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Judiciary Committee  
January 25, 2008

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[LB826 LB872 LB929 LB934 LB950 LB958]

The Committee on Judiciary met at 1:30 p.m. on Friday, January 25, 2008, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB958, LB929, LB934, LB826, LB950, and LB872. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Ernie Chambers; Vickie McDonald; Amanda McGill; Dwite Pedersen; Pete Pirsch; and DiAnna Schimek. Senators absent: None.

SENATOR LATHROP: Could I have your attention for a minute. My name is Steve Lathrop and I am the Vice Chair of the Judiciary Committee. Welcome to all of you and thanks for coming down here today to testify. We have, today, six bills before the committee for consideration this afternoon. And for some of you who are not regular at the Judiciary Committee, I want to explain something, which is our...the way we make this process move in an orderly fashion, and that's those lights. The process that we employ is the three-minute rule. You'll get a green light when you testify...well, let me back up. We'll take the bills one at a time. The first one is going to be Senator Ashford's LB958. We will take proponents, first; opponents; and then neutrals. When you testify, we'll ask you to fill out a sheet so that we know who was here and whether you were for or against. When you testify, please give us your name and spell your last name so that the record is clear. And then we'll also ask you to observe the light system. And the light system is, a green light means you're welcome to...you're safe and you can talk; when we get to a yellow light that means you have a minute left; and when we get to a red light it doesn't mean you have to stop in midsentence but we'll ask you to wrap it up. Okay. If you go and keep talking during the red light, we'll ask you to wrap it up, and it's not to be rude but to make sure that we get out of here before Saturday. Okay. I'd like to introduce the folks that are up here today. Senator Ashford, who is our Chair, is going to introduce the bill; he's seated at the table in front of us. Also we have today with us Senator Pirsch, who is from Omaha; Senator Schimek, who is from Lincoln; Senator McGill, who is also from Lincoln; and then, of course, Senator Chambers. And I have also our committee counsel, LaMont, and our committee clerk, Jon Bradford, who will assist us today. Okay. Very good. Thank you.

SENATOR ASHFORD: (Exhibit 1) Thank you, Mr. Vice Chair and members of the Judiciary Committee. My name is Brad Ashford, A-s-h-f-o-r-d. I represent the 20th Legislative District in Omaha, and I am here today to introduce LB958, a bill that addresses the serious problem of gun violence in the state of Nebraska. We are all too familiar with the results of gun violence in this state, and LB958, I sincerely believe, addresses a multitude of the causes of gun violence in a reasonable and responsible manner. LB958 does a number of things, all designed to address specific issues that arise when we have gun violence and incidents of gun violence which we are all aware of as citizens. LB958 requires the prompt reporting of lost or stolen firearms to local law enforcement by gun owners. LB958 requires that upon a sale of a firearm, either a

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handgun or any other firearm, that the firearm be accompanied with a trigger lock device at the time of sale. LB958 sets a minimum of a five-year sentence for using a firearm in the commission of a felony. LB958 requires that when a firearm is recovered from a juvenile or discovered as part of a criminal investigation, that law enforcement be required to trace the firearm and to determine to the best of its ability how the juvenile came into possession of this weapon. LB958 establishes a Gun Violence Commission to look into the issues involved in gun violence in our state. In addition, it provides issues involving...it provides a hotline to the State Patrol so that our citizens who observe, hopefully, individuals who have firearms who have not committed a crime in a compromising situation, that they can report that information to the State Patrol so that the State Patrol can hopefully get that information to local law enforcement in a manner that can hopefully result in some action. I feel that it is very important that we find a way to address the illegal activity that plays such a major role in gun violence in our state. LB958 prohibits a firearm certificate from being issued to a person found to be mentally ill in the previous ten years. This language is consistent with the concealed weapon law that this Legislature did pass in 2006. The focus on mental health records is key, as we try to the best of our ability to make sure that firearms do not get in the hands of people that have severe mental illness. In 1991, with the support of the Legislature, we passed a bill that requires a permit to purchase a handgun. Since that time--and I was proud to be a part of that legislation, and the Legislature overwhelmingly voted for it--since that time the federal government has beefed up enforcement, and there are checks done now when someone buys a firearm at a licensed dealer. There are checks done to make sure that that person is a law-abiding citizen; to make sure that that person does not have a record of mental illness, and we're just trying to make those requirements work better. This initiative, LB958, is not designed, and obviously is not designed, to take away anybody's right to bear arms. It's not designed to interfere with someone's right to own a gun and for a law-abiding citizen to utilize a gun in a lawful manner. There is absolutely nothing in this bill that does that. I'm absolutely convinced, especially the trigger lock provision, will make a significant difference, because in the case of a person who for some reason feels that he or she needs to take action with a firearm, and that firearm is sitting there and that firearm has a trigger lock, it's that little bit of time, that little obstacle, that last step that could possibly prevent someone from picking up that gun and committing mayhem or attacking citizens who are law-abiding and have done nothing to hurt anyone. Today, some of the victims and victims' families from the Von Maur shooting are here, and I admire them. They called me and asked if they could help and if they could tell their story to this committee--but not just this committee. By telling...as I indicated to them, you're telling your story to all of Nebraska. Several years ago--actually three or four years ago--I served as executive director of the Omaha Housing Authority. I'll never forget, one morning I was called to a shooting on 30th Street, and there had been a 12-year-old little girl who had been shot in her bedroom while sleeping that night before, by a drive-by shooter. There was an elderly woman on the first floor and she was in her eighties, and she was out sweeping her back porch of her apartment. And I went up to her and I said, are you okay, are you okay? And she

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said, I'm okay, I'm okay. And I said, well, I'm sorry this happened. And she said, they'll catch him, they'll find him--I'm not worried. Do you want to move; do you want to move somewhere else? Do you want to live somewhere else, because if you do we can see if we can find you someplace to live. She said, no, I'm not going to; there are too many children that I take care of that are my neighbors and I can't leave. And she took me in and she showed me her chair where she would watch television in the evenings. And that night she had been watching television about 11:30 at night, and the gun shots rung out. And the bullet holes--she showed me where around her chair, the top of her chair, it had missed her just by inches. But what was telling about that woman and her strength of character and the strength of character of the people who are here today who were involved in the Von Maur shooting was that rather than run and hide, rather than to cower to violence, their response is, we're going to make it better; we're going to be part of the solution. We can't change everything. We can't stop gun violence in this Judiciary Committee, but I know that the citizens of Nebraska are asking that we do something responsible, something that can make a difference--and I'm hopeful that LB958 can do that. I do have letters for the record. I do have letters of support from the city of Omaha, from the Nebraska Sheriffs' Association, the Police Chiefs Association of Nebraska, the Police Officers' Association of Nebraska, to enter into the record. I also have some letters from the Nebraska Department of Health and Human Services and the State Patrol, explaining some of the processes that are now in place when background checks are undertaken. And let me just say this: We've come a long way since 1991, and Senator Schimek and Senator Chambers were with me all the way in this bill when we tried to address these issues. We've come a long way and the federal government has come a long way. What we're trying to do here is to fill the gaps, to try to address some of these issues as best we can, and to honor the families that have been victims of violence by doing so. Thank you, Mr. Chairman. [LB958]

SENATOR LATHROP: Thank you. Any questions for Senator Ashford? Seeing none, thank you, Senator. We'll take proponents first, please. [LB958]

TOM CASADY: Good afternoon, senators. My name is Tom Casady, and I realize I may be one of the usual suspects on these issues, but today I'm playing hooky from work and I'm just here as a citizen of the state of Nebraska, representing my own views. I think LB958 is a good idea. There are several provisions in it that I think could be helpful. I think requiring people to report stolen firearms lets law enforcement agencies quickly engage appropriate investigation, and that can help in recovering those firearms. The provisions of the bill that require law enforcement agencies to do a trace of the firearm and to try to find the source of firearms that are used in crimes and possessed by juveniles, are just plain good investigative work that any law enforcement agency worth its salt ought to be doing already. I'm particularly intrigued by the creation of a repository for that information in a single place: the Nebraska State Patrol. I think we all have parts of this puzzle but no one has the big picture, and sometimes we operate on assumption and myth, rather than on fact. Getting all of this information together in one

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place would at least provide the opportunity for some analysis that might shed some light on the nature and the extent of firearms-related crime in the state. I also think that's true of the creation of a commission on gun violence. Again, I think this is a problem that affects a variety of law enforcement agencies in communities throughout the state, and by bringing all that information together and discussing it together, we might very well find some very useful facts that we're overlooking now. Thank you. [LB958]

SENATOR LATHROP: Thank you, Chief. Let me see if anybody has any questions for Chief Casady. Senator Pirsch. [LB958]

SENATOR PIRSCH: Could you just kind of comment. You said not all law enforcement agencies within the state of Nebraska right now are requiring or conduct traces of firearms that are used in crimes. Is that...? [LB958]

TOM CASADY: I didn't say that. I think I said any law enforcement agency worth its salt would be doing that anyway, and I suspect that that's done in the vast majority of cases. There may be cases where there are crimes that are so infrequent that local agencies aren't aware of things like the national tracing capabilities of ATF, so that's a possibility. But I don't have anything to indicate that this isn't already being done. [LB958]

SENATOR PIRSCH: Okay, that's all. I was clarifying. Thanks a lot. [LB958]

SENATOR LATHROP: Very good. Thank you, Chief. [LB958]

TOM CASADY: Thank you. [LB958]

TERRY WAGNER: Good afternoon, Senator Lathrop, members of the committee. My name is Terry Wagner, W-a-g-n-e-r. I'm the sheriff of Lancaster County. I'm here today as the immediate past-president of the Nebraska Sheriffs' Association and to lend the support of the Nebraska Sheriffs' Association to LB958. I'm not going to repeat what Chief Casady said. I agree with what he said, and I think LB958 does fill a lot of those gaps. One of the issues that I want to bring to the committee's attention--I've already talked with Senator Ashford about this--is the mentally ill dangerous clause toward the end of the bill. And we face an issue now with the handgun permits. And I might add that the handgun permit process that was enacted in 1991 really has worked so well that it's used by many dealers now for buying long guns, as well. They don't have to use them for long guns; they can use the NICS check. But the handgun permit process really is very well done, and it suffices and it meets the requirements of the federal government for purchasing long guns, so it really was done well. One of the issues we face with the mentally ill dangerous language is that the practical application of what happens when somebody is taken into custody under the emergency protective custody law, the Nebraska Mental Health Commitment Act. If we take somebody into custody and the criteria we have to meet is that they are mentally ill and dangerous to

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themselves or others, if they voluntarily commit themselves for treatment, most generally the mental health board will dismiss the complaint, and they are never adjudicated mentally ill dangerous. So then when they come to get a handgun permit from me, we look at their application. The question on the permit is, have you ever been adjudicated mentally ill dangerous? They can truthfully say no, because they have not. They may have been in a mental health facility for being mentally ill and dangerous ten times, but as long as they admitted themselves and were never committed or adjudicated mentally ill dangerous, they're still able to get that handgun permit and buy a handgun. So that's one area that I think we really need to clear up, and it will enhance both the handgun permit process and enhance LB958. With that I'll be quiet and answer any questions the committee might have. [LB958]

SENATOR LATHROP: Great. Thanks, Terry. Any questions? It looks like there are none. [LB958]

TERRY WAGNER: Thank you. [LB958]

SENATOR LATHROP: Thank you. Appreciate it. [LB958]

ALEXIS HAYES: My name is Alexis Hayes. I'm a captain with the Omaha Police Department. I'm here to represent the Omaha Police Department as a proponent for this bill. We would like to point out a couple of things that I think are very helpful to us, and that would be the requirement to have citizens who lose or have a gun stolen from them report it to an law enforcement agency. That is very helpful in the rapid investigation that can be done in those events, and also when those weapons are found it does help us in the investigation afterwards. If the weapon was used in some type of criminal act, as far as being able to talk to someone who typically if we had somebody who were to be legally...or legally purchase a gun for someone who did not have the right to possess it or carry it, in the past we really didn't have any way to enhance our investigations in those situations. They would just simply say, well, I lost that gun six months ago or a year ago; I don't know what happened to it. This would at least require that that be done, and we would know that an initial investigation was done into that event. Other than that, I think I would just like to mirror what Chief Casady said, and the idea of the committee is great. The more minds thinking about the problem and the issue is helpful to us. That's about all I have. [LB958]

SENATOR LATHROP: Very good. Thank you, Officer. Let's see if anybody has any questions before you get away. Senator Pirsch. [LB958]

SENATOR PIRSCH: Currently, in the city of Omaha right now, there's a duty to register handguns, correct? [LB958]

ALEXIS HAYES: Correct. [LB958]

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SENATOR PIRSCH: But not rifles, is that correct? [LB958]

ALEXIS HAYES: Correct. [LB958]

SENATOR PIRSCH: And Douglas County doesn't have a similar provision throughout the county. I would imagine most counties are that way, as well, is that correct? [LB958]

ALEXIS HAYES: As far as I know, yes, that's correct. [LB958]

SENATOR PIRSCH: How do you...as a practical matter, if there's a duty to report, what is the penalty that the bill proposes? [LB958]

ALEXIS HAYES: The first offense, I believe, is a Class III misdemeanor, and the second offense would... [LB958]

SENATOR PIRSCH: What's the...? Say you're possessing the handgun in an illegal fashion; you're not...you didn't register it, right? For those individuals who don't meet the city's registration requirement and are possessing it illegally, do you know what the penalty provision is for that? [LB958]

ALEXIS HAYES: The way that this bill is written, it actually would require us to not arrest them or not to have that person prosecuted for that event. [LB958]

SENATOR PIRSCH: So there would be a safe harbor or a safe haven-type of parameter... [LB958]

ALEXIS HAYES: Correct. [LB958]

SENATOR PIRSCH: ...that guarantees no criminal prosecution. [LB958]

ALEXIS HAYES: Correct. Because I think the real important part is that the weapon gets reported; that someone knows it's out there, and that someone who is not lawfully in possession of it has the weapon. [LB958]

SENATOR PIRSCH: Okay. So there won't be...concerned about the possible penalty that they could be otherwise charged with as far as possessing an unregistered firearm. They'll... [LB958]

ALEXIS HAYES: Correct. [LB958]

SENATOR PIRSCH: Okay, thank you. [LB958]

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SENATOR LATHROP: I think that's it. Thank you, Officer, for coming down. Appreciate it. [LB958]

