

LATHROP [00:00:00] My name is Steve Lathrop. I am the state senator representing Legislative District 12 and Chair of the Judiciary Committee. On the-- we have a little thing that we go through before we begin the first bill, and I do this every afternoon. On the table inside the doors that you came by, you will find a yellow testifier sheet. If you're planning on testifying today, please fill out one and hand it to the page when you come up to testify. This helps keep an accurate record of the hearing. There is also a white sheet on the table if you do not wish to testify but would like to record your position on a bill. Also, for future reference, if you're not testifying in per-- person on a bill and would like to submit a letter for the official record, all committees have a deadline of 5:00 p.m. the day before the hearing. We will begin bill testimony with the introducer's opening statement. Following the opening, we'll hear from proponents of the bill, then opponents, and finally, by anyone speaking in a neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We ask that you begin your testimony by giving us your first and last name and spell them for the record. We utilize an on-deck chair, and I like to say an on-deck row, here, this front row. If you're going to testify, if you can fill that up so that we can keep people moving through the-- the chairs and close to the testifier's table, that helps today. Please keep the on-deck chair filled with the next person to testify to keep the hearing moving along. If you have hand-- any handouts, bring up at least 12 copies and give them to the page. If you do not have enough copies, the page can make more for you. We will be utilizing a light system. This is important. So right here we have a light system. When you begin your testimony, the light on the table will turn green. It will be green for two minutes. The yellow light will come on after two minutes, and that's your one-minute warning. When the red light comes on, we ask that you wrap up your final thought and stop. As a matter of committee policy, we'd like to remind everyone that the use of cell phones and other electronic devices is not allowed during public hearings, though senators may use them from time to time to take notes or stay in contact with staff. At this time, I'd ask everyone to look at their cell phones and make sure they're in the silent mode. Also, verbal outbursts or applause are not permitted in this hearing room. Such behavior may be cause to have you excused. You may notice committee members coming and going today. That has nothing to do with how they regard the importance or the significance of the bill being heard, but senators may have to introduce bills in other committees or have other meetings to attend. One last thing, since we're holding our hearings in the Warner Chamber while our regular hearing room is being renovated, please remember that water bottles, soda cans, and cups are not permitted on the desks to avoid any damage or watermarks. I would like to start off, before we have Senator Brewer introduce the first bill, and have the committee members introduce themselves beginning with Senator Slama on the right.

SLAMA [00:03:24] Julie Slama, District 1, covering Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties in southeast Nebraska.

BRANDT [00:03:33] Me next? Tom Brandt, District 32, Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster.

DeBOER [00:03:39] I'm Wendy DeBoer. I'm from District 10. That's Bennington and the surrounding areas in northwest Omaha.

LATHROP [00:03:44] Assisting the committee today are Laurie Vollertsen, our committee clerk. Neal Erickson and Josh Henningsen are our two legal counsel. And committee pages are Alyssa Lund and Dana Mallett, both of whom are students at UNL and do a great job of keeping things moving along and making the place run smoothly. And with that, we will take up the first bill of the day, which is Senator Brewer's LB582. Senator Brewer, welcome to the Judiciary Committee.

BREWER [00:04:16] Thank you, Chairman Lathrop. And good afternoon, fellow senators, the Judiciary Committee. I am Senator Tom Brewer. For the record, that is T-o-m B-r-e-w-e-r, and I represent 13 counties of western Nebraska in the 43rd District. I'm here today to introduce LB582. This is a bill that was brought to me by law enforcement. This bill would close a loophole in our state law requiring-- relating to stolen guns. Currently in Nebraska, when a person is arrested in possession of a stolen gun, the state has to prove that the person knew that the gun had been stolen. That means they-- the individual who is acquiring this stolen gun illegally can very often avoid prosecution or conviction. As a result, when people with stolen guns often-- with stolen guns often have their charges dropped by the prosecutors. This frustrating, illegal standard applies when in cases of felons who acquire a stolen gun or a suspect who claim to have found a stolen gun or a suspect who simply refuses to answer questions at all. The bill closes a loophole in Nebraska law by adding the reasonable-- reasonable cause standard already in a similar federal law related to stolen guns. If a person should have known that a gun was stolen or if a person had reasonable cause to believe that a gun was stolen, I think it is fair to hold them personally accountable. So let me make this clear. The bill would make it harder for criminals to profit from stealing guns. I believe that LB858-- LB582-- I have too many bills-- would protect the rights of lawful gun owners. I think that it also would help to make Nebraska safer for not only our police officers but our communities in general. There will be a number of individuals who will testify after me that will be able to provide more information on the details of LB582. I'd be happy to answer any questions at this time.

LATHROP [00:06:44] Senator Brewer, I don't see any questions.

BREWER [00:06:47] And--

LATHROP [00:06:47] Are you going to stay too close?

BREWER [00:06:48] I am.

LATHROP [00:06:49] OK, perfect. First proponent. Welcome to the Judiciary Committee.

AARON HANSON [00:06:58] Thank you. Chairman Lathrop and honorable members of the Judiciary Committee I am Sergeant Aaron Hanson, H-a-n-s-o-n. I am a 22.5 year police officer with the city of Omaha Police Department currently assigned to the Omaha Police gang unit for the last four years. I'm here on behalf of the Omaha Police Officers Association. Illicit guns find their way into our streets and into violent crimes essentially via two sources, straw purchasers and stolen firearms from law-abiding gun owners. The current stolen firearm State Statute 28-1212.03 is problematic for law enforcement in our efforts to keep the streets safe and prevent gun crime. The current statute requires that the state be able to prove that the suspect knew or believed that the firearm is stolen. This is regardless of whether the offender is a felon or not even legally allowed to have the gun or-- or even if he allegedly acquired the firearm through suspicious or illicit means. The current statute is problematic. I can tell you that when it comes to illicit guns in the city of Omaha, that the gang members, the violent criminals, they-- they try to take advantage of this underground illicit stolen firearm market, and they also routinely take advantage of the loophole. They're-- they're cognizant of the law. Sometimes they don't say anything when asked where they got the stolen firearm or they just lie. We've routinely seen felons who've had the charges dropped for possession of a stolen firearm because they didn't admit it was stolen. We've had people that have indicated that they found a firearm just laying in the street and they had their charges dropped because they would not admit that they knew or believed the firearm was stolen. LB582 changes that, hopefully, or would change that to include a reasonable cause standard used by the federal government and also used by other state statutes regarding stolen firearms. It would give law enforcement and prosecutors more tools to be able to combat this underground gun market. It's also important to note LB582 doesn't increase any penalty. There's no penalties being increased for possession of a stolen firearm. It does not create a new offense. It simply closes the loophole that unfortunately too many individuals who engage in the stolen gun underground market enjoy. I'll take any questions you might have.

LATHROP [00:09:54] I see no questions. Thanks for coming down, Sergeant.

AARON HANSON [00:10:08] Thank you.

LATHROP [00:10:09] Good afternoon

JEFF LUX [00:10:09] Good afternoon, Mr. Chairman, members of the committee. My name is Jeffrey Lux, Jeff, J-e-f-f, last name L-u-x. I am a deputy Douglas County attorney with the Douglas County Attorney's Office up in Omaha, Nebraska. I'm speaking on behalf of the Nebraska County Attorneys Association here today in support of LB582. The bill

basically adds language to conform with the federal code in this area of should have known or had reasonable cause to believe. Under Nebraska's current possession-of-a-stolen-firearm statute it reads, "knowing that it has been or believing that it has been stolen," which basically covers two scenarios where a suspect admits or makes an admission that, yes, I stole that firearm, or a situation where we might get some admissions, or if the firearm is defaced, the suspect may admit, yeah, I-- I think the gun was stolen, based off of that information. What the current law doesn't really cover is the, well, I don't know that it's stolen, but then they go on to explain the suspicious circumstances under which they became in possession of that firearm. And those will include, you know, I purchased this gun on the street, I-- I-- I bought it from a stranger who I didn't know and I can't describe, I paid a certain amount of money which would be far less than that firearm was actually worth if you bought it in a-- in a-- in a store, paid, you know, a small amount of cash, or I traded it or somebody just gave me this gun who I don't know who it was. And that whole process, nothing procedurally-- legally procedurally was followed. So the person that was selling the firearm or giving the firearm didn't ask, hey, do you have a handgun purchase permit which is required by state law? No, they didn't. And the person who came into possession of that stolen firearm didn't have that permit. That person then didn't go and register that-- that handgun with the city of Omaha or have a permit to carry a concealed handgun from the State Patrol. So the change of the language, which would basically add the federal language, would allow us to at least combat those type of scenarios. It's analogous back when we had more like meth labs locally and people would buy pseudoephedrine, and being in possession of pseudoephedrine on its own is-- there's nothing illegal about that. It's cold medicine. But if you had it to make meth, then that's something that we wanted to combat. And the-- the Supreme Court gave us language that said, yes, if-- you can do that as long as you show that that person was in knowing possession of the pseudoephedrine and that that person knew or had a reasonable cause to believe that it was going to be used to manufacture a controlled substance. So it-- it's similar in regard to a firearm on it-- handgun on its own, not contraband, but in a situation where facts bore out that it's a stolen firearm, then the same type of standard could be applied that you knew or reasonably should have known. I'd take any questions if there are any.

LATHROP [00:13:37] I don't see any. I do have one for you though.

JEFF LUX [00:13:40] Yes.

LATHROP [00:13:40] The standard here is should have known or had reasonable cause to believe. What's the difference between those two?

JEFF LUX [00:13:46] Well, the should have known almost goes with the knowing or should have known--

LATHROP [00:13:52] Right.

JEFF LUX [00:13:52] --you believed or had reasonable cause to believe. So I think that both of them kind of piggybacked the-- the first section actually.

LATHROP [00:14:03] Do they cover different scenarios or are they saying the same thing?

JEFF LUX [00:14:05] I think that it covers the four of those, even though they're in two sections, cover the-- all three of the scenarios that-- that-- that we kind of regularly see: the admission, yeah, I-- you caught me, I-- I stole it; or the-- the-- the believing or should have known or believing, those are kind of slightly similar. But the reasonable cause to believe and the should have known is basically the-- the-- you know, basically blindness-- I'm trying to, you know, play stupid, I didn't know--

LATHROP [00:14:40] Right.

JEFF LUX [00:14:40] --but yet they'll make admissions that are very suspicious or even they got that under an unlawful circumstance.

LATHROP [00:14:46] Kind of looks like they're saying the same thing. But let me ask another question and that is, does this mirror a federal statute?

JEFF LUX [00:14:54] Yes, it--

LATHROP [00:14:56] And the federal statute [INAUDIBLE]

JEFF LUX [00:14:56] -- it mirrors, yeah--

LATHROP [00:14:56] --have known or had reasonable cause to believe?

JEFF LUX [00:14:59] Yeah, the-- the-- the language is-- under the federal statute is that reasonable knowing or having reasonable cause to believe. And then it also mirrors what the Supreme Court says as either knew or had reasonable cause to believe is the proper standard. So it's still a specific intent crime. We're not lowering that. But it allows us--

LATHROP [00:15:20] What's the statute? What's the federal statute, if you can help us out?

JEFF LUX [00:15:24] That is 27 CFR Section 478.33, "Stolen firearms and ammunition."

LATHROP [00:15:35] 478.33?

JEFF LUX [00:15:35] That's correct.

LATHROP [00:15:36] Of the Code of Federal Regulations or the statute?

JEFF LUX [00:15:38] Yes, 27, yes.

LATHROP [00:15:40] OK. I do not see any other questions. Thank you for coming down here today and testifying on [INAUDIBLE]

JEFF LUX [00:15:47] Thank you all.

LATHROP [00:15:58] Good afternoon.

MICHAEL KOZELICHKI [00:16:01] Hello. Hi. My-- my name is Michael Todd Kozelichki. It's M-i-c-h-a-e-l, last name K-o-z, as in "zebra," e-l-i-c-h-k-i. I am a sergeant with the Omaha Police Department gang unit. I specifically work in the firearms squad which is under the umbrella of the gang unit. I don't want to rehash everything that everyone has said. I mean they pretty much said everything I would certainly say. I can tell you that I can't tell you the amount of times-- I've been in the firearms squad for six years now, and the amount of times that these cases have come across when it comes to stolen firearm cases, and I mean it-- it's no sooner than some of them come in at 8:00 at night, 9:00 at night, 2:00 in the morning, 3:00 in the morning, and by the time these cases are reviewed by the county attorney's office, they're dropped. I mean anything, a lack of a confession, relating to how the old law is written-- or the current law, I guess I should say, they're dropped. And it's extremely frustrating because-- I agree with Sergeant Aaron Hanson. I mean, the two ways these guns are getting out, they're-- straw purchasing is one. I work on the ATF Task Force or am a member of that. We deal with those types of cases, too, very difficult cases to try to prove. But this is equally as difficult and that is, you know, a person just confessing all out that I knew that it was stolen. It just happens very, very few times. So I'm-- I agree that putting the language in that should have known or had a reasonable belief of knowing is-- is certainly going to assist us when it comes to these types of cases regardless of how serious the offender is or not. And, you know, it's very frustrating when you see these types of cases come across where you have all these different types of circumstances that both, you know, Jeff Lux and Aaron Hanson had talked about when it comes to how guns are bought off the street and-- and-- and very expensive guns being bought for \$10, \$20, \$30 dollars off the street, or I'm just finding this firearm. And then you've got all that built up, whether it be in an interview with an individual or-- or witnesses or what have you, but you lack the-- they're just not going to tell you that they knew it was stolen. I'm hoping that this-- this law will certainly overcome that or at least help us in that realm.

LATHROP [00:18:29] So it would help if they gave you a fantastic explanation, like no one's going to accept that explanation.

MICHAEL KOZELICHKI [00:18:33] Probably not. I mean it's-- yeah, it's-- so I think having this language in there, I mean, I-- I-- I think, you know, someone who's doing the things that they're doing, I'm talking about the people who are committing these illegal acts and they're buying these guns off the street or what have you, it's very hard for them I think to fight at that point that they shouldn't have known that there was something going on when they're buying a gun for such a small amount and it's a gun that could go for five \$500, \$600, \$700 in a store, you know, and they're practically new guns, they're-- some of these that are coming across are, you know, that we're collecting. And-- and they're stolen, but you don't have any other explanation for it, you know, because of the way the law is written.

LATHROP [00:19:12] Good to know.

MICHAEL KOZELICHKI [00:19:13] Yes.

LATHROP [00:19:14] And that requires an admission practically.

MICHAEL KOZELICHKI [00:19:15] Yeah, absolutely. Absolutely, it's--

LATHROP [00:19:17] I think I get it.

MICHAEL KOZELICHKI [00:19:17] Yeah.

LATHROP [00:19:19] Well--

MICHAEL KOZELICHKI [00:19:19] And-- and-- and within law enforcement I can tell you that investigatively. I've been in investigations for years. One of the most difficult things to obtain, I don't care what anyone says, is a confession. It is-- it's an art and it takes a lot to do it and it's not that we shouldn't be trying to do it. But what I'm saying to you is that that's extremely difficult. If-- if you have no wiggle room when it comes to a law like this and you only have to obtain a confession, it's-- it's very, very difficult on-- on us, so--

LATHROP [00:19:46] OK. I don't see any questions or any other questions. So thank you for your testimony.

MICHAEL KOZELICHKI [00:19:51] OK. Thank you. Appreciate it.

LATHROP [00:19:52] Anyone else here as a proponent of LB582? Anyone here in opposition? Good afternoon.

SPIKE EICKHOLT [00:20:10] Good afternoon, members of the committee. My name is Spike, S-p-i-k-e, last name is spelled E-i-c-k-h-o-l-t, appearing on behalf of the Nebraska Criminal Defense Attorneys Association, opposed to the bill. I did visit with Senator

Brewer earlier today to explain that we would be opposing and-- and generally explained why. You've got a copy of the bill. It's fairly straightforward but it is a significant change from what current law is. I think one of the testifiers earlier, perhaps it was Senator Brewer, explained that under current law, to establish a conviction, the state needs to establish essentially actual knowledge. And that's deliberate because this is a serious felony. It's punishable by up to 20 years' imprisonment. What's proposed in this bill is to lower that standard significantly from an actual knowledge burden of proof to simply probably: he probably should've known it was stolen, he probably should've known or probably have believed it was, therefore, he should be held accountable on par with somebody who actually knew or believed it was stolen. If you look at the bill, it doesn't strike any of the current language or even really modify it. It just has an alternative way to prove this existing crime. We would argue that that's just fundamentally unfair. Arguably, the current law does provide for at least some sort of reasonableness. A fact finder still has to make a decision whether the defendant believed that it had been stolen. And an explanation that you find a gun in the street or that you buy it for far below market value, while those might not be explicit confessions-- confessions, those are certainly admissions that go to show that perhaps a person did believe it was stolen. If you look at the companion offenses, this is just one crime in a series of gun crimes that we have and they start at 28-1201 and continue to like 28-12-- something. I can't remember where they end. If you look at this, this-- you're --the committee is being directed to this isolated statute. Oftentimes, and I think even law enforcement who are here would acknowledge, this is just merely one crime that's charged. For instance, if law enforcement is involved in a shooting or-- then you have the crime of unlawful discharge of a firearm from a moving vehicle or to a building or something like that. If you have an underlying robbery, you have the use of a firearm and if the firearm turns up stolen, then this charge is added. And while this individual charge may be readily dismissed, the other charges that have far significant penalties aren't. So I don't think that you can look at this crime in isolation and be asked to sort of close this purported loophole. So we would urge the committee not to do that. You already have enough crimes. You already have enough penalties. And broadening this to simply a probable standard is-- is just-- we'd argue it's just not good public policy with respect to the criminal laws. So we'd urge the committee not to advance the bill.

LATHROP [00:23:05] I want to ask you a couple questions about your testimony if I can, Mr. Eickholt.

SPIKE EICKHOLT [00:23:12] All right.

LATHROP [00:23:13] Under current law, virtually under any of these rules, no one's going to get convicted of anything unless they talk, right? You-- they-- they can't even-- even under this bill, law enforcement can't prove should have known unless the person talks to law enforcement, gives some kind of a statement. Is that true?

SPIKE EICKHOLT [00:23:31] I would-- not necessarily because oftentimes you have someone else who's going to talk to say he told me he knew it was stolen. You have codefendant testimony. You have testimony that's made when people call from the jail and those calls are recorded.

LATHROP [00:23:43] And they get caught up in the original version of this statute though.

SPIKE EICKHOLT [00:23:47] Yeah, exactly right.

LATHROP [00:23:48] Yeah, so that's the guy that knew and-- and-- and the county attorney can prove intent.

SPIKE EICKHOLT [00:23:53] Right.

LATHROP [00:23:53] This is directed at the guy who talks and then gives some phony explanation though: I bought it from my cousin, I don't know where it came from. It's like, well, you bought it for \$10 and it was a \$500 gun.

SPIKE EICKHOLT [00:24:06] I'd argue that--

LATHROP [00:24:07] And-- and-- and the original-- the current-- current law would require that you show that-- that you knew it was stolen and if he goes, I don't know where my cousin got it, isn't that really the problem they're getting at? And isn't that reasonable for law enforcement to get-- get somebody on this particular possession of stolen firearm when the explanation they offer is beyond belief?

SPIKE EICKHOLT [00:24:33] That is true. The example you gave that the person says I bought it from my cousin for \$10 and it's worth \$500, I'd argue that you could probably pretty easily convince a jury that that person believed something was wrong with that gun, if you can't sell it for market value, there's got to be something wrong with it. But what you're getting with that scenario is you are getting people who do get guns from family members. They don't-- it does not come with a title, like a vehicle does, with an odometer reading or anything like that. You know, we have a lot of guns in this society and you are sort of laying a trap, if you will, for the unwary where somebody after the fact-- it would be very obvious that you probably should have known that and, in fact, at the time that you come into possession of the firearm, have it, you simply don't. And arguably, if the committee is going to consider this, there ought to be some distinction between somebody who actually does know it's stolen and is having it versus somebody who should have known. And the penalties are the same here. I know somebody said earlier the penalties aren't being increased. That's true. But there is no distinction whatsoever between someone who does know and somebody who probably should have known.

LATHROP [00:25:41] OK. I do not see any other questions. Thank you for your testimony. Anyone else here in opposition to LB582? Anyone here in a neutral capacity?

KELLEE KUCERA-MORENO [00:25:52] Hi. Kellee Kucera-Moreno, K-e-l-l-e-e K-u-c-e-r-a, hyphen, M-o-r-e-n-o. I-- I value the-- the senator's opinion on guns. I'm here neutral because I think that the language is iffy. I'm not sure if the language can be changed a little bit. You know, "should" is kind of-- you know. My husband was arrested and put back in prison because he was a-- a felon in possession of a deadly weapon. Basically he had a knife in a safe that he had taken from his brother so he would not harm himself or other people. LB558 stated last year, by Senator Schumacher, that you need to show intent, and that wasn't looked at in my husband's case. I think showing intent why a person has a gun, why a person-- you know, a felon in possession of a deadly weapon, I think that would be addressed there. My concern, I'm just speaking on behalf of the-- the drug addicts and alcoholics that I know a lot of. Weapons and drugs tend to go hand-in-hand. And until we take a look at the medical issue of-- of drug addiction, we're probably not going to get people to quit buying guns. That's my statement.

LATHROP [00:27:26] OK. Thank you for your testimony. Anyone else here to testify in a neutral capacity? Seeing none, Senator Brewer to close. And we do have one letter of support from Mark Pogue, Central City Chief of Police. Senator Brewer.

BREWER [00:27:45] All right, thank you, Mr. Chairman. I think we need to step back just a second and think about what we're asking here. If you want to purchase a firearm, there is a process. You can get a purchase permit through the sheriff's office or you can go through the training and have a concealed carry permit. The-- I guess the-- the thing that motivated me to take this bill was this past fall I was given an opportunity to ride with the Omaha Police Department, to-- to do a ride-along. And they explained how difficult it was for them to try and stem the challenges they had, especially in parts of Omaha where there is this-- this proliferation of-- of guns and-- and trying to-- to get a handle on it because I'm sure, just like was testified there, that-- that drugs are part of all this. But what we're trying to do is get the guns off the street and out of the hands of the people that shouldn't have them. The straw purchases and the-- and the stolen guns are a huge part of the overall problem that they're dealing with there. So I understand that when we talked about this bill originally it was to have another tool for the prosecutors to use. It's not a be-all, end-all. But we wanted one that didn't create a new crime, it didn't change the penalties, it just provided a way for them to be more effective in how they dealt with those who were guilty of stealing guns. And I think there's a proper way for those that should be in possession of guns, but I think that there has to be a way of being more effective at how we deal with those who are-- are stealing guns and using them for crime. So with that, I'm available for questions.

LATHROP [00:29:42] OK. I don't see any questions. Senator Brewer, thanks for bringing the bill and introducing that today.

BREWER [00:29:46] All right. Thank you, sir.

LATHROP [00:29:48] Have a great afternoon. That will close our hearing on LB582 and bring us to LB58 and Senator Morfeld. Good afternoon, Senator Morfeld.

