

your presence, please. Thank you. Senator Labedz, would you record your presence, please. Senator Robak, record your presence, please. Senator Bernard-Stevens. Senator Chambers, would you record your presence, please. Thanks. We're looking for Senator Lynch, Senator Owen Elmer, Senator Peterson, Senator Pirsch. Senator Kristensen, record your presence, please. Thank you. Okay, we're looking for Senator Bernard-Stevens is all. Senator McFarland, shall we go ahead with your roll call vote?

SENATOR MCFARLAND: That would be fine.

PRESIDENT: All right. The question is the advancement of the bill. Mr. Clerk, please.

CLERK: (Roll call vote taken. See page 297 of the Legislative Journal.) 21 ayes, 25 nays, Mr. President, on the advancement.

PRESIDENT: LB 180 fails to advance. Mr. Clerk, do you have anything for the record, please?

CLERK: Yes, Mr. President, I do.

PRESIDENT: The call is raised.

CLERK: Mr. President, new bills. (Read by title for the first time LBs 600-647. See pages 298-308 of the Legislative Journal.)

Mr. President, in addition to those items, I have hearing notice from the Natural Resources Committee, signed by Senator Schmit. Notice of hearing from the Revenue Committee. That is signed by Senator Hall. Notice of hearing from the Government Committee. That's signed by Senator Baack.

Mr. President, that's all that I have at this time.

PRESIDENT: We will progress on to LB 190.

CLERK: Mr. President, LB 190 was a bill that was introduced Senator Withem. (Read title.) The bill was introduced on January 9, referred to Education, advanced to General File. I have no amendments to the bill, Mr. President.

PRESIDENT: (Gavel.) Senator Withem, just a moment, maybe we

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LB 410, 414, 587, 588, 642, 733, 812

future Governors would choose to do. And it seems to me that it makes a world of sense to have a fully funded state program allocated in a fashion that the state wants to do, rather than use the route that has now developed into the overmatch which the federal government decides the allocation of funds rather than the State of Nebraska deciding how its own funds and only its own funds are to be distributed. So I would urge that the amendment not be adopted. The two programs ought to be set up, even though the distribution would not be different in the funds, but the state had ought to not be burdened with that maintenance of effort if you wish to make a change in the future. We ought to control our own destiny and not have the federal government doing it.

SPEAKER BARRETT: Thank you, sir. Senator Hannibal. (Cavel.)

SENATOR HANNIBAL: Well, Mr. Speaker, I realize the time is getting very close to a recess. May I inquire of the Chair if we were going to continue after recess with the same issue?

SPEAKER BARRETT: That would be my wish.

SENATOR HANNIBAL: Would it be permissible to move we recess until one-thirty.

SPEAKER BARRETT: If the votes are there, it would certainly be in order.

SENATOR HANNIBAL: I would so move.

SPEAKER BARRETT: Anything for the record, Mr. Clerk?

CLERK: Mr. President, Senator Korshoj has amendments to be printed to LB 588. I have a series of appointment letters from the Governor to be printed. Those will be referred to Reference Committee. (See pages 1550-54 of the Legislative Journal.)

Mr. President, your Enrolling Clerk has presented to the Governor bills read on Final Reading this morning. (Re: LB 410, LB 414, LB 587, LB 733.)

And the last item, Mr. President, is a motion by Senator Ashford with respect to LB 642. That will be laid over. That is all that I have, Mr. President.

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LB 642
LR 74

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Welcome to the George W. Norris Legislative Chamber. The opening prayer by our chaplain of the day, Mr. Wendall Conover from Milford who is the Executive Director of the Fellowship of Christian Athletes. Mr. Conover. (Gavel.)

MR. WENDALL CONOVER: (Prayer offered.)

SPEAKER BARRETT: (Gavel.) Thank you, Mr. Conover. We're pleased to have you with us this morning. Roll call.

CLERK: I have a quorum present, Mr. President.

SPEAKER BARRETT: Thank you. Any corrections to the Journal?

CLERK: No corrections, Mr. President.

SPEAKER BARRETT: Any reports, messages or announcements?

CLERK: Mr. President, I have no messages, reports or announcements this morning.

SPEAKER BARRETT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LR 74. Moving to item 5 on the agenda, Mr. Clerk.

CLERK: Mr. President, Senator Ashford would move to place LB 642 on General File pursuant to Rule 3, Section 19. Senator Ashford offered his motion on April 6, Mr. President. It's found on page 1554 of the Journal.

SPEAKER BARRETT: (Gavel.) Senator Ashford, please.

SENATOR ASHFORD: Thank you, Mr. President, and members, I understand last night that the Judiciary Committee took action on LB 642 and on a vote of five to two voted to move LB 642 to the legislative floor. LB 642, as acted upon last night, is a bill which...or resolution which calls for the repeal of Initiative 403, the constitutional amendment which was voted on by the people of the State of Nebraska in 1988. I appreciate very much the work of the Judiciary Committee on LB 642. I feel strongly, as I have said over the last three months, that we need a strong and effective dialogue on the issue of reasonable gun regulation in the State of Nebraska. Since the passage of

Initiative 403, I know all the members of this body are aware of the problems that have occurred and the confusion that has occurred as a result of the wording of LB...or of Initiative 403. Specifically, two cases in the District Court of Lincoln County have found laws involving the defacement of a firearm and the possession of a firearm by a felon to be unconstitutional. And just yesterday, again, the District Court of Lincoln County, as I read in the paper today, found another gun law to be unconstitutional pursuant to the wording of LB...or of Initiative 403. The confusion that has been created by this amendment is tragic, in my opinion. In talking to judges in Douglas County, many of them have told me that even though we, in some cases, have found gun laws to be constitutional we have grave doubts. In almost every case filed involving a firearm in Douglas County, the defense attorneys are filing motions to dismiss. Those motions to dismiss will, in many cases if there is a conviction, lead to appeals. Even if the Supreme Court were to find that in the cases in Lincoln County that those particular ordinances or statutes were found to be constitutional, it still...the amendment, in my opinion, and I think most judges and theorists would agree with me that the confusion created by the amendment will cause numerous appeals on every sort of case involving firearms in the State of Nebraska. And, furthermore, it is clear to me, in my discussions with the National Rifle Association, that the clear intent of the constitutional initiative was to prohibit the State of Nebraska and the subdivisions of the State of Nebraska to pass...to prevent those bodies from passing reasonable gun regulations, such as waiting periods and the banning of semi-automatic assault weapons. The people of the State of Nebraska have spoken at least in the polls in the last three months on this issue. The...in a poll in the Omaha World-Herald taken on February 9, 1989, 79 percent of Nebraskans favored a seven-day waiting period. In the third district, 75 percent of the voters endorsed the waiting period. In Douglas County, 85 percent of the...of those polled favored a seven-day waiting period. Of the 40 farmers surveyed, the margin was 63 percent who favor...favoring a seven-day waiting period. And another poll in the World-Herald on April 6, 1989, indicated that 77 percent of Nebraskans favored President Bush's ban on the importation of assault rifles. Seventy-two percent of Nebraskans favored a permanent ban on the selling of such weapons. The polls nationwide indicate the same pattern. In the March 27th Time magazine articles it was found that 73 percent of Americans favored a nationwide ban on

semi-automatic rifles. In a letter that Sara Brady, the wife of James Brady, the Presidential Press Secretary, sent to the Judiciary Committee just yesterday, it indicated that 91 percent of Americans favored some regulation or waiting period regulation on the sale of hand guns. Law enforcement in the State of Nebraska is unanimous in its support for reasonable gun regulation. And a letter from the Kearney Police Department, dated March 7th, to Chairman Chizek indicated his concern over Initiative 403 and his concern that law enforcement will not be able to effectively do its job because of Initiative 403. Another letter, dated March 9th, from the Nebraska Association of Chiefs of Police to myself in which Franklin Valente, the Chief of Police from the York Police Department said, I am a strong supporter of law abiding and competent citizens, their right to own and bear arms legally but if the wording of the amendment, this being 403, remains a problem in judiciary decisions, then I feel that it should be repealed and placed before the voters. The Martin...the Chief of Police of North Platte, Nebraska, the same letter from him. Many states throughout the country have implemented waiting periods and police checks and permit regulations. Just recently, Virginia, in the last couple of weeks, a very strong NRA state, implemented an instant check for the purchase of firearms. Oregon is looking at or is in the process of passing a 15-day waiting period for the purchase of firearms. South Dakota has a 15-day waiting period. Missouri requires a permit from a sheriff in order to purchase a firearm. Iowa has a 10 to 15-day waiting period for the purchase of hand guns. In a recent article concerning the NRA's action throughout the country, it was indicated that, quoting an official of the NRA, that the Nebraska experience was an attempt or an effort by the NRA to, I quote, "The NRA official noted that the vote in Nebraska for a constitutional amendment affirming the right to keep and bear arms is evidence of a larger movement for unrestricted gun ownership." The point is that the goals of the NRA in Initiative 403 and what the people want are diametrically opposed. I think all people in Nebraska, the vast majority of Nebraskans want to ensure, as do I, the legitimate ownership and the assurance of the legitimate ownership of firearms, the collectors and the hunters and the sportsmen, that they have the opportunity to possess firearms and to use those firearms as they have traditionally done. And I also believe and will affirm the rights of individuals to possess hand guns in their homes for their own safety. But, quite frankly, technology has advanced way beyond that traditional classic view that

the...that has been espoused. The semi-automatic weapons, the pictures of which you have in front of you in your handout are weapons that were not...did not exist in the United States of America five years ago. There are now import licenses to import approximately 113,000 of these weapons or various types of these weapons into the United States this year. The number of weapons imported has increased geometrically since in the last three years. Our society cannot any longer stand that kind of assault. Law enforcement is fighting a war in the streets against these weapons and, quite frankly, for us as policymakers to ask those individuals to fight that war against these semi-automatic rifles is unfair and unreasonable.

SENATOR LAMB PRESIDING

SENATOR LAMB: One minute, Senator.

SENATOR ASHFORD: In summary, let me say this. I think that the voters of the State of Nebraska are astute. They look at issues and they listen to the arguments and then they make their decision...their decisions. Unfortunately, in 1988 the voters of Nebraska got misinformation and the misinformation was sent in to the State of Nebraska primarily from Washington and other parts of the country...

SENATOR LAMB: Thirty seconds, Senator.

SENATOR ASHFORD: ...thank you...in an effort to encourage the voters to take a stand which was, unfortunately, I believe, an incorrect one. And I think if we give the voters of Nebraska an opportunity to look at this issue again, to discuss it, to listen to the dialogue, that I believe that they will make the right decision in the future. I appreciate the Judiciary Committee's action and in that...

SENATOR LAMB: Time.

SENATOR ASHFORD: Okay.

SENATOR LAMB: Did you...you did withdraw this motion? The bill has been...the bill has been advanced from committee, has it not?

SENATOR ASHFORD: Senator McFarland would like to say something, 30...

SENATOR LAMB: Senator McFarland's not next in line but it's the ruling of the Chair that this issue is no longer before us so...as the bill...the motion has been...the issue has been resolved since the bill has been advanced from committee. Is that not true, Senator?

SENATOR CHIZEK: Yes, the bill was advanced. It has not been reported out yet because we didn't have the time to do it. We talked to Senator Ashford and Senator Barrett and the Clerk and it was my understanding that Senator Ashford was going to make some comments and then withdraw his motion.

SENATOR LAMB: The next speaker is Senator Haberman. The motion has not been withdrawn, Senator.

SENATOR HABERMAN: Well, Mr. President and members of the body, I will save most of my remarks for later on as I'm sure Senator Brad Ashford is going to get up and try to change the bill. But I would like to suggest this, Senator Ashford. I would like to suggest that in the next few days you go to some convenience stores and you watch...you watch the games that the young people are playing at those convenience stores. I saw some Sunday that were from nine to 11 years old and they were playing a video game at two...25 cents a clatter and they were using exactly, exactly a replica of the guns that you...are in these ads. They were mowing people down just like you read in the paper. It would come to a pause in the machine and if they had used up all of their bullets, they could put another quarter in and keep on. So my point I'm trying to make, Senator Ashford, is that quite possibly you should explore the possibility of an education program to the young people as to what is a good firearm and what is a bad firearm. And, in my mind, there are good ones and there are bad ones. So I think some of the problems that we have are due to the young people being influenced by the video games that they are now playing. I don't think it's going to help and we'll debate this later so I'm not going into it, some of the ideas that you have on gun controls. So I'm just going to suggest to you that you might visit some of these places, see what the young people are doing and explore the idea of maybe having an educational program as to what is a good gun and a bad gun. Thank you, Mr. President.

SENATOR LAMB: The Chair recognizes Senator McFarland.

SENATOR MCFARLAND: Thank you, Mr. President, and fellow senators, this is an issue that came before the Judiciary Committee. I would like to explain at least my view on the subject and why we advanced it in the form we did. As you know, Initiative 403 was ratified by the voters last year and implemented into the Nebraska Constitution. As a result of that particular provision, there has been created a lot of uncertainty as to the ramifications of the language contained in that constitutional provision. And, as Senator Ashford said, we have had a number of court decisions that have been inconsistent and some of those court decisions have, in fact, said that the constitutional provision that was enacted in Initiative 403, in fact, allows felons to have guns. It voids a lot of laws and restrictions that were in our statutes as far as who should have or who should be able to own guns. And because of that uncertainty we advanced, at least I voted to advance, LB 642 in the amended form for that reason because, in fact, if the Supreme Court deliberates and concludes that, in fact, the constitutional provision of Initiative 403 voids a lot of the restrictions on gun ownership, particularly with respect to convicted felons and to other dangerous types of individuals, then I think that's particularly appropriate. There is a difference when constitutional provisions are...come through this Legislature and then are voted upon in this Legislature to be put on the ballot. When that process occurs you have a whole legislative history and you have a whole record of how the language was arrived at, what each and every provision or phrase means and you have some kind of basis for a court, a judge or the Supreme Court of Nebraska to go back to that legislative record and that legislative history and interpret that constitutional provision in that light, assuming it's approved by the voters after it is advanced through the Legislature. In contrast with the initiative process where it is brought by the people, you do not have a legislative history or a legislative record on what those words mean and so, in this particular case, we have a constitutional provision that never was debated or discussed really. The wording of it was never a product of the legislative process and so the court does not have that legislative history or legislative background to look into in trying to determine the intent of that particular constitutional provision of Initiative 403 and that is the reason we have a lot of uncertainty and a lot of confusion. And, for that reason, I think I and some of the other members of the Judiciary Committee voted to advance 642 in the amended form, the amended form being that it would repeal Initiative 403, particularly, in fact, if

we get an adverse decision from the Supreme Court. And, of course, that repeal would be conditioned upon approval by the electorate as well. But at least we would have a record and then another provision if it was deemed necessary could be put into effect, could come through the Legislature and have a legislative record and history to assist the courts in determining the exact intent of it. But right now we are in a...certainly a chaotic situation with law enforcement people, with judges trying to interpret the meaning of Initiative 403 without any background or record before it to determine exactly what was meant when these provisions were included in that initiative. And some of those phrases are particularly all inclusive and I could see how a judge, for example, in Lincoln County could say, yes, felons, under this...under this law you can't restrict gun ownerships to felons and make some of those kind of rulings. And so, for that reason, that is why it is advanced...

SENATOR LAMB: Thirty seconds, Senator.

SENATOR MCFARLAND: Thank you. That is why it is advanced and I think it is there waiting action by our legislative body, particularly in light of the Supreme Court's decision and what we find out when they rule on the cases that are on appeal right now. Thank you.

SENATOR LAMB: Before we recognize Senator Nelson, we would welcome 41 eighth graders who are guests of Senator Hannibal, from Mary Our Queen School in Omaha and their teacher. Please welcome...stand and be recognized by the Legislature. The Chair recognizes Senator Nelson.

SENATOR NELSON: Mr. Speaker, I...I guess I almost want to say about exactly what Senator McFarland did and for my reasons for advancing it from Judiciary Committee but I want to give the rest of my time to Senator Chambers.

SENATOR LAMB: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I am a member of the Judiciary Committee who voted against amending the bill and against advancing it. I don't believe that the issue of gun laws has been discussed in the way that it should. There have been simplistic comments made, simplistic solutions offered without the problem being adequately drawn. A

person who is convicted of a felony does not have to have been violent. A person is a felon if he or she commits an offense that causes him or her to be sentenced for a year or more to the penitentiary. That could be bad checks, any of a number of crimes that have no violence whatsoever. If self-defense is recognized as a basic right in this country, and it is, if firearms are recognized as a legitimate means of self-defense, and they are, the mere fact that a person has been convicted of a felony should not deprive that person of the right to defend him or herself. If, in a set of circumstances, where a person who is a felon has his or her life jeopardized and a firearm available, that person should be able to use it as much as anybody else because to be convicted of a felony does not stop you from being a person with the right to self-defense. Another point, most of the killings with firearms are committed by noncriminals, felon or otherwise. Most of the killings with firearms are committed by people who are not criminals. So the only kind of effective gun control legislation would be to ban the ownership of guns by everybody, every kind of gun. And if you did that, people say that criminals are the ones who would wind up with the guns. They are not the ones who commit most of the murders or other noncriminal homicides with firearms. So if you took the guns from the so-called law abiding people, then you would reduce dramatically the number of people killed with firearms. So the argument given against controlling guns is that you take them out of the hands of the law abiding and put them in the hands of criminals who will get them anyway. Well, the criminals are not the ones who kill most of the people with firearms. For those who know different calibers of weapons, a .22 is a small caliber. If you are shot in the proper place with that .22 with one bullet, you are as dead as if somebody hit you with 15 rounds from an Uzi or 10 rounds from an AK47. So trying to distinguish between the types of firearms, I think, serves no purpose. It deals with the emotional aspect of it, the political aspect of it but it doesn't get down to the root issue which is guns are implements that kill, whether they're .22s or Howitzers. So ban them all or ban none of them. And until a change in attitude toward violence occurs in this society, the talk that is going on thus far with reference to firearms clouds the issue and does not offer a solution. Finally, I would say let the court decide what it is the people have put into the Constitution. Whether they were wise or stupid, they have a right to be that under the Constitution and the Constitution gives them the right to put a stupid, ill-considered amendment to that document. The right...

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LB 575, 642

SENATOR LAMB: One minute, Senator.

SENATOR CHAMBERS: ...of initiative is reserved to the people and since that amendment said all persons have this right to bear arms and that right cannot be infringed, felons are persons, anything walking on two feet born of a male and a female is a person and has a right under that constitutional provision to keep and bear arms and the state cannot infringe that right. And I want that provision to stay in ' , Constitution and it also may abolish the death penalty which, as you all know, is an effort I have undertaken for 19 years in an attempt to keep the state itself from being violent and thereby maybe reduce the violence in society at large. And I will give the rest of whatever time I have left to Senator "Ash Bradford"...Brad Ashford.

SENATOR LAMB: Senator Ashford.

SENATOR ASHFORD: I appreciate the dialogue. I think it's now beginning and I hope it will continue into the rest of this session, possibly not, but in the next session...

SENATOR LAMB: Time is up, Senator.

SENATOR ASHFORD: ...and, with that, I will withdraw the amendment. Thank you. Or withdraw the motion.

SENATOR LAMB: The motion has been withdrawn. Mr. Clerk.

CLERK: Mr. President, the first bill scheduled for discussion by the Legislature this morning is LB 575. It was a bill introduced by Senators Barrett, Dierks and Baack. (Read title.) The bill was introduced on January 18 of this year, Mr. President, referred to the Education Committee for public hearing. The bill was advanced to General File. I have Education Committee amendments pending.

SENATOR LAMB: Senator Withem.

SENATOR WITHEM: Yes, Mr. President and members of the body, the committee amendments to LB 575 are those that we like to be able to present at the hearing. There were those speaking strongly in support of this bill despite the fact that it's Senator Barrett's bill and there were a number of people...a couple of

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LB 182, 211, 586, 642, 767A, 769

advancement of LB 586.

SPEAKER BARRETT: LB 586 is advanced. Anything for the record?

CLERK: Mr. President, your Committee on Judiciary, whose Chair is Senator Chizek, reports LB 211 to General File, and LB 642 to General File with amendments, those signed by Senator Chizek. I have a proposed rule change offered by Senator Korshoj. That will be referred to Rules Committee. Senators Bernard-Stevens and Schimek have amendments to be printed to LB 769. General Affairs gives notice of confirmation hearing, as does Business and Labor, those signed by Senators Smith and Coordsen as Chairs. And new A bill, LB 767A, by Senator Smith. (Read by title for the first time.) That's all that I have, Mr. President. (See pages 1657-60 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Senator Peterson, would you like to recess us, please.

SENATOR PETERSON: I move, Mr. President, we recess until one-thirty.

SPEAKER BARRETT: Thank you. You've heard the motion to recess until one-thirty. Those in favor say aye. Opposed no. Carried, we're recessed.

RECESS

SPEAKER BARRETT PRESIDING

CLERK: I have a quorum present, Mr. President.

SPEAKER BARRETT: Thank you. Anything for the record, Mr. Clerk?

CLERK: Mr. President, I have an Attorney General's Opinion addressed to Senator Wesely regarding LB 182. That's all that I have, Mr. President. (See pages 1661-63 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Proceeding immediately then to our General File agenda, 1989 senator priority bills, LB 182.

February 13, 1990 LB 159, 163A, 624, 642, 862, 923, 943
976, 1010, 1086, 1090, 1091, 1141, 1171
1180, 1195, 1197, 1238
LR 239

PRESIDENT: Mr. Clerk, do you have anything for the record?

CLERK: Mr. President, I do. A reminder, the Speaker would like to have a meeting of Committee Chairs tomorrow morning at eight-thirty, Committee Chairs tomorrow morning at eight-thirty in Room 2102.

Mr. President, your Committee on Education whose Chair is Senator Withem reports LB 1086 to General File, LB 1090 General File with amendments, LB 1195 General File, those signed by Senator Withem, and LB 1180 indefinitely postponed, LB 1197 indefinitely postponed. Urban Affairs reports LB 943 indefinitely postponed, LB 1171 indefinitely postponed, signed by Senator Hartnett. Banking reports LB 624 to General File, that signed by Senator Landis. (See pages 779-80 of the Legislative Journal.)

Mr. President, a series of priority bills designations. Senator Wesely as Chair of Health and Human Services selects LB 923, Senator Withem selects LR 239CA, Senator Warner selected LB 1141. General Affairs Committee selected LB 862 as one of its priority bills, that's offered by Senator Smith. Senator Dierks has selected LB 1238.

I have amendments to be printed to LB 163A by Senator Schimek. (See page 781 of the Legislative Journal.)

A confirmation report from the Education Committee. That is offered by Senator Withem.

A series of adds, Mr. President. Senator Weihing would like to add his name to LB 642, Senator McFarland to LB 1010, Senator Lowell Johnson to LB 976 and Senator Pirsch to LB 1091 and Senator Warner to LB 159, AM2372. That is all that I have, Mr. President. (See page 782 of the Legislative Journal.)

PRESIDENT: Thank you. Senator Moore, please.

SENATOR MOORE: Yes, Mr. President, I move we adjourn until 9:00 a.m., February 14, Valentine's Day.

February 14, 1990 LB 42, 159, 313, 642, 851, 856, 857
874, 893, 901A, 957, 960, 964-966, 984
997, 1044, 1064, 1080, 1090, 1161, 1184
1193, 1232
LR 11

SPEAKER BARRETT: Thank you. Mr. Clerk, you have a motion?

CLERK: Mr. President, I have a priority motion by Senator Langford, that's to adjourn the body until February 15, 1990. I assume that's nine o'clock, Senator. I do have some items.

SPEAKER BARRETT: Anything for the record, Mr. Clerk?

CLERK: Yes, I do, Mr. President. I have amendments to be printed to LB 42 by Senator Baack. (See pages 793-94 of the Legislative Journal.)

Mr. President, Enrollment and Review reports LB 1064 to Select File with Enrollment and Review amendments. LB 851, LB 856, LB 857, LB 874, LB 893, LB 957, LB 964, LB 966, LB 984, and LB 997 are all reported correctly engrossed. Those are signed by Senator Lindsay as E & R Chair. Banking Committee reports LB 1161 to General File with amendments, and LB 1193 as indefinitely postponed, those signed by Senator Landis as Chair of the Banking Committee. (See pages 794-96 of the Legislative Journal.)

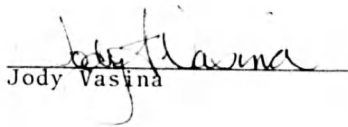
I have a new A bill, Mr. President. (Read LB 901A by title for the first time. See page 796 of the Legislative Journal.)

Mr. President, I have a confirmation report from the Health and Human Services Committee, that is signed by Senator Wesely as Chair. I have a series of priority bill designations. Senator Schellpeper selects LB 1080; Senator Crosby, LB 965; Senator Scofield, LB 1184; Senator Richard Peterson, LR 11CA; and Senator Withem, Education Committee priorities are LB 960 and LB 1090.

Mr. President, Senator Abboud would like to add his name to LB 1044, Senator Crosby and Chambers to LB 642, Senator Elmer and Peterson to LB 159 and AM2372, and Senator Morrissey to LB 1232. I believe that's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The motion before the house is one to adjourn until tomorrow morning at nine o'clock. All in favor say aye. Opposed no. Ayes have it, carried, we are adjourned. (Gavel.)

Proofed by:


Jody Vasina

February 21, 1990 LB 50, 143, 240, 240A, 350, 350A, 465
642, 692, 742, 1148, 1200

PRESIDENT NICHOL PRESIDING

PRESIDENT: (Microphone not activated) ...George W. Norris
Legislative Chamber. We have with us this morning for our
invocation our own Senator Carol Pirsch. Would you please rise.