PAM ELLIS: My name is Pam Ellis, and I am here speaking on my beliefs and on behalf of the Jorgenson family--Janet Jorgenson's family. She was a victim at Von Maur. And I have prepared a statement here which I would like to read. Thank you, ladies and gentlemen, for allowing me to speak. I abhor violence and have my entire life. I do however believe strongly in our Second Amendment rights inasmuch as being able to defend ourselves. I also believe that along with Second Amendment rights, as with every freedom, comes reasonability. This state, this country, must address the ever-increasing gun violence we see becoming ever more common. Prior to December 5, I had never known a person who had been murdered. The devastation to this family is profound--surreal. I have seen suffering which I have never seen the likes of in my entire life, and I pray I never see it again. Like throwing a rock in a pond, the actions of this one person affected multitudes. The ripples will go on for a very long time, possibly forever. What troubles me deeply is that the horror this young man brought to bear on all these families and beyond, he was able to accomplish with very little effort. He simply took an assault rifle and walked right out of the door. The person who owned this weapon had the freedom of his Second Amendment rights. Where is his responsibility? Should gun owners be required to take that responsibility? And if a gun owner chooses not to take this responsibility, shouldn't he or she face very serious consequences, both legally and civilly? I adamantly believe there should be a law requiring such responsibility or severe consequences for failing to take that responsibility. A law requiring trigger locks, in my opinion, should also be enacted. They can be purchased for between \$8 to \$30--a very small price to pay if it saves just one life. It's possible, even likely, that the carnage at Von Maur could have been prevented with an inexpensive trigger lock and a responsible gun owner. In conclusion, I also believe that any owner of any assault weapon or similar weapon be required to purchase a \$1 million liability insurance policy. I implore you, ladies and gentlemen, to pass this legislation for this family and all families who suffer long and hard after losing a loved one to senseless gun violence caused by an irresponsible gun owner. Thank you. [LB958]

SENATOR LATHROP: Thank you, Pam. Are there any questions? I don't see any. And I appreciate...I know you came down and you're kind of the family spokesman today, but we appreciate the family coming down today. [LB958]

PAM ELLIS: Yes. Thank you. [LB958]

JEFFERY SCHAFFART: Good afternoon, Senator Lathrop and members of the Judiciary Committee. For the record my name is Jeffery R. Schaffart, S-c-h-a-f-f-a-r-t. My family and I reside in Omaha, Nebraska, and am grateful for the opportunity to testify this afternoon in support of LB958. On the afternoon of December 5, 2007, my

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wife and I were shopping at the Von Maur department store in Omaha, Nebraska, when a mentally disturbed young man opened fire with an AK-47 military assault rifle. As the committee knows, eight innocent lives were lost...or eight innocent victims were shot and killed and two other innocent victims were shot and critically wounded in the senseless Von Maur tragedy. I personally was shot in the left arm and hand, but somehow escaped, having suffered relatively minor physical injuries. My doctors told me that the bullet that tore through the inside of my upper left arm missed my brachial artery by approximately a centimeter and that I am extremely fortunate to be alive. In the wake of the Von Maur massacre and the recent surge in gun violence and gun deaths that have afflicted the state, the need for sensible gun control legislation could not be clearer. I believe that LB958 represents a sensible first step and I urge the committee to support LB958. LB958 would give our law enforcement officials needed tools to combat the recent surge in gun violence and in no way infringes upon the rights of responsible, law-abiding gun owners. I would now like to comment on three specific provisions of LB958. First, if enacted, LB958 would impose a statutory duty upon gun owners to promptly report lost or stolen firearms to law enforcement officials. I strongly support this provision and believe that it may save lives in the future. Although we will never know, the prompt and responsible reporting to law enforcement officials of the stolen AK-47 used in the Von Maur massacre may have prevented this senseless tragedy. Second, LB958 would impose a statutory duty upon retail sellers of firearms to include a gun lock or trigger lock with each firearm sold, and to post a sign regarding the safe storage of firearms. While I support this provision, I do not believe it goes far enough. I believe that all responsible gun owners store their firearms in locked boxes or containers, or lock them with a trigger lock when not in use, and that the failure to do so is negligence. In light of this, I urge the committee to amend LB958, as introduced, to impose a statutory duty upon gun owners to safely store their firearms while not in use. The AK-47 military assault rifle used in the Von Maur massacre was left unlocked in the closet. The proper, responsible, and nonnegligent storage of this weapon may well have prevented the Von Maur tragedy. Enacting such a statutory duty could prevent future senseless gun injuries and deaths. Finally, LB958 would create a Gun Violence Commission to study the recent surge in gun violence and deaths in Nebraska. I strongly support this provision and urge the committee to give thoughtful and careful consideration to any statutory changes the commission may propose, and hope that the commission's recommendations will lead to the enactment of even more ambitious gun control legislation. That concludes my prepared remarks. Thank you again for providing me the opportunity to testify about this important legislative bill. I would be pleased to entertain any questions that the committee may have. [LB958]

SENATOR LATHROP: Very good. Thank you, Jeff. Are there...? Senator Chambers. [LB958]

SENATOR CHAMBERS: Not any questions, but I have been in contact with the FBI; the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives; the U.S. Attorney; city



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police officials, about ongoing gun violence. It's not new. It's new to a particular community, and now everybody is taking note. The U.S. Attorney has not responded. The federal bureau that I mentioned has not responded. The FBI has not responded. The current Chief Justice of the Supreme Court, who is the U.S. Attorney, did not respond. So there are people in this community of Omaha who watch all of the outcry, which is justified, and the concern. But there are two societies in America as mentioned by the Kerner Commission: one white, one black. When terrible things happen in the black community, it's as though they don't happen at all. I've brought the issue before this Legislature; I've talked about it on the floor. How many programs are put in place to obtain action against the adults who supply liquor to young white children, but they won't do anything, the law enforcement agencies, to track down the sources of guns that wind up in the hands of young black men--subteens. So maybe, but I doubt it, some of the concern being shown about the recent shooting that you are talking about will spill over, and there'll be concern about the many, many guns in the hands of young black children. The police cannot find the sources of these guns they say--but the kids know. The reason they don't care about what happens in our community is because the firearms are being directed against young black men. Black babies have died. Old people, sitting on their porches, people in their homes--bullets come through the walls. And in Omaha it's ho-hum. And they say, well, it's like Baghdad--ha-ha-ha. They didn't say Von Maur is like Baghdad--ha-ha-ha. So white people need to understand that we observe what a different reaction occurs when something happens in the white community. And I'm hoping, but I don't expect it, that officials will be concerned about the guns in the hands of young black men. And I have suggested that if the police and the federal authorities are incapable of finding the gun suppliers, then let these young black kids be converted into the cops, because they have no trouble finding these guns. And I said it to you because I think you might be better able to cope with what I'm saying and you might understand what it is that I'm saying. I don't want to weigh one tragedy against another and say one is worse than the other. Whenever anybody dies it's a terrible thing. But when ours have been dying and dying and dying, and white people ridicule our community, then the chickens come home to roost in the white community. And the World-Herald does article after article after article. The story takes on legs of its own. Television, over and over and over and over and over. Large amounts of money are raised. And I'm just wondering, is this the way these people really feel, that nothing exists until it happens to them? So if you are interested in combining forces so that we can take the tragedies that have happened in our respective communities and focus on these officials whose job is it to track down the suppliers of these guns, fine. But in your case it's easy. You know who had the gun; you know where it came from. In ours, they know but they don't care. And I'm not going to say this to everybody who testifies, but it's very difficult for me, observing the reaction of white Omaha, white officials, and it's especially difficult when I see one of my colleagues bring a bill to allow workers' comp for what she referred to as first-responders who observe terrible things, and she mentioned the Von Maur shooting which you're mentioning. But the first one grabbed by the cops was a young black man. I saw it on television. He was in handcuffs. They

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hustled him to a cruiser. Other black people were being stopped by the Omaha police. And if that young white kid hadn't killed himself and the white cops had come shooting, black people would be dead. Then the white cops would say, ha-ha, the joke is on us. They always grab us, so there is bitterness in my community. That's all that I would have, and I'm not even going to put a question to you. It would be unfair. That's all that I have, Mr. Chairman. [LB958]

SENATOR LATHROP: Thank you. Are there any questions? Very good. Jeff, thanks for coming down. We appreciate the time you took. [LB958]

JEFFERY SCHAFFART: My pleasure.. [LB958]

SENATOR LATHROP: Are there any other proponents that care to testify? Okay. How about opponents? Would you like to come up and sign in, and we'll have you testify one after another? Thank you. [LB958]

ANDREAS ALLEN: (Exhibit 2) I had a prepared statement for you, but I think that after hearing some of what's been said I wish to go off onto a tangent, hit on some of those topics, and discuss some other things that have been talked about already. First of all, I'm going to point out I am a big... [LB958]

SENATOR LATHROP: Sir, why don't you give us your name and spell your last name for us, and then we'll be happy to listen to you. [LB958]

ANDREAS ALLEN: I'm sorry. Andreas Allen from Omaha. The last name is spelled A-I-I-e-n. [LB958]

SENATOR LATHROP: Thank you. [LB958]

ANDREAS ALLEN: Sorry about that. [LB958]

SENATOR LATHROP: That's all right. [LB958]

ANDREAS ALLEN: There have been a lot of good things said here. I do have a couple of questions. Senator Ashford has brought up that he thinks this bill goes after the causes of the gun violence. It addresses none of the causes of the gun violence. The violence in our communities are being caused by poverty. It's being caused by failures in the mental health industry. It's not being caused because there's a gun out there. There's been people that have talked about the handgun purchase permit. The handgun purchase permit, as was enacted here in Nebraska, has been a very good law. Unfortunately, when they passed the concealed carry law, the actual permit, background checks, and so forth for getting that, go way beyond what is required for the handgun permit purchase. That should be added to the acceptable forms of ID to

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purchase a firearm. The statements on mentally ill not being able to get ahold of guns--that needs to happen. Reporting: I see this 48-hour reporting rule as being an area that could so easily be abused, especially in areas like Senator Chambers' district. I see a person that has purchased a firearm, registered their firearm--their firearm being stolen. Maybe within minutes of being stolen that firearm is used in a crime. The police come--well, I didn't know that my firearm had been stolen. It's now up to the victim of the stolen firearm to prove that he didn't know that it was stolen. How are you supposed to take and prove a negative? I don't think you can. We're asking for responsibility from gun owners. That is true. All gun owners and everybody needs to be responsible for their actions. I don't think that we can enforce that here in this legislative chamber. I think that we need to enforce that, as communities, and upon our neighbors and upon ourselves. There has been mention of storage rules, of making it so that guns have to be locked up if you're not actively using it. Unfortunately, storage rules completely take away the possibility of having a firearm available for self-defense. In fact, what's being termed as an AK-47 in the Von Maur shooting had been left in that closet for the purpose of self-defense in the home. The rest of the guns in that home had been locked up in a safe. It has been determined by the U.S. District Court of Appeals that mandatory trigger locks, disassembly, or storage, violates the Second Amendment rights, and I believe that it would also be found that it would violate the rights of the Nebraska Constitution which allows for the keeping and bearing of arms for self-defense or defense of others. At the same time, I'm going to take and address maybe something to Mr. Chambers, and I want to agree with you. There has been a terrible set of people not hearing what you say a lot of times. I want to let you know I have heard you. I have tried reaching out into your neighborhood. My daughter goes to school in your part of town. I am trying to help organize parents to take responsibility for their children in school, to let kids know that they're loved. Those are real actions that can help reduce violence. If we get parents out there setting examples for these children, then we have a chance of accomplishing something. But standing here and saying we'll take and ban trigger locks, which have been proven that all you've got to do is go (bang) and the trigger lock falls off--the majority of trigger locks are spring-loaded. You slap them against the table, they fall off. I mean, the state of California has the toughest trigger lock laws in the United States. The majority of the trigger locks that they have approved can be defeated by a 7-year-old in less than a minute. They're not able to accomplish anything. And I'm hoping somebody has any questions for me. I'm willing to answer questions on anything or any part of this bill. [LB958]

SENATOR LATHROP: Okay. I appreciate your thoughts and your comments, and we'll see if there are any questions. In the meantime I will point out that we've been joined by Senator Pedersen from Omaha. Senator Chambers. [LB958]

SENATOR CHAMBERS: Just a comment or two since I was mentioned. Whenever things happen in our community, people say, parents do this, parents do that. That doesn't happen in the white community. [LB958]

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ANDREAS ALLEN: You know, it's not just parents. I agree with you. [LB958]

SENATOR CHAMBERS: Wait a minute, wait a minute--I'm going to finish my comment. When prescription drugs are being obtained by these white students and taken to school, they don't say the parents are not doing their job; they shouldn't have these drugs. They say, teach these kids not to use drugs--but they don't put it on the parents. When alcohol was the problem that I mentioned, they got a federal grant. And not too many weeks ago all these people were on television--federal officials, the Governor's wife, sheriffs, the chief of police--and their slogan was, you supply, you don't get by, or something like that. They were going to...you provide, you don't slide. They were going to go after the adults who were supplying the liquor to the children. They didn't say it's for white parents to get out there and stop this liquor from being sold. They didn't say it's for white parents to set an example. They didn't say it's the white community's failure. They said the police, the sheriff, and the federal people are going to put together some kind of advertising or education campaign, and they removed all responsibility. But when it comes to us, and we're saying stop these guns, that's your job, you're paid to do it--then I hear what you're saying. And in some context it might be all right: Let the parents do it. I'm not a cop. Black people are not cops. We're not vigilantes. We're not going to be vigilantes, and I'm not going to assume the police officers' responsibility. No senator in this body has ever had it put on him or her or suggested that you ought to go out there and stop the gun crime in your community. It is on me. They think I'm going to catch the ones supplying the guns? So this is why it's difficult for me to sit through these hearings. I've been here 38 years. I've seen every time something happens in the white community they come down here and change a law to help the white community. When we had a problem with methamphetamine, they didn't say white parents are failing. They said we're going to take a substance that's legal...if you have ephedrine in a cold preparation, we're going to make it difficult for everybody to get this preparation because there's some people using it to manufacture meth. So we changed the law. We changed the work of the police when something happens in the white community, but it doesn't work that way in ours. So when you all say these kind of things, it's...you don't...I don't want you to respond to it. I'm not asking you a question, and that's all I'll say to you, but you mentioned me and then you talked about parents. We didn't talk about parents with meth, and my colleagues are here and they know that's not what we laid the problem of meth on. [LB958]

ANDREAS ALLEN: And we've had other people, Senator, talk about responsibility--the reasonability for stopping guns, for stopping meth--and it doesn't entirely rest here with this committee. It doesn't rest entirely with the Legislature. The Legislature does need to provide support for it, but the basis stopping point, we have to take and stop that in the community itself. [LB958]

SENATOR CHAMBERS: No, the police. The police. Police have killed black people.