MORFELD [00:30:06] Good afternoon. Chairman Lathrop, members of the committee, my name is Adam Morfeld, that's A-d-a-m M-o-r-f, as in "Frank," -e-l-d, representing the "Fighting" 46th Legislative District, here today to introduce LB58, the Extreme Risk Protection Act, otherwise known as ERPO, also known as a red flag law. This bill would save lives by allowing firearms to be removed temporarily with due process from a person at extreme risk of harming themselves or others before warning signs escalate into violence. Oftentimes, warning signs exist that point to an intention to use a firearm to commit violence either to oneself or to others. The people most likely to see these red flags are family members, roommates, and law enforcement, which is why we have limited the ability to file one of these ERPOs to those individuals. This law provides a tool to petition the court to issue an ERPO to temporarily take away firearms and to act before threats become a tragedy. There are a lot of questions regarding ERPOs, and rightfully so, and I'll go through several common ones. The first question is, what is the process? LB58 creates a fair process with due process that ensures a legal hearing within 14 days before a final ERPO can be issued. An affidavit must be first made to the court stating that a person poses a significant risk of causing personal injury to themselves or others by having in his or her custody or control, purchasing, possessing, or receiving a firearm. And the court can also consider relevant evidence including but not limited to the respondent has a known history of violence towards himself or herself and others, has made threats of violence recently, has a history of protection orders from Nebraska or other jurisdictions, has violated such orders in the past or present, has a history of severe mental illness, a history of stalking, or unlawfully or recklessly used firearms, just to name a few. Second, once an affidavit is filed with the court alleging that the respondent poses a significant risk of causing personal injury to self or others by having in his or her custody or control, within four-- there are-- the court must schedule a hearing within 14 days if they find the affidavit valid and the respondent poses that significant risk. The court issues a temporary order, the ERPO, that forbids the respondent from purchasing and possessing guns and firearms, and requires the respondent to turn over their firearms to law enforcement while the order is in effect, up to a year. The court makes law enforcement aware of the temporary ERPO, those who filed it, and also the respondent. Law enforcement is responsible for serving the notice to the respondent that the ERPO is in place and the firearms must be turned in or they'd go and pick them up. Another question, and I think I've already answered it but I want to make sure that we're clear on this, is how long the ERPO lasts. After a full hearing before a court, a permanent ERPO is issued, it will last 12 months. The respondent may be

ordered to attend mental health treatment, etcetera, and can file to have the order rescinded within 104 days of the 12-month order. There is also a lot of questions on what is the ex parte versus regular ERPO. An ex parte ERPO is issued in the case of an emergency situation that allows the judge of the court to issue an ERPO without prior notification of the respondent. It is temporary. And if requested by the respondent, which they will receive notice and have the opportunity to request this, a court date shall be held within 30 days of the request for a hearing, at which time the decision will be made by a judge to either make the order permanent, so it lasts 12 months, or to rescind the order based on the same standard and criteria as noted above. Many people have brought up the potential of someone using this process to harass somebody. First, we have limited this to somebody who is immediate family member, someone who lives with the person, and/or law enforcement. Second, if someone uses this to simply harass someone, we have made it so that someone guilty of providing false information when filing for an ERPO will be charged with a Class III misdemeanor. LB58 is drafted in line with three existing protection orders already in Nebraska statutes that have detailed language governing procedural matters with the exception of the requirement that the sheriffs notify the petitioner if they cannot effect service within ten days. This is done to make it simpler for courts, clerks, sheriffs, lawyers, and everyone involved. The purpose of this law is to save lives, and 14 states, including Florida and Indiana, recently have passed red-flag legislation. According to research compiled by Everytown for Gun Safety, over 1,200 Nebraskans died by suicide between 2013 and 2017, and countless more by gun violence, and nearly half of all those deaths, the suicides, were carried out with a gun. On average, one Nebraska resident dies by suicide by gun every three days. This is too much and oftentimes people see the warning signs before this has to happen. And if we can save one life by passing this bill, it'll be worth it. I want to add that I've also been working with law enforcement and others to put together an amendment that addresses some procedural concerns and makes things come into line a little bit more with other issues. Chief Bliemeister from the Lincoln Police Department will follow me, along with Captain Kevin Griger from the Sarpy County Sheriff's Office, and a member of the Fraternal Order of Police, and a student, Jaden Speed, that is a part of a group that I've worked with on school safety issues here as well. I would like to note that I've also talked to the court system, which they don't have, obviously, an opinion on the-- the exact policy, but they've noted that in order to effectuate this and actually make it so that the system can handle these orders, this would have to actually go into effect January 1, 2020, not October 1, 2019, as I would have liked and anticipated. That being said, I didn't realize how complex the system that they use is and I can understand why they need a little bit more time. So we'll be including that in the amendment as well, and I wanted to note that for the record. And I really do appreciate the court working with me ahead of time to-- to work out some of those technical issues. I have a handout for the committee from the President's Federal Commission on School Safety issued in December of 2018 and would like to note that President Trump stated that states should adopt the ERPO law along with the Department of Education. I would be happy to answer any questions that you may have.

LATHROP [00:37:03] Senator Slama.

SLAMA [00:37:03] Thank you for bringing this bill, Senator Morfeld. I'm going to put on my first-year law student hat here and just kind of ask you on page 5, line 22 and 23, you've set your standard of proof for these ERPOs as preponderance of the evidence. Could you explain the difference between preponderance of the evidence and clear and convincing evidence and just explain why you chose to go with preponderance over clear and convincing?

MORFELD [00:37:33] Well, I think preponderance, for me, it's-- it's-- you know I'm putting on my-- my attorney hat even though I'm not a practice-- practicing attorney, licensed nonetheless. But I just thought preponderance was more appropriate. You know, it's basically 50 plus 1, as I recall. And Senator Lathrop is nodding his head. So-- so I-- I think that that's more appropriate. I think clear and convincing is a little bit higher standard. But in the other states that have enacted this, it's been more in line with preponderance.

SLAMA [00:38:08] OK. Thank you.

LATHROP [00:38:11] I see no other questions. Thanks, Senator.

MORFELD [00:38:13] Thank you.

LATHROP [00:38:15] First proponent. Good afternoon.

JEFF BLIEMEISTER [00:38:26] Good afternoon, Senators. My name is Jeff Bliemeister and I have the pleasure to serve as the police chief for the city of Lincoln. And I want to express our support of LB58 and the concept of extreme risk protection orders. And I want to reiterate that it is rooted in prevention.

LATHROP [00:38:43] Sheriff, we-- or, Chief, we need to have you spell your name for us.

JEFF BLIEMEISTER [00:38:46] Sure. It's B, as in "boy," l-i-e-m, as in "marry," e-i-s-t-e-r. And I should also ask that the letter that's being distributed be made part of the record. So the family-- the families of those in crisis requested the intervention of the Lincoln Police Department more than 3,600 times in 2018. Only 307 of that led to the restrictions of an emergency placement in custody. The robust partnerships between our agency, Bryan Health, the Mental Health Association, The Bridge, CenterPointe, Targeted Adult Service Coordination, the Lancaster County Crisis Center, and others committed to the safety of Lincoln, helped keep citizens experiencing crisis safe and move towards improving their quality of life. Community partners, along with the Lincoln Police Department, have a threat management team dedicated to preventing targeted violence. The codification, advanced training, and dedicated personnel work with victims of

violence and loved ones to stop the continuum of progression leading to tragedy. In 2018, the Lincoln Police Department investigated 37 threat assessment cases. Only eight of these involved access to or threat of the use of a firearm. We provide our employees with training on crisis intervention during the 22-week academy, reinforce those concepts in the field training program, and provide continuing specialized education throughout their careers on an annual basis. In addition, we work with Region V to provide our employees, other law enforcement agencies, and community partners with 32 hours of behavioral health threat assessment training. We promote awareness, understanding, and de-escalation. In 2018, the Lincoln Police Department investigated ten suicides where firearms were used. Forty percent of the suicides in the last 23 years involved the use of a firearm. The majority of these men, women, and children were not prohibited by law from possession of a firearm. An extreme risk protection order would not be the most effective tool in preventing all of the tragedies. But by my professional experience leads me to believe that some deaths would be avoided, trauma to the family mitigated, and additional time afforded to get everyone the assistance that's needed. Family and law enforcement, as mentioned by Senator Morfeld, are in a unique position to have detailed knowledge of an individual's struggles. If this crisis is combined with the access to a firearm, we currently lack a legal avenue to temporarily remove the weapon absent some type of criminal intervention. The legislation crafted by Senator Morfeld with input from our agency and a broad spectrum of other service entity providers provides due process, limits the application to those only closest to the person in crisis, is only served after a finding by a judge, details a process for appeal, is limited in time to one year, and establishes a clear process for return of the firearms following the expiration. This procedure would only, and I want to really stress this, it would only be used by the Lincoln Police Department and most other law enforcement agencies in the most extreme of circumstances after other options have been exhausted and within the boundaries of the constitution to stop self-inflicted or targeted violence on others with a firearm. Your support of LB58 will provide an opportunity for families in crisis and law enforcement to intercede and avert tragedy.

LATHROP [00:42:31] Thank you, Chief. I don't see any questions. We appreciate your testimony today.

JEFF BLIEMEISTER [00:42:36] OK. Thank you.

LATHROP [00:42:50] Good afternoon.

KEVIN GRIGER [00:42:53] Good afternoon, Mr. Chairman. My name is Kevin Griger, K-e-v-i-n G-r-i-g-e-r, and I am a captain with the Sarpy County Sheriff's Office in Papillion, Nebraska. I've been with the sheriff's office as a law enforcement officer for 32 years. Since 2013, the four law enforcement agencies in Sarpy County have been working very closely with our school districts to make our schools as safe as possible in light of all of the active shooters and targeted violence that's occurred across the nation. Many states

already have what is considered red-flag laws, and LB58, the extreme risk protection order, would be one more step towards keeping our communities safer. While there's no single cause for an active shooter, historically, there have been some that have had numerous contacts with law enforcement while they have been experiencing a mental health crisis. I hope everyone would agree that we do have issues in the state with providing mental health services to people in crisis. When law enforcement comes into contact with people in crisis, more often than not, there is not a bed available in a suitable facility to provide treatment to these people they need, and they end up in a hospital emergency room and are sometimes released without suitable treatment. When these instances come up, it would be a valuable tool available, with a judge's permission, to remove firearms from that person in crisis to prevent him or her from hurting themselves or others once they are released. For either a family member, who knows the person best, or law enforcement to file this extreme risk protection order is an important part of that bill. The petitioner must be able to show the respondent poses a significant risk of causing harm to themselves or others. And I believe this would prevent this from being overly used or abused. I believe the due process in the bill and the court's oversight is another essential safeguard to the liberty of the people concerned with the removal of their Second Amendment rights. The fact that this would be a temporary order is another safeguard towards those same concerns. There may also be concerns about the storage of weapons, but it's much better to store them for a short period until the mental health crisis has passed than to wait until the weapon has been used in a crime of violence and then store that weapon as evidence. I would like to thank the committee for their consideration of the bill and for Senator Morfeld for placing it. And I would be happy to answer any questions to the best of my ability.

LATHROP [00:45:33] I do not see any questions.

KEVIN GRIGER [00:45:35] Thank you.

LATHROP [00:45:36] But thanks for being here today. Good afternoon.

MATT BARRALL [00:45:52] Good afternoon, Senator Lathrop, members of the committee. My name is Matt Barrall, it's M-a-t-t B-a-r-r-a-l-l. I am the vice president of the State Fraternal Order of Police. I am here representing the over 3,500 members in law enforcement throughout the state of Nebraska. I am here to show that-- the FOP's support for LB58 and the creation of an extreme risk protection order. As Chief Bliemeister and Captain Griger have already stated, an extreme risk protection order will give the citizens of Nebraska and law enforcement an extra measure of protection and safety against those who would otherwise be a danger to themselves or others by temporarily removing firearms from an offender. These are still afforded their due process rights to go before the court to contest such an order. It also sets into place a legal avenue for an offender to recover those firearms after a court hearing has determined that they are no longer a danger, or to place those firearms into the

possession of a person that can take lawful possession for them. This protection order is specifically designed as a response to those who have shown acts or threats of violence, those with serious mental health issues, previous violations of protection orders, stalking, and other serious crimes of violence involving firearms. Current legislation does not give law enforcement the necessary tools to keep firearms out of the hands of those who have been judged by a court to be a significant risk to themselves or others. There have been cases just this year. I'm a law enforcement officer with 20 years' experience 10 years as an investigator, and just in Sarpy County alone, we have had two cases in which people who have previously been adjudicated with mental health issues that had firearms removed, were able to obtain firearms once again, and then threatened to use those or use them. This would provide a safekeeping for those firearms to limit access. I wanted to thank Senator Morfeld for bringing this bill and for members of the Judiciary Committee for hearing us today. And I can take any questions.

LATHROP [00:48:15] Senator Brandt.

BRANDT [00:48:16] Thank you for testifying today. You indicated that those individuals got those firearms. Was that legally?

MATT BARRALL [00:48:25] Those were obtained legally, yes, and then they-- there was a process in which those firearms were removed after emergency protective orders. But unfortunately, the law states that we are only holding those for safekeeping. And in one instance, we had to return them to the person, and in the other, we returned them to a family member. And unfortunately, he received an AK-47 back from his father and threatened Omaha firefighters and Sarpy County Sheriff's deputies with it.

BRANDT [00:48:55] Is-- are you aware, is there anything in the law now that prevents a mentally ill person from obtaining a gun?

MATT BARRALL [00:49:01] Besides the -- the federal statute that unfortunately doesn't seem to work, no, I do not.

BRANDT [00:49:07] All right. Thank you.

LATHROP [00:49:10] I see no questions, or no additional questions. Thank you for your testimony.

MATT BARRALL [00:49:13] Thank you.

MICHAEL KOZELICHKI [00:49:13] Hello again.

LATHROP [00:49:24] Good afternoon again.

MICHAEL KOZELICHKI [00:49:27] Sergeant Michael, M-i-c-h-a-e-l, Todd Kozelichki, it's K-o-z-e-l-i-c-h-k-i. I work for the Omaha Police Department gang unit under the umbrella of the gang unit. I'm specific-- specifically the sergeant of the firearms squad. I've been doing that for about six years. The Omaha Police Department certainly supports this legislative bill. In the past, the Omaha Police Department has had concerns with threats against public officials. We've also had threats pertaining to possible mass shootings and school shootings. And if any of you are familiar with Omaha, we've had two of those in the last at least ten years. I was with the homicide unit when the Von Maur shooting happened and I can tell you, investigating a case like that was tragic. In looking at the-- the mental health status relating to that particular individual, a law like this may have been able to assist the community and law enforcement relating to that type of incident. We also deal with armed DV suspects who are also mentally ill individuals or even instances where you have individuals who want to do the kind of "suicide by cop" type scenario. We believe that the passing of a bill like this will certainly help in conjunction with the new school threat assessment team that we have. We work with various community partners with that team. Excuse me. We also work in coordination with the mental health partners with our community to provide help for people like this who would fit under this type of bill. I agree that there are certainly issues in this area. I mean we-- we deal with situations all the time where it comes to people being placed in emergency protective custody. They get sent to a local hospital in order to be evaluated. There are times that they get out fairly quickly. There are times that they stay in for a while. And then the decision comes down to is-- you know, sometimes when we take these firearms, when it comes to safekeeping purposes, when should those be released, how should those be released, who makes the determination, or what have you, I believe a bill like this could certainly help when it comes to allowing family members and law enforcement that if they have a reasonable belief that there could be still issues remaining in reference to these types of individuals, that-- that they remain in safekeeping until it's determined at a later time that they're safe to have them back. So that would be it. I'll answer any questions I can.

LATHROP [00:52:13] Senator Brandt.

MICHAEL KOZELICHKI [00:52:13] Yeah.

BRANDT [00:52:13] Thank you for testifying.

MICHAEL KOZELICHKI [00:52:16] Sure.

BRANDT [00:52:16] So if you have this ERPO, how-- do you just confiscate that individual's firearms, or where is this line drawn?

MICHAEL KOZELICHKI [00:52:28] That's a really good question. I believe you-- I mean I think you got to look at the totality of the circumstances relating to why the-- the order

was issued in the first place. Then I think you need to determine the best you can, you know, either what firearms belong to that individual or what access that he has to firearms. I think you're getting into a-- a real gray area when you start looking into can you take this person's firearms versus that person who are legally able to have them and they're-- they-- they don't fit under this bill, if that makes sense. You know I mean? So but, I mean, I believe that any firearms that we believe are connected to that particular individual who's-- who's on the order itself, then-- then I think those are the firearms that you concentrate on at that point, if that answers your question.

BRANDT [00:53:20] So does this order allow you to search a person's home because you don't know if he has legal firearms or illegal firearms or a roommate has firearms?

MICHAEL KOZELICHKI [00:53:29] Does it-- does-- does the-- OK, so if the order is-- am I correct on this? Are you asking-- if the order is issued--

BRANDT [00:53:36] Yes.

MICHAEL KOZELICHKI [00:53:37] --it's my understanding, and I'm not an expert on the order, by any means, but it's my understanding if the order is issued, it's going to allow the law enforcement an order to seize firearms that are connected to the individual who's subject of the order. So at that point, I mean, I think you can seize them for wherever that-- wherever that individual is probably residing is-- is my understanding.

BRANDT [00:53:59] Whether they're legal-- legal firearms or illegal firearms, you would seize them, right?

MICHAEL KOZELICHKI [00:54:03] I think you would seize any firearms that he has access to, regardless if they're illegal or legal, is what you're asking, is that correct? Yeah, I think you would seize any firearms at that point that he has access to that are his, yes, or hers-- I'm sorry.

BRANDT [00:54:16] OK. Thank you.

MICHAEL KOZELICHKI [00:54:21] Yep.

LATHROP [00:54:21] I see no other questions.

MICHAEL KOZELICHKI [00:54:23] Thanks.

LATHROP [00:54:23] Thank you for your testimony. Good afternoon.

JADEN SPEED [00:54:36] Good afternoon. My name is Jaden Speed, J-a-y-d-e-n S-p-e-e-d. I'm here today to address the epidemic that surrounded most of my life, that

epidemic being gun violence. I came before this body four months ago to bring this issue to you. I come back now to demand that rightful action is taken to protect Nebraskans. Gun violence is an epidemic that we see run rampant in this country. Nebraska is no exception. Many shootings and gun suicides are preceded by warning signs that indicate a person is a danger to themselves and others. In Nebraska, firearms suicide makes up 71 percent of firearm deaths. On average, one Nebraska resident dies by-- dies by suicide by gun every three days. Firearms are especially lethal means of self-harm. Temporarily preventing a person in crisis from accessing a firearm can mean the difference between life and death. LB58 would lay the groundwork to fighting gun violence in Nebraska by enabling family members and law enforcement, the perp-- the people most likely to see the warning signs, to seek a court order temporarily removing firearms from a person in crisis. The bill would create a way for people to act before warning signs escalate into tragedies. This simple but crucial option could prevent a number of gun violence and gun suicide incidents in Nebraska. On February 16 of this year, news broke of an academy shooting right here in Nebraska. News broke later that evening the significant other had filed for a protection order against the shooter before, noting his mental instability. Fourteen states and the District of Columbia have already enacted red-flag laws like LB58, and evidence shows they have helped prevent gun suicides and shootings. In ten years after Indiana passed its red-flag law, the state's firearm suicide rate decreased by 7.5 percent. Following Connecticut's increased enforcement of its red-flag law, the law was associated with a 14-percent reduction in the state's firearm suicide rate. Everything shows LB58 would prevent a number of things from firearm suicides to mass shootings. We have an opportunity here, a real opportunity to end the cycle of gun violence in Nebraska and set an example, ultimately ending the overall epidemic of gun violence that plagues this nation. Thank you.

LATHROP [00:57:13] Very good. I don't see any questions for you, Mr. Speed, but thanks for being here today. Good afternoon.

PHILIP CRAWFORD [00:57:32] Hello. I am Philip Crawford, P-h-i-l-i-p C-r-a-w-f-o-r-d. I'm from Bellevue, Nebraska, and I am a freshman at UNL. On April 16 of 2007, Seung-Hui Cho walked onto the Virginia Tech campus with two semiautomatic pistols and shot 49 innocent people, killing 32. Seung-Hui Cho was a senior at Virginia Tech at the time of the shooting, but his whole college career he exhibited many warning signs. Professors at Virginia Tech often had to remove him from class for being disruptive. Lucinda Roy, the codirector of the school's creative writing program, began to tutor him individually and many times encouraged him to seek counseling. He was accused of stalking females two different times in 2005, and many students remembered seeing him take pictures of girls' knees. In December of 2005, Seung-Hui Cho was admitted into a psychiatric hospital, but he was soon released and instructed to simply attend therapy. It was later revealed that Seung-Hui Cho skipped at least one of his court-mandated sessions. Five weeks before what remains today to be the deadliest shooting-- the deadliest school shooting in American history, Seung-Hui Cho purchased his first handgun and a few days before the

shooting, he purchased his second. If LB58 had been in place in Virginia at this time, Seung-Hui Cho would not have been able to open fire on those 49 innocent sons and daughters. If LB58 had been in place at this time, Christopher Bishop, Kevin Granata, Caitlin Hammaren, Jarrett Lane, Julia Pryde, Reema Samaha, Nicole White, and Austin Michelle Cloyd, the little girl my parents taught in Sunday school, would still be alive today. If LB58 had been in place, then maybe at least 1 of the 196 school shootings that have occurred since April 16, 2007, could have been stopped. I know we can't change the past. But by passing LB58, you can help keep something like this from happening in our state in the future. Thank you for allowing me to speak and I'm willing to take any questions you may have.

LATHROP [00:59:39] I think you're going to get out of here without any questions, Mr. Crawford, but thank you for being here.

PHILIP CRAWFORD [00:59:44] Thank you.

LATHROP [00:59:45] Next proponent.

TOM PERKINS [00:59:46] There aren't-- there aren't enough there. There are only seven. Yeah.

LATHROP [01:00:08] Good afternoon.

TOM PERKINS [01:00:08] Good afternoon. I'm Tom Perkins, T-o-m P-e-r-k-i-n-s. Good afternoon, members of the Judiciary Committee. I am from Scottsbluff, Nebraska. At the present time, I serve as the Scottsbluff Civil Service Commission chair. I'm also a member of the 12th Judicial District Board of Mental Health, and I was the director of the Panhandle Mental Health Center for several years. You've already heard the important information about the extreme risk protection order, so I'm not going to go into that. I have given to you my research on this subject. It's pretty lengthy and maybe, your age, you'll be able to read it for you. But let me share something with you. I'd like to present a real-life scenario. This happened several decades ago, and the reason why I am familiar with it is I am the person that did the crisis intervention for the neighbors who witnessed the event. Apparently, a wife and a husband were having marital conflict. At some point, the husband, in anger, went to his extended family and declared that he was going to buy a gun and kill his wife. The family heard this but did nothing. They may have either dismissed it as an idle threat or felt helpless to intervene. The husband bought a gun, went to the trailer park where his wife and his six-year-old son were staying, and, according to the neighbors who witnessed the tragedy, and this happened outdoors, he shot and killed his wife and then turned to his six-year-old boy, who said, Daddy, don't shoot me. The father shot the boy and then shot himself. Had LB58 been in effect at that time, I am sure that there could have been an intervention, temporarily removing the weapon, giving the father a necessary time-out and maybe some help for him. Had that

happened, it would be possible that the parents could have worked out their differences and the boy would have grown up, possibly marrying and providing grandchildren for the parents to enjoy. Unfortunately, three lives were lost because we did not have an extreme risk protection order in place. I urge you, please, pass LB58 to prevent these kinds of tragedies that I'm well aware of. Thank you.