SENATOR PIRSCH: (Prayer offered.)

PRESIDENT: (Gavel.) Thank you, Senator Pirsch. We appreciate
that very much. Roll call, please. Mr. Clerk, please.

CLERK: I have a quorum present, Mr. President.

PRESIDENT: Any corrections to the Journal today?

CLERK: No corrections, Mr. President.

PRESIDENT: Do you have any messages, reports or announcements?

CLERK: Mr. President, your Committee on Government, Military
and Veterans Affairs, whose Chair is Senator Baack, reports
LB 1200 to General File; LB 1148 as indefinitely postponed.
Those are signed by Senator Baack.

Mr. President, a communication from the Governor to the Clerk.
(Read communication regarding signing of LB 50, LB 143, LB 240,
LB 240A, LB 465, LB 350, LB 350A, LB 692 and LB 742. See
page 882 of the Legislative Journal.)

Mr. President, a series of appointments letters from the
Governor: Those will be referred to Reference.

I have an Attorney General's Opinion addressed to Senator
Schmit, Mr. President. And that's all that I have.

PRESIDENT: We will move on then, ladies and gentlemen, to our
General File and LB 642.

CLERK: Mr. President, LB 642 was a bill that was introduced by
Senators Ashford, Weihsing, Chambers and Crosby. (Read title.)
The bill was introduced on January 19 last year. At that time,
it was referred to Judiciary. The bill was advanced to General
File. I do have committee amendments pending by the Judiciary
Committee, Mr. President.

PRESIDENT: Senator Chizek, please.

SENATOR CHIZEK: Mr. President, colleagues, LB 642 is a bill that we had originally heard in the Judiciary Committee and at the time of the hearing for LB 642, if you remember, some judges in western Nebraska had found that the right to bear arms amendment passed by the voters in November of 1988 had repealed the right of the state to, in any way, limit possession of firearms to felons, incompetents, minors and so forth. The committee, at that time, had decided that it was necessary to have a vehicle on the floor of the Legislature with which to ask the people of the State of Nebraska to again vote on this issue if the Supreme Court would have agreed with the western Nebraska judges. In effect, the committee amendments would put on the ballot the repeal of the right to bear arms amendment so that the state could once again keep firearms from dangerous and immature individuals not capable of handling a firearm safely. However, since the committee met and voted on this issue, the Supreme Court decided that notwithstanding the language of the right to bear arms amendment that the state may still regulate the possession and the use of firearms under circumstances where the health and the safety of the general citizenry is put at risk. Therefore, I would ask you today to vote against the adoption of the committee amendments, as the amendments the way they now stand would serve no useful purpose. If the committee amendments are not adopted, LB 642 will be in its original form. As you know, it's original form provides a waiting period before a person can buy a handgun. I will add also at this time that I have been meeting, since this issue surfaced, with Senator Ashford and members of the NRA. I met with them as late as this morning. I have the assurances from both groups that they will sit down and try and work out something that is mutually agreeable on this issue. I see no reason to hold the bill, but I would ask that you vote against the committee amendments, to vote red on the committee amendments, and at that point in time I will address further my meetings with the NRA and Senator Ashford. Thank you.

PRESIDENT: Thank you, Senator Chizek. I have five lights on. It's unlikely that you want to talk about voting red on the amendments, but if you do, please indicate. Senator Wesely. Senator Haberman.

SENATOR HABERMAN: I would like to speak to the committee amendment.

PRESIDENT: Okay. Okay.

SENATOR HABERMAN: Mr. President and members of the body, for those folks, those senators who are opposed to LB 642, as I am, I would strongly suggest that you support, that you vote for the committee amendments. What this will do is it will gut the bill. It will take the seven-day waiting period problem completely out of the issue and will put in its place a constitutional amendment bill which takes 30 votes to pass. So if we adopt the committee amendments, we gut the bill, the seven-day waiting period goes away and now becomes a constitutional amendment bill and, therefore, takes 30 votes to pass to put it on the ballot. If, for some reason, the proponents of the seven-day waiting period could muster 30 votes to put it on the ballot, when it was on the ballot in November I am quite confident that the citizens of Nebraska would defeat the constitutional amendment because it takes away the right to bear arms. Now you have heard Senator Chizek say that he has been negotiating with Senator Brad Ashford and he's been negotiating with the NRA to come to some sort of an agreement on the bill. We don't know what that is. Senator Chizek says, don't hold up the bill. So I am saying to you we won't be holding up the bill, we will be doing what I said. To me, this is the easiest and best way to defeat the seven-day waiting period if that's what this body wishes to do. So I would strongly urge the senators to vote for the committee amendments. Although the committee chairman frowns upon this, I would suggest that you do this because it's not my fault that the seven-day waiting period people backed themselves into a corner. That's their fault, not mine. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Ashford, did you wish to speak about the committee amendments?

SENATOR ASHFORD: Thank you. Briefly, Mr. President and members, Senator Chizek did summarize adequately, I think, what transpired concerning LB 642. I would just reemphasize a couple of points. Initially, when LB 642 was introduced, it was introduced as a seven-day waiting period and at the time of the hearing, as Senator Chizek rightly says, there was a great deal of concern in our state that...that the decisions of the two North Platte judges would have really a devastating effect on the ability of Nebraska law enforcement and prosecutors to prosecute for even the most basic felon in possession type laws.

As you know, in Nebraska we have legislation...or we have laws on the books which deal with felon in possession laws, with defacement of firearms, with the possession of short shotguns and machine guns and other laws. In fact, there even is a law on the books in Nebraska which requires the registration of tranquilizer guns with the local sheriff and these are weapons that are used to immobilize animals. So, in Nebraska, we have a law that requires the registration of tranquilizer guns that are used in the demobilization of animals. In any event, there was a great deal of concern at the time that this...these two cases were decided that if this amendment to the Constitution were interpreted by the judges of this state in the way that the two judges in North Platte, Lincoln County District Court interpreted the law, quite frankly, we would not be able to enforce any one of those gun laws. And, in addition to that, there had been attempts made to utilize the right to bear arms amendment to try to overthrow or overturn death penalty convictions or death penalty cases. So...and, as you recall, what the amendment says is that Nebraskans are entitled to life, liberty and the pursuit of happiness and the right to bear arms. We place the right to bear arms on the same...in the same category as the right to life, liberty and the pursuit of happiness. I think we are the only state that does that. In any event, so there was a great deal of concern and speculation. The Attorney General raised some very good points, the chief law enforcement officer of the state, to the effect that we are in a real jam here. So that's why the committee, I'm sure, made the decision that it did. Since that time, there have been three decisions which have interpreted our right to bear arms amendment in a way which is not consistent with that fear. The most recent decision was reached on February 16, 1990, in a case versus... State of Nebraska v. Roger LaChapelle. And in that case, the Supreme Court said that the right to bear arms amendment does not prevent the enforcement of short shotgun laws and machine gun laws because that, even though there is a right to bear arms amendment, that the State of Nebraska, through its police power, has the right to regulate the possession, the possession of firearms and this opinion is identical to the opinion that was reached by the Supreme Court earlier this year in the State v. Comeau case and the State v. Rush case. Those two cases involved the defacement of firearm statutes and the statute involving a felon in possession, our felon in possession laws. So our Supreme Court has basically said that this right to bear arms amendment, even despite its language...

PRESIDENT: One minute.

SENATOR ASHFORD: ...that we can enforce these laws. At the latest hearing on LB 642, Attorney General Spire said in the testimony, I quote, "I do not believe that this legislation, that being the seven-day waiting period, would violate the new Nebraska right to bear arms constitutional amendment. Our State Supreme Court has just ruled that this amendment does not prevent 'reasonable' regulation of gun ownership and possession by the Legislature." So the Supreme Court, in its wisdom, has given to us, the legislative body, the right to make decisions on what we believe to be reasonable regulation in this area. So I would concur with Senator Chizek that LB 642 is a type of regulation which is, I believe, reasonable and would fall...would be declared to be constitutional under the three Supreme Court...it's not very often that we would have three Supreme Court decisions so quickly rendered that would give us such a clear guideline on how we can deal with gun legislation.

PRESIDENT: Time.

SENATOR ASHFORD: So, with that, I would ask that the committee amendments be voted down. Thank you.

PRESIDENT: Thank you. Senator Wesely is next, followed by Senator Hefner and Senator Chambers.

SENATOR WESELY: Thank you. Mr. President and members, I would rise in opposition to the committee amendments as well, though I must say with mixed feelings. I did have a study done of the constitutional amendment before it was adopted and that study by the Research Office clearly indicated problems with the amendment, the wording, the extent of it, the broad, vague language that was included. It had many people concerned. Judges followed and interpreted that language, as Senator Ashford said, in a very direct fashion. They used common sense in reading what that language said and threw out some different convictions and different statutes that we had long held in the state. But, eventually, it was discovered by the Supreme Court that what something says doesn't necessarily mean what it says, that it means something other than that, and they are disregarding the language of that constitutional amendment. I say, amen to them, because that amendment I think was a mistake in the first place. But Senator Haberman would have you now go back to that issue and I suggest that we not do that. The issue

before us today is the seven-day waiting period and, on that basis, I would very much encourage you to oppose the committee amendments and allow us to go to the direct issue of the seven-day waiting period and there we can discuss the merits or maybe objections to that issue, but let us not debate once again the constitutional amendment. We don't need to do that. And I will give the rest of my time to Senator Chizek.

PRESIDENT: Senator Chizek, please.

SENATOR CHIZEK: Colleagues, once again, I...Senator Haberman quoted me as saying not to hold up the bill. What I...when he talked to me earlier, I told Senator Haberman that I gave my word. I gave my word to Senator Ashford. I gave my word to the NRA that I would help negotiate some things that everybody could live with. And I told him I intended to keep my word. I think it would be facetious on our part to adopt these amendments, put something on the ballot that's going to cost substantial dollars, cost substantial dollars and it isn't necessary to put it on the ballot. And I think that borders on subterfuge to do it that way. And I, again, would urge you to vote down the committee amendments and deal with the bill on the issue itself.

PRESIDENT: Thank you. Senator Hefner, please.

SENATOR HEFNER: Mr. President and members of the body, I wasn't going to speak on the committee amendment but, after Senator Haberman did, I feel that I have got to express my opinion here. I'm not going...I'm not going to support LB 642, the seven-day waiting period, and I'm not going to support the committee amendment. And the reason that I'm not going to support the committee amendment is the people, the citizens in Nebraska, the voters in Nebraska voted this in. I feel that if I would vote for the committee amendment, I would go against the wishes of the Nebraska voters and I think this is wrong because they, by a large majority, they voted the right to bear arms amendment in. And so I don't think we should tamper with that. I realize, Senator Haberman, that this is a political gimmick. If we get the committee amendment on, yes, then they would have to get 30 votes and I don't believe that they could do that. But I don't think that that would be good legislation and I don't think it's the way for this body to go. So I'm going to oppose the committee amendment.

PRESIDENT: Thank you. Senator Chambers, please, followed by

Senator Scofield and Senator McFarland.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, on the committee statement, I'm there listed as voting no. And the reason I voted no was because the bill had been amended to become a repealer for that constitutional provision. Now, I don't like that constitutional provision but that's not what is before us today, but my reason for voting against the bill in committee was because it had been converted to a repealer. So I am going to vote against the constitu...the committee amendment and because we can get that off is the reason that I added my name as a co-sponsor when Senator Ashford asked me would I do so.

PRESIDENT: Thank you. Senator Scofield, please.

SENATOR SCOFIELD: Mr. President and members, I'm going to...I'm going to support the committee amendments and I want to give you an explanation why. It seems to me that there is a lot of confusion surrounding this bill. I am not confused how I'm going to vote on this bill. I intend to oppose 642. But it appears to me that the bill was used and, well, it doesn't appear it was explained it was used as a vehicle to address a problem that I think everyone of us was concerned about at the time and that was, what was the court's ruling, particularly in North Platte, what effect did that have on our ability to regulate felons in possession of firearms? Obviously, in light of the decisions that Senator Ashford has mentioned, the whole playing field has changed and now we have a bill out there that is about to become a vehicle to do who knows what. And I, personally, don't feel very comfortable with that. I don't...I can't read the individual members of the committee's minds about what their intention was when they voted the bill out. Some of them have spoken, some of them have not. But it seems to me that, given the stage we are in the session, that it would be wiser to have a clear direction coming out of the committee and this bill doesn't have it. It's been shot out of there with one intention and now, in light of court decisions, doesn't have seem to have the mission that it originally had when it was advanced. And I would prefer to wait on this issue and let it have a real hearing again next year if that's the desire of Senator Ashford to reintroduce it and go from there. But I would prefer not to proceed with this lack of direction and I think the bill could go any number of ways and the likelihood of a good negotiation would not be due to the lack of skill on

Senator Chizek's part. I believe he would work very hard to try to reach some accommodation here, but I suspect this is one of those issues that isn't going to be very easy to reach an accommodation on. And so I'm going to support the committee amendments. And, frankly, it seems obvious to me we don't need the bill right now, given the intent that the committee stated when they put it out. Thank you very much.

PRESIDENT: Thank you. Senator McFarland, please, followed by Senator Chizek and Senator Landis.

SENATOR MCFARLAND: Thank you, Mr. President. On the Judiciary Committee, I was involved in the discussions when this bill was advanced out of the committee. We proposed the amendment because of the urgency to the problem that had been created by the court decisions out in North Platte and also I think there was one in Omaha, which generally declared that the constitutional provision on the right to have ownership of a gun was so broadly written that it would not prevent the state from regulating the possession of firearms by felons. Nevertheless, had this bill been voted on in its original form, I would have still voted to get it out of committee and I suspect there would have been a general support on the committee as well, from the conversation that went on. We did have a hearing in Judiciary on this particular thing and I think it's appropriate that we defeat the committee amendments and vote on the bill whether you are in favor of it or not. I think it's kind of a pie-in-the-sky hope that somehow you can send this bill back to the Judiciary Committee and there will be some kind of accommodation on this issue. This is a very modest proposal and to say that you're going to...as you can tell from the letters and the phone calls and angry phone calls and irate letters and things you have already been receiving, as I have, there is going to be no accommodation on this issue. This issue seems to me to be a bill that's a good one, that is supported by a majority of the voters in our state. A waiting period is supported by the majority of people, according to the polls. It is also supported by...strongly by our law enforcement officers and people who have talked to us. I would urge you defeat the committee amendments and I will plan to vote in favor of the bill. I would yield the rest of my time to Senator Ashford if he has a few things to say.

PRESIDENT: Senator Ashford, you have two and a half minutes.

SENATOR ASHFORD: Thank you, Mr. President, and, hopefully, we can come to a vote on this soon. But in answer to Senator Scofield, this bill was introduced as a seven-day waiting period bill approximately a year and a half ago or a year and couple of months ago. We had, on December 7th of last year, a lengthy hearing on the seven-day waiting period before the Judiciary Committee. Senator Chizek called a special hearing to make sure that we covered the issues of the seven-day waiting period prior to the bill coming on the floor. That hearing was in Lincoln...or in Omaha, and we had a thorough discussion of the issues, went through all of the other states that had waiting periods, discussed those issues at that hearing. Also, as far as negotiation is concerned, we contacted the NRA at the very beginning last year when we introduced this bill, sent them information and had contact with the Washington office and never received any response back at all on any desire whatsoever to discuss the seven-day waiting period or to negotiate it in any way. And so I do appreciate very much Senator Chizek's desire to try to work this bill out. I have seen him work magic before and I would not think that this would be a case where he could not do it again. But, be that as it may, I think the issue is pretty straightforward and it is not that kind of a complex bill that requires a reintroduction in another hearing which would be about the third hearing on this issue next session.

PRESIDENT: One minute.

SENATOR ASHFORD: I don't know how many other speakers we have on this issue but I think, again, the case law is extremely clear, at least on our existing laws, that we can do this type of legislation and I hope we can move on to the bill now. Thank you.

PRESIDENT: Thank you. Senator Chizek, please, followed by Senator Landis and Senator Wesely.

SENATOR CHIZEK: Respectfully call the question.

PRESIDENT: The question has been called. Do I see five hands? Now I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Chizek, would you like

to close on the committee amendments?

SENATOR CHIZEK: Well, once again to reiterate so that everyone is aware, we are asking that the committee amendments be voted down, specifically because of the Supreme Court decision that was the opposite of the two Lincoln County decisions. You have heard some debate asking for you to support the committee amendments. I, obviously, elected, senators, you can support and vote for anything you want, but I think it's a mistake to do that. We conducted a hearing in Omaha that was a lengthy hearing. Both sides of the issue had ample time to debate and bring their points forward. I think that it was a good hearing. Our decision was, why go through the introduction of another bill? There was a bill here. I think we heard enough good things that we can address this bill as we go on. I have told you again that the introducer and the...Senator Ashford and the NRA, I have had meetings again with them as late as this morning and they're willing to sit down and work. If we can work out something that both sides can agree, why not? Why not? If we can't, then I guess there will be a battle on Select File. But why have a battle before it's necessary? At least, give us a chance. I urge your rejection of the committee amendments.

PRESIDENT: Thank you. The question is the adoption of the committee amendments. All in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 2 ayes, 30 nays, Mr. President, on adoption of the committee amendments.

PRESIDENT: The committee amendments are rejected. Senator Ashford, would you like to open on the bill itself?

SENATOR ASHFORD: Thank you, Mr. President, and members, this bill is, as you know by now, a bill which calls for...LB 642 which calls for a seven-day waiting period for the purchase of handguns in the State of Nebraska. The bill applies only to handguns which are defined as firearms that have a barrel length of less than 12 inches and can be...are designed to be fired with one hand. I indicated, briefly, that...on the debate, on the amend...or on the constitutional amendment that Nebraska has several laws on the books dealing with handgun...responsible gun ownership and handguns. It has bills...or laws on the books which prohibit the possession of short shotguns, possession of machine guns, possession of firearms by felons, the defacement

of firearms, and I think, what is extremely interesting, a statute that I alluded to earlier, 28-1209, which provides that any person who fails or neglects to register any gun or other device designed, adapted or used for projecting darts or other missiles containing tranquilizers or other chemicals or compounds which will produce unconsciousness or temporary disability in live animals with the county sheriff of the county in which the owner of the gun or device resides commits the offense of failure to register tranquilizer guns and that offense has a penalty of a Class III misdemeanor. So, in Nebraska, we do have gun registration to protect animals. We do have gun registration as well in the City of Omaha and that gun registration ordinance has been in effect for a number of years. What it provides is that when an individual wishes to purchase any firearm that he or she must go down to the police station and obtain a permit from the Omaha Police Department, take that permit back to the gun dealer and then obtain possession of the firearm. At the police station, the individual is fingerprinted and a check is done on the computer to determine whether or not the individual is a felon, convicted felon. And I will get into this a later, but in Omaha last month, in the month of January there were 18 felons who attempted to purchase firearms in the City of Omaha. In fact, there was one case that was described to me by a local law enforcement official where an individual who had just a couple of days before assaulted a police officer and then two or three days later attempted to purchase a handgun through that system and was stopped. So that system of registration which does involve some time limit and some check is effective in the City of Omaha. Now, who supports this kind of legislation? You have a packet in front of you, I think, which goes through that issue. It...you have in that packet the polls that have been taken in the State of Nebraska. The most recent poll was a Lincoln Journal poll which found that 87 percent of Nebraskans support legislation that would require a seven-day waiting period before the purchase of a handgun. There were earlier polls done by the Omaha World-Herald which had results somewhat similar to that overwhelming number of individuals supporting such legislation. But, most importantly, I guess, other than the citizens, other groups obviously support...also support this but, most importantly, amongst them I would guess would be law enforcement. Every agency of law enforcement in the State of Nebraska supports the seven-day waiting period, every single one. On this body, we defer to experts on almost every technical issue that comes before us. On agricultural issues, in education issues, we defer to experts

and we say, what do you need or what is appropriate for us to deal with on this legislative floor in your area of expertise? And every law enforcement agency says a seven-day waiting period is needed. And those are law enforcement agencies across the State of Nebraska. Teachers' organizations support it. The retired citizens of Nebraska through the AARP support it, of which there are 188,000 members. Doctors and nurses support it and those are the individuals who deal with the victims of these homicides on a daily basis. And, ladies and gentlemen, and members, even the NRA supports waiting periods. The NRA most recently supported a 15-day waiting period in the State of Oregon. Just last week or early this week the NRA sent a 22,000-letter mailing into the State of Nebraska opposing the seven-day waiting period. Now, I would suggest to you members and to the people of the State of Nebraska why can't we in Nebraska have what Oregon has? Why does the NRA feel that we in Nebraska should not have...I would like them to tell us that, that if they would think that the citizens of Oregon should be protected, why can't the citizens of Nebraska be protected? What is the reason? I don't think there is a good reason and that's why we haven't heard one, but, basically, they have also supported checks in Virginia and the NRA has supported a check in Florida in the past few months. So the NRA is on record currently supporting this kind of legislation and in the 1970s the NRA had as its agenda item a seven-day waiting period, that a seven-day waiting period was a necessary tool for law enforcement to protect legitimate citizens who have a legal right to own weapons to protect those individuals. Why is it that we feel it is so necessary to protect drug dealers, to protect felons and give them the same rights that legitimate law abiding citizens have? It's absolutely beyond me that we would want to do that in our state. Several other states have adopted waiting period legislation, 23 states have adopted certain forms of waiting periods. And do they work in other states? And in your handout I have given you some examples of the fact that it does work and I already alluded to the Omaha example where 18 felons last month were stopped from buying weapons under the Omaha system. In California, in 1988-89, 1,803 prohibited persons were stopped from buying handguns, from purchasing handguns. In Illinois, in 1988, 2,470 individuals were stopped from buying handguns. In Indiana, a state quite similar to Nebraska, since from 1980 through 1988, 11,155 individuals were stopped from buying handguns in that state. In New Jersey, in 1988, 637 people were denied permits to purchase guns. It seems to me that...and I would like to hear an argument that it is

good public policy to have felons with handguns because that is basically what you would be voting for if you vote against LB 642. You would be saying that because somehow, somehow this bill affects the rights of legitimate gun owners, that we will...we will sacrifice and allow felons to go into a store and to lie on the federal form and say they are not felons and purchase handguns without any check whatsoever even though...

PRESIDENT: One minute.

SENATOR ASHFORD: ...this body has already said that it is illegal for a felon to possess a firearm. Finally, the bill calls for a seven-day waiting period as a cooling off period. And I would suggest to you that you talk to your law enforcement agencies and ask them about crimes of passion. And you have handed out to you the statistics in Nebraska where last year 35 percent of homicides were crimes called spontaneous act felonies which are, in essence, crimes of passion. I leave it up to you, who is going to make the decision for you, the NRA or the people of the State of Nebraska and those individuals, those individuals who deal on a day-to-day basis in the trenches with these homicides, these drug dealers and these violent acts?

PRESIDENT: Time.

SENATOR ASHFORD: This doesn't solve every problem but it gives to law enforcement a necessary tool to help in this very important war that we're fighting on our streets. Thank you.

PRESIDENT: Thank you. Senator Landis, please, followed by Senator Hefner and Senator Crosby. But, Senator Landis, I understand the Clerk has something here.

CLERK: Mr. President, I do have amendments. The first is offered by Senator Haberman. Senator, this is your amendment...would you like me to read it? It's the one that's the new Section 2.

SENATOR HABERMAN: Which one of the 13 is this, Mr. Clerk? Would you please read it.

CLERK: It's the one that says, "Section 2. This act shall not apply to any person residing in any county having a population of fewer than 60,000 inhabitants." (See page 891 of the Legislative Journal.)

SENATOR HABERMAN: Mr. President and members of the body, this amendment merely says that the seven-day waiting period will not apply to any county that has a population of 60,000 people or less. So this, in essence, says to Omaha, Senator Ashford, to the people in Lincoln and the people in Sarpy County, if you would like to have a seven-day waiting period for firearms, that's fine, that is fine. However, to those of us who live in the smaller counties, if we have the problem that I understand they have in Omaha where people go around shooting at people on street corners and sitting on porches and shooting at vacant buildings, if that were to happen out where I come from, the "shootors" would have "shootees" back. We wouldn't have that because they know if they started to shoot somebody, that somebody they're shooting at is sure as hell going to shoot back. So we don't have that problem. We don't have that problem. So, therefore, I'm perfectly willing to support the issue, support the bill and if you adopt this amendment that says, basically, where you folks have the problem, where you want the seven-day waiting period, be my guest, have at it. I will help you pass your legislation, just take care of Senator Ashford's problem, take care of Lincoln's problem, take care of Sarpy's problem, and in basic it just says leave the rest of us alone. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Landis, please, followed by Senator Hefner.