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They can do that. [LB958]

ANDREAS ALLEN: They have. They have, unfortunately. [LB958]

SENATOR CHAMBERS: But they can't find who's supplying guns? They have stings to go out here and see who's selling liquor to white children. And the two gun stings I know of involved the Bureau of Alcohol, Tobacco, and Firearms and the FBI in a white gun shop in a white community. They sent in a guy who was not allowed under the law to buy a gun. The guy acknowledged to the gun dealer that he couldn't buy a gun but he needed one--and the gun was sold, and they grabbed him. Do you know why? Because when white people buy guns illegally, they're likely to be used against white people, so that's why they did the sting there. They can do it there but they can't do it in our community. Yes, they can. They don't want to. And I'm not going to keep saying this unless people make reference to me, and then when they do my colleagues are going to have to listen. This is going to be on the record. It's not said... [LB958]

ANDREAS ALLEN: I agree with you, Senator. [LB958]

SENATOR CHAMBERS: ...and when I say it, it's as though it's not said. [LB958]

ANDREAS ALLEN: I agree with you, Senator. It is unfortunately that these things are... [LB958]

SENATOR CHAMBERS: Then talk about the police and the FBI and the U.S. Attorney. [LB958]

SENATOR LATHROP: Mr. Allen, I think we have another question from Senator Schimek. You were done, Senator Chambers? [LB958]

SENATOR CHAMBERS: Yes, I am. [LB958]

SENATOR LATHROP: Thank you, sir. Senator Schimek, did you have a question? [LB958]

SENATOR SCHIMEK: Thank you, Mr. Chairman, and I don't have another question. I simply want to say I'm sorry I didn't speak up before Senator Chambers spoke, because I agree with him and I think that there often is a lack of concern for what happens in the black community, and I just wanted to second what he said. [LB958]

SENATOR LATHROP: All right. [LB958]

SENATOR SCHIMEK: I know it's not exactly the proper way to do this, but I felt like I...it needed to be said. Thank you. [LB958]

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SENATOR LATHROP: Okay. Thank you. And thank you, Mr. Allen. We... [LB958]

ANDREAS ALLEN: Can I add a quick...? And it's not just the black community. It's the whole area of town, and that whole area of town is not all black. Unfortunately, it gets considered that way. And there's a lot of good people, no matter what their race, that are being mistreated. And Mr. Chambers does an excellent job of trying to represent them and fight for them. [LB958]

SENATOR LATHROP: Okay. Thank you. [LB958]

JORDAN AUSTIN: (Exhibits 3 and 4) Good afternoon, Mr. Chairman, members of the committee. My name is Jordan Austin, A-u-s-t-i-n, and I'm here speaking on behalf of the National Rifle Association. I want to begin today by speaking on who makes up the NRA. It is not these people who are committing these violent acts. None of the perpetrators who commit these crimes, the shooter at the Von Maur store, the violent offenders who commit these crimes in Omaha, these are not our members. I do not represent these individuals. I do not represent individuals who use guns for violent crime. NRA members are upstanding, law-abiding citizens, who enjoy an American tradition. They enjoy owning and collecting firearms, they enjoy hunting with them, they enjoy shooting competitively, and some of them use these firearms for self-defense and I'm here to speak on behalf of these people today. The problem with gun control legislation and measures that are adopted in this society, whether or not they actually disarm the bad guys, will always affect the good guys who enjoy perfectly legitimate hobbies in their spare time. All too often these measures, unfortunately this includes LB958, will complicate life for good guys, and rarely will affect the bad guys. I'm not denying there isn't a high level of violent crime affecting Omaha and the state of Nebraska. This bill unfortunately is not the answer to the problem. There are several sections of this bill that are detrimental and burdensome to law-abiding firearms owners. Other sections of this bill are already covered in federal statute and do not need to be included in this legislation. Criminals, by nature, don't abide by the law. No matter how many new laws we pass, they are not going to abide by them. Only law-abiding citizens will be affected by them and burdened by the new requirements and new processes they have to go through. If we don't enforce the laws that are already on the books, we are not accomplishing anything. We are wasting time, we are wasting money and resources. This bill is not the answer. But the answer, I feel, and the reason why I've come here today is to not just talk bad about this bill and voice my opposition to it, it's to speak about a program called Project Exile, which is a program implemented in Richmond, Virginia, in 1997. This program has been implemented nationwide, and in several others states it has met with unprecedented success in reducing the rate of violent crime and the murder rate in every city it's been implemented in. In just the first two years of its infancy, Richmond, Virginia, succeeded in reducing their murder rate by 62 percent. The beauty of this program is the simplicity of it. No new legislation is

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required. What is required of this is a collaborative and collective effort by local law enforcement, federal prosecutors, to prosecute individuals in federal court, not in state court. What this carries is a minimum five-year sentence, and what that does is it expedites the process, it reduces bail, and it also sentences people to serving time in federal prison, which alienates them from their local networks of crime in state penitentiaries. It looks like I'm out of time but I can elaborate. The DVD I distributed has more information on Project Exile, as well as talking points. This program, I think, is the answer we're looking for, because this legislation unfortunately is not going to accomplish the needs that face this state right now. I want to thank you very much for the opportunity to speak before you today, and I will be happy to answer any questions. [LB958]

SENATOR LATHROP: All right. Thank you, Mr. Austin. Are there any questions?  
Senator Chambers. [LB958]

SENATOR CHAMBERS: Mr. Austin, where are you from? [LB958]

JORDAN AUSTIN: I was born in Baltimore County, Maryland. [LB958]

SENATOR CHAMBERS: No, I meant before you came here. [LB958]

JORDAN AUSTIN: Oh, I live in Alexandria, Virginia. [LB958]

SENATOR CHAMBERS: Okay. So you came from Virginia under the auspices or aegis of the NRA to speak against this bill, correct? [LB958]

JORDAN AUSTIN: Correct. [LB958]

SENATOR CHAMBERS: Do you do this all over the country when legislation which you would call gun control legislation comes before a legislature, you or somebody from your organization? [LB958]

JORDAN AUSTIN: Yes. [LB958]

SENATOR CHAMBERS: You want as many guns to be available as possible, isn't that correct? [LB958]

JORDAN AUSTIN: To citizens who are allowed to possess them, yes. [LB958]

SENATOR CHAMBERS: Do law-abiding citizens rob banks? [LB958]

JORDAN AUSTIN: Once they rob a bank they are not a law-abiding citizen. [LB958]

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SENATOR CHAMBERS: And we have laws against robbing banks. [LB958]

JORDAN AUSTIN: Yes, we do. [LB958]

SENATOR CHAMBERS: Okay. A person with a gun may never have committed a crime until the gun is used. Then that person ceases to be a law-abiding citizen, correct? [LB958]

JORDAN AUSTIN: Correct. [LB958]

SENATOR CHAMBERS: And it was by use of the gun that that status as a law-abiding citizen was lost. There are people and families who kill each other with guns, and that's the first and only crime they ever committed. Are you saying, by what you've presented, that it is better to do nothing than something? [LB958]

JORDAN AUSTIN: No, I am not saying that, because I'm not proposing to do nothing. I am proposing that we do something, and... [LB958]

SENATOR CHAMBERS: Okay, but you're saying do it the NRA's way or no way. [LB958]

JORDAN AUSTIN: Absolutely not. This program was not developed by the National Rifle Association. It was... [LB958]

SENATOR CHAMBERS: I don't mean this program. [LB958]

JORDAN AUSTIN: Oh, I'm sorry. [LB958]

SENATOR CHAMBERS: Because I've been here when the NRA has come to support every crackbrain notion such as letting people carry concealed weapons, and speak against every proposal that would bring about what degree of safety might can be brought about. Now, is it your contention that the easy accessibility and the proliferation of guns has no impact on encouraging crimes of gun violence? [LB958]

JORDAN AUSTIN: I don't think that this bill and what it's trying to do... [LB958]

SENATOR CHAMBERS: I'm not asking about the bill yet. We'll get to that. I want to know your general position, because you are here to represent the position of a national association which is known to be against any regulation of guns if it would diminish the number of guns available. [LB958]

JORDAN AUSTIN: If you were a law-abiding citizen, you should be entitled to possess firearms. [LB958]



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SENATOR CHAMBERS: Any law-abiding citizen? [LB958]

JORDAN AUSTIN: Yes. [LB958]

SENATOR CHAMBERS: Is there any age distinction or threshold that ought to be imposed, in your view or the view of your organization? [LB958]

JORDAN AUSTIN: There are varying degrees of age restrictions within states, and that's in regard to hunting policies as well as firearms possession. I feel current statutes right now are sufficient, but, you know, there's always the... [LB958]

SENATOR CHAMBERS: You are against trigger locks like the prior gentleman, are you not? [LB958]

JORDAN AUSTIN: Trigger locks on handguns are already mandated by federal law. [LB958]

SENATOR CHAMBERS: Are you opposed to them? [LB958]

JORDAN AUSTIN: Trigger locks, as an organization we feel are ineffectual. [LB958]

SENATOR CHAMBERS: Are you opposed to them? Is your organization opposed to them? [LB958]

JORDAN AUSTIN: Are we opposed to trigger locks? Yes, we are. [LB958]

SENATOR CHAMBERS: So you think in that instance nothing would be better than something. [LB958]

JORDAN AUSTIN: There are other ways to combat crime, and trigger locks are not the answer. [LB958]

SENATOR CHAMBERS: No. Mr. Austin,... [LB958]

JORDAN AUSTIN: Yes. [LB958]

SENATOR CHAMBERS: ...I'm familiar with how the NRA people work. That's why I'm trying to keep my questions uncomplicated and straightforward. If you are opposed to trigger locks in that instance, you think nothing is better than something. Correct? No trigger lock in your organization's view is better than having a trigger lock. Is that correct? [LB958]

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JORDAN AUSTIN: Trigger locks are situational, and there is not a direct way to respond to that because trigger locks can be used in the correct way or trigger locks can be used in an incorrect way and offer a blanket of security that... [LB958]

SENATOR CHAMBERS: Okay. This is the Arthur Murray/NRA tap dance routine, so I'm going to try to make it easy. Let's get to the bill. Does this bill call for trigger locks? [LB958]

JORDAN AUSTIN: Yes, it does. [LB958]

SENATOR CHAMBERS: And you're opposed to that, aren't you? [LB958]

JORDAN AUSTIN: Yes, we are. We are opposed to the trigger locks in the form of this bill. [LB958]

SENATOR CHAMBERS: So you think that nothing is better than something as far as this bill requiring trigger locks, isn't that true? [LB958]

JORDAN AUSTIN: Trigger locks are already provided by manufacturers in almost 99 percent of the cases. [LB958]

SENATOR CHAMBERS: I can see that you are not going to answer directly. And do you know why I did it this way? Too many times the NRA sends its minions. They dance around issues when they're before Congress because the congressmen fear political repercussions. They show a general disrespect for legislatures by refusing to answer questions put to them. They want their statements to be listened to courteously. They do not want any opposition. And since you're not going to answer the questions directly, I'm not going to waste the committee's time or anybody else's. It wouldn't waste yours because you're paid to be here, and mercenaries get paid whether things go the way they want them to or not. And I just want you to understand that not everybody in this state is taken in by what the NRA does. And some people are offended who are afraid of the NRA. I personally think trigger locks are fine. I don't find fault with the bill. I want you to know that there's somebody who will tell the NRA that while the NRA--whatever role you serve--is here. And the reason I'm dealing with you like this, because you were forthright in dealing with me. Thank you, Mr. Chairman. [LB958]

SENATOR LATHROP: You are very welcome. Are there any other questions? All right, thank you, Mr. Austin. [LB958]

JORDAN AUSTIN: Thank you. [LB958]

SENATOR LATHROP: Are there any other opponents to LB958? Yes, sir. Come on up. [LB958]

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V.H. CALLAHAN: Good afternoon. My name is Bud Callahan from Pleasant Dale, Nebraska, just west of Lincoln. [LB958]

SENATOR LATHROP: Go ahead and spell your last name for us. [LB958]

V.H. CALLAHAN: C-a-l-l-a-h-a-n. I believe that we have ample laws, many of which were broken at Von Maur. My heart bled when I heard about the travesty up there, and continues, and I can appreciate what those people have gone through. However, passing some more laws, piling laws on top of laws, I can see no purpose. There is no law or anything that can replace education and common sense. And I will answer Mr. Chambers' question: Yes, I am opposed to any and all trigger locks, period. You cannot...they do not replace education. They do not replace common sense. I grew up in a small community in the central part of Nebraska where there is no such thing as a trigger lock, and as you can tell from the color of my hair, I've been around a lot of years. And in all the time I spent back there, there were absolutely no deaths, no accidental shootings. We didn't even have a vice president that hunted and misfired. And we grew up being properly educated and with the commonsense approach. And I think that commonsense approach needs to go on both sides of the equation, on the legislative side as well as the side out here for those parents and anyone who has an opportunity to educate, being law enforcement. I think they should be more involved in educating people of all aspects. And the guns, the laws, and so on, I can see no color in it. And if we pass this, we're going to be affecting people clear across the state, Alliance and Scottsbluff and so on; we're back here doing this. And like I say, I grew up out in that area, and we had no problems. Now, if there are any questions I'll be glad to answer them. [LB958]

SENATOR LATHROP: Very good. Thank you, Mr. Callahan. Let's see if there are. Senator Pedersen. [LB958]

SENATOR PEDERSEN: Thank you, Mr. Lathrop. I want to apologize for coming late, first of all. I had a bill to introduce in another committee. Mr. Callahan, I'm guessing I'm about the same age as you are. I hope I'm not picking on your age, but. I come from a small community--Winner, South Dakota, is the town. When I went to school as a high school kid, I had a loaded, no trigger lock, 30-30 rifle in the back window, and I had a 12-gauge semiautomatic rifle and a single shot 22 pistol. And I'm 66 now, and I was 14, 15, 16, and 17, in them years, and I wouldn't carry them guns without...I wouldn't even carry them in the car today, unloaded, for fear (inaudible) shot. Don't you think some laws needed to be done to do that? [LB958]

V.H. CALLAHAN: Did you cause any problems with yours at that time? [LB958]

SENATOR PEDERSEN: At that time. But what I'm trying to get across, times have

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changed. [LB958]

V.H. CALLAHAN: Right. So we're going to legislate common sense, or attempt to. [LB958]

SENATOR PEDERSEN: Well, where I live I think common sense makes a whole lot of difference because this... [LB958]

V.H. CALLAHAN: Well,... [LB958]

SENATOR PEDERSEN: Because they don't, in Winner, South Dakota, carry their guns loaded in the back of the pickup anymore unless they're with it. [LB958]

