n. I obviously appear in support of Senator Hansen's bill with the rationale also echoing that of Ms. Neal and Ms. Hobbs. We do need to collect the data. We do need to know when criminals are attempting to buy guns. I believe that if this statute were in place, that it's very likely that my 20-year-old little sister who was murdered this summer would still be alive because the individual would have likely been caught closer to the time that he purchased the firearm that killed my sister. So I would encourage the committee to advance this bill to the floor of the Legislature. [LB520]

SENATOR EBKE: Okay. Thank you. Any questions? Thanks. Next proponent. Any other proponents? I see no one moving. Next...first opponent. [LB520]

DICK CLARK: (Exhibit 7) Chairman Ebke, members of the Judiciary Committee, my name is Dick Clark, D-i-c-k C-l-a-r-k, and I'm appearing today on behalf of the Nebraska Firearms Owners Association in opposition to LB520. Nebraska Revised Statutes Section 67-2403 mandates that any person desiring to get a handgun apply to their chief of police or sheriff for a certificate. That local official collects the authorized fee and has three days to conduct a check on the applicant and either issue the certificate or deny the application. The purpose of this check is to determine whether there is some legal reason why the applicant's having a handgun would violate federal, state, or local law. If that check turns up a problem, 67-2405 requires that the local office notify the applicant of the denial and provide specific reasons in writing for the denial. The applicant then has the right to appeal that action within 10 days, under 69-2406, in the county court, which is directed to issue its decision within 30 days. Senator Hansen's bill says that if a person wants to acquire a handgun and follows our law, a denial will mean that the state of Nebraska is going to demand that a report be filed and it is going to pressure local

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officials to investigate the possibility of prosecuting him. And that chain of events is initiated immediately upon denial with the Nebraska Commission on Law Enforcement and Criminal Justice being required to make an evaluation of the report within 72 hours. My question is, why? This is a person, the applicant, who is following the law and dutifully asking their local law enforcement official to tell them if they are legally allowed to acquire a handgun. It is not a crime to apply for a certificate and be denied. A certificate is not related to a specific firearm and the fact that a person applies for a certificate does not imply that they have attempted or are attempting to take transfer of a firearm in a manner that would violate the law. This bill is bad policy for several reasons: (1) it disrupts the statutory due process afforded to people denied certificates; (2) it creates new unfunded mandates for county attorneys and local law enforcement; and (3) it pressures those local officials to treat with official suspicion behavior that is not suspicious. Despite the best efforts of judges and lawyers, there are many people who do not realize that they have a legal disability that prevents them from lawfully possessing firearms. I can provide examples if you like. I've represented these folks as an attorney in the appeals process. Sometimes the local department makes a mistake in issuing a denial. More often, though, the application was submitted without adequate supporting documentation or the applicant learns that he was mistaken about how a past conviction or past hospitalization impacted his rights. We should want these people to be able to ascertain their legal rights in the manner in which they are directed by the existing statute without fear of unwarranted reprisals. Thank you again for this opportunity to testify and I'd be happy to answer your questions. [LB520]

SENATOR EBKE: Thank you, Mr. Clark. Any questions? You answered all of mine so very good. Thank you. [LB520]

DICK CLARK: Thank you. [LB520]

SENATOR EBKE: (Exhibits 1-4) Any other opponents? Do we have anybody testifying in a neutral capacity? Senator Hansen. I've got some letters: a letter of support from the League of Women Voters of Nebraska; I've got a letter of support from Kaleigh Nelson of the National Association of Social Workers; opposition from Shakil Malik, the Nebraska County Attorneys Association; and a letter in the neutral capacity from the ACLU of Nebraska. Senator Hansen. [LB520]

SENATOR HANSEN: Thank you, Chairwoman Ebke and members of the Judiciary Committee. I appreciate you all hearing this bill today. I know I'm the last bill in a long day so I'll try and be brief. A couple things I do want to address. Nowhere in the bill does it require an investigation. I know the fiscal note and the State Patrol feels that they are required. I am disappointed that they have that interpretation. I literally had a meeting with them saying I didn't want to do that, what

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language can we do to make that not happen in order to reduce their fiscal note and we ended up here. So I'm not sure where the miscommunication in the chain happened, but that did. So this is kind of a continuation of a process and a lot of information that I wanted to put forward. And I was thankful of the questions that some of the testifiers came back actually earlier in the session on LB81, which was Carol Blood's--Senator Blood's--bill related to the fees for this application to purchase, license, or rent. If you all remember, it was \$5 and we suggested increasing that. And as you heard that day, there were a lot of components in our current background check system that are not as well automated or computerized or even working together, even within the same department, as one might think. Personally, I've talked with some sheriff's departments where, once they've issued a permit, their main way of checking to see whether or not someone has lost a permit by receiving a conviction is to check the newspaper. That's a little bit about where we are today kind of in terms of some of our background check law. We're one of the few states that's a partial point of contact service under the background check system. Most states are one way or the other, so we do the state through the sheriff, the chief of police, or the State Patrol does it for handguns. But we let the federal government do it for long guns. And those are done at the point of sale at licensed firearm sellers. I guess my point in putting a lot of this information on the record is it's been my experience working with the stakeholders, talking with how this is implemented in practice, that we probably need to start shining a little bit more light on how our system works, and not necessarily even in a...I'm disappointed in the "pro" and "anti" terms thrown around today, but just this isn't...doesn't seem to be working well for our county officials. And I think our county officials would hopefully appreciate that we could get this system working better in some capacity. In terms of...I was excited to point this out during your previous testimony questioning, Senator Halloran, about the reports. Part of this in my research on this is there's actually a report that was required by the Legislature. It's in a section that I amend, so it's on the bottom of page 5 of our bill. And it's about the automated criminal history files and if you see...bottom of page 6, it's Section 5, to top of page 7, we have something that we wanted to be...in our legislative intent we use the phrase "implemented as soon as possible on or after January 1, 1995." To my knowledge, that has never been implemented. We are over 22 years later because we never hit the statutory trigger that followed lower in the section. So that's an annual report we missed 22 editions on about how our background check system is working in the state of Nebraska because of, frankly, a mathematical trigger dealing with electronic records in our law. I am appreciative of all those who testified and especially those who sent letters...including those who sent letters, not especially, and we'll work...like to continue working forward on this issue with the committee. Thank you. [LB520]

SENATOR EBKE: Thank you, Senator Hansen. Any questions for him? Okay. Thank you. That closes our hearing on LB520 and that closes our hearings for today. Thank you for being here. [LB520]