SENATOR LANDIS: Thank you, Mr. Speaker. I rise to oppose the Haberman amendment. I don't know if you have the same experiences I do, you get a lot of small postcards that have one-sentence declarations from your constituents, vote against this bill or vote for that bill and they don't go very deep into why they think it's a good idea. But it's like a tally, it's like part of a petition, I guess you would say. On the other hand, how rare we have those times when a constituent comes to see you and he is really ready for you. He is really prepared. Sits down, talks to you. Happened to me this morning. I had a constituent who owns a lot of guns, sells a lot of guns. Came in and had read the bill word for word and was really ready for bear. And, frankly, it was a very fascinating discussion and you know how rare those are when, in fact, they have read the bills, they're up on the issues and it's not just a matter of what you have read in the paper recently or, you know, two or three inches in a column inches in a newspaper and they dash off

a hurried letter. This guy was really ready. His name is Jerry Spahn. He lives up on North 14th Street in my district. And we got done with our discussion and Jerry, who is an NRA member, and I, Jerry had gotten me to agree to the principle that an unreasonable, unworkable hand-controlled gun is a mistake if it's unreasonable and unworkable. He had also gotten me to agree to the principle that a slogan isn't necessarily good policy. In the reverse, I had gotten Jerry to agree to the principle that a reasonable seven-day waiting period law wasn't unfair if, in fact, the law was reasonable. And, secondly, we both agreed that there was no right to sell arms to incompetents, to the underaged, to the felons, to the mentally infirm. Both of us got done with this conversation. We were...neither one of us had raised our voices, called each other names, nor, I will be happy to report, pulled a gun on the other. And it gave me hope that, in fact, there is some prospect for agreement. He said, now Dave, listen, I don't like 642, I don't like the provisions. I think it's overbroad. I think it's got some problems in definition. I think it's got problems in the way this form is supposed to be done. And he had a series of technical problems. He says, listen, if you want a workable law, there are workable laws out there. Iowa has a workable system, I consider that. I don't like this bill but, in fact, there are some models out there. What I got done with the conversation was this, I got done with this guy who owns, sells firearms, who is not a crazy, and he says, you're right, it's fair enough that we have a reasonable seven-day waiting period if you can draft a law that's reasonable. But what's unfair is if it's unworkable and unreasonable and, at this point, he thinks 642 qualifies for that definition. If I understand Jerry Chizek right, he says he is prepared to sit down and work on drafting a reasonable seven-day waiting period law, not only from Brad Ashford's point of view but from the point of view of, well, the Jerry Spahns of the world. And that, to me, seems to be a fair discussion to go forward. I want that to go forward. I don't want it short-circuited today. I don't want to steamroll over these 13 amendments. I don't want to put it aside because, frankly, while I expected there to be a Grand Canyon between me and some of the people on the other side of this issue, I found that, while it's not just a little brook, there is some space between us that, in fact, we can communicate across that distance, that there was some sense of agreement that...that it's true I have not been intrinsically given constitutionally the right to sell a .357 to an eight-year-old, to a mentally incompetent, to a felon, that my

right to bear arms doesn't go that far. So, frankly, I'm going to vote against the Haberman amendment and I want this process of discussion and negotiation to go forward. I want to see if there isn't a way to draft what even the more reasonable members of the gun-owning, possessing community believe would be a reasonable provision that can be found.

PRESIDENT: One minute.

SENATOR LANDIS: After this morning, I think it's possible to find that and that's something I want to have happen. I'm going to vote against the Haberman amendment.

PRESIDENT: Thank you. Senator Hefner, you are next, but may I introduce our doctor of the day, please, Dr. Frank Weirman of Lincoln. Dr. Weirman, would you please stand so we may welcome you. And thank you for your services today. Senator Crosby, please, on the Haberman amendment. Or did you wish to talk on the bill?

SENATOR CROSBY: I thought you said Senator Hefner was ahead of me.

PRESIDENT: Well, he wants to talk on the bill.

SENATOR CROSBY: Oh, well, no, thank you very much, Mr. President, and members, I am pleased to speak against the amendment and for 642. I am not confused about this bill. I know exactly what it does. It allows gun dealers to work with people who want to buy a handgun and fill out a form, that seems simple enough to me, to declare that they are not a felon and give some history so the law enforcement people can check on those people, who want the handguns, to be sure that they are the kind of people who should have them. Personally, I do not like guns. I know people who hunt and the people who belong NRA, and I have had calls from some of them, I know that they work at handling guns safely and to teach people who use them to handle them safely. But we're not talking about hunting guns, we are talking about handguns. You see a lot of them on television and I'm always horrified when I see these dramatic scenes on television when somebody is right up against somebody with a handgun threatening to shoot and then all of a sudden it's all resolved in the next 30 seconds and they don't do it. I wonder how often that happens in real life. If someone is really upset, I don't think that they could resolve it in

30 seconds and not shoot and that's proven every day. If any of you had been at the press conference, and a lot of you were, two weeks ago when Sara Brady talked and when the mother of Danny Hutch from Omaha, Danny, who was shot on the street in Washington, D.C. last July, if you had heard those mothers and wives talk about what that did to them and their families, you might feel much differently about this bill, because if the person that had that gun had had to wait, maybe they wouldn't have gotten the gun, undoubtedly, would not have been able to purchase the gun. I read something in Time magazine. They sent out a special issue this past week showing pictures from 1968 that signal year when so many things happened, the assassination of Robert F. Kennedy, for instance. Sirhan Sirhan paid \$30.95 for a handgun to go into that hotel in a crowd and shoot Robert Kennedy. Now we talk a lot about rights this morning and we talk a lot about rights on this floor every day. I think that I have the right to go to a shopping center, a dinner, walk down the street, be in my home and be safe from people who should not and are not qualified to have handguns. I firmly believe that. The statistics from the other state that Brad Ashford has given to you this morning, and he did a really good job of introducing this bill, an informed and intelligent way, telling you what it does and what it does not do. I sent written testimony to the December 7th hearing, which I will pass out to you later, because I do feel strongly about handguns. When law enforcement people and emergency room staff tell you of the cases that are brought in from someone having a handgun and misusing it, I think, as thinking and caring people, we simply cannot allow this to continue. I just urge you to vote against the Haber...this amendment or any other amendments that are being brought. It looks like we're going to have one of those mornings. But we should vote for the bill to move and there are people on this floor who are talking about negotiating in between. I think that's wonderful, but move the bill and don't allow it to be stymied by these frivolous, what I call frivolous amendments. Senator Haberman, you don't think it happens out in Imperial? It might. The people from Sarpy County, Lincoln, Lancaster County and Omaha, Douglas County...

PRESIDENT: One minute.

SENATOR CROSBY: ...if we have a seven-day waiting period only in those three counties, well, they'll probably go out to Imperial to buy their guns and there you are. So I don't...I know it's not going to stop people from getting guns, I

understand that, but I am always for the deterrents trying to work and help people who should not have them. I am pro-life. I am against abortion on demand. I am against capital punishment and I am against people having handguns who should not have them. Thank you.

PRESIDENT: Thank you. Senator Scofield, on the Haberman amendment, followed by Senator Hartnett and Senator Schellpeper.

SENATOR SCOFIELD: Thank you, Mr. President. I rise to support the Haberman amendment, not without sincere appreciation for the position that Senator Crosby has just expressed. We have apparently a disparitive interest in the state right now and I think that I'm on record as being concerned in particular about the crime problems in Omaha I've seen. I led the initiative last year that, in fact, put money into the budget that allowed Omaha to try to do something in particular about juvenile crime and drugs and we did it. That's a long-term solution. I think the hope that I hear being expressed here this morning is that somehow there is a quicker fix out there and yet I don't think there is a quicker fix and I have to represent what my constituents are telling me at this point and they're saying, we don't have this problem, thank goodness. We regret that Omaha does but we don't. And there is a lot of concern in my district about the background check. There is a lot of concern about, could the law enforcement agencies reasonably carry this out? Should they carry it out? And I guess once in a while you have to just recognize that situations are different. I often come in here and ask you to treat my area differently because of differences in population, differences in needs, and so I don't object at all if Omaha, in particular, feels that this might work for them, as they have already decided that it's worth a try, that's fine. But my constituents are telling me that's not really the way that they would choose to deal with this problem. In fact, I don't think they see the problem right now. We are fortunate not to have that problem. I have some concerns about the ability of law enforcement to carry these things out and, in effect, I think we're dictating where the priorities might be. This will take some time to accomplish and my law enforcement people have plenty of things to do. I suspect their priorities are a bit different than law enforcement people in urban areas simply because of the difference in the nature of crime. But I think what I hear being expressed here is a real frustration with an upward trend in violence in our society. It doesn't matter whether it's against another human being with a gun, we

see an alarming trend of violence towards women. Senator Crosby came before the Appropriations Committee and asked for more money to champion that. We see an alarming increase of violence against children. This society has just gotten more violent and yet I would suggest that perhaps the approach that's being taken here doesn't really even begin to address the real problem of how to stem that. I don't have the answer. I don't think anybody else does. I think sometimes, as politicians, we are tempted to pass a piece of legislation because we're frustrated and we don't know what else to do. Now I'll bet you nobody in here really believes that this is really going to solve the problem. Senator Crosby made a very good speech. I keep referring to her speech but I think she gave a real good one. She says, well, you know, they'll just go somewhere else and buy one of them. I'm looking at the list that Senator Ashford put out here. There are a good number of our neighboring states that don't have a waiting period. I don't pretend to be an expert on criminal behavior. I've never worked in that field. My counseling background though tells me that crimes of passion usually occur in a split second. Somebody doesn't say, boy, I'm really mad at you and run down town and buy a gun and come right back. Maybe I'm mistaken, but my guess is that whatever weapon a person chooses to use against another is probably something that's right there. And so I don't know that this really fixes that problem. Yes, we're all concerned about violence and yet I'm concerned about the implications of this bill. I'm concerned about the differences we have in this state about this bill and I would prefer not to see something in force right now that seems to essentially bring urban problems to rural areas and create urban solutions for a problem that we are fortunate enough not to have. I have, I think, shown my good faith and willingness to work with urban areas to try to help you address your problems but I would ask you not to enforce legislation on my area when there hasn't been any expression of a need for that. And I will work with you to try to resolve those problems but I cannot support a bill that is so broad in this state. Thank you very much.

PRESIDENT: Thank you. Senator Hartnett, please.

SENATOR HARTNETT: I would call the question.

PRESIDENT: The question has been called. Do I see five hands? I do. And the question is, shall debate cease. All those in favor vote aye, opposed nay. You're voting on ceasing debate.

Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Haberman, would you like to close, please.

SENATOR HABERMAN: Mr. President and members of the body, you have heard the proponents of this bill say, let's move the legislation to Select File and then, then we can sit down and possibly work out a compromise that will be acceptable to both parties. Well, I would do the same thing if I was behind the gun and didn't think I had the votes to say, let's just pass it to Select File, then we'll sit down and negotiate. You have heard the opponents to the bill suggest that they do this. That, I can't understand. So, therefore, the necessity of my amendment. If you adopt my amendment and if the bill is then advanced to Select File, those people who are opposed to the seven-day waiting period are then covered. So you could say this, well, I will say this, adopt my amendment, then if the bill gets to Select File if everybody sits down and agrees on a compromise and this amendment is giving them a lead time, I will stand up and ask that it be taken off. Now, what could be more fair than that? What could be more fair than that? Put the amendment on, if the bill gets to Select File and if the proponents and the opponents sit down and have a compromise and both sides like the bill, and this amendment stands in their way, I will stand up and ask you to take this off the bill. That's fair, up front, honest and sincere and it's just as fair, up front, honest and sincere as those people who are saying, let's pass the bill to Select File and we'll correct all the problems then. It's just as fair as that. So all the amendment does is all counties below the population of 60,000 population will not be included in the bill. In answer to the question of the guns being bad, maybe we should have an amendment on this bill that people who are convicted of DWI, driving while intoxicated, the first time, the second time or the third time, not be able to get an automobile for seven days because it's the automobile that kills and not the person; the automobile kills and not the person; just like the gun kills, not the person. But the proponents of this bill would have you believe that's not true. So think about that. So all I'm doing is saying let's play fair, let's be up front, put the amendment on the bill, if it gets to Select File, it's in the way of the compromise, I will withdraw it. And, with those remarks,

Mr. President, thank you very much.

PRESIDENT: Thank you. The question is the adoption of the Haberman amendment. All those in favor vote aye, opposed nay. Senator Haberman.

SENATOR HABERMAN: Well, that looks pretty encouraging, Mr. President, so I'll ask for a call of the house and roll call vote in regular order.

PRESIDENT: Thank you. The question is, shall the house be under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 22 ayes, 0 nays to go under call, Mr. President.

PRESIDENT: The house is under call. Please record your presence and return to your desks and unauthorized personnel please leave the floor. We're getting a little noisy, especially under the balconies. If you folks would hold it down, we would appreciate it. Please hold the conversation down under the balconies. Thank you. Please return to your desk, please, and record your presence. Those not in the Chamber, please return so that we may continue. While we're waiting, may I introduce some guests, please. In the south balcony, Senator Wehrbein has some guests there from Murdock, Nebraska. We have Mr. Ken Glantz and 14 seniors of the American Government class. Would you please stand so the Legislature may recognize you. Thank you for visiting us today. Please record your presence. Senator Robak, Senator Landis, Senator Chambers, Senator Chizek. Senator Moore, would you record your presence, please. Thank you. We're looking for Senator Chambers, Senator Chizek and Senator Pirsch. I believe that we're all here now. If you will take your seats, please. We'll have roll call vote in regular order. And the question is the adoption of the Haberman amendment. Would you please hold down your conversation so the Clerk can hear your response. Thank you. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 891-92 of the Legislative Journal.) 20 ayes, 16 nays, Mr. President.

PRESIDENT: The amendment fails. Mr. Clerk, do you have another amendment? The call is raised.

CLERK: Mr. President, Senator Haberman would move to amend the

bill. (The Haberman amendment is found on page 892 of the Legislative Journal.)

PRESIDENT: Senator Haberman, please.

SENATOR HABERMAN: Mr. President and members of the body, on page 2, Section 1, the bill says, no persons shall transfer any handgun until after seven days have elapsed from the time a written notification of the transfer has been sent by the transferor to the chief law enforcement officer by registered or certified mail, return receipt requested. On other parts of the bill it says, that the notice shall be sent back, either denying or saying that the purchase is okay, by regular mail. So my amendment merely says that it has to be sent back by registered or certified mail, return receipt requested or by hand delivery. What's fair in the first instance should be fair in the second instance. Now, there's nothing wrong with that. I mean, I really can't see anybody objecting to this because this is what the proponents of the bill wanted. They wanted it certified or registered and a return receipt requested or by hand delivery. So all I'm saying is when they return it back, it should be the same way, should it not? Why not? Why is it fair one way and not fair the other way? Now, we heard some discussion on the floor that said the bill pertains only to pistols or people who use pistols and that's not correct. This bill does not allow a person who is handicapped that has just one arm from going hunting. He cannot do that. It was said on the floor it's for short-barreled guns only. That is not true. On the last page of the bill, it says, shall mean any firearm with a barrel less than 12 inches in length or any firearm designed to be fired by the use of a single hand. Now, when a handicapped person goes hunting with one arm, one hand, he can't do that anymore under this bill. He can't do it. So are we going to sit here and deny the people who shoot skeets, blue rocks, pheasants, ducks, deer, coyotes and what have you, they can't hunt anymore? Go right ahead, folks, I'm not going to do that. They have just as much right as anybody else, but that's what was said on the floor and that's what the bill says. It's a poorly written bill. That's just one example. What does that have to do with my amendment? This, let's make it fair. If you have to send the notice registered, personally, certified mail, one direction, send it back the other way the same way. That's what the amendment does. We'll take care of the single hand later on, but I brought that out to get your attention to show you that this bill is poorly drafted. I will point some other

things out to you as we go along. This bill hasn't got any business even being considered for Select File. However, I will get back to my amendment. My amendment doesn't do any damage to the bill. It makes it fair on one end and it's just as fair on the other. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Ashford, please.

SENATOR ASHFORD: Thank you, Mr. President, and members, Senator Haberman mentioned that, in his first amendment, that he didn't feel it appropriate for urban senators or an urban... "urban" bill to be thrust upon senators from greater Nebraska. And I guess we feel that... I am sure Senator Haberman, when he requests the legislation he does for his constituents and asks urban senators to support them, support it, I think is interesting that he would tell us that we should not do... suggest to him that there is legislation that may emanate from an urban area which could positively be good public policy for the state as a whole. But let me talk a little bit about the bill and what he has suggested. He says the bill is poorly written and he cites as an example the written notification provision. The reason that it's written the way it is is this. We require that there be registered mail, return receipt requested, or hand delivery, so that there is proof that this notification of transfer has been duly sent. It is not necessary that the return be registered mail or return receipt requested because what the bill says that if law enforce... that if the gun dealer is not informed within seven days of any objection to the transfer, that the gun dealer may transfer the weapon. So why make it any more onerous than it has to be? The reason the bill is written the way it is is, one, to provide that there be record of notice sent by return receipt requested or hand delivery; number two, that it not be necessary that the notice be by return receipt requested going back to make it less onerous on the gun dealer and the purchaser. So that's... there is a very good reason why it was written that way. Secondly, Senator Haberman is continually talking about the fact that this bill denies people the right to go hunting coyotes and birds and whatever it may be, and he uses an example, handicapped persons. Now, obviously, obviously, that is not correct. The bill talks about a seven-day waiting period. And if he has a better way to define a handgun, I would be more than happy to look at that definition, but that is the definition that is used throughout the country in defining handguns. And... but if he has a better definition other than a weapon that is designed for use by one

hand, I would be happy to look at it. Also, I would suggest to Senator Haberman that he discuss with law enforcement agencies throughout the state the problems that they are having with homicides and guns. And I would suggest that he will find that the problem is not an urban problem, that the problem is a statewide problem and it needs to be...the public policy we adopt needs to be a statewide policy. Senator Haberman may be very fortunate that in his district the homicides are not a big problem, that they do not occur, and maybe they don't, but I would suggest that if he talked to his law enforcement people, he will find that it is a statewide problem and needs to be addressed on a statewide basis. Thank you.

PRESIDENT: There are no other lights on. Senator Haberman, would you like to close on your amendment, please.

SENATOR HABERMAN: Mr. President and members of the body, Senator Ashford, I will make one suggestion real quick as to how to solve one of the problems on this bill. You go to page 3, for purposes of this section, handgun shall mean any firearm with a barrel less than 12 inches in length, period. Stop it right there. But, no, the bill goes on to say, or any firearm designed to be fired by the use of a single hand. There you are, Senator Ashford. That helps the bill. That will let the handicapped go hunting. This bill denies them that, I don't care what you say, with this in here because they use one hand, Senator Ashford, they use one hand. Now you, being an attorney, should know, you should know that in a court of law you are going to get somebody to bring this up. They just might throw your whole bill out. They might throw your whole bill out. Now, Senator Ashford suggests that I contact some of my law enforcement people. I have. We will go into what they told me about this bill when we get to the bill itself. Mr. President, I can see that I'm not going to win on my amendment, so, therefore,...no, I'm going to vote for it. I'm going to vote. Go ahead. I close and ask for you to support the amendment.

PRESIDENT: Okay, that was the closing. The question is the adoption of the Haberman amendment. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: 1 aye, 10 nays, Mr. President.

PRESIDENT: The amendment fails. We're back on the bill.

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Senator Morrissey. Yes, would you like to put some things in the record, please.

CLERK: If I can, Mr. President, very quickly. Thank you. I have a Reference Report referring certain gubernatorial appointments to the appropriate Standing Committee.

Notice of hearing from Natural Resources Committee. Senator Moore has amendments to LB 1009A to be printed; Senator Baack to LB 1090. (See pages 893-94 of the Legislative Journal.)

A Confirmation Hearing Report from Natural Resources. Natural Resources reports LB 1099 to General File. Signed by Senator Schmit. Education reports LB 1226 as indefinitely postponed. Signed by Senator Withem. Judiciary reports LB 1018 to General File with amendments; LB 1174, General File with amendments. (See pages 895-96 of the Legislative Journal.)

And the last item, Mr. President, a resolution, LR 258 by Senator McFarland. (Read a brief description of LR 258. See pages 896-98 of the Legislative Journal.) That will be laid over, Mr. President. That's all that I have at this time.

PRESIDENT: Now we're back on the advancement of the bill. Senator Morrissey first, please, followed by Senator McFarland.

SENATOR MORRISSEY: Thank you, Mr. President, and members, I must admit I'm perplexed and a lot of you are probably going, so what else is new, Morrissey? But I have always been in favor of things like this, the seven-day waiting period. It doesn't seem like it's really that onerous. Back in '74, I went to Hamburg, Iowa and had to buy...wanted to buy a rifle, had to wait, because I was an out-of-stater, seven days. I went back seven days later and bought it. No problem. And it seems pretty simple, but, of course, lately this drive to and from work is working on me. All the way up...all the way home last night and all the way up this morning I was kind of tearing this apart. And one of my concerns, as I have stated on this floor, has been a sort of a constant or slow chipping away of constitutional rights of our citizens in the state and the nation. I thought, well, this kind of comes under that same subtitle. We've got government reaching clear into our lives and deciding if we're good enough citizens to do certain things, and that kind of bothers me. And this is the argument that a lot of people are using, that we should guarantee a citizen's right to keep and

bear arms. Although that constitutional right isn't clear, isn't black and white to me, the way I read it and read different interpretations of it, I think it's kind of fuzzy. But these same people that support, to the death, that right are the people that support taking away the rights in other areas, most notably drug testing. And those rights, such as unlawful search and seizure and others that apply to drug testing are pretty clear to me and I wonder where these people are coming from there. I...they are in favor of trampling on those rights but only holding up this one right, my guarantee to have this gun, these other constitutional guarantees, that's fine, we'll trample them because they really only relate to criminals, don't they? And then you go back to their argument against this. It's...I am perplexed. And I look at some of the arguments against the bill and I see something that Mr. Carlson said last year, sooner or later the American people are going to get mad enough and put their money where their mouth is and build more prisons and start the execution process. I don't buy that. I really don't buy that. So I was turning all this over and then Senator Haberman brought up another one with Senator Ashford, he said it's not clear. Now, that's a pretty good argument to me, this isn't really clear what this says, because then that's something I've been fighting for for a couple years on low-level waste. Our guarantees there aren't clear. For an attorney, they should be clear. And I might agree with Senator Haberman on that, they should be clear. We might need to address that. But I finally had an experience similar to Senator Landis's. I had all these calls, don't support that bill, don't support that bill. Why not? Well, the NRA told me to tell you that. And the one caller that I did say...he said...I asked him questions? I said what are the good reasons I should give him for not supporting that? And he said, well, we don't have time to tell you right now, just tell him not to support it. And then, finally, finally, after all these calls, I had one person with very positive input, a gun dealer, Glen Hogue from Auburn. He said there are ways, there are compromises available. Iowa has a buyer's card. You apply for it, get your clearance in advance. So when you want to go to these gun shows you already have your clearance and you renew that every year. And he said there are 12,000 licensed gun dealers in Nebraska of which only 1,000 are storefront dealers. He called them basement bandits. On the nation, that's a quarter million gun licenses or licenses to sell guns with only 40,000 storefront operators. He said that should be addressed. We should look at the buyer's card. We should look at a state license to sell firearms tied with a

tax number, tied with a tax number. You know what he's getting at there. And that's a compromise that I can live with. He said, I see problems out there, I do see problems, and part of the problems are these...this proliferation of people selling guns out of their basement. So there are compromises available, folks. And I talked to Senator Ashford on these and we just briefly talked about it.

PRESIDENT: Time.

SENATOR MORRISSEY: And he's willing to compromise if he sees something that he can live with. So I think we can move this bill ahead and look at some of these ideas and maybe come up with a good solution and some compromise. Thank you.

PRESIDENT: Thank you. Senator McFarland, followed by Senator Ashford and Senator Hefner.

SENATOR MCFARLAND: Thank you, Mr. President. Last Wednesday I had the pleasure of attending a press conference at which Sara Brady spoke. And I have to tell you I was tremendously impressed with her words and with her sincerity and with her conviction to this cause. As you know, her husband was shot, a few years ago, when a young man who, with mental problems, purchased a \$29 handgun, shortly thereafter...he purchased it, I believe, in Texas. Shortly thereafter, he tried to assassinate President Reagan and did, in fact, wound President Reagan, but severely injured Sara Brady's husband, Jim Brady, who as a result of that injury is still, as I understand it, suffering problems associated with it. He's recovered some, but certainly he will never be totally recovered. And she came to speak in the Rotunda and express her view that there needs to be some kind of restraint on handgun sales. And what an eloquent spokesperson for it, what an heroic person to come and advocate this cause for us. I don't think there should be any compromise in the concept of a waiting day...seven-day waiting day period. The concept, to me, seems like a very modest proposal, it is an attempt to somehow limit the unrestricted sale of handguns to anybody or everybody, no matter what their mental capacity is, no matter what their past criminal record, whatever. I think it's a very good concept, and I think the NRA is losing the battle in trying to oppose modest proposals like this. If there needs to be some clarification in the language of the bill itself, that's fine. But as far as compromising the concept, I don't think that is appropriate, acceptable or wise. I would

urge that we pass this bill, that if necessary it be clarified, but that the concept is a good one, and that as years pass the tide has shifted, the NRA can no longer intimidate legislators, they can no longer intimidate representatives in government. When the vast majority of people are looking at the problems created by unrestricted sale of handguns, they are saying the consequences of it, and they are saying, no, we've got to try and offer some kind of restraint. We've got to try and limit some of the tragedies that are occurring in our country because of the way handguns are sold to anybody and everybody. When law enforcement officers are coming and saying, we need some kind of restrictions, and these aren't, you know, radical, liberal people coming to say that you need some kind of handgun controls, these are people engaged with law enforcement, having to be out there on the streets, trying to keep an orderly society, trying to prevent crime, trying to prevent violence. They are coming forward and saying, we need some kind of restraints. I was struck at a luncheon, or I was struck during a luncheon we had last week, by one of the law enforcement persons from Omaha saying that under their policies you have to sign some kind of request to purchase a handgun in Omaha, but he said they're just automatically granted, there is no real check on the background of the person seeking the handgun purchase. And, he said, last year there were three individuals who came to him within a short period of time requesting the purchase of a handgun, they signed the necessary forms...