V.H. CALLAHAN: Right. And at that time my parents would not have allowed me to do that either. They would have made certain that, yes, did I have access? Yes, they did. And most homes out there had a shotgun or something in a closet or by a door, no trigger locks, whatever, and under no circumstance were we to bother those or touch those without permission. And believe me, no child in my area did, because we had respect. And I can see no reason to burden the general masses for common sense or a million-dollar liability policy just because you own a firearm. [LB958]

SENATOR PEDERSEN: I signed on to this bill, and I'm a lifelong member of the NRA. [LB958]

V.H. CALLAHAN: As am I. [LB958]

SENATOR PEDERSEN: And I've always said I am the NRA, because those of us who are members are. [LB958]

V.H. CALLAHAN: There are two of us, lifetime members. [LB958]

SENATOR PEDERSEN: But I do believe that we've got to do something. And hopefully someday we can come together, because the kids are getting ahold of guns. They're getting ahold of our guns, and they're going out and killing people with them. And I think we need to be part of the cure somewhere along the line. And I don't know if this bill is going to be it or if I'm going to leave my name on it, because I don't believe in gun control as far as us law-abiding citizens owning guns, but I do believe that we've got to start somewhere and do something to, those of us that are even members of the NRA, to see if we can't keep the guns out of kids' hands. [LB958]

V.H. CALLAHAN: Right. Okay. I would like to start in school--but, boy, that would raise a flag--but to just go clear back. Start with kindergarten, I don't care. Explain what they are and what they're used for. And television has done us no good, believe me, in those

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respects, because you and I both grew up without it. [LB958]

SENATOR PEDERSEN: Thank you. [LB958]

SENATOR LATHROP: Very good. Any other questions? Senator Chambers. [LB958]

SENATOR CHAMBERS: Mr. Callahan, there are some small communities, I'm told, where people don't lock their doors. There are neighborhoods where people don't lock their doors. The reality when you're in the larger city is entirely different from what you find in these small communities. And the Legislature, in formulating policy, must deal with reality. We cannot leave it to common sense, because often what is called common sense is nonsense. The reality is that there has been a proliferation of guns. Accidents happen in the homes of people who have guns when their or others get these guns, so... [LB958]

V.H. CALLAHAN: There are no accidents. [LB958]

SENATOR CHAMBERS: Well, that's your opinion, but I'm going to express my view, and since you are the witness you're not going to interrupt me. I didn't interrupt you. If we think that there is a way to address a problem, we are going to take that approach. And people who come before us are entitled to say that we don't need to do anything--do it all in the school. But if you have a community and there are three people with vehicles, you don't need to have traffic cops. If you have a city where there are tens of thousands of vehicles, you need traffic control devices; you need traffic officers, and you do things differently. So I think you're very fortunate to live in a community where people can have guns lying around and they don't have to worry about anything. But we as policymakers must address the realities that have occurred. Nobody can deny that the shooting which people have discussed here today took place, that other shootings have taken place. And if any of my colleagues stood on the floor and said we're going to address this problem by teaching common sense or put courses in school, I would have a few things to say which might prevent them from taking that approach again on the floor of the Legislature. So you're lucky to live in the kind of community you do, but not everywhere in Nebraska is like what you described where you live. [LB958]

V.H. CALLAHAN: A comment. If you were to mandate crossing guards and speed limits and stop signs in front of high schools or schools, I could agree. That's fine in Omaha. But Brady, Nebraska, I don't think so. So to legislate that we're going to do, in Brady, Nebraska, and Maxwell and North Platte and Hershey and Sutherland and on and on and on, just because it's good for Omaha and Lincoln, Nebraska, I think not. Thank you very much. [LB958]

SENATOR CHAMBERS: But when we're regulating an instrumentality, the law applies everywhere. When we regulate liquor and say you have to be a certain age to legally

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drink, it's that age in Brady, Brainard, or anywhere else. When we say you have to be a certain age before you can engage in gambling, it's the same all over the state. And we pass statewide laws, and we should pass these laws statewide and we will pass them statewide. [LB958]

V.H. CALLAHAN: As they should be. And you have to be 18 years old to possess a handgun, whether you're living in Scottsbluff or Omaha, and if you're under that age you are in violation of the law, and passing another law simply is not going to help. [LB958]

SENATOR CHAMBERS: Well, we're going to pass them and do what we think is available for us to do. And I say again, consider yourself lucky to live where you live. My hair is as white as yours and I've been in the world longer than you have, but I haven't been as fortunate as you have been in my experiences. That's all I have, Mr. Chairman. [LB958]

SENATOR LATHROP: Thank you. Are there any other questions for Mr. Callahan? Seeing none, thank you. [LB958]

V.H. CALLAHAN: Okay. Thank you. [LB958]

SENATOR LATHROP: Are there any other opponents? [LB958]

CHRIS ZEEB: Good afternoon. Thank you for your time. My name is Chris Zeeb, Z-e-e-b. Looking over this LB958, I can't say that I oppose most of it. Most of it makes sense to me and I will get to the part that why I am opposing this bill. I'm a firearms' owner and I'm a firearms' instructor, and as I'm reading this bill here I can't imagine there's any law-abiding firearms' owner that's not going to report their firearm stolen immediately. So I can't understand why anyone would oppose that, and I can't understand what is trying to be accomplished here with that. If I read it correctly, it's a Class IV misdemeanor. That means a maximum \$500 fine. I'm not sure what's trying to be accomplished there. As far as the trigger locks, if I...maybe I misread this bill. The bill just states that the trigger locks must be provided by the retailer. The bill doesn't state that the guns have to be trigger-locked, unless I misread it. I have no problem with that. As a matter of fact, all firearms come with trigger locks right now. Where I do have a little bit of an issue with this bill is the Gun Violence Commission. I think it's necessary. I think it's an absolute necessary thing--there is a problem. But I look at the makeup of that commission as it's presented. Two particular seats on that commission--city policy chiefs and mayors--I don't think they belong there. I think who belongs there is street-level police officers who understand and know the problem and deal with it, and possibly a couple of citizens who understand the problem and live in it. I'll be a little facetious here. Instead of putting the policy chiefs and mayors on there, why don't we put a couple of NRA lobbyists on that commission? Because it's the exact opposite of what you're doing, putting Omaha's mayor, Omaha's police chief, the Lincoln mayor,

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Lincoln police chief--same thing. That's all I have. Any questions? [LB958]

SENATOR LATHROP: Thank you. Let's see if there's any questions. Senator Chambers looks like he has one or two. [LB958]

SENATOR CHAMBERS: Instead of throwing a rock, I was looking at that commission, but I didn't want to get off into that because that can easily be remedied. I wanted to look at some of the other types of issues that people might object to, and you did not object to any of the kind of things that would make me disagree with you or interrogate you. But on the commission, I think there would have to be some massaging there. I wouldn't go so far as an NRA lobbyist, and you said you were being facetious. [LB958]

CHRIS ZEEB: Yes, I was. [LB958]

SENATOR CHAMBERS: And I'll be even more facetious. They ought to make me the commission. But there would be a better way to put it together, but I think it may have been put in the bill like this to show a concept that might be a basis for providing something or some way to look at the underlying causes of these problems. But it's good that you did call attention to the current makeup as contained in the bill itself. [LB958]

CHRIS ZEEB: Okay. [LB958]

SENATOR LATHROP: Thank you. Any other questions? Seeing none, thank you, Mr. Zeeb. [LB958]

CHRIS ZEEB: Thank you for your time. [LB958]

SENATOR LATHROP: We appreciate you coming down here today. Do we have any additional opponents? [LB958]

TIM TYRRELL: (Exhibit 5) My name is Tim Tyrrell, and my last name is spelled T-y-r-r-e-l-l. I've also brought along a letter from a friend of mine that became aware of this, and he would like to have it entered into the record. [LB958]

SENATOR LATHROP: If you will give it to one of the pages, we'll get it passed around and move it into the record. [LB958]

TIM TYRRELL: He made some points in his letter that I tend to agree with, and that is the focus of what I want to speak to today. From Dred Scott to Jim Crow, every gun control law in this nation, whether it's federal, state, or local, has its roots in racism. And this law, intentionally or not, is no different. We all know that this legislative bill was conceived to address high-crime areas. We also know that those high-crime areas are

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home to an overwhelming number of Nebraskans that are either low-income or minorities. The first thing this bill does, it forces us free citizens of Nebraska to live under a declaration of emergency. But I haven't seen any documented evidence. I've heard people talk, I've seen an occasional article in the newspaper, but I have not seen anything that would necessitate declaring an emergency. Secondly, this bill tells us that we have 48 hours to report a missing firearm or face misdemeanor charges. If a peace officer arbitrarily decides that I had to have known, and charges me under this law, I'm presumed guilty until I go to court and prove beyond a reasonable doubt that I'm innocent. That's not how our system is supposed to work. It also provides an avenue for peace officers so inclined to apply the law unfairly to minority citizens in the state of Nebraska. A reported missing firearm is now a new place to start an investigation into other or more serious crimes the reporting party may be suspected of. And the sad part is that this portion of the bill, even with the nonpunishment caveat, is unenforceable. And I reference Haynes v. U.S. It's a Supreme Court decision in 1968. Lastly, LB958 creates an oligarchy of the ruling class elite that for the most part have, on the public record, already expressed their opinions or initiated legislation on the regulation of privately owned firearms. The whole of the citizenry is not represented by the proposed Gun Violence Commission. It is staffed entirely by those in positions of power with an agenda and a mind closed to the will of the public. The only purpose this commission unwittingly serves is to recommend antigun legislation in the grandest tradition of Dred Scott and Jim Crow. And thank you very much for allowing me to speak here today. [LB958]

SENATOR LATHROP: Okay, Mr. Tyrrell. Thank you very much. Are there any questions? Seeing none, appreciate your thoughts. Are there any other opponents? How about folks intending to testify neutral? Seeing none, that will close our...Senator Ashford, would you like to close? [LB958]

SENATOR ASHFORD: Very briefly. I appreciate the committee's patience in hearing the witnesses. Let me just comment on a couple of points that were brought up. The trigger lock section I think is important, because federal law does not require trigger locks to be sold on...with anything other than handguns. So assault weapon-type weapons are not required to have trigger locks at a point of sale, so I think that is a significant distinction just for the record. Stolen guns are an incredibly important issue. In Omaha, there were, I think, around 500 firearms for half of last year, '07, that were confiscated as a result of crime; and 60 or 70 of those were reported stolen. So if we get people to report those guns stolen, which most of them are, I think we can start to, as law enforcement has suggested, make an impact on these issues. Finally, I guess I harken back to 1990-91, with Senator Schimek and Senator Chambers at my side. We passed a bill, a permit to purchase law, that was opposed for two years, vehemently, by the NRA. And now it's, as far as I can tell at least, and I'm told that it's accepted by them, and it works. It's worked in Nebraska. We thought it would work at the time, but we...it was difficult to...in fact, I went across the state talking about the permit to purchase law, and was opposed



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in every place I went, by the NRA. I respect people who are opposed to legislation coming here and saying they're opposed, but I think you have to look at what we're trying to do. Look at the history of the kinds of measures we have passed and the impact of things like the permit to purchase system which keeps firearms out of the hands of felons in a reasonable way. It was reasonable legislation and it's worked. I think these measures are reasonable, they're responsible, and they are focused to get at the problems that we're dealing with--stolen firearms, preventing horrible shootings like occurred...occur in Senator Chambers' district that I observed many of over the years. I served at OHA and the Von Maur shooting. There is no difference. The horror is the same to everyone. With that, I would appreciate the opportunity to present this bill and urge that it be advanced. Thank you, Mr. Chairman. [LB958]

SENATOR LATHROP: Very good. Senator Ashford, I think you have the next bill. [LB958]

SENATOR ASHFORD: I do. [LB958]

SENATOR LATHROP: You do, and so we'll let you segue right into LB934 if you're prepared to do that. [LB958 LB934]

SENATOR ASHFORD: Thank you, Mr. Vice Chair. Good afternoon, members of the Judiciary Committee. I'm here...I'm Brad Ashford, representing Legislative District 20, and I'm here to present LB934. This bill is specifically in response to a Supreme Court case, the case of State v. Gozzola. John Gozzola, a previously convicted felon, was convicted in Douglas County of possession of a deadly weapon by a felon, a Class IV felony. Gozzola was found to be in possession of a bowie knife. And after the conviction the Supreme Court overturned the conviction, and concurred at...well, actually the appellate court overturned the decision. It was the Nebraska Supreme Court concurred with the appellate court's decision on the grounds that the statute criminalizing the possession of a deadly weapon by a felon does not specifically list knives among prohibited weapons. The Douglas County Attorney's Office unsuccessfully argued that the conviction should be upheld based on related or statutory provisions or other statutory provisions which classified knives as deadly weapons. That's the extent of this bill. I believe there is someone here to testify that has direct knowledge of the case. And with that I would conclude my comments, Mr. Chair. [LB934]

SENATOR LATHROP: Thank you very much. Anybody have questions for Senator Ashford? I should point out that Senator McDonald from St. Paul has joined us. Proponents of LB934, please. [LB934]

JOHN ALAGABAN: Good afternoon, senators. My name is, for the record, John Alagaban, A-l-a-g-a-b-a-n. I'm here as a Deputy Douglas County Attorney. I'm also representing the Nebraska County Attorney's Association. I do have specific knowledge

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regarding State v. John Gozzola. That was a case that I took up in Douglas County. And just briefly and specifically, it was a case where there was actually a judicial interpretation at the trial court level that knife would not be considered as a deadly weapon. We took that case up as a matter of statutory interpretation. It was actually the Douglas County Attorney's Office who took that case up, and then it was taken up by the Nebraska Supreme Court with a determination as that part of the determination as described by Senator Ashford. We do appreciate Senator Ashford's concern regarding what is, both as a Douglas County Attorney and as a member of the Nebraska County Attorney's Association, a necessity and a discussion towards citizens and the safety of citizens, and that ultimately was what the provision accounts for, we do believe. The specific factors in interpretation are that it is a statute that describes deadly weapon. However, deadly weapon includes knife. However, knife is not inclusive within the possession of deadly weapon statute at 28-1206. And that was what we took up: Is it a deadly weapon inclusive or is it a knife, or is it not inclusive? We do believe that it does, and it bears consideration towards safety considerations for our citizens, and we do and are a proponent because of that. I would be remiss and I believe it would be appropriate to describe that definition of a knife. The definition of a knife, which is in deadly weapon, which is at 28-109 of the statute and is also described in the statement of intent, is and does have a general provision involving a dangerous instrument capable of inflicting, cutting, stabbing, or tearing. It's a very general provision, and I believe it would be remiss, as practical pragmatic attorney who has to deal with courtroom issues daily, that obviously would come into play in terms of what's provided to us. But I believe that this Legislature, and through this committee, can address those issues, whether it's terminology, whether it's length of blade, which are very common and very specific around the country. Those are always avenues to be considered. We do believe that it's an appropriate standard to uphold in terms of deadly weapon. It does include knife. We are firmly a proponent of it for those reasons and as a safety concern for citizens. I don't have any other specific statements, but please if there are any questions. [LB934]