LATHROP [01:03:14] Thank you, Mr. Perkins. I got to say this. I'm always impressed when people come from places like Scottsbluff to-- to our committee hearings, so a particular appreciation from this committee for the effort you've put in to get here.

TOM PERKINS [01:03:26] Thank you. It's well worth it.

LATHROP [01:03:27] Yeah. Good afternoon.

GILLIAN ALLISON [01:03:42] Good afternoon. Hello. My name is Gillian Allison, G-i-l-l-i-a-n, Allison is A, double "l," -i-s-o-n. I'm a sophomore at the University of Nebraska-Lincoln. On October 12, 1992, Arthur McElroy, a graduate student at the University of Nebraska-Lincoln, entered Room 112 of Ferguson Hall where he aimed a .30 caliber semiautomatic carbine rifle loaded with 30 rounds at a classmate and fired. Fortunately, this gun actually jammed and no student was harmed. Classmates turned around where they heard and watched McElroy bang the barrel of his gun on the floor in an attempt to unjam it. One student was able to shove a desk into McElroy and the rest of them fled the classroom. There were about 20 students in this classroom whose lives were spared when the gun jammed. A witness remarked the look on his face when the gun did not go off and he had to leave the room without shooting anyone, he was incredibly disappointed. After the event, McElroy was diagnosed as delusional with paranoid schizoid and obsessive compulsive personality traits. I urge you all to learn from this near miss, to make sure that we don't rely on a gun jamming to save the lives of citizens across the state and our universities. LB58, proposed by Morfeld, would help make sure that an event like the one planned for October 12, 1992, never occurs. Thank you very much for hearing my testimony.

LATHROP [01:05:15] Thank you, Ms. Allison. I appreciate you being here today.

GILLIAN ALLISON [01:05:18] Thank you.

LATHROP [01:05:20] Anyone else here to testify in favor of LB58? Anyone here in opposition? And just by a show of hands, how many folks intend to speak in opposition? One, two, three, four, five, six. OK. It helps the next introducer know how long they have to wait or whether they need to be here right away. If you don't mind, come forward and--

PATRICIA HARROLD [01:05:57] Good afternoon. My name is Patricia Harrold, P-a-t-r-i-c-i-a H-a-r-r-o-l-d, and I'm speaking on behalf of the Nebraska Firearm Owners

Association. We understand the intent of LB58, and we are glad to hear Senator Morfeld is open to input and has taken input from many organizations. We understand LB58 attempts to address crimes before they occur. However, we are very concerned about some of the language and the standards under this bill. We encourage that we look at strengthening the process by which someone is deemed unsafe to themselves or others and that the civil liberties of those in these hearings are protected. We also would like to acknowledge and we'd like to emphasize that our state is poor when it comes to resources to help law enforcement and the mental health community to address these issues that have been brought up by those who were for this bill. Rather than addressing those needs, we're attempting to come up with a quick and easier solution to address the potential for crime and the potential for suicide. Our members believe this bill proposes the real and tangible loss of civil liberties as a reasonable sacrifice in exchange for some incalculable degree of increased safety. The almost 10,000 members of Nebraska Firearm Owners are strongly concerned with this bill's language. We do not believe that it does due diligence with establishing protections for our civil liberties to include the due process, how that is written, the ability to confront an accuser in an ex parte hearing, the right to representation in a hearing, which would normally be available in a criminal proceeding, but since the individual in the hearing is not yet a criminal, they have no right to representation, and of course, in the event of being a roommate of someone who is under this hearing, unreasonable search and seizure. Our members are concerned that the threshold for determining future criminality and risk to self is simply 51 percent, a preponderance in evidence. If you're a criminal, it's clear and -- what is that word?

LATHROP [01:08:12] Beyond a reasonable doubt.

PATRICIA HARROLD [01:08:13] Thank you-- beyond a reasonable doubt. As an individual who had a husband commit suicide, this is personal for me as well. I'm not speaking from the perspective of an uncaring, unfeeling person who doesn't want to take action in our community to save lives. But I'm also a concealed carry permit instructor. I also work with women and men who are under threat by their loved ones and their family members. And I have personal experience with individuals who would probably face this hearing themselves, and they don't feel that their rights would be well represented. We must be mindful, careful, and thoughtful with the solutions we examine to address violent criminal behavior and suicidal ideation and actions. We do not support a LB-- LB58 as a solution as written. And we appreciate your time.

LATHROP [01:09:02] Very good. Thank you, Ms. Harrold. I do not see any questions.

PATRICIA HARROLD [01:09:07] Thank you.

LATHROP [01:09:09] Next opponent. And if you're going to testify in opposition, if you wouldn't mind filling up the front row or coming to the front row so we can keep the hearing moving along. Good afternoon.

GREGG LANIK [01:09:24] Good afternoon. My name is Gregg Lanik, G-r-e-g-g L-a-n-i-k. Senators, your-- you, our representatives, are oath bound to uphold and defend the constitution, and yet some of you have proposed and others are considering supporting LB58 which blatantly ignores constitutional protections enumerated in the Bill of Rights. The standard for LB58 is not whether there is probable cause to believe that a gun owner has committed a crime, as the constitution would require. Rather, the standard is some subjective determination about whether the owner represents some danger and there is a larger issue. If the constitution could be suspended in a secret hearing, where does it lead? This bill is a symptom of the creeping socialism in our country and the willingness of some people to turn control of their lives and the lives of their fellows over to the state. Trusting that a nanny state can truly make us safer is ill conceived and ill advised. Advancing unconstitutional legislation like this seems to be more about promoting a political agenda than protecting the citizens of our fine state. If someone is so potentially dangerous that they can be declared a criminal without committing a crime, without due process, without being able to confront their accusers, and have the state seize and potentially destroy their personal property without compensation, there needs to be checks in place on the state and their accusers commensurate with the seriousness of the charges. LB58 does not provide such protections for the accused. Additionally, LB58 is focused only on seizing firearms from a potentially dangerous person, not addressing the root of what makes them potentially dangerous. This suggests that proponents of this legislation are truly more concerned with demonizing firearms and firearm owners rather than reducing violence. Knives are dangerous, as are baseball bats and automobiles. The writers of this bill are implying that inanimate objects make a person dangerous, in which case shouldn't all potentially dangerous objects be removed from their possession? This bill does nothing to address the harm from a potentially dangerous person who happens to not own firearms. Nebraska already has statutes in place that can address the concerns of those who believe someone is of a potential danger. The Mental Health Commitment Act has procedures and standards in place to provide for the accused to be examined by professionals to determine if they are a threat and have the power to commit them if they are a danger. Thank you.

LATHROP [01:12:11] Thank you, Mr. Lanik. I do not see any questions for you. Thank you for your testimony today.

BYRON MILLISON [01:12:27] Thank you.

LATHROP [01:12:27] Good afternoon.

BYRON MILLISON [01:12:28] Good afternoon. Thank you for letting us be here and speak. My name is Byron, B-y-r-o-n M-i-l-l-i-s-o-n. I don't have any prepared notes, just my own thoughts and reactions to what other people have said. I heard a lot about, you know, this bill has due process. But I don't hear what that due process is. The issue is you get

the guns taken away from you and then you can get them back later. But I don't hear of any other-- I don't know of any other right in our Bill of Rights that can be taken away like that and then you petition the government to get your right back. The issue is not guns. You know, people use the-- throw around the term "gun violence." There is no such thing as gun violence. There is just violence and the method of violence doesn't matter. Whether it's guns, knives, cars, as was mentioned, violence is the same. The tool doesn't-- it doesn't change the fact that it's violence. So if we're going to say that somebody is violent, as was-- you know, the previous commenter already mentioned ahead of me before I could make my comments, we need to take away all possible instruments that they could use in acts of violence. But that's not what this bill does. This bill focuses on one tool, one method of violence, and that does not sound to me like they intend to actually stop violence. They just want to curb the rights of law-abiding citizens. Thank you.

LATHROP [01:14:04] OK. I don't see any questions. Thank you for your testimony. Good afternoon.

WILLIAM ROCHE [01:14:16] Good afternoon, Chairman. Thank you for the rest of the committee. I don't have any prepared notes either. This is just something [INAUDIBLE]

LATHROP [01:14:21] That's OK, but start with your name, if you don't mind.

WILLIAM ROCHE [01:14:23] Yes, sir. My name is William Roche, W-i-l-l-i-a-m, the last name R-o-c-h-e. This bill concerns me in that there-- there are numerous things I'm seeing. Number one is that I-- I see a judge having to make a mental health decision with not a tight requirement of evidence, as has been mentioned several times already. I'm also concerned that due process isn't being presented to the person and they're not aware from the start that this is going on. Your firearms can be taken away without any warning basically. Suddenly you're going, oh, I'm losing my firearms. And I'm concerned from what I've heard now that if you happen to be a roommate of this person, you're possibly going to lose yours simply because you happen to be in the same house. Where is the attempt to treat the person and not the weapon, the tool? We don't-- I don't see us taking people who have been convicted to DUIs and taking away their car because they could be a hazard to people on the road, which we know they are. Pardon me. But at the same time we are going to take away their guns. As the previous gentleman noted, we're not clearing out knives and other possible weapons in the house. It's just firearms. I'm concerned that this is very focused and more of an attempt to take firearms away from people than it is to remove anything that could do harm to that person or others. I do recognize that there is an issue with people committing suicide in this country, this state, and our-- our cities, definitely, and we do need to deal with that. But is it taking away what they're doing or what they're using the solution or is it simply treating the person and the problem they have? Again, if you've got a drunk driver do you take his car away

or you get him some treatment for alcohol abuse? That's-- I think that's basically what I have to say on this subject. I think it could be improved, and I'd love to see it improved.

LATHROP [01:16:30] OK. Thank you, Mr. Roche.

WILLIAM ROCHE [01:16:32] Thank you very much.

LATHROP [01:16:46] Good afternoon.

KOREY REIMAN [01:16:48] Good afternoon. My name is Korey Reiman, K-o-r-e-y, last name is R-e-i-m-a-n, and I'm here on behalf of myself. I'm a criminal defense attorney in Lincoln, Nebraska, and I've been representing people for the past 19 years. Generally, I think this is a good idea. Some of the proponents mentioned some cases that I think everyone in this Chamber would have wished we could have had something to get those firearms out of there. My concern is about the person who's wrongfully accused or how many people are we going to sweep up in this law that shouldn't have lost their firearm. And that's what I'd like to speak to today. I would like to note, first of all, if you look, think about this. If the police have-- believe some-- there's a prohibited person that has a firearm in their house but they don't have probable cause to go in there and search for-- that house, they have the right to use this statute and go in there under a preponderance of the evidence and look through that house to see if that person is committing a felony. That's one of the problems that I have with this bill that rather than that high standard before they breach-- breach your home, they usually have to show probable cause and go to a judge and get that signed off. The second-- another problem that I have is anyone who has hung around the courtroom, hung out with divorce attorneys, knows that domestic disputes are ugly and protection orders are used as weapons occasionally. Certainly, protection orders, I'm not here to criticize that, per se, but anybody who's done divorce law has-- sees that as a weapon to try to get the kids. And this is the same type of thing that an angry spouse, an angry ex can file this with just a preponderance of the evidence to mess with their-- their spouse who's a gun owner, who loves to hunt, who wants to take the kids on that elk trip this fall, and all she has to do is sign her name on a piece of paper and make a few allegations that-- that he-- he loves guns, he carry-- there was guns around the home all the time, and he-- and the-- the respondent doesn't even get to say anything to that until it's already issued. And once it's issued, he has to come in and prove-- it's his burden all of a sudden that he has to prove that he's not a danger. If you look at this, if-- there's a shifting burden here also. If somebody just comes in and says that they want this-- this safety order. If they don't ask ex parte, that person has to come in within 14 days and prove-- now I think the terminology is by-- if there's reasonable cause, judges-- judges are going to apply a preponderance of the evidence, I-- I would assume, when they see that word, which, 51 percent. So if it-- if it's not an ex parte, the person, the petitioner comes in and under oath, I would assume, makes her allegations of why the-- the person's guns should be lost, now think-- but-- and-- and that person gets to respond at that time. He has 14 days to gather his thoughts. If he can't

afford an attorney, he's going to have to wing it himself. I don't understand why-- when there's an ex parte order, they file this ex parte, they sign that affidavit, then there's some type of telephonic hearing that happens. It's not defined in there. The court may have a telephonic hearing and the only thing they're supposed to make sure of is that the petitioner is the person on the phone. So this judge has this ex parte hearing and gathers this evidence on her or his own. The respondent has no idea what's said. It doesn't look to me like that's going to be on the record, so he doesn't know about these allegations. All he has is this affidavit. So the judge gathers evidence and then determines that there's preponderance of the evidence to have the police go into this man's house, or woman's house, and take all his firearms. They then set this hearing. Now all of a sudden, for some reason, the burden has shifted and he has to come in and prove that he's not a danger to the community. Why, in the first case, do we have-- it's the petitioner's burden to prove that he's a danger but in this second case when there's been secret testimony, all of a sudden he has to come in and prove that he's not a threat to himself or to others? That's just fundamental-- fundamentally unfair and I don't understand what that burden is. And--

LATHROP [01:21:05] OK.

KOREY REIMAN [01:21:05] I'm sorry.

LATHROP [01:21:05] No, that's OK. We appreciate your background, too--

KOREY REIMAN [01:21:08] I-- I didn't see the lights, sorry.

LATHROP [01:21:11] --and-- and your testimony. Let me see if there's any questions though. Senator Slama.

SLAMA [01:21:16] Thank you for coming out today, Mr. Reiman. I appreciated you bringing up the aspect on divorce proceedings, and I have a hypothetical with this law that's popped into my head that I want to get your opinion on. So as is typical when these proceedings are going on, the spouse, typically the husband, is living at a friend's house. Under this red-flag bill, would the law enforcement confiscating the firearms of the spouse also have a duty to confiscate the firearms which the spouse could reasonably have access to, which could include all of the guns in the house as well?

KOREY REIMAN [01:21:57] Absolutely. When-- when I-- because when I have clients call me and they can't possess a firearm, they're prohibited, and they say, well, my wife has one, and I say, you are putting yourself in grave risk if you have any access to that whatsoever, I would either get it out of the house or the spouse has to have some type of safe and locked up and you can't know the code. But even then, you're-- you're-- you're putting-- you're walking on thin ice there that if-- if law enforcement discovers that you

have a gun in your house, you're going to have to do some explaining of how you didn't have access to it. So it certainly puts that person at risk as well.

SLAMA [01:22:33] All right. Great. Thank you.

KOREY REIMAN [01:22:34] Sure. Thank you.

LATHROP [01:22:36] I think that's it. Thank you.

KOREY REIMAN [01:22:37] Thank you.

LATHROP [01:22:39] Anyone else here in opposition to LB58? Anyone here in a neutral-- are you here to testify? I-- yes. Opposition or neutral?

KELLEE KUCERA-MORENO [01:22:51] Neutral.

LATHROP [01:22:52] OK. You can come on up, Sheriff. Good afternoon.

KELLEE KUCERA-MORENO [01:23:11] Kellee Kucera-Moreno, K-e-l-l-e-e K-u-c-e-r-a, hyphen, M-o-r-e-n-o. I just started learning about the Judiciary Committee and-- and you wonderful senators last year. Excuse me. I'm a 58-year-old woman who needs to learn a lot more things about Legislature and bills and things like that. What I have, though, is my experience. My husband and I are recovering people. When he relapsed shortly, he had a relapse and was sent back to prison for five years because he had a knife in the car. And it was in a locked safe. His intent was to take it away from his-- his brother who was drinking. I believe we have a moral and legal obligation to protect citizens and ourselves. That-- that's the first and foremost. His intent was to safeguard his brother and other people. However, the law enforcement, the prosecutor, our attorney, the judges, nobody took a look at intent. There was no intent except to protect. My concern with this, this bill, is I'm not sure where-- I trust you. I trust the Judiciary Committee to make a good decision. I want this on record. I-- I most specifically trust Senator Chambers who has four decades of research and understanding of all of this. I think that whatever decisions that-- that are made by you guys, that you take a look at the expertise of the Legislature that you have here, specifically Senator Chambers. I-- I am concerned, too, because, since my husband was sent back to prison, that took five years off of our life. He had no intent. His intent was to protect, just like the police would. So what that does as a family member is I have no income. His income is taken away from me. He is not part of our family. It's a great big devastation. And what's sad about it is it was because of people-- too many cooks in the kitchen being able to make these decisions. I urge the Legislature, when you make a decision on this, if-- if you pass it or not, that you look at what use people will have for it. Are prosecutors going to use this as-- as a way to keep punishing mentally ill people, people with-- who are making bad choices? We need to separate the person from the behavior. There's just a lot that goes into this. And

Senator Chambers could address this a lot more thoroughly than I could. And I am here not because I have such profound things to say, but I want you guys to know that we need to look at intent.

LATHROP [01:26:15] OK.

KELLEE KUCERA-MORENO [01:26:15] And things are really bad in the prison system now and you guys need to let people know what we need to do.

LATHROP [01:26:25] We are working on it.

KELLEE KUCERA-MORENO [01:26:25] I know. Thank you.

LATHROP [01:26:27] Thank you. We appreciate your testimony. Good afternoon.

MICHAEL ROBINSON [01:26:39] Afternoon.

LATHROP [01:26:41] Got a lot of stuff to try to get in that chair.

MICHAEL ROBINSON [01:26:42] Yeah, especially me. My name is Michael Robinson, M-i-c-h-a-e-l R-o-b-i-n-s-o-n. I'm the current sheriff of Washington County, Nebraska, and the current president of the Nebraska Sheriffs' Association. We are taking a neutral stance on this bill. We want to thank Senator Morfeld for introducing this bill. There's a lot of important things in this bill. However, we have some concerns with the confiscation and the amount of weapons that we'd be required to store, liability on the sheriffs' offices as to the condition of the weapons when they're returned. But we are looking forward to working with Senator Morfeld on our concerns and to get this bill passed.

LATHROP [01:27:29] OK. You generally think the idea behind the bill is good, but it's the what do we do with the guns when we pick them up and--

MICHAEL ROBINSON [01:27:37] Yes, I'll give you an example.

LATHROP [01:27:37] --what happens if they get a dent in them or a chip or something like that.

MICHAEL ROBINSON [01:27:41] Yes, I currently have about 350 weapons in my property evidence room. We don't know how many weapons this could possibly bring in. Theoretically, we could hold those weapons for years to come based on if the protection order keeps getting renewed. At what point do we get rid of the weapons? What if they get returned and they don't believe they're in the same working condition they were when they were brought in? So we're just a little concerned with liability and the amount of weapons we'll be storing.

LATHROP [01:28:12] OK. Sheriff, we appreciate hearing from you.

MICHAEL ROBINSON [01:28:15] Thank you.

LATHROP [01:28:17] Thank you for your testimony. Anyone else here in a neutral capacity? Seeing none, Senator Morfeld, we do have a considerable number of letters that have been received. They will be made part of the record. They are too numerous to list at this point in time. They include those in support, opposition, and a handful in the neutral capacity. Senator Morfeld to close.

MORFELD [01:28:43] Thank you, Senator Lathrop and members of the committee-- committee. You know, so a few different things. First, as I noted, I'm working on an amendment with various different organizations, law enforcement agencies, and other folks. I'm more than happy to work with the NFOA on some amendments. You know, I'm also happy to work with folks on narrowing the scope a little bit if people don't feel comfortable with it being a roommate or somebody they live with, but maybe it's their spouse and just law enforcement. Then we can talk about that. I think there's practical considerations with that. Less and less people are married now and they're living in partnership with folks, so there could be some issues with that. But I'm happy to-- to talk to people and narrow the scope. In addition, I-- you know, it's always interesting to me when people come up and demonize one of us for introducing something and make assumptions. I mean, I'm a firearm owner, I believe in the Second Amendment, and I'm not antigun. So I'm not demonizing firearm owners. I'm one of them. Sometimes I demonize myself, I guess. We're all flawed individuals. But that's not the purpose of this legislation and it's not the purpose of this legislation to just confiscate people's firearms or get rid of the Second Amendment or-- or those rights. I support the Second Amendment and I support other aspects of the constitution too. I also support the state when there's a compelling state interest to protect public safety and people are making threats. In terms of due process, you know, due process is due process and we provide a hearing in the case of a regular one that is a regular ERPO 14 days after that has been filed. And in emergency situations where people can prove that in the near future, which is the language that's used in there, the significant risk exists and is found by a court, then, yes, then they have 30 days to-- to make their case after the firearms have been temporarily taken away and detained. In terms of providing some of the mental health assistance, I'm a huge proponent of providing mental health assistance. Actually, I just had a ballot initiative that passed that provides mental health assistance to 90,000 Nebraskans. So there's probably nobody in this body or in this room that has done more to make it so that we have available health assistance and-- for Nebraskans. And so I-- I think that I'm happy to talk about that. I think that's a little bit of a separate issue from this bill. But I've already done, I think, yeoperson's work on-- on that. In addition, in terms of somebody making false claims or using it to harass people, we make that a Class III misdemeanor. And so, you know, the case of the-- of the upset spouse, there is provision

for that and we anticipated that concern and potential issue. The bottom line is, is that doing nothing right now is completely unacceptable. I intend to work with you to get this bill out of committee. I'm considering it for a priority designation and I think that something needs to be done and this is a serious issue. I'd be happy to answer any questions. Thank you, Mr. Chairman.

LATHROP [01:31:59] I see no questions. Thanks, Senator Morfeld. That will close our hearing on LB58 and bring us to LB54 and Senator Lowe. Welcome, Senator Lowe.

LOWE [01:32:22] Thank you. I can clear a room, can't I? [LAUGHTER]

LATHROP [01:32:27] Apparently. It's always a relief to the committee when we see a-- a lot of people get up and leave.

LOWE [01:32:36] Get up and leave-- I have that happen to me most everywhere I go. Thank you, Chairman Lathrop and members of the-- of the Judiciary Committee. My name is John Lowe, that's J-o-h-n L-o-w-e, and I represent the 37th District which makes up Kearney, Gibbon, Shelton, and the surrounding farm areas. LB54 is a repeat bill from last session. Previously this bill was LB666, and I am very grateful-- let me-- let me repeat that. I am very grateful to have a different bill number this year. [LAUGHTER] The reason for this bill is in response to the Nebraska Supreme Court decision in Nebraska v. Senn. The decision by the court has opened up the issue of what is and is not considered a violation of our concealed carry laws. This is especially true for when individuals are transporting their guns but the owner is not a concealed carry permitholder. LB54 seeks to clarify that individual who is not a concealed carry permitholder may legally transport a firearm in a case if the firearm is unloaded. A case would be defined to be a hard-sided or soft-sided box, container, or receptacle intended to be designed for the purpose of storing and transporting firearms, or a firearm manufacturer's original packaging. Right now, we are in a gray area when it comes to transporting firearms. Clarity is crucial when it comes to firearm laws. Right now, if a police officer, police agency, or a county prosecutor decide to enforce the gray area, almost every gun owner who goes hunting or to a gun range would be at risk of arrest and rather significant-- and a rather significant charge. I am confident in stating this because every gun range I have ever been to requires that all firearms be brought into the range in a case and unloaded. Moving the firearm from a car and across the parking lot could be currently interpreted as illegal. This bill would address this problem. This legislate-- legislation is also important because there are only two other ways to transport a firearm if one is not a concealed carry permitholder. A person can have the firearm in plain sight in their vehicle or they can have the firearm in the trunk of a vehicle. To me, that's pretty obvious that there are numerous occasions when transporting firearms in these two ways would be challenging or unwise. LB54 clarifies that this statute change only applies to a person who is legally allowed to possess a firearm. It further clarifies that this statute only applies to a location where a firearm may already be lawfully possessed. The previous examples of LB54

made it out of Judiciary Committee on an 8-0 vote. I've heard over the last two days that members of this committee have started to receive phone calls regarding LB54. The basic understanding I have-- and these phone calls are suggesting that this bill is some-- some kind of universal carry bill. Let me make this very clear-- clear. This bill is not a universal carry bill. The simple intent of this bill is to allow law-abiding citizens who do not have their concealed carry permit to transport their unloaded firearms in cases so they can be properly used while hunting and at a gun range. This bill does not allow anyone besides those with a concealed carry permit to transport or carry a loaded firearm. Let me repeat. This bill does not allow anyone besides those with a concealed carry permit to carry a-- a firearm on their body. If the-- if the language is interpreted as being too vague, I would be happy to work with the committee. However, I think the wording is appropriate and clear. I would encourage the Judiciary Committee to support this legislation and I would be happy to answer any questions at this time.

