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Senator Tom Brewer
PO Box 94604
Room 1423
Lincoln, NE 68509

RE: LB77

Dear Senator Brewer,

I have had the opportunity to review LB77, the "Constitutional Carry" "Permitless Carry" bill.

Navigating firearm laws can be complex and writing new firearm laws can be fraught with unintended consequences without the direct assistance and guidance from law enforcement professionals and prosecutors who are actually navigating those laws on a near daily basis.

During my campaign to become Sheriff of Douglas County, I made it clear that I would support a "Constitutional Carry / Permitless Carry" concept so long as it did not create unintended loopholes for gun criminals nor seriously degrade local government's ability to maintain gun laws that don't limit law abiding gun owners from carrying concealed handguns. Over the last year and a half I have had many conversations with diverse voters across Douglas County and feel comfortable that my balanced views on these matters represent the views of the vast majority of my constituents. People want their 2nd Amendment rights respected but do not want to create loopholes for criminals who hurt innocent people and the reputations of honest gun owners.

Douglas County is statistically much safer than many comparable counties across the nation. I contend this enhanced safety is due in large part to broader legal tools that law enforcement has to disrupt gun crime and violence. Disrupting gun crimes at a lower level helps us to avoid more serious gun crimes. In my view, LB77 in its current form, isn't quite ready for statewide roll-out and is deserving of clarification and modifications. I do recognize that the Legislature is the state policy makers and law enforcement is tasked with enforcing the public policies enacted by the legislature. That said, I do feel obligated to point out, and seek clarification on language in LB77, in which I think unintended consequences in policy making will result in a less safe Douglas County.

LB77, Page 2, line 3 reads:

*(1) The Legislature finds and declares that the regulation of the ownership, possession, storage, transportation, sale, and transfer of firearms and other weapons is a matter of statewide concern. (2) Notwithstanding the provisions of any home rule charter, counties, cities, and villages **shall not have the power to:** (a) **Regulate the ownership, possession, storage,***

transportation, sale, or transfer of firearms or other weapons, except as expressly provided by state law; or (b) Require registration of firearms or other weapons. (3) Any county, city, or village ordinance, permit, or regulation in violation of subsection (2) of this section is declared to be null and void.

I view the topic of "handgun registration" as specifically an Omaha matter that I will leave to the City of Omaha to take a position on. I will not be getting involved in Omaha's Registration ordinances.

That notwithstanding, there are other key firearms laws and public safety policies that I do have concerns about.

I shall list some of those observations and questions below, by topic:

"Open Carry":

I support law abiding citizens' right to conceal carry in public in a safe manner. I believe that properly trained, responsible citizens carrying concealed handguns make a community safer. "Concealed carry of handguns" aside, cities in Douglas County currently have the ability to enact ordinances which restrict the "open carry" of handguns and long guns in public. Unincorporated areas of my county have no such prohibition, similar to western Nebraska. Omaha currently prohibits open carry of weapons (without a permit) while Bennington, Valley and Waterloo do not. Each city and town make its own policy decisions based on their own specific gun violence challenges. It should be said that state law currently only limits the transportation of a loaded shotgun (not a rifle) specifically while in a vehicle on a public roadway. "Open carry" of weapons in densely populated communities like the Omaha Metro area has the potential to create public safety implications and challenges. As I read it, LB77 would remove the local government's ability to limit "open carry" of weapons.

- Is it the intent of LB77, in its current form, to prohibit local city governments from limiting **open carry** of handguns and long guns?

"Long Guns":

If the legislature eliminates the law prohibiting carrying concealed weapons (specifically handguns) without a permit, and specifically allows for permitless, constitutional carry of handguns, what happens when an individual is encountered by law enforcement with a concealed, loaded long gun in public or maybe walking towards, but not yet in, a highly populated location, school, or business?

- Is it the intent of LB77, in its current form, to prohibit local governments from limiting concealed carry of long guns, such as an AR15 or a shotgun, from being concealed under a long coat, down a pant leg or under a blanket in a car?
- Is it the intent of LB77, in its current form, to eliminate the current state law against carrying concealed "long guns" in public?