SENATOR LATHROP: Okay. Any questions? Senator Chambers. [LB934]

SENATOR CHAMBERS: What crime was committed with the knife that was involved in this case? [LB934]

JOHN ALAGABAN: Mr. Gozzola, Senator, it was--and this is what's a little bit different about this--he had both a possession of a controlled substance issue at a traffic stop, as well as a knife that was recovered from his person, and another--it was a smaller blade that was recovered within the cab of his vehicle. So he actually pled guilty to the possession of a controlled substance, and then we took up this issue regarding the knife. His prior felony, just so if I was unclear about that earlier, I believe was a theft--a felony theft charge from previous to the incident here. [LB934]

SENATOR CHAMBERS: But the knife was not involved in any crime. [LB934]

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JOHN ALAGABAN: The knife was not involved in a use or specific. As this bill does address, it's the possession of that weapon and with his person and his being a felon, which was at issue aside from that possession of controlled substance that he also had. [LB934]

SENATOR CHAMBERS: If you have gotten somebody for a crime and you've convicted the person of the crime, why is it necessary to add onto that conviction this possession of a knife? [LB934]

JOHN ALAGABAN: Senator, specifically as we take up all issues, is we bring every charge that we are reasonably capable of sustaining a felony conviction within the law. In this case there was a consideration, I will state, because of our work in Douglas County, but also in what we do in conferences and seminars with the County Attorney's Association, to attempt to get guidance. There was a bit of consideration that guidance could possibly be given regarding that terminology for a deadly weapon. That's not to say that in this case, there are certainly the facts were able to be sustained here, and I brought that charge along with the possession of a controlled substance. There was a small consideration for all of us as county attorneys. We've all seen possession of deadly weapon, and not the word inclusive knife in the statute, and it was a part of the guidance for that. [LB934]

SENATOR CHAMBERS: Without this comment being directed to you, directed at you, even though to you because you're here, I've seen some things by the Douglas County Attorney's Office that are very, very disturbing to me. And at this point I'm not prepared to give them any additional weapons to use in a way that I think is inappropriate, so I will not be supporting this bill, and you can let Mr. Kleine know that I made this comment and said that I'm particularly disturbed about the way that office is being run, although if he wants to hear it from me he knows how to contact me. And he was contacting me when he was working in the Attorney General's Office when they needed assistance on certain issues. When more money was needed to pay a salary to him, he knew how to contact me. When I'm concerned about guns and other things that I've mentioned here earlier, he doesn't know how to contact me. So I feel this is his way of letting me know that he's going to give me a chance to do toward his office what I think ought to be done. When you have a number of charges you can bring against a person and they are brought, and some may be felonies, this particular one is not essential in my view. So if this bill is not prioritized, even if it gets out of committee, it's not going anywhere. But I'll be out of here next year, and they can bring it next year and get anything they want. That's all I have. [LB934]

SENATOR LATHROP: There will be 49 of us left behind next year. [LB934]

SENATOR CHAMBERS: Yeah, but the 49 won't equal me. [LB934]

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SENATOR LATHROP: All right. I do have a question, John. And we put knife in here, but we don't define it. Is it necessarily the same definition of 28-109? [LB934]

JOHN ALAGABAN: It is. [LB934]

SENATOR LATHROP: I mean, the guy has got...even a felon has to have utensils. [LB934]

JOHN ALAGABAN: Right. And that's with the expectation that we had, is that the knife, as defined within the statute, is this: is that's what is available under the deadly weapon heading. It's this specifically. And that's why we are more than happy to bring that to the committee's attention for possible consideration, as well. [LB934]

SENATOR LATHROP: Thank you. Any other questions? [LB934]

JOHN ALAGABAN: Thank you. [LB934]

SENATOR LATHROP: Seeing none, thanks. Any other proponents? How about opponents? [LB934]

TIM TYRRELL: Again, my name is Tim Tyrrell, and spelling, T-y-r-r-e-l-l. I'm going to speak against this. It's a known fact that employment opportunities for persons convicted of felonies is less than that of regular law-abiding citizens. It's even more difficult if these persons are in a minority. A large number of felons are only able to secure employment in meatpacking plants, other food processing facilities, and restaurants. It is generally an occupational requirement that persons in these positions provide, at their own expense, or use company-issued cutlery. Prohibiting these individuals from possessing a knife with a blade longer than that defined by the law will force them into unemployment. Even a dishwasher in such an establishment is required to clean and sanitize the employer's equipment. And at that point he is then, he or she is then in possession, a felon in possession of a knife that doesn't meet the guidelines of the law. Senator Chambers has indicated many times that minorities in Nebraska are prosecuted for felonies at a much higher percentage than white people. Enactment of this law unfairly targets and demonstrates a total disregard for the minority community in the state of Nebraska. While I doubt Senator Ashford harbors any negative racial bias for the disadvantaged citizens of Nebraska, his bill implies otherwise. If passed, LB934 will have a detrimental effect on the economy and crime in Nebraska, especially in major population centers of Omaha and Lincoln. If this becomes law, there are many minorities now gainfully employed at jobs secured by their probation officers that will have to seek unemployment insurance benefits, employment elsewhere, or return to their life of crime. Thank you. [LB934]

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SENATOR LATHROP: Thank you, sir. Are there any questions for Mr. Tyrrell? Seeing none, thank you very much. Are there any other opponents? Anyone wishing to testify in a neutral capacity? And Senator Ashford, would you like to close? [LB934]

SENATOR ASHFORD: I'll waive. [LB934]

SENATOR LATHROP: All right. Senator Ashford waives the closing. That concludes our hearing on LB934. Thank you. Welcome, Senator Christensen. LB826. Senator Christensen. [LB934 LB826]

SENATOR CHRISTENSEN: Thank you, Chairman Ashford and fellow senators. I'm Senator Mark Christensen, M-a-r-k C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District and I'm here to introduce LB826. LB826 would allow permanently stationed military personnel in Nebraska, who for voting and tax purposes are not considered residents of Nebraska, to be considered residents for the purpose of the Concealed Handgun Act. Currently, Section 69-24339(6) in the Concealed Handgun Act, requires an applicant to be a resident for at least 180 days to establish residency for the purpose of the act, but prohibits any applicant who maintains a residence in another state or claims that residency for voting or tax purposes to obtain a Nebraska concealed handgun permit. This current prohibition includes any military personnel who fit the category of an individual described in (6), and thus does not allow them to obtain a permit. This bill would allow military personnel with a permanent duty stationed orders in Nebraska, who have been a resident for at least 180 days, to be eligible to obtain a Nebraska concealed handgun permit even though they are not a resident of Nebraska for voting or tax purposes. The prohibition does remain for individuals not in the military who maintain a residence in another state or claim that residency for voting and tax purposes. It is my desire to honor the men and women serving our country in the United States Armed Services in Nebraska by creating an environment where they feel welcome regardless of where they claim residency for voting and tax purposes. LB826 is a small step in that direction. Thank you for consideration of LB826, and I urge you to advance it to General File. Is there any questions? [LB826]

SENATOR ASHFORD: Thanks, Senator Christensen. Any questions of Senator Christensen? Yes, Senator Chambers. [LB826]

SENATOR CHAMBERS: Senator Christensen, are military persons who are on active duty allowed by the military to carry concealed weapons? [LB826]

SENATOR CHRISTENSEN: I cannot answer that. There will be people behind me that can. [LB826]

SENATOR CHAMBERS: Why do they need to carry these concealed weapons in Nebraska? [LB826]

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SENATOR CHRISTENSEN: Well, it would be the same purpose that anybody else would in the state--just their private right and peace of mind, security. [LB826]

SENATOR CHAMBERS: Then why don't you let other people who are not in the military but who are going to be here even though they vote and pay taxes somewhere else? They don't need protection while they're in Nebraska? [LB826]

SENATOR CHRISTENSEN: Well, you've known me to testify that I would like to have it totally open, but that's not been the choice of Nebraskans so far. [LB826]

SENATOR CHAMBERS: So the mere fact that somebody is in the military should give them a right when it comes to carrying a concealed weapon that other citizens of this country do not have, correct? [LB826]

SENATOR CHRISTENSEN: That's what I'm asking, because it's just an honor and respect for those that are serving and giving up their... [LB826]

SENATOR CHAMBERS: How does this honor them? [LB826]

SENATOR CHRISTENSEN: Well, it's just a respect issue that they're giving up time. [LB826]

SENATOR CHAMBERS: How does it respect them then? [LB826]

SENATOR CHRISTENSEN: Well, if you look at they're serving everybody in this state, and...(Recorder malfunction. Some testimony lost.) [LB826]

SENATOR CHAMBERS: Nobody put a gun to their head, so to speak. [LB826]

SENATOR CHRISTENSEN: That's correct. [LB826]

SENATOR CHAMBERS: So why should they get privileges when it comes to this kind of thing that other citizens of this country don't have? [LB826]

SENATOR CHRISTENSEN: Well, I've always just believed that the military people do great sacrifices. I believe that public... [LB826]

SENATOR CHAMBERS: Do you think they are more at risk in Nebraska than an ordinary person? [LB826]

SENATOR CHRISTENSEN: I wouldn't say so, no. [LB826]

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SENATOR CHAMBERS: Because nobody would even know they're in the military, would they. [LB826]

SENATOR CHRISTENSEN: No. [LB826]

SENATOR CHAMBERS: Did a person in the military ask you to bring this? [LB826]

SENATOR CHRISTENSEN: Yes. [LB826]

SENATOR CHAMBERS: Then is that person here? [LB826]

SENATOR CHRISTENSEN: Yes. [LB826]

SENATOR CHAMBERS: Okay, then I'll wait. That's all that I would have then. Thank you. [LB826]

SENATOR CHRISTENSEN: Thank you. [LB826]

SENATOR ASHFORD: Thanks, Senator Christensen. Do you wish to close or are you going to wait? [LB826]

SENATOR CHRISTENSEN: I'm probably going to go back to committee if that's okay. [LB826]

SENATOR ASHFORD: Okay. Senator Christensen waives closing. Thank you. Proponents. [LB826]

CORI BENNETT: Good afternoon, Mr. Chairman, senators. My name is Cori Bennett. The last name is spelled B-e-n-n-e-t-t. I have to state up-front that this is just my personal opinion. I don't represent the Department of Defense or the U.S. Air Force, just myself. I thank you for this opportunity to come down here. I think the Nebraska concealed carry law was very thoughtfully written. I don't think the intent was to exclude military personnel specifically from being able to carry a concealed weapon. I think it was just an unintended consequence. This bill would bring the concealed carry law in line with other laws that specifically mention military personnel, specifically hunting and fishing permits and in-state tuition at state universities. In those two instances, we're considered residents. For the most part we are residents. A great many of us being as mobile as we are and relocating every two to four years, we like to stay tied to somewhere, and in most cases it's just where you went to the service. So in my case I'm a resident of Washington State. I don't maintain any property there or anything else. It's just my home of record, and so I stay involved to the most I can with local politics there. I vote there and so on. There are approximately 6,770 active duty military personnel at Offutt. I know several that I work with that would like to be able to carry a

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concealed weapon. To answer your question, we don't feel necessarily threatened and it's not that we're paranoid. We don't feel like we're going to get rubbed out if we don't get to carry a concealed weapon. It's just the ability to carry one and not alarm other people around us if we had to carry it openly. We would like to have the same privileges as other residents of Nebraska have. I'd be happy to take any questions that you have. [LB826]

SENATOR ASHFORD: Senator Chambers. [LB826]

SENATOR CHAMBERS: People in Nebraska wanted this bill because they were afraid. They testified that they had been involved in situations where if they had a gun it would have come out differently. So if you're not afraid, what do you want to carry a concealed weapon for? [LB826]

CORI BENNETT: I don't think it's a matter of being in fear, necessarily. It's more a matter of being prepared. You never know when a situation is going to come upon you where you might need to use a firearm to protect yourself. [LB826]

SENATOR CHAMBERS: Give me an example. How long have you been in the military? [LB826]

CORI BENNETT: I've been in 17 years, sir. [LB826]

SENATOR CHAMBERS: Seventeen years. [LB826]

CORI BENNETT: Yes, sir. [LB826]

SENATOR CHAMBERS: Okay. How many situations in that 17-year period was it necessary for you to have a concealed weapon to protect or defend yourself? [LB826]

CORI BENNETT: I can think of one situation when I was stationed in Georgia where, having a concealed weapon, although I didn't have to draw and point it at anybody, the people that were I'm assuming about to mug me or start some sort of trouble definitely moved on when they saw that I was armed. [LB826]

SENATOR CHAMBERS: So you do have fear that what happened to you there and whenever it happened, could happen to you in Nebraska too? [LB826]

CORI BENNETT: I wouldn't characterize it as a fear--just a desire to be cautious and to be prepared for a situation. [LB826]

SENATOR CHAMBERS: Why have not the general officers at Offutt requested the Legislature to allow the personnel under their command in Nebraska to be allowed to



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carry concealed weapons? [LB826]

CORI BENNETT: I would have to pass on that question, sir, not to try and avoid it, but I'd be out of my line to answer for them. [LB826]

SENATOR CHAMBERS: I understand. But they've never done that, have they. [LB826]

CORI BENNETT: No, sir, and... [LB826]

SENATOR CHAMBERS: Have they done it at any base where you were located? [LB826]

CORI BENNETT No, sir; not that I'm aware of. And it would be important to make the distinction that they would not be able to necessarily, because then they would be representing the Department of Defense in making that request, so that would have to come from the executive branch. [LB826]

SENATOR CHAMBERS: And the Department of Defense has not seen necessary to tell the American people and their representatives that they should make it possible for military people to carry concealed weapons. That's not a Department of Defense position, is it. [LB826]

CORI BENNETT: Not that I'm aware of. [LB826]

SENATOR CHAMBERS: Are you allowed to carry a concealed weapon if the state allows you to do so? [LB826]

CORI BENNETT: Yes, you...there are certain conditions where if the Department of Defense would allow you to carry concealed weapons, but that would be for official duties, and there are mechanisms in place to address that. But as a private citizen they don't address it at all. They just would follow the local community standards. [LB826]

SENATOR CHAMBERS: And if we don't agree with this bill--which I think is clear from what I've said, you know, I don't agree with it--are you going to have to get counseling or take an antidepressant or pills to calm you down? I can see that's not the case at all. That's the only reason I say it. But I've asked you everything I want to. Thank you very much. [LB826]

CORI BENNETT: Thank you for your time. [LB826]