LATHROP [01:37:05] Senator Chambers.

CHAMBERS [01:37:07] Senator Lowe, you and I discussed this bill, didn't we?

LOWE [01:37:09] Yes, we did.

CHAMBERS [01:37:10] OK. I'm looking at the language now and I've heard what you said, but I want to make some things crystal clear for the record. This involves a person who may lawfully possess the weapon. Would it be a person who is lawfully-- who may lawfully have a concealed weapon, or a person doesn't have to have that kind of permit?

LOWE [01:37:38] A person would not have to have a concealed carry permit to be able to do this. If a person has a concealed carry permit, they're pretty much already covered.

CHAMBERS [01:37:47] And that's why I want to ask these questions. The person does not have a permit to carry a concealed weapon. But this would include handguns, concealable weapons.

LOWE [01:38:02] As long as they're properly stored.

CHAMBERS [01:38:04] Well, don't get ahead of me. See, you know everything.

LOWE [01:38:07] Yes, it would-- it would-- it would-- it would--

CHAMBERS [01:38:09] I want to go step by step. So we know that we're dealing now with handguns also.

LOWE [01:38:14] Yes.

CHAMBERS [01:38:15] It is not a person with a permit to carry a concealed weapon because they wouldn't-- it wouldn't make any difference because they're covered.

LOWE [01:38:26] Yeah.

CHAMBERS [01:38:26] So it's a person without a permit to have a concealed carry, a concealed weapon. The-- we're talking about concealable weapons. But a person cannot under this have the concealable weapon on his or her actual person. Is that true?

LOWE [01:38:47] This is true.

CHAMBERS [01:38:48] The only circumstances under which this bill could be used as a defense-- and we got to keep saying it doesn't apply to people with a conceal permit, carry permit, and you've described the types of containers in which this weapon would have to be at the time the person is stopped.

LOWE [01:39:11] Yes.

CHAMBERS [01:39:13] If the container is all right but the weapon is loaded, this does not cover that.

LOWE [01:39:20] This does not cover that.

CHAMBERS [01:39:21] Would it cover rifles?

LOWE [01:39:25] It would cover rifles.

CHAMBERS [01:39:27] Would it cover machine guns?

LOWE [01:39:30] You would have to have a special permit to have that machine gun.

CHAMBERS [01:39:33] And this would not be enough to give you that permit.

LOWE [01:39:35] This would not give you that permission.

CHAMBERS [01:39:38] OK. So when we say lawful and lawfully, that means a weapon unlike any weapon that requires a special kind of permit to have.

LOWE [01:39:51] Yes.

CHAMBERS [01:39:52] OK. That's all I have.

LATHROP [01:39:56] Senator Brandt.

BRANDT [01:39:57] Thank you, Senator Lowe, for bringing this today. I guess I've got just clarification because I wasn't here last year. Currently, this is-- is-- is coming up because of city ordinances?

LOWE [01:40:10] No, it is not coming out because of city ordinances. It-- it is coming out because of a-- a case that was held where a person was stopped and-- and his-- his gun was-- was in a box, in the original box, and it went to court.

BRANDT [01:40:30] OK. So like a couple of years ago I was at Cabela's in-- in Omaha and I purchased a gun and it was in the box and I carried it out to the car. Would I have been illegal?

LOWE [01:40:37] If you do not have a concealed carry permit.

BRANDT [01:40:40] And I do not have a concealed carry permit.

LOWE [01:40:43] It-- it could be. It's a-- it's a gray area in the law and we would like to just define that gray area where that was a lawful carry.

BRANDT [01:40:51] And that's basically the purpose of the bill. OK. Thank you.

LOWE [01:40:55] Thank you.

LATHROP [01:40:56] Senator DeBoer.

DeBOER [01:40:58] Thank you, Senator Lowe. I really like this bill's intent because I think we ought to be encouraging people to carry their guns and transport them safely. That makes a lot of sense to me. And the risk that the law might be clarified in the wrong way, and then Senator Brandt has committed some problem, you know, some crime from-- from that particular thing--

BRANDT [01:41:23] [LAUGH] That would be me.

DeBOER [01:41:23] --I mean, I like having Senator Brandt sit next to me, I don't want that to happen to him, so I-- I really like the intent. I just want to talk, I told you this, about the definition of case. Under subsection (ii), "original packaging," great. Under subsection (i), "a hard-sided or soft-sided box, container, or receptacle intended or designed for the purpose of storing" or transmitting-- "transporting a firearm," I'm just concerned that under this particular language I could take a shoebox out of my house and write in Sharpie "Guns" on the top of it and then use that for carrying my guns wherever I wanted to go. So is there some way that we could make this a little clearer about what we mean about intended or designed for the purposes-- because if I intend it, here is, you know,

this coffee cup and, you know, I intend it to be a receptacle for my gun. That's why I put my gun in it. Then it seems like anything could become a receptacle that was intended for that purpose. Is there some way we could work on this to-- to clarify what we mean by "intended or designed for"?

LOWE [01:42:46] I would be glad to work with you on that in-- in the interim. And, you know, a shoebox was designed to carry shoes. But-- but I-- I get where you're going, so I'd be glad to work with you.

DeBOER [01:42:59] Thank you very much.

LATHROP [01:43:01] Senator Slama.

SLAMA [01:43:04] Senator Lowe, thanks for bringing this bill. I just want to clarify the limits of the gray area in my mind. So instead of going Senator Brandt's route and directly incriminating myself, let's say that a certain person who may be a 22-year-old politician has gotten her weapon from the trunk of her car, has it, according to the gun range rules, up to specs. It's unloaded, in the case. I carry this unloaded, encased firearm into the gun range, do my gun range things, put the-- unload the gun, put it back in the case, leave the gun range with the gun still unloaded and in the case, take it out to my car, put it in the trunk. Have I violated the statute?

LOWE [01:43:46] Yes--

SLAMA [01:43:47] OK.

LOWE [01:43:48] --as of right now.

SLAMA [01:43:50] Great. Thank you.

LOWE [01:43:50] Thank you.

LATHROP [01:43:55] I think we're out of questions for you. Are you going to stay to close, Senator Lowe?

LOWE [01:43:58] I will stay to close.

LATHROP [01:43:59] OK, good. We will take proponent testimony on LB54. How many people are here to testify on this bill? OK, we'll take the proponents first, if you want to come forward.

SPIKE EICKHOLT [01:44:28] Good afternoon, members of the committee. My name is Spike Eickholt. First name is spelled S-p-i-k-e, last name is E-i-c-k-h-o-l-t, appearing on

behalf of the Nebraska Criminal Defense Attorneys Association. We are in support of the bill. Our interest and our support of the bill is-- is basic. Senator Lowe, in his introduction, talked about the 2016 Nebraska Supreme Court case *State v. Senn*. And for the record, that's S-e-n-n. If you look at the bill, on page 2, lines 4 and 5, the statute uses the phrase, if you conceal a weapon or a firearm "on or about his or her person." That phraseology was interpreted in *State v. Senn*. On a person means, obviously, in their pocket, concealed on them somehow. The cases before *Senn* interpreted this notion of constructive possession or when you had something that was near you, and in the context of a vehicle, generally for firearms and other weapons, the case law seemed to say-- or the case law did say that if it was within your reach while you were operating that motor vehicle and that item was concealed, that was the crime, carry a concealed weapon. The fact pattern in *Senn* is different. In *Senn*, the defendant was convicted of carrying a concealed weapon, but the weapon, the handgun was in the back part of a small U-Haul, well outside of his reach. He couldn't access it. Presumably, he did put it in there, and the jury found him guilty of that, and the Supreme Court reversed a Court of Appeals decision and affirmed that verdict. And so that's the situation we're in now. So our interest really is just narrowing the consequences of that because, as Senator Lowe said, as a practical matter, people are driving with vehicles or with guns in vehicles that are concealed, they are in the trunk, they are out of reach, and they are violating the law as interpreted in *State v. Senn*. So we support the narrowing of that for the reasons that Senator Lowe articulated and also for the reasons that I tried to say here today. So as-- just as Senator Lowe said, there was an identical bill introduced last year, it was advanced unanimously from the committee, and we would encourage the committee to do the same.

LATHROP [01:46:46] Very good. Senator Chambers has a question for you.

CHAMBERS [01:46:50] Mr. Eickholt, now when I say authorized, I don't mean that you're employed. Would-- would Senator Lowe be amenable, if you wanted to talk to me and I wanted to talk to you to-- would-- you'd be free to do that, right?

SPIKE EICKHOLT [01:47:06] Yes.

CHAMBERS [01:47:06] OK, because there may be some legal-type issues that I didn't want to ask Senator Lowe. He's not a lawyer or trained in the law, and that's not said disparagingly. I just want to be certain that the language we're putting in here means what I think it means. But in view of the way courts may decide, I may have some questions of you of a legal nature. So I don't want Senator Lowe to think I tell him one thing, then I'm going to do something different.

SPIKE EICKHOLT [01:47:34] I understand.

CHAMBERS [01:47:39] OK.

LATHROP [01:47:39] I see no other questions. Thank you for your testimony today.

AMANDA GAILEY [01:47:58] Thank you.

LATHROP [01:47:58] Good afternoon.

AMANDA GAILEY [01:47:58] Hi. My name's Amanda Gailey, A-m-a-n-d-a G-a-i-l-e-y, and I'm here on behalf of Nebraskans Against Gun Violence. And I think this might be a historic moment when it's the first time we agree with Nebraska Firearm Owners Association on a bill. But we offer our cautious support of Senator Lowe's bill. We understand that there is a national gun control organization that had a different interpretation of the bill. It's one that we don't share. We share the intention expressed by Senator Lowe. So anything that he can do to clarify that intention in the language of the bill, we would also of course support. We also agree that the question of intent may be an issue in some cases and respectfully submit that perhaps the word "manufactured" as opposed to "intended" might help get around some of those concerns. We support this bill because we think it sheds some much-needed clarification on a vague area of the law. As Senator Lowe said, it's not at all clear what the legal status of transport is under some circumstances under Nebraska law. And so this frankly brings some safe-storage expectations, echoing conversations we're having here in Lincoln about safe-storage expectations to the question of moving your gun from point A to point B. One thing we would just like to point out is that when concealed carry was passed in Nebraska, I think it was in 2007, what ended up happening is that the law now has more to say about concealed carrying a firearm than it does about open carrying a firearm, a topic on which it's largely silent at the state level. So there still remains a-- an ambiguity in state law about the legality of transporting a firearm without a concealed carry permit in the open. So can you transport a weapon or have a weapon on your person in plain sight without a concealed carry permit, because concealed carry permit, according to the statute, only covers weapons that are hidden, concealed, out of sight, not ones that are in plain view. So I would-- our organization would prefer to see the language of the law tightened to clarify that it applies to any kind of transportation of firearms, you know, that there is an expectation that you either have a license to carry that firearm or the firearm should be carried under the kind of safety provisions provided for here.

LATHROP [01:50:44] OK. Thank you for your testimony.

AMANDA GAILEY [01:50:47] Thank you.

LATHROP [01:50:57] Good afternoon.

PATRICIA HARROLD [01:50:58] Good afternoon. My name is Patricia Harrold, P-a-t-r-i-c-i-a H-a-r-r-o-l-d, and I do want to take note of this historic occasion and show

that firearm owners and those who are not firearm owners can agree. We actually have the same objective. We just have different approaches in securing those objectives. And I think that's commendable. We are in support of this bill. We are in support of the clarification and really a return to the commonsense approach that all of the firearm owners that I know have used to transport their firearms to and from every lawful location they have ever transported outside of open carrying in a holster and/or concealed carrying in a holster. So the firearms are always carried in a means or with a method to keep the firearm secure. and on that person or under that person's control and, in the case of concealed carry or open carry, in a holster where the trigger guard is protected. It's a fundamental safety rule. So we commend Senator Lowe for bringing this back. We're also very happy that the bill number is different. And we hope that this gets passed.

LATHROP [01:52:03] OK.

PATRICIA HARROLD [01:52:05] Thank you.

LATHROP [01:52:06] Yeah, you're very welcome. Thank you. Anyone else here in support of LB54? Anyone here in opposition to LB54?

MEGAN GENTRUP [01:52:24] Good afternoon. My name is Megan Gentrup, first name M-e-g-a-n, last name G-e-n-t-r-u-p. I first just want to thank you all. I'm a proud citizen in the state of Nebraska. First I just want to thank you again for allowing me to be here today. I know if-- I can't expect to be heard if I don't show up, so thank you for allowing me to do so. Today, I'm here with other proud Nebraskans doing what we think, again, is our civic duty to inform you on what we believe will continue to make our state a great place to live, Nebraska nice, as some might say. I am here today to express my opposition to LB54 which would "Change provisions relating to carrying a concealed weapon." The first thing I want to say is I support the Second Amendment. I am grateful to those who practice gun safety, teach the importance of that safety to their family and friends. In fact, the closest family members of mine, both in this state and other states, and close friends, are gun owners and handle and store their firearms safely because they, too, know how dangerous it could be if their firearm falls into the wrong hands. So with that being said, why would we support a bill to allow someone who has never been trained to carry a firearm in public? This bill would allow hidden handguns to be carried in public in a case. I know we touched on that. What does a case look like? Is it a holster? Is it a backpack? And what about the ammunition? Where will that be stored? Will they be able to-- will they be able to carry ammunition in the same backpack or holster or case as their unloaded firearm? I don't think it's an out-of-this world concept to allow someone to carry hidden, loaded-- excuse me, unloaded guns in public with possible ammunition, not clarifying where that might be, in public. So we require law enforcement, brave men and women who have worked in violence prevention and community safety, to take hours and hours of training and even then sometimes ask to renew their training every

few years. But with this bill as it stands we would allow people to carry loaded-- excuse me, unloaded firearms in public with no training. Permitless carry dramatically lowers the bar for who can carry a concealed handgun in public to include in some cases violent criminals and weapon offenders and people who have no firearm training. The fact that this is a dangerous bill, I hope you keep the safety and well-being of every Nebraskan in mind when you make your decision on this bill. Thank you.

LATHROP [01:54:54] Senator Slama.

SLAMA [01:54:54] Hi. Thank you very much for coming out and testifying today. Appreciate it. So just referencing the statute we have here, I don't think it accomplishes what you may interpret it to. So are there any amendments that you'd like to see on this bill that would allow you to support it or are you just overall against this concept?

MEGAN GENTRUP [01:55:21] I know personally I would be willing to have that conversation, figure out that-- the verbiage on that. I don't think there's an end-all, but right now I'm-- as the bill stands, I'm in opposition of it.

SLAMA [01:55:33] But what specifically would you like to see changed?

MEGAN GENTRUP [01:55:36] Me, as my own person, the clarifying on what's a case, where's the ammunition. I think while I understand why this addresses that gray area and I understand if I'm-- if I assume I'm correct, that gray area, but I think there's so much still gray area that could ultimately-- the gun would fall in the wrong hands of someone else.

SLAMA [01:56:02] OK. Thank you.

LATHROP [01:56:05] I see no other questions for you but thank you for your testimony--

MEGAN GENTRUP [01:56:08] Thank you.

LATHROP [01:56:11] --Ms. Gentrup. Any other opposition testimony? Anyone here in a neutral capacity?

KELLEE KUCERA-MORENO [01:56:22] Hello again. Kellee Kucera-Moreno, K-e-l-l-e-e K-u-c-e-r-a, hyphen, M-o-r-e-n-o. I'm not going to presume to understand all the legalities of this bill. But it-- it just seems like it correlates with the situation with my husband and I my where Senator Schumacher came up with the bill, LB558, that clarified what a knife is, who can have it, where they store it, and-- and basically the most important thing to me is to show intent. I am really upset that there's so many forces that can decide if a person goes to prison or not. And I don't see why this should be even brought up. Obviously, we want to take a look at intent. So I'm counting on you guys to make the right decisions and to make sure that these things are followed through. You know, my-- my fear is that we--

people have already been incarcerated and I think that's probably part of the reason this bill needs to be here is that we can't just keep incarcerating people. We need to know what their intent is. We need to look at community-based programs for this. Thank you, Senator Morfeld, for all that you do. I just want my voice to be heard that I trust you guys. I'm not sure that legislativewise-- if-- if these things are going to be followed through. So thank you again.

LATHROP [01:57:54] OK. Thank you for your testimony once again. Anyone else here in a neutral capacity? Seeing none, Senator Lowe to close. And as you approach, we have three letters of support, first from Ron and Lynette Nash, second from Travis Couture-Lovelady at the NRA, and Stuart Johnson. No letters in opposition or in a neutral capacity. Senator Lowe to close.

LOWE [01:58:22] Thank you, Chairman Lathrop and the Judiciary Committee, for-- for hearing this bill. This has been an interesting hearing for sure. I want a moment to reiterate a few things that this bill does not do. LB54 does not allow someone to carry a loaded or unloaded firearm on their body. It-- it does not allow someone to transport a loaded firearm. LB54 is not-- not a permitless carry or a constitutional carry. It is an idea that I support and I consider bringing a bill like this in the future but not at this time. LB54 is a commonsense update to our statutes to allow responsible gun owners to transport their firearms to places they are legally allowed to have them. And I will talk with Senator De Boer and law enforcement officers to make-- make it-- make carrying weapons safer for everybody involved. I-- I urge you to vote this bill out of committee and thank you very much for hearing it.

LATHROP [01:59:29] Thanks for being here, Senator Lowe. That will close our hearing on LB-- check-- yeah, there's no questions. That will close our hearing on LB54 and bring us to LB275 and Senator Matt Hansen, a frequent guest of the Judiciary Committee.

M. HANSEN [01:59:51] Thank you.

LATHROP [01:59:51] Welcome, Senator Hansen.

M. HANSEN [01:59:53] All right. Good afternoon, Chairman Lathrop and members of the Judiciary Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm before you today to introduce LB275 which would require law enforcement to electronically notify the Nebraska Commission on Law Enforcement and Criminal Justice, commonly called the Crime Commission, when a person is denied a handgun permit, including both purchase permits and concealed carry permits. This bill would make a small-- small procedural change so that law enforcement officials can be aware when people prohibited from owning handguns by state or federal law attempt to get a handgun permit. Under current law, people attempting to obtain a handgun in Nebraska must undergo a background check from the

Nebraska-- from-- excuse me, 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. The second is when they apply for a concealed carry handgun permit from a Nebraska State Patrol which can then also serve as their certificate to purchase, lease, rent, or receive a handgun. LB275 would require a sheriff's office or the Nebraska State Patrol, upon receiving notification or denial from the background check system, to share that with the Nebraska Crime Commission. The commission has told me they believe they could do this with an addition to the existing framework of NCJIS, the Nebraska Criminal Justice Information System. This way, we would be utilizing an existing database in order to alert law enforcement when a prohibited possessor is attempting to gain access to a firearm. Currently, when either the State Patrol or a sheriff encounters a denial, there is not a comprehensive system that shares that with other agencies. It is more clear than ever with the sharing of information across agencies, it is grossly needed when it comes to preventing acts of gun violence. It just makes sense to utilize the existing infrastructure of NCJIS to alert other law enforcement agencies when someone who isn't supposed to have a gun tries to get one. I want to be clear that this bill does not prevent law-abiding citizens from gaining access to firearms. This is my third iteration the bill, including most recently LB520 in 2017. From those past hearings, we've made changes to this version that addresses previous concerns. In this version, no additional investigation or reporting is required other than the notification to the commission. Someone who applies for a permit who does-- does so in good faith in is simply unaware of the law prevents them from getting a permit should not be negatively impacted by this bill. Across the country, policy proposals to adequately follow up on failed background checks are gaining steam from both sides of the aisle and from a wide variety of stakeholders. The U.S. Attorney General last year released a memo for all U.S. attorneys to enhance prosecution of cases including-- involving giving false statements on gun applications. Last May, the U.S. Government Accountability Office released a report at the request of the House of Representatives that thoroughly laid out the urgency of the increased number of application denials and falsified forms I'll end with this. LB275 would simply improve enforcement of our current laws by allowing us to strengthen the existing background check system, something most of us, I hope, can agree on. With that, I'll conclude my opening and be happy to take any questions.

LATHROP [02:03:05] I don't see any questions, but I'm going to say congratulations on that fiscal note.

M. HANSEN [02:03:10] Thank you. The third time's a charm.

LATHROP [02:03:13] Yeah. No, that's a little unusual around here. Thank you, Senator Hansen. If there are proponents, you can come forward. How many people intend to testify on this bill? It's like two. OK. Somebody can alert some Senator Halloran. Welcome.

LACEY MERICA [02:03:33] Welcome. Good afternoon, Chair Lathrop, members of the Judiciary Committee. My name is Lacey Merica, L-a-c-e-y M-e-r-i-c-a, and to clarify, I am testifying today in a personal capacity because I am a gun violence survivor. On December 5, 2007, I was finishing up some Christmas shopping and planning to visit with my coworkers in the customer service and gift-wrap department at Von Maur in Westroads Mall. I never imagined that six of my friends and coworkers and two customers would have their lives cut short by gun violence that day. I never imagined that I would be alive because one of those customers told me to run while I was on the escalator going up to the second floor. I never imagined I would have to usher other customers into an alterations area and fitting room to hide and call our loved ones. And I never imagined I would have to call my mom and say, no matter what you hear, I'm OK. But I didn't imagine that. It all happened and it happens to thousands of people every day, people attending a concert, going to class, sitting in their car or riding in the car, in the case of some children, or just at work. Every day, 100 Americans are killed with guns and hundreds more are shot and injured. They, their family, and their friends are all survivors who live with the aftermath of the situation. In an average year, nearly 170 Nebraska residents are shot and killed with a firearm. We all agree that one way to reduce gun violence is to keep guns out of the hands of people with dangerous histories, certain felony convictions, and histories of domestic abuse. We already have laws regarding some of these situations. Since the background check system was put in place in 1998, it has blocked 7,585 gun sales at licensed firearm dealers in Nebraska, including 4,022 to felons, 322 to people with dangerous mental illnesses, and 1,625 to domestic abusers. LB275 is a tool to help law enforcement enforce our already existing laws. When someone applies for and is denied a permit to purchase a handgun or concealed carry permit because of that previous history, it would require the Nebraska State Patrol to send that information to the Nebraska Crime Commission. This simple requirement would give local law enforcement the ability to intervene and possibly prevent dangerous situations by identifying patterns where someone who legally cannot have a gun is attempting to get one. I acknowledge that LB275 probably wouldn't have prevented the gun violence I survived. However, as someone during an earlier hearing mentioned, we can't change the past, but we can affect the future. This is one way that we can help prevent similar situations from happening in the future by preventing people who legally cannot have firearms from obtaining them. And that is why I urge you to advance LB275 from Judiciary to the full Legislature. Thank you all, and I'm open to answering any questions.