"Committing Crimes while Armed":

Currently in Nebraska, it is unlawful to commit a crime, even a misdemeanor crime, while armed with a concealed weapon. If one walks into a hardware store armed with a concealed handgun and steals a tool valued at over \$1500 or more, one has committed a Felony gun crime (Possession of a weapon during the Commission of a Felony) and a Misdemeanor gun crime (CCW), in addition to the underlying theft crime itself. If one instead steals a tool valued at

\$1499.99 or less, one has committed a misdemeanor gun crime (CCW). After conviction of that first offense CCW violation, the second offence is a Felony. Today, there are enhanced penalties for committing misdemeanors and felonies while armed with a concealed weapon. There is a long list of misdemeanor crimes that create an enhanced risk to the public, law enforcement and the suspect themselves if committed while armed. Criminals who engage in assaulting, threatening, rioting, trespassing, stealing, defrauding, disregarding lawful orders, using or possessing drugs, reckless, drunken and negligent behavior should not be shielded from stand alone and escalating gun charges.

- Is it the intent of LB77, in its current form, to eliminate the current day consequences for committing misdemeanor crimes while armed with a concealed handgun?
- Is it the intent of LB77, in its current form, to eliminate the penalty for carrying a concealed handgun while committing repeated misdemeanor crimes while armed with a concealed handgun?

After much contemplation, I think there would be value to a total rewrite of LB77, while the session is early.

Consideration may want to be given to instead creating a "Constitutional Carry Preemption" that would "preempt" a law-abiding citizen from being charged with violations of Nebraska Statute 28-1202 or other local firearm ordinances, similar to how the current Concealed Handgun Permit preempts citizens from local laws such as carrying concealed weapons and registration.

A "**Constitutional Carry Preemption Protection**" legal concept could be statutorily afforded to any law-abiding citizen who is abiding by a short and simple list of requirements at the time:

- Carrying a loaded concealed handgun in a safe manner (ex. holstered or otherwise secured on a person or in a vehicle or residence)
- Having a valid ID at the time.
- Not engaging in negligent or reckless behavior
- Announcing the presence of the concealed handgun and allowing for temporary seizure.
- Not being under the influence or in possession of drugs or alcohol.
- Not a state or federally prohibited person
- At least age 21
- Not committing a misdemeanor or felony at the time.

Such a concept would accomplish, what I believe LB77, is truly looking to achieve while not risking eliminating laws that are used to keep Nebraska and Douglas County safe from criminally reckless and negligent gun possessors. I believe 99% of actual law-abiding gun owners don't identify the aforementioned negligent gun possessors as fellow "law abiding gun owners".

It would be reasonable to contemplate creating a higher burden for the state to have to prove a nexus of some sort between the misdemeanor crime committed and the gun possession. (Example: it would be ridiculous to conclude that spitting gum out on a sidewalk while carrying a gun would create a risk nexus, however, intentionally dumping a large amount of junk onto someone's private property while armed could create a heightened risk of dangerous interaction.)

Two more items worthy of consideration for such a preemption are:

Training:

Take for example the commitment to training on the part of law enforcement, military, and firearms instructors who realize how training is critical to safe and smart firearms carrying and usage. It is difficult enough for highly trained police and military members to respond appropriately under stress, let alone untrained civilians. Please consider adding training in your final draft. I know firearms training is something that most people in Douglas County value. Over my 26 years I have witnessed untrained people engaging in extremely negligent behavior with firearms. Such negligence not only is dangerous in real time, but also injurious to the reputations of actual training law abiding gun owners.

Background checks:

This may be easier accomplished than some believe. Simply keeping one's valid Nebraska handgun purchase permit readily available in a wallet is proof of passage of an ongoing 3-year background check.

One final observation: Page 18 of LB77, line 1, talks about **places of worship** allowing security personnel to carry concealed handguns with written notice. I have spoken with Church security staff who are concerned because their church also acts as a school, and they are concerned about being in violation of 28-1204.04. Contemplation should be given to make it clear that any parishioner with written approval should be able to lawfully carry concealed in a church to protect the congregation regardless of official security status or school colocation.

Thank you for your time and attention to trying to strike that balance between upholding the rights of law-abiding gun owners and the safety of our law enforcement and community.

Please let me know how I can help,

Respectfully,



Aaron W. Hanson
Douglas County Sheriff

cc: Chief Todd Schmaderer, Omaha Police Department
Douglas County Attorney Don Kleine
Attorney General Mike Hilgers
Senator Mike McDonnell
Sergeant Anthony Conner Omaha POA
Trish Harold, Nebraska Firearms Owners Association
Sheriff Neil Miller, President Nebraska Sheriff's Association