PRESIDENT: One minute.

SENATOR MCFARLAND: There were so many of them that he accepted their forms. They went out and got their guns and they killed themselves. There were three suicides, people that went out and got the gun in this manner, they had mental problems. It seems to me that if you had some kind of check, if you had some kind of waiting day period...time that maybe you could prevent some of these tragedies, like the suicides or the crimes of passion, the instantaneous homicides and violence. You're not going to prevent all of them, that's a given. The seven-day waiting period isn't going to solve all the problems. But it is what I see as a reasonable and modest proposal at this time to offer some kind of restraint on the whole...the whole process. And, for that reason, I support the concept wholeheartedly, I hope that it is...that you will support it as well. If clarifications need to be made, fine. But to compromise on the concept, I don't think there should be any compromise

whatsoever. Thank you.

PRESIDENT: Time. Thank you. Senator Ashford, please, followed by Senator Hefner and Senator Haberman.

SENATOR ASHFORD: Thank you, Mr. President and members. To answer Senator McFarland's concerns about compromise, I will tell him that there is no compromise on the concept, in my book. That it is justifiable for law enforcement and for the citizens of the State of Nebraska to want to make sure that felons do not possess firearms by going into a licensed dealer, lying on the form and purchasing a firearm. That's a legitimate concern by the citizens of our state. And also I think there does need to be a waiting period, and those are concepts which are not subject to compromise. I think I'd like to discuss a couple of issues. First of all, the NRA and what their role has been. I've heard, on the floor today, people saying, well, in the last couple of days I have received lots of letters telling me to oppose this bill. Well, as you know or you may know or may not know, that the NRA sent out a mailing to the citizens of Nebraska, 2,200 letters, telling NRA members to call their senators to urge them to vote against this bill. And that's why you're getting those calls today. And I would suggest that you look at the number of calls maybe you got six months ago, or three weeks ago and see whether or not there is that kind of opposition. Also, the NRA is interesting because when I first proposed this provision, and it came to me through law enforcement, not very liberal individuals but very tough, trench police officers who deal with these problems every day, and said, we really need some help in this area, I was...there was an alert that went out from the NRA that said, Brad Ashford is out to get your guns. And with no discussion of seven-day waiting periods and why they are necessary, no discussion about why the NRA has changed their position from supporting waiting periods, no discussion about why they supported a waiting period in Oregon and would not support a waiting period in Nebraska, so I think we have to take a look and decide what is the motivation of the NRA in this case? Is it to stop any kind of legislation, even if it is legislation that is not radical at all but is, in effect, conservative legislation that is supported and brought to this body by those individuals who are experts in the area? I think that's really the issue. I'd like to talk a little bit about the right to bear arms amendment. When I was in Wisconsin, a couple of weeks ago, talking about the right to bear arms amendment, and some of the concerns that law

enforcement has had with that in Nebraska, the NRA representative who appeared at that hearing in Wisconsin said, the right to bear arms amendment does not prevent a seven-day waiting period, does not prevent a seven-day waiting period from being passed by the Legislature. And the reason that it doesn't there, and the reason that it doesn't here is because our Supreme Court has said that we can pass reasonable legislation to protect our citizens, to protect our citizens we can pass reasonable gun legislation. A seven-day waiting period is reasonable gun legislation because it solves two very critical problems, one of which is allowing felons to have the same rights to purchase firearms as legitimate gun owners would have. And, secondarily, to have some policy whereby an individual would wait just a little bit before he or she would take that gun out of the gun store. And, if that is not reasonable, I don't know what is. If that's not reasonable then clearly in Nebraska we are not going to be able to pass any kind of responsible gun ownership legislation at all, no matter what the problem is, because the NRA will send in 2,200 letters into our state, and they will arouse the emotions,...

PRESIDENT: One minute.

SENATOR ASHFORD: ...arouse the emotions of good citizens who fear that their rights are being taken away. And, ladies and gentlemen, their rights are not being taken away by this bill, their rights are protected by the right to bear arms amendment and by other provisions, and their rights are not being taken away. Lastly, Senator Landis made an excellent point. There are NRA members in my district who favor strongly the seven day waiting period. And there is a Mr. Fink, from Lincoln, whose come to me on a couple of occasions with some good, solid ideas on how to deal with this type of legislation. These are individuals that are willing to talk in a reasonable, rational way, and some of them have approached Senator Chizek. Those are the kinds of people we should listen to, not the individuals who send that kind of material into our state, who call senators "pinko Communist" because they want to help law enforcement solve crime. If we don't listen to reasonable citizens, if we only listen to special interest groups, we're going to end up not doing what is right in our state, and we do it a lot, and we should stop it. With that, I urge that we advance this bill to Select File.

PRESIDENT: Thank you. Senator Hefner, please, followed by

Senator Haberman and Senator Hartnett.

SENATOR HEFNER: Mr. President and members of the body, I know that Senator Ashford is sincere in getting this bill passed, this bill that says that it would be a seven-day waiting period before you would be able to buy a gun. He talked about this bill being emotional. Well, I guess I'd say that I feel it is emotional, perhaps from a different angle. I think it's based on a tragedy rather than common sense and the wishes of our voters in Nebraska. When they passed this constitutional amendment I don't think they realized that we would come back and say, well, yes, you have the right to bear arms, but you have to wait seven days. This proposed bill, I feel, would place a tremendous burden on the cost and the inconvenience on all of our honest citizens in Nebraska who do virtually nothing to solve the problem it claims to address. And I know Senator Ashford feels that if we adopt this seven-day waiting period our problems will all be over. I don't think they will be. I feel that it's the first step down the road to general controls on private ownerships of all types of firearms. This seven day bill I feel will just let them get their foot in the door. They talked about Sara Brady being here from Washington, D.C. here last week. And I sympathize with her. I sympathize with what happened to her husband, Mr. Brady. This happened, this tragedy happened in Washington, D.C. which controls every firearm imaginable, it controls those. But this didn't stop this from happening. This happened in Washington, D.C. And Washington, D.C. has the highest firearm death rate in the United States, so how is this bill going to help Nebraska? I don't believe it will. Senator Ashford, I understand that Omaha has a seven-day waiting period. Is that right, seven-day? Well, anyway it has a waiting period. Registration? Okay. But I wish you'd address this in your closing then, or the next time you speak, how come we have so many homicides in Omaha, if they have a gun control bill now in Omaha? What's happened there? I don't think this bill will stop the useless killings and the maiming or the crippling that its sponsors say it will stop. This bill will not guarantee the citizens of Nebraska that no criminal will have a way of purchasing a handgun again in our state, because they can go in the alleys and other places to buy these guns. But this bill will add paperwork and burden to an already overworked police department and further tie their hands and it will keep them in their office doing this paperwork instead of letting them out on the streets and on our highways preventing a crime like they are hired to do. LB 642 will further burden the

already overworked court system, and we've had many discussions about that. We'll have to hire more judges to handle the cases that are already on the books. And let's talk about the fiscal impact of this bill. What about our cities and municipalities and counties? To implement this, unless we fund it, they'll have to raise property taxes...

PRESIDENT: One minute.

SENATOR HEFNER: And here we're trying to reduce or replace some of the property taxes that we have. They'll be increased expenditures of our local jails. And what about the liability? What about the liability if we put this piece of legislation on our books? It will just cause more. Also, it was mentioned that the NRA was willing to compromise on this deal. In talking to them they say that they are not willing to compromise on the seven-day waiting period. However, they will consider perhaps maybe certain changes. Senator Lowell Johnson just handed me a note that all the counties in Nebraska voted for the constitutional amendment and the right to bear arms. And now here we're coming back with a bill saying, we don't believe that's what you meant, we want to change that a little bit. And, so I'd just say to you that I can't support the bill. Also, in Senator Ashford's handout there was...

PRESIDENT: Time.

SENATOR HEFNER: ...there was....Okay, I'll use that a little bit later. Thank you.

PRESIDENT: Thank you. Senator Haberman is next, but may I introduce some guests in the south balcony, please. Senator Lowell Johnson has guests there. We have 42 fourth graders from the Grant Elementary School in Fremont, Nebraska with their teachers. Would you folks please stand and be recognized by the Legislature. Thank you for visiting us today. Senator Haberman, please.

SENATOR HABERMAN: Mr. President, would Senator Ashford yield to a couple of questions, please?

PRESIDENT: Senator Ashford, please.

SENATOR HABERMAN: Senator Ashford, was Hinkley a fugitive from justice when he shot those people in Washington?

SENATOR ASHFORD: I don't believe so, Senator Haberman.

SENATOR HABERMAN: Was he a...had he ever been in a mental institution?

SENATOR ASHFORD: I think he is now. I don't think...

SENATOR HABERMAN: But was he at that time?

SENATOR ASHFORD: I don't believe so, Senator. I think that he had had some history of mental problems.

SENATOR HABERMAN: All right. Now, the ad...the ad in the paper, folks...

SENATOR ASHFORD: Obviously (inaudible).

SENATOR HABERMAN: The ad in the paper said that, if they would have had the seven-day waiting period, that wouldn't have happened. He wouldn't have gotten the gun. But on the form he would have filled out, no, he's not a fugitive, no, he's not a felon, no, he's not been in a mental institution. He'd of still got the gun. So the ad is deceptive. The ad goes on to say, we can't win the war on drugs while we're arming the enemy. I don't understand that. That has nothing to do with what we've been discussing this morning. Now, one senator said that some people went and bought guns and committed suicide. Well, I know of people who committed suicide by using the exhaust on their automobile. I know people who committed suicide by hanging themselves, so maybe we ought to outlaw ropes and automobiles, you can't commit suicide that way. Now, they say that there is no cost to this bill. Well, I talked to one of my sheriff's, and the bill says you have to notify the chief law enforcement officer in the place of residence. So that means that Grant County, Arthur County have to notify Keith County sheriff and he has to do the investigation. And the Keith County sheriff told me he couldn't handle 20 or 30 a day, he doesn't have the manpower, he doesn't have the equipment and he doesn't have the time, so it isn't going to work. It's not going to work. Now, let's talk about the seven days. We know that...Oh, I have one more question, Senator Ashford. Does the return mail have to be received before they can purchase the weapon, that they're clean, they're okay folks?

SENATOR ASHFORD: No. The seven days has to elapse, if there is no return, then the gun may be sold.

SENATOR HABERMAN: Okay. That can happen with the bill. Let's say, for example, that it's mailed late Friday, Saturday the mailman might pick it up. There's Sunday, and it's delivered on Monday, it takes two days to check it out. They mail it back Thursday, your seven days are gone. You said you don't have to mail it back, but they have to let them know it's no good. Then we've been talking about a compromise. You heard Senator Ashford say there is no compromise, there is no compromise. So I say, folks, it's a bad piece of legislation, it's drawn badly. I understand there is going to be an indefinite postpone motion put up. You won't be able to vote on it because we're going to be asked...for it to be laid over. So I would say what we went through this morning is for naught, but we'll have the same discussions when it comes back before us. Thank you, Mr. President.

PRESIDENT: Thank you. Mr. Clerk, you have a motion on the desk?

ASSISTANT CLERK: Yes, Mr. President. Senator Hall would move to indefinitely postpone the bill.

PRESIDENT: Senator Ashford, you have a decision to make. You want to take it up today, or...

SENATOR ASHFORD: Oh, I'll go ahead and....

PRESIDENT: Today?

SENATOR ASHFORD: No, not to day.

PRESIDENT: Not today. That will be laid over. All right. Anything for the record, Mr. Clerk, at this time?

CLERK: Yes, Mr. President, I do. Mr. President, your Committee on Banking, Commerce and Insurance, whose Chair is Senator Landis, reports LB 1241 to General File with committee amendments attached. That's signed by Senator Landis. And Urban Affairs Committee, whose Chair is Senator Hartnett, reports LB 1221 to General File. (See page 898 of the Legislative Journal.)

March 1, 1990

LB 163A, 579, 642, 830, 831, 834, 888
917, 932, 938, 946, 954, 978, 987
987A, 989, 994, 994A, 1037, 1067, 1077
1102, 1178, 1222

PRESIDENT: Okay, Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. President and members, there was some confusion about whether the A bill or at least Senator Schimek's amendment was necessary. But I think, with the adoption of my earlier amendment this morning, it clarifies a lot of those problems. And, in talking with my legal staff who has talked with the Fiscal Office, they seem to feel there is no need for any amendments to the A bill and the A bill should stay as it's currently written. So I would just move for the bill's advancement.

PRESIDENT: Thank you. Senator Morrissey, please. No. Did you wish a closing, Senator Rod Johnson? The question is the advancement of the A bill. All in favor vote aye...say aye. Opposed nay. It is advanced. Things for the record, Mr. Clerk?

CLERK: Mr. President, Enrollment and Review respectfully reports they have carefully examined and reviewed LB 579 and find the same correctly engrossed; LB 830; LB 831; LB 834; LB 888; LB 917; LB 932 and LB 938, LB 946; LB 954; LB 978, LB 987, LB 987A, LB 994, LB 994A, LB 1037, LB 1067, LB 1077, LB 1102 and LB 1178, those all reported correctly engrossed, Mr. President.

Senator Ashford has amendments to LB 642 to be printed; and Senator Smith to LB 1222. (See pages 1074-78 of the Legislative Journal.)

Government Committee reports LB 989 to General File, Mr. President. That's all that I have.

PRESIDENT: Senator Byars, please.

SENATOR BYARS: I would move we would recess until one thirty this afternoon.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. We are recessed until one-thirty.

RECESS

really need to do and I would just urge the adoption, or that is the passage of LB 1018 on to Select File. Thank you.

SPEAKER BARRETT: Senators Pirsch and Lynch are announcing the presence of some elementary students in the south balcony, 51 fifth graders from Springville Elementary in Omaha with their teacher. Would you folks please wave and allow the Legislature to welcome you, please. Thank you. Thank you for coming. Senator Ashford, please.

SENATOR ASHFORD: Thank you, Mr. President and members, just briefly, I think that when we deal with the problems of gun violence in our society we are required to look at the total picture, and at the time we were debating LB 642, I argued and many others did as well that it's necessary that in dealing with the gun violence problem in our society that law enforcement be given the tools that it needs to make sure that felons do not have an easy access to firearms in our society, and I believe sincerely that that is a tool that is necessary in order to be a piece of the puzzle that law enforcement needs to deal with the epidemic of gun violence in our society. But I also would agree with those who argue that it's necessary to define specifically crimes and with punishments for gun-related activity that adds to that violence. And I would suggest to you that Senator Abboud's bill which specifically sets out a crime and provides for a Class IV felony punishment is an effort to define in a very succinct way a crime which is related, directly related to gun violence in our society in Nebraska. And if we as a body could simply look at these issues as they are put before us and determine whether or not we believe as individual senators whether or not these measures will help law enforcement combat gun violence, then I think it's appropriate that we vote for them. I think Senator Abboud's measure is one of those specifically well-defined provisions that gives to the police in our communities some ability or some greater ability to deal with gun violence, as is the LB 642 another reasonable gun registration type measures that allow police to have some idea who is owning a handgun in our society. I think we've got two basic pieces to the puzzle broken down, that can be broken down into many components. One is attempting to keep felons away from easy access to firearms, that is one piece. We really don't have any laws in Nebraska to do anything with that now. The other side of the coin is once someone violates our gun laws, that we come down on them very, very hard and that the punishments fit the crime in our society. We need both. I

March 8, 1990

LB 369, 551, 571, 642, 844, 853, 903
919, 983, 1019, 1031, 1044, 1086, 1090
1105, 1119, 1165, 1167, 1183, 1216, 1217
1228
LR 275, 276

CLERK: I have nothing further, Mr. President.

PRESIDENT: Okay, Senator Hefner, what do you think?

SENATOR HEFNER: Mr. President, I move for the advancement of LB 571.

PRESIDENT: You have heard the motion. All in favor say aye. Opposed nay. It is advanced. LB...we are going to skip 1019, I understand. That takes us up to General File. Items for the record, please, Mr. Clerk.

CLERK: Mr. President, I do have a number of items for the record. The first is I have an explanation of vote from Senator Haberman. For bills read on Final Reading this morning, bills read on Final Reading this morning, Mr. President, have been presented to the Governor as of 11:12 a.m. (Re: LB 1044, LB 844, LB 853, LB 903, LB 919, LB 983, LB 1086, LB 1105, LB 1119, LB 1165, LB 1167, LB 1183, LB 1216, LB 1217, LB 1228. See page 1273 of the Legislative Journal.)

New resolutions, LR 275 by Senator Wehrbein. (Read brief explanation.) LR 276 by Speaker Barrett, Senators Withem, Coordsen, Labedz, Warner, Hall. (Read brief explanation.) That will be laid over as well. (See pages 1273-75 of the Legislative Journal.)

I have a report of registered lobbyists for this week, Mr. President, required by statute. Amendments to be printed to LB 1090 by Senator McFarland, LB 1019; LB 551 by Senator Lynch; LB 1031 by Senator Baack and others, and, Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined engrossed LB 369 and find the same correctly engrossed. That is signed by Senator Lindsay as Chair of the E & R Committee. That is all that I have, Mr. President. (See pages 1275-83 of the Legislative Journal.)

PRESIDENT: Thank you. We will go on to General File and LB 642, please.

CLERK: Mr. President, 642 was a bill originally introduced by Senator Ashford, along with Senators Weihing, Crosby, and Chambers. (Read title.) The bill was introduced, Mr. President, last year. It was referred to Judiciary,

advanced to General File. The bill was discussed on General File on February 21 of this year. At that time, there was a motion to indefinitely postpone the bill, then Senator Ashford agreed to lay the bill over. That motion is now pending. It had been offered by Senator Hall.

PRESIDENT: Is Senator Hall here? Senator Ashford, do you know if Senator Hall wished to withdraw that?

SENATOR ASHFORD: He does wish to withdraw that, Mr. President.

PRESIDENT: If he doesn't, we will hold it against you.

SENATOR ASHFORD: Yeah, all right.

PRESIDENT: It is withdrawn then, and what is next on the list, Mr. Clerk? Would you like to tell us where we are with the bill and how it stands at the moment, Senator Ashford?

SENATOR ASHFORD: Well, I believe, Mr. President, there are amendments to LB 642 which have been filed, is that correct, Mr. Clerk?

CLERK: Yes, sir.

SENATOR ASHFORD: I suppose the best thing to do would be to take those up now, Mr. President.

PRESIDENT: All right, are you going to do that?

SENATOR ASHFORD: Yeah, I will.

PRESIDENT: Okay, fine.

CLERK: Senator, the first motion I had was one from you with regarding a suspension. Do you want to pull that?

SENATOR ASHFORD: That is withdrawn.

PRESIDENT: Senator Ashford.

SENATOR ASHFORD: Thank you. Could I just get a gavel real...

PRESIDENT: (Gave.) Let's hold it down please so we can hear the speaker, gentlemen in the center aisle, please.

SENATOR ASHFORD: Thank you, Mr. President, and if the body would just bear with me for at least a few minutes to just get the gist of what the amendments are to LB 642, and then you can go on about your business after that, but I think it is important to just get an idea of what we are trying to accomplish here in these amendments. First of all, let me just make a couple of preliminary comments. This bill, LB 642, was on General File for a long period of time, for over a year. We had a couple of hearings on it, discussed it thoroughly. We went over the discussion of the constitutional amendment and whether or not this bill would be constitutional or not, and that was discussed at the time of the last debate. Then in the last couple of months this bill has become sort of a tennis ball in a tennis game between the National Rifle Association, on one side, and the handgun control people, on the other side, and that has been extremely unfortunate. I know that I have been called everything from a Communist to an Orwellian to an effete liberal snob, to everything else that could be dreamt to call me and that goes with the territory, but I think there are some things I would like to mention. One is that, and, of course, this bill has become the focal point of lobbying by both groups, very strong lobbying by both groups, and I know Senator Smith and Senator Wehrbein were the beneficiaries of letters to the editor in their paper concerning this issue. And I believe Senator Bernard-Stevens was as well, maybe others were, and I think that is extremely unfortunate that that happened. Because what we are trying to do here in LB 642 is, and Senator Chizek, I know, will talk about this later, is we are trying to craft a bill that will address problems that have been brought to us by Nebraskans, problems that have been brought to us by the people of Nebraska overwhelmingly supporting some sort of waiting period for the purchase of handguns, problems that have been brought to us by law enforcement across the state, by medical personnel across the state, by the teachers across the state, by the retired citizens who have said to us, we want you to do something about violence in Nebraska, not just in Omaha, not just in Lincoln, but all over the state. And I said the other day when Senator Abboud had his bill on the drive-by shootings, and when I supported that bill, I said to the body that that is one part of the puzzle is toughening up the laws for firearm related felonies. But there is another side or piece to the puzzle and that is why this bill is before you. There are three problems that have been identi...or three guidelines or standards that have been identified to us by Nebraska citizens,

and those are the three guidelines or the three criteria that we have put in the bill. First of all, what are the problems? I refer to the Thursday, March 8th addition of the Daily Nebraskan, and this a quote from Captain Curtis, Chief Curtis of the Lincoln Police Department. "I supported this bill mainly as a cooling off period, he says. Curtis said that in the past four years 11 people in Lincoln bought guns the day before or the day they killed themselves or someone else." Now if that isn't a problem that is a Nebraska problem, I really don't know what is. Chief Skinner mentioned in the World-Herald and to me when the bill came up before about the case where an individual went in to purchase a .357 magnum having had just assaulted a police officer two days before, and when he went in to get a permit for his gun at the Omaha Police Department, it was determined that he was, in fact, the person that assaulted the police officer and he was stopped from buying the gun. These examples proliferate across the state. There may be...I notice Senator Hefner has sent across the room a letter that shows that some police officers now think this is not a very good idea, but I would suggest to you that the vast majority of enforcement officials, law enforcement officials across the state, both county sheriffs, police departments, and the State Patrol, support LB 642 as a seven-day waiting period or as a permit to purchase which is now the amendments to LB 642. So what are we trying to...you also have in front of you a handout which is the testimony from a Mr. Kuntzelman, who is now in the Nebraska State Penal Complex, who was involved in shooting his wife, and has suggested to the people of this state that some sort of waiting period is important, and he is an inmate who has direct knowledge of his own acts and of others. Now what are we trying to accomplish by LB 642 as it now stands with these amendments if they are adopted and, basically, it is the following three things: First of all, law-abiding citizens have a right to know that only law-abiding citizens can possess firearms. They have that right. We have laws in effect which we have had in effect for years which say that felons cannot possess or own firearms. There is absolutely no way to check that now other than the filling out of a form which most felons are not going to, if they are intent upon buying a gun, are not going to fill out truthfully. In January, 18 people were stopped in the Omaha system from buying guns. In February, several persons were also stopped from buying guns in the Omaha system. We want to check...the people of the State of Nebraska want to make sure that felons are not buying guns. The only way now that we can ensure that felons are not possessing guns is if we catch them

after they have performed the violent act. That doesn't make any sense. Why do we have felon in possession laws if we are not going to check to make sure that felons do not have easy access. Easy access is not...much easier than buying a car or registering a car or getting a driver's license. The felon has easy available access to the purchase of a firearm, in this case a handgun. Secondly, what else are we trying to accomplish? We are trying to accomplish the process whereby someone in the heat of passion, who is intent upon buying a gun to purchase a gun and commit a crime that day, that minute, that hour, is given some opportunity to think about it. I think that it should be...in my original bill, I suggested seven days. Senator Chizek has come up with another alternative which I think is equally as good, and we will talk about that in a moment, but there has got to be some procedure whereby individuals who are in the heat of passion, who are intent upon committing a crime, and that crime is the natural result of that emotional state are at least...there is time available in the system to stop that person and to have that person think about what he or she is doing. Thirdly, and this is a very important point I think that we have got to look at, and the third guideline that we looked at in coming up with these amendments was law-abiding citizens who own guns in this state need to be listened to. Their concerns need to be taken care of and to be listened to when we craft a bill that affects how they buy guns, in this case, handguns. Senator Chizek has done an excellent job in my opinion of reaching out to that community of people in this state and saying to them, tell me what you need to make this a fair bill for you so that we can accomplish the original purposes of the bill but still take into consideration your rights...

PRESIDENT: One minute.

SENATOR ASHFORD: ...and what you think would be a good bill, and we have gotten input from those people, and that input is in LB 642. If you listen to the handgun control people, they will tell you, you have got to have seven-day waiting period, fifteen-day waiting period in order for this law to work. If you listen to the NRA, at best they will say we want an instantaneous check but we really don't want any check at all. We don't particularly care if felons buy guns because it will infringe to some degree on the rights of law-abiding citizens to own guns. Those are the two polar positions, and what I suggest to you is that LB 642 is a Nebraska bill. It is a Nebraska

solution. There is no other state that has adopted this solution the way we have adopted it. It is our way of saying, yes, people of Nebraska, we are not going to listen to the lobbyists from the NRA, we are not going to listen to the lobbyists from the handgun control people, we are going to craft a law that makes sense for us, that solves the problem identified to us by 87 percent of our citizens who say, we want some ability to know, we want some ability to know that felons are not buying guns,...

PRESIDENT: Time.

SENATOR ASHFORD: ...at least handguns, and that that individuals who are not felons but who are in the heat of passion have some, some stopgap before they can take that gun and do harm to themselves and others.

PRESIDENT: Time. Thank you. Senator Hefner, please, followed by Senator Chizek and Senator Landis. We are on the Ashford amendments.