LATHROP [02:06:51] I see no questions. Thank you for your testimony. Good to see you. Anyone else here in support? Anyone here in opposition? Good afternoon.

JEFF AVEY [02:07:16] Afternoon. Good afternoon, Chairman Lathrop and members of the Judiciary Committee. My name is Jeff Avey, and I'm the director of the Nebraska State Patrol criminal identification division. I'm here today on behalf of the Nebraska State

Patrol to testify in opposition to LB275 and to share some thoughts on the bill. The Nebraska State Patrol is responsible for issuing concealed handgun permits under the Concealed Handgun Permit Act. LB275 requires notification when a concealed handgun permit is denied or revoked because the permitholder is found to be a prohibited possessor. Individuals who qualify--

LATHROP [02:07:57] Jeff, can you speak up--

JEFF AVEY [02:07:58] Yes.

LATHROP [02:07:58] --just a little louder?

JEFF AVEY [02:07:59] Yeah, certainly.

LATHROP [02:07:59] Please.

JEFF AVEY [02:08:05] Individuals who qualify for a concealed handgun permit are a narrower group than those who would qualify for a firearms purchase certificate or those who may lawfully possess firearms. Most of the applicants who are denied a concealed handgun permit are not prohibited possessors. The Nebraska State Patrol currently reports to the county attorney any concealed handgun permitholder who refuses to surrender the permit after becoming ineligible, as only the county attorneys may file civil actions to revoke permits. It is important to delineate that not every permitholder who becomes ineligible is a prohibited possessor as the Concealed Handgun Permit Act contains additional disqualifiers that only prohibit an individual from carrying concealed, not from the purchase or possession of firearms. Whether an individual qualifies for a concealed handgun permit is the only firearms eligibility determination the State Patrol makes. The standard for a concealed handgun permit is much higher than those for the purchase or possession of firearms. Effectively, this bill requires reporting individuals to the Crime Commission without any evidence of a crime. I'd be happy to answer any questions at this time.

LATHROP [02:09:22] I see no questions. And I think we understand your point. Thanks for being here today.

JEFF AVEY [02:09:27] Thank you.

LATHROP [02:09:27] Anyone else here in opposition to LB275? Anyone here in a-- to testify in a neutral capacity? Senator Hansen to close. As he approaches, I'll read a few letters into the record, in support, Marianne Williams, Lydia Presley, Mary King, Lynn Zeleski; in opposition, Bruce Hueftle; and in a neutral capacity, David Partsch with the Nebraska County Attorneys Association.

M. HANSEN [02:10:05] Thank you, Chairman Lathrop, and thank you, members of the committee. Let me touch on the county attorneys' letter. They had a technical concern about some duplicating reporting requirements and we were trying to work on some amendment language but just didn't have anything finished to present today. I'm a little unsure how to take and handle the Nebraska State Patrol's testimony in opposition today. This is effectively the third iteration of my bill that all is aimed at the same purpose and uses a lot of the same language, and it's the first time I believe the State Patrol has opposed it. Fundamentally what this is, is a situation where, and I-- as I envision it working, is where one law enforcement agency is-- is-- is investigating a person or is on the radar or has something going on and then they go-- that individual who is under investigation or has some other reason to be on law enforcement's radar goes and applies to get a gun in a different jurisdiction is denied. I think it's pretty easy to see a scenario in which, you know, you're dealing with the Omaha metro area. There's somebody who, you know, Omaha Police Department is paying attention to but they nominally live in Sarpy County and file and get denied there. As our system currently exists, it's a very paper-based system and-- and is not very-- not-- frankly, just not very high tech and there's not a good way for this person who-- who-- who might be encountering law enforcement to have any sort of record that they've applied and been denied. Throughout the years in this bill, I think a lot of people think that I want to mandate prosecution, mandate investigations. I really don't. I will say falsifying the form is a felony and like I do think that should be treated seriously because it's-- if we're going to take gun crimes seriously, we should --that's a very-- you're-- you're walking into a sheriff's office to commit a felony in the sheriff's office, that seems like an easy place to intervene. So all this is, is, in my mind, is, you know, a-- a-- a police officer arrests somebody for, say, domestic violence and you look and he sees, oh, yesterday morning he tried to get a gun and was denied. That just changes the whole dynamic of the situation and maybe how the situation proceeds. It's those situations that I brought this forward. I'm happy to work on technical concerns, as always. Working with all of the different IT systems and databases we have in the state are some of the most cumbersome and confusing things to do legislatively. I'd be happy to work on all the concerns. And with that, I'll close and advance [SIC] the committee to advance LB275.

LATHROP [02:12:37] OK. I see no questions. Thank you, Senator Hansen.

M. HANSEN [02:12:41] Thank you.

LATHROP [02:12:41] That will close our hearing on LB275 and bring us to Senator Halloran and LB198. Good afternoon.

HALLORAN [02:13:18] Good afternoon, Chairman Steve Lathrop and 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 LB198 to the committee for your consideration. I intend to keep my remarks brief this

afternoon allowing more individuals time that will follow me. LB198 is the bill as amended by AM644 by the Judiciary Committee that I brought forth last session under LB556. The amended bill was voted out of Judiciary Committee by a 7 to 1 vote. The bill is brought on behalf of the combined request from the Omaha Police Force, Chief Association, Sheriffs Association, and several county attorneys. LB198 alters Nebraska criminal code as it pertains to firearms. Section 4 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. I will highlight how this bill will change current statute. Section 1, page 2, line 10 creates a definition of facsimile firearm. Section 4, page 4, line, excuse me, line 27 creates the offense of the use of a facsimile firearm to commit a felony. It assigns a Class IIA felony to this offense. Thank you for your time. While I am willing to answer your questions, there may be better-suited individuals that are following me to answer those questions. But at my close if I can answer questions, I will attempt to do so.

LATHROP [02:15:15] No. You have the next bill I would expect you to close. I--

HALLORAN [02:15:22] Do I have to?

LATHROP [02:15:24] You do not have to. Now-- now you've drawn a question.

HALLORAN [02:15:30] Yes.

LATHROP [02:15:32] Senator Chambers.

CHAMBERS [02:15:32] Senator Halloran, are you going to prioritize this bill?

HALLORAN [02:15:35] I have not decided yet.

CHAMBERS [02:15:35] OK.

LATHROP [02:15:40] I see no other questions. Proponent testimony. Good afternoon once again.

JEFF LUX [02:16:02] Good afternoon, Mr. Chairman, members of the committee. My name is Jeff Lux, first name Jeff, J-e-f-f, last name Lux, spelled L-u-x, a Deputy Douglas County Attorney from the Douglas County Attorney's Office, 100 Hall of Justice, Omaha Nebraska 68183, here on behalf of the Nebraska County Attorneys Association to speak in support of LB198. As Senator Halloran kind of pointed out the history of the bill, since there are some new members, this is a problem that we've been dealing with for a while. We've had several versions of this bill over the last few sessions that have been brought to you before from several senators. Senator Halloran picked up the ball in I think 2016. We've amended the bill, added and reworded different language to address concerns

from other senators, from the defense bar. Basically this makes the use of a facsimile firearm or a firearm that it isn't real. It looks-- it's a fake firearm, making that a crime: use of a facsimile firearm to commit a felony. The class is a Class IIA felony. We started out a number of years ago treating it the same as a firearm because the victim of these types of crimes doesn't know the difference. But we addressed some concerns in terms of, well, you're just encouraging the use of a real firearm if you're going to punish the fake and the real firearm the same. And so we addressed those concerns, lowered the-- the class to now where it's a IIA which gives a judge anywhere from 0 to 20 years as a sentence. So the judge can take into account the facts of the case, how the use of that facsimile firearm impacted the victim, how it was used in the case; and, therefore, the judge can then take that into account. There's no mandatory minimum associated with the use of a facsimile firearm. There's no bottom number. It's now zero because it's a Class IIA as opposed to the use of a real firearm which is a IC felony which has a mandatory minimum 5 years to 50 years, and that first five is a hard five, no good time. And the use of other deadly weapons like knives, brass knuckles, those types of items that's a Class II which has a minimum of 1 year to a maximum of 50. I gave a handout which I think all the senators can look at. These are actual examples of facsimile firearms that have been used in felony crimes in Douglas County over the last couple of years. As you can see, we put in pictures of what those facsimile firearms would look like. If you purchased them, they're supposed to have orange barrel covers, other, you know, safety features and those have all been removed or painted over or drilled out so that the facsimile firearm really does appear to look like a real firearm with those types of safety features removed. So we feel that it's over the legislative process over the last couple of sessions that it's-- it's-- it's a reasonable bill. It's measured. It's focused on only the use of this type of facsimile firearm during the commission of a felony. All other uses are legal. Possessing these items are legal. So we feel that it's-- it's-- it's focused in that regard. It covers the facsimile firearms or objects. We're not talking about you know the finger behind the coat, give me- your- give me your wallet because I don't think that a victim or a witness would be able to describe the object as the statute requires, describe the object that they are reasonably perceiving to be a firearm. In that regard, we'd be talking about potentially a body part and human beings aren't objects. So we feel that it's-- it's-- it's good language. It could be-- it would be used properly in those situations where, I mean, in that type of situation where maybe you had the finger behind the jacket, you know, that you could ask the victim, well, you perceived it to be a firearm and you acted, you know, better safe than sorry and that-- and that's fine. But we probably wouldn't be able to charge anything in that regard because that victim would also probably have to answer the questions of, well, you-- you thought it was a firearm or maybe even a fake firearm, but you can't describe the object that you perceived it to be. And so in those situations we don't feel that we'd be able to make that type of a charge. But when we're talking about actual objects, replicas, toy starter pistols or other objects and that would, you know, BB guns, blank fire firearms, air-powered BB guns or pellet guns, CO2 type of toy guns those would-- those would be covered. I see I've got a red light.

LATHROP [02:21:38] OK. Let's see if there's any questions, Mr. Lux. Let's start with Senator Brandt this time.

BRANDT [02:21:44] Thank you, Mr. Lux, for testifying today. It's pretty obvious from-- from the handout they've modified these to make them look like a real firearm. OK? But my question is and we've got a picture on page 2 here where they started with a blue gun with a red tip. OK. So if they use that firearm before they modified it to commit the crime, is that fall underneath this jurisdiction because they didn't modify it? And to me, I would think it was a BB gun, but, you know, somebody else might not do that. So I guess what-- how would you rule on that?

JEFF LUX [02:22:21] Well, I guess-- I guess this picture-- this is actually supposed to be a black firearm. But I guess it looks blue under the copy.

BRANDT [02:22:30] Right there, this is black.

_____ [02:22:31] Yeah.

JEFF LUX [02:22:32] All right.

BRANDT [02:22:32] But, you know, before-- before they mod-- I guess my point is before they modify these firearms a lot of times they have red taps or yellow tips. And the manufacturers do that to make it look like a BB gun or pellet.

JEFF LUX [02:22:44] Right.

BRANDT [02:22:45] And what I'm saying is if-- if the criminal doesn't modify it and uses it just out of the box like that, is that a facsimile firearm?

JEFF LUX [02:22:56] Well, if the-- if the victim perceived it to be what they believed to be a firearm and it's used during the commission of a felony, then I said, yeah, that we-- we could probably charge that.

BRANDT [02:23:05] OK. That's what I was looking for. Thank you.

LATHROP [02:23:09] Senator Chambers.

CHAMBERS [02:23:13] This could be stated that it's a facsimile firearm is in the eye of the beholder. Isn't that what this amounts to?

JEFF LUX [02:23:25] A perception from the victim if it's a reasonable, yeah, that's how it's written here, Senator

CHAMBERS [02:23:28] Although you talked about what would be perhaps considered to be a facsimile firearm, the charges that wouldn't be filed based on some of the others, you can't speak for every prosecutor. There are 93 counties. You can't tell me today what each one of those prosecutors is going to use as a standard for determining a facsimile firearm. And I think you all are being deceptive because what you did in giving these pictures, they certainly resemble a real gun. But that's not what the definition says. The definition-- and that's what will be used on page 2, line 10 "Facsimile...means any replica." A replica does not necessarily mean that what is the replica looks like the real thing. A cap gun is a replica. There are words in here which are ambiguous. So a replica, a toy so replica and toy are not the same thing, are they?

JEFF LUX [02:24:47] No, Senator.

CHAMBERS [02:24:47] So what's the difference between a replica and a toy?

JEFF LUX [02:24:51] Well, a replica could be a-- something that looks like a firearm and maybe ends up being a lighter or a paperweight, but it looks and sized like a real firearm. A toy would be any type of toy gun that looks like a firearm handgun. And if that's used or looks like a firearm and used during the commission of a felony, then it would fall under the definition. Stark--

CHAMBERS [02:25:27] OK. I don't want to push you beyond what I'm asking. I'll ask--

JEFF LUX [02:25:30] Yes, Senator.

CHAMBERS [02:25:30] --discrete questions. A toy could look like and be considered a replica. A toy could be the same as a lighter based on its appearance. A lighter could be a toy. When you have different objects that are going to fall under one definition, then it creates ambiguity in my view; and it gives prosecutors the opportunity to charge an offense of anything, I meant of this offense for anything. If a person carved a potato and painted it black, that would be a facsimile firearm, wouldn't it? Because the percep-- the perception would be whether it is or not depends on the perception of the one who sees it.

JEFF LUX [02:26:28] As long as that perception is reasonable under the circumstances and the court determines that to be reasonable, then we've met the standard.

CHAMBERS [02:26:36] It could be carved out of wood, couldn't it?

JEFF LUX [02:26:41] Yes.

CHAMBERS [02:26:41] It could be a rectangular piece of wood with another block of wood placed on top of it and that could be a replica firearm if the one who sees it thinks that it's real. In other words, you are adopting as a definition what is considered a psychological principle. If a person perceives a thing to be real, then it is real to that person in its consequences. So it's too vague and that's why I asked Senator Halloran if he's going to prioritize it. But I'm going to make something clear so I won't have to ask a lot of questions because I-- I've been down this road several times. I'm going to fight these bills tooth and nail.

JEFF LUX [02:27:37] To get ready for today, I read last-- last year's committee hearing with-- with-- with Don Kleine.

CHAMBERS [02:27:46] That's why I just wanted to put some things in the record. And I'm not going to ask a lot of questions. That's the point I'm making clear. So I've asked you all the questions I want on the facsimile. One of the reasons that you don't want to have a mandatory minimum is because of some objection that might exist to that very issue. Isn't that true?

JEFF LUX [02:28:09] Well, I think the reason why we moved around the penalties was to get, you know, more senators on board. I mean just the legislative process. We came out of the gate with, you know, the victim felt there was a firearm. Let's go out and treat it like a firearm. There are other states that do exactly that. If the facsimile firearm is used in the commission of a felony, they get charged with use of a firearm. We started that. We didn't have that type of support and we amended accordingly.

CHAMBERS [02:28:45] Didn't this begin, this push in this Legislature, when the Omaha Police conducted themselves in such a way that they killed a camera person and the perpetrator, the alleged perpetrator of the offense had an unreal, a nonreal pistol? You're aware of that, aren't you?

JEFF LUX [02:29:12] Yeah. It's actually a pic-- it's one of the pictures in this handout that I handed out.

CHAMBERS [02:29:17] Now the police are the ones who killed that camera person. Isn't that true?

JEFF LUX [02:29:23] That's correct.

CHAMBERS [02:29:25] So that could have been stupid police work. If you're over there and you're a cop and I'm over here and I'm a cop and we shoot toward each other, then we can kill each other, can't we?

JEFF LUX [02:29:38] Well, when you're talking about a fluid situation of-- of firearms use, anything can happen.

CHAMBERS [02:29:45] So maybe if the police had better training, that person would have still-- one cop wouldn't have killed the other, huh. And also there were people in the restaurant. You know why I'm saying this? Because you all make a big issue out of these which I don't think is unjustified. But you never want to talk about the stupidity of the police-- stupidity. They should have been charged, not civilly. They should've been charged with a crime. They could foresee that the careless use of those guns could kill customers, other cops, or as, in fact, it did, that cameraman. So here's the final question I want to ask you. Isn't it true that police are not held to the same standard of rationality and care as a private citizen? They're not held to that standard, are they?

JEFF LUX [02:30:44] Well, we don't give every citizen a badge and a gun and ask them to go towards where there's problems, where there's violence.

CHAMBERS [02:30:57] Let me ask it a different way. Should they be held to a higher standard since they're presumed to be trained?

JEFF LUX [02:31:04] I think police officers have the rights that every other citizen has.

CHAMBERS [02:31:08] Should they be held to a higher standard? Yes or no?

JEFF LUX [02:31:13] Police officers have received training-- training to that standard. If they don't use it up to that standard, then, yes, there's accountability for that.

CHAMBERS [02:31:22] If they don't train them, then the cop doesn't have to comply with any standard, huh, because their defense is I acted in accord with my training. So if they weren't trained not to shoot in a way that would kill another cop, then they're not liable or if they killed a civilian. But they were trained to shoot under any and all circumstances. That's their training. So you-- you're a prosecutor?

JEFF LUX [02:31:48] Yes.

CHAMBERS [02:31:49] And you wouldn't prosecute them, would they, if they could establish that the training and their department was lax and they acted in accord with that training and they killed somebody who was unarmed?

JEFF LUX [02:32:02] If the department's training didn't meet the national standards, then there'd be some issues. There'd also be a grand jury.

CHAMBERS [02:32:10] By me asking you all these questions, I won't have to ask them of anybody else. But I might ask others who do come a question or two, and I appreciate your indulgence. Thank you.

JEFF LUX [02:32:20] Thank you, Senator.

LATHROP [02:32:24] I don't see any other questions, Mr. Lux. Thank you for your testimony today.

JEFF LUX [02:32:27] Thank you very much.

LATHROP [02:32:42] Welcome back.

AARON HANSON [02:32:45] Welcome back to me. Chairman Lathrop and honorable members of the Judiciary Committee, my name is Sergeant Aaron, A-a-r-o-n, Hanson, H-a-n-s-o-n. I am a police sergeant for the city of Omaha Police Department, 22.5 years employed and currently here representing the men and women of the Omaha Police Officers Association in support of LB198. I think that Mr. Lux very eloquently discussed some of the legal high points. I think it's-- it's more appropriate for me to share some of the street level perspectives that I have had and that some of my members have had with regard to facsimile firearms which would explain why we support LB198. Two situations that come to mind. One was just recently within the last six months. We had two young men 20 and 21 years of age. They just decided that today was a day they were angry. That day they were angry and they were going to take out their anger on somebody. A few days prior to that, they had purchased two facsimile firearms. These facsimile firearms are actually even more elaborate than-- than a toy. They were designed exactly like revolvers and they would actually fire 9 millimeter starter rounds. They drove around south Omaha until they found a potential victim who was an elderly Vietnam veteran, rolled down the window, yelled at him some threatening nature, and then commenced to open fire on him with these facsimile firearms. When we had a chance to interview this gentleman, he thought he was going to die. He said what came to mind was Vietnam. He said he survived Vietnam. He thought he was going to die on the sidewalk in front of his house. That was pretty telling for me especially given our history of supporting this-- this bill. And then, of course, the one that comes to mind especially for me that I was-- that I personally was at and witnessed is the incident that Senator Chambers discussed, very highly publicized incident in August of 2014. And although I was not immediately at the scene for that incident, I was there for the aftermath. I did look at that firearm which was at that point in the parking lot of the-- of the Wendy's. And never in my wildest dreams did I believe that was a facsimile firearm. I remember looking down the barrel and even believing it to be a .45. Later I found out that it actually was-- the slide would cycle and it would make a loud noise when the trigger was pulled and which, according to media reports, would lend those officers to believe that it was a real firearm being fired at them. It is not unheard of for police officers and crime victims to have to deal with offenders

who use these facsimile firearms to engage in rapes, robberies, or terroristic threats and should be taken seriously. And I'll take any questions that anyone on the committee may have.

LATHROP [02:36:08] Senator Chambers.

CHAMBERS [02:36:11] Have you looked at your birth certificate ever?

AARON HANSON [02:36:17] I think a few times. I'd have to-- take me a while to dig it out.

CHAMBERS [02:36:21] Does Sergeant appear on there as your first name?

AARON HANSON [02:36:24] Does not

CHAMBERS [02:36:25] Well, you said my name is Sergeant and I was just curious.

AARON HANSON [02:36:29] It's my title.

CHAMBERS [02:36:29] OK. Senators do the same thing. My name is such but here's-- that's to kind of let you know I'm not going to be adversarial in the sense of being hostile. But I'm going to ask a couple of frank questions. In the aftermath of that incident that I talked about, did the police department conduct an investigation?

AARON HANSON [02:36:56] They did.

CHAMBERS [02:36:57] When they investigated, did they see the number of these other establishments that their bullets penetrated?

AARON HANSON [02:37:08] I know it was a large crime scene. I'm sure that they did. I don't have that number exactly.

CHAMBERS [02:37:12] I don't want to be-- I don't want to trick. I saw the photographs. And when they penetrated these other establishments, they were low enough so if a person had been within range they would have been killed in their own establishment from police officers' bullets. And they can't blame that on the facsimile gun or even if it was a real gun, they did not use good judgment in shooting wildly as they did. Now the police department or the city hired an expert. The expert said that a certain number of bullets being fired was reasonable. Do you offhand-- did you read what that number of bullets was?

AARON HANSON [02:37:54] I read the article. I can't remember the number of bullets but--

CHAMBERS [02:37:58] It was a pretty high number, wasn't it?

AARON HANSON [02:38:01] It was a very dynamic scenario.

CHAMBERS [02:38:06] Do you consider yourself to be a reasonable person?

AARON HANSON [02:38:11] I do.

CHAMBERS [02:38:12] Do you consider yourself to be a good police officer?

AARON HANSON [02:38:15] I do.

CHAMBERS [02:38:16] Do you take seriously what we're always told that public safety is uppermost in an officer's mind?

AARON HANSON [02:38:25] I do.

CHAMBERS [02:38:26] Then why don't you all try to have these guns banned so that they cannot be sold to anybody who cannot purchase a real firearm? Police have never done that.

AARON HANSON [02:38:37] Because our focus is on the criminal behavior and not necessarily someone who is not engaging in criminal behavior.

CHAMBERS [02:38:43] This is the implement. You described how it was used and a veteran was terrified by it. If the instrumentality itself can cause such mayhem, then why don't you all try-- I'll tell you why you don't try. You're afraid of being opposed by the NRA who thinks that's the first step toward gun control. That's what I believe. I think the police are afraid of the NRA. These things should not be purchasable by young people. Anything that looks this real should be handled the same way as an actual firearm. And I said I wouldn't ask many questions, but I want that in the record. Because until I see you all as police and I'm-- you're the one testifying; I don't mean you personally are going to do this-- until I see you all as police trying to get to the root of it, I don't think you're serious at all. You're trying to make your job easier and you are afraid to go to the root of the problem. And that's my view. I'm one person. And if Senator Halloran puts this thing on the floor, then he's going to have a tough row to hoe with it. And I'm going to find out why he doesn't bring some legislation to stop these things from being sold to children. See, he's a senator but he takes the easy way out too. That's what he should have done when he found out how devastating these things are. You don't have the power that a senator has to do that, but you all could start talking about it. Get the newspapers to print some editorials that, hey, the police have a point here. There is an entire area where they have to do work because of the allowance of merchants to sell very real looking replicas of guns. And the police are leading the way by pointing out that the way to stop this or

put a heavy burden on anybody doing this is to ban the sale or purchase or possession of these under circumstances less stringent than those that attend the sale, purchase, and possession of real weapons. My final question. Do you think that's a reasonable approach?