SENATOR ASHFORD: Thank you, Cori, very much. Any other proponents? Yes, sir. How many other proponents do we have? Okay. How about opponents? Are there any opponents here? All right. Yes, sir. [LB826]

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V.H. CALLAHAN: Bud Callahan, C-a-l-l-a-h-a-n; Pleasant Dale, Nebraska. I am a proponent. Again it makes good sense because if for no other reason the concealed carry, a concealed gun is something as simple as placing it on a car seat and putting your coat over it. If you drive down the street and you go home, you go lock it up. If you do not have a concealed carry you are in violation. It's that simple. A commonsense thing. And I do not look at a gun or a knife or a ball bat as a weapon. I'm the weapon; that's the tool. So it's the individual, it's the common sense that prevails. And hopefully, again, it will prevail on both sides of the equation--legislative and in the field. [LB826]

SENATOR ASHFORD: Thank you, Bud. Any questions of Bud? Bud, I have one question, and I haven't asked this question before and I wasn't here when the concealed weapon bill was asked so I haven't had an opportunity to really talk about it, but did you support that bill? [LB826]

V.H. CALLAHAN: Yes, sir. [LB826]

SENATOR ASHFORD: And in that bill there were a number of regulatory provisions that talked about...in effect, it enlarged a right. It gave you at least a legal license to carry a concealed a weapon, but it also had a series of safety measures included in that, and those were regulatory. Isn't that correct? [LB826]

V.H. CALLAHAN: Yes. [LB826]

SENATOR ASHFORD: I mean, those are...you have to X, Y, and Z, and the focus is on safety? [LB826]

V.H. CALLAHAN: Yes. [LB826]

SENATOR ASHFORD: So in that case where you were given an opportunity to carry a concealed weapon, it's okay to have the regulations that you're talking about. It was okay to have those regulatory steps that you'd have to go through to get the concealed weapon. That was all right with you. Those provisions of the bill, in the concealed weapon bill, that talked about training and all those things, those... [LB826]

V.H. CALLAHAN: Yes. [LB826]

SENATOR ASHFORD: Okay. [LB826]

V.H. CALLAHAN: The training is back to the education part that I strongly... [LB826]

SENATOR ASHFORD: I grant you, and I think that's good stuff. . [LB826]

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V.H. CALLAHAN: Yes, it is. [LB826]

SENATOR ASHFORD: I mean, I agree with that, but. And then how about the permit to purchase? I mean, is that a problem for you? Where you go and you have a permit...get a permit to...so that you can...and you can carry that permit for three years and it shows that you're not...you have a right to carry that gun, that handgun in the case of a permit to purchase a handgun? Is that a problem for you? I mean, I'm just...this is a conversation because I'm trying to understand. [LB826]

V.H. CALLAHAN: Sure. [LB826]

SENATOR ASHFORD: I'm trying to understand the difference...I guess what I'm getting at is I'm trying--just so you understand where I'm going from--I know there's a difference in what...in a permit to purchase and a concealed weapon permit. I know those are different things. But what I'm trying to get at, is there really a difference in what we're trying to get at, which is to have responsible regulation in place. I'm just...I'm having a hard time understanding the difference between that. And you haven't said whether you would support it or not. I'm just wondering. [LB826]

V.H. CALLAHAN: I support the regulation... [LB826]

SENATOR ASHFORD: Permit to purchase. [LB826]

V.H. CALLAHAN: ...the permit to purchase. It has to come to a yes or no... [LB826]

SENATOR ASHFORD: Well, I mean... [LB826]

V.H. CALLAHAN: ...and with the other laws and so on, if someone 21 years...I mean, because we keep going back to regulations and so on. And keep in mind, I grew up...you know, I could have been, I think, any age, and walked in and probably purchased a shotgun or a rifle--a 16 I think it was maybe at the time--and we didn't have a problem with anything. And so when a governmental agency or something comes along and says, that... [LB826]

SENATOR ASHFORD: Well, I don't think you're the problem. And Senator Chambers made a very good point. I mean, that you've had the advantage of growing up in a community where gun violence just doesn't happen, but... [LB826]

V.H. CALLAHAN: Yeah, right. But I think because of those...let me make another analogy. When I fly, I have to take my...literally take my shoes off and do things, and I have to do that. I understand, I accept it because it's necessary because of others that have done things to all of us, and because of the one-tenth of 1 percent or whatever we have, all have to suffer a bit...or it be an inconvenience, not suffer. So, yes, the

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purchase permit is...it's worked. I think it's worked fine. [LB826]

SENATOR ASHFORD: And my only point...the only point in saying that...I mean, we're not going to reargue the bills that are up before now, but when we think about ways of trying to have reasonable, responsible regulation--granted, it's a regulation. [LB826]

V.H. CALLAHAN: Yes, it is. [LB826]

SENATOR ASHFORD: But it's...you know, if it works, and there are many, many people who are associated with the NRA and others who opposed permit to purchase and now say it's worked--not only you, but I'm talking about the NRA and lots of others. So all I'm saying by that is it's tough to paint things with a broad brush is all I'm suggesting. [LB826]

V.H. CALLAHAN: Yes, it is, and in retrospect and looking forward it has worked quite nicely. [LB826]

SENATOR ASHFORD: Okay. Okay, yeah. Anyway, that's all and it's late, and I don't want to weigh down this hearing, but thank you for your comments, Bud. [LB826]

V.H. CALLAHAN: Sure. [LB826]

SENATOR ASHFORD: Any other questions of Bud? Thanks. No, you're done for now, Bud, but we may call you back as an expert here pretty quick. Yes, sir. Come on up. [LB826]

TIM TYRRELL: Again, my name Tim Tyrrell, T-y-r-r-e-l-l, Sr. I'm going to speak on behalf of this bill. All active duty members of the military stationed in Nebraska have taken an oath to uphold and defend the Constitution of the United States against all enemies, foreign and domestic. Yet as a reward for that service, this legislative body, when it passed the concealed carry law, denied them the basic human right to defend and protect themselves and their families while they were stationed in Nebraska. Senator Christensen's bill would correct this egregious slap in the face to the brave young men and women that voluntarily sacrifice themselves for our freedoms. On the one hand we recognize that sacrifice that these airmen, sailors, and soldiers make on our behalf; but on the other we're telling them that they and their families are second-class citizens not worthy of the same rights and protections as any other Nebraskan has been guaranteed under the statutes and the constitution of this state for the one, two, three, four, five years that they may be stationed in this state. In their service they have little or not decision as to where they're assigned to perform their duty. Current state and federal law allows them to maintain their citizenship rights to vote and maintain motor vehicle registries in their home state while serving in Nebraska. Currently, Nebraska is using those laws to punish these brave young men and women.

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State law requires the mandatory issue of a concealed carry permit to anyone that has been a resident for more than 180 days. Because of their residency status and lack of recognition or reciprocity laws for other states' permits, military personnel stationed in Nebraska are being denied, by this legislative body, the same rights to protect themselves and their families as the other law-abiding citizens of Nebraska enjoy. It will tell the world that Nebraska is an ungrateful host to this country's military personnel if this law is not passed. Thank you. [LB826]

SENATOR ASHFORD: Any questions of Tim? Thank you. [LB826]

SENATOR CHAMBERS: Not a question. When I was taking basic training at Leonard Wood, Missouri, I was in the infantry--your MOS 111. The Army is the lowest branch; 111 is the lowest MOS; rifleman is the lowest position. Infantry is the word lowest, and the rifleman is the lowest position in the infantry, and that's what I was in. We had people who trained there who were in the Air Force. They didn't wear full military gear; they never took a 20-mile march in full field gear; they didn't know how to roll up a poncho and put it on the back of their belt; they didn't even wear an ammunition belt; they didn't carry a rifle. When they went down the street in a group, they walked; they didn't march. So the services are not all equal. Not everybody in the military is brave. Not everybody in the military risks anything. I didn't fire a gun at anybody. Many of the people who were training with me when we were on the rifle range couldn't even qualify with a rifle. So to make these generalized statements--and I'm sure Mr. Bennett can confirm what I'm saying--not everybody becomes a hero just by virtue of being in the military, and it's wrong to suggest that because the state doesn't say you can carry a concealed weapon, people don't like you. The only way anybody knows he's in the military is if he tells them. And he didn't say he felt like nobody liked him and woe is he because he can't defend his family. He didn't say anything of what you said. So did he whisper that in your ear and asked for you to say it to us on his behalf, or you said this on your own? [LB826]

TIM TYRRELL: Senator Chambers, I am 100 percent disabled veteran of the United States military,... [LB826]

SENATOR CHAMBERS: That's not what I ask you. [LB826]

TIM TYRRELL: ...and I'm speaking here for myself and myself only. [LB826]

SENATOR CHAMBERS: Okay. [LB826]

TIM TYRRELL: But as a side point in your reference to 111, my career field was 462, and they used to say that was a size 46 shirt and size 2 hat. (Laughter) [LB826]

SENATOR CHAMBERS: He's been in the military. Okay. (Laugh) But that's all that I

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have. [LB826]

TIM TYRRELL: Thank you, Senator. [LB826]

SENATOR CHAMBERS: Okay. [LB826]

SENATOR ASHFORD: Thanks, Tim. Okay. Any other proponents? Opponents? Neutral testifiers? I think Senator Christensen has waived his closing, so that will conclude the hearing on LB826. Senator Chambers is next with LB926...LB929. How many do we have here that wish to testify on LB929? Okay. (Laugh) Proceed, Senator Chambers. [LB826]

SENATOR CHAMBERS: I'm Ernie Chambers. I represent the 11th Legislative District. I hate hunting. I hate fishing. I hate trapping. (Laughter) The lady who works with me has a toy poodle named Nicole. She hates hunting. She hates fishing. She hates trapping. And, by God, I'm going to ban hunting, trapping, and fishing in Nebraska; and I'm not just going to ban it, I'm going to make it a crime. If you violate this ban, the first time you're guilty of a Class I misdemeanor, and if you're such a "disrespecter" of the law, such a malefactor that you will do things against the law, any subsequent violation is a Class IV felony. This bill, by its terms, will ban hunting, trapping, and fishing, and it would make it a crime to violate that ban. My statement of intent: By its terms, LB929 bans hunting, trapping, and fishing in the state of Nebraska. Then it describes the penalties. Lest anyone deem me to be crazy, here is the intent and purpose of the bill: To demonstrate in a concrete manner that amending the constitution in order to protect these activities in a state such as Nebraska is nothing less than an abasement of the constitution. This bill has as much likelihood of becoming law as the Pope becoming a Muslim simply because I tell him he should. Its predictable defeat should serve as an object lesson which may spare the constitution from being cluttered and debased. Realistically speaking, it is no more necessary to protect hunting, trapping, and fishing with a constitutional amendment than it is to protect the right to breathe air by means of such an amendment. May the integrity of the constitution be preserved. It could be argued that hunting enjoys a measure of protection under the Nebraska Constitution already. Section 1 of Article I says...now why they put these guns in this provision is beyond me, but that's the mentality of Nebraskans: scared of their shadow, flee when no man pursues, hear the crackling of a leaf and they say behold a lion is in the streets. But I'm not like that so I don't carry guns, I don't carry knives, I don't carry iron knuckles or brass knuckles, and I'm not afraid. All persons are, by nature, free and independent and have certain inherent and inalienable rights. Among these are life, liberty, the pursuit of happiness--okay so far--and the right to keep and bear arms for security or defense of self, family, home and others, and for lawful common defense, hunting, recreational use, and so forth. I don't think that ought to be in the constitution, but because some stupid people put it there once is no need to duplicate the stupidity, the cluttering of the constitution, and the disrespect of this basic document. And I'm going to

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read you all some information which will show further why there is no chance that a Legislature in Nebraska would ever pass a bill to ban hunting, trapping, and fishing. In fact, Senator Pedersen, before he became aware of my real intent, was so furious that he mouthed the words to me "over my dead body." (Laughter) True or false? [LB929]

SENATOR PEDERSEN: True. [LB929]

SENATOR CHAMBERS: All right. (Laughter) Now if I was serious, I would respond with a foul "that can be arranged,"...(laughter)...but I don't hunt four-legged or two-legged creatures. This is from the fiscal note. "Revenue Impact: The direct fiscal impact would be to the Game and Parks Commission in the form of lost revenue from hunting, fishing, and related permit sales. The Game and Parks Commission has estimated this loss to be approximately \$13,500,000 annually. If lost revenue from the habitat stamp, aquatic habitat stamp, and waterfowl stamp are considered the revenue loss would be closer to \$15.5 million." You think a Legislature is going to pass a bill that would do something like that? Certainly not. Even the Legislature, as much as I say they are foolish, are not going to do something like...well, I don't think they would. "The commission has estimated that \$8.7 million of federal wildlife and fish related grants would also be lost annually. There is no basis to disagree with this estimate. Indirectly, the prohibition of hunting and fishing in Nebraska may negatively impact sales and income tax revenue from the loss of hunting and fishing activity of both residents and nonresidents. No estimate of this potential revenue loss is available at this time. Expenditure Impact: The Game and Parks Commission has estimated that their expenditures would be reduced \$400,000 annually due to the elimination of staff involved in permit sales and administration. They assume that \$20 million of their expenditures related to law enforcement and wildlife and fishing responsibilities would continue, and would need to be funded with the General Fund because of the loss of cash and federal revenue. However, with the cessation of all hunting and fishing activities, it could be argued that supporting responsibilities such as habitat improvement and fish stocking could also cease. If this is the case the expenditure reduction would approximate the revenue loss of \$13-15 million and negate the need for any General Fund support." Members of this committee, this might seem like a waste of your time. It's not designed to be. I mean it to be frivolous, I mean it to be lighthearted, but I'm as deadly serious as a heart attack. When people write wills, that is an attempt by somebody who has died to reach back from the grave and have an impact in the land of the living. I will not be here next year to protect and defend the constitution. I am trying to do something here today which will allow, in my absence, the constitution to be protected. I've tried to give rational arguments based on the nature of the document of the constitution. It's the organic, the fundamental, the basic law of this state, the foundation on which all of the other laws are erected, and that document should not be like a basement, an attic, a closet, a utility drawer where any old thing is thrown in there for any purpose. There has to be respect for it. The integrity has to be maintained, and if we in the Legislature have no respect for the law, we cannot expect the public to have any. We set the tone. We are the ones in