SENATOR HEFNER: Mr. President, and members of the body, I rise to oppose this amendment. The amendment is found on page 1074 but I am just opposed to any gun control measurements. I don't think 642 is a good bill. I don't think that this amendment is a good amendment. I can't see where it is going to help us that much. Also, we are going to place a tremendous burden on our law enforcement people to do all this checking, and it is going to cost a lot of money. I have been talking to some sheriffs in my district. They say that the only way that they will be able to do this is to add staff, and if they don't add staff, well, they won't be able to get out on the roads and the streets to do what they are supposed to do. And so, also, it is going to be costly to make these checks, and like for the county sheriffs, the only way that they can get it is raise property taxes. And, ladies and gentlemen, this is what this session has been about. We are trying to relieve property taxes or replace some of them. Are we going to fund this? I don't see anything in this amendment or in the bill saying that the state is going to pick up the cost, and we know it is going to be costly. I feel that this amendment will build costly new bureaucracies across the state and our law enforcement people should be on the streets and on the country roads in my area. Gun control in some of the cities hasn't worked. Look at Washington, D.C., crime has increased and they have all kinds of gun control. Homicides

have skyrocketed in the past 13 years by 160 percent. So it hasn't helped out there. It hasn't helped in California. In California, crime has leaped by 121 percent. So, see, it hasn't helped in these states. In Connecticut, since 1965, homicides have increased 237 percent. Omaha, I can't see where it has helped Omaha at all, and now we are asking for the whole state to be covered by gun control laws. Well, my people don't want it. They say, no, we don't want to trade our crime rate with theirs. So I would urge you to oppose this. It is going to be, if we adopt this amendment and pass the bill, it is going to be a foot in the door. It is going to be a foot in the door and, then, next year, they are going to come back with more controls, and the following year. As I understand it, now in California, they even want to control the shotguns and rifles and I just don't think that is fair. Existing law in Nebraska prohibits felons, drug users and mental people from purchasing firearms and it has worked well. Our laws have worked well in Nebraska and so why do we want to change them? But I just think that we want to use our tax dollars to bust the drug rings, and to enforce our laws in our state. I just read an article in the paper that says that we are going to lose some of our Federal Highway Trust money if we don't slow down the speeders.

PRESIDENT: One minute.

SENATOR HEFNER: Well, how can our law enforcement people slow down the speeders when they are doing all these other checks, but I just feel that this amendment and this bill is a first step down the road to general controls of the private ownership of all types of firearms. And so I just hope that you would oppose it. Also, our U.S. Attorney General Thornberg says that a background check on potential gun buyers is wasteful and ineffective, and he doesn't see why any state would want to pass a bill such as this. I also passed out a letter a little while ago, it says, it is an open letter to Senators of Nebraska, and it was signed by quite a few law enforcement people. A Sheriff in Cherry County, Chief of Police in Creighton, Chief of Police in Crofton, the Columbus sergeant on the Columbus Police, Knox County Deputy Sheriff, a retired captain with the Nebraska Patrol, and even a lieutenant with the Omaha Police Department says we don't need an amendment like this or a bill such as 642.

PRESIDENT: Time.

SENATOR HEFNER: So I would urge you to vote against it. Thank

you.

PRESIDENT: Thank you. Senator Chizek, please.

SENATOR CHIZEK: I just thought that I would fill everyone in on what transpired from the time that Senator Ashford's bill was originally up, which I will do, but I have got to...Senator Hefner, shame on you, that is not true and you know it. What happened? I had agreed to be a mediator, if you would, to try and arrive at something that both sides could agree on. Now in order for people to agree, we started out our first meeting to see which areas we could agree with. Obviously, there was total disagreement on a waiting period, which I, personally, had some problems with, but both sides agreed that they had no objection to a background check. Both sides agreed they had no objection to a background check. It then became a matter of trying to identify something that we could put together that both sides could live with. I suggested near the end of the first meeting, and before the second meeting that we utilize something similar to what Omaha has. Four hundred thousand people, four hundred thousand people are living under this now. There were problems that some gentlemen from the NRA identified to me that we attempted to deal with. Number one, if someone wanted to go to a gun show this Sunday, obviously, there is no way they could get checked, et cetera, ahead of time. We provided in the amendment for that objection. Basically, what it does, it allows you to go in ahead of time, have a precheck, go to the gun show, and then you can purchase whatever you want and you must report them and register them with your local law enforcement agency within seven days. They also suggested that there might be cases where the law enforcement might not like somebody in certain areas and just arbitrarily deny them that right. We built into the amendment that if, in fact, that kind of a thing happens, that there is an appeal process, and I didn't want it to be a boon for the attorneys, so we allowed an appeal process where you were not required to have an attorney. I felt like we had come a long way. However, it was not agreed to. That brings us to where we are at today. Again, the amendment is, basically, what Omaha has. Your cost is minimal. Let me describe for you what happens. Senator Lowell Johnson would go into a place in Omaha and decide here is a weapon that he wants to purchase. Senator Johnson would get a receipt for the weapon, the serial number, et cetera. He would take it down to the Omaha Police Station, present this receipt...

PRESIDENT: One minute.

SENATOR CHIZEK: ...to someone at the police station. He would fill out a second form. They would do a background check, and upon completion of the background check if there is no problem, would give him another receipt he would take back to the dealer to purchase his weapon. In most cases, that is done within 20 minutes. Now in the bill, they talk about two days. That is in there in case you have got 19 John Smiths. They must do it within two days, but in most cases, it is instantaneous, and I know my friends from the NRA don't like this, but I think it is a compromise, and I think that is what we are about here. Seventy or eighty, it is interesting and I am certain I will be up again, but I almost brought a tape recorded message down here this morning to play to you. It was left on my recorder last night.

PRESIDENT: Time. Thank you. Senator Landis, followed by Senator Wehrbein and Senator Wesely, and ten others.

SENATOR LANDIS: Mr. Speaker, I would like to give the first minute of my time to Senator Chizek. I have got to hear the end of the story.

PRESIDENT: Senator Chizek.

SENATOR CHIZEK: Well, the recorder, the message that was left on my recorder was one of the nastiest, foulest, filthiest tapes that I have ever heard and, at least, I know who they identified themselves as being. I would certainly hope that this is not what we have lowered ourselves to, whether it be name calling, such as left on my recorder, the letters for Senator Ashford, and I didn't agree with Senator Ashford's original bill, but, needless to say, I will give you your time back. I did not bring the tape.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, there is a point at which the normal ways we have of sidestepping probably ought to come to an end, and all of us have those forms of sidestepping, things like, thanks for writing; I will think about what you are discussing; and I will take it into account; and please feel free to write to me again; or something like, well, I will take that under advisement; and I will think about that; and maybe I will have a chance to get back to you another time. You probably have to declare yourself as somebody who

thinks that it is all right to regulate guns, or if you have that other point of view that says, no, really guns ought not to be regulated because that is not the source of the problem, because we are going to fall into one of those two camps. As much as we'd like to argue about the niceties of one mechanism or another mechanism, you really, people are of two camps; yes, this is an appropriate thing to regulate, yes, it is an appropriate thing for government to get involved with; and, no, it is not. And I should declare myself as one of the former. I think that guns are an appropriate object for regulation by the state within reasonable limits. We do have a historical pattern of acknowledging the rights of individuals to hold, honor, keep, use firearms as part of hunting, as part of sportsmanship, and there is a line of argument that says they need to be part of that home militia that defends against tyranny. On the other hand, the Saturday night special, the semiautomatic weapons breed special kinds of abuses and it seems to me that government is entitled to regulate for the health, safety, and morals of its citizens behavior which is dangerous to others. So, if I have to choose, I guess you should know that I am prepared to legislate in favor of reasonable gun control, and the question is whether or not a bill is reasonable, and I think there has been an attempt to make this bill reasonable. Now I have got some very...I have got constituents of three different types that I can identify, and I am sure many more types than that, but I have got one type that says guns are bad, regulate them, outlaw them if you can. If you can't, regulate them like crazy because they are dangerous instruments that cause harm. Their availability is a scourge in society, do anything you want to guns, and, frankly, that is a large but relatively silent group of people. There is a second group of people and they are a smaller group but I think much more attuned to their interest and they say guns are not the source of problems. People are the source of problems, regulate people, don't regulate guns. You can't regulate guns without lapping over into what should be an expansive right of an individual.

PRESIDENT: One minute.

SENATOR LANDIS: And I have a third group out there that says, and this is the smallest group of all, and it is the group that says I don't want regulation, I am not crazy about regulation. I don't think regulation has a great deal of chance of success. On the other hand, there are limited gains it can have. So long as it is reasonable and fair and carefully drawn, I can live

with it. I don't want to but I can live with a carefully and reasonably drawn bill. And I am guided most by this third group. They asked me, for example, questions about this measure and I will tell you now I am going to vote for the amendment and I am going to vote for advancement but I am going to raise these questions because I think they are legitimate. In line 12 of page 1, chief law enforcement officer, a question of my constituent is, who is that? Is that the county attorney? Is that the county sheriff? Is that the city police? Who is the chief law enforcement officer? Secondly, is it not possible that in line 17 that you force somebody to ask them a question as to whether they have been convicted of a felony and does that run afoul of federal law, either the right of privacy or of against a form of self-incrimination? That is a question that was raised. On lines 1 and 2 on page 2, who is...

PRESIDENT: Time.

SENATOR LANDIS: ...the superintendent of law enforcement and public safety? I don't know who it is. It is new to me as well. Fair questions to raise and fair questions, which in the event this bill moves towards passage, I will demand to see answers for in the form of clear discussion. At this point, though, my vote is to declare which of those two camps I am in and I am in that camp which is prepared to regulate reasonably guns.

PRESIDENT: Thank you. Senator Wehrbein, please, followed by Senator Wesely, and then Senator Schellpeper.

SENATOR WEHRBEIN: Yes, Mr. President, and members, I am going to state my support for this bill, and I will have to say it is in spite of what Sarah Brady wrote me. I guess that is probably what I am going to vent on a little bit on. I had a letter published in a local paper, and I assume that there will be other letters published. I didn't attend Sarah Brady's news conference when she was here. I didn't call the phone number in Washington, D.C., where evidently I was to call to enlighten myself on what I should think, and that, I guess, is the basic concern for my resentment today. I felt that I have been able to make up my mind alone on this decision, what to do. I will admit I carefully considered this, especially for the last two weeks. In fact, maybe a couple of weeks ago I was leaning in support of not doing much more in the terms of gun control. As I thought about it and visited with my constituents and what I

thought was best for Nebraska, I decided it probably was reasonable to provide a control on handguns, at least the waiting period. It did not seem unreasonable. It wasn't that we were taking away their weapons entirely. And then I had a letter published here just yesterday in a local paper, and I assume there will be others, and I understand the rest of you did, too, and I say I am supporting this bill in spite of Sarah Brady, not because of Sarah Brady. She indicated her terrible disappointment that the fact that I supported Senator Rex Haberman's terrible amendment. That is one of the reasons we are here today, that this bill has become somewhat of a reasonable bill. I consider that part of the process and I resent somebody from Washington, D.C., telling me what I did or what I didn't do for Nebraska, whether it is right or wrong. It isn't that she doesn't have the right to do that, it isn't that I am not in sympathy with Jim Brady, but it is the fact that I think that we ought to have the right to make those decisions for ourself in Nebraska without even adding some veiled threats, and I will say there are veiled threats on both sides of this issue. So I really don't need to dwell on that. I am sure you have all received at least some veiled threats. But as I have had conversations also from constituents as recently as last night, and I spent a long time on the phone, or night before last, excuse me. Most will admit that this is not an unreasonable demand to have a shortened waiting period to do something with the weapons, to obtain handguns in this case. I do not think that it necessarily follows that it should go longer. I also think there has been a reasonable compromise on the issue of gun shows. So for that reason, I support this amendment and will be supporting the bill, and once again to reiterate, I think that we ought to have the right to make our own decisions. I think that is what I am elected to this job for with input from my constituency and I resent letters from afar implying otherwise.

PRESIDENT: Thank you. Senator Wesely, please. Senator Schellpeper, do you want to go ahead. I don't see Senator Wesely at the moment.

SENATOR SCHELLPEPER: Thank you, Mr. President, and members. I rise in opposition to this amendment. I guess I feel it doesn't make any difference whether you have a two, seven, fifteen, a waiting period is a waiting period. I don't see any reason that it does any good. If you will recall awhile back we had some polls that were published in our newspapers that showed that the

people of Nebraska support a waiting period and I can kind of understand that. If you will just think about it, your first impression is, sure, what is it going to hurt? A waiting period really doesn't hurt anything, so, sure, I would support it. But when you stop and really think about what a waiting period does, it doesn't do anything. It does nothing whatsoever. So you can see why the polls showed that 70 or 80 percent of the people support a waiting period because it is that first impression. But just let them stop and think what it really does to the people of our state, and that is why I am opposed to this amendment. Thank you.

PRESIDENT: Senator Robak, please, followed by Senator McFarland.

SENATOR ROBAK: Thank you, Mr. Speaker, and members of the body. I was not going to speak out on this bill, but since Senator Ashford passed out a paper from my hometown, Columbus, Nebraska, exploiting a murder that we had there a few years back, I just would like to make a point that it is the media that exploits violence. The newspaper article and television shows and movies, the horrible movies, that exploit violence, not the gun itself. The gun is not exploiting violence at all, and I agree with Senator Schellpeper that, yes, at first it sounds like really a very good bill and I would support it, too, but I cannot support anything like this. This is one of our few good do-nothing laws like some of our drug, do-nothing drug bills that we have right now in front of us this year that really do nothing. I also think that a seven day waiting period would not do any good because for one reason why would the...the gun dealer could postdate a form. He could simply postdate the form back to when it had to be done and let's just keep the guns away from the criminals. Thank you.

PRESIDENT: Thank you. Senator McFarland, please, followed by Senator Ashford and Senator Elmer.

SENATOR MCFARLAND: Thank you, Mr. President. The debate has been interesting but I think somewhat, if you reflect on the debate both in committee and even on the floor here today, there are being some statements made that show that perhaps you really haven't examined this issue as we should and perhaps we haven't really thought rationally about it and really know thoroughly the contents of the bill or the amendment. It has been very interesting to look over the notes and the response that I have

gotten or have received in my office. My staff has been very communicative to me about some of the calls they have received, and the calls have been in surges. The initial calls when this first came up were from lots of people who said guns are bad, we want to limit them, we want to restrict them, vote for LB 642, Senator Ashford's amendment or bill, I should say. And then we received, after the weekend passed, another surge of calls saying vote against LB 642, you are trying to take our guns away, we are trying to defend ourselves, all those type of calls. And now in the intervening days, I am receiving a smattering of calls on both sides of the issue. The interesting thing is that those calls that I am receiving and the messages that I get clearly show that neither side really understands what the bill is trying to do. As a matter of fact, when my staff had asked some of the callers, for example, who were calling in opposition to the bill, and said, what are you against the bill, and they said, well...why are you against it? And they said, well, we just don't like it. It is restricting our guns and we have got to have them. And, well, what about LB 642 bothers you? And they said, well, I don't know, I haven't read the bill. Don't know what it is, but I got this bill from the NRA and I have got to call in and express my opposition. I would guess that half or more did not even understand what the bill is doing. It is seen in black and white terms. You are either, if you vote for LB 642, you are going to be portrayed as someone who wants to restrict gun ownership and take guns away from everyone, regardless of how they are being used, whether it is for hunting or sports purposes. If you vote...and that is if you vote for the bill. If you vote against it, you are seen as someone who is sanctioning wholesale use of guns to commit all kinds of crimes and all sorts of atrocities. There is a lot of verbal overkill on both sides, and I can appreciate Senator Wehrbein's chagrin about the note that was written to him and about him. I wish that people could have met Sarah Brady when she was here and spoke with people. She is a wonderful person. She is a wonderful advocate on this issue, who better to be an informed advocate about it as someone who has been directly affected by it. I think you would find that the statements that are attributed to her and attributed on both sides of this issue are often made for their emotional and their...well, their emotional appeal. What we really need to look at is whether we need to have some kind of reasonable restraint on the purchase of handguns.

PRESIDENT: One minute.

SENATOR MCFARLAND: This particular bill, with the amendment, I think offers a reasonable restraint. It doesn't prohibit people who are wanting to purchase arms for lawful purposes. What it is directed at and I think where it would have a positive effect is to try and curtail such purposes when the reason for the purpose is to commit some kind of impulsive act of violence, whether it is someone coming in wanting to purchase a gun to commit suicide, or wanting to purchase a gun for the specific reason that they want to go out and shoot their wife or their husband or their family member or a friend or an enemy. It is to try and offer some kind of reasonable restraint and establish a procedure whereby one couldn't just go down to the local pawnshop or the local gun dealer and pay cash, get the gun, and run home or run back to a bar, or run back to some kind of business...

PRESIDENT: Time.

SENATOR MCFARLAND: ...and shoot someone or shoot yourself. That is what you are trying to do. I think if the bill would pass, you would see some of these impulsive acts curtailed.

PRESIDENT: Thank you. Senator Wesely, we skipped you a little bit ago. Did you wish to speak?

SENATOR WESELY: Yes, if I could, Mr. President. I appreciate very much the opportunity to speak in favor of the amendment and the bill. I admire very much Senator Ashford taking on the issue, and for all those who support this legislation. It is not an easy thing to do. We have clearly had an outpouring of opposition to this measure from those that belong to the National Rifle Association, I am sure sincere and dedicated individuals all, but we have a sincere and dedicated group of individuals that support this legislation as well, and let me tell you why I feel very strongly that we need to have a waiting period and some more restrictions on the access to handguns. I have always felt generally in this way but I had an experience last summer with a friend of mine who was down in Texas, in Corpus Christi, Texas, and had a roommate who developed mental problems, in fact, and this roommate ended up finally going berserk and threatening this friend of mine with a gun. Went out and bought a gun to threaten my friend. My friend talked him out of the situation, got the gun away, and that situation

subsided, but my friend realized there was a problem here. This person had serious mental problems and so he decided he had to move away. And so on Friday, on a week last summer, he was at work and that Sunday was about to leave to move with his father in a different state, and it turned out that that Friday this friend of my friend showed up once again with a gun at work, pulled my friend out, and shot him, and he died, and he died in a horrible way.

PRESIDENT: Thank you. Senator Ashford, please, followed by Senator Elmer and Senator Lindsay.

SENATOR ASHFORD: I would like to go through the bill real briefly and I don't think that was actually done point by point, going through the three...I will try to make it as brief as I can...but going through the three points or guidelines we used in coming up with this compromise. One, is there a check provided? Yes, there is. The check is done by local law enforcement at the office of local law enforcement. I think that is a good provision because it requires the gun purchaser to actually...the onus is on the buyer then and not the dealer, but the buyer, who is going to take the gun, to actually go through the effort of going down to the police station and getting the permit. And, also, at that point, the law enforcement officer can not only take a look at the application that is filled out, but also observe the individual who is buying the gun, and that, as was indicated in my prior discussion, Senator...or Senator, Chief Curtis and Chief Skinner feel those are two very...that is a very important part of the process. Secondly, the bill provides, as I said, that the...for a process whereby the individual purchaser is not able simply to, if he or she were in an emotional state, a distraught state, the kind of state that Chief Curtis talked about where 11 individuals last year in Lincoln were in that kind of condition where they would purchase a gun and then go out and do harm to themselves and others, that individual would be required to go down to the police station, to be observed by a police officer, or law enforcement official prior to making the purchase and getting the permit for the purchase. The law enforcement can take up to two days to make that check, in most cases as is evidenced by the Omaha experience, the vast majority of cases, the individual gets the permit in a relatively short period of time. But there is a procedure so that there is some time elapsing prior to the actual picking up of the gun after the purchase, and also the individual does go to a police

officer, law enforcement official and has a discussion with that law enforcement official, and I think that that is, albeit a compromise, is a good way of dealing with the emotional problems identified by a heat of passion argument, identified very, very vociferously by Chief Skinner and by Chief Curtis as being a real problem. So my good friend and colleague, Senator Robak, I just think is a little bit off the mark here. There is a problem. There clearly is a problem. It has been identified by law enforcement across the state. The question is, what is the most reasonable way to deal with the problem, not is there not a problem because, obviously, there is. Of the homicides in Nebraska last year, 35 percent were heat of passion homicides. I believe...I don't have the numbers right in front of me, 28 out of 52, and I have those numbers. And does the check work? Yes, I have gone over that over and over again. The check has worked in Omaha and in all the other states that have a check. Thirdly, as Senator Chizek alluded to, the third guideline is to make sure that this be a reasonable bill, that law-abiding citizens be able to purchase guns at gun shows without going through an awful lot of red tape and bureaucracy, and we have accomplished that because they can get a permit for a gun show, and they can go out and go to a gun show with that permit and buy a gun. Antique sales are exempted. One of the concerns that was brought to us was the antique guns that are not used as guns, as firearms, should be exempted and they are exempted. So we have tried to, we have tried to accommodate all three concerns in the bill.

PRESIDENT: One minute.

SENATOR ASHFORD: With that, I would just again urge that we adopt the amendment and Senator Landis has brought up an excellent point. There are some definitional problems in the bill but I think we can clear those up quite easily, or hopefully easily on Select File, and we will work to do that, Senator Landis. With that, I would, again, urge the advancement or the adoption of the amendment.

PRESIDENT: Thank you. Senator Owen Elmer, followed by Senator Lindsay, and Senator Hall.

SENATOR ELMER: Thank you very much, Mr. President. I intend to visit on this bill just once and relate personal reasons why I cannot support it. Approximately 17 years ago, there was a brutal double murder in our family. The perpetrators, the

killers were unknown and at large in the community. We had no idea why it had been done. Law enforcement people said take measures to protect your families immediately, which we did. I don't think this is in the best interest of the public. Thank you.

PRESIDENT: Thank you. Senator Lindsay, please.

SENATOR LINDSAY: Thank you, Mr. President. I have been kind of listening to the arguments that are being brought up about why we can't have this bill, and I would like to touch on them just a little bit. I think the first one we heard is that it is going to cut down on our police protection, that apparently that the gun business, the handgun business in western Nebraska is so booming that by requiring police departments to just do a background check would cripple them. I suggest that that maybe not be the case. If it is, then that is an area of our economy that we should be pushing a lot harder. Number two, I think we have heard that it is not going to stop all crime, and I suggest that nothing we push through in the Legislature is going to stop all crime. The Governor's ten-point package on drugs is not going to stop all drugs. It is a question whether it will make a dent in it, and there is a question that this may make a dent in it, but I think it is an attempt to do something, it is an attempt to control it, and because we think that something is not going to be a panacea and it is not going to cure all, it is not going to solve all problems that we have got should never be a reason not to pass something, should never be a reason for us to quit trying, should not be a reason for us to pass something that I think, as Senator Ashford has mentioned, probably will make a dent. We have heard that we should just keep the guns away from criminals and I keep wondering what is a criminal. A criminal is anybody in this room who, because in the heat of passion, their temper breaks and goes over the edge, grabs that handgun and blows somebody away then become a criminal. The criminals are not necessarily the people who have the records that extend from here to Omaha. Criminals are people who commit crimes. You don't become a criminal until you do. You have to keep, as Senator Ashford has mentioned, you have got to keep the guns away from those who are in a position that they may become criminals. I think that is what this is intended to attack. We are not going to solve it. We are not going to keep the guns away from drug runners and from people who have committed violent crimes in the past. There is always going to be a black market in guns. There is always going to be a black market in

drugs. There is always going to be a black market in just about anything you want to buy, but we can at least make some attempt to protect those people from people who may just lose their temper, who may just need some time to cool off, or who may have some of the problems as far as having mental problems in the past. We keep talking about an invasion of rights, that we can't allow this corruption of our rights, that we can't allow this privilege of owning guns to be taken away, and yet we don't blink twice about taking somebody's license without even offering them a trial. We don't think twice about cutting down on defendants' rights because they are "criminals". If we are going to make the objection to taking away rights, let's be consistent about it. Let's make sure that everybody is entitled to their rights and not just those who may have a card that says NRA on it. Senator Chizek has mentioned, and I think as the Judiciary Committee Chairman, he did a good job of going out and trying to work a compromise with two sides that I would guess would be about as polarized as you can get. Senator Chizek, for all of those of us who are in the Chamber know him and knows that he owns guns and knows that he does believe in the right to own guns, notwithstanding that, he realized that people in Nebraska are screaming for controls. The percentages are out there, anywhere from 87 to 93 percent of the people want controls. I did a survey in my district where I got over 200 responses back on a variety of issues...

PRESIDENT: One minute.

SENATOR LINDSAY: ...and it came back nine to one in favor of gun control, and that is on the seven-day waiting period. I think that Senator Chizek has tried to put together a good compromise and we can see that one side is unbudging. I suggest that what the whole issue comes down to, regardless of all the mirrors and smoke that we are seeing, the issue comes down to, do you believe or do you not believe that some reasonable restrictions on the right to keep and bear arms should be imposed? The Supreme Court has said, yes, we can do it on every other right we can think of, whether it be speech, religion, assembly, any other right you can think of, we don't allow it to remain unfettered. We do allow reasonable restrictions, and this is certainly not unreasonable to require a two-day wait. Thank you.

PRESIDENT: Thank you. Senator Hall, followed by Senator Hefner, and Senator Hartnett.

SENATOR HALL: Question.

PRESIDENT: The question has been called. Do I see five hands? I do, and the question is, shall debate cease? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, to cease debate.

PRESIDENT: Debate has ceased. Senator Ashford, would you like to close, please, on your motion.