AARON HANSON [02:41:38] Honestly, Senator, I don't because I think that-- I think that if we-- if we-- if we focus on every law-abiding citizen as opposed to people that are making bad choices, I'm not saying I don't see your point of view and I don't understand it. But our focus is to focus on-- on the behavior that causes the mayhem. That's what we're doing today.

CHAMBERS [02:42:01] If you had a child, would you want your child to purchase one of these?

AARON HANSON [02:42:06] I would not.

CHAMBERS [02:42:07] That is law abiding.

AARON HANSON [02:42:08] I would not.

CHAMBERS [02:42:09] Would you allow him to?

AARON HANSON [02:42:11] Under my supervision, I would allow him to use it. Outside of that, I would not. So I agree with you on that point, Senator.

CHAMBERS [02:42:19] I was making a record and I've done enough on that so thank you for your indulgence.

LATHROP [02:42:26] I think this debate has been waged since the days when I was here the first time, and we always struggle with how do you identify something. It's both the-- that the elements at the end of the day involve the perception and whether the person who's the victim has been terrified or believed it to be real and also whether that belief is reasonable. And working that into a definition has always been a challenge with this legislation. But I appreciate your testimony today. Thanks for being here--

AARON HANSON [02:43:00] Thank you.

LATHROP [02:43:01] --Sergeant Hanson. Anyone else here in support of LB198? Anyone here in opposition?

SPIKE EICKHOLT [02:43:26] Good afternoon, members of the committee. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t, appearing on behalf of Nebraska Criminal Defense Attorneys Association opposed to the bill. As Senator Lathrop just indicated, this bill or a

version of it has been before this committee for the last few years. And I think as Senator Halloran indicated, this is perhaps admittedly maybe a better version than some of the earlier ones and some of the opposition points that we've raised have been at least addressed somewhat. But we still have a fundamental opposition to this. What this bill proposes to do is create a brand new felony. It's a companion felony. That means it's an add-on charge. It only comes into play if a person is convicted of an underlying crime, and it's also a mandatorily consecutive sentence with this felony. Admittedly, it's a Class IIA felony which means that there is no bottom number. So it has improved in that sense is no longer mandatory minimum or even has a minimum number. But I will submit that the judges will not give zero as a consecutive sentence for these kind of crimes. Ultimately, as Senator Lathrop has indicated, there's still a problem with trying to capture-- if you have an actual firearm, it's seized by law enforcement. It's a firearm. It's there. It's objective. The only issue comes down to whether you used it to commit the crime. If you're seen on video with it, that's easy to do. When you have any sort of object that the victim can reasonably perceive to be a firearm, that is a very low standard. It's not like the pictures you see in the handout you got. I've had multiple robbery cases that I've represented people on and almost very consistently the victim, understandably so, will say, I thought that person had a gun. My client never had one. My client never displayed one. My client never even said he had one. But that's just a natural feeling in that moment of terror that happens. And oftentimes these come into play in the robbery cases. I would remind the committee that robbery is a 1 to 50. It's already significant sanction, already has a significant penalty. The definition includes the term "starter pistol." It's on page 2, line 10. I don't know if that's a real category of gun or starter pistol. My understanding and a little bit of research I was doing as I was sitting back there is starter pistol is just any kind of firearm that fires blanks. So you already have a problem arguably with that definition. You also have replica toy and any catchall object that can reasonably be perceived by the victim to be a firearm. So there's still problems with the scope of the bill itself. For the reasons that we've opposed it before, we would again oppose this bill. It is another mandatorily consecutive felony that's going to be an add-on for already significant felony charges. I'll answer any questions if anyone has any.

LATHROP [02:46:38] You know, I have to say I've seen some of these things and I don't think it's any less terrifying for somebody if you're at the liquor store or at the Kwik Shop at night and somebody rolls in with one of these things. You give them the money and now you gotta go live with the idea that somebody was pointing one of these things at you and you find out two months later that it wasn't a functioning pistol.

SPIKE EICKHOLT [02:47:04] I-- I agree with you. I think the pictures that you see that's probably I would submit the most difficult or the most impressionable thing for you because that's true. But I think having it-- there's other ways to prohibit these things being sold, to being had, to be marketed to people.

LATHROP [02:47:23] Well, that may be true. And so let's say because I saw in one of these handouts where somebody said you couldn't sell any of these things unless they were painted orange or something like that.

SPIKE EICKHOLT [02:47:31] Right.

LATHROP [02:47:32] But if we-- the guns that come in to-- and I'm going to say Omaha-- are not just coming from some other places in Nebraska. They're coming in from wherever. Somebody steals them in Texas and they bring them to Omaha and they sell them. The same is true of these things. I mean we can-- we can say you can't sell them in Nebraska, but it doesn't stop somebody from picking up one of these facsimile guns in Council Bluffs and coming across the bridge. So at some point if we made a serious crime out of pointing one of these things at the-- at the clerk at the Kwik Shop while they're doing a robbery, a real gun, and somebody comes in with a fake one, think it makes sense to have the penalty less so that we're not encouraging people to roll in there with a real one, to the extent they think about it at all. But I'm not sure that we should just say it shouldn't be a crime, and I take from your testimony that that's your conclusion.

SPIKE EICKHOLT [02:48:34] Not necessarily it's not criminal. Again, I just remind you that if you take anything of value from somebody else and put that person in fear, whether you have a-- anything, just a verbal threat, that's robbery and you can still commit that crime with a display of a facsimile gun. The bigger-- another fundamental objection is this is mandatorily consecutive. I know there's no zero but that's just I would submit illusory. The judges are going to give-- they're going to give 30 to 40 on the first number and they're going to give 15 to 20 and they're going to stack it. And you are capturing, I would submit and this is anecdotal, you're going to capture, you know, somebody who's really in the game, so to speak, on the street is not going to be walking around with a BB gun, right, because they'll run into somebody who's got a real gun. And guns are everywhere. You're going to capture people who are unsophisticated, if you will, criminals. You're going to have people in desperate moments who can't simply-- they don't have the means, they don't have the money, they don't have the ability to get a real gun. They're going to go to some Wal-Mart get one that's got the orange tip and they're going to take a sharpie and blacken it out and they're going to [INAUDIBLE] they do, not that that doesn't terrify the victim. I'm not trying to say that. But what you have is you just are raising the stakes and resulting in people going to prison longer and longer. You know, you heard-- we heard a corrections bill yesterday. People can learn a lesson in 10 or 15 years, but we've got it so much higher than that where people are going to prison for 25, 30 years.

LATHROP [02:50:01] OK. Well, I appreciate your point of view or your concern. Any other questions? Senator Chambers.

CHAMBERS [02:50:10] Mr. Eickholt, I've seen examples where a person is committing a crime. Somebody else may have been hurt, not as a direct result of anything this person did, but it's considered an extension of what that person did. So if those cops had shot as they did at each other, in effect that's what they did, some cops were coming in a door over there; other cops are coming in a door over here and they started shooting. And they shot dozens of times. If that person had not been killed, the perpetrator, he would've been charged with the murder of that cop. And it's the stupidity of the cops. See, people around here don't want to hold these cops to a high standard. A lot of them shouldn't be allowed to have guns. And then all they have to do is say I complied with my training. There are what are called police experts that travel all over the country and they testify to whatever the cops need to get away with what they did. They have people who are called arbitrators and the police unions know who these people are and they always get them. And they testify all over the country and they say the cop acted in accord with his or her training. There is one, well, I won't give the example but there have been instances as preposterous as a cop standing up and tasing somebody who is on the ground under several officers and she said, he was trying to reach her knife. She didn't explain why she was carrying a knife. So that's why she did what she did. She kicked him and did some other things. Well, now she's standing up. He's pinned to the ground. But since she said she thought he was trying to reach her knife, a civilian couldn't get away with that. These cops are encouraged to take out their hostilities on people they can get away with doing it on. They had on a cop's body camera where this white girl told this cop, you don't do this to me; I'm a clean white girl. And there was another cop who had stopped this family of white people; and when they were afraid, the cop himself said, we don't kill white people; we kill black people. And that was considered not to be a violation. They had that on television. This is what cops do. Black people are worried about them. I'm worried about them. And when I make a comment that we are as afraid of the police, as white people say, they are ISIS and ISIS isn't even over here, then I'm a bad fellow. Well, I'll have to be a bad fellow because those are the bad things happening to us that are not happening to white people. I don't think legislators ought to have the cop-out that you don't criminalize something because somebody may bring the same object from someplace else. We should not make the use of drugs illegal in Nebraska because they can get drugs someplace else and bring them here. So let's not-- let's not do anything like that. And those are the things I hear by people whose neighborhoods, whose family members, who themselves are not menaced by these things. So they say what's the use of taking these precautions? And what I'm saying all the time, why don't we take every precaution that we can? And if it stops, as they say, if it saves one life, doesn't that mean anything? Not if it's a black person. I'm making it clear when this kind of stuff gets on the floor then I'm going to use what I can on the floor of the Legislature. I'm going to get my point across by doing what I can with the legislative process. I'm getting tired of this stuff coming year after year after year. And this committee can put anything on the floor they want to, and I'm going to do what I think I ought to do. Logic doesn't mean anything. Appeals to reason mean nothing because they got the votes. I know how to take time. And I'm reaching a point where I don't even feel like staying for

the rest of this committee hearing. It's a waste of my time. They going to do what they going to do anyway and I won't walk out often. But I've been down this path too many times and I watch this kind of-- this is what they show everybody in the Legislature as a replica. And then you read the definition of this replica. It could be a carved potato. It could be a tube of toothpaste. And this is what people are going to think we're-- this is not what we're talking about. This is the shill. You go by what's in the statute. Why didn't Senator Halloran, if he's going to be honest with the legislators, bring every object that would be described in this definition and show us what is included? I think that is dishonest. It's not forthcoming. It's not transparent. And you all have gotten away with it too many times. You've wasted enough of my time but I'm not leaving today. You don't get off that easy. That's all I have.

SPIKE EICKHOLT [02:55:59] Thank you.

CHAMBERS [02:56:00] Fooled you, didn't I? I don't have anything else. Thank you.

LATHROP [02:56:07] I think that's it. Thanks. Appreciate your testimony. Good afternoon.

AMANDA GAILEY [02:56:19] Hi. Amanda Gailey, G-a-i-l-e-y, president of Nebraskans Against Gun Violence. We oppose this bill. There's something approaching 40,000 gun deaths in the United States every year. Toys are responsible for zero of those gun deaths. I sat in this Chamber an hour ago and listened to some NRA acolytes claim that we can't possibly do anything that would target firearms in the hands of unsafe people because baseball bats and bowling balls are just as dangerous. But here we are entertaining a bill that would actually criminalize a kind of toy because apparently the toy is what we need to be criminalizing and not the actual firearm. We've got a statement hanging up of this Chamber that says equality before the law but we don't have equality before the law on gun laws. They're completely backwards. At the top of the food chain, we have NRA lobbyists and gun manufacturers who knowingly pour millions of firearms into our country every year knowing that they will do what they were intended to do and kill some 40,000 people and maim another hundred thousand people and ruin countless lives that ripple out from that. We do-- not only do we do nothing to penalize those people, the millionaires and CEOs at the top of that food chain, we statutorily protect them through laws such as PLCAA, P-L-C-A-A, at the federal level, go down a notch in the food chain to the sellers and the so-called law-abiding gun owners which means nothing because there's very little required of you to be a law-abiding gun owner. We require virtually nothing of law-abiding gun owners who willingly introduce a risk into their homes, communities, and schools. In fact, in Lincoln there are people who had a medical event over the suggestion that we require those people to lock their guns up so their kids can't take it to school and shoot your kids. We do nothing at that juncture of the-- of the pipeline. But follow it on down when you can start tacking time on to 12-year-old kids of color because they have a toy in their hand or you can use it to justify why the police mowed down somebody like Tamir Rice who's standing with a toy in a

public park and all of a sudden the very same NRA acolytes, the so-called patriots who actually don't care a whit about a significant portion of the population of the country they live in, they come out in droves and they want to throw the book at people who carry around a toy. No legislation to penalize the manufacturer, the selling of guns that are meant to trick you into thinking they're real, but you want to tack on sentences that can further stock the human misery in our prison system. It's a disgrace. That's all.

LATHROP [02:59:18] I see no questions. Thank you for your testimony. Anyone else here in opposition?

DONNA ROLLER [02:59:31] Donna Roller, D-o-n-n-a R-o-l-l-e-r. I'm against this bill and I got nothing after Amanda Gailey's testimony. I agree with it fully, well said and that's why I'm up here saying that. And I was just going to say this bill doesn't address Tamir Rice having a gun, a toy in a park and a cop just rolls in in seconds and shoots him dead. That doesn't address this. How about if somebody went to rob, too many robberies. Let's just put something pointed in my pocket and pretend I have a gun. There's no fake gun there. The crime still exist. So this-- this bill doesn't do anything. And we are exactly right. We need to go after the real guns. Why are we wasting time on this fake stuff? Thank you very much.

LATHROP [03:00:22] Thank you. Anyone else here to testify in opposition to LB198? Anyone in a neutral capacity? Seeing none, Senator Halloran to close. And as you approach the testifier's chair, we have two bills in support: one from Sherry Miller, The League of Women Voters; Mark Hogue at the-- he's the chief of police in Central City. We also have opposition from Spike Eickholt with the ACLU; Mary King; Bruce Hueftle; Mo Neal; Margaret Nichols from Fillmore County Democrats; and Lydia Presley.

HALLORAN [03:01:10] Thank you, Mr. Chairman. I would like to thank the committee, members of the committee and those who have testified, both for and against, LB198. I would ask the committee to support LB198 and to advance the bill to General File. I would say that the pictures by themselves are one dimensional and do not really have the impact of seeing the real replica gun. We did have samples of those in Speaker Scheer's office today. Some folks took advantage of seeing those and they were not made of potatoes or wood. And if they were used against someone in all those cases, they were weapons, they were replicas that were taken from a scene, a crime scene. And for those who are looking down the barrel of those replicas, they were very real; and they didn't have the chance to ask the perpetrator, are these real or are they something else. So with that, I would advance [SIC] the committee again to advance the bill to General File

LATHROP [03:02:21] Thank you, Senator Halloran. Senator Chambers.

CHAMBERS [03:02:25] Senator Halloran, you obviously read the bill that you presented to us, didn't you?

HALLORAN [03:02:30] Yes, I did, sir.

CHAMBERS [03:02:31] In the definition, there are objects that don't even look like this, aren't there?

HALLORAN [03:02:40] Well, again and that would be in the judgment of the judge to draw that conclusion.

CHAMBERS [03:02:45] No. We are the ones putting the definitions and we are giving the law. Now a part of one word in your definition is or to any object. It doesn't say it has to look like a real gun but as you perceive it. And you know why I worry about that? There was a black man in the lobby of a swank hotel and he had a key to his room with the room number. And a white security guard came over and the man told the guard, I'm a guest in this hotel. He said, I don't care what you say. I'm in charge here and you got to get out of here. There was a little girl selling bottled water on the street to get money to participate in some school activities. A white woman saw her. I don't know what she thought the little girl was doing, but she called the police and the police came. There were some black men sitting in a Starbucks and a white person who was working there perceived them to be people who shouldn't be there and called the police and they were arrested. There was a black female student at Smith College, which is an exclusive school. They're supposed to have intelligent people. There was a commons area outside and a black female student was there and a white girl didn't think she should be there. So she summoned the campus police and they came and got the black student because of a white person's perception. There were some black people in a park-- and all these things were on television-- and they were barbecuing. And a white woman saw this other white woman looking at them. She knows her kind so she stayed there. And sure enough this white woman called the police. And when the police came, this white woman who stayed there went over and injected herself into it and said all these people were doing was barbecuing just like she and all the rest of us are doing. The cops are at the behest of every Ku Klux Klan white person who says there's a black person here. A white woman in one of the Texas cities was a cop. A black man lived on the second floor of this apartment complex. She lived on the first floor. She went up to the second floor and killed him. She said, I thought I was in my apartment. Well, she doesn't have to go walk upstairs to go to her apartment. But there are people trying to say, well, that's a reasonable explanation because she did tell the guy to stop and be still and he wouldn't be still. That's-- that's what they looked at. They don't know whether that happened or not. But even if it did, you know whether you live on the first floor or the second floor. But if you're a white person and you kill a black person, insane things are allowed. So when you go and bring a bill that leaves it up to the perception of somebody, that's not the kind of law I want to see passed by the Legislature. And if you all put it out there, I'm

going to do what I can to stop it. And in anticipation of this kind of thing, I gave an example today of what I'll do on Final Reading. And you all don't believe me, but I'm going to show you. Now I know you're not going to prioritize this bill because you have something you really want to do. So you're going to bring it here, take our time, and put it before a committee that you know is going to send it out because they're scared of the NRA. But you're the one who did it as far as I'm concerned. See, that's my perception now. I want to show you what perception does and the way I perceive what it is that you did and what I perceive your motivation to be and what I perceive the motivation of the people on this committee to be. And I'm going to act in accord with my perception. You all just taught me that today. Now perception is my rule of thumb. That's all I have to ask of my colleague, Senator Halloran, on this bill; but we'll meet again.

LATHROP [03:07:02] I think that will close our hearing on LB198 and bring us to LB343, also a Halloran bill. Good afternoon.

HALLORAN [03:07:37] Good afternoon again, Chairperson Steve Lathrop and members of Judiciary Committee. For the record, my name is Senator Steve Hallo-- my name is Steve Halloran, S-t-e-v-e-H-a-l-l-o-r-a-n-- see, I do pay attention Senator-- and I represent the 33rd Legislative District. I'm here today to introduce LB343, the School Safety Rapid Response Option Act, to the committee for your consideration. We are all painfully aware of mass school shootings at Santa Fe High School in Houston; Mount Zion High School in Georgia; and we recently passed the one year anniversary of the Stoneman Douglas High School in Florida. I will take a few moments to walk through a timeline of those tragic events at Stoneman Douglas High School to demonstrate the importance of a rapid response. At 2:21 and 38 seconds the first shots were fired. At 2:22 and 13 seconds, 18 people shot; 8 fatal; 10 injured; the first 911 call received. That's just 25 seconds after the first shots. At 2:23:05, 4 more shots; 1 fatal; 3 injured. The school resource officer radio transmission, quote, possible shots fired. One minute and 17 seconds had passed since the first shots. Twenty-three people shot at this point at just 1 minute and 17 seconds after the initial shots. 2:23 and 51 seconds, SRO Peterson, the school resource officer, reached the location near the northeast corner of Building 7 where he would remain for the next 48 minutes. He did not enter the building. Two minutes and 13 seconds had passed since the initial shots. At 2:24 and 32 seconds, 10 more shots; 6 fatal; 4 injured; 2 minutes and 54 seconds, slightly less than 3 minutes from the initial shots fired. At 2:24 and fifty eight seconds, 2 more shots. Three minutes 20 seconds had passed since the initial shot. None of the Broward County Sheriff deputies immediately responded to the gunshots by entering the campus and seeking out the shooter. At 2:29 and 47 seconds, shooter escapes with a large group of students. Law enforcement has yet to enter the building. It's after eight minutes since the first shot. Incidents such as these tragic events have parents, students, school boards, communities, and state legislatures looking for solutions to make our schools a safer learning environment. According to the National Council of State Legislatures, NCSL, in 2018 there have been 430 bills or resolutions in 43 states addressing various topics relating to school safety. These topics

range from adding school resource officers, SROs, hardening of facilities, increasing mental health funding, conducting risk assessment studies of facilities, and arming school personnel as options to increase safety. Just as there is no single reason for what causes these horrific school shootings, there is no single option to preventing or completely protecting schools or students on school grounds. School districts vary widely with regards to funding streams, facilities, as well as access to and distance from outside law enforcement. What we as a Legislature need to do is provides local school districts with as many options in their toolbox to address their specific issues or concerns as we can. School safety is not a one-size-fits-all cookie cutter issue. The School Safety Rapid Response Option Act would allow a school's governing body to develop a program authorizing school employees who hold a valid permit issued under the concealed handgun permit act to voluntarily concealed carry handguns within school buildings on school grounds, within a vehicle, or during school-sponsored activity or athletic events. A program developed by a school's governing body may (1) require school employees who wish to participate in the program to undergo additional training; (2) be limited to specific types of employees; (3) limit the authority to carry a concealed handgun to specific places, events, or circumstances as they deem necessary or prudent. The bill does not require a school's governing body to develop a program. This bill does not mandate that a school's governing body force any school employee to participate in the program they develop. Participants in an approved program would be on a volunteer basis. This bill simply provides local control to school governing bodies with a school safety option of having school employees concealed carry on school grounds and school-sponsored activities and events. Thank you for your time. While I'm willing to answer your questions, there may be individuals better suited to follow me. That being said, I would when I close be willing to answer any questions you may have.

LATHROP [03:13:40] Senator Chambers

CHAMBERS [03:13:42] What was the weapon of choice of these people who were killing children in these schools?

HALLORAN [03:13:52] It varied from incident to incident.

CHAMBERS [03:13:55] Say it again.

HALLORAN [03:13:56] It varied from incident to incident their choice of weapon.

CHAMBERS [03:13:58] All of them were firearms, weren't they?

HALLORAN [03:14:00] Yes they were.

CHAMBERS [03:14:01] You never thought about bringing a bill to regulate firearms, did you? Gun control, in other words. You don't believe in that do you?

HALLORAN [03:14:09] Well, I believe I can give many examples of countries that have banned guns, and I can give same examples after they have banned guns where the crime rate went up.

CHAMBERS [03:14:21] That's not what I'm asking you. I'm asking you about you.

HALLORAN [03:14:24] No. To answer your question, no.

CHAMBERS [03:14:27] You know because you mentioned it. There was one of these SROs at that school, wasn't there?

HALLORAN [03:14:33] There was.

CHAMBERS [03:14:33] Are you aware of anybody being charged or disciplined for not having taken action when he should have?

HALLORAN [03:14:40] Do I know anyone personally? No.

CHAMBERS [03:14:42] Have you heard of any-- of any instances like that at these schools where some of the shootings occurred? In other words, armed people and they did not go into the building.

HALLORAN [03:14:53] There are being-- it's my understanding there was charges against this SRO. I don't know where that stands.

CHAMBERS [03:14:59] There have been instances where deputies arrived on the scene and they stayed outside the building for any number of minutes and they were disciplined. Now they were trained. They had guns. It was their job. You want to take civilians and put guns in their hands and you saw what happened when the police shot supposedly at somebody else but they wound up killing the only person who was killed. So you have a teacher at that end of the hall, a teacher at this end of the hall, and they think somebody is in a room in there and they start shooting. You think that wouldn't happen. But I think it would. And there are places where similar situations have occurred and it happened with the police. I think this is one of the most unreasonable bills. I'm going to be nice. But I'm not going to ask a lot of questions. I want to see what the testimony of the people are and hear how brilliant they say you are to put guns in the schools in the hands of people in schools where nothing like this is going to happen. The kids don't even want to go there. And I've been told that people out in the rural areas are worried and nobody's going to go way out there to do something like this in my opinion. They would have done it by now. That's not where it's happening. But anyway, I don't know that there's a question in there. That's all that I will have at this point. But when you close, brother, look out.