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the know. We are the protectors of the law. We love the law. We respect the law. And we know that even when it is not enforced in the way that it should, I, of all people, am aware that there's discrimination in the operation of the law. I know that the courts are not always fair, but if I cannot get justice where there are courts and where there are laws that require it, what chance do I have at all if those laws are swept away? I cannot even make an argument. I can at least now argue that you're being hypocritical. You're not complying with your laws. So the law, although it has been most unfair to me, will find in me its strongest defender, because it's the only hope that I have. It's not much, but it's better to have some than none. So I'm hoping that what I'm doing by presenting this bill, to show that it is not necessary to clutter the constitution with an amendment saying that hunting, trapping, and fishing need to be protected by an amendment to the constitution. When the U.S. Constitution was being formulated, a similar provision was offered, believe it or not, to protect hunting, trapping, and fishing in the forests, in the streams, in the waterways of this country, and it was ridiculed to scorn. Those who advanced it were hooted down. And one man said, if we're going to do that then we should protect, in the constitution, the right of an individual of a cold winter night in New England to rest on his left side in bed until that became uncomfortable, then he had the right to roll over to the right side and rest on that one of a cold winter night in New England; and if you're going to protect hunting, trapping, and fishing in the constitution, you must protect the right of every citizen to roll over from one side to the other in his bed, as he chooses, of a cold winter night in New England. I'm paraphrasing. It is ridiculous. It is preposterous. But maybe the fact that I think so much of the constitution will be the very thing to incite others to disparage it, to debase it, to sabotage it, to treat it with no respect whatsoever. That, my colleagues, is why I'm bringing this bill. And when the people come up here and savage this bill and tell you--well, they may not say how crazy this is--that will show you why you don't have to ever worry about hunting, trapping, and fishing being banned by this Legislature. This object lesson is going to be driven home to you by those who might argue that we need an amendment to the constitution. Their very presence here and their very presentation will negative that proposition. Any questions you have to ask, I will be pleased to answer them. [LB929]

SENATOR ASHFORD: All I'll say, Senator Chambers, that this weekend I won't have to listen to Prairie Home Companion on public radio because I've just had my story for the week. [LB929]

SENATOR CHAMBERS: Bless you, my son. (Laugh) Thank you. [LB929]

SENATOR ASHFORD: We have...let me try to, if we could, not to...it's 20 minutes of 4:00 on Friday. What I'm going to ask the opponents...do we have any proponents? NRA is for this, Senator Chambers. They just raised their hand. Do we have any proponents? We have one proponent. How many opponents again? Why don't we...come on up, sir, the proponent come on up, and then let's try, if we could, to be through by 4:00 with the testimony. So if we could organize our thoughts together so



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that we could try to get done by 4:00. [LB929]

J.E. DUCEY: Senators, my name is Jim Ducey, spelled D-u-c-e-y. I'm from Lincoln. I was actually glad to see that Senator Chambers introduced this bill. I think it's an important step to raise some true discussions as far as hunting, fishing, and trapping. And I'd like to give a little background in that I've been a resident of Nebraska nearly my entire life, and for more than 25 years or such I've been studying birds and have read many narratives of people out shooting birds. And birds, in this case, is my particular interest. In many cases, in the historic narratives that I've read that date back to 2000 years, it's always shoot this bird, let's shoot that bird. They see a bird; they shoot it, shoot it, shoot it, and that was the way that it was in the past, and we can't go back and we can't change that. But nobody needs to go out these days to shoot anything to survive. There is absolutely no need to go out and shoot a crane, or I mean--they can't shoot cranes in Nebraska, I'm sorry--there's no need to go out and shoot a goose, shoot a prairie chicken or that to ensure that you're surviving while trying to trek, you know, 5,000 miles across the nation for an exploration. So in that sense I feel that hunting is an outdated pursuit since there's no need to kill anything to enjoy the outdoors. You don't have to go out and get fish and throw them on the bank and then cut them up and take them away. I feel that the funds derived from these pastimes, such as hunting, fishing, trapping, have been very important in the past and they have led to some very important habitats being protected. They have led to the protection of various species and ensured the survival of various species, so hunting in the past has been very important in that respect. I would concede that in some cases hunting may be required to control the numbers of a few species--deer, too many snow geese, those types of things--but those are, I think, are a minority. I do feel that there are other sources of funds other than license fees. There are...we have an Environmental Trust. We get federal funds. We have foundations that provide money. We have people that are just more than willing to provide money, to provide the options needed to manage our fish and wildlife habitats other than through licensing. So I feel the number of people that are interested in nonconsumptive outdoor pursuits, such as bird-watching, hiking, photography and those types of things, vastly exceed those involved in the taking sports, such as hunting, fishing, and trapping. There are, by far, I feel, many millions more that go out watching birds simply for the enjoyment rather than going out and feeling that, well, I want to go out and, sure, I'll go out and sit in my blind and I don't have to necessarily shoot anything. But the bottom line is that the main reason that these people are out there and involved in these sports is to take something home with them, and then that involves killing something. I also feel that in some cases there can be conflicts between the pursuits of those interested in nonconsumptive pursuits in the wild, can have conflicts with hunting. I have, myself particularly, been involved in a situation where I was out bird-watching on a state wildlife area, and all of a sudden had a shot go over my head. And I don't feel that, as a private citizen, when money--the money that paid for that was through tax dollars that paid for that area where I was at--where I should feel threatened because somebody feels they want to go out and

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hunt or shoot or do those types of things. So my bottom line on this is that, although Senator Chambers had his reasons for introducing this bill, I feel the bill is an important measure to promote further discussion of resource management options, including impacts of those items specifically addressed by LB929. [LB929]

SENATOR LATHROP: Very good. I turned into the Chair. Are there any questions? [LB929]

SENATOR CHAMBERS: Just one comment, so I won't have to make it when others are up here, because the Chair has already said he'd like us to be out of here. I am really opposed to hunting, but what I'm trying to indicate is that as strong a force as I'm supposed to be in the Legislature, as strong as my dislike of hunting is and it's known by my colleagues, I could not get a bill passed to ban hunting. If I cannot do it, nobody can do it and nobody will attempt to do it. So the other reasons that I gave I'm not going to repeat, but I do have a genuine distaste for hunting and trapping. Fishing I don't know anything about. [LB929]

J.E. DUCEY: I would like to stress, I think the bill is an important measure to invoke further discussion to have the state say that we do have areas where you can go and you can go bird-watching during the deer hunting season without worry about getting shot or those types of things. And I think that if this bill doesn't accomplish that, I think there should be other steps made so that we can have all these various uses where nobody feels threatened. So thank you for your time. [LB929]

SENATOR LATHROP: Very good. And thank you for your thoughts. That is the only proponent, I believe, so are there any other proponents? Okay. Perhaps we could hear from some opponents. Mr. Callahan, you look like you're on deck, so we'll hear what you have to say. [LB929]

V.H. CALLAHAN: Senators, Mr. Chambers, we are most thankful that we live in a country where we can have the First Amendment and the Second Amendment that helps support the First Amendment, speaking of the national constitution now, and that there be not much limit to, should I say, hot air or something to be tossed around or bandied about with such things. Blessed are those that saw the need to put that in the constitution such that it could be preserved for posterity and so on down the line. And I think that, while I do not hunt, I have...it bothers me to have someone tell me I can no longer do it. I do enjoy fishing once in awhile. And again, excuse me, but I have some good friends that I guess I don't really pay much attention to it but their skin is a little different color than mine, and I really hadn't bothered to pay much attention to it, but we certainly enjoy fishing. And I think that this bill should not leave this committee and we be allowed to at least have the right to hunt and fish and enjoy the pursuit of those things. And again, Senator, you have the right to do that and I find amusement with that. While once in awhile I find something that we agree on, it still is fun and I would like to

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certainly sit down and have coffee or something with you someday. Do you drink coffee? [LB929]

SENATOR CHAMBERS: On occasion. [LB929]

V.H. CALLAHAN: Good. Okay. Well, we could drink tea or something. But thank you. Any questions? [LB929]

SENATOR LATHROP: I don't...no. Thank you, Mr. Callahan. [LB929]

WES SHEETS: (Exhibit 9) Good afternoon, Chairman Ashford, members of the Judiciary Committee. My name is Wes Sheets. I live here in northeast Lincoln. I'm here representing myself and the Nebraska Division of the Izaak Walton League and a number of other sportsmen. With all due respect to Senator Chambers, I would urge that this committee indefinitely postpone this piece of legislation. There's just a couple of important points that I wanted to say. I'll be very brief. The acts of hunting, fishing, trapping and other outdoor recreational activities are very important to Nebraskans, as we all can understand. They are a wholesome way of life or a part of a wholesome life, at least in my family and those that I live and interact with. I passed out an additional fact sheet and it just...it's a rather recent survey done by the U.S. Fish and Wildlife Service indicating how important those activities are to the economy of our state. There's also some information there about the country as a whole. That relates to the 230-some-odd hunters and fishermen that we have in Nebraska, but it does not include all the numerous young people that also enjoy hunting and fishing. So with those comments and that bit of information, I would like to urge this committee to indefinitely postpone this bill. And I would...I hope the Senator is right, that the bill doesn't go anywhere. I would trust that he's correct on this. Thank you very much. [LB929]

SENATOR ASHFORD: Thanks. Any questions? Thank you. Opponents? [LB929]

MARK PINKERTON: Good afternoon, Chairman and senators. My name is Mark Pinkerton, M-a-r-k, Pinkerton, P-i-n-k-e-r-t-o-n. I'm representing the Nebraska Game and Parks Commission. I am the District 1 commissioner. Senator Chambers, I'm one of your favorite people. We've discussed the economic impacts of hunting, fishing, and trapping, and they're substantial. By state statute and Nebraska Game and Parks Commission statement, we have a responsibility to manage these resources for our citizens and for our state for both consumptive and nonconsumptive purposes. That's a responsibility that I take very seriously and that's why I volunteer my time to do so. I'm not going to go into deep depth on a lot of these issues due to time constraints, and I don't feel that it's necessary, but the one thing I do want to say is as far as families and experiences and memories, that's what hunting, fishing, and trapping create for a lot of families--opportunities for families to do things together. It's one avenue for youth to relate to adults and parents and spend time together when they're at risk and have so

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many other activities that they can choose from that many times it becomes difficult to share things. Growing up as a child and spending time hunting and fishing with my grandfather, I'm not taking my kids out in the field. We have some very close, rewarding and cherished memories together. And so I think it's totally unnecessary to go any further with this bill. As a closing statement and a sidebar, Senator Chambers, I share a deep respect for the constitution. I don't necessarily agree with all your viewpoints, but I do share your respect for that, and I definitely respect the 38 years of commitment you have given, because that takes a lot of effort and a lot of time and, as a volunteer, I understand it. So I commend you on that. I think that concludes my statements. Is there any questions? Yes, Senator Schimek. [LB929]

SENATOR ASHFORD: Yes, Senator Schimek. [LB929]

SENATOR SCHIMEK: Thank you, Mr. Chairman and members. [LB929]

MARK PINKERTON: I'm sorry, Mr. Chairman [LB929]

SENATOR ASHFORD: (Laugh) No, that's fine. [LB929]

SENATOR SCHIMEK: I want to say this so that it isn't provocative at all and I want to say it to just refute something that you said. Not all families have happy memories from hunting. One of my high school classmates, who was married and had two small children, was hunting with his family when he accidentally shot his wife and killed her. It's not always good memories, and I just had to say that. [LB929]

MARK PINKERTON: I understand that, Senator. My grandfather lost a dear friend, my other grandfather, in a duck hunting accident, and I understand your comment. Accidents and unusual things can happen in everyday life anywhere you go and...but we also can (inaudible). [LB929]

SENATOR SCHIMEK: But I do have some happy memories personally of going hunting, pheasant hunting, with my dad. But they aren't all that way. [LB929]

MARK PINKERTON: Well, the great thing about this country, because of our freedoms, is we all can choose to follow pursuits we enjoy, and if there's things that we don't have interest in, we're not required to do them. But I don't impose my beliefs or my wants on you, and you don't impose yours on me, and that's one thing that's really great about this country and this state. [LB929]

SENATOR ASHFORD: Thank you. Thanks for your comments. Good afternoon. [LB929]

JOE HERROD: My name is...good afternoon, Senator Ashford, Senator Chambers. My

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name is Joe Herrod and I'm here representing the Nebraska Council of Sportsmen's Clubs, and I hate to take the time other than...I mean, if we weren't here, I just...I can't imagine...besides, I've been here all afternoon and I want to take this opportunity to remind you that at noon at the Women's Club, February 4, we have our annual legislative luncheon, and the food is game food and it's prepared by the cooks at Mahoney State Park, and we'd love to have you all there and we'd love to have Senator Chambers there. And I wish...Senator Chambers and I are just about the same age, and I wish that he had had the same opportunities that I had when I was a young boy. I learned how to hunt and I learned how to play golf, and I can't tell you which one I love the best, but according to the season, you know, I'm ready for golf and then I'll go hunting. And I want to say that we only did this as the executive committee decided to oppose this bill. Our official meeting on this where we really vote is February 4, and I guarantee you, if we have any change in our opinion we'll get right back to you. [LB929]

SENATOR CHAMBERS: I just want to thank him... [LB929]

SENATOR ASHFORD: Senator Chambers. [LB929]

SENATOR CHAMBERS: I want to thank you for the invitation, but I will not be munching at the luncheon. (Laughter) [LB929]

SENATOR ASHFORD: Thanks, Mr. Herrod. All right, what do we got here? We've got 5 minutes left, so come on up. [LB929]

JANICE SPICHA: Senators, Chairman, my name is Janice Spicha, J-a-n-i-c-e, last name is S-p-i-c-h-a. I'll make this very brief. I just have to testify against this bill. I did wonder for a long time what Senator Chambers' reason was for it. I appreciate his explanation. I'm testifying on behalf of myself, my kids, sportsmen, Nebraska Bowhunters, Lincoln Prairie Bowmen Archery Club. I think everything has been said that needed to be said. But, Senator Chambers, just once I'd like you to come to our luncheon. It would be great. I appreciate all the legislation that you've stopped that was bad. We may differ on the constitutional amendment, but...and hunting and fishing, but I appreciate the right to hunt and fish. I've raised my kids that way and my grandkids, and I want to continue that. Thank you. [LB929]

SENATOR ASHFORD: Thank you, Janice. [LB929]

JANICE SPICHA: Any questions? [LB929]

SENATOR ASHFORD: Any questions of Janice? Thanks. Okay. [LB929]

BRAD KENDRICK: (Exhibit 10) I'll make it short. My name is Brad Kendrick. I live in Omaha, Nebraska. The last name is K-e-n-d-r-i-c-k. My full speech or whatever you