SENATOR ASHFORD: Mr. President, members, I would like to thank especially Senator Chizek for all of the work that...really yeoman's job that he has done, not only in the last week or two weeks to try to work this bill out, but in the year prior to that time working with my office to try to work out the constitutional problems with LB 642, to have two hearings on the bill so that we could discuss how the mechanisms of some kind of a reasonable check would work, and without his participation in this process, we wouldn't have a bill on the floor, let alone up for a vote at this point. And I would just like to say a couple of points, I respect Senator Elmer very much for his views, Senator Hefner. They have a very strong belief that gun restrictions of any kind are not necessary. I am not going to be able to change Senator Hefner's mind no matter how hard I try. And there are others on this floor who I...would probably be in the same camp as Senator Hefner who simply do not believe that restricting in any way the sale of hand, in this case, handguns in anyway promotes public safety. And I respect that view because I know it is a view that he holds dear and it is a view probably that many of his constituents hold dear in his part of the state. And so I am not going to try to do that, but what I would just ask the members of this body to do, going back to my opening, is to try and forget for a moment, if possible, what has been said by the NRA to you, or by handgun control to you, and center on the bill, itself. I am sure handgun control would not agree to a waiting period for the purchase of stinger missiles. I mean, you know, they are not interested in any restrictions at all, even though as I said in the first day of debate, the NRA did support a 15-day waiting period in Oregon, and I said then and I say, again, why can't...if the citizens of Oregon deserve the protection of a 15-day waiting period, why do not the citizens of Nebraska deserve a two-day waiting period for the purchase of handguns? Many states have dealt with this

issue in a reasonable way and in different ways. Maryland came up with its own solution. Oregon has its own solution. California has its own solution. But I think of all the solutions I have seen, the Nebraska solution is the most unique. It is not waiting periods, per se, it is not instant check, it is a combination of all of the other processes that have been developed to make sure that felons do not get firearms, and to make sure as much as possible that individuals in the heat of passion do not have easy access to firearms. I am not here telling you that this is going to stop individuals in the heat of passion from using firearms. What I am telling you is that what it will do is it will prevent easy access, walking down the street and buying a gun in the heat of passion, and shooting a relative, yourself, or a friend, or committing a crime. It will definitely stop that from happening. Now we can say that that is all right, that we are not going to give up our rights at all, even though this bill may stop that wrong, and that is a conviction that people have that I...I could give you 150 examples it is not going to make any difference to those individuals. What I would suggest to you is that we have carried the burden on this bill. We have identified the problem. We have brought together a consensus of law enforcement people across the state...

PRESIDENT: One minute.

SENATOR ASHFORD: ...who have identified the problem. Chief Curtis probably did it best when he said in the last four years 11 people in Lincoln bought guns the day before or the day they killed themselves or someone else. Guns are, handguns, especially, are too easy to buy if you have the wrong intention to buy them. Simply put, they are too easy to purchase. We have identified the problem. We have come up with a solution, and the solution is, we have a computer check, we do not unreasonably delay the purchase of the gun. The only time there is a delay of any great length is if that person is suspected by the law enforcement to either be a felon or have a mental disorder. Shouldn't we, as a society, not only ask our senators to vote for something like that, but demand that they vote for it?

PRESIDENT: Time.

SENATOR ASHFORD: So with that, I urge very...I thank Senator Chizek again and urge that the amendment be adopted. Thank you.

March 8, 1990

LB 642

PRESIDENT: Thank you. The question is the adoption of the Ashford amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 10 nays, Mr. President, on adoption of the amendment.

PRESIDENT: The Ashford amendment is adopted. Anything further on the bill, Mr. Clerk?

CLERK: Not at this time, Mr. President.

PRESIDENT: Okay, on the advancement of the bill, Senator Hefner, followed by Senator Korshoj.

SENATOR HEFNER: Mr. President, and members of the body, I know Senator Ashford has worked long and hard on this bill and he truly believes that this is the right way to go, and, Senator Chizek, I know that you have gotten the sides together and tried to work out a compromise that in your mind it would be a little better, but I still have a problem with it. And I guess the reason that I have a problem with it is because I am just against gun control, whether it be seven days or ten days or two days or a check. I think our law enforcement people have more important things to do. It was mentioned that handguns are dangerous. You doggone right they are dangerous. They will kill people. They will kill animals. They will kill anything, and so they are dangerous, but many things are dangerous. How about an automobile, Senator Ashford? You said we are trying to slow down people so they won't buy the guns to commit suicide. Well, automobiles are dangerous. Do we want to have a waiting period for them? In an automobile, you can gas yourself to death, or you can run in front of a big train, and you can do numerous things. How about knives? Knives kill. Are we going to have a waiting period for them, too? How about ropes? People hang themselves with ropes. We could go on and on. There are many dangerous things, but as I understand it now, this bill is patterned after the Omaha statutes or the Omaha ordinances, and I just haven't seen any figures that tell me that homicides and suicides, or what have you, have been cut in Omaha. The same way in Washington, D.C., my goodness, they have all kinds of gun controls in Washington, D.C., and yet the crime rate in Washington, D.C., is probably as bad as any place in the country. Talking about nasty calls and letters, well, ladies

and gentlemen, I get them, too, not only on the gun control bill but on LB 1059. I voted for 1059, that is the school finance bill, and I have been getting calls now wondering to know why I voted for it. So you can see that we are going to get calls and letters on just about any issue we vote on them and we need to be prepared and defend our position. But it was also mentioned that Sarah Brady was here, but even with all the gun controls that Washington, D.C., has, that didn't protect her husband, and it was a tragedy, and my sympathy goes out to her, but I don't think this bill will help us that much in Nebraska. I just don't see how it can, so I would urge you to vote against the advancement of this bill as it is amended.

PRESIDENT: Thank you. Senator Korshoj, please, followed by Senator Pirsch. Senator Korshoj.

SENATOR KORSHOJ: Mr. President, and members, I think the amendment did improve the bill, Brad. I have a question, have you talked to Spencer Morrissey about his proposed amendment?

PRESIDENT: Senator Ashford, please.

SENATOR ASHFORD: Yes, I have, Senator Korshoj, in general terms. I think I know what he is trying to accomplish.

SENATOR KORSHOJ: Well, he did not tell me but I am reading here, it is on the second page here, line 17 to 24, the registration permit shall be valid only for the transfer of one specific handgun unless the applicant attests that the permit is for use at a gun show, in which case the chief law enforcement officer may issue a permit for the purchase of any handgun which must be returned, and so forth and so on, well, does that mean they can go to a show and only still get one gun?

SENATOR ASHFORD: No. No, that doesn't...that isn't what it means. The intent, Senator Korshoj, is that you have a permit to go to the gun show and purchase, you are cleared to go and purchase weapons at the gun show, not just one weapon.

SENATOR KORSHOJ: You see, what happens sometimes...

SENATOR ASHFORD: I know Senator Morrissey was concerned about that...

SENATOR KORSHOJ: Well, I hadn't talked to him about it. I

didn't know what his amendment was. Sometimes they go here and they buy a gun but they go down the aisle and here is another table, and that same gun, they wind up trading to the next table.

SENATOR ASHFORD: Right.

SENATOR KORSHOJ: Are they covered? Can they continue to operate that way?

SENATOR ASHFORD: Yes, they can, Senator Korshoj. The intent is that they can continue to operate that way.

SENATOR KORSHOJ: Well, I wanted it in the record, see, and then we will see on Select what Morrissey does. You can have the rest of my time, if you would like it.

SENATOR ASHFORD: Thanks, Senator Korsh...no, I don't have anything else to say on that. You are right, and that is a point that Senator Morrissey and I have talked about and you and I have talked about. You brought it up on the first day of debate, and you are right.

SENATOR KORSHOJ: Thank you.

SENATOR ASHFORD: Yeah.

PRESIDENT: Thank you. Senator Pirsch, please, followed by Senator Rod Johnson.

SENATOR PIRSCH: Thank you, Mr. President. I have a question for Senator Ashford, if he will yield.

SENATOR ASHFORD: Right.

SENATOR PIRSCH: As you know, Senator Ashford, in Judiciary, we have discussed this for a long time and I have asked a lot of questions in the committee hearing, and one of the questions that I have been concerned about is how will this bill affect the person to person? Licensed dealers we know can be checked, can be enforced.

SENATOR ASHFORD: Right.

SENATOR PIRSCH: But with your amendment now, can you walk me

through...

SENATOR ASHFORD: Sure.

SENATOR PIRSCH: ...if I want to or my husband wants to sell a gun to...a handgun to someone else.

SENATOR ASHFORD: Sure. Senator Chizek might want to add something to this but, basically, one of the...I think one of the good things about the amendment is that it eases the restrictions on person to person sales. Under the bill as originally written, it would require sending in a form to the local law enforcement agency, and then having them act on the form, send the form back within seven days, and that is pretty cumbersome in a person to person sale. Under the bill and the amendment, the only thing that would happen, for example, with Al, he would do it the same way he would do it in Omaha now, person to person sale would be affected, but prior to taking possession of the gun, the buyer would simply go down and get a permit. It does...it is the same methodology that is now in Omaha. It certainly makes it less cumbersome than the former...

SENATOR PIRSCH: Okay, Brad.

SENATOR ASHFORD: I am sorry.

SENATOR PIRSCH: All right, so the seller then would not be required to have any kind of protection?

SENATOR ASHFORD: Right, right the seller...

SENATOR PIRSCH: If you will recall, we had a problem because the buyer did not follow through and register the gun.

SENATOR ASHFORD: Right, maybe Senator Chizek could get that answer...

SENATOR PIRSCH: And that is where a problem comes in, if we cannot effectuate a private sale in an effective manner.

SENATOR ASHFORD: I understand. I think we can. Maybe Senator Chizek would want to answer that.

SENATOR PIRSCH: Senator Chizek, would you?

SENATOR CHIZEK: I will attempt to, Senator. As you know, the case you cited is not the only problem relative to (interruption)...

SENATOR PIRSCH: Right, Omaha does not have really the effect we are talking about.

SENATOR CHIZEK: Actually, what it would come down to, Senator, is if I purchased a handgun from you, I would have seven days to go register that...

SENATOR PIRSCH: Two days.

SENATOR CHIZEK: Two days, yes, two days...

SENATOR PIRSCH: Now.

SENATOR CHIZEK: ...to go register the weapon, yes.

SENATOR PIRSCH: And how does the seller know that that, indeed, was done by...in a legitimate way?

SENATOR CHIZEK: There...you would get...

SENATOR PIRSCH: Okay, in other words, the seller does not get any guarantee or any way to know that that person has been checked out before they sell the gun to them.

SENATOR CHIZEK: Yeah, they do. They get a permit, Senator Pirsch, that is a piece of paper that says you can buy this gun.

SENATOR PIRSCH: Okay, so the buyer has to get a permit...

SENATOR CHIZEK: Right.

SENATOR PIRSCH: ...before they can buy one from a private party?

SENATOR CHIZEK: Correct.

SENATOR PIRSCH: And that means they have, indeed, been checked out within, what, a one-year period?

SENATOR CHIZEK: Well, two day...well, as far as the computer check goes back and I am not sure how far back the computer

check goes to generally, if it goes to...

SENATOR PIRSCH: Well, how good is this little card or this...

SENATOR CHIZEK: The card is as good...is good for as long as you own the gun, and until you transfer it again, and then you would have to go through the process again. So it does protect the seller. The seller wouldn't want to deliver the gun to the buyer until the buyer produces the permit.

SENATOR PIRSCH: Okay, so then that would be a protection to...

SENATOR CHIZEK: To the seller, to a seller.

SENATOR PIRSCH: ...the seller,...

PRESIDENT: One minute.

SENATOR PIRSCH: ...that the buyer would already be checked out.

SENATOR CHIZEK: Correct.

SENATOR PIRSCH: They would not have to do anything. The onus would be on the buyer.

SENATOR CHIZEK: That is absolutely correct, and we think that is an easier system than what we had originally planned for.

SENATOR PIRSCH: Well, that has been one of my concerns that only the gun shops could be regulated, and I would bet that most of the guns are sold person to person, and yet I am also concerned about putting too much of a burden on a private citizen who does want to buy a handgun to protect themselves. So I am between a rock and a hard place on this but thank you for answering my questions.

PRESIDENT: Thank you. Senator Rod Johnson, please, followed by Senator Wesely.

SENATOR R. JOHNSON: Mr. President, and members, I guess maybe my comments are more of an explanation of vote than maybe adding to the debate here, but I have had several come up to me, some folks come up to me and said, boy, is this a tough vote for you considering where you live and the situation that you're in in your campaign, but I said, yeah, it is, it's a tough vote, in

fact, I'm still vacillating to this moment as to how I will vote on the bill. But, as I looked at Senator Ashford's amendment that we just voted on, it seemed a logical...it seemed logical to me, at least, that we should support that amendment to put this bill in the shape that if it does pass, that at least it's a better bill than the original bill that was introduced. But I have had an experience in our family as well, as Senator Elmer has related his situation, where a father-in-law of mine was killed by a handgun and it makes it very difficult to be involved in a situation or debate where you dredge up those memories of a situation that has happened to your family personally. But I don't know if this bill or this bill in any shape would have saved his life, but it's one of those situations where you wonder what the worth of a handgun is in any case. I don't own any guns. I'm probably almost un-American coming from the rural area that I do that you don't own a shotgun or some kind of a gun, but I don't. I don't have any use for them but I respect the right for those folks that do have guns and want to use them for sporting or recreational use. Where I come down as concerned is when those guns are not used for the purposes of sport or hunting but rather hunting human beings and that's a concern that I have and whether or not this bill will correct that problem, as others have commented, I don't know. But, historically, I have opposed most big brother kinds of bills, such as seat belts and helmets, and I guess I would have to throw guns into this arena as well. But, as you can tell by my comments, I'm still vacillating over how I should vote on the bill. It is not well liked by many of the NRA members in my district, but, as it's written now, it seems to be at least a sensible approach to how we can keep these handguns out of the hands of folks who may misuse them and instead of using them for recreational use are attempting to use them for reasons to maim or kill other human beings, which I think no one wants to have happen. So I'm going to continue to listen to the debate here this morning, try and find out as much information as I can about the way the bill is written now and then make a decision. And it will be a decision made on a personal basis, not on a political basis.

PRESIDENT: Thank you. Senator Wesely, please, followed by Senator Hartnett.

SENATOR WESELY: Thank you, Mr. President. Again, it's interesting because personal experience does have an impact on your decisions on the floor and Senator Johnson talked about his

case and I remember it very well when that happened. I didn't hear Senator Elmer's comments, but as I related to you my personal experience with a friend down in Texas, if, in fact, there had been a waiting period in Texas, that person would be alive today. As I indicated, he was killed on a Friday, was going to leave on a Sunday. A waiting period would have made all the difference in that one life and I think there are many others perhaps that we can't even anticipate at this time that with the waiting period, with the sort of intervention that's envisioned in this bill, that those lives would be saved. And I think that's what we're talking about here and it makes me so angry and upset to have these cases, and we could bring out many of them, of individuals who have been senselessly killed when something as modest and reasonable as this was not in place. And so I guess what I think we ought to think about is, yes, the lives lost that would have been saved, but think about those future lives that we will be saving by having this amendment in this bill into our statute. We can't even at this time anticipate how many people that would be, but certainly it makes absolute sense to take at least this step forward. I would have liked to had it a seven-day wait rather than a two-day wait because in seven days more cooling off, more crimes of passion could be avoided. I would prefer that. But I'm willing to live with what's been supported here by Senator Ashford and Senator Chizek. And it seems to me that waiting a few days for something like a gun is absolutely sensible. I know, for instance, in all of our lives as we purchase things we wait for them. We go to a store and buy shoes, we wait sometimes for them to come in. We order them. We order a piece of furniture. Sometimes it takes time for it to come in. We have to wait for it to be delivered. Waiting for purchases is common, so to wait to purchase a gun is not inconsistent and even makes a lot more sense than having to wait for a record cabinet or a pair of shoes. And yet people are arguing about forcing people to wait to buy a gun? It seems so silly, it's unbelievable to me and I know that, again, people are sincere in this, certainly got a lot of calls on it. But I still think that they're anticipating this leading to other things and I don't know that it will lead to other things. All I hope that it will lead to is some people not dying. So I would very much support the bill and suggest that we advance it. And I know that it's not an easy vote. I know Senator Johnson, for instance, I admire his courage even at this point to consider voting for it, you know, candidate for Congress and thinking about some of the strong sentiments of NRA members, but nevertheless I think we all have to summon up the

courage, the courage it will take to vote for this bill and recognize that the vast majority of people would support this. We've got to see their faces. We've got to hear their voices. And they're not down here perhaps, but they're out there and they would want us to vote for this bill.

PRESIDENT: Thank you. Senator Hartnett, please.

SENATOR HARTNETT: Mr. President and members of the body, Senator Ashford, could I ask you some questions? And maybe you have covered this already.

SENATOR ASHFORD: Okay.

SENATOR HARTNETT: One is with this...with a purchase at a gun show? Say that...now we used to have quite a few...I think we still do in my community have gun shows, they pick up the permit, as I understand it, as I read this explanation, at the police. Say that Senator Korshoj is going to buy it, does he pick up the...make it...does he pick it up at his county sheriff? I don't think, in visiting with him privately, that he has a constable or police chief in Herman, Nebraska. Where does he get this permit?

SENATOR ASHFORD: I think that Senator Landis brought that up, too, and it's an issue as to who the identified person would be and we're going to work on that on Select File. But, yeah, the intent would be the local law enforcement person and if Herman doesn't have one, possibly he would have to go to Blair, the county sheriff in Blair, I suppose.

SENATOR HARTNETT: Okay, the second point I think you mentioned in closing on your amend...or your advancing the amendment to the bill you talked about the constitutionality and that that question has been taken care of. And I guess where I'm coming from is that I just...visiting with an attorney and I'm not an attorney, that as he reads the constitutional amendment that was adopted two years ago is that any restrictions at all, in his opinion, as he reads in a court case, that we cannot place any restrictions on it. Have you asked the Attorney General for any opinion on this bill, Senator?

SENATOR ASHFORD: Thank you, Senator Hartnett, for bringing that up. The answer, I guess I have two answers, one is the Supreme Court, in three cases, has said that these kinds of restrictions

are reasonable and are all right after the passage of the constitutional amendment, number one. Number two, Attorney General Spire has testified at our December hearing to the effect that in his opinion, yes, it is constitutional. Dick Shugrue, a constitutional law professor at Creighton, testified that, yes, it is constitutional. In fact, both Dick Shugrue and Bob Spire went further to say that we had the duty to do these kinds of restrictions as long as they were reasonable. And so both the Supreme Court and the Attorney General have answered in the affirmative. The view of...

SENATOR HARTNETT: But you haven't got a...you haven't gotten a...you haven't asked an opinion on this?

SENATOR ASHFORD: Well, not a...not...

SENATOR HARTNETT: Written opinion.

SENATOR ASHFORD: We got the Attorney General's testimony to the effect that it is constitutional. The attorney may be referring to some of the arguments in the North Platte, Lincoln County cases which were overturned by the Nebraska Supreme Court.

SENATOR HARTNETT: Yeah. Thank you.

PRESIDENT: Thank you. Senator Peterson, please, followed by Senator Schimek.

SENATOR PETERSON: Mr. President and members, I rise to oppose the advancement of this bill. It kind of looks like it's a rural-city issue here kind of, but I have received several letters from attorneys, one in particular from my district. One paragraph I would like to read into the record, "I am opposed to the registration as well as to the waiting period. Based upon my experience as a private practitioner, as well as my experience as a former prosecuting attorney, it is rather clear and apparent to me that the criminal element of our society will be able to obtain a handgun without the necessity of a waiting period or a registration even if they are required by law." Another letter from another attorney. He states, "Waiting periods to purchase guns has never stopped crime and never will." And goes on to relate in Washington, D.C., one of the toughest handgun laws yet some of the highest murder rates in the country. Criminals won't get jobs to earn money to buy guns so they can rob people or kill people, they steal the guns.

Even the Omaha Police Department stated that fact on TV that the problem didn't lay with the legitimate gun owner but with the stolen gun that falls into the hands of the criminal. LB 642, I would think, would divert already scarce funds to a certain extent for law enforcement agencies fighting violent crime and drugs. I think we could...this is not going to help the matter in any way that I can see. I think it's going to take away from the drug enforcement and crime. There's going to be too much time spent on looking up a gun and probably going to cost the cities more to maybe...and with a city like Omaha to hire more people to check out these things. And if you think guns kill, what about knives, silk stockings? It's not going to stop. What about if you give someone a gun or borrow a gun? Nothing is addressed on that. I think one of the areas you ought to hit on and something ought to be done, I know a resolution a lot of times doesn't carry much weight, but I think we're zeroing in...should zero in on a TV. I think this is where lots and lots, and I hear it time and again and people talking about it, these TV programs that are constantly on, night after night, that show crime, show sex and all those areas, I think the people in the national networks ought to get the message to get a lot of this off. I think we should be concentrating more in those areas instead of this area. And we're always wanting to save lives and yet we allow the tobacco and alcohol industry to go ahead and sell, and who...what kills more people than those two and yet it doesn't seem like...we tax them a little bit more but we never put them...necessarily wound them too much. I think also this will open the door, if this passes, for future legislation. I'll bet you in two years or so there will be another idea come in here and dilute our control of our ability to have guns. I ask you to not support this bill and let's go on with other things.

PRESIDENT: Thank you. Senator Schimek, please, followed by Senator Ashford.

SENATOR SCHIMEK: Mr. President and members of the body, I'm delighted to have the opportunity to speak on this bill because I want to dispel the rumors that were abounding a week or so ago that I had deliberately had gall bladder surgery so I could avoid a vote on LB 642, was not true. I have, like all of you, had many calls in my office on this bill and most of the calls have been against LB 642 and upon questioning, when I've had the opportunity to personally question those folks who are against it, they have not really given me, to my satisfaction at least,

an answer as to how a waiting period would really be harmful to the people who do want to have guns for a variety of purposes. At least to my satisfaction, they have not been able to do that and my response to them as to whether I would support this or not has been that, yes, even if it is not extremely effective, even if it only works in some cases, I think it is worth a try. Last summer I sent a survey into my district along with a newsletter and it was a survey on a variety of topics. But one of the topics was gun control and there was an overall question that said, should some form of gun control legislation be enacted by the Legislature? In my district they said, 447 people said yes; 106 people said no. When we got more specific about particular kinds of handgun control legislation they said by 382 to 60, that the possession of Uzis and machine guns should not be allowed for the ordinary citizen. They said, and this was one they were a little ambivalent about because it was a new idea. Somebody down, some legislator down in Florida was considering legislation to this effect, should there be a penalty for adults when a child dies because a gun was not under lock and key? Two hundred and eighty-three said yes, and 156 said no. But the two that I think really apply to the legislation we're speaking of here are, one, should there be a waiting period before buying a handgun? Four hundred and eighty-eight of my constituents said yes, 35 of my constituents said no, overwhelming support for a waiting period. When I asked, should hand guns be registered, 466 of them responded yes and 64 of them said no. To me, although it was not a scientific survey, it was highly indicative that the people in my district at least believe that there should be some efforts to control the kinds of situations that seem to have grown by leaps and bounds, at least in the metropolitan area, but you read about many homicides, suicides in the rural areas as well. I'd like to direct the remainder of my remarks to Senator Johnson and any others, if there are any others on this floor, who might still be undecided about this issue. I, too, have had a personal experience with a death in the family. My young sister took her life with a gun. It was not a handgun, and a waiting period in this case would not have affected anything because the gun was readily available to her. But I often thought if the gun had not been there at the moment that the desire was there, that my sister might still be alive today.

PRESIDENT: One minute.

SENATOR SCHIMEK: And I realize that there are many situations

where there are domestic, where there is domestic violence or where there are unhappy teenagers or whatever, where guns are available, whether other means are available, but I can't help but think that if we had some kind of a waiting period that it would, at least in some cases, take away that impulsive action which might lead, as in the case of Senator Don Wesely's friend, which might lead to saving a life. So I guess I feel very strongly that this could not hurt. We have many waiting periods imposed by society, by our families, by ourselves. When we want to drive a car, we can't drive a car until we're 16, we have to wait until we're 16. When we want to get married we can't go out and just get married. We have a waiting period because we have to have a blood test before we can get married.

PRESIDENT: Time.

SENATOR SCHIMEK: When we want to get a divorce, no matter how much we want to get that divorce, we cannot do so until we have gone the six-month period necessary for all the court decisions and so forth to take place. When we enter certain occupations and professions...

PRESIDENT: Time.

SENATOR SCHINEK: ...we ask...excuse me. Thank you very much.

PRESIDENT: Thank you. Senator Ashford, please, followed by Senator Hefner.

SENATOR ASHFORD: Question.

PRESIDENT: Question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 3 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Ashford, on the advancement.