HALLORAN [03:16:25] I'm always looking out, Senator. In 1990 the Gun Free Zone Act was passed, and over 90 percent of the mass shootings in this country have occurred in gun-free zones. Signs and legislation does not keep people who have intentions of doing harm from coming in and doing harm. All law-abiding citizens abide by gun-free zone laws. We all do that. We don't go in where we're not supposed to with a gun if we have a concealed carry permit. But there's nothing in the mind of someone that's bent on doing harm from being the only one in a gun-free zone that will do harm. All I know from this Stoneman Douglas event is we can-- we can-- we can hypothesize whether some innocent people are going to get shot by an employee who is trying to defend the schools. We can hypothesize about that. What is a fact is that more than 15 people were killed with no defense in that school. Now I might add a coach had a concealed carry permit at that school. He kept his gun in the trunk of his car because by law he could not have it with him. His only defense was to throw his body on the students to shield them from the bullets. He died.

CHAMBERS [03:17:56] Based on what he said--

LATHROP [03:17:57] Senator Chambers.

CHAMBERS [03:17:58] --are you aware that in most of these instances the ones who did the shooting were legally in possession of the guns? They didn't steal them. They didn't buy them illegally. They were law-abiding citizens until they ceased to be one and the first crime they committed was with the gun. But you're not aware of that so.

HALLORAN [03:18:16] I'm aware of that. I'm totally aware of that, Senator, yes.

CHAMBERS [03:18:19] And here the law-abiding people who went there with the guns and did the shooting and they became law breakers when they had the gun. If all they had in the house were baseball bats, it never would have happened. If all they had were butcher knives, it wouldn't have happened. A gun is the reason it happened. Guns make brave men out of cowards. You carry a gun or you have a permit to carry a gun. I don't carry a gun because I'm not a coward and I'm not going to bother anybody, but I'm not going to let anybody bother me. So I make judgments based on my orientation and perception. You make judgments based on yours. I'm looking at all the people who have these guns, who they are, what race they belong to and they're all fearful people. And scared people are dangerous people. That's all that I have unless he says something else that provokes me.

HALLORAN [03:19:19] I won't do that. I won't do that.

LATHROP [03:19:22] We'll look forward to your close. Thank you for introducing the bill and we will take proponents. How many people are going to testify on this bill? OK. If you

are a proponent, let's have you come up to the front row here. Then after we go through proponents, we'll do the same thing with the opponents. Good afternoon.

PATRICIA HARROLD [03:19:53] Good afternoon. My name is Patricia Harrold, P-a-t-r-i-c-i-a H-a-r-r-o-l-d, and I am testifying on behalf of the Nebraska Firearm Owners. The NFOA believes LB343 as written begins to lay the groundwork for an effective, safe, and reasonable program for school districts to explore as an option in their security continuum. There are states like Ohio and South Dakota where these programs have been enacted with great success. In Ohio, over 2,000 teachers have volunteered and have undergo extensive training with law enforcement and security specialists, all of whom are volunteers, and in a nonprofit methodology. In South Dakota, the sentinel program established in 28-3-- 2013 provides school boards with this same option to create and establish and supervise arming of school employees, hired security personnel, or volunteers in such a manner as the board believes will be most likely to secure or enhance the deterrence of physical threat in defense of the school, its students, its staff, and members of the public on school premises against violent attack. As part of this program, participants must first successfully complete a school sentinel training course over-- over 80 hours, meeting the statutes and requirements both from a legal, practical, and procedural methodology. And they are-- since inception there has not been an issue with a firearm being lost, stolen, or taken from an instructor, teacher, or staff member. And there has been no teacher, staff member, or other participant who has committed a violent crime with their firearm. We support this bill and we hope to work with Senator Halloran to expand upon the ways this can be effective in Nebraska.

LATHROP [03:21:40] OK. I see no questions. Thank you for your testimony.

PATRICIA HARROLD [03:21:41] Thank you.

LATHROP [03:21:43] Next proponent. Good afternoon.

RACHELE EPP [03:21:54] Good afternoon. I'm-- my name is Rachele Epp, R-a-c-h-e-l-e E-p-p, and I am testifying in favor of LB343. Concealed carry permitholders are the most law-abiding and responsible citizens in our nation. Statistically speaking, they commit less crimes than even law enforcement. They are individuals who have taken the initiative to pursue the training and education required by the state statute to lawfully carry concealed. They have volunteered to be their own personal protectors and often the protectors of their family. For teachers, it seems reasonable and logical to allow those who are concealed carry permitholders to carry during their workday. I think even every teacher and staff member that has a concealed carry permit should be allowed the choice to carry on school property and at school events if they desire to do so. LB343 leaves this decision to the individual school districts across our state. School districts that do not wish to pursue this level of staff and student protection are not required to do so. School districts without the resources nearby and within their school would be able to

advance safety and response time to violent incidences where a firearm is the last and only defense. Students of those who desire-- students or those who desire to do harm would think twice before implementing an attack on a school property if they knew that there were armed staff on the premises. The Millard South shooting, for example, could have been stopped if the resource officer or an office staff person had been armed. I believe most parents and students would feel safer knowing that there were individuals on the campus that could stop a threat if one were to happen. A solid training program integrating analysis and evaluation of all participants, extensive training and collaboration with law enforcements like that which exists in Ohio is a great solution. Some would counter that introducing guns to the school environment would increase the threat of violence in our schools as if firearms would just be laying around the school and kids could have access to them and that just would not happen. With the right additions to LB343, applying best practices from school resource officers and teachers, concealed carry training programs like the one in Ohio, staff members who volunteer to participate will receive more training than law enforcement. These staff members are educated, trained, and practice not only how to safely carry concealed and maintain control of their firearm but how to mitigate threats, lock down their classrooms, and direct the students to the safest location available to enable the staff member to respond to the threat and defend themselves and their students.

LATHROP [03:24:52] Thank you, Ms. Epp. I don't see any questions today. Good afternoon.

BRIAN HOF [03:25:05] Good afternoon. My name is Brian Hof, B-r-i-a-n, last name is Hof, H-o-f. Although I am the superintendent currently at Red Cloud Community Schools, I come here as an individual and a parent. I have discussed this with my school board and have their support, along with our local sheriff's support, as well as the majority of our staff, which I've talked to as well, in the teaching and-- and the classified staff. I would like to thank you for allowing me to speak today regarding this topic. First, I would like to give you a little bit about my background. I am currently employed by the Red Cloud Community Schools as their school superintendent. Prior to being the school superintendent, I have been a school principal, as well as a school counselor. In 1989, I enlisted in the Army National Guard and after 23 years of service, I retired as a major in the Army Reserve. I am currently a concealed carry instructor in the state of Nebraska. I am also a single parent of two beautiful girls. I've raised them myself since my youngest was only months old. I say that because I want you to understand that I'm coming from the position of taking care of kids, nothing else. As adults, we determine where we get to go, where we get to work, what we get to do every day. Our kids don't get that option. They have to go to school. With that being said, I have seen many sides of this issue. When I was still in high school, I remember many students bringing their firearms to school during hunting season. We never once had an issue with firearms at school. What has changed? If we look back at history, the number-one thing that correlates with shootings in general is the mass closing of state-run mental facilities. I'm not going to

even guess why that correlates so well, but if you look at the statistics, you'll see that it sure looks like one ending, the other started. As a concealed carry instructor, I'm happy to say many, many teachers have taken my courses and I trust them. I personally would be happy to train any and all of the teachers at my school free. I believe that with the combination of the state requirements, along with concealed carry training, along with any additional requirements that the school board may implement, we can make our kids even safer. As a retired military veteran, I would like to state that many people are OK or in favor of having veterans fill the void where armed security or resource officer-- resource officers are not available. I would agree with that. However, I think, if you look into it, you will be amazed how many veterans are currently teachers and in our buildings already. As a school administrator, I'm not speaking on-- and I am not speaking on behalf of our district specifically. I have seen many different situations that cause for concern when it comes to staff and student safety. I would say that our rural schools understand the situation that we're put in. The potential that only law enforcement-- excuse me. The potential that the only law enforcement on duty may be up to 30 minutes away is an issue. This response time is not the fault of a-- fault of our law enforcement. It's just the fact of the situation we find ourselves in that area. I'll be the first to say that the staff at Red Cloud Community Schools is by far one of if not the best staff I have ever worked with. Many of those teachers have taken their concealed carry course and have their permit. Every person that gets their permit has his or her own reason for getting it. Some do so, so they can carry a firearm on their person. Some are worried about forgetting that they have one in their vehicle. Some just have the thirst for knowledge and others may wish to protect themselves or family.

LATHROP [03:28:40] You've got the red light.

BRIAN HOF [03:28:41] Gotcha. I'll wrap it up real quick with what I'm asking for in this case is support to allow the school boards to make that decision.

LATHROP [03:28:50] OK.

BRIAN HOF [03:28:50] Local control is huge. Let's go back to local control. What's good for Omaha isn't good for Red Cloud. Thank you.

LATHROP [03:28:56] Senator Brandt.

BRIAN HOF [03:28:57] Of course.

BRANDT [03:28:58] Superintendent Hof, you're from a small town.

BRIAN HOF [03:29:01] Yes, sir.

BRANDT [03:29:01] Do you have any police in your school at any time? I mean, does the sheriff work in there one day a week or anything?

BRIAN HOF [03:29:08] None.

BRANDT [03:29:10] Is Red Cloud the county seat?

BRIAN HOF [03:29:11] It is.

BRANDT [03:29:12] OK. So the sheriff is-- is stationed there in case--

BRIAN HOF [03:29:14] He-- he is actually across the street from our elementary-- or our high school. However, he's not always there.

BRANDT [03:29:20] OK. And-- and there are school districts in your county that are probably located more remotely--

BRIAN HOF [03:29:24] Correct.

BRANDT [03:29:25] --from the sheriff.

BRIAN HOF [03:29:25] Correct.

BRANDT [03:29:27] And I guess that's sort of what-- what I had in my mind. Your school board looked at the bill and-- and they thought this may be a good fit for your school system?

BRIAN HOF [03:29:40] When-- when I discussed it with our school board, the one thing that came up with is-- is our school board is the most responsible to the taxpayer and to the voter. If they don't like this, they should be able to vote the school board out and change it. It-- it's decided then by the school board in each district, not by somebody who doesn't know our school district.

BRANDT [03:30:01] All right. Thank you.

BRIAN HOF [03:30:02] Thank you.

LATHROP [03:30:03] Senator Chambers.

CHAMBERS [03:30:06] Mr. Hof--

BRIAN HOF [03:30:06] Yes, sir.

CHAMBERS [03:30:07] --I'm scanning your statement. You are a trainer--

BRIAN HOF [03:30:09] Yes, sir.

CHAMBERS [03:30:11] --of people who-- how many hours of training do they get?

BRIAN HOF [03:30:14] To-- to-- the required training is minimum of eight hours.

CHAMBERS [03:30:17] [INAUDIBLE]

BRIAN HOF [03:30:17] Now for a teacher, that would be a-- for our school district, I would guarantee, I wouldn't be opposed-- in favor of it for our district unless we laid out an entire program that would be-- go a great deal more intense than what a concealed carry holder does.

CHAMBERS [03:30:31] I see that you were in the military. What branch were you in?

BRIAN HOF [03:30:34] I was in the Army.

CHAMBERS [03:30:35] OK, so you spent time on the rifle range.

BRIAN HOF [03:30:38] Yes, sir.

CHAMBERS [03:30:39] [INAUDIBLE] spent time with pistols.

BRIAN HOF [03:30:40] Yes, sir.

CHAMBERS [03:30:41] Now you were probably there more recently than I, but did you use the .45?

BRIAN HOF [03:30:45] When I first enlisted, yes.

CHAMBERS [03:30:48] OK, and you used the carbine probably.

BRIAN HOF [03:30:50] Yes, sir.

CHAMBERS [03:30:51] Did you use the M1?

BRIAN HOF [03:30:52] Yes, sir.

CHAMBERS [03:30:55] Did you use the BAR?

BRIAN HOF [03:30:55] No--

CHAMBERS [03:30:56] Well, OK.

BRIAN HOF [03:30:57] -- not that.

CHAMBERS [03:30:58] How many hours of training-- how many-- how many hours did you spend, let's say, on the rifle range?

BRIAN HOF [03:31:05] Initially, a basic trainee usually goes through a minimum of about 40 hours initially before they even fire a gun.

CHAMBERS [03:31:13] So it's five times as much--

BRIAN HOF [03:31:15] Correct.

CHAMBERS [03:31:16] --as you give.

BRIAN HOF [03:31:17] Correct. But they also have a lot more requirements put upon them because we're asking them, we're saying, hey, number one, when you go in, you will kill and you will die, period.

CHAMBERS [03:31:28] But, see, not everyone goes into combat, like I never was--

BRIAN HOF [03:31:30] They do now.

CHAMBERS [03:31:32] I never was.

BRIAN HOF [03:31:32] They do now.

CHAMBERS [03:31:34] Eight hours--

BRIAN HOF [03:31:35] Everybody sees combat.

CHAMBERS [03:31:35] Eight hours is not sufficient training to use firearms. If you are a civilian, you do not have that mentality that your job is to kill--

BRIAN HOF [03:31:45] I'm not agreeing or disagreeing with you on that, sir.

CHAMBERS [03:31:47] I'll finish asking my question.

BRIAN HOF [03:31:48] Yes, sir.

CHAMBERS [03:31:49] I'm not one of your students.

BRIAN HOF [03:31:51] I didn't expect you were.

CHAMBERS [03:31:56] I don't have anything else to ask you.

BRIAN HOF [03:31:58] Thank you, sir.

LATHROP [03:32:01] I see no other questions--

BRIAN HOF [03:32:03] Thank you.

LATHROP [03:32:03] --Mr. Hof. Next proponent. Anyone else here as a proponent? Seeing none, we will take opposition testimony. And it looked like we had a considerable number of people in opposition, so if you can sit in the front row, we'll-- it helps facilitate keeping the hearing moving along. Welcome.

PAUL SCHULTE [03:32:34] Good afternoon. Senator Lathrop and members of the Judiciary Committee, I am Paul Schulte, P-a-u-l- S-c-h-u-l-t-e. I'm in my 20th year of teaching and I serve as the vice president of the 28,000-member Nebraska State Education Association. NSEA is opposed to LB343. NSEA believes that arming school employees in an attempt to curb school violence is a faulty approach in effort to make schools safer. Excuse me. I'm a little nervous. Instead, we must have stronger security measures and better trained school resource officers. While stronger security measures make sense, we also suggest an approach that would benefit a much broader group of our children, implementation of deeper and more complete counseling and mental health services in our schools. Teachers are, first and foremost, educators. We nurture critical thinking, broaden perspective, and encourage our children to grow intellectually. Teachers should not be placed in a position of personal responsibility and, by extension, personal liability as armed first responders in an attempt to deter school shootings. LB343 raises several questions. Is the school district going to compensate a teacher for materials and weapon training? Will the district secure and provide training for teachers on the use of lethal force, as do law enforcement officers who go through weeks and weeks of intensive weapon training? Will we subject teachers to physical and psych evaluations, as do law enforcement officers, to ensure they are mentally capable of ownership of a firearm, much less possession and use of that firearm in a school setting? What are the consequences and outcomes if a child acquires a teacher's gun? How can a handgun be quickly accessible when the weapon should be in a secure, locked location? Is it possible to have a completely secure, locked location in a school setting? If the firearms is secure-- is secure, would the response time to retrieve it be any faster than were-- than the response time of the local law enforcement or in-building resource officers? How difficult would it be for a strong young teenager to overpower an adult male or female and wrest control of a firearm from the teacher's hands? Finally, a study by Geoffrey Jack-- Jackman from Pediatrics magazine told 29 groups of two to

three 8- to 12-year-old boys to wait for 15 minutes in a room watched by observers through a one-way mirror. Two water pistols and an unloaded .38-caliber pistol were hidden in the room. Of the 64 children observed, 48 found the real gun. Of those 48 children, 30 handled the gun and 16 attempted to fire it. One quarter of the children tried to fire the gun even though most of them had received gun warnings prior to entering the room. LB343 raises many questions and many very-- and many real concerns. It is not the answer. Better security, as mentioned, and making broader mental health and counseling services available to all of our students would be a far better and more effective policy for the safety of our schools and our schoolchildren. It is prudent to leave the carrying of deadly weapons to trained law enforcement professionals. Let our teaching professionals do what they are trained to do, teach, nurture, and counsel. Please oppose LB343.

LATHROP [03:35:56] Thank you, Mr. Schulte.

PAUL SCHULTE [03:35:56] Thanks.

LATHROP [03:35:56] We appreciate your testimony today.

PAUL SCHULTE [03:35:59] Thanks.

LATHROP [03:36:00] I don't see any questions.

PAUL SCHULTE [03:36:22] OK.

LATHROP [03:36:25] Welcome once again.

TOM PERKINS [03:36:22] Oh, it's good to be back again. Thank you. I'm Tom Perkins, T-o-m P-e-r-k-i-n-s. I'm from Scottsbluff, Nebraska, and I am here to speak in opposition to three-- LB343 that would allow educators to carry weapons in the classroom. In my opinion, the bill is ill conceived because it presumes that teachers are capable of killing someone. Please note I'm a member of the-- of the community college board of governors. I've been interested in the safety of our students and of our college personnel. I'm also chair of our local civil service commission. However, I am speaking here in my behalf and not theirs. The proponents of the bill need to consider the following issues in arming teachers, each of which is documented in the attached material. First, there is the cost of insuring a school or a college against any lawsuit that might arise from a shooting incident that involves an educator or a staff person. The costs may be more than what the-- some institutions can bear. University of Virginia, as you will recall, in which 32 people were killed, resulted in a \$50 million upgrade in its security as well as lawsuit settlements. Second, there are risks involved in incurring and discharging a weapon. There is what we call collateral damage in which bystanders are injured or killed, and I will speak to that in just a moment again. There are costs involved

in purchasing weapons, ammunition, training and continuous training of school personnel to shoot someone, as well as learning how to protect the weapon from theft. Shooting skills do degrade over time without continuous practice. That's the responsibility of a law enforcement officer to train, train, and train some more. A national survey-- a national survey disclosed that 10 percent of teachers have been threatened by students, 6 percent have been injured, and the possibility exists that a student may disarm a teacher. The late Jim Livingston, police chief of Scottsbluff Police Department, cautioned his officers: Finally, remember that when you use your gun, it is a life-changing event. Shooting someone in real life is different than what we see on TV. The teacher who shoots someone simply cannot walk away from the incident as though nothing had happened. There is a real possibility that the teacher will have an emotional reaction as a result of the event which may lead to PTSD. When an officer responds to an active shooter incident, the officer, if the teacher is armed, the officer may have to choose between the good guy and the bad guy and kill one of them. Will it be the teacher or will it be the bad guy? I urge you, please, don't allow this out of committee. Thank you.

LATHROP [03:39:57] Thank you, Doctor. Good afternoon.

OWEN YARDLEY [03:40:09] Good afternoon. Good afternoon, members of the Judiciary Committee. My name is Owen Yardley, O-w-e-n Y-a-r-d-l-e-y, and I serve as the chief of police at the University of Nebraska-Lincoln Police Department. On behalf of the University of Nebraska, our four campuses, 52,000 students, I am here today in opposition of LB343. I will be the only testifier officially representing the University Of Nebraska on this legislative proposal. The University of Nebraska is committed to providing safe campuses for students, employees, and visitors to the extent possible. To aid in that commitment with limited exceptions, the University of Nebraska policy does not allow public possession of dangerous weapons, including firearms, on the campuses. Among our concerns allowing firearms on campus would reduce clarity for police officers, campus security, and campus members in identifying threatening situations. As you may know, many of our events that are held on our campuses are competitive or controversial in materials or subject matter. To ensure safety for all who are on our campuses, we believe that firearms should not be available in situations where emotions may be elevated. We also believe that LB343 creates a conflict by allowing different entities to both allow and disallow firearms to be carried at the same school-sponsored event. Let me be clear that school-sponsored events do not always occur on that school's property. University of Nebraska campuses host many school-sponsored activities for their K-12 school systems, postsecondary institutions, to include athletic events, dances, receptions, classes, and other activities. A good example of this conflict in LB343 occurs when a K-12 secondary institution rents a University of Nebraska facility for a school-sponsored event, a dance or something related, and authorizes its employees to carry firearms when the university of Nebraska policy forbids firearms to be carried on university property. While this example raises issues specifically to the University of Nebraska, it may also create similar issues at many

secondary and postsecondary schools in our state who share or rent facilities for school-sponsored events. It may also cause similar issues at community or privately owned athletic or event facilities which have differing firearm carry perspectives than the sponsoring educational institution that rents or uses the facility. The University of Nebraska sees the restriction of firearms on our four campuses as a paramount issue to campus safety and would be gravely concerned if this committee moves LB343 forward. Thank you for your time and consideration, for the opportunity to testify on this legislation. Be happy to answer any questions.

LATHROP [03:42:54] Thank you, Mr. Yardley. I see no questions today. Good afternoon.

SARAH ZUCKERMAN [03:43:06] Good afternoon. My name is Dr. Sarah Zuckerman, S-a-r-a-h Z-u-c-k-e-r-m-a-n. I ask that my longer testimony be entered into the record as I'd like to keep it short. I'm here today to oppose LB343. I'm here as a private citizen representing only myself. I'm an educator. I hold a master's degree in special education and a Ph.D. in education administration. I currently educate those seeking superintendent and principal certification in the state of Nebraska. Next fall, I will be teaching the school culture class, which covers school safety, and I am happy to follow my employer today, although I do not speak for them. Before becoming a professor, I was a public schoolteacher. I taught elementary school in Washington, D.C., an urban community, and in Vermont, a rural community. It is from these experiences that I would most like to speak today. In D.C., I taught in a dangerous neighborhood with lots of gun violence, but I never feared for my safety inside the school. We had locked fence, locked doors, video monitoring. Inside those doors was our security guard. She was a grandmother from the neighborhood and she knew every kid and she was always on the lookout for people who didn't belong, and the only thing she was armed with was a locker full of spare socks and underwear. In rural Vermont, where people hunt for food, I sometimes felt uncomfortable because we didn't have a gate or a monitored entrance or anyone sitting out front. Even though sometimes I felt exposed at the back of the school, never in a million years would it have occurred to me to put a gun in our building. As a teacher, I stopped wearing jewelry, scarves, and skirts, all of which I'm wearing today, because they were too distracting to my students or potentially dangerous to myself. In an elementary school, you're always in close quarters with students. If my favorite ring was a shiny distraction, I can't imagine what a gun would be. But my ring can't kill, not by accident and not if a child tries to kill themselves. One of my most memorable students was an eight-year-old who would try to slither out of my third-floor windows, which, luckily, did not open far enough. He would try to hang himself in a locker in the back of my classroom. He was one of seven siblings. His father was in prison and he had watched his favorite aunt be murdered. He needed mental healthcare, not an access to guns in my classroom. You might say under this law I could choose not to have one. But as a special education teacher, I frequently had paraprofessionals and related service providers in my room and I frequently taught in other people's classrooms. How could I do my job to keep that student safe if somebody else in the building chose to have a

gun? I hope to teach my current students, future administrators, more about creating a positive school climate than how to navigate providing insurance for their building if teachers can carry guns. I want to teach them positive behavior interventions and not what to do when there's an unsecured firearm in the cafeteria. I want to teach them how to work with mental health providers and social workers to provide supports for all students, not what to do when a suicidal child gets hold of a gun. The way to reduce school shootings is the same way to reduce all gun deaths. It's reducing the number of firearms in our communities, ensuring that those that are there are securely locked, and providing means of law enforcement to remove them from those who are a danger to themselves or others, such as LB58. Be happy to answer any questions.