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want to call it at this point, since it's kind of cut down, is in here, along with 11 other people's e-mails. What I want to do is just give you a few excerpts from the speech I was going to make today, because it's important that you know what my feeling is and why a hunter would want to take an animal or why a fisherman would want to take a fish. I have never stepped foot in the State Capitol. I have never been involved in politics in any major fashion other than to vote my conscience on an election ballot or to write a letter to my state senator. I felt compelled, as an almost 25-year hunter and fisherman, to come today, not knowing the true intentions of what was going on, but to voice my opposition against this bill, that it not move from the Judiciary Committee to the general floor. And in one day's time I racked up 12 e-mails of letters of folks that had said, you take this with you, and probably the same amount in people that say, I support you. I'm not here to waste your time, though. You must realize that for a person such as myself to become politically active makes a resounding statement about this situation. Nebraska has had a long heritage of hunting and fishing. The money generated by hunting, fishing, and trapping has had very positive effects on this economy. And I'll stop that part of the paragraph, because we all know what those are. During difficult times, I have had to rely on the animals that I took hunting or the fish that I caught fishing so that my family could make ends meet, so there are other reasons that folks such as myself that, you know, can afford a suit, can drive a car. Whether they live in north Omaha, south Omaha, west or east Omaha or out in Scottsbluff, there are times that are difficult and we rely on hunting and fishing to keep our subsistence level where it needs to be. Some consider hunting a barbaric sport. What is actually more barbaric is to take away the hunting and fishing sportsmen. At that point this will lead to wildlife numbers spiraling out of control, disease and malnutrition in the managed wildlife populations, large numbers of animals starving, and so forth. I've seen that situation in Fort Calhoun. I think it was 25 years ago that that occurred, and the acreage owners would not allow hunters in. The populations increased. The animals died, and you watched a horrible death. A bullet...death by bullet is a lot better than seeing an animal with blue tongue. I thought it was possible that this bill could have been introduced as a backdoor support for gun control, and I only have one thing to say to this. I've been in Nebraska since 1971 and I've watched everything occur during that time. People kill people. Guns don't kill people. If this is the intelligence behind this bill then we need to ban all knives used in this state also. Look to Australia, with their recent introduction of gun control. Their violent crime rate involving guns is now spiraling out of control and they can't understand why. Yes, there are other reasons this bill was introduced and I found out what those were. We need to put an end to this bill here in the Judiciary Committee. In closing, I want to go on record today for any bill presented now or in the future that ensures or enhances the protection of fishing, hunting, and trapping in the great state of Nebraska. I also want to go on record in support of maintaining my right as a citizen to keep and bear arms in any and all circumstances. One of the primary reasons that Japan did not invade America in World War II was the known fact that most of the citizenry could bring a weapon to bear against them. With the increase in terrorism threats in our country, I'm sure that this fact is also regarded carefully in

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terroristic thinking. I thank you for your time and I appreciate your work in your capacities as our senators. [LB929]

SENATOR ASHFORD: Thanks. Thanks, Brad, very much. They ran out of gas, too, I think, the Japanese. (Laughter) But I don't know how...there are other things, but thanks for your testimony, Brad. I think we're going to end now. Do we have any neutral testifiers? Okay, let that...Senator Chambers, do you wish to close? [LB929]

SENATOR CHAMBERS: No. [LB929]

SENATOR ASHFORD: (See also Exhibits 11 and 12) Okay. Thank you. All right, that concludes LB929. LB950. Senator Pirsch. [LB929]

SENATOR PIRSCH: Chairman Ashford, members of the Judiciary Committee, I appreciate the opportunity to appear in front of you here today. I'm Pete Pirsch. I represent the 4th Legislative District. I'm here to introduce LB950. LB950 changes the provisions under Nebraska's duty to stop in the event of an accident resulting in personal injury or death. Under LB950, if a person flees an accident which results in an injury to any person, the penalty remains a Class IIIA felony. Under LB950, if a person flees an accident which results in the death of any person or serious bodily injury, the penalty is a Class III felony. The order not to drive and license revocation provisions for both offenses would remain within the range of 1-15 years as it currently exists in the current leaving the scene of an injury or death statute. That would conclude my introduction, Chairman Ashford. [LB950]

SENATOR ASHFORD: Does anyone have any questions of Senator Pirsch? Seeing none, any...? Do we have proponent testimony? Bob? Marty? Marty, do you want to come first, to come up and...? [LB950]

MARTY CONBOY: Good afternoon, Mr. Chairman, ladies and gentlemen of the committee. My name is Marty Conboy, C-o-n-b-o-y. I'm the city prosecutor in Omaha, here to testify briefly in support of LB950. As Senator Pirsch has summarized, this is a very straightforward bill that simply divides out the nature of the penalties for leaving the scene of an injury or death; to add those very serious injuries that we already acknowledge in our DUI statute and those that result in death, to be a little more serious. Actually this also kind of clarifies an issue that's come up with defense attorneys from time to time, and that is, where is the line drawn between somebody who just has a minor injury, as to somebody who has more serious injury? At least in this case there would be a definition that would result in different penalties. We use an existing standard, that in our drunk driving law in 60-6,198, that already exists. So very straightforward in that respect, as well. But it does increase those penalties for those very serious cases. They're not common but they're obviously devastating to those involved. I'd be happy to answer any questions if you have any. [LB950]

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SENATOR ASHFORD: Thanks, Marty. Bob. [LB950]

BOB SCHMILL: (Exhibit 3) Good afternoon, Senator Ashford and members of the committee. My name is Bob Schmill; that's S-c-h-m-i-l-l. I'm from Matt's Dream Foundation and the father of Matt Schmill who was killed by a drunk driver. The reason for my support of this bill, although it started with Matt, expands to the citizens of the state of Nebraska. Each person who is killed in the state, that is killed or is seriously injured by a drunk driver, there are 50-60 people that are affected, including families and friends. One in five...one of us in this room, actually I think two of us in this room, (inaudible) in the committee, will be affected by a drunk driver in your lifetime. During the Ninety-Ninth Legislative Second Session, a bill was passed that made leaving the scene of a personal injury accident, you made it from a...made it to a Class IIIA felony instead of a misdemeanor. Although this brought the state into line with 45 other states, it still needs a little correction. Today, when an accident causes a serious personal injury or death of another person, and that person stays at the scene and they've been found that they've been drinking, that person could do up to 15 years. But if that same person left the scene of an accident, had been drinking and everything, but left the scene of the accident, the maximum they're going to do is 5. So what happens is, the person is rewarded. It's back to the same way as it was...not quite, but it's almost the same way as it was if you...before the bill was passed in 2006. When a person leaves the scene, you can't prove they were drunk at the time, so that's part of what they're being rewarded for. So what we're finding and what I'm hearing from people that why would I want to stay and possibly get 15 years, when if I run away and hide, the maximum I'm going to get is 5. So it still needs to be changed, and bring them back to their parallel; to they're the same. Both 2006's bill and LB950 is being referred to as Matt's Law. Matt was my son. He was killed by a 19-year-old on April 12, 2004, at 12:30 at night...or 12:30 in the morning. The driver had three prior MIPs and was on probation for a DUI at the time she killed my son. He was walking home with friends after celebrating his birthday. He had turned 23 at midnight and was killed at 12:30. The driver drove off, leaving him on the side of the street to die. Even though they admitted to drinking in the park prior, it couldn't be proven. The average number of hit-and-run deaths in Nebraska is 3.8 per year, and that's up from the last time I have given this testimony. For every person that's killed, 50-60 people--and I've already mentioned that--are also punished. We need to start punishing the victims, not the...or not punish the victims, but punish the people that are causing the crimes. That night at the hospital I said that I was not going to let my son be forgotten. Since then I've more or less said I'm going to go out and tell his story. We do this five to six times per month statewide. We're starting a court monitoring system in Douglas County that the information we gathered and shared with the MADD state office; the foundation is also continuing to work with families that are victims of drunk drivers. What you will never know--and I see the red--but what you will never know is the loss of a child, unless you have. The emptiness that one feels, the things that I'll never be able to get to do. And I'll never get



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to go hunting with my son, I mean--we just covered that--or fishing, which he loved to do. That chair is always empty; that voice is never heard; that laughter is never heard again. The brightness is gone from the room. In 2006, you changed it from misdemeanor to a Class III felony for leaving the scene of a personal injury accident. It's now time to change it from a Class IIIA to a Class III, stiffening the laws again and bringing the penalties into both accidents being the same. Vote and send this bill to the full legislative body and make this bill a law. Are there any questions? [LB950]

SENATOR ASHFORD: Thank you, Bob. Thank you. And you have fulfilled your promise to yourself, that's for sure, and to your son. [LB950]

AL RISKOWSKI: Al Riskowski, Nebraska Family Council. Just came to testify on behalf of this bill, because just this last Friday my son and his date were in the Dundee area of Omaha and had eaten supper there. Were going back to his car, and were crossing at a green light, in the green light. Had the right-of-way as a pedestrian; were in the cross walk. And a car turned the corner, hit them both. He bounced to the side. She went onto the hood, into the windshield, and flew around 20 feet, and the car just kept right on going and never did stop. She's fortunately survived and she's okay. She's out of the hospital and he's okay too. But I do believe people need to realize that there is a stiff penalty if you leave the scene of an accident of that nature that is serious. They should face the prosecution of the law if they leave that scene. And so that's really my testimony today on behalf of my son and his date. Well, thank you. [LB950]

SENATOR ASHFORD: Thank you. Yes, thanks very much. Any other testifiers on this bill? Okay. Senator Pirsch, do you wish to close, or not? [LB950]

SENATOR PIRSCH: Thank you, Chairman Ashford. And I appreciate the testimony here today. I guess the point I'd like to make is, this is not just...this is more than just stiffening a penalty of a law that previously existed. This is really closing a gap to make the law, as it currently exists, make sense. Right now, as Mr. Schmill pointed out, and I think he touched upon some of the motor vehicle laws that deal with drunk driving, but if you look at the drunk driving laws, in past years, before I got to this body, they were...I think Senator Bourne had played, as Chairman of the Judiciary, a major role in toughening the, and appropriately so, the drunk driving laws, so that now, for repeat drunk drivers, you face up to a Class II felony. The problem is--and I think that's appropriate with that type of repetitive, dangerous action, I think we'd all agree--the problem is then if...when these individuals who are out there drinking and driving, and are repetitive--very dangerous individuals I think we'd all agree--get into a collision and there is somebody who is dying in the other vehicle, they are left with the choice, given our current law, there is an incentive, a strong incentive for them to do the wrong thing and get the heck out of there, because they'll be rewarded by that. I just want to give a tool to a judge so that at least that incentive is at least taken away, and so that the person who caused that accident, the drunk driver, doesn't say, look, I'm facing 20

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years if I stay here, 5 if I do the wrong thing and leave this guy dying in the car. And so I'd like the judge to have the tools so...not...it isn't going to be the 20 years, but at least a little bit more closing the gap so that if it is suspected, if the back is full of empty beer cans, witnesses testify that he was at the bar getting sloshed, although he left the scene and you can't breath-test him--and as a prosecutor I can tell you, that defeats the drunk driving charge and the tough penalties--that really does defeat it. You can't...and so if...so this would allow a judge to still have...hold him accountable. You know, I don't think there's any reason for us to have toughened those drunk driving penalties years ago if, in fact, they did actually nothing. And so this gives that action, significance and meaning. Without it, it really is an empty gesture. So I appreciate the time here today. [LB950]

SENATOR ASHFORD: Thank you, Senator Pirsch, and you have the last final bill, LB872. [LB950]

SENATOR PIRSCH: Well, I won't leave then. Thank you, Chairman Ashford and... [LB872]

SENATOR ASHFORD: Well, don't leave. No. [LB872]

SENATOR PIRSCH: Thank you, Chairman Ashford and Mr. Chairman. LB872 amends Nebraska Statute 28-306 regarding penalties for motor vehicle homicide, which is Class IIIA felony. LB872 also amends Nebraska's Statute 28-394 regarding penalties for motor vehicle homicide, which is a Class IV felony. If you're feeling a bit of deja vu, there's a reason for that. Senator Synowiecki had that provision in the bill that he had introduced yesterday. This bill also provides...I'm sorry, that was amending 28-306. This provisions also amends Nebraska Statute 28-394 regarding penalties for motor vehicle homicide, which in that provision is a Class IV felony. LB872 allow discretionary license revocation under 28-306 of at least 1 year and not more than 15 years, and under 28-394 allows for a discretionary license revocation of at least 60 days and not more than 15 years. [LB872]

SENATOR ASHFORD: Thank you, Senator Pirsch. No questions, it doesn't look like. Marty, are you back up here? Good. [LB872]

MARTY CONBOY: Good afternoon again, senators, Mr. Chairman. Ladies and gentlemen, my name is Marty Conboy, C-o-n-b-o-y, city prosecutor from Omaha. I want to thank Senator Pirsch for introducing this legislation, which I guess answers the question, why is it that if you drive recklessly and get caught you can lose your license for a year, but if you kill somebody you don't get suspended at all? And I guess that lack of sense is solved by this bill in a way that at least provides the court the option and a range of penalties commensurate with the seriousness, both of the driving conduct and the result. So it's as simple as that, and I think it's corrective. It seems like oftentimes

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what we're coming in here with is something that was done one time and now we're back trying to get it to work better. But I think this is a clear case of that and would urge passing. If there's any questions I would be glad to answer them. [LB872]

SENATOR ASHFORD: Any questions of Marty? Seeing none, thanks, Marty. [LB872]

MARTY CONBOY: Thank you. [LB872]

SENATOR ASHFORD: Bob. Okay. I thought you were making a gesture to get up, so [LB872]

BOB SCHMILL: Well, I was. I had my little sheet that I was going to hand. I'll get (Inaudible.) I'm more or less, because I really don't have a lot of comments, it was more or less... [LB872]

SENATOR ASHFORD: Just give us your name again. [LB872]

BOB SCHMILL: Oh, I'm sorry. Bob Schmill, Matt's Dream Foundation. That's S-c-h-m-i-l-l. More or less, I don't have too many comments; it's more or less that we support this. The young lady that killed Matt did do...after she did one year--actually she had six months--she didn't get her license back for a year. It's still...when you have a loss and somebody is killed, or you have serious bodily injury, I think it needs to be a little bit stiffer and take it up to be able to see at least give the judge the opportunity to make it 15, or at least up to 15. [LB872]

SENATOR ASHFORD: I see the point. Thanks, Bob. Anyone else wish to testify on this bill? Senator Pirsch. [LB872]

SENATOR PIRSCH: I'm going to waive. [LB872]

SENATOR ASHFORD: That concludes the hearing LB872 and it concludes the hearings for the day. Thank you all. [LB872]

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Disposition of Bills:

LB826 - Advanced to General File.  
LB872 - Held in Committee.  
LB929 - Indefinitely postponed.  
LB934 - Held in Committee.  
LB950 - Held in Committee.  
LB958 - Advanced to General File, as amended.

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Chairperson

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Committee Clerk