SENATOR ASHFORD: Thank you, Mr. President and members, I appreciate the time that we've taken to talk about this bill and appreciate some of the questions that were raised by Senator Korshoj and Senator Landis and I'm sure we can get those matters ironed out on Select File. I've handed out to you, before the

debate started, various handouts. One of the first ones was a letter from law enforcement across the state supporting LB 642, McCook, Lexington, Lincoln, Papillion, Wayne, Sioux City, Gering, North Platte, Blair, Ogallala, Fremont, Holdrege, Alliance, Kearney, Beatrice, Norfolk, Columbus, Nebraska City, Omaha, Bellevue, Falls City, Seward, Boys Town, York, Grand Island and Sidney. Law enforcement has supported this bill from the very beginning and continues to do so. Just to answer...and also I've handed out, or you should have in front of you, statistics from states that do have actual waiting periods much longer than what we're proposing in this bill and you can see from those, that handout that the checks do work. And I've said over and over again the checking for felons does work in Omaha and it is something that law enforcement wants to do. Checking is something that law enforcement does all the time. They check when they stop someone for speeding. They check when they stop someone for anything. They are used to doing that. Law enforcement does not believe that there will be an additional cost involved. It will not result in the necessity of increasing the number of police officers. There is no evidence to that effect. The argument just does not have evidence to support it. Senator Hefner talked about the fact that automobiles kill people, and clearly, they do kill people. We register and license automobiles or regulate automobiles probably more than any other instrumentality in our lives. They mentioned animals. We have a law on the books in Nebraska which requires the registration of animal tranquilizer guns. That law is on the books now. So I think that...and we also have rules and regulations about the size of knives that can be carried in the State of Nebraska. I think what this really comes down to is a decision by you, if you accept the fairly well-spread belief around this country that we need reasonable registration, reasonable restrictions on the purchase of firearms, whether or not this is reasonable. And I think that we have attempted to show and I believe we have shown, one, that there is a problem. It has been identified over and over again in Nebraska. We've come up with a solution that no other state has. This is not a solution that has been dropped upon us by Washington, nor...it is a solution that is a purely Nebraska solution. I believe it is eminently reasonable. We've made, at least from my standpoint from where I started on this bill, made significant concessions in this bill I think to accommodate the individuals who are...buy and sell guns in the normal course. I think we've done a good job here. I think that especially Senator Chizek in his effort and his committee has done an excellent job in

working on this amendment. I think I have said pretty much all I can say on it. I appreciate your patience. I know Senator Schimek would like to say a few more words and I would like to give her the remainder of my time. Thank you.

PRESIDENT: Thank you. The question is the advancement of the bill...excuse me, I wasn't listening. Senator Schimek, I'm sorry.

SENATOR SCHIMEK: Thank you, Mr. President and members of the body, thank you, Senator Ashford, I really would just like to wrap up my thoughts. I guess what I was trying to convey to you is that we do have a lot of waiting periods in our lives. I don't see how a two-day waiting period can really affect, seriously impact on anybody's rights. It may not be a panacea, it may not prevent everything that we want it to prevent, but if it can even save one or two or three lives, I think that that waiting period would be worthwhile. Law enforcement says it would work. I'd like to give it a try, I'd like to give them a try to make it work. Thank you, Mr. President.

PRESIDENT: Thank you. The question is the advancement of the bill. All those in favor vote aye, opposed nay. Senator Ashford.

SENATOR ASHFORD: I'd ask for a call of the house and a roll call vote.

PRESIDENT: And a roll call vote.

SENATOR ASHFORD: Regular order.

PRESIDENT: Okay. The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 1 nay, Mr. President, to go under call.

PRESIDENT: The house is under call. Will you please record your presence. Those not in the Chamber, please return to the Chamber so that we may vote. We're looking for Senator Abboud, Senator Baack, Senator Hannibal, Senator Labedz, Senator McFarland, Senator Nelson and Senator Schmit, and Senator Rod Johnson. We're looking for Senator Schmit and Senator McFarland. We're all here now if you will take your seats,

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please. We're having a roll call vote on the advancement of the bill. If you'd hold it down so the Clerk can hear your response, please, we'd appreciate it. Mr. Clerk.

CLERK: (Read roll call vote. See page 1284 of the Legislative Journal.) 21 ayes, 21 nays, Mr. President, on the advancement of the bill.

PRESIDENT: The bill fails to advance. Anything for the record at this time, Mr. Clerk?

CLERK: I do, Mr. President.

PRESIDENT: The call is raised.

CLERK: Mr. President, new resolution by Senator Robak. (Read brief description of LR 277. See page 1285 of the Legislative Journal.) That will be laid over.

Amendments to be printed to LB 1031 by Senator Chambers. (See page 1285 of the Legislative Journal.) Senator McFarland to LR 239 and Senator McFarland to LB 1059, Mr. President. (See pages 1285-88 of the Legislative Journal.) That's all that I have.

PRESIDENT: Thank you. We'll move on to LB 843.

CLERK: Mr. President, 843 was a bill originally introduced by Senator Baack. (Read title.) The bill was introduced on January 3 of this year, Mr. President, at that time referred to the Education Committee. The bill was advanced to General File. I do have committee amendments pending by the Education Committee.

PRESIDENT: Move on to LB 843, please. Senator Withem, are you handling the committee amendments?

SENATOR WITHEM: Yes, I will, Mr. President. LB 843 is a bill brought to us by Senator Baack. It deals with some of the things we learned last summer when we did the study on the impacts of the enrollment option legislation that was passed last year. If you remember LB 183 that we passed last year, made Nebraska one of four states to pass the choice legislation. Part of that legislation involved a study that the Education Committee was to conduct. Primarily under the leadership of

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LB 164, 164A, 259A, 260, 260A, 313, 313A
348, 542, 594, 642, 678, 843A, 855
855A, 953, 953A, 965, 980, 980A, 1032
1136, 1236
LR 239

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of 843A.

SPEAKER BARRETT: LB 843A is advanced. Have you matters for the record, Mr. Clerk?

CLERK: I do, Mr. President. Amendments to be printed to LB 1136 by Senator Landis. (See page 1289 of the Legislative Journal.)

Your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 164 and find the same correctly engrossed; LB 164A, LB 259A, LB 260, LB 260A, LB 313, LB 313A, LB 348, LB 542, LB 594, LB 678, LB 855, LB 855A, LB 953, LB 953A, LB 965, LB 980, LB 980A, LB 1032 and LB 1236, all of those reported correctly engrossed. (See pages 1289-92 of the Legislative Journal.)

I have an explanation of vote from Senator Barrett, Mr. President. (See page 1292 of the Legislative Journal regarding LB 642.)

That's all that I have.

SPEAKER BARRETT: Thank you. The Chair is pleased to note that Senator Ashford had some fourth graders from Christ the King School in Omaha, District 6, with their teacher. Are you folks still with us in the south balcony? Apparently they have just left. Mr. Clerk, LR 239CA.

CLERK: Mr. President, LR 239CA was a resolution introduced by Senators Withem, Warner, Lindsay, Barrett and Weihing. It proposes an amendment to Article VII, Sections 10 and 13 of the Nebraska Constitution as well as Article XIII, Section 1. The resolution was introduced on January 16 of this year. At that time, Mr. President, it was referred to the Education Committee for public hearing. The resolution was advanced to General File. I do have Education Committee amendments pending.

SPEAKER BARRETT: The Chair recognizes the Chairman of the Education Committee, Senator Withem.

SENATOR WITHEM: Yes, Mr. Speaker, members of the body, this is the time of year when you would rather not have your personal

March 12, 1990

LB 642, 953, 1059, 1141
LR 258, 278

would see it in that manner. So, for that reason, I would agree. I hope you suspend the rules and require that a hearing not be held. And maybe this matter can be considered next year in the Legislature.

SPEAKER BARRETT: Anyone else care to speak to the motion? If not, Senator Baack, anything else? Thank you. The question is the suspension of the rules. Those in favor vote aye, opposed nay. Record, please.

CLERK: 33 ayes, 0 nays, Mr. President, to suspend the notice of hearing rule and cancel the public hearing on LR 258.

SPEAKER BARRETT: Motion prevails, rules are suspended. Thank you. Mr. Clerk, have you something for the record?

CLERK: Mr. President, items for the record. A new resolution, LR 278, asking that the Legislature congratulate Ronald Roskens for his selection to head Service Director of the Agency for International Development. That will be laid over. (See page 1302 of the Legislative Journal.)

Education/Appropriations gives notice of public hearing. Amendments to be printed to LB 1059 by Senator Hall and Senator Smith; Senator Haberman to LB 953 and to LB 642; and Senator Crosby to LB 1141. That's all that I have, Mr. President. (See pages 1303-05 of the Legislative Journal.)

SPEAKER BARRETT: Thank you, Mr. Clerk. We have a priority motion?

CLERK: Mr. President, Senator McFarland would move to recess until 1:30 p.m. this afternoon.

SPEAKER BARRETT: You've heard the motion to recess until one-thirty. All in favor say aye. Opposed no. Ayes have it, motion carried, we are recessed.

RECESS

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Record, Mr. Clerk.

length, I'm sure, before we're all done with this process. The final agency that I need to talk about is Correctional Services, the prison system, and you are all aware of the major increases in population we've had in our penal institutions and our criminal justice system in general with probation as well as parole besides incarcerations and the Governor's bill has made some significant increases in the staffing amounts for all of our penal complexes and the committee's amendment basically agreed with all of those staffing amounts with a couple of exceptions, and actually the committee amendments are reducing the amounts of the Governor's bill to try to account, again, for using the least amount of dollars and try to get the necessary job done. There were some estimates of client counts that we think that might be a little more than necessary in the Governor's bill and we've cut that back down. There was some fund balances in the Department of Correctional Services' budget that we tried to use as opposed to increasing General Funds, so all in all, with the staffing requirements for drug treatment, for medical staffing, for guards and personnel throughout the system, we basically agree with LB 1031, the Governor's bill, with the exception that we tried to maximize some Cash Funds and tried to cut down on a couple of estimated numbers to try to keep our funding cost down as low as we possibly can. Finally, the Governor's bill does have a significant increase in capital construction that deals with three new housing facilities, one in Omaha and two in Lincoln, that the committee has gone along with and recognize we're making no changes to that, but it will add about 430 new beds when it's all said and done to mostly our minimum security prison system and you, I'm sure, are aware that their populations are such that this is a sorely needed thing and the committee agreed with the Governor's bill and we are not making any changes in that. I believe that that covers at least the highlights and again I'm sure we'll be talking about correctional services so, with that, I would suggest that completes my presentation and I turn it back to Senator Warner, I believe.

PRESIDENT: Okay, Mr. Clerk, do you have something for the good of the cause while we're stopped here?

CLERK: Mr. President, I have items for the record, if I may. Explanation of vote from Senator Byars. (Re: LB 642. See page 1306 of the Legislative Journal.)

Communication from the Governor to the Clerk. (Read

March 22, 1990

LB 338, 642, 931
LR 383

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Were there no E & R amendments? Mr. President, I move that LB 931 be advanced to E & R for Engrossing.

SPEAKER BARRETT: There are E & R.

SENATOR LINDSAY: There are E & R. I move the adoption of the E & R amendments.

SPEAKER BARRETT: Are you certain?

SENATOR LINDSAY: I think that will be the motion.

SPEAKER BARRETT: Thank you. Any discussion? Shall the E & R amendments be adopted? All in favor say aye. Opposed no. Carried. They are adopted.

ASSISTANT CLERK: Mr. President, I have nothing further on the bill.

SPEAKER BARRETT: Any discussion on the advancement of the bill? Shall LB 931 be advanced? All in favor say aye. Opposed no. Carried. The bill is advanced. Mr. Clerk, have you items for the record?

ASSISTANT CLERK: Yes, I do, Mr. President, three items. I have amendments to LB 338 to be printed in the Journal. (See pages 1591-94 of the Legislative Journal.)

Explanation of vote from Senator Scofield. (See page 1594 regarding LB 642.) And a request from Senator Labeledz to add her name as co-introducer to LR 383.

SPEAKER BARRETT: Thank you. Before asking Senator Morrissey to adjourn us, I want to take a moment to thank you very much for two very good days' work. Most appreciative. I hope we can come back Tuesday and start where we left off today. Thank you very much, it's appreciated. Senator Morrissey.

SENATOR MORRISSEY: Yes, Mr. Speaker, members, I move we adjourn until Tuesday, March 27, at 9:00 a.m.

March 30, 1990

LB 642, 688, 1018

ridiculous. And if that continues, absolutely, I would continue doing that which I am now, and it is. We have got the motion before us on the amendment, and two motions to suspend the rules and move it right on to Final Reading, and no debate, no amendments. We are just going to do that. It works in a lot of countries. It sometimes may even work in the United States but it will not work here while I am here, if I can help it. It will not.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: One minute.

SENATOR BERNARD-STEVENS: Senator Chambers is against the bill in any way, any form. I am not. Senator Ashford did ask for at least a minute and I will abide by that and give the last minute to Senator Ashford.

SPEAKER BARRETT: Senator Ashford.

SENATOR ASHFORD: Thank you. This is for my good friend Senator Conway and others, who have been receiving calls from the NRA, to the effect that I am going to put the gun bill on, what is it, LB 1018, the drive-by shooting bill. I want to tell you and everyone in the press here that LB 642 is not going on it, and Senator Beyer and all the others that have been involved in this issue this week, that LB 642 is not going on the drive-by shooting bill. It may go on this bill, though, sometime around eleven-thirty this evening. No, in any event, it is...so we all know, so you won't get any more calls, and so Mr. Overstreet or whatever his name is from the NRA won't call anybody else, that bill is not going on the drive-by shooting bill. Thank you very much.

SPEAKER BARRETT: Thank you. Senator Nelson, further discussion?

SENATOR NELSON: I am sure glad we got that settled because I heard from my husband and he also was getting them, and kind of laughed about it, and so on. I am glad that Senator Lindsay came back to the floor again. I have a question to ask him.

SPEAKER BARRETT: Senator Lindsay, would you respond.

SENATOR NELSON: Senator Lindsay, do you feel that LB 688 is not

SPEAKER BARRETT: I'm sorry. Senator Lynch. Senator Schmit, please.

SENATOR SCHMIT: I ask you not to vote to support the reconsideration.

SPEAKER BARRETT: Thank you. Any other discussion? Senator Chambers, anything further?

SENATOR CHAMBERS: Mr. Chairman, excuse me, Mr. Chairman and members of the Legislature, I finally found out where Senator Bernard-Stevens is on this issue. He is, indeed, pro-life. I had thought all this time that, you know, he was, he had...he was in favor of a woman's right to choose, but on this vote I finally see where he stands. So, that's why I wanted to have another vote, so that I can see for sure and I'll know. And I'm going to ask for a roll call vote on this reconsideration motion.

SPEAKER BARRETT: Thank you. A roll call vote has been requested on the motion. Members, please return to your seats for roll call vote. While we're waiting, Senator Dennis Byars has some guests under our north balcony. Vern and Fern Shamburg from Fairbury are with us this morning. Would you folks stand, please, and be recognized. Thank you, we're pleased to have you. Members, please return to your seats. Mr. Clerk, on the roll call vote.

CLERK: (Roll call vote taken. See pages 1820-21 of the Legislative Journal.) 11 ayes, 34 nays, Mr. President, on the motion to reconsider.

SPEAKER BARRETT: Motion fails. Mr. Clerk, the item, please.

CLERK: Mr. President, I now have a motion from Senator Chambers to overrule the Speaker's agenda to permit a motion to suspend the rules to consider the advancement of LB 642 to Select File.

SPEAKER BARRETT: Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Yes, Mr. Chairman and members of the Legislature, what is sauce for the goose is sauce for the gander. And I have some more of these motions that I'm going to offer when we get back to General File, this afternoon, because if those other bills went, the same rationale for sending them

will apply to these other bills, too. LB 642, for those of you who may not know it, is a bill that would require a waiting period before the purchase of certain firearms. This issue is one that has been discussed as heatedly, if not for as long a time, as the abortion bill. And, in fact, there has been more direct involvement, by those who are concerned about this issue, than on the abortion bill in an organized manner. The National Rifle Association, nationally, regionally, statewide and locally has been as busy as a little beaver trying to make sure that this bill not see the light of day. I'm offering this motion because the pattern has been set by a vote by the Legislature which we just took. We've established that that is an acceptable way to legislate. We have accepted the idea that a senator's priority bill should be given consideration. Since this is the last day for General File, this bill ought to move to Select. It happens not to have been on that list. So, what I'm doing is seeking support in overruling the Speaker's agenda, in order that this bill will have the opportunity to move as the other nine did. The first vote that would have to be taken is to overrule the agenda so that the motion to suspend the rules can be considered. At that time the same rules that were suspended to allow the mass migration of those nine bills would be suspended to allow this straggler to be given the same consideration. I received, not too long ago, an item that either dealt with geese or ducks. And it... (laughter). Anyway, they fly in a V, they fly a V formation. Somebody explained in this item the aerodynamics involved, as well as the cooperation among these ducks or whichever the case might be. They said that as the bird in front would flap its wings it would create a slight updraft which would give lift to the two birds behind, and they would pass this on to those behind them. And when it seemed that the formation was slowing down then the ones behind... it must have been geese because it said they would honk rather than quack. So the geese would make noise to spur that one in front to fly faster and keep pace. When the one in front grew weary, it would fall back into the further reaches of the formation and allow another to be in front as point bird. Then the one that had been flying in the front will get the benefit of the uplift from the one flying in front of it. If one of the birds was unfortunate enough to be shot by one of those people who would be in opposition to LB 642, it would be accompanied to the ground by two of its fellows who would stay with that bird until it either recovered sufficiently to fly, or until it died. If it recovered, and the original formation had gone too far for them to catch, they would join another formation. So, look at

LB 642 as one of those that had the misfortune to be shot by the hunters. It fell out of the formation. And when this new formation was constructed for movement this morning, LB 642 had been left in the lurch. Senator Ashford and I, although not geese, are the two who are trying to rescue this straggler, move it along with the other geese and try to have justice done as far as the treatment of these bills. I'm appealing to justice, fairness and equitable treatment. And I'm basing the appeal on what has been done by the Legislature already, Senator Tim Hall. I'm hoping that I can get enough support to move this bill in this fashion. I know it's a controversial bill, but then so are some of the others that were moved this morning. So the fact that it's controversial cannot be a basis to vote against it. I know there is opposition of an organized variety against it. But there has been organized opposition against some of the other bills that were moved. So, why did it not move with the others, simply because it was not on the agenda this morning. Our responsibility when we're confronted with or in the presence of a patent injustice is to correct it. And that's what I'm giving us the opportunity to do. I hope that you will vote in favor of this motion to overrule the Speaker's agenda. One thing that I will not do on this motion or the others of its ilk is to compare this motion to the one being made on Final Reading. I don't have to go that far to try to make the point that's of concern to me. One of those other bills that went with the big nine has caused people to distort rules, to misstate things, to fly a false flag, to lash out at people who have not merited that. But I won't do that to try to persuade you to help this motion to prevail. I believe there is enough merit in the motion itself, there is enough justification from what we've done already to see that this motion obtains enough support to allow us a vote on suspending the rules to move LB 642 from General File without further amendment or debate.

SPEAKER BARRETT: Thank you. Senator Lynch is announcing some guests in our south balcony. We have 44 fourth graders from Wakonda in Omaha with their teacher. Would you folks please stand and be recognized. Thank you, we're glad to have you. Mr. Clerk, you have a motion on the desk.

CLERK: Mr. President, Senator Bernard-Stevens would move to recess until 1:30 p.m. this afternoon.

SPEAKER BARRETT: A motion to recess until one-thirty. Mr. Clerk, have you anything for the record?

April 3, 1990

LB 42, 42A, 642, 656, 799, 866, 880
880A, 953A, 1004, 1004A, 1019, 1019A, 1059
1059A, 1064, 1064A, 1080, 1080A, 1113, 1113A
1136, 1146, 1184, 1184A, 1222A
LR 418

CLERK: (Read LB 1222A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is shall LB 1222A pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on page 1847 of Legislative Journal.) 44 ayes, 0 nays, 2 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 1222A passes. Do you have something for the record, Mr. Clerk?

CLERK: Mr. President, I do, a new resolution by the Judiciary Committee, (LR 418.) a study resolution. Enrollment and Review reports LB 1064 and LB 1064A as correctly engrossed, both signed by Senator Lindsay as Chair; and LB 1059 and LB 1059A is correctly enrolled. Enrollment and Review reports LB 1113 and LB 1113A to Select File, signed by Senator Lindsay. Amendments to be printed by Senator Hartnett to LB 953A, Senator Hall to LB 866. And, Mr. President, a confirmation report from Transportation Committee signed by Senator Lamb as Chair. That's all that I have, Mr. President. (See pages 1847-52 of the Legislative Journal.)

PRESIDENT: While the Legislature is in session, capable of transacting business, I propose to sign and do sign LB 880, LB 880A, LB 1004, LB 1004A, LB 1080, LB 1080A, LB 1184, LB 1184A, LB 656, LB 1146, LB 42, LB 42A, LB 799, LB 1019, LB 1019A, LB 1059A, LB 1059, LB 1136, LB 1122, correction, LB 1222, and LB 1222A. We're ready to go. Mr. Clerk, do you have something on the desk?

CLERK: Mr. President, motion pending from this morning was one offered by Senator Chambers and that motion was to overrule or change the Speaker's agenda to permit consideration of a suspension motion relating to LB 642.

PRESIDENT: (Gavel). Could we have your attention so we can hear the speaker? Senator Chambers, please.

SENATOR CHAMBERS: Thank you. Mr. Chairman and members of the Legislature, this is a continuation from what I was attempting

to do this morning at the time we recessed and the motion that you see before you is to change the Speaker's agenda in order that we can get to a suspension of the rules motion that I have. That suspension of the rules would be designed to allow LB 642 to move to Select File without debate or amendment as those other bills did this morning as a group. I think it would be fair to do this and I think it's appropriate. I recognize the fact that we're into the last days of the session as we all do. But this is a bill that does have considerable merit. It has generated a great amount of interest. There are various groups both private and official who have supported this bill, not just the concept of it, but the bill itself. It is an unusual combination to find many law enforcement agencies and myself walking the same path, going the same direction for the purpose of achieving the same goal. This is something that society is interested in. We all know that there have been serious problems with the proliferation of gun ownership. I saw what I think was designed to be a clever little comment in the paper about people banning lethal gasoline because gasoline was the accelerant used to start a fire in New York City. The two situations are not the same. The proper use of gasoline is fuel. The purpose for inventing guns was to kill. Guns were not invented for target practice unless the target were a moving target on two legs at the bottom of which legs were feet encased in shoe leather most of the time, Senator Hall. So the purpose and function of handguns was to kill. The use of handguns in this country to a great extent is to kill. The number of homicides and shootings in America...one American city outnumber all of those in the whole city, the whole country of England. Many people say that if you adopt a bill such as this which requires a brief waiting period that signals the first step toward the taking of all guns. That is not true. In Omaha they have had legislation by way of a city ordinance which requires a check of some kind before you can get a pistol. The police are involved in the process. And there has not been the taking or confiscating of all the guns of people whose weapons are registered. All handguns are required to be registered in Omaha. Now if you look at the statistics relative to the improper use of firearms, you will see that where murders are committed, not just with firearms, the majority are committed against family members and close friends. The vast majority are committed by people who prior to the use of the firearm were not criminals. They became criminals as a result of the use of the gun. So if you wanted to accept the scenario that the NRA paints and say that all guns are to be taken, then you would cut

the murder rate by more than 50 percent. You would cut the number of accidents, accidental shootings, purportedly accidental shootings, by more than 50 percent. And if that occurred, then it would be a situation where, oh, if you took away all guns then you wouldn't have any accidental shootings, none whatsoever. I was thinking about those between strangers, but you wouldn't have any. So that in itself would be an argument in favor of taking all firearms. But that is never going to happen. You can look at a different argument which is not given by anybody and that is the argument that a felon should not automatically be prohibited from owning a firearm. Even if a person has been convicted of a felony, if somebody has been convicted of a felony involving a violent crime, that person still is entitled to exercise the right of self-defense. Since the use of guns and defending one's self or others is considered a right protected by the Constitution and recognized by the laws and the courts, then a felon should not be denied the use of any legal means to defend himself or herself. So the kinds of arguments that are given throughout the discussion of the issue of firearm regulation are not well thought out. They are emotional, they skim the surface, and they don't get to the real problems. Now there are people in this Legislature and probably Legislatures throughout the country who would look at a fellow like Oliver North and say, oh, Ollie certainly ought to have the right to own a firearm or two, short guns, pistols. I read this morning where he and that other criminal have gone into the bullet proof vest business and now they are going to make a living. And Ollie said he wears his bullet proof vest all the time and the comfort is amazing. It's light weight, gives you the best protection imaginable. So if you wear one of his vests then you're safe from all those people toting the guns that he feels ought to have the right to tote the guns. And the NRA I'm sure would say Ollie should have the right to tote a gun. So should G. Gordon Liddy and all those Watergaters. So what they do is look at the individual who is the felon and the type of felony committed and make a determination that after all not all felons should be denied the right to own and use firearms. Either all felons should not use them or all felons should be allowed to use them. The mere fact that a person is a felon is no indication that he or she is violent. If they were going to restrict the ownership of guns based on the commission of a crime to a crime that involved a firearm, that is one thing. But to just say for public relations purposes that anybody convicted of a felony should not be allowed to own a pistol doesn't make sense at all if you're going to adopt the

attitude that pistols are legitimate pieces of property that the citizens should be allowed to own and make use of as they see fit. Writing a bad check can rise to the level of a felony, and the person writing the bad check may be as timid as Mr. Peepers. If a person were to break a window out of a house, maybe the house of an ex-lover, the house of a neighbor with whom he or she is having an argument, if the value of that window was sufficiently high, it could rise to the level of a felony. And there is no violence involved. Nobody was hurt, no attempt to hurt anybody. So what needs to be done with this entire issue is to have a reasoned, intelligent...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...factual discussion so that all of these buzz words, all of the attempts to intimidate and terrify people can be eliminated from the discussion. One of the major arguments the NRA used to offer, has been taken away, when the Berlin Wall came down it's more difficult for them to say that Russia is going to come over here and invade America and people need their pistols, their Saturday Night Specials, to fight them off. I think that LB 642 is entitled to the same treatment that those other nine bills were given this morning. So the first and preliminary motion is to change the Speaker's agenda in order that we can get to the rules suspension motion.