LATHROP [03:46:45] I see no questions. But thank you. We appreciate your testimony, Doctor. Good afternoon.

CINDY MAXWELL-OSTDIEK [03:47:01] Hi. My name is Cindy Maxwell-Ostdiek.

LATHROP [03:47:06] Can you pull that mike a little bit closer to you? Thank you. I want to be able to hear everything you have to say.

CINDY MAXWELL-OSTDIEK [03:47:10] OK. Cindy Maxwell-Ostdiek, and my name is spelled C-i-n-d-y M-a-x-w-e-l-l, hyphen, O-s-t-d-i-e-k. And I'm from Omaha and I'm here as a mom, so I'm not an expert, but I do have three kids in elementary and middle-age school, or they're elementary and middle-school age. And my oldest son is 12. He's in sixth grade and he was at the same age as the kids in Sandy Hook. He was a kindergartener, he was six years old, and he was innocent like them. I remember that day and since and I have a hard time not being emotional because I'm very disappointed in my elected representatives at the federal and state level that nothing has been done to substantially protect our children. And I know some of you have not had opportunity to bring forward legislation that would reform our gun access, but I would appreciate if we would focus more of our energy on that. I do want to say that the children in our schools already have the burden of being aware of what can happen. I was at the March For Our Lives rally students led last March after the Parkland shooting. And there were students there in high school who had experienced mass school shootings and also personally experienced violence in Omaha. They have the burden of this distraction and worry that I can't even imagine. And I wonder what it has done and impacted their opportunities, their ability, their potential. What other things could they accomplish if they were able to focus more while they were in school? I also wonder and worry about how much they would focus with having someone in their classroom, a teacher, carrying a gun. And I really appreciate what the person said before me. The focus in our Legislature on this topic takes time and important resources away from legislation I believe would better protect our kids. It's very frustrating to me that we would put this out of the committee and it would go to the floor and we would spend time debating this instead of such things as either gun reform regarding access or mental and behavioral health services to our kids.

I know that there was a bill last year that was vetoed by the Governor on the last day of the session and that was extremely distressing. I don't know how many kids did not get the services that they could have-- would have needed had that bill been passed. The person who spoke earlier about there not being a chance that there would be a gun left in the school just laying around, I remembered the Parkland school had a teacher who left a gun in a bathroom and a quick Google search showed another one at an elementary school in Chambersburg, Pennsylvania. Four children, ages six to eight, used the bathroom while the gun was left on the toilet by a teacher and one child finally told his parent. So it does-- it has already happened where these experiments have been taking place, and I hope that we will not be rash and pass this here in Nebraska.

LATHROP [03:50:59] OK.

CINDY MAXWELL-OSTDIEK [03:51:00] I'm sorry I was nervous.

LATHROP [03:51:01] Pardon me?

CINDY MAXWELL-OSTDIEK [03:51:02] I'm sorry for being nervous.

LATHROP [03:51:04] Oh, no, no, you're fine. You did a good job. And thank you for your testimony. I don't see any questions for you today.

CINDY MAXWELL-OSTDIEK [03:51:09] Thank you.

JUDY KING [03:51:22] Hi.

LATHROP [03:51:23] Good afternoon.

JUDY KING [03:51:22] How are you? My name is Judy King and it's spelled J-u-d-y K-i-n-g. And I'm here to oppose LB343. And please make this a part of your record. My husband worked at the Department of Corrections and his-- and one of his responsibilities was to ensure that the department and all of its prison facilities met accreditation. Accreditation involved meeting a set of national standards that included firearm safety and training. And in listening to him, I've learned that having firearms in a facility in a complex is-- is a complex issue that involves staff training, safety, and the maintenance of records and weapons. Management of weapon safety, gun training, and firearm maintenance is a difficult process in a police or prison system and is-- normally requires trained professionals, including armorers/ They normally take care of the weapons, clean and take care of the guns. You should have a maintenance schedule and rotate ammunition because you don't want old ammo. How is a teacher going to handle this maintenance? They-- they have paid professionals in our prison and police services that handle weapons training and weapons maintenance. Concealed carry is an individual responsibility. When it is a school system that you're talking about arming

teachers, whose responsibility it is for such things as weapons maintenance, for ammunition rotation, who is going to handle those kinds of duties at the school level or are they going to become ignored or is it going to become the teacher's responsibility? Is the teacher going to be the armorer? In a school, you would certainly want staff to be well trained. Who does the training? How often? Who pays for it? What training standards are met, and what are the requirements? Who monitors this? Who keeps the records? It would seem to me that you would want teachers with weapons to be well trained. This would be involved minimum-- minimally, annual weapons qualifications at a gun range. Again, who pays for this? Where are the gun ranges in rural areas? Do you go behind the barn and shoot bottles? My husband, who is a veteran, a Vietnam veteran, indicated that without significant training and experience, someone in a crisis situation was more likely to discharge their weapon erroneously, hitting their own self or someone else but not the intended target. In a-- in a school with children, that would be horrendous. Earlier someone was talking about no gun violence. I had a daughter-- or I have a daughter. When she was 16, she went to pick up her friend who was getting off work at 40th and Highway 2 at Amigos and they were going to go spend the night together. And she got there and as soon as she walked in the door, a man followed her in the back behind her with a gun and put-- it was closing time-- and put the manager, my daughter, and a friend of hers in the-- in a cooler. She had a gun to her head and was told, don't turn around and-- and look or I'll shoot. And of course, that made her turn around and look. She survived that incident, fortunately. But the gentleman that had the gun, he didn't pick up a spatula in the restaurant. He didn't pick up a knife. He-- he had a gun. So there is gun violence. And when someone drives a car and kills someone, they take the car away by taking his license away. So there-- there are repercussions from that. But we just need more commonsense gun legislation. I-- I appreciate it, Senator Lathrop. Thank you.

LATHROP [03:55:36] Thank you. And I don't see any questions for you tonight. But thanks for your testimony.

JUDY KING [03:55:40] Thank you.

LATHROP [03:55:53] Good evening.

ROBIN VODEHNAL [03:55:54] Good evening. I'm Robin Vodehnal, the central Nebraska coordinator for guns-- Nebraskans Against Gun Violence.

LATHROP [03:56:04] Can you spell your name for us?

ROBIN VODEHNAL [03:56:06] R-o-b-i-n, and Vodehnal is V-o-d-e-h-n-a-l.

LATHROP [03:56:16] OK.

ROBIN VODEHNAL [03:56:18] Last November, while reading the transcript of the interim study hearing for this bill, LB343, I came across an analogy that you, Senator Chambers, made in relation to guns and malaria. Senator, you stated that you are trying to eradicate malaria, you do not bring in more mosquitoes. The same is true with guns. If you're trying to eradicate school shootings, you don't bring in more guns to the situation. You fully fund schools and provide them with what they say they need to make a difference in this area. You do not bring in more guns. The media has given extreme attention to school shootings, a very unbalanced, heightened view. For the average person, it's easy to assume that school shootings are extremely prevalent and happen frequently in American culture. In my testimony, I have provided a document from Gun Violence Archives, known as GVA. GVA is an independent data and research group with no affiliation with any advocacy organization. GVA is not by design an advocacy group and is-- as its mission is to document incidences of gun violence and gun crime nationally to provide independent, verified data to those who need to use it in their research, advocacy, or writing. GVA collects data from over 2,500 sources in an effort to provide near real-time data about the results of gun violence. Important to this document is how does GVA define school shootings. A school shooting is a shooting at a school where there is death or injury from gunfire. The defining characteristic is time. Incidents occur when students, staff, and faculty are present at the facility for the school or extracurricular activities. I have provided a document for GVA for your review. It's the third page of the document there. It is titled "Since Parkland - A One Year Review." This is a full year's worth of data from 2-- 2/13/18 to 2/13/19. I would ask that you note the yellow highlighted area first on this document. I've done some math for you also. There was 107 total incidences of school shootings over this period of time with 112 people injured or killed by gun violence in school shootings. Now I would like to call your attention to the red circled figures on this document. The number of children and teens, ages 0 to 17 only, killed or injured by gun violence outside a school setting is 3,406. That is over 30 times higher than school shootings. Worth noting also is that there's a statistic for ages 0 to 17 only. It does not include-- take into account injuries or deaths of college or university students. Clearly, we are focused on the wrong problem. While school shootings are certainly very tragic and extremely sad situations, the number of people injured or killed in this setting where Senator Halloran would like to have the option to arm 20 percent of the staff, and he said this last year in March, and create a danger zone in school is minor compared to the number of children or teens injured or killed outside of school with a gun. In preparation for my testimony today, very late last night, in opposition to this bill, I Googled accidental shootings in school settings. My worst fears were confirmed. There were accidental shootings in schools by trained personnel. No one wants to see this happen. This idea of having guns in school is just too dangerous. I also Googled police accuracy and found the New York Police Department has approximately 18 percent accuracy rate. These are highly trained police officers also.

BRANDT [04:00:47] Ms. Vodehnal--

ROBIN VODEHNAL [04:00:47] Oh, are we done?

BRANDT [04:00:49] Yes.

ROBIN VODEHNAL [04:00:50] I'm sorry. I'm sorry.

BRANDT [04:00:51] I know you were finishing up there and-- and--

ROBIN VODEHNAL [04:00:53] Wasn't paying attention to my lights.

BRANDT [04:00:55] Thank you for the information. Are there any questions? OK. Thank you for your testimony.

ROBIN VODEHNAL [04:01:13] Sure.

DONNA ROLLER [04:01:13] Thank you. Hi. Donna-- Donna Roller, D-o-n-n-a R-o-l-l-e-r. The handout that I've given you is not my-- what I'm going to say here today, but you can read it. I had this conversation with Senator Chambers and he said, do you want to be heard or do you want to look like a kook? And then I thought, well, why do I not-- why am I nervous? Why do I not want to show you this testimony? Because it's outrageous, because it's unbelievable, but it's true. The page that I'm talking about is the 14 characteristics of fascism. And we have a President who, by his own statements, is a fascist if you read that document, that handout that I gave you. First of all, if I was the-- the principal of Red Cloud came up here and if I was-- if I was in his school district, I would fire him. I would remove my students from-- I would not move into that community. And Senator Halloran already said that the SRO didn't go into the building, he didn't act. And you want teachers to act? He thinks this is about school safety because of a response time. That's a lie. This is a Band-Aid because we don't want to have meaningful gun legislation. It's a Band-Aid because he stands with this President, sits behind him in a rally, and up here is his agenda. So of course the President has said, I want teachers to have guns, so I'm going to go out and get that for you. The NRA is pretty happy with him, I'm sure. He's taken \$500 for them and he is their little servant to deliver these bills in this state because this bill is being passed around to all the other states. But how it turned out in Florida, Stoneman Douglas is an armed guard with an automatic weapon with full armor. Do you want your kids to have that in front of your door? And I think it's quite crazy that we have a bill from Senator Erdman, "In God We Trust," and at the same time we have a bill from Senator Halloran that wants to put teachers-- guns with teachers. That is just plain absurd. This-- this bill is insane. And so that's why it's hard for me to testify to you because you're going to think I'm a kook when I'm actually speaking the truth. So I had this nice little testimony, and you can read it if you want. But when head of an ex-FBI says that we have a President that's possibly a Russian agent, I believe him. And anybody who stands behind him should not be taken seriously in this Legislature. I don't believe somebody who has lied over 8,000 times who wants teachers to have guns. I do--

this is just insane. Do not place the burden of shooting someone on a teacher who is supposed to embody the love and the knowledge-- love of knowledge and the love of children. Regulate the radicalized gun owner, emboldened by a leader who excites violence and division. But maybe that's the plan because Putin wants us to kill each other. He is quite happy financing the NRA in this country. He doesn't have guns in Russia but we certainly do. Thank you very much.

LATHROP [04:05:29] Ms. Roller, before you get away, can you spell your name for me?

DONNA ROLLER [04:05:33] Oh, I'm sorry. I thought I did. Do you think I'm a kook?

LATHROP [04:05:36] You might-- no, no, no, not at all, not at all. We appreciate you being here and, you know, I took a quick break and came back and--

DONNA ROLLER [04:05:41] I know. D-o-n-n-a-- I thought I spelled it, I honestly did-- R-o-l-l-e-r.

LATHROP [04:05:46] All right. Thanks so much.

DONNA ROLLER [04:05:49] Thanks very much.

LATHROP [04:05:52] I do not see any questions.

DONNA ROLLER [04:05:52] Senator Chambers, would you like to offer a question to me?

CHAMBERS [04:05:56] No, ma'am. [LAUGH]

DONNA ROLLER [04:05:57] Thank you very much.

LATHROP [04:05:57] All right. No questions. It looks like we have a few testifiers left and the next opponent.

AINSLEY FREDERICK [04:06:09] Hello, Committee. My name is Ainsley Frederick, spelled A-i-n-s-l-e-y, Frederick, F-r-e-d-e-r-i-c-k, and I am a sophomore at Lincoln High and I'm here on behalf of the Lincoln High Feminists for Change and myself. I'm an opponent--

LATHROP [04:06:23] Can you talk a little bit louder or into the mike for us?

AINSLEY FREDERICK [04:06:25] Yes, I can. I'm an opponent of LB343. At Lincoln High on Monday, we had a lockdown drill that would be used in the case of a school shooter or school intruder situation. I was in my seventh period with 31 other students and 2 teachers. We huddled in the corner of the room and waited until it was over. Even though we were-- we all knew it was a drill, when the administrator shook the doorknob, we all

jumped. Even after the drill, we went back to our seats and our teacher-- teacher stood and said-- stood in silence until she apologized. She apologized for ever having to have the drill in the first place and for the fact that students have to grow up in a society where school shootings have become nothing but a reality. At Lincoln High, we pride ourselves on our diversity. As of 2016, 54 percent of our students were of a minority group and we were in the top 5 percent of the most diverse schools in the state. Even though Lincoln is an incredibly safe city, my former history-of-the-Holocaust teacher said that if any school shooter wanted to target a minority group, Lincoln High would be a substantial target. Even with this idea in mind, I would never want to add to the fear of a possible school shooting by having to fear that one of my teachers may have a gun somewhere on their person or in our classroom. I understand this bill would only allow for the option of school districts, but I don't believe there is any situation in which having a gun on a school campus should be acceptable. Even though school shootings are a reality, they are highly unlikely and having more guns in a school would not make the school safer. Senator Halloran, who introduced this bill, has also taken campaign contributions from the National Rifle Association, doesn't have the interest of the stu-- the children of the state in mind with an average of 25 percent approval by the student-- by student interest groups. In my opinion, he does not have the interests of students or teachers in mind. While school-- school shootings are rare, the mishandling and misfiring of guns is not. Most teachers are not equipped to be handling a gun and risk shooting themselves or their students. Additionally, we as students do not want more guns in schools. More guns in the hands of good guys does not outweigh the-- outweigh bad guys with guns. Yes, this is a saying you've heard a thousand times before. But as students who-- as a student who values her education and her life, I urge you to vote no on LB343 because it does not reflect the interests of students. We want to be focusing and stressing about science tests and who we are sitting out with-- Sitting with at lunch and not whether or not our students have a gun-- or our teachers have a gun-- sorry. Thank you.

LATHROP [04:08:48] Thank you, Ms. Frederick. I see no questions for you tonight.

AINSLEY FREDERICK [04:08:53] Thank you.

LATHROP [04:08:53] Good evening.

MICHELLE KOMPARE [04:09:00] Hi. My name is Michelle Kompere, M-i-c-h-e-l-l-e K-o-m-p-a-r-e. I'm here testifying on behalf of myself as an opponent of LB343. I'm a pediatrician. I'm a caregiver and an advocate for children. I'm a member of the American Academy of Pediatrics and as a-- an organization nationwide, we do not feel that putting guns in schools makes children any safer. In fact, we feel that the safest place for children are in gun-free homes and gun-free communities. Any increased access to guns increases the risks of gun incidents and accidents, and they really don't make children any safer. As a healthcare provider, I would be-- it would just be abhorrent to me to have to carry a weapon. I mean not that anybody under this bill would be forced to carry a

weapon, but to have one of my partners in our clinic or in our hospital walking around with a-- with a firearm, just in that-- in the high-stakes works that I do, I work in a NICU and emotions run very high and I can't imagine an angry parent or, you know, in schools, an angry parent, an angry student that has access to a weapon of someone that's not highly trained. And, you know, really, caregivers like us don't have any reason-- to be using firearms in schools or-- or places like that. So that's all I have to say. Thank you.

LATHROP [04:10:24] OK. Thanks, Doctor. I don't see any questions tonight.

MICHELLE KOMPARE [04:10:28] Thank you.

LATHROP [04:10:29] Appreciate your testimony.

GINA FRANK [04:10:36] Hi.

LATHROP [04:10:37] Welcome and good evening.

GINA FRANK [04:10:39] Thank you. My name is Gina Frank and I am-- G-i-n-a F-r-a-n-k, and I am not representing March for Our Lives. I just wear the shirt because it's a cause I support. And I wrote my testimony on the back of my yellow paper because I meant to email it and I didn't.

LATHROP [04:11:02] Oh, do you want it back?

GINA FRANK [04:11:02] So--

LATHROP [04:11:02] We'll--

GINA FRANK [04:11:02] No, I-- I took a picture of it.

LATHROP [04:11:04] Oh, OK. Go ahead.

GINA FRANK [04:11:04] So that's why I have my phone. Millennials are resourceful. [LAUGHTER] So I am-- I have a teaching degree and I subbed in two states and I subbed for five years in different states and in different schools and different districts and I am absolutely opposed to this. I'm also a mom and I also grew up in the country. I grew up around guns. Ours weren't even locked up, which is not a good idea. But as the testifier before me said, schools are the safest place for kids and adding guns there reduces safety. I found it interesting that the presenter of this bill used the Parkland shooting as an example of why teachers should be armed, but the Parkland kids do not agree with that. And parents who lost kids in that school shooting do not agree with that. I actually looked it up while I was sitting in the line. I don't think teachers should be expected to possibly shoot a student. We're supposed to build relationships and I just cannot

imagine being expected to shoot one of my students. Even the worst students, like even the kids who were constantly, you know, trying to get under your skin, like I cannot even imagine being expected to-- to use a weapon against them in a lethal way, like because even-- even when they were difficult, they were still kids and you still cared about them. And so I just can't imagine being put in a position where I would need to possibly use lethal force against a student. And I also worry-- I see my time is almost up-- that teachers who choose not to carry would be demonized by their community if a school shooting were to happen in their school. How many people would be like, well, if you'd been carrying a weapon, then you could have saved my kid? Like how-- that's not-- that's not something-- it would-- it would push people who weren't necessarily comfortable carrying to maybe carry a weapon if they were-- if their school system allowed it. And then my final point is that students know what's happening in their school, I mean any bit of interesting information. They can't remember when it's time to do homework, but-- but-- but there's some gossip and everybody knows. It just-- it-- news travels fast. So the students would know who the teachers were that were armed, and if a student wanted to bring a gun to school, that they would just shoot the armed teacher first. Like, kids are smart and I-- this is just not a good idea. Instead of this law, I would encourage you to make sure that dangerous people don't have access to guns, so the red-flag law that's coming up that was testified on today, and make sure that unauthorized people can't access guns, so make sure that people lock up their guns.

LATHROP [04:14:18] Very good. I do not see any questions but thanks for your sharing your experience.

GINA FRANK [04:14:24] Thank you.

LATHROP [04:14:25] Anyone else here to testify in opposition to LB343? Anyone here in a neutral capacity? Seeing none, Senator Halloran, you may close. We do have some letters in support and a number in opposition and I'll just say they'll be made part of the record. There are, frankly, too many to read. And with that, Senator Halloran to close.

HALLORAN [04:14:52] Thank you, Chairman. Well, we heard a lot of-- of very impassioned testimony today, and I understand that passion. But I need to go back to when I first suggested that I was going to draft this bill and it was about a year ago. Spoke to a World-Herald reporter and gave him the detail that very, very much parallels what I have in the bill. It's a volunteer program vetted by, approved by the school board and administration, and it's optional. It's not mandatory. They did a fine job of reporting the article. It wasn't within a week I was receiving e-mails and Facebook postings that was saying that Senator Halloran wanted to arm every teacher. That's clearly not my intention here. My intention is to give schools an option, not a mandate. Government is very good at giving mandates with legislation typically. What this is doing is giving-- giving schools an option for school safety. I have no pretense that many schools will adopt this. I would say it's safe to say most schools won't. Most schools will believe that

they are in close proximity to law enforcement in response time. The school of Parkland was, too, and I walked through that time frame and within a very short period of time, all 17 people were killed. It's different when you're being shot at and you have no defense. People say, well --and let me back up. The school in Parkland decided that-- actually the law in Florida that was passed decided that any teacher would not be required, even if they volunteered, to have a concealed carry, that it would be administration or other employees within the school system. Anyone that taught in a classroom would not be carrying. And I would say that's up to the local school board to decide. But I would say most school boards would decide the same thing. To have a school absolutely defenseless I think is-- is-- is-- it should be a local choice. That's fine. But I think a strong argument should be there that it should not be defenseless. It's not my intention that LB343 is the end-all, be-all. Rather, it serves a first step in creating a safe, effective concealed-carry program for schools who desire to institute such a program. We heard from one today. It's hard for school superintendents to come to a hearing in the middle of the week. I think there might have been others, not many, but there might have been others who had the same kind of passion that the Red Cloud superintendent had. Once it is legal in Nebraska for schools to create such a program, they're going to be looking for programs that will fit their specific needs. There are organizations that specialize in creating these programs. I've been contacted by organizations from Florida, Colorado, Illinois, to name a few. We also have one such organization based right here in Omaha, Nebraska, Tactical 88 [SIC]. It's my intention to create an interim study to bring in all stakeholders, educators, training groups, parents, and students to discuss best practices and options that would be available to them. I could go on and try to address all the issues that was brought up but, quite honestly, I never heard any alternatives. It's just leave it status quo, as it is. Hardening of facilities? Everybody is hardening their facilities. You can't turn it into a penitentiary and keep people out that want to do harm. SROs, I think they're a good idea. That's an option schools should have. But as was demonstrated in Parkland, it was 48 minutes standing outside of the schools after the first shot was fired-- nothing, did not engage the shooter, should be held liable. We'll see how that works. So this is an option and I think schools should have the option, particularly in rural Nebraska. I know Senator Chambers thinks it'll never happen there, and I pray to God he's right. I pray to God it doesn't happen in any school in this state. But just to-- just to leave schools without some kind of an option to do this I think is-- is unjust to them. And with that, I will close and ask for you to-- to advance LB343 to General File.

LATHROP [04:19:58] I don't see any questions. That will close our hearing on LB343. Thanks, Senator Halloran, and thank you all who waited and for your patience and your thoughtful comments. And that will close our hearings for the evening.