PRESIDENT: Thank you. May I introduce a couple of guests of Senator Korshoj under the south balcony. He has his niece Kris Maggiore and her daughter Kelli Maggiore. Would you folks please stand and be recognized? Senator Beyer, you stood in the way and we couldn't see them. Thank you. Thank you, ladies, for visiting us today. Senator Ashford, please, followed by Senator Hefner.

SENATOR ASHFORD: Thank you, Mr. President and members. First of all, I appreciate Senator Chambers' remarks and I appreciate his consistent support of this legislation and other legislation in this area. It's hard for me to understand how someone can be pro life and support waiting periods in abortion cases and not support a short waiting period in...for the purchase of a handgun. It's just some day someone can explain that to me and I'd love to hear the explanation and the logic behind it. The facts are that, as I've said over and over again, that we have individuals and taking aside just for a moment the issue of felons that Senator Chambers addressed and talk about people who

are not felons, people who for one reason or another are very troubled, similar in some respects to the abortion situation, people who are troubled because of problems in their family or problems in their jobs who out of...in the depths of depression find no other way out other than to commit some kind of act upon themselves and the facts or statistics indicate overwhelmingly that the weapon of choice in those kinds of situations are guns and specifically handguns. It's amazing to me when faced with the statistics that we have in Nebraska that we would ignore them and simply say that because of some rights out there that are somewhat debatable anyway that we are going to, as a state, ignore the fact that there are people out there that need our help, there are people out there who need to have that time before they go in and purchase a gun and do harm to themselves or others. It's happened 11 times in Lincoln in the last couple of years, identifiable, documented cases of individuals who did harm to themselves or others within a very short period of time after going into a gun store and purchasing a gun. And I've been told over and over again that these things don't work, Senator Hefner, I don't know how many times he's said it, these laws don't do any good; and he didn't give me any statistics to rebut what I've said that there are cases in Omaha, there are cases in North Platte, there are cases in Grand Island and cases in Lincoln where people have easy access, who have easy access to firearms do harm to themselves, to family members, to friends, to neighbors. If they had only had a period of time to reflect upon that decision, to be informed as to what they were doing and to think about what they were doing, maybe not in all cases, but in an awful lot of the cases I would submit to you if you use common sense you would come to that conclusion that those individuals would maybe not do harm to themselves and others, that people would be alive today if we had some sort of basic rational policy in force so that individuals would not be able to go in and buy a handgun like they can a toothbrush or a magazine, that they would simply have to wait in this case under LB 642...under LB 642 now at max 48 hours and it could be much, much, a much, much shorter period of time. And I would agree with Senator Hefner I guess if we were talking about bans on firearms, if we were talking about restricting the use of firearms...

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: One minute.

SENATOR ASHFORD: ...I could understand his argument. But the argument that one law means that there's going to be 20 more laws next year just doesn't wash in this kind of body, it doesn't happen and we all know that. Finally, let me just say this. I'm not going to vote to suspend the rules. I believe that we've had a hearing on this bill. I commend Senator Chambers, though, for bringing it up again; but I'm not going to vote to suspend the rules and I advise those who support the bill not to vote to suspend the rules because we're going to be back next year with another bill. We're going to debate this fully next year, have another opportunity to look at these things. I'm going to talk to both parties over the summer to see if there are ways we can work this out. So I'm not going to vote to suspend the rules today. We've had debate on this and I respect the body's wishes in that regard and hopefully we can just go ahead and not vote to suspend the rules and go on about our agenda. But I guess for the life of me I'll never understand...

SPEAKER BARRETT: Time.

SENATOR ASHFORD: Why such a simple measure that all it does is save lives without taking rights away from individuals for the life of me I'll never understand why we could not easily adopt legislation like this. But with that I would urge the supporters of this bill not to suspend the rules and let's get on with our agenda. Thank you.

SPEAKER BARRETT: Additional conversation and discussion? Senator Hefner followed by Senators Wesely and Chambers.

SENATOR HEFNER: Mr. President and members of the Legislature, I rise to...I rise to oppose suspending the rules so that we can take up this gun control measure. Senator Chambers, there's been two votes on it. That's the difference between this bill, LB 642, and the nine that we advanced this morning. That's the difference. You've had two votes. That's a lot more than you've given us on the abortion bills. And I don't think that's fair. At least we should be able to vote on the abortion bills. We've had two votes on the gun control bills. You've had your chance to get the necessary votes to advance it. I appreciate Senator Ashford's words that advise the body not to vote to suspend the rules. I think this is the right way to go. Senator Chambers said guns were invented to kill. Senator Chambers, guns were also invented to protect people; and that's

what we're asking here. We want to keep that right so that we have some means of protection and I think we need to keep it. Look at what's happened in Omaha. Omaha has a very restrictive gun control. They have gun control laws running out of their ears and yet what do we read? There's a homicide in Omaha nearly every day, sometimes more than one. How about Washington, D.C.? What happened there? And they have gun control laws running out of their ears. The homicide rates, the crime rates in these two cities are terrible. But if we allow this legislation to be passed, we're letting them get a foot in the door, and I don't think that's necessary. Again, the abortion bills haven't had a vote, radioactive waste site bills haven't had a vote this session, and there's others, too, that hasn't had a vote. Senator Lamb's got a bill that hasn't had a vote on it. I still think we ought to have an alternative. But, ladies and gentlemen, we can't protect everybody. We can't protect everybody. How about automobiles? They kill. Would you want us to take automobiles away from you? Would we want to restrict the use of automobiles? I don't think so. How about gasoline? We read where gasoline killed 78 or 80 people just the other day. Do we want to restrict that? I don't think we do. How about ropes that people hang themselves with? Do we want to restrict those? I don't think we do, at least not in the rural areas because we use a lot of ropes for other purposes than hanging yourself. So I would say this is a gun control overrule motion to suspend the rules, and I would urge you to vote against it.

SPEAKER BARRETT: Thank you. Senator Wesely.

SENATOR WESELY: Thank you, Mr. Speaker, members. I was going to call the question but in deference to Senator Chambers and Senator Ashford after Senator Hefner speak, I think it needs some response and I'm only going to take a second to say I think you're wrong, Senator Hefner, and I understand what you just said. I think a lot of folks have written and called that have the same viewpoint and, you know, I understand that viewpoint. But I think there's another viewpoint that says we have too much death and dying that guns are part of the problem and they're not obviously always used in the way in which we are talking about here that individuals are using guns for perfectly legitimate purposes for the vast majority of individuals for hunting, for self-protection. I think those are all legitimate uses. But we're also finding that there are uses and those occasions where guns are used and people are killed, harmed by

the use of them or we'd like to try and put an end to that if at all possible. And to do that we're suggesting that there be a waiting period, that there be a check on these individuals; and that certainly the other side of the argument is that we don't want felons and we don't want mentally ill individuals dangerous to themselves and others in possession of handguns. I think that's the argument that the opposition to this bill have that they seem to be suggesting that it's okay and not a problem to not make people wait. If they're in a heat of passion wanting to hurt somebody with a gun, want a gun immediately, they don't seem to worry about that situation, have nothing to propose in that area or if somebody's a felon or is mentally deranged they ought not to be checked to make sure that they are capable and fit to handle the purchase of a gun. And so I think the other side of the coin, Senator Hefner, doesn't make any sense to me that you would take that position or any other individual. I'm not picking on you. And so it just seems logical and makes sense to me to pursue this issue, but the votes were not there before and I don't anticipate they'll be here today. But I do hope in time we will recognize the validity of this issue that overwhelmingly eighty some percent of Nebraskans support this, and I hope we could in time, not this year but maybe some year, be able to pursue this issue and see that something is done about this problem. With that I give the rest of my time to Senator Chambers if he wants it or I guess he's up next so I'll just end on that.

SPEAKER BARRETT: Thank you. Senator Chambers followed by Senator Ashford.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, Senator Hefner made the kind of comments that you run up against on the part of opponents to legislation such as this. There's no way you can compare a rope to what a pistol does or gasoline. Those things have entirely different purposes, and I'm sure if I was angry at Senator Hefner, angry enough to do something to him and I'm over here and he's over there, he'd rather that I have a piece of rope in my hand than a pistol. We all know the obvious difference between these types of items, and when those kinds of arguments of the sort Senator Hefner gave are the best that they can muster, it demonstrates that either they're not prepared to deal with the facts or they don't know what the facts are. There have not been, Senator Hefner, a homicide a day in Omaha. There were fifty something in the whole state last year, the whole year. So when those kind of exaggerations are made, it

doesn't lend anything to the discussion, it does not advance your cause and it could give the impression that other statements you make are consisting of exaggerations, too. There have been some polls and I know the results of them will not make any difference, but just for the record and I'm sure they've been mentioned, a recent Omaha World-Herald poll had 78 percent of the people polled in support of a waiting period if we're going to make this a popularity type thing rather than a decision that the Legislature should make in formulating policy. The Lincoln Star had a poll which said not 78 percent but 87 percent support a seven-day waiting period. This bill only calls for two. If we go to another issue that has been plaguing this Legislature, a poll in Iowa indicated that 65 percent of the people do not want any additional restrictive abortion laws. So when the people in polls take a position that Senator Hefner does not like, he disregards the polls, they don't have any validity, they're not significant and should be disregarded. But if he could scrape up a poll somewhere that went along with one of his positions, then suddenly the people know more than anybody else and the polls ought to be adhered to. Frankly, I don't think the polls ought to determine what we do in the Legislature. I know they're often used, but what we need to do as a deliberative body is consider first of all whether there is a problem that is to be addressed. Then if there is, are we addressing it in an effective way or in as effective a way as is available for us in a legislative body? There is a problem with handguns. There are many homicides, many accidents, many suicides that would not occur if handguns were restricted. It is clear to all of us from our own experience that if somebody in the heat of anger is allowed to do what he or she feels like doing, either that person or somebody else can be seriously hurt or even killed. If there is the opportunity so to speak to step back, take a deep breath, simmer down, then a lot of times troubled waters can smooth and there will not be any harm to anybody. So rather than have these weapons of death, these instruments of death, so readily available, easily obtainable in a legal fashion, is a mistake. When a society would pride itself on being civilized...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...and educated, concerned about the welfare of its citizens, a logical step in that direction would be to have some regulation of these instruments that cause so much death and destruction. LB 642, Senator Hefner, is a reasonable

and tiny step in the right direction. I'm aware of the things that the NRA has said, the things that they continue to say. I've seen their advertisements in the little paper that is put out by the Council of State Legislatures or whatever it's called. There are full-page ads they'll take out in the World-Herald and other newspapers in this state and other states when legislation of this kind is being considered. And they try to frighten people, they resort to half truths and misstatements. When you have the chiefs of police of a number of cities, sheriffs, line officers...

SPEAKER BARRETT: Time.

SENATOR CHAMBERS: ...in favor of this, then it is an argument in favor of accepting it.

SPEAKER BARRETT: Senator Ashford.

SENATOR ASHFORD: Senator Hefner, would you mind answering some questions for me because I have just got to understand what you're saying here. I for the life of me don't. First of all, what rights, first of all let's identify the rights that you say we're taking away by having a waiting period of less than 48 hours to purchase a handgun. What specific rights, all be them, let's say they're constitutional rights, what constitutional rights are we taking away by having that kind of law on the books?

SENATOR HEFNER: I didn't say that we were taking away a constitutional right.

SENATOR ASHFORD: Okay, what sort of rights...

SENATOR HEFNER: I just said that we were taking away the right to bear arms.

SENATOR ASHFORD: Well, where does that right come from?

SENATOR HEFNER: Well, we just passed a constitutional amendment a year ago or maybe it was two years ago.

SENATOR ASHFORD: So that would be a constitutional right that would emanate from that constitutional provision, is that what you're saying?

SENATOR HEFNER: Yes. I think a waiting period is a restriction on a person right, on a person's right.

SENATOR ASHFORD: And that that right then, what you would be saying is that that right under that analogy, just so I understand it, that right or that is...would be an unlimited right then, it would be a right...the right to bear arms is unlimited. Everybody should be able to bear arms when they want to at any time. Is that basically your feeling or?

SENATOR HEFNER: I believe...I believe you could say that, yes.

SENATOR ASHFORD: I think that, I appreciate Senator Hefner's candor. I would suggest that and if that's his belief and it obviously is, then I respect him for being straightforward with it. I don't believe that that is the view of 90 percent of Nebraskans who have said to us in many, many different ways that, yes, the right to bear arms, the right to be able to hunt and to have target practice and to have guns for the protection of home and body are rights that we have guaranteed under the Nebraska constitutional amendment. But every judicial interpretation of those kinds of provisions across the country have said, and Nebraska courts as well have said, the Supreme Court in three different opinions now that those constitutional rights can be restricted by reasonable exercise of police power. And as Senator Chambers rightly said, when we're considering legislation and the merits of legislation, the first thing that we should do or should be required to do is identify the problem. Is there a problem? And Senator Hefner suggested that in Omaha we have a lot of homicides and we do have homicides in Omaha and it's extremely regrettable that we do. And the reasons for those homicides are varied. And if we analyze each one of them I'm sure that each one of them is tragic and each one of them has reasons for them which are grounded in tragic circumstances. I believe in Nebraska last year there were 58 homicides. And of those homicides, twenty some were...27 or 28 and I don't have my file here so I can't give you the exact numbers, were crimes of passion that were not committed by criminals in the act of committing another crime like a robbery or a drug deal of some kind. Those are the deaths or the homicides in our society which I'm concerned about whether they happen in Omaha or Lincoln or North Platte or Coleridge or wherever they are, they're tragic. I think that we have sort of met our burden...

SPEAKER BARRETT: One minute.

SENATOR ASHFORD: ...of proof inasmuch as we have identified through the evidence statistical information that we, like all other states in the Union, have a specific problem which is that individuals have easy access to firearms and that firearms, sure, cars kill, sure knives kill, but we all know that guns are the weapons that people use to commit these crimes. And that all we're asking of this Legislature and I know this is not going to go, I know that we have had our day and I understand all of that, but I guess I'm preparing for next year that we have...all we're asking is that some reasonable restrictions, some reasonable rules be implemented to try to address an easily identifiable problem that we have here in our state. Thank you.

SPEAKER BARRETT: Senator Schellpeper.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker and members. I rise to oppose the motion to overrule the agenda also. This issue has been discussed twice before. The votes were not there. All we're doing now is just wasting time. Fellow members, we have a lot of things to be discussed yet this year. I don't think we can be wasting time on some bills that have already been discussed twice and they did not pass. Let's move on to some bills that have a chance to pass, that are important to their sponsors and are important to the state. I think Senator Ashford is right that we need to move on to something else and I appreciate his view that we should do that. So I think rather than waste time here let's go on to something that will be worthwhile. Thank you.

SPEAKER BARRETT: Senator Chambers followed by Senator Byars.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I do know what happened this morning and what I suggested would happen this afternoon is about to happen. And Senator Hefner is going to vote to send those other nine bills right to Final Reading without a vote I mean without any amendment and without any discussion. That's what the plan was in the beginning and now the rest of it is to be hatched this afternoon. And all those who voted to overrule the agenda assisted. Those who voted to advance those nine bills assisted. And now we have the spectacle of those bills sliding right on Select File on to Final Reading without amendment and without discussion. For Senator Schellpeper to suggest that this issue is not an

important one is a mistake. It is a misperception of the seriousness of the issue that is tied up in LB 642. I'm sure that Senator Schellpeper would not say if the question was put directly to him that the number of accidents, the number of deliberate killings, and the number of accidental killings with firearms represents a problem that is not serious. He would not say that. He would say, yes, it is a serious problem. Something ought to be done about it. But I don't know whether he would have a suggestion as to what should be done so in order not to try to put words in his mouth, I would like to ask Senator Schellpeper a question if he's around. Is Senator Schellpeper here? Oh, he's not in the Chamber. He's discussing something more important than this and we know what it is. Members of the Legislature, oh, Senator Schellpeper, I was kind of stalling around until you got back. Do you agree that the number of intentional killings with firearms, the number of accidental killings with firearms and the number of injuries caused by firearms represent a serious problem in the state?

SENATOR SCHELLPEPER: Yes, I do.

SENATOR CHAMBERS: Do you feel that something should be found in the way of a remedy to that situation?

SENATOR SCHELLPEPER: I do, but the waiting period is not the right way to go.

SENATOR CHAMBERS: Let me ask you another question or two. What do you feel rather than saying this is not the way, what do you feel is the way to remedy that problem?

SENATOR SCHELLPEPER: Well, I think there are several ways that we can get at it. I think Senator Ashford is right that we need to take a look at it, come back next year with maybe a solution. We don't have time this year to work everything out, Senator Chambers. We need to move on.

SENATOR CHAMBERS: But I'm asking you do you have a suggestion as to a solution, a possible solution?

SENATOR SCHELLPEPER: Not off the top off my head, no.

SENATOR CHAMBERS: Thank you. If people have looked at this issue, hammered it out, law enforcement agencies, private groups and associations, numerous individuals across the spectrum feel

that this is a part of the solution, I don't see why we should not consider it. If the only argument against it is that time has been spent on it, then there is no argument against it. More time has been spent on the abortion matter and more will be spent today, Senator Hefner. And you're going to vote to send them on to Final Reading without amendment or debate, serious bills, controversial bills.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: Sent from General File to Final Reading without any debate. And the marching orders are being given now. What we're looking at here and by here I'm not just talking about the discussion on LB 642, is a complete perversion of the legislative process. And a majority, if you can get 30, can do it. The question is whether the 30 who remain here today will do it. But to make my remarks apply directly to what we're talking about, I hope you will give a vote to overrule the agenda then a vote to suspend the rules and put this bill on Select File.

SPEAKER BARRETT: Thank you. Senator Byars.

SENATOR BYARS: Question.

SPEAKER BARRETT: Question has been called. Do I see five hands? I do. The question is shall debate now close. All in favor vote aye, opposed nay. Voting on ceasing debate. Record please.

ASSISTANT CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Chambers, would you care to close on your motion to change the Speaker's order?

SENATOR CHAMBERS: Mr. Chairman, I'm going to give Senator Ashford some of the time first.

SPEAKER BARRETT: Thank you. Senator Ashford.

SENATOR ASHFORD: Thank you, Mr. Speaker. A couple of months ago I was called by a gentleman in my district who is an official or an officer of the Metro Right to Life organization and he told me...he's a gentleman I've talked to several times

about issues and he told me that the pro life movement had several concerns and issues that they were addressing. And, of course, the waiting period for abortions was one and the parental notification bill was another, adoptions was another issue that they were concerned about; but the other issue that he said and he called to congratulate me for my efforts in the area of waiting periods for the purchase of handguns. And he said that that was part of the Metro Right to Life agenda, that it was an issue that was a concern of pro lifers in the sixth legislative district. I only wish that that group had...that that gentleman's point had made it onto the agenda down here this week. Maybe we would have had enough votes to pass this bill. But we would have had the NRA versus the pro life group and that would have been an interesting...I don't know who would have won at that point. But basically it was a very interesting point and that is that what we're trying to do here by this bill is...what we're trying to do is to create a basic rule that will address a very specific problem that we have identified in our state which is the loss of life of individuals who are just as concerned and worried as young women are when they go in to get an abortion. They're in a state, as Senator Lindsay said on the parental notification bill, a state of great concern and depression. And it's that same individual that we're talking about in this bill, that same person who the statistics indicate over and over again is very apt to do harm to himself or herself. We have a very simple solution to this problem in LB 642. It's...that solution is to say to individuals that because handguns are dangerous, because handguns are easily concealable, because handguns are used traditionally as the weapon of choice of individuals to commit suicides or to kill their family members or others because they're distraught that we as a society are just going to simply have a little bit of a burden. We're going to have to wait maybe an hour, maybe two hours, maybe a day depending upon the policies of the particular police department in the town that you live in before they go out and buy a handgun. And they're doing that because they care. And senator or Bob Spire I think said it very well the other day. He said this is the kind of bill that indicates whether or not we care about our neighbors. We can wait, ladies and gentlemen, 24 hours, we can wait one hour or two hours before we get a handgun because we care about our neighbors. We care about individuals who may be distraught for one...or depressed for one reason or another. We care about them and their desires and concerns and we hope that by giving them some time to think they will not commit the kind of tragic acts that

we read about, Senator Hefner, every day in the newspaper in Nebraska and throughout the country. LB 642 is not going to solve every problem. It's not going to stop homicides in Omaha.

SPEAKER BARRETT: One minute.

SENATOR ASHFORD: It's not going to stop violence in our society. But I think it's this Legislature saying to the citizens of Nebraska, number one, we hear you. We hear the 90 percent of you who say let's do something about this problem. We're not simply going to listen to special interests here, but we're going to listen to the people. We're going to listen not just to the people who respond to telegrams that go into your district but we're going to listen to the people who really know and care and live in the neighborhoods who want policies in our state that represent the kind of people we are, every one of us, and that is caring people who care about each other and this is that kind of legislation. There's just no other way of looking at it. It's pro life legislation, it's sustaining life legislation, it's caring legislation, it's simple, it's easy to administer. There's absolutely no reason on this earth why we can't do this other than there is a very, very, very strong lobby...

SPEAKER BARRETT: Time.

SENATOR ASHFORD: In this country that says, no, you can't. That's extremely unfortunate but it's very true. But in any event with that I realize the 30 votes are not there. I appreciate the patience of the body in hearing me out again on this issue. And, again, I guess we'll have to work on this again next year and hopefully I can convince enough people that there are rational ways to deal with the problem. Time less (sic)?

SPEAKER BARRETT: No.

SENATOR ASHFORD: Okay.

SPEAKER BARRETT: The question is the overrule of the agenda. Those in favor vote aye, opposed nay. Record please.

CLERK: 3 ayes, 16 nays, Mr. President, on the motion to overrule the agenda.

April 3, 1990

LB 642, 1055
LR 239

SPEAKER BARRETT: The motion fails.

CLERK: Mr. President, Senator Hall would move that the...to overrule the agenda to consider Select File bills as found on Monday, April 2's agenda ahead of Item 9 on today's agenda which is constituted or which committee priority bills constitutes Item 9.

SPEAKER BARRETT: The Chair recognizes Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. The motion that I have filed would take us back to the point where we adjourned yesterday at approximately 6:15. That means we left off on LR 239CA. My motion would overrule the Speaker's agenda and send us back to that point. The Speaker's agenda, if we follow it today, would have us dealing with General File committee priority bills. I know for a fact that many of those issues have been amended into other bills basically because folks didn't think we were going to get there. Because of what's transpired this morning with regard to shifting of the agenda, I make this motion so that we can get about the business of dealing what amounts to 31 bills which currently are on Select File that we have to work through if we can before midnight tomorrow. And that doesn't include bills that are on Final Reading that we hope to bring back and amend if that also is possible that could very likely find their way onto the agenda tomorrow. My motion strictly would...is one of a personal and a very parochial nature. I've got a bill out there that I would like to deal with as soon as possible. It's controversial, it has I think nine to ten amendments on it to date. It's LB 1055, my racing bill. I would like to get it up and debate it into the wee hours of the night if I have to tonight if we get that far. But there are some other bills that are on Select File currently based on Item 10 on yesterday's agenda. Some of them have amendments, some of them don't. I would like to see us work as far as we could into that agenda to move some of those bills along so when we get to Select File tomorrow based on the will of the body today to move some bills off of General over to Select that there will be adequate and fair time to debate those in the 16 hours tomorrow that we'll probably have to deal with those issues. Clearly it is not an issue where I take any offense to the Speaker's agenda. I just think that if we spend time on the committee priority bills which currently come up next on General File that we would in essence be spinning our wheels because those bills, if and when

CLERK: 9 ayes, 18 nays, Mr. President, on the motion to adjourn.

PRESIDENT: The motion fails. Senator Labedz, did you have a motion...an amendment on the bill?

SENATOR LABEDZ: Back to my amendment.

PRESIDENT: Yes.

SENATOR LABEDZ: LB 1241 is back on Select File, right?

PRESIDENT: That is correct.

SENATOR LABEDZ: Okay, I do have...I won't go into anymore of Senator Bernard-Stevens' programs. I think I've read you the most important parts of the...of his statements on radio and both at a meeting, also. I think I finished that other one. There is something I would like to read, what Senator Schimek said on LB 642 because I think it puts in better form than I could ever do of what I was trying to say about the rights. Senator Schimek said on LB 642, I believe there are many situations where there are domestic...where there is domestic violence or where there are unhappy teenagers, or whatever, where guns are available, where other means are available, but I can't help but think that if we had some kind of a waiting period that it would, at least in some cases, take away that impulsive action which might lead, as in the case of Senator Don Wesely's friend, which might lead to saving a life. So I guess I show very strongly this could not hurt. We have had many waiting periods imposed by society, by our families, by ourselves. When we want to drive a car, we can't drive a car until we are 16. We can't...we have to wait until we are 16. When we want to get married, we can't go out and just get married. We have a waiting period because we have a blood test that before we can get married. Senator Schimek also went on to say, when we want to get a divorce, no matter how much we want to get that divorce, we cannot do so until we have gone the six-month period necessary for all the court decisions and so forth to take place. I guess what I am trying to convey to you is that we do have a lot of waiting periods in our life. What we are trying to do on LB 769, as I mentioned before, that it is modeled after a Minnesota parental involvement law which was found to be constitutional by the 8th Circuit Federal Court of Appeals, and as you know, the 8th Circuit jurisdiction also